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## Ordinance

### on the Protection of Designations of Origin and Geographical Indications for Agricultural Products, Processed Agricultural Products, Forestry Products and Processed Forestry Products<sup>1</sup>

#### (PDO/PGI Ordinance)

of 28 May 1997 (Status as of 1 January 2022)

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*The Swiss Federal Council,*

based on Articles 14 paragraph 1 letter d, 16 paragraphs 1 and 2 and 177 of the Agriculture Act of 29 April 1998<sup>2</sup> (AgricA) and Article 41a of the Forest Act of 4 October 1991<sup>3</sup> (ForA)<sup>4</sup>

*ordains:*

## Section 1 General Provisions

### Art. 1 Principle

<sup>1</sup> Designations of origin and geographical indications for agricultural products, processed agricultural products, forestry products and processed forestry products (products) that have been entered into the Swiss Federal Register are protected.<sup>5</sup>

<sup>2</sup> They may only be used in accordance with the provisions set out in this Ordinance. They may be used by any operator who markets products that meet the relevant product specification.<sup>6</sup>

<sup>2bis</sup> Foodstuffs manufactured from agricultural products are deemed equivalent to processed agricultural products at all stages of the production process.<sup>7</sup>

<sup>3</sup> The Wine Ordinance of 14 November 2007<sup>8</sup> applies to wine designations.<sup>9</sup>

AS 1997 1198

<sup>1</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS 2016 3281).

<sup>2</sup> SR 910.1

<sup>3</sup> SR 921.0

<sup>4</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS 2016 3281).

<sup>5</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS 2016 3281).

<sup>6</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS 2016 3281).

<sup>7</sup> Inserted by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

<sup>8</sup> SR 916.140

<sup>9</sup> Amended by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

**Art. 1a**<sup>10</sup> Forestry products and processed forestry products

In this Ordinance:

- a. *forestry products* means round wood;
- b. *processed forestry products* means raw or planed sawn wood products.

**Art. 2**<sup>11</sup> Designation of origin

<sup>1</sup> The name of a region, a place, or, in exceptional cases, a country used to describe a product:<sup>12</sup>

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

may be registered as a designation of origin.

<sup>2</sup> Traditional names for products that meet the conditions set out in paragraph 1 may be registered as designations of origin.<sup>13</sup>

**Art. 3**<sup>14</sup> Geographical indication

<sup>1</sup> The name of a region, a place, or, in exceptional cases, a country used to describe a product:<sup>15</sup>

- a. originating in that particular region, place or country;
- b. which possesses a specific quality, reputation or other characteristics which can be attributed to that geographical origin; and
- c. the production, processing or refining of which take place in the defined geographical area

may be registered as a geographical indication.

<sup>2</sup> Traditional names for products that meet the conditions set out in paragraph 1 may be registered as geographical indications.<sup>16</sup>

**Art. 4** Generic name

<sup>1</sup> A generic name may not be registered as a designation of origin or geographical indication.

<sup>10</sup> Inserted by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>11</sup> Amended by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS **2007** 6109).

<sup>12</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>13</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>14</sup> Amended by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS **2007** 6109).

<sup>15</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>16</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>2</sup> A generic name means the name of a product which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of the product.

<sup>3</sup> To decide whether or not a name has become generic, account shall be taken of all relevant factors, in particular the opinions of producers and consumers, especially those in the region from which the name originates.<sup>17</sup>

**Art. 4a<sup>18</sup>** Homonymous names

<sup>1</sup> Where an application for registration concerns a name homonymous with a name that has already been registered, and where the homonymous name to be registered leads the public to assume that the products come from a different region or a different place, that name may not be registered even if it is the correct name of the region or place that the products come from.<sup>19</sup>

<sup>2</sup> There must be a clear distinction between use of the homonymous name registered subsequently and use of the name already on the register, so as to ensure that the producers concerned are treated appropriately and consumers are not misled.

**Art. 4b<sup>20</sup>** Name of a plant variety or animal breed

<sup>1</sup> A name may not be registered as a designation of origin or a geographical indication where it corresponds to the name of a plant variety or an animal breed and is likely to mislead consumers as to the true origin of the product.

<sup>2</sup> Any danger of misleading consumers is in particular excluded where the name is homonymous with a local plant variety or animal breed that has not left its territory of origin or where the name of the plant variety or animal breed can be changed.

## Section 2 Registration Procedure

**Art. 5<sup>21</sup>** Entitlement to submit an application for registration

<sup>1</sup> Any group of producers that is representative of a product may submit an application for registration to the Federal Office for Agriculture (FOAG).

<sup>2</sup> In the case of agricultural products and processed agricultural products, a group is deemed to be representative where:

- a. its members produce, process and refine at least half of the production volume of the product;

<sup>17</sup> Amended by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

<sup>18</sup> Inserted by No I of the O of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

<sup>19</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS 2016 3281).

<sup>20</sup> Inserted by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

<sup>21</sup> Amended by No I of the O of 11 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 5445).

- b. at least 60% of the producers, 60% of the processors and 60% of the refiners of the product are members thereof; and
- c. they show that the group is organised on the basis of democratic principles.

<sup>3</sup> In the case of plant products and processed plant products, only farmers producing a significant quantity of the raw material shall be taken into account in calculating the 60% referred to in paragraph 2 letter b.

<sup>4</sup> In the case of forestry products and processed forestry products, a group is deemed to be representative where:

- a. its members produce, process and refine at least half the production volume of the product;
- b. its members represent at least 60% of the forest area and 60% of the processors; and
- c. they show that the group is organised on the basis of democratic principles.

<sup>5</sup> In the case of designations of origin, the group must comprise producers from all production stages, and specifically for each product:

- a. those that produce the raw materials;
- b. those that process the product;
- c. those that refine it.

#### **Art. 6** Content of the application<sup>22</sup>

<sup>1</sup> The application must demonstrate that the requirements of this Ordinance for the protection of the relevant designation of origin or geographical indication have been met.

<sup>2</sup> It shall include in particular:

- a. the name of the applicant group and proof that it is representative;
- b. the designation of origin or geographical indication to be registered;
- c. proof that the name to be registered is not a generic name;
- d. evidence that the product originates in a geographical area in accordance with Article 2 or 3 (history of the product and its traceability);
- e. evidence demonstrating the link with the geographical environment or geographical origin in accordance with Article 2 or 3 (typical features of the product which derive from the geographically determined natural and human factors «*terroir*»);
- f. a description of any relevant local, fair and consistently-applied procedures;

g.<sup>23</sup> a summary giving the following information:

- name, address and composition of the applicant group,

<sup>22</sup> Amended by No I of the O of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

<sup>23</sup> Inserted by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

- name of the product,
- protection applied for,
- type of product in question,
- proof that the applicant group is representative,
- proof that it is not a generic name,
- description of the product's history,
- the typical characteristics of the product derived from the *«terroir»*,
- description of the local, fair and consistently-applied procedures,
- the most important elements of the product's specification (geographical area, description of the product and its main characteristics, description of the production method, certification body, labelling and traceability).

<sup>3</sup> The application must be accompanied by the product specification and proof that the application has been approved by the representatives' meeting of the group.<sup>24</sup>

#### **Art. 7** Product specification

<sup>1</sup> The product specification shall contain the following information:

- a. the name of the product comprising the designation of origin or the geographical indication;
- b. the definition of the geographical area;
- c.<sup>25</sup> a description of the product, in particular its raw materials and its principal physical, chemical, microbiological and organoleptic properties; for forestry products and processed forestry products, it contains a description of the type of wood and the physical or other characteristic properties;
- d. a description of the production process;
- e.<sup>26</sup> the designation of one or more certification bodies and the minimum requirements for the control procedures;
- f.<sup>27</sup> ...

<sup>2</sup> It may also contain the following information:

- a. specific elements of the labelling;
- b. a description of any specific shape of the product;
- c. elements of the packaging, where the applicant group is able to justify that the packaging is necessary in order to ensure product quality, as well as to guarantee traceability or control in the defined geographical area.<sup>28</sup>

<sup>24</sup> Amended by No I of the O of 29 Oct. 2014, in force since 1 Jan. 2015 (AS **2014** 3903).

<sup>25</sup> Amended by No I of the O of 16 Sept. 2016, in force since 1 Jan. 2017 (AS **2016** 3281).

<sup>26</sup> Amended by No I of the O of 29 Oct. 2014, in force since 1 Jan. 2015 (AS **2014** 3903).

<sup>27</sup> Repealed by No I of the O of 14 Nov. 2007, with effect from 1 Jan. 2008 (AS **2007** 6109).

<sup>28</sup> Inserted by No I of the O of 26 Nov. 2003 (AS **2003** 4867). Amended by No I of the O of 14 Nov. 2007, in force since 1 Jan. 2008 (AS **2007** 6109).