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1. Do your jurisdiction's laws have provisions dealing with indications of origin that are used by manufacturers, distributors and service providers to commercialize their goods and services (e.g. passing off, unfair competition law, trademark law, sui generis law regulating the use of indications of source, geographical indications, or appellations of origin)? If yes, please provide the text of those provisions.

First of all, it should be noted that under Ukrainian law only the indications of origins of goods can be subject to protection. The sphere of provision services is out of the respective regulation meaning that service providers cannot pretend to such protection.

Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 is a sui generis law containing provisions related to indications of origin. There are several basic definitions provided under this law:

- "Indication of Origin of Goods" means the term covering (incorporating) such terms:

(i) simple indication of origin of goods means any wording or image (graphical) designation that directly or indirectly points to geographical place of origin of goods. This can be a name of geographical place used for marking goods or as a part of such designation;

(ii) qualified indication of origin of goods means the term covering (incorporating) such terms: appellation of origin of goods means a geographical place name used for marking of goods originating from the indicated geographical place and having particular properties that are exclusively or essentially due to the natural conditions specific for that geographical place or to the combination of these natural conditions with human factor specific for this geographical place; geographical indication of origin of goods means geographical place name used for marking of goods originating from that geographical place and having certain properties, reputation or other characteristic features that are essentially due to natural conditions specific for that geographical place or to the human factor or to the combination of these natural conditions with human factor;

- "Geographical Place" means any geographical object with officially defined boundaries, in particular: a country, a region as a part of a country, settlement, location, etc.;

- "Generic Name of Goods" means a name of geographical place used in the name of goods, where the goods of that species were initially manufactured and which with time have become commonly used in Ukraine as indication (name) of a species of goods irrespectively of its particular place of origin;

Under Article 6 of this Law the issue of granting protection to indications of origin is provided. In particular, it is envisaged that the legal protection of the simple indication of origin of goods is provided on the grounds of its use. The legal protection of the simple indication of origin of goods includes non-admission of use of the indications that are not true (false) or which mislead consumers as to the real geographical place of origin of goods. The simple indication of origin of goods shall not to be registered. In addition, legal protection to qualified indication of origin of goods on the basis of their registration, the action of which is termless from the date of registration.

The scope of Ukrainian legislation containing any provisions on the matter of indications of origin are determined under Article 2 of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 and names the following:

- the Law of Ukraine on Protection against Unfair Competition" No 236/96-BP dated 07 June 1996 (envisaging that the information containing incomplete, inaccurate or inadequate information on the indication of origin should be considered as misleading information);

- the Law of Ukraine on Protection of Rights to Marks for Goods and Services" No 3689-XII dated 15 December 1993 (saying that the qualified indications of origins cannot pretend to be registered as trademarks),

- the Law of Ukraine on Protection of the Consumers Rights No 1023-XII dated 12 May 1991 (regulating that provision of misleading information on the indication of origin of goods should be qualified as unfair practice),

- the Law of Ukraine on Advertising No 270/96-BP dated 03 July 1996 (providing that misleading information means, in particular, inadequate data on indication of origin of goods).

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Moreover, the Law of Ukraine on Protection of Rights to Indication of Origin of Goods contains a provision that if the international treaty of Ukraine for which the approval of being mandatory is issued by the Verkhovna Rada of Ukraine, has set rules other than those provided by this Law, the regulations of the international treaty are applied.

In this regard, Ukraine is a party to the following treaties: Paris Convention for the Protection of Industrial Property (1883), Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891). Currently, Ukraine is not a party to Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958) as well as Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (2015).

In addition, being a member of the World Trade Organization Ukraine is a party to General Agreement on Tariffs and Trade (GATT) (1947) and Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994).

It should be emphasized that on 27 June 2014 the EU-Ukraine Association Agreement was completely signed with some provisions related to the matter of indications of origin being envisaged under economic part of the Agreement which entered into force on January 1, 2016. Under the said Agreement geographical indication of origin of goods protected in the EU and covered by the specific list agreed between European Commission and the Ukrainian Government (the list forms one of the Annexes to the Agreement) should pretend to enjoy legal protection in Ukraine and vice versa (par. 2 of Article 201 of the Agreement). Therefore, currently Ukrainian legislation should be harmonized with the *acquis communautaire* of the EU as provided for by the Agreement.

2. What requirements in your jurisdiction must be met in order for goods to be marketed with an indication of origin? What are the requirements for services?

Only qualified indication of origin of goods indicating specific geographical place from which goods originate may pretend to be protected. In this regard, there are a set of conditions for granting legal protection (Article 7 of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999), which are the following:

- as regards the appeal of origin of goods:
 - i) it is the name of the geographical place from which goods originate;
 - ii) it is used as a name of goods or as a component part of that name;
 - iii) in the geographical place specified by that name the specific natural conditions or the combination of the natural conditions and human factor providing particular properties to the goods in comparison with similar goods from the other geographical places exist objectively;
 - iv) the goods marked with that name have respective properties that are exclusively, or essentially, due to the natural conditions specific for that geographical place or the combination of these conditions and human factor specific for that geographical place;
 - v) production (extraction) and processing of goods marked with this name are performed within the designated geographical place.

- as regards geographical indication of origin of goods:
 - i) it is the name of the geographical place from which that goods originate;
 - ii) it is used as a name of the goods or as a component part of that name;
 - iii) in the geographical place specified by that name there are the specific conditions and/or human factor providing the good with the certain properties or other characteristics;
 - iv) the goods marked with that name have certain properties, reputation or other characteristics that are mostly due to the natural conditions and/or human factor specific for that geographical place;
 - v) at least the main component of the goods marked with that name is produced and/or processed within the boundaries of the designated geographical place.

In addition, legal protection can be provided by:

- the identical indication of origin of goods used for indication of similar goods different by their properties under the condition of the granting of the differences sufficient for the prevention of misleading of consumers as for real identification of goods;
- the homonymic indication of origin of goods under the condition of prevention of consumers' mislead as for real identification of goods, geographical place of origin of goods or its boundaries.

Further, Ukrainian legislation provides the grounds for refusal in granting of legal protection for the qualified indication of origin of goods (Article 8 of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999). There are the following reasons of refusal of legal protection for indications of origin of goods:

- i) does not correspond to the conditions provided by the Article 7 of this Law;
- ii) contradicts to the public order, principles of humanity and morals;
- iii) is the generic name of goods;
- iv) correctly indicates geographical place of production of goods, though forms at customers a wrong idea on the fact that the goods are produced in another geographical place;
- v) is the name of variety of a plant or an animal breed, thus being able to mislead consumers as for real origin of goods.

Moreover, the qualified indication of origin of goods related to a geographical place in a foreign State are not protected in the following cases:

- i) Ukraine has no relevant treaty with a foreign State on mutual protection of this type of indication of origin of goods;
- ii) this indication is not protected in the relevant foreign State.

There is also a separate provision regulating the connection of mark for goods and services and qualified indication of origin of goods. In particular, a trademark registered in Ukraine and comprising only of that indication or of the claimed indication as an element, cannot be considered a ground for refusal in granting of legal protection for the claimed appellation of origin or the claimed geographical indication of origin of goods.

Meanwhile, the indication of origin does not apply to services, which are not subject to this category of intellectual property rights objects in Ukraine.

3. Are there different provisions for different types of goods (e.g. for wines and spirits, foodstuffs, natural goods, industrial products, etc.)? If so, what are the respective requirements?

As regards the rules of national legislation of Ukraine there is a particular provision under the Law of Ukraine "On Protection Rights to Plant Varieties" declaring that the name of any plant variety shall not be misleading as regards the geographical indication of origin of the plant.

Ukrainian legislation also contains the Law on Grape and Grape Wine No 2662-IV dated 16 June 2005 with 2 basic types of wines depending on indications of origin:

- wines of controlled names by origin is wine of high quality produced by a special or traditional technology with use of certain grape varieties originated from separate territories. In this regard, origin and quality of wine are controlled during all stages of wine production. Moreover, the high quality of such wine should be hold at least during 5 years. All stages of production should be made in enterprises which are situated in separate place of growing such grapes;
- wine prototype is such type of wine that historically is usual for some geographic regions due to the use of some specific methods of production of the respective type if wine within one or another zone of growing grapes.

Finally, there are some requirements regarding the name of mineral waters. In particular, the indication of origin of mineral water may be protected in case such mineral water enjoys some unique quality or characteristic.

In addition, there are the provisions regarding particular goods (in example, wines and spirits, cheeses etc.) envisaged under EU-Ukraine Association Agreement, which entered into force this year.

4. Do the same provisions apply to domestic indications of origin as to foreign indications of origin? Does your jurisdiction for example apply the country-of-origin principle, according to which foreign indications of origin are judged according to the law of their country of origin?

First of all, it should be noted that foreign citizens should be granted with the equal rights and obligations regarding registration of indications of origin of goods with Ukrainians.

Further Ukrainian law envisages 2 key requirements granting protection for indications of geographical indication of origin of goods:

- i) it should be protected in foreign state, to which such geographical indication refer;
- ii) it should be submitted to state registration in Ukraine.

It should be also noted that Ukrainian law does not provide the application of country-of-origin principle regarding the foreign indications of origin. Therefore, provisions of Ukrainian law are applied regarding registration and legal protection of foreign indications of origin.

5. Is there a special register for the registration of indications of origin for goods and/or services within your jurisdiction? If yes, what goods or services and what kind of indications of origin can be registered in this register? Please provide a brief description of the registration process and the effects of such a registration and the scope of protection of registered indications of origin. Is it possible that a registered indication of origin becomes a non-protected generic term or are there specific rules that prevent a registered indication from becoming generic?

There is Ukrainian State Register of the Indications of Origin, Geographical Indications and the Rights to Use of Registered Qualified Indications of Origin of Goods. Therefore, all information on registered geographical indications of origin of goods should be inserted thereto. There is free access provided to this register (please follow the link: http://sips.gov.ua/ua/kzpt_Uk). It should be noted that only the information on qualified indication of origin of goods (i.e. appellation of origin of goods and geographical indication of origin of goods) may be inserted to the Register.

The registration process of qualified indication of origin of goods are indicated in Chapter III of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 and are the following:

Application

An application for registration of the qualified indication of origin of goods is filed to the Office by persons having right to registration according to the Paragraph one of the Article 9 of this Law.

The application for registration of the right to use the registered qualified indication of origin of goods is filed to the Office by persons having right to such use according to the Paragraph two of the Article 9 of this Law.

If an application for registration of the qualified indication of origin of goods is filed to the Office by persons manufacturing goods for which the indication is claimed, the application is considered at the same time as the application for registration of the right to use that indication.

The application shall relate only to one indication of origin of goods.

On behalf of an applicant, the application can be filed through a representative in matters of intellectual property (patent attorney) or another authorized agent.

The application shall be made in the Ukrainian language and shall contain:

- i) a request for registration of the appellation of origin of goods or the geographical indication of origin of goods and/or the right to use the registered relevant qualified indication of origin of goods with information about an applicant and his/her address;
- ii) the claimed appellation of origin of goods or the claimed geographical indication of origin of goods;
- iii) a name of goods for which an applicant requests registration of the specified indication of origin of goods; and/or the right to use registered relevant qualified indication of origin of goods.
- iv) a name and boundaries of the geographical place where the goods is manufactured and to which the particular properties, certain qualities, reputation or other characteristics of goods are related;
- v) the description of the particular properties, certain qualities, reputation or other characteristics of goods;
- vi) the data on the use of the claimed qualified indication of origin of goods on the label and at marking goods;
- vii) the data on interconnection of the particular properties, certain qualities, reputation or other characteristics of goods to the natural conditions and/or human factor of the specified geographical place.

Along with the application are filed:

- i) the document confirming the fact that the applicant manufactures goods for which he/she/it claims registration of the appellation of origin or the geographical indication of origin of goods and/or the right to use the registered relevant qualified indication of origin of goods;
- ii) the conclusion of a Specially Authorized Body on the fact that the particular properties, certain qualities or other characteristics of goods identified in the application are objectively due to or related to the natural conditions and/or human factor of the named geographical place of production of goods;
- iii) the conclusion of a Specially Authorized Body on the boundaries of the geographical place to which particular properties, certain qualities or other characteristics of goods are related.

It should be noted that foreigners instead of the documents listed above shall file along with the application documents confirming:

- i) the legal protection of the claimed qualified indication of origin of goods in the relevant foreign State;
- ii) the right of the foreign applicant to use the relevant qualified indication of origin of goods.

The documents provided by this Paragraph can be filed in foreign language and their translation into Ukrainian shall be filed to the Office not later than three months from the filing date of the application.

The date of filing an application shall be the date on which the Office receives the application on registration of the qualified indication of origin and/or the right to use the registered qualified indication of origin of goods.

A fee shall be paid for filing an application. In case the fee is not paid within two months from the filing date of the application, the application is considered to be not filed.

Examination of an Application

The examination of an application has the status of the scientific and technical examination and shall be held by the Examination Institute under this Law and according to regulations established by the Office on its basis.

The Examination Institute shall carry out an information activity required for performance of examination of applications and shall be the center of an international exchange of publications according to the Convention on International Exchange of Publications adopted on 3 December 1958 by the United Nation General Conference for Education, Science and Culture.

An applicant has the right to take part in prescribed order, personally or through his/her/its representative, in consideration of problems arising in the course of the examination.

During examination holding, on initiative of the applicant, corrections of obvious errors and adjustment of description of the main characteristics of goods or the boundaries of the geographical place of origin of goods can be included to the application.

The examination of an application for registration of the qualified indication of origin of goods and/or of the right to use the registered qualified indication of origin of goods determines correspondence of the data given in the application.

In the course of examination of an application for registration of the qualified indication of origin of goods examination of that indication is performed with respect to the generic names included to the List of the generic names of goods.

The list of the generic names of goods is formed by the Office on the basis of the Regulations on the List of the generic names of goods approved by the Cabinet of Ministers of Ukraine.

In the case of the appellations of origin of the goods claimed for registration, or the geographical indication of origin of goods claimed for registration are included to the List of the generic names of goods, the decision on refusal in registration is sent to the applicant.

In the course of the examination the Examination Institute has the right to request from the applicant additional materials without which the examination is impossible.

The additional materials on request by the experts shall be submitted within three months from the date of having received the request. During that term the applicant can submit a petition for prolongation of the term for response or for the renewal of the term for response to the request missed due to reasonable excuse. A fee is paid for submission of the petition for prolongation of the term and for renewal of the missed term.

In the case of infringement by the applicant of the prescribed term or his leaving the request without reply, the application is considered withdrawn.

In case on the results of examination it is found that the claimed indication does not correspond to the conditions of provision of the legal protection to the appellations of origin of the goods, or the geographical indication of origin of goods, or that the applicant cannot be given the right to use the previously registered appellations of origin of goods, or the previously registered geographical indication of origin of goods, the Office makes decision on refusal in registration.

The decision on the refusal in registration is sent to the applicant.

If after the results of the examination it is determined that the application meets the requirements provided under Ukrainian legislation, information on the application is published in the Official Gazette of the Office. The publication shall include: information on the applicant (applicants); the name of goods, including the claimed for registration appellations of origin of the goods or geographical indication of origin of goods; the boundaries of the geographical place to which the particular properties, certain qualities or other characteristics of goods are related; the description of the particular properties, certain qualities, reputation or other characteristics of goods; the conditions of use of the qualified indication of origin of goods on the label and at marking goods.

After the publication of official data on the application for registration of qualified indication of origin of goods and/or the right to use the registered qualified indication of origin of goods any person has the right to familiarize in prescribed order with the materials of the application. A fee is paid for familiarizing with the materials of the application.

Within six month from the date of the publication of official data on the application any person can submit to the Office an objection against registration of the claimed appellation of origin of goods or the claimed geographical indication of origin of goods and/or right to use the registered relevant qualified indication of origin of goods.

A fee is paid for the submission of objection. In case the fee is not paid, the objection is considered to be not submitted.

The copy of the objection submitted and information on the person having filed that objection are sent to the applicant. Within two month from the date of having received the copy of the objection the applicant shall send to the Office a substantiated reply to the objection or submit a petition for prolongation of the prescribed term for reply. A fee is paid for submission of the request for prolongation of the term. In case the fee is not paid, the term for giving response is not prolonged. In case response to objections from the applicant does not come to the Office, the objection is considered in prescribed order on the basis of the available materials.

Objection and response on it are examined by the institution within two month from the day of the expiration of the term established for the response.

The applicant and the person having submitted the objection have the right to take part in its examination.

On the results of the examination of the objection a notification is sent to the person having submitted the objection.

In case of no objections been available or their recognition as not substantial, the Office decides on registration of that qualified indication of origin of goods and/or of the right to use the registered qualified indication of origin of goods and informs the applicant of it.

In case the objections examined are found substantial, the Office decides on refusal in registration and informs the applicant of it.

A decision on refusal in registration is published in the Official Gazette of the Office.

The applicant has the right to familiarize with all the materials identified in the request from the Examination Institute or in the decision of the Office. Copies of materials are sent to the applicant within a month from the day of receipt of the request.

Possible withdrawal and appeal

The procedure of withdrawal of an application is also provided under Ukrainian law. The applicant has the right to withdraw the application at any time before the day of registration of the qualified indication of origin of goods and/or of right to use the qualified indication of origin of goods.

An applicant may appeal to the court or to the Appellate Chamber against the Office decision on an application within two months from the date of receiving the Office decision. If the Office decision on the application has been appealed to the court after the registration of qualified indication of origin of goods and/or the right to use the qualified indication of origin of goods, the court also decides the validity of the relevant registration. The right to appeal the Office decision in the Appellate Chamber would be lost after the payment of the state fee for the issue of the certificate.

The appeal against the Office decision in the Appellate Chamber shall be accomplished by submitting an objection against the decision under the procedure determined by this Law and on its basis by the Regulations of the Appellate Chamber approved by the Office. A fee is paid for the submitting of the objection. If the fee has not been paid within the period of 2 months, the objection shall be considered as not submitted, of which a notification is sent to the applicant. In case when the Appellate Chamber has received an objection and a document for payment of the fee for submitting the objection, the processing on the application shall be suspended until the approval of the decision by the Appellate Chamber.

An objection against the Office decision on an application shall be considered according the Appellate Chamber regulations within two months from the date of receiving the objection and the document on the payment of the fee for submitting the objection, within the framework of the grounds presented in the objection by the applicant and during the discussion of the objection. The period of consideration of the objection shall be extended on the initiative of the applicant, but for not more than two months, provided that the relevant request has been submitted and the fee has been paid with respect to the request. On results of consideration of an objection, the Appellate

Chamber shall make a grounded decision which shall be approved by the order of the Office and be sent to the applicant.

If an objection has been fully or partially satisfied, the fee for submitting the objection shall be returned to an applicant. Before approving of the Appellate Chamber decision, within a month from the date of making the decision, the Head of the Office may present a grounded written protest against this decision, which shall be considered within a month. The decision of the Appellate Chamber made on the protest shall be final and may be cancelled only by the court. An applicant may appeal to the court against the Appellate Chamber approved by the Office within two months from the date of receiving the decision.

Registration of the Qualified Indication of Origin of Goods and/or of the Right to Use the Registered Qualified Indication of Origin of Goods

Performing registration

On the grounds of the decision made by the Office on registration of the qualified indication of origin of goods and/or right to use the registered qualified indication of origin of goods the relevant registration is performed.

The registration is performed through including to the Register required data on the qualified indication of origin of goods and/or of persons having right to use the registered qualified indication of origin of goods.

The following data is included in the Register: the claimed indication of origin of goods; the qualification of indication: the name of the appellation of origin of goods or the geographical indication of origin of goods; the name of goods, description of particular properties, certain qualities, reputation or other characteristics; the date of taking decision on registration of the appellation of origin of goods or geographical indication of origin of goods; data on the persons in whom the right to use the registered qualified indication of origin of goods, is vested and the date of the decision to give that right.

The form of the Register and the order of keeping it are determined by the Office.

The applicant has the right to file an request for inclusion of changes and adjustments to the Register. An order of inclusion changes and adjustments to the Register are defined by the Office.

For inclusion of changes and adjustments to the Register, or for correction of an obvious error made through the fault of the applicant, a fee is paid in established order.

Any person has the right to familiarize with the data included to the Register and to get an extraction from the Register for a certain fee. A procedure of performance of these actions is determined by the Office.

Data on registration of the qualified indication of origin of goods and/or the right to use the registered qualified indication of origin of goods is published in Official Gazette of the Office.

Granting a Certificate on the Right to Use the Registered Qualified Indication of Origin of Goods

The certificate of registration of the right to use the qualified indication of origin of goods is granted by the Office within a month from the date of registration of that indication or from the date of data being entered in the Register about the persons to whom the right to use the registered before that qualified indication of origin of goods is given, subject to payment of the state fee at the rate and in order established by legislation.

The term of payment of state fee is prolonged, though not more than for the six month, in case a respective petition is filed before the expiration of that term and application fee for its submission is paid. This term, missed because of a reasonable excuse, is renewed, in the case of a respective petition being filed within six month after the expiration of the term and fee for its submission is paid.

The form and content of the certificate are determined in established order.

To the granted certificate on requirement of its owner the Office makes correction of obvious errors with the following notification on this in the Official Gazette of the Office.

The certificate being evidence of registration of the right to use the qualified indication of origin of goods is valid during 10 years from the date of filing the application.

The term of validity of the certificate is prolonged by the Office for the following 10 years on the grounds of the request submitted by the owner of the certificate within the last year of the term of validity of the certificate subject

to approval by a Special Authorized Body of the fact that the owner of the certificate manufactures goods in the geographical place indicated in the Register and the characteristics of goods correspond to the characteristics recorded in the Register. A fee is paid for prolongation of the term of validity of the certificate.

A request of the owner of the certificate on prolongation of the term of validity can be submitted within the six months after expiration of the term of validity of the certificate subject to payment within that term of a fee increased by 50%.

The term of validity of the certificate is terminated before the appointed time.

In the case of a loss or damage of the certificate its owner is given a duplicate of the certificate in order established by the Office. A fee is paid for granting duplicate of the certificate.

Registration of the qualified indications of origin provides the following rights and obligations (indicated in Chapter IV of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999:

Scope of rights deriving from registration of the qualified indication of origin of goods and/or the right to use it

The rights deriving from registration of the qualified indication of origin of goods and/or the right to use it are valid from the date of its registration. Registration of the right to use the qualified indication of origin of goods does not restrict the rights of the other persons to register their rights to use it.

The scope of the legal protection provided by registration of the right to use the qualified indication of origin of goods is determined by included to the Register and fixed in the certificate characteristics of the goods and the boundaries of a geographical place.

The owner of the certificate has the right to: use the registered qualified indication of origin of goods; take measures for prohibition of use of the qualified indication of origin of goods by persons not entitled to it; require from persons having infringed his/her rights to terminate those infringements and to reimburse the material and the moral damage in order established by Law.

The following acts shall be considered as the use of the registered qualified indication of origin of goods: marking the indication on the goods or to a label; marking the indication on the package of goods, use in advertising; records in forms, bills and other documents accompanying goods.

The owner of the certificate has the right to apply along with the qualified indication of origin of goods a warning marking to inform of the fact that indication is registered in Ukraine. For the warning marking of the appellation of origin of goods the abbreviation (AOG) ringed by an oval is used. Instead of that marking, or together with it, the text can be used: "The appellation of origin of goods registered in Ukraine". For the warning marking of geographical indication of origin of goods the abbreviation (GIO) ringed by an oval is used. Instead of that marking, or together with it, the text can be used: "Geographical indication of origin of goods registered in Ukraine".

The owner of the certificate does not have the right to: issue a license to use the qualified indication of origin of goods; prohibit (prevent) the Specially Authorized Bodies from performing control of presence in goods of particular properties and other characteristics, on the grounds of which the qualified indication of origin of goods and/or the right to use it is registered.

Obligations of the Owner of the Certificate

The owner of the certificate is obligated to provide the correspondence of quality, particular properties and characteristics of goods which is manufactured to their description in the Register.

In closing, it should be noted that in Ukraine legal protection is granted just to registered qualified indications of origin. Moreover, such registration may be considered as prevention of the qualified indication of origin to become a generic term (for example, cognac has practically become generic name unless the EU-Ukraine Association Agreement was concluded and the registered qualified indications of origin further have been protected in Ukraine).

6. Is the registration of certain indications of origin mandatory in order for them to be protected and their use to be regulated? If yes, to which indications of origin and for what kind of goods and services does such registration requirement apply?

Only registered qualified indications of origin of goods (both national and foreign) are subject to protection. It should be also noted that such requirements are applied to all categories of goods. Respectively, as far as the linkage with the trademark registration system is concerned, please note that only registered qualified indications of origin of goods may be cited against marks applied for registration upon substantive examination of the signs.

7. Who is entitled to apply for the registration of an indication of origin (any market player, manufacturer organizations only, etc.)? Does the registration of an indication of origin confer property rights upon a specific owner?

According to the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 the right to register of the qualified indication of origin of goods is vested in:

- i) a person or a group of persons that in the claimed geographical place manufacture goods, the particular properties, certain qualities, reputation or other characteristics of which are related to that geographical place;
- ii) the consumer associations;
- iii) the institutions being directly related to production or investigation of relevant products, articles, technological processes or geographical places.

The right to use the registered appellation of origin of goods or the registered geographical indication of origin of goods is vested, subject to the registration of that right, in manufacturers which at the geographical place designated in the Register produce goods, the particular properties, certain qualities or other characteristics of which correspond with those included in the Register.

8. If your jurisdiction provides for a registration of certain indications of origin, who defines the rules that have to be followed and the requirements that have to be met when using the registered indication for certain goods or services (the applicants, the lawmaker, a combination of both, others)? If the applicants are competent to define those rules and requirements (e.g. in specifications), are there any provisions or principles that limit the applicant's power and have to be considered by the applicants (e.g. antitrust law, free speech arguments, free movement of goods, etc.)?

The respective rules are developed and implemented by the lawmakers, in particular, the Ministry of Economic Development and Trade of Ukraine, the State Service of Intellectual Property of Ukraine the Ministry of Ecology and Natural Resources of Ukraine, the Ministry of Healthcare of Ukraine, the Ministry of Agrarian Policy and Food of Ukraine, the State Fiscal Service of Ukraine as well as The State Service of Ukraine for Geodesy, Cartography & Cadastre. In addition, in the course of signing of the EU-Ukraine Association Agreement the arrangements were made on establishing the Committee on Geographical Indications of Origin of Goods for consideration of the disputed on geographical indications issues.

9. Is it possible that manufacturers, suppliers and distributors of goods or services which have lawfully advertised their goods or services with an indication of origin for a long time be excluded from using the indication of origin after the indication's registration (e.g. because they cannot comply with new use requirements that apply after the registration of the indication of origin)? Does your jurisdiction have any provisions which try to prevent such exclusions of previous legitimate users of indications of origin?

It should be noted that there are two main categories of indications of origin in Ukraine: simple indication of origin of goods (protected in virtue of their use) and qualified indications of origin of goods (which are protected only after its registration). Therefore, if during the procedure of state registration of previously used indication of origin it appears that such indications cannot pretend to be registered as geographic indications of origin of goods (because it does not comply with the specific requirements provided under Ukrainian law), there will be a possibility further to use such indication as simple indication of origin. Moreover, such simple indication of origin may be registered as a trademark. In this regard, the only condition of further use of simple indication of origin or registered trademark is fair use of the indication which cannot be considered as any kind of misleading.

10. Do your country's laws provide for the registration of indications of origin as trademarks or service marks, i.e. as certification marks, collective marks or individual marks? If so, what are the requirements?

In Ukraine qualified indications of origin cannot be registered and protected as trademarks (there is a separate provision under the Law of Ukraine on the protection of rights to marks for goods and services No 3689-XII dated 15 December 1993). However, a simple indication of origin can be registered as a trademark. The principle issue is that such trademarks should not be misleading.

11. How are conflicts between trademarks and non-registered indications of origin or indications of origin that are subject to sui generis protection resolved under your country's laws? Are there specific rules or case law governing such conflicts?

It should be noted that such issue is rather ambiguous and complicated in Ukraine. As regards the matter of conflicts between trademarks and or indications of origin that are subject to sui generis protection (i.e. registered qualifications of origin) it is provided under the Law of Ukraine on the protection of rights to marks for goods and services No 3689-XII dated 15 December 1993 that those marks which are identical or similar to the qualified indications of origin, which are protected under the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 cannot be registered as trademarks and may be just unprotected elements of the trademarks just in case the rightholder of such trademark is a person entitled to use the respective geographical indication. Meanwhile, under the provisions of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 the indication, which is identical or similar to the trademarks which are protected in Ukraine in case taking into consideration of the reputation, fame and continuity of use of such trademark such use of indication can be misleading on identity of goods.

As regards the matter of correlation between trademarks and non-registered indications of origin it should be noted that the factor of identity/similarity and misleading criterion are considered. It means that if any person or legal entity tries to have registered a mark which are identical or similar to any indication of origin, the key issue to be checked is whether such registration is misleading or not. If such registration of the mark leads to misleading of consumers, it is prohibited.

12. If during the manufacturing process of a certain product a certain manufacturing step has taken place at a particular location or in a specific geographical area XY, but other steps have taken place in other geographical areas so that the conditions are not satisfied that the product as a whole can be considered to originate from XY, is it possible in your jurisdiction to highlight in the advertisement for this product that one specific manufacturing step took place in XY, e.g. by highlight for example "Research & Development in XY" or "Filled in XY" if those activities actually took place in XY but the product as such does not originate from XY? Do your country's laws have provisions which regulate the reference to the geographic origin of certain manufacturing steps? If so, can you please provide the wording of these provisions?

Under par. 4 of Article 6 of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999 the geographic indication of origin is protected in case, inter alia, at least its key component is produced or processed within the indicated geographic place.

However, it should be noted that this matter is subject of interest of the Antimonopoly Committee of Ukraine. In case there is not geographical indication of origin of goods, but a simple indication of origin, it may be registered as a trademark presenting some geographic name. In such a case it should be analyzed whether such registration will be misleading, including the factor, whether the good labeled with such trademark was completely produced in the region with such geographic name. If it appears that the trademark under registration is misleading, the trademark will not be registered. For instance, in case No 921/918/13-Г/7 dated 3 June 2014 the Antimonopoly Committee of Ukraine declared that ТМ "З ЧИСТИХ КАРПАТ" (Eng. – ТМ "FROM PURE CARPATHIANS"), which was designated for labelling dairy products, is misleading in view of the fact that not all milk as a key component of the respective dairy products was got in the Carpathian region. As a result, the rightholder of ТМ "З ЧИСТИХ КАРПАТ" (Eng. – ТМ "FROM PURE CARPATHIANS") was abused in violation of Article 15-1 of the Law of Ukraine on Protection against Unfair Competition.

13. Do your jurisdiction's laws have specific provisions or is there any case law with regard to the requirements that have to be met to use of the indication "Made in XY" for goods?

Such indication is simple indication of origin which is not subject of state registration and just refers to the place of origin of any product. The terms of use the indication "Made in Ukraine" is just partially regulated with the provisions of the Law of Ukraine on Protection of Rights to Indication of Origin of Goods No 752-XIV dated 16 June 1999. The key requirement for use of the abovementioned indication is that the latter should not be misleading.

the Ukrainian legislation currently in force determines that products of the foreign origin (their packaging) must identify the country of origin.

The country of origin is considered to be the country of manufacturing or where a product has been "sufficiently processed" (this definition is taken from the Customs Code of Ukraine which further contains specific provisions which explain what the term "sufficiently processed" implies).

In particular, the information about the country of origin of the product being transported across the customs border of Ukraine must be mentioned in the customs declaration submitted for the customs clearance of products.

Moreover, Art. 161 of the Commercial Code of Ukraine prohibits to make a notice like “Made in Ukraine” on the products of the foreign origin and expressly states that products of foreign origin or their packaging must identify the country of their origin (country of manufacturing).

In particular, Article 161 of the Commercial Code of Ukraine reads that the information about the country of origin must be indicated on products of the foreign origin (their packaging). At the same time, the Code prohibits business subjects the use of the notice “Made in Ukraine” or similar notice in respect of the products of the foreign origin.

Article 36 of the Customs Code of Ukraine further provides that the country of origin is considered to be the country of manufacturing or where a product has been “sufficiently processed”. The country of origin may be regarded as a group of countries, customs unions of countries, a region of a part of the country whenever it is required to identify them for the purpose of determining the country of origin of products.

According to the Procedure of the identification of the country of origin of a product transported across the customs border of Ukraine, information about the country of origin of a product transported across the customs border of Ukraine is indicated in the customs declaration submitted for the customs clearance of products to the customs authorities. The declarant identifies the country of origin of a product based on a certificate or declaration of the country of origin of a product which should accompany the customs declaration to support the information provided therein. If there is any difference in the information about the country of origin in the declaration and other documents submitted for the customs control and customs clearance of products, or the customs authorities of Ukraine found the information about the country of origin of a product that differs from the declared, so that to confirm the information about the declared country of origin the declarant is entitled to submit a certificate or another information based on which the country of origin may be determined. The sources of such information may be invoices, packing lists, shipping specifications, certificates (like certificates of conformity, phytosanitary, veterinary certificates), customs declaration of the country of export which accompany the products, as well as technical passports, technical documentation, conclusion of the expertise carried out by the customs or other authorities, other documents which may be used to certify the information about the country of origin.

14. Do provisions in the laws of your jurisdiction provide that for certain goods or services the geographic origin must be indicated (mandatory labelling requirements for example in the legislation with respect to foodstuffs, cosmetics, pharmaceuticals or customs)? If so, what is the wording of these provisions? To which goods or services do these provisions apply? What kind of indications must be made? Are such mandatory labelling requirements considered to be trade restraints in your jurisdiction?

In Ukraine there is a general provision on the matter of indicating the origin of goods (but not services) envisaged under Article 4 of the Law of Ukraine on Protection of the Consumers Rights No 1023-XII dated 12 May 1991 saying that consumers are entitled to get necessary, accessible, adequate and timely information on goods, including on its producer. Therefore, it presumes that indication of origin refers to this category.

Moreover, provision of misleading information on the indication of origin of goods should be qualified as unfair practice.

15. If your jurisdiction has mandatory labelling requirements with respect to the geographic origin of certain goods or services is there a risk of conflicts between the mandatory labelling requirements and the provisions regarding the voluntary use of geographical indications? In other words, is it possible that the mandatory labelling requirements require that a product is labelled with a certain geographic origin while the provisions dealing with the voluntary use of indications of origin would not allow the use of this indication of origin, e.g. because the link between the product and the indicated geographic origin does not seem to be sufficient.

This matter also refers to consumer rights protection issues, in particular, to the requirement that under Ukrainian legislation consumers are entitled to get necessary, accessible, adequate and timely information on goods, including on its producer.

16. What courts, authorities, or other bodies in your country have jurisdiction to hear cases concerning the protection of indications of origin or are entitled to take measures to protect indications of origin (e.g. civil courts, criminal courts, customs authorities, food safety authorities, chambers of commerce, etc.)?

There are both administrative and court procedures envisaged for consideration of the cases concerning the protection of indications of origin.

If there is a need to challenge the decision on permission or prohibition of registration of the geographical indication of origin of goods it can be made with bringing a claim before court or the Council of Appeal established within the State Service of Intellectual Property of Ukraine.

The matters on protection of indications of origin are considered before Ukrainian courts, the Antimonopoly Committee of Ukraine, the State Inspection of Ukraine on Consumer Rights Protection.

In addition, a number of consortiums are established to protect geographical indications of origin and prevent the violation of rights to these intellectual property objects.

17. In your personal opinion which rules and concepts of your jurisdiction with respect to the use of indications of source for goods and services do you particularly endorse? Which rules or concepts would you prefer to be amended or abandoned?

Recently the EU-Ukraine Association Agreement was completely signed and entered into force. As a result, European geographical indications of origin were granted with protection in Ukraine. The problem has arisen with those indications which previously were freely used in Ukraine because they were not registered and protected. Therefore, currently the process of reconciliation of Ukrainian and EU geographical indications.