



Funded by
the European Union

HANDBOOK ON GEOGRAPHICAL INDICATIONS and DESIGNATIONS OF ORIGIN



IPRproject
Intellectual Property Rights Project

A project implemented by:



Part I: Key concepts	2
1. What are Geographical Indications and Designations of Origin?	2
2. Why are Geographical Indications and Designations of Origin useful for your business?	4
3. Duration of Geographical Indication and Designation of Origin	5
Part II: Validity	6
1. Legal requirements	6
2. Best practices to use Geographical Indications and Designations of Origin	6
Part III: Getting protected	8
1. Protecting Geographical Indications and Designations of Origin in Kosovo	8
2. Protecting Geographical Indications Designations of Origin abroad	10
Part IV: Legislative Framework	11
1. Law	11
2. Secondary Legislation	11
Part V: Commercialization and Enforcement of Geographical Indications and Designations of Origin	11
1. Commercialization of Geographical Indications and Designations of Origin	11
2. Infringements and Remedies	12
Part VI: Final tools	13
1. Getting help / contacts	13
2. Useful websites	13

Objective of this Handbook:

The overall objective of this Handbook is to raise awareness of right holders and population at large about the importance of Geographical Indications (hereinafter referred to as “GIs”) and Designations of Origin (hereinafter referred to as “DOs”) for the development and growth of their business and communities.

Part I – Key Concepts



What are Geographical Indications and Designations of Origin?

In simple terms, a Geographical Indication may be understood as a geographical sign distinguishing products coming from a certain geographical place, where their quality, reputation or other specific characteristics are due to the fact that they come from that geographical place. More precisely, art. 4.1.4 of the Kosovo Law on GIs and DOs (Law No 05/L-051) defines “Geographical Indications” as “name of a region, a specific place or in special cases the name of a state, which is used to describe a product originating from that region, specific place or state, [when it] possesses a quality, reputation or other specific characteristics which come as a result of geographical origin, production and / or processing and / or preparation of which takes place entirely in the defined geographical area ”.

On the other hand, “Designation of origin” is defined by art. 4.1.3 as “name of a

region, a specific place or in special cases the name of a state, which is used to describe a product originating from that region, specific place or state, [when] qualities or characteristics of which are essentially or exclusively as a result of a particular geographical 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”.

Registered designations of origin or geographical indications can be used by any producer or processor to advertise their products when they are in compliance with the relevant quality specifications and the producer/processor is a member of the Register of Authorized Users (art. 14).

From the above definitions, three elements must be present in order to qualify as GIs and DOs:

1. The term must be the geographical name (often of a country/region/area).
2. It must serve to designate a product originating in that country/region/area.
3. There must be a qualitative link between the product and the geographical area.

Like trademarks, also GIs and DOs are distinctive signs. However, there are some remarkable differences:

A. Ownership: contrary to marks, GIs-DOs do not distinguish the products or services of one or more undertakings (natural persons or enterprises), but they identify goods (and very seldom also services) originating in a particular geographical area: this means that all enterprises operating in that geographical area, members of the relevant producers/processors association, and complying with the relevant qualitative standards, are entitled to use the GI-DO.

B. Quality: contrary to marks, GIs-DOs imply the compliance with specific qualitative standards. These could take the form of natural factors (e.g.: soil, air, climate, etc.) and human factors (i.e.: methods of production or processing).



Probably the most famous example of GI is CHAMPAGNE. This GI can be used by all producers of white sparkling wine, established in the French region of Champagne, provided that they are members of the Champagne Association, and they comply with the required qualitative standards.

Producers will utilize the GI together with their own marks, such as, CRYSTAL, MOET CHANDON, VEUVE CLIQUOT, etc. Conversely, producers of white sparkling wine based in other countries (or even in other parts of France) are prohibited from using the term CHAMPAGNE on their products.

GEOGRAPHICAL INDICATIONS
and **DESIGNATIONS OF ORIGIN**
do not protect:

- The name of a company.
- Inventions and innovative solutions.
- The ornamental shapes of products or packaging



Like all other IP rights, also GIs and DOs are governed by the “principle of territoriality”. This means that they enjoy protection in a given country only if they are duly filed and registered there. Should this not be the case, the term will be considered in the public domain, and as such, it could be adopted or copied by anybody.

GIs and Dos cannot be protected by individuals, but only by producers / traders / processors associations. Such association should rely on the help of an expert.

It is important to remember that, as mentioned above, GIs and DOs protect only signs distinguishing products coming from a certain geographical place, where their quality, reputation or other specific characteristics are due to the fact that they come from that geographical place. On the other hand, they do not protect:

- Names of companies and individual businesses: this should be separately protected as a trademark (see Handbook on Trademarks).
- Technical features of products: which would have to be protected, if anything, through patents (see Handbook on Patents).

Why are Geographical Indications and Designations of Origin useful for your business

In nowadays business environment, characterized by fierce worldwide competition, an extremely powerful branding tool and differentiating factor is represented by GIs and DOs. They enable your products to stand up in the marketplace and be noticed and purchased by customers. They also often lead to premium prices and higher quantities of sales.

The main functions of GIs and DOs are:

- To inform consumers of the origin of certain products (on the understanding that such geographical origin has direct impact on the quality and characteristics of the products); and
- to prohibit their use by undertakings not based in the relevant geographical area and not complying with the required qualitative standards.

GIs and DOs are the only IP rights that provide information about the (often superior) quality of the product covered by the sign in question. Evidently, GIs/DOs represent a crucial factor in influencing customers' choices, particularly when a particular geographical place is linked to an image of quality.

Protected Geographical Indications and

Designations of Origin bring a fundamental advantage to your business: exclusive rights over that particular geographical term. This in practice means that:

- only your producers' association will be entitled to use such geographical term in your country (or in any country where you file your GI/DO) to sell your type of products.
- Your association will have the right to prevent third parties, not having its authorization, from manufacturing or selling goods carrying your protected Geographical Indication.

Art. 12 of the Kosovar law (and Article 24 of Administrative Instruction) provides that registered designations of origin or geographical indications are protected against:

- **a.** any direct or indirect commercial use of products that are not registered as long as those products are comparable to the products registered under the designation of origin, or for as long as the use of the designation of origin or geographical indication exploits the reputation of the protected designation of origin or geographical indication;

- **b.**any misuse, imitation or evocation, even if the true origin of the product is noted or if the name of the designation of origin or geographical indication is translated or transliterated or accompanied with expression such as “style”, “type”, “method”, “as produced in”, “imitation” or others similar to these;
- **c.**each inaccurate or misleading indication in terms of background, origin, nature or essential qualities of the product, in the internal or external packaging, in advertising materials or documents for the product and packaging of the product in a container that has a tendency to give the wrong impression regarding the origin.

Like other IP rights, Geographical Indication and Designation of Origin rights are territorial by nature. This implies that, if you plan to export to a new country your products carrying your valuable geographical term, make sure to protect them beforehand and comply with all requirements provided by the law of the country

concerned. In other words, Geographical Indications and Designations of Origin registered in Kosovo will not enjoy protection in other countries, unless duly registered there. This is the so-called “principle of territoriality”.

In each country, your Geographical Indications will be protected by the national law and treated, for all intents and purposes, as national right (in other words, no discriminations are possible only because you are a foreigner).

Another advantage is that if a trademark is filed after the application of a GI/DO for the same type of goods, the mark will be refused (article 13).

Conversely, make sure you do not use a geographical term protected as Geographical Indication or Designation of Origin in your country by other producers’ association, otherwise you will be in violation of its exclusive rights and you might be brought to court and sanctioned accordingly: careful!

CAREFUL not to violate
Geographical Indications of your competitors!

To summarize, you should therefore check what are the GIs existing in your country, and if you happen produce your products exactly in the geographical area referred to by the GI, and you comply with the required qualitative standards, this means that you will be entitled to use the GI. This might be an important tool to foster your commercial success.

Duration of Geographical Indication rights

As stipulated in Art. 15 of the Kosovar Geographical Indication law, Geographical Indications are protected for a period of 10 years from the registration date. This duration can be renewed indefinitely for additional periods of 10 years.

Should the renewal fees not be paid at the end of each 10-year period, the Geographical Indication will fall in the public domain at the end of the last period for which it was protected.

Part II – Validity of Geographical Indications

In order to be protected in Kosovo, a Geographical Indication must be filed and registered with the Industrial Property Agency of Kosovo (IPA). Geographical Indications will be registrable only if they comply with the legal requirements provided by the Geographical Indication law (and especially by art. 9) and described below.

Legal Requirements for the Validity of a Geographical Indication and Designations of Origin in Kosovo

A name cannot be registered as a designation of origin or geographical indication if:

- it is generic term,
- it conflicts with the name of a plant variety or animal breed and as a result would deceive consumers about the true origin of the product;
- it indicates or suggests that the product originates from a different geographical area and not the exact place of origin and as a result it misleads or misinforms the public about the true geographical origin of the product;



- it can create confusion in the market about the type, origin, quality, method of production or other characteristics of the product;
- it is contrary to the public order or morality;
- the registration is liable to mislead the consumers as to the true identity of the product in the light of the existence of a trademark with reputation;
- it is wholly or partially homonymous with a name already entered in the Register of protected designations of origin and geographical indications. A homonymous name which misleads the consumer into believing that products come from another territory should not be registered (art 10).

If the proposed terms comply with the definition of GI or DO (as provided by art 4), they do not fall under the above prohibitions (provided by art 9), and comply with the other requirements provided by the law, it will be registered and granted a certificate. Congratulations!

Best practices to use Geographical Indications and Designations of Origin

There are a number of best practices that users should bear in mind in the area of Geographical Indications and Designations of Origin. These include:

1. The appropriate symbol and word of the GI/DO should always be used on the relevant products exactly in the modalities provided by the Book of Specifications. This is not only a good warning message to potential infringers, but also an extremely powerful branding tool.
2. In particular, every product originating from Kosovo that is marketed according to the designation of origin or geographical indication in accordance with the domestic law must be labelled with the indication “protected designation of origin” and “protected geographical indication” or with symbols that accompany them.
3. It is crucial that quality standards are maintained and constantly applied by all members of the associations. Should this not be the case, customers will lose faith in the GI/DO, and stop perceiving it as a quality assurance tool. This implies that each association wishing to register a GI/DO should establish very rigorous quality monitoring mechanisms and ensure their strict implementation.

4. Geographical Indication owners should constantly monitor the market to ensure that nobody copies or misuses their protected signs.
5. A registered designation of origin or geographical indication can be used in trade and in advertisement only by producers or processors that are members of the relevant association as Authorized Users, and only if their products are in compliance with the relevant specifications.
6. Finally, the various members of the GI/DO association should also use their individual trademarks to distinguish their own products from those of other members of the same association. By way of example, while all members of the Champagne association can use the term “Champagne” on their white sparkling wine, each producer will also utilize its own trademark (e.g.: Veuve Clicquot; Moët Chandon, etc.).





Part III- Getting Protected

The main challenge of securing protection for GIs and DOs is that international treaties do not establish a unique manner in which they should be protected. There are four possible regimes that are adopted by different countries to protect GIs/DOs:

- unfair competition (or passing-off)
- consumer protection (e.g.: wine labelling)
- collective and certification marks (see Handbook on Trademarks)
- Sui Generis protection (i.e.: a law specifically providing for the protection of GIs, as in the case of Kosovo).

Kosovo, in line with numerous other countries, follows the last approach. However, if you wish to export your products, covered by a local GI/DO, to another country, you then need to make sure that also that country recognizes your GI/DO. This is a tricky issue. Some governments have signed bilateral or regional agreements with other States for the mutual recognition of respective GIs/DOs.

There is also an international treaty that facilitates that international registration of Appellations of Origin (special types of GIs): the Lisbon Agreement. It works in a manner very similar to the Madrid system and The Hague systems and it allows obtaining protection in any of the 35 countries parties to the system. However, the bad news is not only that 35 is a very limited number, but also that Kosovo is not a member of the Lisbon system and therefore you will not be able to use this facility.

The IP Agency is responsible for the procedure of registration of designations of origin and geographical indications (art. 6).

As mentioned in Part I, Sect. 1 of this Handbook, users should protect their GIs/DOs in all the countries where they do or intend to do business. This is because Intellectual Property rights, including Geographical Indications, are territorial in nature (on the basis of the principle of TERRITORIALITY). This means that entering a new country without having duly filed Geographical Indications can potentially be very dangerous: their signs may be copied, and their legitimate owners may not be able to do much to enforce their rights.

Protecting Geographical Indications in Kosovo

In order to obtain protection for a Geographical Indication in Kosovo, an application must be filed with the national IP office, named Kosovo Industrial Property Agency (IPA). Please visit the following website to obtain information about the form to use, the fees to pay and the procedure to follow: KIPA (rks-gov.net).

An application for registration of a designation of origin or geographical indication can only cover one designation / indication that must be associated with only one type of products (art. 21).

Only the following entities are entitled to file an application for GI/DO:

- any association of producers or processors working with the same product, regardless of its composition or legal form.
- 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 neighboring areas or the characteristics of the product are different from those produced in neighboring areas;

An application for registration must include (Article 23):

- the name and address of any association of producers or processors applying, accompanied with information on the legal status and composition of the group, if the application is completed by an association of producers and processors;
- name and address of the person applying, accompanied with adequate evidence on the legal status, if the application is completed by a single person;
- name of the designation of origin or geographical indication;
- description of the product (that must include specific technical data commonly used to describe the type of product, including sensory - organoleptic characteristics. It may also include, when appropriate, specific rules concerning packaging and labeling);
- definition the geographical area (that must be defined in a detailed and precise matter so that there is no ambiguity and it sets the boards in terms of relation between the quality or characteristics of the product and its geographical environ-

- ment);
- product specifications;
- description of the connection between the product and its geographical origin (clarifying how the characteristics of the defined geographical area affect the final product);
- evidence on payments of the specified fees;
- authorization if the person applying is represented by an authorized representative;
- evidence on the protection of a designation of origin or geographical indication in its country of origin, in the form of a copy of a certificate or other legal document with a translation of the document if the designation of origin or geographical indication is related to a geographical area located outside of Kosovo.

In addition, there must be methods for the verification of compliance with the qualitative standards listed in the Book of Specifications. Such verification must be carried out by authorities or bodies must be authorized institutions and recognized for verification of product compliance with the provisions of the specification. In the case of agricultural products or foodstuffs, verification bodies must be approved by the Ministry of Agriculture.

Following its examination, the application is published for opposition purposes. Should no opposition be filed within three months from the publication date, the GI/DO is registered and a certificate is established.

Article 44 provides for the registration procedure of an authorized user of a protected designation of origin or a protected geographical indication. In this context, following the registration of the relevant designation of origin or geographical indication, an application for registration of authorized user can be submitted to IPA by any producer or processor (natural or legal person) who produces or processes the product protected by the designation of origin or geographical indication in accordance with the relevant product qualitative specifications.

The filing procedure is governed by Administrative Instruction (MTI) NO. 11/2016 on Registration of the Geographical Indication. Such legislative text contains, in art. 5 and 6, more detailed information about what the Geographical Indication application should contain.

Art 11 provides that if the designation of origin or geographical indication relates to geographic areas outside of Kosovo, the protection will be granted if the application complies with the criteria determined in the law, and if the designation in question is protected in the country of origin. Furthermore, a designation cannot be registered as a designation of origin or geographical indication when it was not protected or it is not protected in continuity or it is not used in the country of origin.

If the applicant is a foreign association, the application has to be filed by a local representative, with a Power of Attorney.

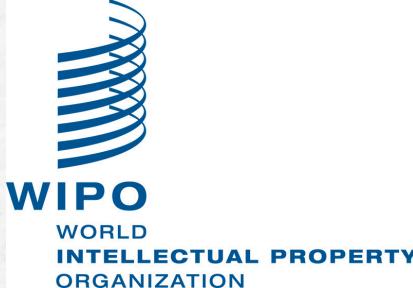
Once an application is filed with IPA, the examiners will check compliance with all formal requirements and notify the applicant should irregularities be identified.

Protecting Geographical Indications in Kosovo

If the association that owns a GI/DO in Kosovo wishes to export the products covered by such GI/DO to other countries, protection should be sought for such GI/DO in those countries, by filing applications in all countries of interest. As mentioned above, this process is not easy, and Art. 11.3 and 4 provide that protection of designation of origin or geographical indication can also be granted on the basis of bilateral or international agreements on mutual protection of GI/DO to which the Republic of Kosovo is a member. In such case, the scope of protection of these designations of origin or geographical indications will be the same as the protection granted to the designations of origin or geographical indications under domestic Law (unless the relevant bilateral or international agreement provides otherwise).

On the other hand, there is one solution that may prove useful and cheaper: **The Lisbon system for the International Registration of Geographical Indications.**

The Lisbon system is a simple, cheaper, effective centralized procedure administered by WIPO; a one-stop shop for Geographical Indication owners to file for protection in numerous export markets. The Lisbon system allows Geographical Indication holders to obtain protection by filing one single application, in one language (including English), with fees in one currency (Swiss francs) in up to 35 countries, without having to appoint a local IP agent in all countries.



Unfortunately, the Lisbon system is a “close” system: it can be used only by association, consortia, etc. that:

1. Are nationals of one of the countries of the Lisbon Union; or
2. Have domicile or habitual residency in one of those countries; or
3. Possess a real and effective commercial or industrial establishment in one of the countries members to the Lisbon Union.

As mentioned, Kosovo is not a member of the Lisbon system. This means that, unfortunately, for the time being, and therefore it cannot be used by Kosovar associations.

Information on the Lisbon, may be found at: [Lisbon - The International System of Geographical Indications \(wipo.int\)](http://Lisbon - The International System of Geographical Indications (wipo.int))

Part IV- Legislative Framework

1. Law:

- Law on Geographical Indications and Designations of Origin, 05/L-051

2. Selected secondary legislation:

- Administrative Instruction (MTI) NO. 11/2016 on Geographical Indications and Designations Of Origin
- Administrative Instruction for administrative fees for industrial property facilities, MTI-10/2016

Part V-

Commercialization and Enforcement of Geographical Indications and Designations of Origin

Commercialization of Geographical Indications and Designations of Origin

Having a registered GI/DO and not exploiting it commercially would be a very bad commercial decision: it is like having a treasure and not taking advantage of it. Indeed, using GIs/Dos could potentially become a very lucrative business. Simply affixing on the label or on the packaging of your products the indication “PGI - Protected Geographical Indication” or “PDO - Protected Designation of Origin” and the official logo and name of the association could significantly boost your sales and increase the price at which you can sell your products. Statistics worldwide speak very clearly in this regard.

By way of example, the fact of being able to write on a bottle of white sparkling wine the term “Champagne” not only guarantees higher volumes of sale, but also a premium price, not available to other white sparkling wines, not covered by such GI.



Another interesting example is represented by Kampot Pepper. Following its registration as GI in 2010 in Cambodia and in 2016 in the EU, Viet Nam, etc., the selling price of Kampot pepper went from USD 8.9 (for black pepper), USD 15 (for red pepper) and USD 17.7 (for white pepper) to USD 15, USD 25 and USD 28, respectively. On the other hand, the price of ordinary non-GI protected pepper decreased from average USD 9.5 in 2015 to USD 2 in 2020. Similarly, the quantities of Kampot pepper sold went from approximately 24.4 tons per year to 55.6 tons per year. It should also be noted that about 70% of Kampot pepper is destined to the international market.



Similarly, in the EU, France and Italy extremely successfully exploited their registered GIs for wines, with sales of GI-protected wines in 2017 for more than EUR 10 billion. In Germany and Spain, the values ranged between EUR 5 billion and EUR 10 billion; and in Portugal, the Netherlands, Austria and Greece, between EUR 1 billion and EUR 5 billion. In 2017, exports (intra-EU trade and exports to non-EU countries) amounted to EUR 31.42 billion (41% of the total sales value).



Also the EU beer industry substantially benefitted from GIs: five EU Member States currently produce beers under GIs, with Germany and Czech Republic leading this market. In 2017, the sales volume of beers covered by GIs was estimated to reach 41.81 million hl and the sales value was EUR 3.33 billion for a total of 20 registered GIs. Beer sales value has increased by 18% from 2010 and PGI beers contributed almost entirely to this growth.

Infringements and Remedies

This section contains practical suggestions in case Geographical Indications and Designations of Origin are copied, violated, infringed by third parties, at home or abroad, whether in good or in bad faith.

First of all, associations that own GIs/Dos, and their members, should act as “watch dogs” and constantly monitor possible violations of their signs by third parties. In their daily job, they are often aware of what the competitors are doing and of any possible infringement of their GIs/DOS.

Litigation should be kept as a last resort, as it may take long time and at time its outcome is unpredictable. A simple “cease and desist” letter maybe enough to end an infringement. Should this not lead to a resolution of the infringing activity, GI/DO owners may attempt to reach an out-of-court settlement, through negotiation. Should also this effort fail, they may revert to the services of a professional mediator, who could facilitate the achievement of a satisfactory agreement for both parties. A particularly suitable and tailor-made ADR system for IP is administered by WIPO. For more information, please refer to the following web site: <http://www.wipo.int/amc/en/>.

Finally, in some cases, court litigation remains the only viable option to obtain justice, in which case an action should be brought to the competent Court (which normally is the Basic Court in Prishtina).

Evidently, only experienced lawyers should carry out the above steps.

Article 64 provides that persons entitled to request enforcement of registered GIs and Dos include a group or a single person who submitted a request for registration, or any authorized user or group of authorized users, or any person authorized by any of them in accordance with the general provisions for representation, or a State Prosecutor.

Supervision of the implementation of the Law on GI and DO is carried out by the relevant inspectorate in territory of Kosovo (Art. 76).

In terms of remedies, the Kosovo legislative framework (Chapter VI of the Geographical Indication law) provides for the following civil remedies to enforce GI/DO rights:

1. Requesting declaration of infringement and the termination of the infringement of the GI and DO and similar ones in the future (art. 65).
2. Requesting for seizure and destruction of products (art. 66).
3. Requesting damage compensation (art. 67).
4. Publication of the verdict of the court confirming violation of Geographical Indication (art. 68).
5. Requesting information on the origin and distribution network of products that infringe the Geographical Indication or DO to be provided (art. 69).
6. Requesting provisional measures in order to stop or prevent violations, to order the seizure or removal of the products from the market, which are contrary to the law, or in order to preserve evidence (art. 70 and 71).
7. Punitive measures, in the form of fines (art. 75).

On the other hand, as already mentioned, Kosovar businesspeople should be extremely careful not to violate Geographical Indications or Designation of Origin that are registered and protected in Kosovo (and in any other country where they do business), otherwise all the above measures and sanctions may be adopted against them.

Part VI-

Final tools

Getting help / contacts

Agjencia e Pronësisë Industriale Ministria e Tregtisë dhe Industrisë
Rr. “Muharrem Fejza”, p.n, Lagjja e Spitalit, 10000- Prishtinë, Kosovë
Telefon: +381 38 200 36554
Email:

Useful websites

- Kosovo IP Agency: kipa.rks-gov.net
- EUIPO: EUIPO - Home (europa.eu)
- EPO: <http://www.epo.org/>
- FAO: www.fao.org
- WIPO: www.wipo.int
- WIPO SME Division: www.wipo.int/sme
- WIPO Arbitration and Mediation Center: <http://arbitr.wipo.int>
- WTO: <http://www.wto.org>
- EU: Geographical indications - Trade - European Commission (europa.eu)
- oriGIn - Home - oriGIn | Organization for an International Geographical Indications Network (origin-gi.com)
- Directory of IP Offices worldwide: <http://www.wipo.int/directory/en/urls.jsp>
- International Geographical Indication Association (INTA): <http://www.inta.org>
- IP Panorama: <https://www.wipo.int/sme/en/multimedia/>

This booklet has been produced with the assistance of the European Union.
The contents of this booklet are the sole responsibility of IBF International Consulting
and EPLO and can in no way be taken to reflect the views of the European Union.

© IPR Project Kosovo
June, 2021
Pristina, Kosovo

IPRproject

Intellectual Property Rights Project

Rr. "Johan V. Hahn",
10000 Pristina, Kosovo

Tel: 038 726 688

 IPRKosovo