

Draft Law on the Protection of Geographical Indications

Chapter I

General Provisions

Article 1: Definitions

For the purposes of this Law, the terms and expressions mentioned below shall have the following meanings, unless otherwise stated:

- Minister: Minister of Economy and Trade
- Ministry: Ministry of Economy and Trade
- Office: Intellectual Property Protection Office, within the Ministry of Economy and Trade.
- Department: The department charged to register and protect geographical indications and designations of origin.
- Traditional designation: is a geographical or non-geographical name that the consumer attributes to a certain geographical area.
- Identical or similar designation: is a name similar to another name, but comes from another geographical area.
- Generic designation: is the name of a product, which although it relates to the place or the region where it was originally produced, has become the common name of a product in Lebanon.
- Application: application for the registration of the geographical indication or the designation of origin.
- Committee: the committee charged to handle applications for registration, and to examine oppositions to registration or refusal of registration.
- Publication: A supplement on Intellectual property issued weekly with the Official Gazette.
- Geographical area: is the area where the geographical indication or designation of origin is known, or where the production process is carried out, or where the natural and human factors that confer upon the product its characteristics are located.
- Paris Convention: Paris Convention for the Protection of Industrial Property of 1883, as amended.
- Implementing decree: the decree issued by the Council of Ministers upon the suggestion of the Minister of Economy, and which governs the implementation of some provisions of the present Law.

Article 2: Definition of geographical indication

Geographical indication means the name of a region, a specific place or, in exceptional cases, a country used to describe a product originating in that region, specific place or country, and which possesses a specific quality, reputation or other characteristics attributable to that geographical origin and, and the production and/or processing and/or preparation of which take place in that defined geographical area.

A geographical indication shall be protected upon its registration at the Ministry of Economy and Trade in accordance with the conditions provided for in Chapter 2 of this Law.

Article 3: Definition of designation of origin

Designation of origin means the name of a region, a specific place used to describe a product originating in that region, or specific place and the quality or characteristics of which, are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors and the production, processing and preparation of which take place in the defined geographical area.

The raw materials for the products concerned by the designation of origin may come from a geographical area different from the processing area, provided that:

- the production area of the raw materials is defined;
- special conditions for the production of the raw materials exist;
- there are inspection arrangements to ensure that the conditions referred in point (b) are adhered to.

The designation of origin shall be protected upon its registration at the Ministry of Economy and Trade in accordance with the provisions enumerated in Chapter 2 of the present Law.

Article 4: Traditional designation

Traditional geographical or non geographical names designating a product originating in a region or a specific place, which fulfill the conditions referred to in Article 2 of this Law, shall be considered as geographical indications.

Traditional geographical or non geographical names designating a product originating in a region or a specific place, and which fulfill the conditions referred to in Article 3 of this Law, shall be considered as designations of origin.

Article 5: Scope

The present law shall apply to processed or manufactured agricultural products or foodstuffs, handicrafts, wines and spirit drinks.

The provisions of Articles 11 to 18 of Law # 216/2000 on the production, manufacturing, sale and import of wine shall apply to wines.

Article 6: The party authorized to register

A special department shall be created within the Office, charged to register and protect geographical indications and designations of origin.

A committee shall be formed to examine applications for the registration of geographical indications and designations of origin, or reject their registration.

An implementing decree shall be issued to determine the procedures and mechanism concerning the committee's operation.

Article 7: Register of geographical indications and designations of origin

The department shall maintain updated a register of protected geographical indications and protected designations of origin.

This register shall include:

- the geographical indication or designation of origin;
- the name of the applicant seeking registration;
- the control body in charge of the implementation of the product specification;
- the product specification;
- the date of registration;
- the date of publication of the registration;

Chapter II
Registration Procedures

Article 8: Eligibility for registration

The following parties shall be entitled to apply for registration of geographical indications and designations of origin at the Ministry:

- a- Any association of producers or processors working with the same product, acting as representative based on two standards: if such association constitutes 50% of the production volume and includes 50% of the producers or processors number.
- b- A natural or legal person who is a sole producer of the product for which registration is requested in a specific area.

Article 9: Application for registration:

The application for registration shall include the following:

- a- The name of the applicant and the document proving that such applicant is a representative.
- b- A mention indicating whether the designation is a geographical indication or a designation of origin.

- c- The specific elements of the product proving that the product comes from the same geographical area, a description of the link between the product and its origin, and the product traceability.
- d- The product specification referred to in Article 11 of this Law.
- e- All technical, economic, historical and legal documents, proving the link between the product and its origin.

Article 10: Area delimitation

The border of a geographical area shall be natural or administrative, provided each administrative department has the same natural and human characteristics. The procedure adopted in the Implementing Decree to examine applications shall regulate the process proving area delimitations.

Article 11: Product Specification

The product specification shall include the following:

- a- The name of the product;
- b- the definition of the specific geographical area;
- c- a description and characteristics of the product;
- d- a description of the method of obtaining the product;
- e- The name and address of the authorities or bodies verifying compliance with the provisions of the specification.
- f- Information concerning packaging and labeling
- g- Requirements laid down by special national provisions

The details relating to product specification shall be prescribed in the Implementing Decree.

Article 12: Examination of the application for registration

Examination procedures shall be prescribed in the Implementing Decree of this Law.

The registration and certificate fees shall be determined by government decree upon the suggestion of the Minister.

Article 13: Publication of the application for registration

Where it is found that the geographical indication or the designation of origin is eligible for registration, the department shall publish a statement of designation in the publication, at the expense of the registration applicant, and the decision shall be published on the Ministry's website.

Article 14: Opposition conditions

The commission shall examine oppositions to registration or refusal of registration of geographical indications or designations of origin.

Any person having an interest may oppose the registration application in any of the following cases:

- If the name, for which registration is requested, shows non-compliance with the conditions specified in this Law.
- If the name constitute damage to any acquired right, such as rights related to a trademark protected in Lebanon, provided that such trademark is irrevocable and acquired in bona fide, or if the registration of this name would jeopardize the existence of an entirely or partly identical name by a similar/identical name in whole or in part.
- If the name for which registration is requested is generic, within the meaning of Article 1 of this Law.
- If producers concerned by the product in the specific area are not members of the applicant union.

Article 15: Opposition to the decision of accepting or rejecting the registration of the geographical indication or the designation of origin, and appeal against the said decision

- a- The committee's decisions to accept or reject registration may be appealed by opposition before the committee that issued the decision.
- b- Opposition shall be submitted in writing to the Ministry of Economy and Trade, Department of Registration of Designations of Origin and Geographical Indications, which shall transfer it to the committee within five days after it has been received.
- c- After the opposing party is heard, the committee shall take a justified decision, to admit or reject opposition.
- d- If based on the opposition, the committee allows registration, it may oblige the opposing party to execute the provisions it deems appropriate to register the geographical indication or designation of origin.
- e- The decision issued as a result of the objection shall be definitive, and may be appealed by action brought before the court of first instance in charge of commercial cases.
- f- If the registration application was rejected by a decision taken by the committee or the court, the fees paid shall remain within the Treasury.
- g- The Implementing Decree of this Law shall determine the time-limit permitting objections.

Article 16: Certificate of registration of protected geographical indications and the protected designations of origin

The head of the Department shall issue a certificate of registration of a geographical indication or designation of origin within 15 days from the date of issuance of the committee's decision to accept the registration application. The name shall be deemed registered as of the date of submission of the application.

Article 17: Publication of the registration of geographical indications and designations of origin

All registered geographical indications, designations of origin and their related information shall be published in the Publication, at the expense of the owners of the names, in accordance with the provisions of Article 9 of this Law. Such geographical indications and designations of origin shall also be published on the website of Ministry of Economy and Trade.

Article 18: Amendment of the specifications

Whenever the producer submits an application to modify the product specifications, the procedures provided for in Articles 8 to 17 of this Law related to registration shall apply, unless the committee considers such modification negligible.

Article 19: Cancellation of registration

The registration shall be cancelled in the following cases:

- a- At the request of the registered producers;
- b- At the request of the control body referred to in Article 25 of this Law.
- c- Upon the request of each concerned party in the event the geographical indication or the designation of origin was not used within Lebanese territory for at least five consecutive years from the registration date. The right to request cancellation shall forfeit if registered producers used the geographical indication or the designation of origin one month before the date of filing the cancellation application. The geographical indication or the designation of origin shall not be cancelled if registered producers prove that they had no intention not to use it or neglect it, in addition to the existence of certain circumstances that prevented them from using it, such as obstacles imposed by the government that may hamper trade. In this case, registered producers shall have the obligation to provide evidence by any means.

The cancellation shall be published in the Publication at the expense of registered producers.

Chapter III

Protection of geographical indications and designations of origin

Article 20: Scope of protection

Registered geographical indications and designations of origin shall be protected against:

- any use of a protected name in respect of products identical or non-identical to the protected product;
- any use of a protected designation in respect of products that do not comply with the requirements of the product specification;
- any use leading to the exploitation of the reputation of the protected name;
- any use liable to mislead the consumer as to the true origin of the product.
- Any imitation of the name, if the true origin of the product is not the place referred to by the name even if the true origin of the product is indicated, or if the protected name is translated or accompanied by an expression such as "type", "style", "method", "imitation" or similar expressions.
- any imitation as to the shape, packaging, or advertising material related to the product concerned liable to convey a false impression as to its true origin;
- any use of a geographical indication or designation of origin, constituting an unlawful competition according to Article 10 (a) of the Paris Convention.

Article 21: Use of the protected name

All producers complying with the product specification shall be entitled to use a protected name.

Article 22: Exemptions from protection

Generic names shall not be protected.

In the case of identical/similar names, protection shall be granted to each name, provided that such use does not mislead the public. In this case, each name shall be accompanied by sufficient indications allowing the public to make distinction between both. The product's designation of origin shall be mentioned in a clear and apparent way on the product.

Article 23: Relationship between geographical indications, designations of origin and trademarks

The trademark or part of the trademark, including a geographical indication or a designation of origin may be used if this trademark right was acquired through its bona fide use before the entry into force of this Law. If the

trademark including a geographical indication or designation of origin is used in bad faith, its proprietor shall be granted a three year period to take corrective measures at the risk of invalidation of the trademark.

Article 24: Use of surnames or family names

Any person may use his/her name or the name of his/her predecessor in the commercial activity in such a way that does not mislead the public. The competent judicial authority shall decide in this matter.

Chapter IV
Control over geographical indications and designations of origin

Article 25: Control body

A control body shall be established to control geographical indications and designations of origin; the establishment, role and tasks of the committee as well as the control procedures and costs shall be laid down in the Implementing Decree.

Concerning wine, the provisions of Article 15 of Law # 216/2000 on the production, manufacturing, sale and import of wine shall apply.

Article 26: control costs

The costs of such control made to verify compliance with the specifications shall be borne by the producers using the name.

Chapter V
Sanctions

Article 27: Sanctions

Whoever violates the provisions of Article 20 of this Law shall be liable to imprisonment from three months to three years and to a fine ranging between of LBP 5 to 50 million.

Article 28: In case of recurrent violation, sanctions are doubled

In the event of recurrent violations, the sanctions prescribed in this Chapter shall be doubled.

Article 29: Compensating for the holder of the right

Whoever violates the rights of users of registered names shall compensate for the damaged party for financial and moral damages, the loss of profit, the profit realized by the violator, and subsequent losses, in addition to the expenses and fees.

Article 30: Secondary sanctions

Each judgment rendered regarding a violation sanctioned by this Law shall include the publication of the judgment for 30 days at the location determined by the competent court, in the defendant's offices, chambers of trade, industry and agriculture, and in two widely-distributed local newspapers, at the expense of the defendant party.

Chapter VI
Final provisions

Article 31: Implementing decree

Within two years following entry into force of this Law, a government decree shall be issued at the suggestion of the Minister. The said decree shall govern the process of determination of geographical indications and designations of origin, as well as the examination of applications by the committee, and the method of area delimitation. The decree shall also establish the Control Body and its define its operating procedures and set forth the rules related to the marketing of geographical indications in Lebanon.

Article 32: Entry into force of the Law

This Law shall enter into force six months following its publication in the Official Gazette.