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# GUIDELINES FOR THE EXAMINATION OF THE REQUESTS SUBMITTED UNDER THE LAW NO. 05/L -051

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# 1. INTRODUCTION, DEFINITIONS AND ABBREVIATIONS

## 1.1 Introduction

An indication used on the product that has a specific quality, reputation or other characteristic attributable to its geographical origin is protected as a “geographical indication (GI)” or “designation of origin (DO)”. The term “appellations of origin” may be used to refer to the DO.

The link between the product and its geographical origin is quite strict for DO than the GI.

Protection systems for DOs and GIs differ from country to country. But in general, contracting parties of the Paris Convention for the Protection of the Industrial Property<sup>1</sup> and the TRIPS (Trade-Related Aspects of Intellectual Property Rights)<sup>2</sup> Agreement have common principles to provide protection.

In the international area, if the subject matter does not require such a distinction between the terms DO and GI, the term GI is used also referring to the DO.

Geographical and non geographical names may be protected as GI if they fulfill the other requirements of protection. Danbo<sup>3</sup> is an example for non geographical names protected as GI. Danbo originates from Denmark and it is formed by combining the words “Dan” and “Bo”. Dan is the Nordic derivative of the popular name “Dane” (the Danes) while Bo means “the resident”. The name “Danbo” is therefore the historical term for one who is resident in Denmark, and was given to this cheese because all Danes consider it to be the most characteristic Danish cheese of all.

GIs cannot be limited to the administrative borders of the geographical areas. They draw their borders depending on the products’ specific quality, reputation or other characteristics attributable to their geographical origins.

In the European Union (EU), as a result of the consensus reached in the opposition procedure, Istra<sup>4</sup> olive oil is registered with both Croatia and Slovenia within its geographical area. The important thing here is that the distinguishing features of the olive oil, which is known with the same DO in both countries, are the same.

The name Gruyère<sup>5</sup> identifies cheeses with different characteristics and is protected as a GI in France and as a DO in Switzerland. For this reason, it has been registered separately in both countries. GIs in this situation are called as “homonymous”. In order to prevent the consumers from being misled as to the true origin of the products, sufficient explanations referring this fact should be included on the label of the products.

<sup>1</sup><https://www.wipo.int/treaties/en/ip/paris/>

<sup>2</sup>[https://www.wto.org/english/docs\\_e/legal\\_e/27-trips\\_03\\_e.htm](https://www.wto.org/english/docs_e/legal_e/27-trips_03_e.htm)

<sup>3</sup><https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/details/EUGI00000015882>

<sup>4</sup><https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/details/EUGI00000015982>

<sup>5</sup><https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/details/EUGI00000014024>; [https://www.gruyere.com/fileadmin/documents/gruyere/pdf/Cahier\\_des\\_charges/cahier-des-charges-definitif-du-6-juillet-2001-anglais-aop-2014-v2016.pdf](https://www.gruyere.com/fileadmin/documents/gruyere/pdf/Cahier_des_charges/cahier-des-charges-definitif-du-6-juillet-2001-anglais-aop-2014-v2016.pdf)

### eAmbrosia

“eAmbrosia<sup>6</sup>” is a legal register of the names of agricultural products and foodstuffs, wine, aromatised wine products and spirit drinks that are registered and protected across the EU. Direct access to the links for applications and publications is provided by this database.

### G/view

“G/view<sup>7</sup>” is a modern user interface portal on GIs offering the public in general, as well as specific interested parties (e.g. producers, trademark and other intellectual property rights holders, enforcement authorities, public administration examiners), comprehensive information on all GIs protected within the EU.

G/view contains the official registered data and extended data, such as the contact data of the producer groups and control bodies, maps, photographs of the product, product description, the geographical area, sustainability statement, etc.

Official registered data includes information on non-EU countries’ GIs protected at the EU level through bilateral and multilateral agreements, as well as on the EU GIs protected in non-EU countries. In this context, the EU GIs protected in Kosovo under the Stabilisation and Association Agreement<sup>8</sup> are accessible via G/view portal.

### Worldwide GIs Compilation

oriGIn<sup>9</sup> -The Organization for an International Geographical Indications Network –is a non-for-profit non-governmental organization representing some 576 associations of GIs producers and other relevant institutions from 40 countries.

oriGIn has created “Worldwide GIs Compilation<sup>10</sup>” aiming to establish a common language in the international GIs landscape. All GIs currently protected in the World, notwithstanding the legal system and terminology adopted at the national level, are listed in an alphabetical order. For each GI, the compilation mentions the country of origin, the relevant national law, the product’s category, some basic information about the product at issue as well as third country/ies where it is protected via a multilateral and/or a plurilateral agreement.

### Lisbon Express

Lisbon Agreement<sup>11</sup> and the Geneva Act<sup>12</sup> of the Lisbon Agreement, administrated by WIPO-World Intellectual Property Organization, are the international registration systems offering protection in 36 contracting parties, covering up to 55 countries, through a single registration procedure and one set of fees for GIs. “Lisbon Express<sup>13</sup>” is the database of this system.

<sup>6</sup><https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/>

<sup>7</sup><https://www.tmdn.org/giview/>

<sup>8</sup><https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2016:071:FULL&from=EN>

<sup>9</sup><https://www.origin-gi.com/>

<sup>10</sup><https://www.origin-gi.com/worldwide-gi-compilation/>

<sup>11</sup><https://wipolex.wipo.int/en/treaties/textdetails/12586>

<sup>12</sup><https://wipolex.wipo.int/en/treaties/textdetails/15625>

<sup>13</sup><https://www.wipo.int/ipdl-lisbon/struct-search>

## 1.2. Definitions and Abbreviations

This guideline is intended to ease the processing of the geographical indication, designation of origin and guaranteed traditional specialties applications and related requests. Legal arrangements taken into account are listed below while drafting this Guidelines.

- Law No. 05/L -051 On Geographical Indications And Designations Of Origin
- Administrative Instruction (MTI) No. 11/2016 On Registration Procedure Of Geographical Indications And Designations Of Origin
- Administrative Instruction No. 09/2018 On Determining Symbols For Geographical Indications, Designation Of Origin And Guaranteed Traditional Specialties
- Regulation (MTI) No. 01/2020 On The Rules Of Procedure Of The Expert Commission On Agricultural Products And Foodstuffs
- Administrative Instruction (MTI) No. 10/2016 On Administrative Fees For Industrial Property Facilities
- Administrative Instruction (MTI) No. 10/2020 On Authorized Representatives In The Field Of Industrial Property
- Administrative Instruction (MTI) No. 02/2017 On The Responsibilities, Mandate And Work Of The Appealing Committee Under The Industrial Property Agency

Legal references of the abovementioned legal arrangements are given at the end of the every provisions to contribute to draft the irregularity letters, decisions etc. On the other hand, these legal references will make it easier to reflect any legislation change to the Guidelines.

**Table: Abbreviations and Definitions**

Abbreviation	Term	Definition
	Appeals Review Committee	Committee that review the appeals that are against the Industrial Property Agency. (MTI No. 02/2017 Article 3.1.3)

	Certifying Bodies	<p>The authorities or authorized bodies for verification of product compliance with the provisions of the specification are the authorized institutions and recognized for verification of product compliance with the provisions of the specification in accordance with the legislation into force on compliance by Certifying Bodies.</p> <p>(Law No. 05/L -051 Article 28.1)</p>
	Complainant	<p>Party that appealed the Industrial Property Agency decisions.</p> <p>(MTI No. 02/2017 Article 3.1.2)</p>

DO	Designation of Origin	<p>Name of a region, of a specific place or, in exceptional cases, the name of a state, which is used to describe a product originating in that specific region, place or country, whose qualities or characteristics are exclusively a result of a particular geographic environment with natural and human factors inherited from this environment and as a result of the production, processing and preparation of the product, which is entirely developed in the defined geographical area</p> <p>(Law No. 05/L -051 Article 4.1.3)</p> <p>Certain geographical designations despite Law No. 05/L -051 Article 4.1.7, shall be treated as designations of origin, when they testify traditional character and an exceptional reputation and fame and the raw materials of the products in question comes from a wider geographic area, or different from the area where the product is processed, provided that:</p> <ul style="list-style-type: none"> <li>* production area of the raw material is determined despite (Law No. 05/L -051 Article 4.2.1)</li> <li>* special conditions exist for the production of raw material (Law No. 05/L -051 Article 4.2.2)</li> <li>* exist legal basis for inspection that ensures compliance of specified conditions laid down in Article 4.2. (Law No. 05/L -051 Article 4.2.1)</li> </ul> <p>Only live animals, meat and milk may be considered as raw material for agricultural products or food for the purpose of Article 4.2. (Law No. 05/L -051 Article 4.3)</p>
	Distinct products	<p>Products that although using the same registered name are differentiated when placed on the market or considered as different products by consumers.</p> <p>(MTI No:11/2016 Article 5.1.4)</p>
EU	European Union	

	Expert Commission	Team of professionals responsible for reviewing and decision-making on the registration for protection, changes to product specification and suspension of geographical indications and designations of origin, as well as for reviewing and decisions on registration, revocation and suspension of authorized users for protected national geographical indications and protected designations of origin in the cases of agricultural products and foodstuffs.  (MTI No:01/2020 Article 3.1.5)
	Generic designation	Name of a product which although it is related to the country or region where this product was originally produced or marketed, has become a common name of a product in Kosovo.  (Law No. 05/L -051 Article 4.1.6)
GI	Geographical Indication	Name of a region, of a specific country or, in exceptional cases, the name of a state, which is used to describe a product originating in that specific region, place or state, possesses a quality, reputation or other specific features resulting from the geographical origin, whose production and/or processing and/or preparation is entirely done in the defined geographic area.  (Law No. 05/L -051 Article 4.1.4)
IP	Industrial Property	
IPA	Industrial Property Agency	
MTI	Ministry for Trade and Industry	
	Place of origin	Regional systems in which it was granted the protection of designation of origin or geographical indication for products related to a geographic area which lies in one or several states, part of that regional system.  (Law No. 05/L -051 Article 4.1.7)
PDO	Protected Designation of Origin	
PGI	Protected Geographical Indication	



	Traditional designations	Traditional geographic or non-geographic designations that designate a product or which meets the criteria set out in Law No. 05/L -051 Article 4 are considered also as designations of origin or geographical indication.  (Law No. 05/L -051 Article 5)
TSG	Traditional Speciality Guaranteed	A name is eligible for registration as a guaranteed traditional specialty where it describes a specific product or a food that:  * results by the method of production, processing or composition that correspond to traditional practice for that product or food; or (Law No. 05/L -051 Article 78.1.1)  * is produced from raw materials or ingredients that are traditionally used. (Law No. 05/L -051 Article 78.1.2)  A name to be registered as a traditional specialty guaranteed, it should:  * be traditionally used by referring to a specific product, or (Law No. 05/L -051 Article 78.2.1)  * to identify the traditional character or specific character of product. (Law No. 05/L -051 Article 78.2.2)

## 1. EXAMINATION OF THE REQUESTS SUBMITTED UNDER THE LAW NO. 05/L -051

### 1.1 General Principles of the Law and Its Administrative Instructions

- a) **Law No. 05/L -051 does not apply to those products for which the protection of DOs and GIs is regulated by a special Law. (Law No. 05/L -051 Article 3). In this context, such kind of applications are rejected under this provision.** Applications subject to the Law No. 05/L -051 proceed to the examination stage.

**(TEMPORARY NOTE 1: To ensure unity in practice and for the sake of clarity, this kind of special laws providing protection to DOs and GIs should be indicated here. Therefore, if especially Stabilisation And Association Agreement is considered within Article 3, it should be written here and for the content of the EU GIs' list attached to the Stabilisation And Association Agreement, EU database/portal eAmbrosia and Giview should be referred. On the other hand, while deciding on this issue, Law No. 05/L -051 Article 11.3 should also be taken into consideration)**

- b) Registered DOs and GIs cannot be transferred, licensed, or be subject to the same rights, free agreement or any form of rights assignment. (Law No. 05/L -051 Article 43)
- c) Submitting of communications:

- Communication may be submitted to IPA in person or by post by submitting the original document. (MTI No. 11/2016 Article 19)
  - Handwritten signature and stamped signature on communications are accepted. (MTI No. 11/2016 Article 20.1)
  - If a communication is accompanied by several evidences, whenever possible, evidences should be listed and marked by the number of the file they relate to. (MTI No. 11/2016 Article 20.2)
  - Communications submitted to IPA and publications made in the Official Bulletin of IPA should be in one of the official languages of Kosovo. Their following communications should be in the same language. (MTI No. 11/2016 Article 21.1 and Article 21.2)
  - Documents presented as evidence must be submitted together with the translation into one of the official languages of Kosovo. If IPA requires a certificate that the translation corresponds to the original text, it should be submitted within 60 days as from the date of the receipt of such request. (MTI No. 11/2016 Article 21.3)
  - Upon request of the party within 60 days, the time limit may be extended for a maximum of 30 days counted from the date of the expiration of the time limit. (MTI No. 11/2016 Article 21.4)
  - If the certificate is not filed within the time limit set, the document is deemed not to have been received. (MTI No. 11/2016 Article 21.5)
- d) Implementation of the provision of the Law on Trademarks:
- Foreign legal and natural persons without permanent residence, dwelling or headquarters for business in Kosovo must be represented before IPA in all procedures established by Law No. 05/L -051, by a trademark agent in accordance with the provisions of Chapter XIV of the Law on Trademarks. (Law No. 05/L -051 Article 85.1)
  - Natural and legal persons who have business headquarters, permanent residence or dwelling in Kosovo may be represented before IPA in the procedures established by Law No. 05/L -051 by a trademark agent in accordance with the provisions of Chapter XIV of the Law on Trademarks. (Law No. 05/L -051 Article 85.2)
  - Legal persons who have business headquarters, permanent residence or dwelling place in Kosovo may be represented before IPA in the procedures established by Law No. 05/L -051 by any employee with a signed authorization by the legal person. (Law No. 05/L -051 Article 85.3)
  - Provisions of Chapter XIV of the Law on Trademarks relating to the representation is applied in accordance with the representation in the field of DOs or GIs. (Law No. 05/L -051 Article 85.4)

- e) Supervision of the implementation of Law No. 05/L -051 is applied by the relevant inspectorate in territory of Kosovo. (Law No. 05/L -051 Article 76.1)
- Relevant inspectorate in the territory of Kosovo should act as the competent authority responsible for official controls performed to verify the compliance with legal requirements regarding the DOs or GIs. (Law No. 05/L -051 Article 76.2)
  - Abovementioned competent authority should provide sufficient guarantees of impartiality and objectivity and should have available a qualified staff and necessary resources to perform their function. (Law No. 05/L -051 Article 76.3)
  - Official control that needs to be performed by the relevant inspectorate should cover the verification that a product complies with the relevant product specifications and monitor the use of trademarks to describe the location of products in the market in accordance with Law No. 05/L -051 Article 12. (Law No. 05/L -051 Article 76.4)
- f) For the services provided by IPA, payment of the fees are obligatory for the procedures taken in regard to recognition and maintenance of the rights on DOs and GIs. (MTI No. 10/2016 Article 1 and Article 2)
- Fees should be paid through the bank account, along with a copy of receipt that shall be submitted as evidence to IPA. (MTI No. 10/2016 Article 3.1)
  - If the fee is not paid when the application is submitted, IPA invites the party to make the relevant payment within 30 days from the day of receiving the application. (MTI No. 10/2016 Article 3.2)
  - If the party does not pay the prescribed tax fee within 30 days, application is considered withdrawn. (MTI No. 10/2016 Article 3.4)
  - Fees payment procedures set forth in MTI No. 10/2016 are subject to all other applications and procedures specified in MTI No. 10/2016. (MTI No. 10/2016 Article 5.2)
  - **Annex D of the MTI No. 10/2016 is related to the DOs and GIs and 11 actions are specified in this regard. Action 12 specifies the “fee for other actions of IPA which are not foreseen in the fee table.**
- g) **Provisions of Law No. 05/L -051 and MTI No:11/2016 are applied mutatis mutandis for guaranteed traditional specialties unless Law No. 05/L -051 Articles 77-83 and MTI No:11/2016 foresee otherwise.** (Law No. 05/L -051 Article 77 and MTI No:11/2016 Article 23)
- h) Where the publication of the relevant information on the application pursuant to Law No. 05/L -051 Article 31.5, on the registration of a DO or a GI, on the publication of the registration or on the registration of an authorized user contains a mistake or er-

ror attributable to IPA, IPA corrects the mistake or error acting on its own motion or at the request of the applicant. This correction is published. (MTI No:11/2016 Article 22)

## 2.2. Examination of the Designation of Origin and Geographical Indication Applications

### 2.2.1. Examination of the Applications (Law No. 05/L -051 Article 30 and Article 31)

- IPA checks the application within 60 days. (Law No. 05/L -051 Article 30.1)
  
- If IPA finds any **missing document** in relation to the belowmentioned requirements (under No. 05/L -051 Article 23), the applicant is invited to submit the missing documents within 60 days. (Law No. 05/L -051 Article 30.2)
  - Name and address of the association of producers / processors accompanied with information on the legal status and composition of the group where applicable (Law No. 05/L -051 Article 23.1)
  - Name and address of the applicant accompanied with adequate evidence on the legal status if the application is completed by a single person (Law No. 05/L -051 Article 23.2)
  - Name of the DO or GI (Law No. 05/L -051 Article 23.3)
  - Description of the product (Law No. 05/L -051 Article 23.4)
  - Definition the geographical area (Law No. 05/L -051 Article 23.5)
  - Product specifications (Law No. 05/L -051 Article 23.6)
  - Description of the connection between the product and the geographical origin referred to in Law No. 05/L -051 as the case may be (Law No. 05/L -051 Article 23.7)
  - Evidence on payment of the fee (Law No. 05/L -051 Article 23.8 and MTI No. 10/2016 Annex D)
  - Authorization if the person applying is represented by an authorized representative (Law No. 05/L -051 Article 23.9)
  - Evidence on the protection of a DO or GI related to a geographical area located outside of Kosovo (Law No. 05/L -051 Article 23.10)
  - Product name

**(TEMPORARY NOTE 2:** The requirement of “product name” is not clearly indicated in the Law No. 05/L -051 Article 23, but “product specifications” (Article 26.1.1) include “product name”. On the other hand, Article 21.2; 24.1, 26.1.1 and MTI No: 11/2016 Article 5.1.4 should be interpreted together to decide on the “product – distinct products” concept. )

- If requested by the applicant within 60 days, the deadline may be extended for a maximum 30 days starting from the date of expiry of the given deadline. (Law No. 05/L -051 Article 30.3)
- If the applicant doesn't submit the missing documents or fails to submit them within the deadline, the **application is rejected**. (Law No. 05/L -051 Article 30.4)
- If the application **fee is not paid** when the application is submitted, the applicant is invited to pay the fee within 30 days. If it's not paid within the deadline, the **application is considered as withdrawn**. (MT No. 10/2016 Article 3.2 and Article 3.4)
- If all the **missing documents** are submitted successfully in due time, **IPA examines the application according to the belowmentioned provisions**. (Law No. 05/L -051 Article 31.1)

**(TEMPORARY NOTE 3:** Article 31 indicates that the examination is performed “in particular” according to the Article 22 to 29. Since some the other articles include specific provisions clearly referring to the registrability, for the sake of legal certainty, these provisions are taken into consideration together with this article )

➤ **Representation (Law No. 05/L -051 Article 8)**

- Natural or legal persons who are resident or have business headquarters in Kosovo enjoy protection and have the right to act as a party to the proceedings conducted in the IPA. (Law No. 05/L -051 Article 8.1)
- Natural or legal persons who are not residents in Kosovo or have no residence or business headquarters in Kosovo, should be represented by authorized representatives before the IPA, except the existence of international or bilateral agreement which regulates mutual representation drafted by IPA. (Law No. 05/L -051 Article 8.2)

➤ **Grounds for rejection (Law No. 05/L -051 Article 9)**

- Generic terms as defined in Law No. 05/L -051 Article 4.1.6 cannot be registered. (Law No. 05/L -051 Article 9.1.1)

**(TEMPORARY NOTE 4:** The decision of a name's / designation's becoming generic is directly related to the decision of the name's being in conformity with the definition of DO or GI. Therefore, this provision is interpreted as one of the ground for rejection within the ex-officio examination. Besides it's also a ground for opposition as prescribed in No. 05/L -051 Article 33.1.1)

All factors, particularly existing situation in Kosovo and in zones of consummation as well as the Law in force should be taken into consideration while deciding whether or not a name has become generic. (Law No. 05/L -051 Article 9.2)

- A name that misleads the consumers to believe that the product comes from another territory even if the territory, region or place of origin of the product is accurate and truthful cannot be registered. (Law No. 05/L -051 Article 9.1.4)

(TEMPORARY NOTE 5: This provision is not listed in the Law No. 05/L -051 Article 33 describing the opposition procedure. Therefore it's interpreted as one of the ground for rejection within the ex-officio examination.)

- A name that can create confusion in the market about the type, origin, quality, method of production or other characteristics of the product cannot be registered. (Law No. 05/L -051 Article 9.1.5)

(TEMPORARY NOTE 6: This provision is not listed in the Law No. 05/L -051 Article 33 describing the opposition procedure. Therefore it's interpreted as one of the ground for rejection within the ex-officio examination.)

- A name, contrary to the public order or morals cannot be registered. (Law No. 05/L -051 Article 9.1.6)

(TEMPORARY NOTE 7: This provision is not listed in the Law No. 05/L -051 Article 33 describing the opposition procedure. Therefore it's interpreted as one of the ground for rejection within the ex-officio examination.)

- **Designation of origin and geographical indications relating to geographic areas outside Kosovo (Law No. 05/L -051 Article 11) (Referring to the Law No. 05/L -051 Article 23.1.10)**
  - If the application relates to geographic areas outside of Kosovo, the protection shall be granted if the application complies with the criteria determined in Law No. 05/L -051, and if the designation in question is protected in the country of origin. Regardless the provisions of Law No. 05/L -051 Article 9, in such cases a designation cannot be registered as a DO or GI when it was not protected or it is not protected in continuity or it is not used in the country of origin. (Law No. 05/L -051 Article 11.2)
  - **Protection of DO or GI can also be granted on the basis of bilateral or international agreements (Law No. 05/L -051 Article 11.3) and if not provided otherwise by these agreements, the scope of the protection will be same under Law No. 05/L -051. (Law No. 05/L -051 Article 11.4)**
  - Proceedings before IPA for these applications should be represented by the authorized representatives. (Law No. 05/L -051 Article 8)

➤ **Initiation of registration procedure (Law No. 05/L -051 Article 21)**

- An application for registration can have only one DO or one GI associated with only one type of product. (Law No. 05/L -051 Article 21.1)

**(TEMPORARY NOTE 8: This requirement is not clearly indicated in the Law No. 05/L -051 Article 23, but “product specifications” (Article 26.1.1) include “product name”. On the other hand, Article 21.2; 24.1, 26.1.1 and MTI No: 11/2016 Article 5.1.4 should be interpreted together to decide on the “product – distinct products” concept. )**

➤ **Right to apply (Law No. 05/L -051 Article 22)**

- Any association of producers or processors working with the same product, regardless of its composition or legal form (Law No. 05/L -051 Article 22.1.1)
- A single natural or legal person provided that it is presented at the time of completion of the application for registration, that the person in question is the only producer in the defined geographical area willing to file an application and that the defined geographical area possesses characteristics which significantly differ from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas (Law No. 05/L -051 Article 22.1.2)
- An association of producers or processors or a single person who meets the requirements set out in Law No. 05/L -051 Article 22.1.2 can apply for registration of a DO or GI for the product which they produce or offer. (Law No. 05/L -051 Article 22.1.3)

➤ **Content of application (Law No. 05/L -051 Article 23)**

- Information on the legal status and composition of the producers or processors group (Law No. 05/L -051 Article 23.1.1) and the signature of the person authorised to represent the group (MTI No: 11/2016 Article 5.1.5)
- Adequate evidence on the legal status of the single person (Law No. 05/L -051 Article 23.1.2) and the signature of the person (MTI No: 11/2016 Article 5.1.5)
- In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, several groups may lodge a joint application. (Law No. 05/L -051 Article 20)
- **Name of the DO or GI (Law No. 05/L -051 Article 21.3) is registered in its original script. Where the original script is not in Latin characters, a transcription in Latin characters is registered together with the name in its original script.** (MTI No: 11/2016 Article 3.1)
- Name and address of the representative in accordance with MTI No: 11/2016 Article 18, where applicable (MTI No: 11/2016 Article 5.1.2) and the signature of the representative (MTI No: 11/2016 Article 5.1.5)
- Name and address of the authorities or, if available, bodies verifying complian-

ce with the provisions of the product specification (Law No. 05/L -051 Article 26.1.7 and MTI No: 11/2016 Article 5.1.3)

- Where the application for registration of a name describes several **distinct products** type which are entitled to use that name, compliance with the requirements for registration must be shown separately for each distinct product. For the purposes of this paragraph, “distinct products” are those that although using the same registered name are differentiated when placed on the market or considered as different products by consumers. (MTI No: 11/2016 Article 5.1.4)

**(TEMPORARY NOTE 9: It’s not clearly /directly indicated in Article 23 of the Law, but “product specifications” (Article 26.1.1) include “product name”. In this context, Article 21.2; 24.1, 26.1.1 and MTI No: 11/2016 Article 5.1.4 should be interpreted together to decide on the “product – distinct products” concept. )**

- Product specification (Law No. 05/L -051 Article 23.1.6, Article 26 and MTI No: 11/2016 Article 6):
  - ✓ Product name that contains the DO or GI, as it is used, whether in trade or in common language, and only in the languages which are or were historically used to describe the specific product in the defined geographical area (Law No. 05/L -051 Article 26.1.1)
  - ✓ Product description including raw materials, if it is possible, as well as the main physical, chemical, microbiological, sensory (organoleptic) characteristics or other characteristics of the product (Law No. 05/L -051 Article 26.1.2)

If there is a restriction on the origin of raw materials for a **GI**, description of such restriction and justification of such a restriction in relation to the link referred to in Law No. 05/L -051 Article 26.1.6 between a specific quality, the reputation or other characteristic of the product and the geographical origin referred to in Law No. 05/L -051 Article 4.1.4. (MTI No: 11/2016 Article 6.1.1)

Identification of procedures which operators must have in place for information on proof of origin, referred to in Law No. 05/L -051 Article 26.1.4, concerning the product, raw materials, feed and other items that, according to the product specification, are required to come from the defined geographical area. These procedures must be such as to enable the operators to be able to identify:

- \* the supplier, quantity and origin of all batches of raw material and /or products received (MTI No: 11/2016 Article 6.1.2.1)
- \* the recipient, quantity and destination of products supplied (MTI No: 11/2016 Article 6.1.2.2)
- \* the correlation between each batch of inputs referred to in MTI No: 11/2016 Article 6.1.2.1. and each batch of outputs referred to in MTI No: 11/2016 Article 6.1.2.2 (MTI No: 11/2016 Article 6.1.2.3)



- ✓ Further to Law No. 05/L -051 Article 26.1.9, feed shall be sourced entirely from within the defined geographical area in respect of products of animal origin the name of which is registered as a protected **DO**. Insofar as sourcing entirely from within the defined geographical area is not technically practicable, feed sourced from outside that area can be added, provided that the product quality or characteristic essentially due to the geographical environment are not affected. Feed sourced from outside the defined geographical area shall in no case exceed 50 % of dry matter on annual basis. (MTI No: 11/2016 Article 6.1.3)
- ✓ Description of the product referred to in Law No. 05/L -051 Article 26.1.2. shall identify the product by using definitions and standards commonly used for that product. The description shall focus on the specificity of the product bearing the name to be registered, using measurement units and common or technical terms of comparison, without including technical characteristics inherent to all products of that type and related mandatory legal requirements applicable to all products of that type. (MTI No: 11/2016 Article 6.1.4)
- Definition of the geographical area and, if it is possible, details indicating compliance with the requirements of Law No. 05/L -051 Article 4.2 (Law No. 05/L -051 Article 23.1.5 and Article 26.1.3)
- Evidence that the product originates in the defined geographical area referred to in Law No. 05/L -051 (Law No. 05/L -051 Article 26.1.4)
- Description of the method to obtain the product and, if it is possible, unchanged authentic local methods and information on packaging, if the person applying determines, provides reasons and specific justification for the product, why the packaging must be done in the defined geographical area to maintain the quality of origin or to ensure the control (Law No. 05/L -051 Article 26.1.5)
- Details that prove the relation between the quality or characteristics of the product and the geographical environment in accordance with Law No. 05/L -051 or the relation between specific quality, reputation or other characteristics of the product and the geographical origin defined by Law No. 05/L -051 (Law No. 05/L -051 Article 26.1.6)

These details listed must clarify and explain how the characteristics of the defined geographical area affect the final product. Whenever appropriate, it shall include specific elements of the description of the product or the production method which justifies the relation. (Law No. 05/L -051 Article 27.1)

- **DO application should include the followings:**
  - ✓ Details of the geographical area, including the human factor and natural factors, relevant to the relation (Law No. 05/L -051 Article 27.2.1)

- ✓ Details of the quality or characteristics of the product that are essentially or exclusively due to the geographical environment (Law No. 05/L -051 Article 27.2.2)
- ✓ Description of the interaction between the details referred to in Article 27.2.1 (Article 27.2.3)
- **GI application should include the followings:**
  - ✓ Details of the geographical area affecting the relation (Law No. 05/L -051 Article 27.3.1)
  - ✓ Details of specific quality, reputation or other characteristics of the product that are attributable to the geographical origin together with the statement whether the GI is based on a specific quality or reputation or other characteristics that are attributable to the geographical origin (Law No. 05/L -051 Article 27.3.2)
  - ✓ Description of casual interaction between the details pursuant to Article 27.3.1 and 27.3.2 (Law No. 05/L -051 Article 27.3.3)
- **Name and address of the authorities or bodies verifying the compliance of the provisions of the specification and their specific tasks** (Law No. 05/L -051 Article 26.1.7 and MTI No:11/2016)

Certifying Bodies are the authorities or authorized bodies for verification of product compliance with the provisions of the specification which are authorized institutions and recognized for verification of product compliance with the provisions of the specification in accordance with the legislation into force on compliance by Certifying Bodies. (Law No. 05/L -051 Article 28.1)

**MTI makes public the name and address of the authorities and bodies acting as Certifying Bodies and update that information periodically. (Law No. 05/L -051 Article 28.2)**

Certifying bodies shall ensure that the verification of product compliance with the provisions of the specification is carried out before they place the product on the market. (Law No. 05/L -051 Article 28.3)

**Regarding the DO or GI related to the geographical area located outside Kosovo**, the verification of product compliance with the provisions of the specification before placing the product on the market is provided by public authorities specified by the country of origin and / or by the product certifying bodies. (Law No. 05/L -051 Article 28.4)

**In the case of agricultural products or foodstuffs** certifying bodies are approved by the Minister of the Ministry of Agriculture. Specific conditions that are required for certification, the list of approved bodies and other matters of this nature are determined by the Minister of the Ministry of Agriculture. (Law No. 05/L -051 Article 29.1)

Details on the conditions and procedures for verification of compliance with agricultural product or foodstuff item with the provisions of the specification, if certification bodies

have confirmed that the product does not comply with the provisions of specification, the procedure and manner of setting the fees for verification by the certifying bodies are determined by the Minister of the Ministry of Agriculture.

(Law No. 05/L -051 Article 29.2)

- Any specific rule of the label for the product in question (Law No. 05/L -051 Article 26.1.8)
- Detailed rules on the origin and quality of the food, for products with animal origin defined as DO (Law No. 05/L -051 Article 26.1.9)
- Any other requirement which is prescribed in the provisions of a special Law or in sub-legal acts approved by the relevant Ministry according to Law No. 05/L -051 (Law No. 05/L -051 Article 26.1.10)

**(TEMPORARY NOTE 10: It's interpreted that the special legal arrangements related to the products like the wine sector should be considered within the scope of this provision. Therefore, the related provisions of this kind of special law or sub-legal acts should be listed here.)**

If IPA finds that the **application does not comply with the necessary requirements**, reasoned written decision is sent to the applicant and he is invited to submit his objection within 60 days. (Law No. 05/L -051 Article 31.2)

- If requested by the applicant within the given 60 days, the deadline may be extended for a maximum 30 days starting from the date of expiry of the given deadline. (Law No. 05/L -051 Article 31.3)
- If the applicant doesn't submit objection or if, despite his objection, IPA considers that the application does not meet the prescribed requirements for protection, the **application is rejected**. (Law No. 05/L -051 Article 31.4)
- If the application successfully meets the requirements prescribed for protection, it's published in the Official Bulletin for possible oppositions. This publication includes the following parts of the application. (Law No. 05/L -051 Article 31.5)
  - Name of the DO or GI
  - Description of the product
  - Definition the geographical area
  - Description of the connection between the product and the geographical origin

## **2.2.2. Examination of the Applications for Agricultural Products and Foodstuffs (Law No. 05/L -051 Article 32)**

- According to the Law No. 05/L -051 Article 32, Expert Commission is responsible for the examination of the DO and GI applications for food and agricultural products. The

rules in relation to the functioning of the Expert Commission are regulated by the Regulation (MTI) No. 01/2020 On The Rules Of Procedure Of The Expert Commission On Agricultural Products And Foodstuffs. **Approved and signed decisions of the Expert Commission are sent to the IPA for the implementation.** (MTI No. 01/2020 Article 15). **Approved decisions shall not be amended or supplemented by IPA, which remains responsible for their implementation.** (MTI No. 01/2020 Article 16)

Main principles of Regulation (MTI) No. 01/2020 are summarized below.

- Expert Commission is supported by Secretariat and External Technical Advisors and deals with review, evaluation and decision-making on the cases. (MTI No. 01/2020 Article 2)
- Composition of the Expert Commission is given below. These 5 members shall be involved in every case from the beginning of the procedure for review and evaluation until the final decision is made, including all applications and additional requirements related to the same case. (MTI No. 01/2020 Article 4)
  - 2 members from Ministry of Agriculture, Forestry and Rural Development (MAFRD)
  - 1 member from Food and Veterinary Agency (FVA)
  - 2 members from IPA
- Members of the Expert Commission are appointed by Minister of Trade, and Industry (MTI No. 01/2020 Article 7)
- Role and functions of the Expert Commission are as follows. (MTI No. 01/2020 Article 8):
  - **Review and decision-making on: applications; suspension of decision; annulment of decision; registration of authorized user; suspension of the authorized user registration; revocation of the authorized user registration; cancellation of the right of use by the authorized user.**
  - In specific cases for further evaluation, potential field visits may be conducted.
  - When necessary, technical external consultants may be appointed, from case to case.
  - **In the case of a complaint or rejection of the decision on registration or refusal received from the Commission, the party may file an appeal with the Appeals Review Commission against IPA decisions,** pursuant to Law No. 05/L051.
  - IPA and Appeals Commission within the IPA may, when making a decision, seek the advice of the Expert Commission, which is involved in the examination of a

particular case.

- Secretariat of the Expert Commission (MTI No. 01/2020 Article 11):
  - appointed by IPA from its staff.
  - performs its duties at the request of the Chairperson of the Expert Commission.
  - within 7 days of receipt of the application or request, IPA through the secretariat of the Commission notifies the Expert Commission.
  - provides to the Expert Commission all the documents needed, prepares and sends the meeting invitations and meeting agenda, compiles the participation register and collects signatures of the members, prepares any additional information, sends or submits the extract of the draft minutes of the last meeting to all members of the Expert Commission for approval no later than 3 days prior to the meeting when the date of the notice for the next meeting is sent, compiles the extract of the minutes on the decisions approved by the Expert Commission and sends the minutes to the IPA.
- If needed, external technical advisors may be appointed upon the proposal by one or more members of the Expert Commission. Their approval is made by a decision of the Commission. Functions and duration of their support shall be determined by the Commission. (MTI No. 01/2020 Article 12)
- **Meetings of the Expert Commission** (MTI No. 01/2020 Article 13):
  - Meetings are held at the call of the Chairperson and at his/her request or at the request of 1 of his members, whenever necessary and are held at least 4 meetings for each application or request for the same case.
  - Only members shall attend to the meetings.
  - In justified cases, it may be required that external technical advisors attend the meetings, with the exception of meetings when the final decision on the case under review shall be approved.
  - Invitation is sent to all members at least 5 days prior to the meeting with a submission on hard copy or official e-mail. Meeting time, place and agenda are specified in the invitation letter.
  - Members have the right to propose relevant issues to be included in the agenda at least 3 days prior to the meeting.
  - Members confirm their attendance, their consent or remarks on the proposed agenda at least 3 days prior to the meeting.
  - Majority of the members approve and amend the agenda.

- Meetings are chaired by the chairperson. In the event of chairperson's absence, meetings may be convened by the secretariat at the request of not less than 2 members and chaired by 1 of the members proposing the meeting.
  - Before each meeting, at the request of at least 1 members, the chairperson may decide to authorize them to participate in meetings through videoconferencing or other telecommunication means - including teleconferences as follows:
    - ✓ Features of teleconferencing or videoconferencing devices shall meet the technical standards that enable the transmission of the image or at least of the voice of the participants simultaneously and continuously so that members can be identified and guaranteed their effective participation in the meeting.
    - ✓ If this fails, the relevant members may not be counted as being present and, in the absence of a quorum, meetings are postponed.
    - ✓ In addition to the meetings, members shall regularly make consultations, recommendations, written comments while reviewing a case.
- All the relevant information communicated to the members is confidential. They shall personally protect their confidentiality and not disclose them under any circumstances. (MTI No. 01/2020 Article 14)
- Upon approval, the **minutes** are signed jointly by the chairperson and the person writing the minutes. In the absence of the chairperson, at least 2 members of the Expert Commission should sign the minutes. Vote against and their reasons may be included in the minutes. **Approved and signed decisions are sent to the IPA for the implementation.** (MTI No. 01/2020 Article 15)
- **Quorum and Voting** (MTI No. 01/2020 Article 16):
- Reviews and conclusions may be made at a physical meeting, by electronic means, or in writing. But the members should attend to the meetings in person for the adoption of the final decision or recommendation.
  - Physical presence or through video conference of at least 3 out of 5 members constitutes a voting quorum.
  - Any decision shall be made with a simple majority. In the case of equal voting, the chairperson's vote shall be decisive.
  - Approved decisions shall not be amended or supplemented by IPA, which remains responsible for their implementation.

➤

- **Evaluations of the Expert Commission:** Once a year, Expert Commission evaluates its work by dedicating a point of its agenda to debate on its work and to present the report on IPA conclusions. IPA is responsible for deciding whether it will be made public. (MTI No. 01/2020 Article 17)

### 2.3. Examination of Oppositions (Law No. 05/L -051 Article 33)

- Opposition should be filed within 3 months from the publication date of the application. (Law No. 05/L -051 Article 33.1)
- Opposition should be submitted by any interested person having a legitimate interest. (Law No. 05/L -051 Article 33.1)
- Opposition fee should be paid. (MTI No. 10/2016 Annex D)
- Grounds for oppositions are as follows.
  - Application does not meet the definitions referred in Law No. 05/L -051 Article 4. (Law No. 05/L -051 Article 33.1.1)
  - Proposed designation is contrary to Law No. 05/L -051 Article 9.1.2, Article 9.1.3 or Article 10 (Law No. 05/L -051 Article 33.1.2)
    - ✓ A name that is in conflict with the name of a plant variety or animal breed and as a result would deceive consumers about the true origin of the product cannot be registered. (Law No. 05/L -051 Article 9.1.2)
    - ✓ A name that indicates or suggests that the product originates from a different geographical area and not the exact place of origin which misleads or misinforms the public about the geographical origin of the product cannot be registered. (Law No. 05/L -051 Article 9.1.3)
    - ✓ The name proposed for registration that is wholly or partially homonymous with a name already entered in the Register of PDO and PGI may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the name already entered in the Register, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled. (Law No. 05/L -051 Article 10.1)
    - ✓ Homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned. (Law No. 05/L -051 Article 10.2)

- Proposed designation would jeopardize the partial or complete existence of an identical designation or trademark or the existence of products which have been legally on the market for at least 5 years preceding the date of the application's publication. (Law No. 05/L -051 Article 33.1.3)

A name, in the light of a trade mark's reputation and renown and the length of time it has been used, registration is liable to mislead the consumer as to the true identity of the product cannot be registered. (Law No. 05/L -051 Article 9.1.7)

Taking into consideration the reputation and fame of trade mark as well as the duration of its use, through the registration there exists the possibility of misleading the consumer regarding the true identity of the product. (Law No. 05/L -051 Article 9.3)

- Proposed designation is generic in terms of Law No. 05/L -051 Article 9.1.1. (Law No. 05/L -051 Article 33.1.4)

Generic terms as defined in Law No. 05/L -051 Article 4.1.6 cannot be registered. (Law No. 05/L -051 Article 9.1.1)

All factors, particularly existing situation in Kosovo and in zones of consummation as well as the Law in force should be taken into consideration while deciding whether or not a name has become generic. (Law No. 05/L -051 Article 9.2)

- If IPA finds that the opposition is **NOT** submitted within the time limit or that the opponent has not submitted the required evidence, the opposition is rejected. (Law No. 05/L -051 Article 34.2)

**(TEMPORARY NOTE 11: Albanian version of the provision has the word "NOT" but English version does not have "NOT" which causes legal inconsistency in the provision. Therefore "NOT" is added here.)**

- If opposition is submitted within the time limit and all required evidence have been submitted, the opposition and its evidence are sent to the applicant to submit his observations within 30 days. (Law No. 05/L -051 Article 34.3)
- If requested by the applicant within the given 30 days, the deadline may be extended for a maximum 30 days starting from the date of expiry of the given deadline. (Law No. 05/L -051 Article 34.4)
- IPA decides whether it is a justified opposition in terms of fair and traditional use and the actual possibility of confusion. (Law No. 05/L -051 Article 34.5)
- If IPA finds that the **opposition is justified, the application is rejected.** (Law No. 05/L -051 Article 34.6)



- If IPA finds that the **opposition is not justified**, the **opposition is rejected** and the registration procedure continues. (Law No. 05/L -051 Article 34.7)

## 1.4 Registration of the Applications (Law No. 05/L -051 Article 35)

- If the application for registration of a DO or GI meets all the requirements, and after reviewing the opposition, if any, IPA issues a decision on the registration and registers the DO or GI in the Register. (Law No. 05/L -051 Article 35.1)
- Registration is published in the Official Bulletin. (Law No. 05/L -051 Article 35.2)
- Register includes the following data.
  - File number of the registration (MTI No. 11/2016 Article 7.1.1)
  - Date of filing the application (MTI No. 11/2016 Article 7.1.2)
  - Date of the publication of the application in the Official Bulletin (MTI No. 11/2016 Article 7.1.3)
  - Date of the registration and the registration number (MTI No. 11/2016 Article 7.1.4)
  - Date of the publication of the registration in the Official Bulletin (MTI No. 11/2016 Article 7.1.5)
  - Registered name of the product protected by the DO or GI (Law No. 05/L -051 Article 36.1.1)
  - Type, whether the designation is protected as DO or GI (Law No. 05/L -051 Article 36.1.2)
  - Type of product that contains the protected DO or GI (Law No. 05/L -051 Article 36.1.3)
  - Indication of the country of origin (Law No. 05/L -051 Article 36.1.4)
  - Details of the registration decision of the DO or GI (Law No. 05/L -051 Article 36.1.5)
- Publication of the registration includes product specification and the abovementioned information except the application filing date. (MTI No. 11/2016 Article 8.1)
- **Corresponding information referred to in** MTI No. 11/2016 Article 8.1 is also published in the Official Bulletin in case of the amendments to the product specification. (MTI No. 11/2016 Article 8.2)

- IPA assures electronic access to the product specification. (MTI No. 11/2016 Article 8.3)

## 1.1 Revision of Decisions (Law No. 05/L -051 Article 7)

- IPA decisions are subject to appeal within 15 days from the day of receipt of the decision. (Law No. 05/L -051 Article 7.1)
- Appeals Review Commission at IPA is responsible for the appeals which is established by the Minister. (Law No. 05/L -051 Article 7.2 and 7.3)
- Appeals Review Commission reviews the appeals related to the DOs and GIs. (Law No. 05/L -051 Article 7.4)
- **Against the decisions of the Appeals Review Commission, a lawsuit at the competent Court for administrative issues may be filed within 30 days.** (Law No. 05/L -051 Article 7.5)

**(TEMPORARY NOTE 12: In the Law No. 05/L -051, MTI No. 10/2016 and its Annex D, there's no direct reference to the appeal fee. But it should be decided whether the appeal fee can be considered as included in the Annex D number 12.)**

### 2.5.1. Appeals Review Commission

- Law No. 05/L -051 Article 7.6 refers to a sub-legal act for the work of Appeals Review Commission and procedures of submission of appeals. The rules in relation to the Appeals Review Commission are regulated by the Regulation (MTI) No. 02/2017 On The Responsibilities, Mandate And Work Of The Appealing Committee Under The Industrial Property Agency.

Main principles of Regulation (MTI) No. 02/2017 are summarized below.

- **Establishment of the Appeals Review Committee**
  - It's established by a decision of the Minister of MTI and the term of the members is 3 years. (MTI No. 02/2017 Article 4.1 and Article 4.6)
  - Appeals Review Committee consists of 3 members; 2 of them are permanent members and 1 is appointed ad hoc from case to case (MTI No. 02/2017 Article 4.2)
  - Permanent members are appointed by the Minister of MTI and the third member is appointed by the General Director of IPA (MTI No. 02/2017 Article 4.3 and Article 4.4)

- The case examiner cannot be appointed as the third member. (MTI No. 02/2017 Article 4.5)
- Appeals Review Committee is responsible for reviewing and deciding on all appeals made by the parties against IPA's decisions and is obliged to perform its work independently with honesty, thoroughness and impartiality. (MTI No. 02/2017 Article 5.1 and Article 5.2)
- Appeal is submitted to IPA in 4 copies and contains the following data. (MTI No. 02/2017 Article 6.1, 6.1.8 and 6.1.9)
- Title of the body to which the appeal is addressed (MTI No. 02/2017 Article 6.1.1)
  - Number and date of the impugned decision (MTI No. 02/2017 Article 6.1.2)
  - Name of the appellant, full details of the applicant, full details of the representative in case the appeal is made through a representative (MTI No. 02/2017 Article 6.1.3)
  - Date of the appeal submission (MTI No. 02/2017 Article 6.1.4)
  - Reasons of the submission of appeal, stressing the concrete proposal regarding the review of the appeal subject matter, all the evidence, copies of the decisions and of other relevant papers (MTI No. 02/2017 Article 6.1.5)
  - Signature of the appellant (MTI No. 02/2017 Article 6.1.6)
  - Authorisation, in case the appeal is made through a representative (MTI No. 02/2017 Article 6.1.7)
- **Working procedures**
- Committee calls its meetings as necessary. (MTI No. 02/2017 Article 7)
  - Chairman of the Committee chairs the activities calls its members not later than 2 working days prior to the meeting. (MTI No. 02/2017 Article 7.2)
  - Committee meetings are closed to the public. (MTI No. 02/2017 Article 7.3)
  - Chairman opens the meeting only when all its members are present. (MTI No. 02/2017 Article 7.4)
  - Upon receiving the appeal, Committee initially verifies the legitimacy of the appeal and then examines it at the meeting, always based on documents submitted by the party. (MTI No. 02/2017 Article 7.5)

- Committee, after receiving the appeal, requests in writing from IPA to appoint the third member and to complete all the documentation related to the appeal within 2 working days from the date of request by the Committee. (MTI No. 02/2017 Article 7.6)

#### ➤ Decisions

- Committee, upon reviewing the appeal, by the votes of majority make a decision in accordance with the relevant legislation in force. (MTI No. 02/2017 Article 8.1)
- Committee nominates a rapporteur member, based on the principle of rotation, who is responsible for preparing the draft decision and minutes. (MTI No. 02/2017 Article 8.2)
- Committee decision is in written and contains all the elements, as stipulated in Law of General Administrative Procedure. (MTI No. 02/2017 Article 8.3)
- **Committee may approve or refuse the appeal and sends the case back to IPA for reexamination.** (MTI No. 02/2017 Article 8.4)
- Committee decides on the appeal within 30 days of its receipt. (MTI No. 02/2017 Article 8.5)
- Committee's decision is protocolled, a copy is sent to the party, while the file of the relevant application completed by the Committee is delivered to IPA. (MTI No. 02/2017 Article 8.6)
- Chairman of the Committee and the responsible official of IPA sign in the protocol Book kept by IPA, for every receipt or submission of the application file. (MTI No. 02/2017 Article 8.7)

#### ➤ Conflict of interest

- Committee member who has a conflict of interest in reviewing the appeal submitted, informs in written the Committee Chairman in regard of the conflict of interest for the submitted appeal. In this case, his/her replacement is done, for this case only. (MTI No. 02/2017 Article 9.1 and Article 9.2)
- If the Chairman of the Committee states the conflict of interest, then his/her replacement for this case is made by the Minister of MTI, or in case the third Committee Member is in question its replacement should be made by the IPA General Director. (MTI No. 02/2017 Article 9.3)
- During the appeal reviewing, the Committee has the right to ask from the

case examiner, for which the appeal was submitted, to give the required explanations regarding the procedure followed by him/her during the case. (MTI No. 02/2017 Article 9.4)

### ➤ **Complaining procedure**

- Against IPA's decisions issued in the first instance, interested party has the right to appeal within 15 days from the day of receiving the decision. (MTI No. 02/2017 Article 10.1)
- If Committee does not bring a decision within the deadline, or returns the answer for what the party is not satisfied, party may initiate administrative dispute at the Basic Court within 30 days. (MTI No. 02/2017 Article 10.2)
- If Committee's decision regarding the objection is appealed at the court, a copy of the court's final decision is attached to the relevant application file. (MTI No. 02/2017 Article 10.3)

## **1.1 Examination of Changes In the Product Specification (Law No. 05/L -051 Article 37)**

- Anyone who has the right to apply for registration according to Law No. 05/L -051 Article 22 and having a legitimate interest may apply to change the approved product specification, in particular to take into account the scientific and technical developments and achievement or redefine the geographical area referred to Law No. 05/L -051 Article 26.1.3. (Law No. 05/L -051 Article 37.1)
- Request for a change in the product specification should describe and present the reasons for the requested change. (Law No. 05/L -051 Article 37.2). And it should be self-sufficient. (MTI No. 11/2016 Article 9.1 and 9.3)
- If the change involves one or more changes related to the designation, product description, definition of the geographical area or relation description, the procedure is made in accordance with the procedures set out in Law No. 05/L -051 Article 29 to Article 34. (Law No. 05/L -051 Article 38.1)
- Request for a **change** to a product specification as referred to in Law No. 05/L -051 Article 38.1 **which is not minor** should contain a comprehensive description and the specific reasons for each change. Change request is compared in details with the original product specification. (MTI No. 11/2016 Article 9.1)
- In such a case, as described in Law No. 05/L -051 Article 38.1, the information required under Law No. 05/L -051 Article 23.1.10 should contain a complete application based on the rule under Law No. 05/L -051 Article 38 and the proposed specification with new information of the product. And the information for publication is made in accordance with Law No. 05/L -051 Article 31.5. (Law No. 05/L -051 Article 38.2 and 38.3)
- If the request for a **change which is not minor** and it does not comply with the MTI No. 11/2016 Article 9.1, IPA invites the applicant to remedy the deficiencies within 60

days from the date of the receipt of the invitation. Upon request of the applicant within the deadline, the time limit may be extended for a maximum of 30 days counted from the date of the expiration of that time limit. If the deficiencies are not remedied accordingly, or if they are not remedied within the deadline, IPA rejects the request for the change which is not minor. (MTI No. 11/2016 Article 9.2)

- Request for a **minor change** should propose only small changes within the meaning of Law No. 05/L -051 Article 38.4. In this context, changes under Law No. 05/L -051 Article 38.1 should not:
  - relate with the essential characteristics of the product. (Law No. 05/L -051 Article 38.4.1)
  - change the relation referred in Law No. 05/L -051 Article 26. (Law No. 05/L -051 Article 38.4.2)
  - include change of designation, or any part of the designation of the product. (Law No. 05/L -051 Article 38.4.3)
  - affect the defined geographical area. (Law No. 05/L -051 Article 38.4.4)
  - represent an increase in trade restrictions of the product or its raw materials. (Law No. 05/L -051 Article 38.4.5)
- IPA decides to approve or to reject the abovementioned **minor changes** within 3 months from the date of the request. In such a case, IPA decides to approve the request by not following the procedure defined from Law No. 05/L -051 Article 33 to Article 35. (MTI No. 11/2016 Article 9.3)
- If the request for a **minor change** that does not comply with MTI No. 11/2016 Article 9.3, IPA, within 3 months from the date of the request, invites the applicant to remedy the deficiencies within 60 days from the date of the receipt of the invitation. Upon request of the applicant within the deadline, the time limit may be extended for a maximum of 30 days counted from the date of the expiration of that time limit.
- If the deficiencies are not remedied accordingly, or if they are not remedied within the deadline, IPA rejects the request for the change which is not minor. (MTI No. 11/2016 Article 9.4)
- IPA publishes the approved minor change to a product specification not implying a modification of the elements referred to Law No. 05/L -051 Article 38.1. (MTI No. 11/2016 Article 9.5)
- If the change request does not include any change under Law No. 05/L -051 Article 38.1 or it is related with **any temporary change** in the specifications resulting from the imposition of obligatory sanitary or phytosanitary measures by public authorities, IPA determines whether to approve the proposed change. (Law No. 05/L -051 Article 38.5)  
Temporary changes resulting from the imposition of obligatory sanitary and phyto-

sanitary measures taken by the public authorities and their reasons and evidence should be communicated to IPA no later than two weeks following the public authorities' decisions. IPA publishes such temporary changes to the product specification. (MTI No. 11/2016 Article 9.6)

- If IPA decides to accept a change to the specification that includes or contains a change of information registered in the Register pursuant to Law No. 05/L -051 Article 36, these changes are registered in the Register and are effective from the date of the acceptance decision. (Law No. 05/L -051 Article 38.6)

## 1.1 Cancellation (Law No. 05/L -051 Article 39)

IPA may cancel the protected DO or GI depending on the following grounds.

- If IPA finds that the requirements prescribed for protection under Law No. 05/L -051 were not met. (Law No. 05/L -051 Article 39.1.1)
- If compliance with the requirements of the specification for the product has ceased to exist. (Law No. 05/L -051 Article 39.1.2)
- If the DO or GI originating from a geographical area located outside Kosovo, the designation in question will not be further protected in the country of origin. (Law No. 05/L -051 Article 39.1.3)
- If based on a grounded legal application of a natural or legal person for the cancellation of such a decision on the protection of the DO or GI. (Law No. 05/L -051 Article 39.1.4)
- If no product is placed on the market of Kosovo under the protected DO or GI for at least 7 years, providing evidence that the grounds under Law No. 05/L -051 Article 39.1.1, Article 39.1.2, Article 39.1.3, or Article 39.1.4 are made out. (Law No. 05/L -051 Article 39.1.5)
- If the cancellation procedure is based on the grounds prescribed in Law No. 05/L -051 Article 39.1.4, Article 33 and Article 34.5, cancellation procedure apply according to the specific conditions. (Law No. 05/L -051 Article 39.2)
- If a decision on a protected DO or GI is cancelled based on the grounds listed under Law No. 05/L -051 Article 39.1.1, it is considered that the DO or GI did not exist according to Law No. 05/L -051. (Law No. 05/L -051 Article 39.3)
- Cancellation may be requested by any natural or legal person who has a legitimate interest or by IPA ex officio. (Law No. 05/L -051 Article 40.1)
- Cancellation request under Law No. 05/L -051 Article 40.1 should contain the reasons for the request. (Law No. 05/L -051 Article 40.2)
- If IPA finds that the request does not contain all the requirements prescribed under Law No. 05/L -051 Article 40.2, the request is cancelled. (Law No. 05/L -051 Article 40.3)

- If the request under Law No. 05/L -051 Article 40.1 contains all the requirements prescribed by Law No. 05/L -051 Article 40.2, it is published in the Official Bulletin of IPA. (Law No. 05/L -051 Article 40.4)
- Within 3 months from the date of the publication, any interested person may provide a declaration of objection if such a person can show continued commercial support of the registered designation. (Law No. 05/L -051 Article 40.5)
- If IPA finds that the cancellation request is justified, the registration is called and the records are deleted from the Register after the decision on cancellation becomes final. This fact is published in IPA Bulletin. (Law No. 05/L -051 Article 40.6)
- IPA refuses cancellation request if it determines that it is not in accordance. (Law No. 05/L -051 Article 40.7)
- Cancellation procedure related to geographical area located outside Kosovo:
  - If the cancellation request relates Law No. 05/L -051 Article 39.1.3, regardless of the provisions of Law No. 05/L -051 Article 40.1, the request is likely also to be submitted by the relevant authorities of the country of origin and regardless of the provision of Law No. 05/L -051 Article 40.2, it must also be accompanied with a copy of the certificate or any other legal document in the language of the country of origin and translated, certifying that the designation hereinafter is not protected in the country of origin. (Law No. 05/L -051 Article 42.1)
  - If the cancellation is requested on the grounds referred to in Law No. 05/L -051 Article 39.1.3, Law No. 05/L -051 Article 40.4 and Article 40.5 shall not be applied. (Law No. 05/L -051 Article 42.2)

(TEMPORARY NOTE 13: This provision is corrected by taking into consideration of the Serbian version.)

- Request for cancellation should be submitted in two identical copies together with the following content. (MTI No:11/2016 Article 10.1 and Article 10.2)
  - File number of the registered DO or GI (MTI No:11/2016 Article 10.1.1)
  - Registered name of the product (MTI No:11/2016 Article 10.1.2)
  - Indication whether the name is protected as DO or GI (MTI No:11/2016 Article 10.1.3)
  - Kind of product (MTI No:11/2016 Article 10.1.4)
  - Indication of the country of origin (MTI No:11/2016 Article 10.1.5)
  - Name and address of the applicant of the request for cancellation, in accordance with the MTI No:11/2016 Article 18 (MTI No:11/2016 Article 10.1.6)
  - Name and address of the representative, in accordance with MTI No:11/2016 Article 18, if the applicant has an representative (MTI No:11/2016 Article 10.1.7)
  - Nature of legitimate interest in making the request and particulars showing that the applicant has such legitimate interest (MTI No:11/2016 Article



10.1.8)

- Indications of the facts, arguments and evidence presented in support for the cancellation of the registration accompanied by the relevant supporting documents (MTI No:11/2016 Article 10.1.9)
- Signature of the applicant, or his representative (MTI No:11/2016 Article 10.1.10)
- Evidence of fee payment (MTI No:11/2016 Article 10.1.11)

### **1.1.1 Cancellation procedure for agricultural products and foodstuff (Law No. 05/L -051 Article 41)**

In the case of agricultural products and foodstuffs, examination and the decision referred to in Law No. 05/L -051 Article 40 are conducted by the Expert Commission.

### **1.1 Registration of the Authorised Users (Law No. 05/L -051 Article 45)**

- After the registration of a DO or GI, any producer or processor, any natural or legal person who produces or processes the product subject to the registration may request for registration as authorized user. (Law No. 05/L -051 Article 44.1, Article 44.2 and Article 44.3)
- **Provisions governing the procedure for registration of authorized users are not applied to the DOs and GIs relating to geographical areas outside Kosovo.** (Law No. 05/L -051 Article 62)
- Request for registration as authorized user should include the followings.
  - Information that identifies the applicant (Law No. 05/L -051 Article 45.1.2)
  - Name and address of the representative, in accordance with MTI No:11/2016 Article 18, if the applicant has an representative (MTI No:11/2016 Article 11.1.1)
  - Signature of the applicant, or the signature of his representative (MTI No:11/2016 Article 11.1.3)
  - Registered DO and GI for which the applicant wants to be authorized for use (Law No. 05/L -051 Article 45.1.3)
  - Type of the product (Law No. 05/L -051 Article 45.1.4)
  - Information, including the name and address of the authorities or bodies entrusted to verify product compliance with the provisions of the specification (Law No. 05/L -051 Article 45.1.5)
  - Certificate of product compliance with the provisions of the specification issued by the authorities or bodies entrusted to verify product compliance with the provisions of the specifications identified in application in accordance with the provisions of Law No. 05/L -051 Article 28 (Law No. 05/L -051 Article 45.2.1)

- If the DO or GI concerns a geographical area situated outside of Kosovo, the evidence that the applicant is authorized to use the DO or GI in its country of origin (MTI No:11/2016 Article 11.1.2)
  - Evidence issued by the competent authority of the applicant who performs the specific activity or produces the specific product in the geographical area described in the product specification (Law No. 05/L -051 Article 45.2.2)
  - Evidence that the procedures for information on proof of origin concerning the product, raw material, feed and other items that according to the product specification are required to come from the defined geographical area, as identified in the product specifications, are in place (MTI No:11/2016 Article 11.2)
  - Evidence of fee payment (Law No. 05/L -051 Article 45.2.3 and (MTI No:10/2016 Annex D)
- IPA checks the requirements of the request for registration as authorized user in accordance with the Law No. 05/L -051 Article 44.
  - If IPA finds that the request does not contain all the necessary requirements pursuant to Law No. 05/L -051 Article 44, applicant is invited to correct the request within 60 days. (Law No. 05/L -051 Article 46.2)
  - If requested by the applicant within the given 60 days, the deadline may be extended for a maximum 30 days starting from the date of expiry of the deadline. (Law No. 05/L -051 Article 46.3)
  - If the applicant doesn't correct the request or fails to correct within the deadline, the request for registration of authorized user is rejected. (Law No. 05/L -051 Article 46.4)
  - If the request is in compliance to Law No. 05/L -051 Article 46, IPA examines the request whether the prescribed requirements for granting the right of use are met. (Law No. 05/L -051 Article 47.1)
  - If IPA finds that the request does not comply with the necessary requirements, IPA notifies the applicant, in writing, for the reasons why the right of use is not permitted and invites him to submit his objection within 60 days. (Law No. 05/L -051 Article 47.2)
  - If requested by the applicant within the given 60 days, the deadline may be extended for a maximum 30 days starting from the date of expiry of the given deadline. (Law No. 05/L -051 Article 47.3)
  - If the applicant does not present any objection or if, despite his objection, IPA considers that the applicant does not meet the prescribed requirements for granting of the right of use, the request is rejected. (Law No. 05/L -051 Article 47.4)
  - If the request for registration of an authorized user meets all the requirements prescribed for granting the right of use, IPA invites the applicant to pay the relevant fees for the initial period of protection. (Law No. 05/L -051 Article 49.1)
  - If the applicant fails to submit the evidence of payment of the prescribed fees for the initial period of protection, IPA rejects the request. (Law No. 05/L -051 Article 49.2)

- If the applicant submits the evidence of payment of the fee for the initial period of protection within the time limit specified in Law No. 05/L -051 Article 49.1, IPA takes the decision for the registration of an authorized user and registers the protected DO or GI in the Register of Authorized Users. (Law No. 05/L -051 Article 49.3)
- Content of the Register of Authorized Users which may be maintained in the form of an electronic database is as follows. (Law No. 05/L -051 Article 50 and MTI No:11/2016 Article 12.3)
  - Name and address of authorized user (Law No. 05/L -051 Article 50.1.1)
  - Data if the authorized user has the right of use of the DO or GI (Law No. 05/L -051 Article 50.1.2)
  - Registered DO or GI which the authorized user has the right of use (Law No. 05/L -051 Article 50.1.3)
  - Reference of the decision on registration of the authorized user (Law No. 05/L -051 Article 50.1.4)
  - File number of the registration of the authorised user (MTI No:11/2016 Article 12.1.1)
  - Date of filing the application for registration of an authorized user (MTI No:11/2016 Article 12.1.2)
  - Name and address of the representative in accordance with MTI No:11/2016 Article 18, if the user has a representative (MTI No:11/2016 Article 12.1.3)
  - Indication of the country of origin in case the authorization to use relates to a DO or GI protected following Law No. 05/L -051 Article 11 (MTI No:11/2016 Article 12.1.4)
  - Registration date of the DO or GI and the registration number (MTI No:11/2016 Article 12.1.5)
  - Expiry date of the right of use pursuant to Law No. 05/L -051 Article 15.2 (MTI No:11/2016 Article 12.1.6)
  - Indications concerning changes in the name and address of the authorised user or his representative, change of the representative or ceasing of the existence of the authorised user and recording date of this entry (MTI No:11/2016 Article 12.2.1)
  - Indications concerning the waiver of the right to use by the authorised user and recording date of this entry (MTI No:11/2016 Article 12.2.2)
  - Indications concerning the renewal of the registration of an authorised user and recording date of this entry (MTI No:11/2016 Article 12.2.3)
  - Date of submission of a request for revocation pursuant to Article 55 of the Law or of a cancellation of the right to use pursuant to Article 59 of the Law and

recording date of this entry (MTI No:11/2016 Article 12.2.4)

- Date and content of the final decision on revocation or cancellation of the right to use and recording date of this entry (MTI No:11/2016 Article 12.2.5)
- Content of the certificate of the right to use is as follows.
- File number of the registration of the authorized user (MTI No:11/2016 Article 13.1.1)
  - Registration date of the authorized user (MTI No:11/2016 Article 13.1.2)
  - Name and address of the authorized user (MTI No:11/2016 Article 13.1.3)
  - Name and address of the representative, if the authorized user has a representative (MTI No:11/2016 Article 13.1.4)
  - File number of the registration of the DO or GI (MTI No:11/2016 Article 13.1.5)
  - Date of the registration of the DO or GI (MTI No:11/2016 Article 13.1.6)
  - Date of publication of the registration of the DO or GI in the Official Bulletin (MTI No:11/2016 Article 13.1.7)
  - Registered name of the product protected by the DO or GI (MTI No:11/2016 Article 13.1.8)
  - Indication whether the name is protected as a DO or GI (MTI No:11/2016 Article 13.1.9)
  - Kind of product comprising the protected DO or GI (MTI No:11/2016 Article 13.1.10)
  - Indication of the country of origin (MTI No:11/2016 Article 13.1.11)
  - Expiry of date of the right to use (MTI No:11/2016 Article 13.1.12)

### **1.1.1 Issuance of the Certificate of the Right to Use (Law No. 05/L -051 Article 52)**

- Request for issuance of the certificate of the right to use contains the followings.
- File number of the registration of the authorised user (MTI No:11/2016 Article 14.1.1)
  - File number of the registration of the DO or GI (MTI No:11/2016 Article 14.1.1)
  - Name and address of the authorised user in accordance with MTI No:11/2016 Article 18 (MTI No:11/2016 Article 14.1.3)
  - Name and address of the representative, in accordance with MTI No:11/2016 Article 18, if the authorised used has a representative (MTI No:11/2016 Article

#### 14.1.4)

- Evidence of the fee payment (Law No. 05/L -051 Article 52, MTI No:11/2016 Article 14.2 and MTI No:10/2016 Annex D)
- IPA finds that the conditions applicable to the issuance of a certificate of the right to use as laid down in Law No. 05/L -051 Article 52 or MTI No:11/2016 Article 14.1 or Article 14.2 are not fulfilled, IPA invites the applicant to remedy the deficiencies within 60 days as from the date of the receipt of such request. (MTI No:11/2016 Article 14.3)
- Upon request of the applicant within 60 days, the time limit may be extended for a maximum 30 days counted from the date of the expiration of that time limit. (MTI No:11/2016 Article 14.4)
- If the deficiencies are not remedied properly or if they are not remedied within the time limit set, IPA rejects the request for the issuance of the certificate of the right to use. (MTI No:11/2016 Article 14.5)

### **1.1.2 Registration of the Authorised Users for Agricultural Products and Foodstuffs (Law No. 05/L -051 Article 48)**

In cases of agricultural products and foodstuffs, examination and decision referred to in Law No. 05/L -051 Article 45 is conducted and taken by the Expert Commission. (Law No. 05/L -051 Article 48)

### **1.1 Renewal of the Authorised Users (Law No. 05/L -051 Article 54)**

- Registration of an authorized user is renewed for the period prescribed in Law No. 05/L -051 Article 15.2, provided that the DO or GI referred to, remains registered and following the application submitted by the authorized user, which must be accompanied by the following documents.
  - Certificate of compliance of the product with the provisions of the specification issued by the authorities or bodies entrusted to verify the product compliance with the provisions of the specification (Law No. 05/L -051 Article 54.1.1)
  - Evidence of fee payment (Law No. 05/L -051 Article 54.1.2 and MTI No:10/2016 Annex D)
  - File number of the registration of the authorised user (MTI No:11/2016 Article 17.1.1)
  - Name and address of the authorised user in accordance with MTI No:11/2016 Article 18 (MTI No:11/2016 Article 17.1.2)
  - Name and address of the representative in accordance with MTI No:11/2016 Article 18, if the applicant has an representative (MTI No:11/2016 Article 17.1.3)
  - Signature of the authorised user, or the signature of his representative (MTI No:11/2016 Article 17.1.4)

- Request for renewal should be submitted within a period of 6 months ending on the last day of the month in which protection ends. The fees should also be paid and the evidence of the payment should be submitted within this period. (MTI No:11/2016 Article 17.2)
- Where the request for renewal is filed and the prescribed fees are paid within the time periods provided for MTI No:11/2016 Article 17.2, but if IPA finds that the other conditions applicable to the renewal of a registration of an authorized user laid down in Law No. 05/L -051 Article 54 and in MTI No:11/2016 Article 17.1 and Article 17.2 are not satisfied, IPA invites the applicant to remedy the deficiencies within 60 days as from the date of the receipt of such request. (MTI No:11/2016 Article 17.3)
- Upon request of the applicant within 60 days, the time limit may be extended for a maximum of 30 days counted from the date of the expiration of that time limit. (MTI No:11/2016 Article 17.4)
- If the deficiencies established pursuant to MTI No:11/2016 Article 17.3 are not remedied or if they are not remedied within the time limit set or if the request of renewal is not submitted or is submitted after the expiry of the time period provided for in MTI No:11/2016 Article 17.2, or if the prescribed fees are not paid or paid after the expiry of the time period provided for in MTI No:11/2016 Article 17.2, IPA determines that the registration of an authorized user has ceased to exist from the day following the day on which the existing registration expired (MTI No:11/2016 Article 17.5)

#### 1.1. **Registration of Changes In the Register of Authorized Users (Law No. 05/L -051 Article 53)**

- Upon the request by the authorized user, IPA registers all changes related to the name and address of the authorized users, provided that the application is accompanied by adequate evidence that the change does not affect the fulfilment of the requirements prescribed for the granting of the right of use of a protected DO or GI. (Law No. 05/L -051 Article 53)
- Request for registration of a change to the name and the address of the authorized user contains the followings.
  - File number of the registration of the authorised user (MTI No:11/2016 Article 16.1.1)
  - Name and address of the authorised user in accordance with MTI No:11/2016 Article 18 (MTI No:11/2016 Article 16.1.2)
  - Name and address of the representative, in accordance with MTI No:11/2016 Article 18, if the authorised user has a representative (MTI No:11/2016 Article 16.1.3)
  - The indication of the change to be made and the indication in its changed version (MTI No:11/2016 Article 16.1.4)

- Signature of the person filing the request, or the signature of his representative (MTI No:11/2016 Article 16.1.5)
  - Evidence of fee payment (MTI No:11/2016 Article 16.1.6 and MTI No:10/2016 Annex D)
  - Evidence that the changes requested correspond to the real situation (MTI No:11/2016 Article 16.2)
- If IPA finds that the conditions applicable to the registration of changes as laid down in Law No. 05/L -051 Article 53 and MTI No:11/2016 Article 16.1 are not fulfilled, the applicant is invited to file his observation or to remedy the deficiencies within 60 days as from the date of the receipt of such request. (MTI No:11/2016 Article 16.3)
  - Upon request of the applicant within 60 days, the time limit may be extended for a maximum of 30 days counted from the date of the expiration of that time limit. (MTI No:11/2016 Article 16.4)
  - If the deficiencies established pursuant to MTI No:11/2016 Article 16.3 are not remedied or if they are not remedied within the time limit set, IPA rejects the request for the registration of a change. (MTI No:11/2016 Article 16.5)

## **1.2 Revocation, Cessation and Cancellation of the Right of Use (Law No. 05/L -051 Article 55, Article 58 and Article 59)**

### **Revocation**

- If IPA verifies that the user has ceased to meet all the requirements prescribed for granting the right of use of a protected DO or GI, IPA takes a decision on the revocation of the registration of an authorized user after carrying out the procedure for revocation at IPA. (Law No. 05/L -051 Article 55)
- Revocation procedure referred to in Law No. 05/L -051 Article 55 is initiated ex officio or at the request for revocation which may be submitted by any natural or legal person having a legitimate interest. (Law No. 05/L -051 Article 56.1)
- IPA notifies the authorized user for the fact that the revocation procedure has been initiated and invites him to submit his observations, in particular, to prove the existence of prescribed requirements for granting the right of use within 30 days. (Law No. 05/L -051 Article 56.2)
- Upon the request of the authorized user within 30 days, the time limit may be extended for a maximum of 30 days counting from the date of expiry of the deadline. (Law No. 05/L -051 Article 56.3)
- If IPA finds that the application for revocation of the registration of an authorized user is grounded, registration of the registered user is cancelled and his name is deleted

from the Register of Authorized Users after the decision on revocation becomes final. (Law No. 05/L -051 Article 56.4)

- IPA rejects the application for cancellation of the registration of an authorized user if it finds that it is not grounded. (Law No. 05/L -051 Article 56.5)
- In cases of **agricultural products and foodstuffs, revocation decisions** referred to in Law No. 05/L -051 Article 55 and Article 56 are taken by the **Expert Commission** based on Law No. 05/L -051 Article 32. (Law No. 05/L -051 Article 57)

### Cessation

- Right of use will **cease** to exist if:
  - protection period expires and is not renewed in accordance with Law No. 05/L -051 Article 44, from the date of expiry of the period of protection. (Law No. 05/L -051 Article 58.1.1)
  - authorized user waives from the right of use from the date of delivery of notice to IPA. (Law No. 05/L -051 Article 58.1.2)
  - authorized user ceases to exist as of the date of that fact or the decision of the competent authority that proves this fact. (Law No. 05/L -051 Article 58.1.3)
  - authorized user registration is cancelled, it is considered that the authorized user registration did not exist since the beginning. (Law No. 05/L -051 Article 58.1.4)
  - authorized user registration has been revoked since the date when the decision on revocation becomes final. (Law No. 05/L -051 Article 58.1.5)
  - DO or GI is further protected in accordance with the conditions specified in Law No. 05/L -051. (Law No. 05/L -051 Article 58.1.6)

### Cancellation

- Decision for authorized user registration is cancelled if IPA verifies that during the procedure that at the time of completion of the application for registration of an authorized user the requirements on protection were not met according to the requirements of Law No. 05/L -051. (Law No. 05/L -051 Article 59)
- Procedure on cancellation determined in Law No. 05/L -051 Article 59 is initiated ex officio or at the request against the decision on registration of an authorized user submitted by any legal or natural person who has a legitimate interest. (Law No. 05/L -051 Article 60.1)
- Cancellation request contains the reasons and any other information or document required by the by sublegal acts implementing Law No. 05/L -051. (Law No. 05/L -051 Article 60.2)
- If IPA finds that the request does not contain all the requirements prescribed in accordance with Law No. 05/L -051 Article 60.2, the request is rejected. (Law No. 05/L -051 Article 60.3)



- If IPA finds that the request for cancellation is submitted in accordance with Law No. 05/L -051 Article 60.2, request for cancellation along with all evidences submitted is sent to the authorized users and the authorized user invites the party to submit his remarks on the submitted request within 60 days. (Law No. 05/L -051 Article 60.4)
- Upon the request of an authorized user within 60 days, the deadline may be extended for a maximum of 30 days counting from the date of expiry of that deadline. (Law No. 05/L -051 Article 60.5)
- If IPA finds that the request for cancellation of the decision for registration of the authorized users is grounded, IPA cancels it and deletes the registration from the Register of Authorized Users after the decision on cancellation becomes final. (Law No. 05/L -051 Article 60.6)
- IPA rejects the request for cancellation of the decision on registration of an authorized user if it finds that it is not grounded. (Law No. 05/L -051 Article 60.7)
- In cases of **agricultural products and foodstuffs, cancellation decision** referred to in Law No. 05/L -051 Article 59 and Article 60 is taken by the **Expert Commission** based on Law No. 05/L -051 Article 32. (Law No. 05/L -051 Article 61)
- Request for **revocation** of the registration of an authorized user or for **cancellation** of a decision on registration of an authorised user should be submitted in two identical copies together with the following content. (MTI No:11/2016 Article 15.1 and Article 15.2)
  - File number of the registration of the authorised user (MTI No:11/2016 Article 15.1.1)
  - File number of the registration of the DO or GI (MTI No:11/2016 Article 15.1.2)
  - Registered name of the product protected by DO or GI (MTI No:11/2016 Article 15.1.3)
  - Name and address of the applicant of the request for cancellation, in accordance with MTI No:11/2016 Article 18 (MTI No:11/2016 Article 15.1.4)
  - Name and address of the representative, in accordance with MTI No:11/2016 Article 18, if the applicant has an representative (MTI No:11/2016 Article 15.1.5)
  - Nature of legitimate interest in making the request and particulars showing that the applicant has such legitimate interest (MTI No:11/2016 Article 15.1.6)
  - Indications of the facts, arguments and evidence presented in support for the revocation or cancellation of the registration accompanied by the relevant supporting documents (MTI No:11/2016 Article 15.1.7)
  - Signature of the applicant, or the signature of his representative (MTI No:11/2016 Article 15.1.8)
  - Evidence of fee payment (MTI No:11/2016 Article 15.1.9 and MTI No:10/2016 Annex D)

## 1.2 Examination of the Guaranteed Traditional Specialities Applications (Law No. 05/L -051 Article 77-83)

- Provisions of Law No. 05/L -051 and MTI No:11/2016 are applied mutatis mutandis for guaranteed traditional specialties unless Law No. 05/L -051 Articles 77-83 and MTI No:11/2016 foresee otherwise. (Law No. 05/L -051 Article 77 and MTI No:11/2016 Article 23)

(TEMPORARY NOTE 14: It's interpreted that the payment of fee is a requirement for guaranteed traditional specialty as well since the provisions of Law No. 05/L -051 and MTI No:11/2016 don't foresee otherwise. But for the sake of clarity, after discussing and confirming this issue, it should be indicated here.)

### Criteria for registration right

- A name is eligible for registration as a guaranteed traditional specialty where it describes a specific product or a food that:
  - results by the method of production, processing or composition that correspond to traditional practice for that product or food; or (Law No. 05/L -051 Article 78.1.1)
  - is produced from raw materials or ingredients that are traditionally used. (Law No. 05/L -051 Article 78.1.2)
- A name to be registered as a traditional specialty guaranteed, it should:
  - be traditionally used by referring to a specific product, or (Law No. 05/L -051 Article 78.2.1)
  - to identify the traditional character or specific character of product. (Law No. 05/L -051 Article 78.2.2)
- If in opposition procedure it is demonstrated that the name is used in a third country, to distinguish the similar products or products that shares an identical name or similar, the decision taken for registration can foresee that the guaranteed traditional specialty name must be accompanied by the statement "made by following the tradition of" followed immediately by the name of its country or region. (Law No. 05/L -051 Article 78.3)
- The name cannot be registered if it refers only to claims of a general nature used for a group of products, or requirements set down by the legislation in force in Kosovo. (Law No. 05/L -051 Article 78.4)

### Product specification

- Guaranteed traditional specialty should be in compliance with specification which contains the followings.

- proposed name for registration (Law No. 05/L -051 Article 79.1.1)
- description of the product, including its main physical, chemical, microbiological and organoleptic features, by presenting the special character of the product (Law No. 05/L -051 Article 79.1.2)

Description of the product should only mention the characteristics necessary to identify the product and its specific characteristics. It shall not repeat general obligations and, in particular, technical characteristics inherent to all products of that type and related mandatory legal requirements. (MTI No:11/2016 Article 6.2)

- description of the production method that manufacturers should follow, including, where appropriate, the nature and characteristics of raw materials or ingredients used, and the method by which the product is prepared (Law No. 05/L -051 Article 79.1.3)

Description of the production method shall only include the production method in force. Historical practices, performed for at least 30 years, are only to be included if they are still followed. Only the method necessary for obtaining the specific product shall be described and in a way that enables reproduction of the product anywhere. The key elements proving the product's traditional character shall include the main elements that have remained unchanged, with precise and well established references. (MTI No:11/2016 Article 6.2)

- key elements that creates the traditional character of the product (Law No. 05/L -051 Article 79.1.4)

- Product specification should be concise and limited to 5000 words except in duly justified cases. (MTI No:11/2016 Article 6.3)

### **Application content for registration**

- Application for registering a name as a guaranteed traditional specialty includes:
  - name and address of the application group (Law No. 05/L -051 Article 80.1.1)
  - product specifications, as provided in Law No. 05/L -051 Article 78. (Law No. 05/L -051 Article 80.1.2)

### **Basis for objection**

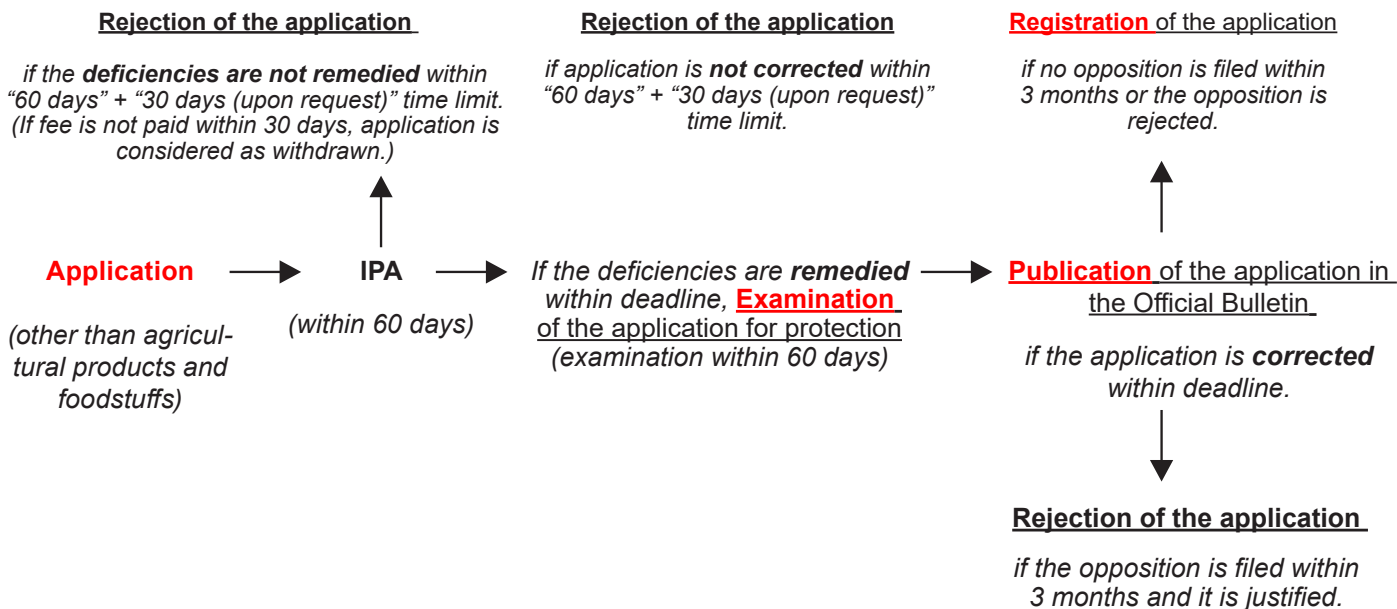
- Reasoned declaration of objection, as referred to in Law No. 05/L -051 Article 33, is admissible only if it is received by the IPA before the expiration of deadline and if it:

- provides justified reasons of why the proposed registration is not in accordance with the provisions of Law No. 05/L -051, or (Law No. 05/L -051 Article 81.1.1)
- shows that the use of the name is lawful, recognized and economically significant for similar agricultural or food products. (Law No. 05/L -051 Article 81.1.2)

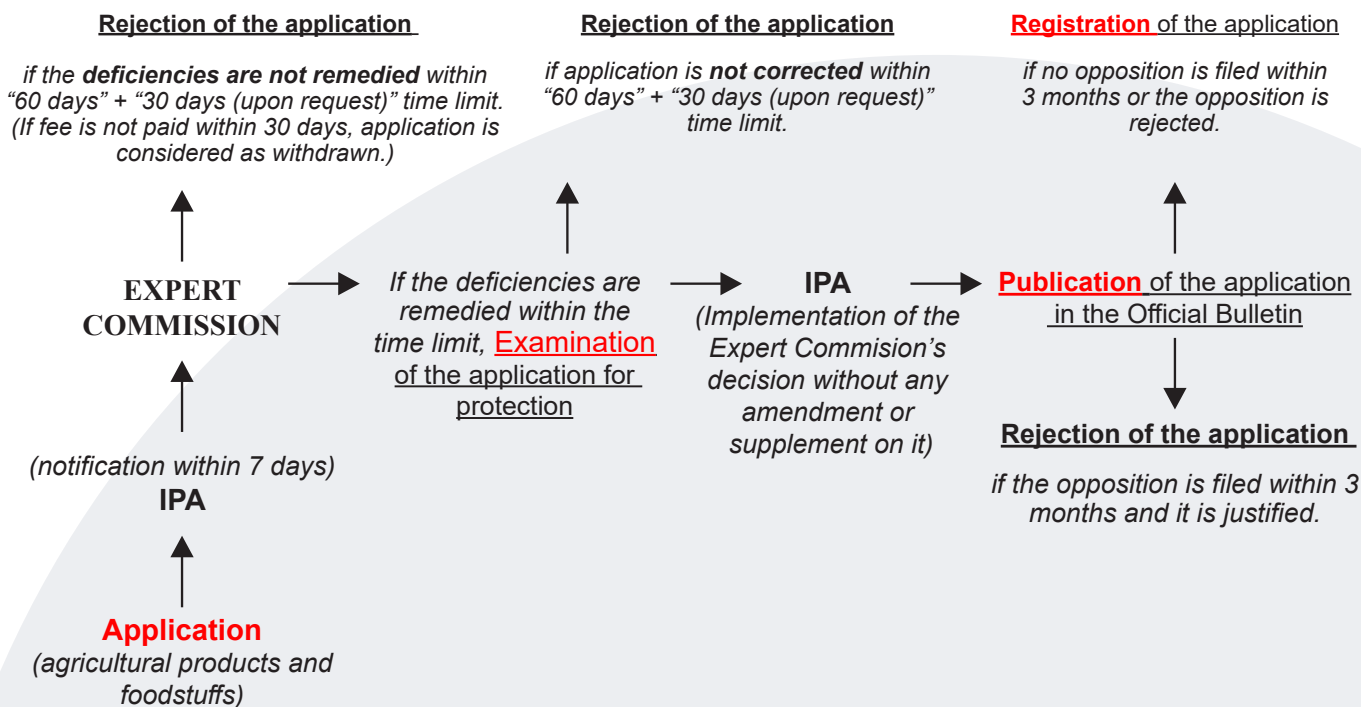
### **Registry of guaranteed traditional specialties**

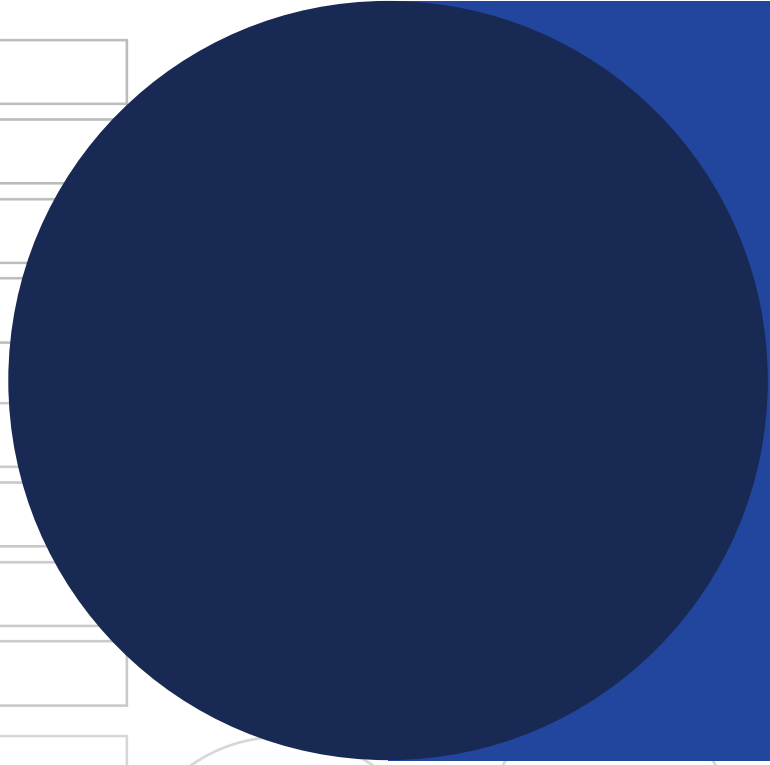
- IPA keeps an updated registry of guaranteed traditional specialties recognized with Law No. 05/L -051 that is publicly accessible. (Law No. 05/L -051 Article 82.1)
- Registry contains the following information.
  - Registered name (or names) of the product (MTI No:11/2016 Article 7.2.1)
  - Kind of the product or foodstuff for which the name is registered as a guaranteed traditional specialties (MTI No:11/2016 Article 7.2.2)
  - Indication of the country or countries of the group or groups that made the application (MTI No:11/2016 Article 7.2.3)
  - Information whether the decision on registration provides that the name of the guaranteed traditional specialties is to be accompanied by the claim as referred to in Law No. 05/L -051 Article 78.3 (MTI No:11/2016 Article 7.2.4)
  - File number of the registration (MTI No:11/2016 Article 7.2.5)
  - Date of filing the application (MTI No:11/2016 Article 7.2.6)
  - Date of publication of the application in the Official Bulletin of IPA (MTI No:11/2016 Article 7.2.7)
  - Date of the registration and the registration number (MTI No:11/2016 Article 7.2.8)
  - Date of publication of the registration in the Official Bulletin of IPA (MTI No:11/2016 Article 7.2.9)
- Register of guaranteed traditional specialties may be maintained in the form of an electronic database.

## FLOWCHART 1: EXAMINATION OF THE APPLICATIONS BY IPA



## FLOWCHART 2: EXAMINATION OF THE APPLICATIONS BY THE EXPERT COMMISSION





# IPRproject

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