

**LAW ON DESIGNATIONS OF ORIGIN, GEOGRAPHICAL INDICATIONS AND
INDICATIONS OF TRADITIONAL SPECIALITIES GUARANTEED FOR
AGRICULTURAL AND FOOD PRODUCTS**

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I BASIC PROVISIONS

Subject matter of the Law

Article 1

This law governs the designations of origin, geographical indications and indications of traditional specialities guarantee for agricultural and food products, methods and conditions for registration, assessment of compliance, as well as other issues of relevance for marking thereof.

Implementation of the Law

Article 2

(1) The provisions of this Law shall apply to:

1) designations of origin and geographical indications of:

a) agricultural products intended for human consumption:

- meat and edible offal,
- cheeses,
- other animal products (eggs, honey, other dairy products, not including butter, etc.),
- fats (butter, margarine, oils, etc.),
- fruit and vegetables, cereals, either unprocessed or processed,
- fish, shellfish, crustaceans and products thereof,
- other products (condiments, etc.),
- wine vinegar.

b) agricultural products not intended for human consumption:

- hay,
- essential oils,
- cork
- cochineal (raw product of animal origin)
- flowers and ornamental plants,
- wool,
- wicker,
- flax;

c) food products:

- beers,
- beverages produced from plant extracts,
- bread, biscuits, cakes, confectionery and other baker's wares,
- natural gums and resins,
- mustard,
- pasta,
- salt;

2) indications of traditional specialities guaranteed for:

a) agricultural products intended for human consumption:

- meat and edible offal,
- cheeses,
- other animal products (eggs, honey, other dairy products, not including butter, etc.),
- fats (butter, margarine, oils, etc.),
- fruit and vegetables, cereals, either unprocessed or processed,
- fish, shellfish, crustaceans and products thereof,
- other products (condiments, etc.),
- wine vinegar.

b) food products:

- beer,
- chocolate and other food products containing cocoa,
- confectionery, bread, pastry, cakes, biscuits and other baker's ware,
- pasta, cooked or not, stuffed or not;
- pre-cooked meals,
- prepared condiment sauces;
- soups or broths,
- beverages produced from plant extracts;
- ice-creams and sorbets.

(2) The provisions of this Law shall not apply to alcoholic drinks and products of grapes and wine, except for wine vinegar.

(3) Regulations governing the procedure for ensuring and provision of information in the field of technical regulations and standards shall not apply to the designations of origin, geographical indications and indications of traditional specialities guaranteed for agricultural and food products.

II DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS OF AGRICULTURAL AND FOOD PRODUCTS

Designation of origin and geographical indication

Article 3

(1) Designation of origin means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural or food product:

- originating in that region, the specific place or the country;
- the quality or characteristics of which are exclusively or essentially due to natural and human factors inherent to a particular geographical environment, and
- the production, processing and preparation of which take place in a defined geographical area.

(2) Geographical indication means the name of a region, a specific place or, in exceptional cases, a country used to describe an agricultural or food product:

- originating in that region, specific place or country;

- which has a specific quality, reputation or other characteristics attributable to that geographical origin; and
- the production and/or processing and/or preparation of which takes place in a defined geographical area.

(3) Notwithstanding the paragraph 1 of this Article, a geographical indication shall be recognized as a designation of origin where the raw materials for the product concerned originate from a geographical area that is larger than or different from the processing area, provided that:

- the production area of the raw materials is defined in terms of space;
- special conditions for the production of the raw materials exist, and
- the control system ensuring the adherence to the special conditions for the production of the raw materials is in place.

(4) The raw materials referred to in paragraph 3 of this Article may only be live animals, meat and milk.

Traditional name Article 4

Traditional geographical or non-geographical names used to designate an agricultural or food product fulfilling the conditions referred to in Article 3 paragraphs 1 and 2 of this Law shall be considered as designation of origin or geographical indication.

Generic names, names in conflict with names of plant varieties, animal breeds, homonyms and trademarks Article 5

(1) A name that has become generic may not be registered as a designation of origin or a geographical indication.

(2) The name that has become generic means the name of an agricultural or food product that, although it relates to the place or the region where the product was originally produced or marketed, has become a common name of an agricultural or food product.

(3) All factors, and in particular the existing situation in the country and in areas of consumption shall be taken into account when establishing whether a name has become generic or not.

(4) A name may not be registered as a designation of origin or a geographical indication where it conflicts with the name of a plant variety or animal breed, and as a result, it is likely to mislead the consumer as regards the true origin of the product.

(5) A name wholly or partly homonymous with the name already registered in accordance with this Law shall be registered with due regard for the local and traditional use of the name and the actual risk of consumers' confusion as regards the origin of the product.

(6) A homonymous name shall not be registered in case it misleads the consumer into believing that the product originates from some other territory even in cases where such

name is accurate as regards the actual territory, region or place of origin of the agricultural or food product concerned.

(7) the use of a registered homonymous name shall be such as to provide adequate distinction in practice between the homonym registered subsequently and the name already in the register, taking into account the need to treat the producers in an equitable manner and not to mislead the consumers.

(8) A designation of origin or geographical indication shall not be registered where such registration, due to the reputation and length of time of use of a trademark, is likely to mislead the consumers as regards the true origin of the product.

Product specification

Article 6

(1) Agricultural or food products are eligible for a protected designation of origin or a protected geographical indication if they comply with the conditions from the product specification.

(2) The product specification shall include in particular:

- 1) the name of the agricultural or food product comprising the designation of origin or geographical indication;
- 2) description of the agricultural or food product including, if appropriate, the description of raw materials in terms of its principal physical, chemical, microbiological or organoleptic characteristics of the product concerned;
- 3) definition of the geographical area in terms of space and, if appropriate, detailed information on compliance with the requirements referred to in the Article 3 paragraph 3 of this Law;
- 4) evidence that the agricultural or food product originates from a defined geographical area referred to in Article 3 paragraph 1 or 2 of this Law, depending on the indication;
- 5) description of the method of obtaining the agricultural or food product and, if appropriate, the description of authentic and unvarying local methods, as well as information on packaging, in case the applicant determines and gives reasons why such packaging has to take place in a defined geographical area to safeguard the quality or origin or control;
- 6) detailed information on:
 - the link between the quality or characteristics of the agricultural or food product and the geographical origin referred to in the Article 3 paragraph 1 of this Law, or
 - the link between the specific quality, reputation or other characteristic of the agricultural or food product and the geographical origin referred to in the Article 3 paragraph 2 of this Law;
- 7) the name and address of the authorized legal person that verifies the compliance with the specification and its tasks;
- 8) specific rules of labelling the agricultural or food product, and
- 9) other requirements laid down by specific regulations.

Application for registration of designations of origin or geographical indications
Article 7

(1) The application for registration of designations of origin or geographical indications may be submitted only by a group of producers or processors for agricultural or food products they produce or process.

(2) The Group of producers or processors, in terms of this Law, means any association of producers or processors of the same agricultural or food product, regardless of its legal status or composition.

(3) Other interested parties may take part in the group.

(4) A group, in terms of the paragraph 2 of this Article means a natural or legal person provided that:

- 1) it proves that it is the only producer or processor of a specific product in a specific geographical area; and
- 2) if that geographical area has characteristics that distinct it essentially from the neighbouring areas or the product characteristics are different from those produced in the neighbouring areas.

5) The application referred to in paragraph 1 of this Article shall include: the name and address of the applicant, the designation of origin or the geographical indication registration of which is sought.

(6) Together with the application referred to in the paragraph 5 of this Article the following shall be presented:

- 1) the specification, in accordance with the Article 6 of this Law;
- 2) a single document that includes:
 - the main elements of the specification: the name, the product description including, where appropriate, the specific rules concerning the packaging and labelling and a precise definition of the geographical area;
 - description of the link between the product and the geographical environment or geographical origin referred to in Article 3 paragraphs 1 or 2 of this Law, including, where appropriate, the specific elements of the product description or production method justifying the link.

(7) Registration of only one designation of origin or geographical indication may be sought with the application referred to in paragraph 1 of this Article.

(8) More detailed contents and method of submitting the application referred to in the paragraph 1 of this Article shall be laid down by a regulation of the public administration body in charge of agriculture, forestry and water management (hereinafter referred to as: the Ministry).

Application processing

Article 8

- (1) The application for registration of designations of origin or geographical indications shall be submitted to the Ministry.
- (2) The Ministry shall establish the Commission for implementation of the procedure for registration of designations of origin or geographical indications of agricultural and food products (hereinafter referred to as: the Commission).
- (3) The Commission shall check the completeness of the application in accordance with the Article 7 of this Law within the period of 30 days from the day of receipt of the application.
- (4) Where an application for registration is incomplete, the Commission shall invite in writing the applicant to remove the deficiencies noted within the period of 30 days, or exceptionally, within the period of time set by the Commission.
- (5) Where the applicant fails to remove the deficiencies within the deadline set in the paragraph 4 of this Article, the Ministry shall, at proposal of the Commission, issue a decision rejecting the application for registration of an indication.
- (6) Where the application for registration is complete and justified, the Ministry shall publish it in the Official Gazette of Montenegro.
- (7) The product specification and the single document referred to in the Article 7 paragraph 6 of this Article shall be published on the Ministry's web site.

Objection to application for registration

Article 9

- (1) A legal or natural person having a legitimate interest that is established or resident in Montenegro may lodge an objection to the application for registration in a form of a substantiated statement.
- (2) The objection referred to in paragraph 1 of this Article shall be submitted to the Ministry within the period of 30 days from the day of publishing of the application in the Official Gazette of Montenegro.
- (3) The objection referred to in paragraph 1 of this Article shall be admissible if:
 - 1) it has been submitted within the deadline set;
 - 2) the objection points that the designation of origin or a geographical indication sought by the application does not comply with the registration conditions referred to in Article 3 of this Law;
 - 3) it points that registration of the name proposed would be contrary to the Article 5 paragraphs 4, 5 and 6 of this Law;
 - 4) it points that registration of the name proposed would jeopardize the existence of an entirely or partly identical name or trademark or the existence of products

- present at the market for at least five years before the date of publication of the application in the Official Gazette of Montenegro, or
- 5) it includes information from which it can be concluded that the name for which registration is sought is generic in terms of Article 5 paragraph 2 of this Law .

Objection processing Article 10

(1) The Commission shall establish the admissibility of the objection referred to in the Article 9 of this Law.

(2) In case the Ministry receives no objection within the period of time set by the Article 9 paragraph 2 of this Law, the Commission shall propose to the Ministry to adopt the decision on registration of the designation of origin or geographical indication.

(3) Where the objection is in compliance with the Article 9 paragraphs 2 and 3 of this Law, the Commission shall invite the interested parties to make an agreement.

(4) In case the interested parties fail to reach an agreement, the Commission shall propose to the Ministry acceptance or rejection of the application for registration, or further processing of the application for registration, having regard to the opinion of the applicant and the party that submitted the objection, with the Ministry adopting the decision, as appropriate.

(5) The decision referred to in paragraph 4 of this Article is final and administrative proceedings may be initiated against it.

(6) The designations of origin and geographical indications registered in accordance with the paragraphs 2 and 4 of this Article shall be published by the Ministry in the Official Gazette of Montenegro.

(7) The procedure of submission of the objection, the time limits regarding the processing of objection referred to in paragraph 3 and the time limits for further processing of the application for registration referred to in the paragraph 4 of this Article shall be laid down by a regulation of the Ministry.

Register of designations of origin and Register of geographical indications Article 11

(1) On the basis of the decision referred to in Article 10 paragraphs 2 and 4 of this Law, the registered designations of origin shall be entered in the Register of designations of origin, while registered geographical indications shall be entered in the Register of geographical indications.

(2) The content, form and method of keeping the registers referred to in paragraph 1 of this Article shall be laid down by a regulation of the Ministry.

Use of designations of origin and geographical indications

Article 12

- (1) A registered designation of origin or geographic indication may be used by a producer or processor of an agricultural or food product provided that the product complies with the conditions from the corresponding specification.
- (2) Following the registration of the designation or indication referred to in paragraph 1 of this Article and following the procedure of verification of adherence of the product to the specification in accordance with the Article 37 of this Law, a producer or processor of the agricultural or food product may submit an application for entry in the Records on users of registered designations of origin or Records on users of registered geographical indications, as appropriate.
- (3) The Ministry shall issue the producer or processor of the agricultural or food product a decision on entry in the records referred to in the paragraph 2 of this Article.
- (4) The producer or processor of agricultural or food products shall be deleted from the corresponding records referred to in paragraph 2 of this Article where it no longer adheres to the conditions from the product specification.
- (5) The contents of the application for entry in the Records on users of registered designations of origin and the Records on users of registered geographical indications, the contents and method of keeping the records, the procedure of entry in and deletion from the records shall be laid down by a regulation of the Ministry.

Change of specification

Article 13

- (1) A group of producers or processors satisfying the conditions referred to in Article 7 of this Law and having a legal interest may apply for a change of a specification, in particular to take account of scientific and technical developments or to redefine the geographical area referred to in Article 6 paragraph 2 item 3 of this Law.
- (2) The application referred to in paragraph 1 of this Article shall be submitted to the Ministry and it shall contain the description and give reasons for the changes proposed.
- (3) Where changes to specification involve one or more changes to the single document, the application procedure shall be governed by the provisions of Articles 7 to 11 of this Law.
- (4) Where the scope of changes to the specification is smaller, the Commission shall process the application without implementing the procedure referred to in Articles 9 and 10 of this Law, and in case the application is justified, the Ministry shall publish it in the Official Gazette of Montenegro.
- (5) Where changes to the specification do not involve any change of the single document, the Ministry shall, at proposal of the Commission, make the decision on approval of the changes proposed.

(6) Where changes involve a temporary change of the specification resulting from the enforcement of mandatory sanitary or phytosanitary measures prescribed by the competent state authorities, the Ministry shall, at proposal of the Commission, make the decision on temporary change of the specification.

(7) The conditions and the method of submitting the applications for change of the specification as well as what a change to the specification of a smaller scope means, shall be laid down by a regulation of the Ministry.

Cancellation of the decision on registration of a designation of origin or geographical indication

Article 14

(1) The decision on registration of the designation of origin, or graphical indication may be cancelled in case the procedure for verification of the compliance with the product specification establishes that the product does not comply with the conditions from the specification and that continuous compliance with the conditions from the specification cannot be and will not be ensured.

(2) The request for cancellation of the decision referred to in the paragraph 1 of this Article may be submitted to the Ministry by a legal or natural person having legitimate interest, stating the reasons for the cancellation.

(3) The Ministry shall publish the valid decision on cancellation of the decision on registration of a designation of origin or geographical indication in the Official Gazette of Montenegro.

(4) Based on the valid decision referred to in paragraph 3 of this Article, the Ministry shall delete the registered indication or designation from the corresponding register referred to in the Article 11 of this Law.

(5) The form, the content and the procedure of processing the request referred to in the paragraph 2 of this Article shall be laid down by a regulation of the Ministry.

Protection of designations and indications

Article 15

(1) The registered designation of origin or geographic indication shall be protected against:

- 1) any direct or indirect commercial use of the registered name for agricultural or food products not covered by the registration, where those products are comparable with the products registered under that name or where use of the name exploits the reputation of a registered designation or indication;
- 2) any misuse, imitation or evocation, even if the true origin of the product is indicated or the name of the product is translated or accompanied by an expression such as „style“, „type“, „method“ „as produced in“, „imitation“ or similar;
- 3) any other false or misleading indication or designation as regards the origin, nature or essential qualities of the product on the inner or outer packaging, advertising material or documents related to the product concerned and

packaging of the product into a container giving a false impression as regards its origin;

- 4) any other practice that may mislead the consumer as regards the true origin of the product.

(2) Where a registered name contains within it the name of an agricultural or food product considered generic, the use of that generic name on the appropriate agricultural or food product shall not be considered to be contrary to the paragraph 1 items 1 and 2 of this Article.

(3) Protected names may not become generic.

(4) Protection of the designations of origin and geographical indications registered in the European Communities shall be implemented in line with this Law.

Relation with trademarks

Article 16

(1) Where designations of origin or geographical indications are registered in accordance with the provisions of this Law, the application for registration of a trademark corresponding to one of the situations referred to in Article 15 of this Law and relating to the same product category shall be rejected if the application for registration of the trademark is submitted after the date of submission of the application for registration of the designation or indication.

(2) Trademarks registered in contravention of the paragraph 1 of this Article shall be proclaimed invalid, in accordance with the law.

(3) The trademark use of which corresponds to one of the situations referred to in Article 15 and registered in good faith before submitting the application for registration of the designation of origin or geographical indication in accordance with this law, may continue to be used in case there are no grounds for proclaiming it invalid or its cancellation in accordance with the specific regulation.

Names, indications and symbols

Article 17

(1) An agricultural or food product produced or processed in accordance with the corresponding product specification shall be identified so that beside the registered name it has a visible indication „ PROTECTED DESIGNATION OF ORIGIN“ or „PDO“ for short, or „PROTECTED GEOGRAPHICAL INDICATION“ or „PGI“ for short, together with the application of the corresponding symbol.

(2) Only the producers or processors producing or processing agricultural or food products in accordance with the product specification and registered in the records referred to in the Article 12 paragraph 2 of this Law, may apply the indication or designation and the corresponding symbol referred to in the paragraph 1 of this Article on the label or advertising or other documentation referring to the agricultural or food product.

(3) The symbol referred to in the paragraph 1 of this Article is the graphic symbol of a registered designation or indication of an agricultural or food product.

(4) The appearance, size, content and method of issuing the symbol referred to in the paragraph 3 of this Article shall be laid down by a regulation of the Ministry.

III AGRICULTURAL OR FOOD PRODUCTS AS TRADITIONAL SPECIALITIES GUARANTEED

Specific characters Article 18

(1) Traditional speciality guaranteed means an agricultural or food product recognized for its specific characters through a process of registration, in accordance with this Law.

(2) Traditional, in terms of this Law, means proven usage of the product on the market for a period of time showing transmission from a generation to generation of at least 25 years.

(3) Specific characters, in terms of this Law, means the characteristic or a set of characteristics clearly distinguishing one agricultural or food product from other similar agricultural or food products of the same category, which may relate to the specific characteristics of the product such as physical, chemical, microbiological or organoleptic characteristics of the product or a method of production that the producer applies or the specific conditions during the production process.

(4) Presentation of an agricultural or food product is not regarded a specific characteristic referred to in the paragraph 3 of this Article.

(5) The specific characteristic referred to in the paragraph 3 of this Article may not be restricted only to the qualitative or quantitative composition or to a method of production laid down by specific regulations or standards, unless such regulations or standards lay down the specific characters of the product.

Register of names of traditional specialities guaranteed Article 19

(1) The Register of names of traditional specialities guaranteed shall be kept by the Ministry.

(2) The Register referred to in the paragraph 1 of this Article shall contain two lists of traditional specialities guaranteed, depending on whether or not the use of the name of the agricultural or food product is reserved to producers who comply with the conditions of the product specification.

(3) The contents, form and method of keeping the register referred to in the paragraph 1 of this Article shall be laid down by a regulation of the Ministry.

Requirements as regards products and names

Article 20

- (1) In order to be entered in the Register referred to in Article 19 paragraph 1 of this Law, an agricultural or food product shall be either produced by using traditional raw materials or be characterised by a traditional composition or method of production and/or processing reflecting the traditional way of production and/or processing.
- (2) Agricultural or food products the specific character of which derives from its provenance or geographic origin shall not be registered.
- (3) Notwithstanding the Article 21 of this Law, use of geographic terms shall be allowed in names of agricultural or food products.
- (4) In order to be registered, the name shall:
 - 1) be specific in itself, or
 - 2) express the specific character of the agricultural or food product.
- (5) The specific name referred to in the paragraph 4 item 1 of this Article shall be traditional and in accordance with this Law or established by custom.
- (6) The name referred to in the paragraph 4 item 2 of this Article may not be registered if:
 - 1) it refers only to claims of a general nature used for a set of agricultural or food products or to those provided for by specific regulations;
 - 2) misleads or makes reference to an obvious characteristic of the product or the one that does not correspond to the product specification and is therefore misleading the consumer as regards the product characteristics.

Restriction on the use of names

Article 21

The name of a plant variety or animal breed may be a part of the name of the indication of traditional speciality guaranteed, provided that it is not misleading as regards the nature of the product.

Product specification

Article 22

- (1) In order to be treated as a traditional speciality guaranteed, an agricultural or food product shall comply with the conditions from the product specification for the traditional speciality guaranteed.
- (2) The product specification referred to in paragraph 1 of this Article shall include:
 - 1) the name referred to in Article 20 paragraph 4 of this Law, which shall be in Montenegrin language, or at request, in some other language, indicating whether the group applies for registration with or without reservation of the name;
 - 2) description of the agricultural or food product including also its main physical, chemical, microbiological or organoleptic characteristics;

- 3) description of the production method that the producers must observe including also, where appropriate, the nature and characteristics of the raw materials or ingredients used and the method of preparation of the agricultural or food product;
- 4) the key elements defining the specific character of the product and, where appropriate, the reference basis;
- 5) the key elements proving the traditional character of the product in line with the Article 18 paragraph 2 of this Law; and
- 6) the minimum requirements and procedures for checking the specific characters.

Application for registration Article 23

(1) The application for registration of the name traditional speciality guaranteed (hereinafter referred to as: the application for registration) may be submitted only by a group of producers or processors of the same agricultural or food product, regardless of its legal status or composition (hereinafter referred to as: the group).

(2) A group may submit the application for registration only for agricultural or food products it produces or processes.

(3) A group may submit the application for registration with a reservation of the name for an agricultural or food product in case that name is not used in a lawful, renowned and economically significant way for similar agricultural or food products.

(4) The application for registration shall contain the name and address of the group submitting the application for registration of a traditional speciality guaranteed.

(5) Together with the application for registration, the following shall be submitted:

- 1) product specification referred to in Article 22 of this Law;
- 2) the name and address of the authorised body verifying the compliance with the product specification and its specific tasks;
- 3) documents confirming the traditional characteristics and the specific character of the product.

(6) Registration of only one traditional speciality guaranteed may be sought with the application for registration.

(7) More detailed content and method of submitting the application for registration shall be laid down by a regulation of the Ministry.

Application processing Article 24

(1) The application for registration shall be submitted to the Ministry.

(2) The Ministry shall establish the Commission for implementation of the procedure of registration of traditional speciality guaranteed for agricultural or food products (hereinafter referred to as: the Commission for TSG).

(3) The Commission for TSG shall check the completeness of the application in accordance with the Article 22 of this Law, within the period of 30 days from the day of the receipt of the application.

(4) Where an application for registration is incomplete, the Commission for TSG shall invite the applicant to remove the deficiencies noted within the period of 30 days, or exceptionally, within the period of time set by the Commission.

(5) Where the applicant for registration fails to remove the deficiencies within the deadline set in the paragraph 4 of this Article, the Ministry shall, at proposal of the Commission for TSG, issue a decision rejecting the application for registration

(6) A complete and justified application for registration shall be published by the Ministry in the Official Gazette of Montenegro.

(7) The product specification referred to in Article 22 of this Law shall be published on the Ministry's web site.

Objection to an application for registration Article 25

(1) A legal or natural person having a legitimate interest and which is established or resident in Montenegro may lodge an objection to the application for registration in a form of a substantiated statement within the period of time prescribed.

(2) The objection referred to in paragraph 1 of this Article shall be submitted to the Ministry within the period of 30 days from the day of publishing of the application in the Official Gazette of Montenegro.

(3) The objection referred to in the paragraph 1 of this Article shall be admissible if:

- 1) submitted within the period of time prescribed;
- 2) the objection indicates that the traditional speciality guaranteed registration of which is sought by the application does not comply with the conditions referred to in Articles 18, 20 and 21; or
- 3) in case of an application referred to in Article 23 paragraph 3 of this Law, the objection indicates that the use of the name is lawful, renowned and economically significant for similar agricultural or food products.

Processing the objection to registration Article 26

(1) The Commission for TSG shall check the admissibility of an objection from the Article 25 of this Law.

(2) In case the Ministry receives no objection in accordance with the paragraphs 2 and 3 of Article 25 of this Law, the Commission for TSG shall propose to the Ministry to adopt the decision on registration of the name of the traditional speciality guaranteed.

(3) Where the objection is in compliance with the paragraphs 2 and 3 of Article 25 of this Law, the Commission for TSG shall invite the interested parties to make an agreement.

(4) In case the interested parties fail to reach an agreement, the Commission for TSG shall propose to the Ministry acceptance or rejection of the application for registration, or further processing of the application for registration, having regard to the opinion of the applicant and the party that submitted the objection, with the Ministry adopting the decision, as appropriate.

(5) The decision referred to in paragraphs 2 and 4 of this Article is final and administrative proceedings may be initiated against it.

(6) The name traditional speciality guaranteed registered by a decision referred to in paragraphs 2 and 4 of this Article shall be published in the Official Gazette of Montenegro.

(7) The method of submission of the objection, the time limits in processing of objection referred to in paragraph 3 of this Article and the time limits for further processing of the application for registration referred to in the paragraph 4 of this Article shall be laid down by a regulation of the Ministry.

Cancellation of the decision on registration of the name of traditional speciality guaranteed

Article 27

(1) The decision on registration of the name traditional speciality guaranteed shall be cancelled in case the procedure for verification of the compliance with the product specification for the traditional speciality guaranteed establishes that continuous compliance with the conditions from the product specification cannot be and will not be ensured, or in case the Ministry does not receive, within the period of five years, from the authorised legal person referred to in Article 37 of this Law the information on verification of compliance with the product specification for the traditional speciality guaranteed.

(2) The request for cancellation of the decision referred to in the paragraph 1 of this Article may be submitted to the Ministry by a legal or natural person having legitimate interest, stating the reasons for the cancellation of the decision.

(3) The Ministry shall publish the valid decision on cancellation of the decision on registration of the name of a traditional speciality guaranteed in the Official Gazette of Montenegro.

(4) Based on the valid decision referred to in the paragraph 3 of this Article the Ministry shall delete the registered traditional speciality guaranteed from the Register referred to in the Article 19 of this Law.

(5) The form, the content and the procedure of processing the request referred to in the paragraph 2 of this Article shall be laid down by a regulation of the Ministry.

Change of specification

Article 28

- (1) A group with legitimate interest may submit the application for approval of change of the product specification for the traditional speciality guaranteed.
- (2) The application referred to in paragraph 1 of this Article shall be submitted to the Ministry and it shall include the description of the changes to the product specification proposed as well as their justification or existence of an economic interest.
- (3) Processing of the application referred to in paragraph 1 of this Article shall be done by the procedure referred to in provisions of Articles 23 to 26 of this Law.
- (4) In case the scope of changes to specifications proposed are smaller, the Commission for TSG shall process the application without using the procedure referred to in Article 24 paragraph 6 and Articles 25 and 26 of this Law, and in case the request is justified, the Ministry shall publish it in the Official Gazette of Montenegro.
- (5) The changes to the specification referred to in paragraph 4 of this Article shall be published by the Ministry at the Ministry's web site.
- (6) The Ministry shall notify the producers or processors using the registered name of the traditional speciality guaranteed for which the change of the specification was proposed, of the method of publishing the change to the specification referred to in Article 5 of this Article.
- (7) Where changes involve a temporary change of the specification resulting from the mandatory sanitary or phytosanitary measures prescribed by the competent state authorities, the Ministry shall, at the proposal of the Commission for TSG adopt a decision on temporary specification change.
- (8) The conditions and the method of submitting the applications for change of the specification as well as what a change to the specification of a smaller scope means, shall be laid down by a regulation of the Ministry.

Names, indications and symbols

Article 29

- (1) The name of an agricultural or food product is the registered name referred to in Article 20 paragraph 4 of this Law.
- (2) The indication for the traditional speciality guaranteed is the statement "TRADITIONAL SPECIALITY GUARANTEED" or „TSG“ for short.
- (3) The symbol is the graphic symbol of a registered traditional speciality guaranteed.
- (4) The appearance, size, content and method of issuing the symbol referred to in the paragraph 3 of this Article shall be laid down by a regulation of the Ministry.

**Use of the indication „traditional speciality guaranteed“
Article 30**

(1) Producer or processor of an agricultural or food product complying with the conditions from the specification for the traditional speciality guaranteed may use the indication „traditional speciality guaranteed“.

(2) Following the registration of a traditional speciality guaranteed and obtaining of the document on compliance of the product with the specification referred to in Article 37 paragraph 2 of this Law, the producer or processor of the agricultural or food product may submit an application for entry in the Records of users of indication „traditional speciality guaranteed“ or „TSG“ for short (hereinafter referred to as: the records).

(3) Following the completion of the entry procedure, the Ministry shall issue the producer or processor of the agricultural or food product with the decision on entry in the Records.

(4) The producer or processor of the agricultural or food product shall be deleted from the Records in case they no longer comply with the conditions from the product specification.

(5) The producer or processor producing or processing, as appropriate, the agricultural or food products in accordance with the product specification for the traditional speciality guaranteed and entered in the Records shall, when labelling or advertising or using other documents related to the registered agricultural or food product, use the name, indication and symbol in accordance with this Law.

(6) The contents of the application, contents and method of keeping the Records and the procedure for deletion from the Records shall be laid down by a regulation of the Ministry.

**Rules on the registered name
Article 31**

(1) From the day of publication in accordance with the Article 26 paragraph 6 of this Law, the name of a traditional speciality guaranteed, registered without reserving the name, may be used only to identify agricultural or food products produced in accordance with the product specification as the traditional specialities guaranteed.

(2) The name referred to in paragraph 1 of this Article may be used on the labelling of a product that is not produced in accordance with the specification, but the indication "TRADITIONAL SPECIALITY GUARANTEED" or „TSG“ and the associated symbol may not be used on the labelling of such products.

(3) From the day of publishing in accordance with the Article 26 paragraph 6 of this Law, the name of a traditional speciality guaranteed, registered with the reservation of the name and even where not accompanied by the indication "TRADITIONAL SPECIALITY GUARANTEED" or „TSG“ or the associated symbol, may not be used on the labelling of similar agricultural or food products that do not meet the conditions from the product specification of the traditional speciality guaranteed published.

(4) For a name whose registration is sought in Montenegrin language, the group may specify in the product specification for the traditional speciality guaranteed that, once the product is marketed, the label may, in addition to the name of the product in Montenegrin language, include also a statement in other languages that the product has been obtained in accordance with the tradition of the region.

Protection Article 32

(1) Any misuse or use of the indication "TRADITIONAL SPECIALITY GUARANTEED" or „TSG“ and the associated symbol that may mislead the consumer as well as any imitation of the name registered and reserved in accordance with the Article 31 paragraph 3 of this Law shall be prohibited.

(2) Use of a registered name in the manner that may mislead the consumer, including the practices suggesting that an agricultural or food product is registered as a traditional speciality guaranteed shall be prohibited.

(3) Description of agricultural or food product used at the market shall not be used in the manner that may mislead the consumer as regards names registered and reserved in accordance with the Article 31 paragraph 3 of this Law.

Exclusion from application of regulations Article 33

The regulations governing the intellectual property, and in particular the trademarks and provisions of the Chapter II (Articles 3 to 17) shall not apply to agricultural and food products as traditional specialities guaranteed from the Chapter III (Articles 18 to 32) of this Law.

IV FEES Article 34

(1) In the process of registration of designations of origin, geographical indications and registration of traditional specialities guaranteed the applicant shall pay a fee to cover the costs, as laid down by a regulation of the Ministry.

(2) The fee referred to in paragraph 1 of this Article shall be commensurate with the actual costs incurred in the registration process.

V INTERNATIONAL REGISTRATION AND CIVIL LAW PROTECTION

International registration Article 35

(1) International registration of designations of origin, geographical indications and traditional specialities guaranteed shall be done in accordance with international agreements binding for Montenegro.

(2) The application for international registration of designations of origin, geographical indications and traditional specialities guaranteed shall be submitted to the Ministry.

(3) Indications and designations referred to in the paragraph 1 of this Article not registered and no longer valid in the country of origin may not be registered in Montenegro.

Civil law protection Article 36

Protection of registered designations of origin and geographical indications under the civil law shall be exercised in accordance with the law.

VI VERIFICATION OF COMPLIANCE

Certification body Article 37

(1) Verification of compliance with the specification of agricultural or food products shall be done following the adoption of the decision on registration of designations of origin, geographical indications and the decision on registration of the traditional speciality guaranteed.

(2) The verification of compliance with the specification referred to in the paragraph 1 of this Article shall be done by a legal person authorised by the Ministry (hereinafter referred to as: the certification body).

(3) The certification body shall fulfil the following conditions:

- 1) that it is based in Montenegro;
- 2) that it is accredited in accordance with the standard MEST EN 45011; and
- 3) that it meets the conditions as regards technical equipment and qualified staff.

(4) Notwithstanding the paragraph 3 item 2 of this Article the Ministry may authorise the certification body even in cases where the certification body is in the accreditation process.

(5) The accreditation procedure referred to in the paragraph 4 of this Article shall be completed within the period of one year from the day the authorisation was issued.

(6) The list of authorised certification bodies shall be published by the Ministry in the Official Gazette of Montenegro.

Procedure of verification of compliance with the specification Article 38

(1) The procedure of verification of compliance with the specification referred to in the Article 37 paragraph 1 of this Law shall start with submission of the application for verification to the certification body by the interested natural or legal persons producing or processing agricultural or food products in accordance with the specification.

(2) Following the completion of the procedure of verification of compliance with the specification, the certification body shall issue a document on compliance of the product, which is presented to the applicant and the Ministry.

(3) Where the certification body establishes significant non-compliance with the product specification, it shall notify the Ministry thereof.

(4) The costs of verification of compliance with the specification shall be set by the certification body, with approval from the Ministry, and shall be borne by the applicant applying for verification of compliance with the product specification.

(7) More detailed conditions to be met by the certification body, the procedure of verification of compliance with the product specification and methods and deadlines for notifications referred to in paragraph 3 of this Article shall be laid down by a regulation of the Ministry.

VII INSPECTORIAL SUPERVISION

Article 39

The inspectorial supervision over the implementation of this Law and the regulations adopted on the basis of this Law shall be carried out by the Ministry, through the agricultural inspectors.

The scope of authority of an agricultural inspector

Article 40

In addition to the authority of inspectors as laid down by the law governing the inspectorial supervision, the agricultural inspector has also the authority to:

- 1) check keeping of registers and records in accordance with this Law;
- 2) check use of registered designations, indications and names in accordance with this Law;
- 3) check compliance with the conditions for carrying out the activities of verification of compliance of agricultural and food products with the product specification;
- 4) take samples of agricultural and food products in order to verify the compliance with the product specification;
- 5) propose to the Ministry deletion of producers and processors of agricultural and food products from appropriate records in case it is established that their products do not comply with the conditions from the specification;
- 6) check also other conditions as provided for by this Law.

Administrative measures and actions of the agricultural inspector

Article 41

In addition to administrative measures and actions as laid down by the law governing the inspectorial supervision, the agricultural inspector shall take also the following administrative measures and actions:

- 1) prohibit use of registered designations of origin, geographical indications or name of the traditional speciality guaranteed that are not entered in the register referred to in Articles 11 and 19 of this Law;

- 2) prohibit use of designations and indications to producers of agricultural and food products who are not registered in corresponding records of users of designations and indications referred to in Article 12 paragraph 2 and Article 30 paragraph 2;
- 3) prohibit marketing of agricultural and food products with registered designation or indication or name that fails to comply with the conditions from the product specification;
- 4) prohibit marketing of agricultural and food products where it is established that they have not been labelled in accordance with this Law;
- 5) set also other measures and actions in accordance with the law.

VIII PENALTY PROVISIONS

Article 42

(1) A fine ranging from 500 Euros to 10,000 Euros shall be imposed for misdemeanour on a legal person if it:

- 1) uses a registered designation of origin or geographical indication but the product does not comply with the conditions from the corresponding specification, or the producer or processor is not registered in the corresponding Records (Article 12 paragraphs 1 and 2);
- 2) uses a registered designation of origin or geographical indication after the cancellation of the decision on registration of the designation of origin or geographical indication (Article 14 paragraph 1);
- 3) produces or processes agricultural or food products in accordance with the specification and is registered in corresponding records referred to in the Article 12 of this Law, and fails to put the name, indication or associated symbol onto the product, or label or other document that relates to the agricultural or food product (Article 17 paragraphs 1 and 2);
- 4) uses the name traditional speciality guaranteed that was erased from the register from Article 19 paragraph 1 of this Law based on a valid decision on cancellation of the name (Article 27 paragraph 4);
- 5) uses the indication „traditional speciality guaranteed“ for a product that does not comply with the conditions from the product specification for the traditional speciality guaranteed or is not entered in the Records of users of the indication in accordance with this Law (Article 30 paragraphs 1 and 2);
- 6) produces or processes agricultural products in accordance with specification and if entered in the Records referred to in Article 30 paragraph 2 of this Law but fails to use the name, indication and symbol in labelling, advertising or other documents related to that product in accordance with this Law (Article 30 paragraph 5).

(2) A fine ranging from 30 Euros to 2,000 Euros shall be imposed on the responsible person in the legal person for the misdemeanour referred to in paragraph 1 of this Article.

(3) A fine ranging from 150 Euros to 6,000 Euros shall be imposed on the entrepreneur for the misdemeanour referred to in paragraph 1 of this Article

(4) A fine ranging from 30 Euros to 1,000 Euros shall be imposed on the natural person for the misdemeanour referred to in paragraph 1 of this Article.

(5) A protective measure of seizure of the objects may be imposed for the misdemeanour referred to in paragraph 1 of this Article.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 43

Bylaws based on this Law shall be adopted within the period of one year from the day of entry into force of this Law.

Article 44

A geographical indication that is not recognized as a designation of origin by May 1, 2004 under the terms from Article 3 paragraph 3 of this Law may not be recognized as a designation of origin.

Article 45

The holders of the right of authorised user of the name of origin or geographical indication in accordance with the Law on designations of geographical origin (Official Gazette of Montenegro 48/08) shall, in accordance with this Law, apply for registration of designations of origin, or geographical indications, as appropriate, within the period of 18 months from the day of entry into force of this Law.

Article 46

The day this Law enters into force, the provisions of the Articles 44 and 75 item 6 of the Law on Agriculture and Rural Development (Official Gazette of Montenegro 56/09) shall be repealed.

Article 47

This Law shall enter into force on the eighth day from the day of its publishing in the Official Gazette of Montenegro.