

Summary

Protection of the appellation of origin under Czech Law and international treaties

The purpose of this thesis is to present the concept of the appellation of origin under Czech Law, international treaties and also under Community Law. The appellation of origin represents very specific part of the industrial property rights. Contrary to other subjects of industrial property, the appellation of origin has more public aspects. This fact is very important for legal construction of this institute and for its protection. Speciality of the legal regulation of the appellation of origin was one of the reasons, which motivated me to deal with the problems more deeply.

The thesis consists of introduction, which is followed by four chapters and the brief conclusion, which closes the whole study. The first chapter focuses on general aspects of the concept of the appellation of origin. Firstly the term “appellation of origin” is defined, analysed and compared with the term “geographical indication” (as the superior term in relation to the term “appellation of origin”). The second part of the first chapter points out the importance of protection of the appellation of origin for producers of relevant products and also for consumers. The third part describes historical development of the appellation of origin, including the development of this institute in the Czech Republic (under Czech Law). The brief excursion to the history enables the reader to understand present-day trends and changes in the issue of the appellation of origin. The last part concerns the problem of delocalisation clauses, which represent quite a big “danger” for those appellations, that are not protected formally.

The criterion of sorting into following chapters lies in the different levels of legal regulation. Regulation of the appellation of origin included in international treaties is subject-matter of the second chapter. This chapter is subdivided into six main parts, whereas each part analyses relevant international treaty. Within the scope of this chapter more attention is devoted to the TRIPS Agreement. This international treaty was adopted as the annex of the Marrakesh Agreement Establishing the World Trade Organization. Currently the TRIPS Agreement is the representative of the new approach to protection and enforcement of intellectual property rights. The end of the second chapter deals with three bilateral agreements relating to the appellation of origin, which were concluded by the legal predecessor of the Czech Republic. What is typical for these bilateral treaties, is the fact, that they provide higher level of protection than the multilateral ones.

With respect to the membership of the Czech Republic in the European Community I considered to be necessary to pay attention also to Community Law in the issue of the appellation of

origin. This is the subject of the third chapter. However the regulation of the appellation of origin under Community Law is not complete. It applies only to appellations of agricultural products and foodstuffs, wines and spirit drinks. The Community legislation differentiates between three forms of protection – through protected designations of origin (PDO), through protected geographical indications (PGI) and via traditional specialities guaranteed (TSG), whereas the last-mentioned has not equivalent under Czech legislation.

Subsequently the fourth chapter is focused on legal regulation and methods of protection of the appellation of origin under Czech Law. Firstly there are defined the terms “appellation of origin” and “geographical indication” as they are determined in the Act No. 452/2001 Sb. The next part describes the procedure, which leads to the registration of relevant appellation in the record of the appellations of origin. Substantial part of the fourth chapter applies to various means of protection of registered appellations of origin, regulated by rules based on private law and also by rules following from public law.

Significancy of the concept of the appellation of origin was always quite marginal. In many states the appellation of origin did not have (and often still has not) its own statutory regulation. However it is not the case of the Czech Republic, we can observe the negative consequences of the aforesaid situation at the international level. For the last time it was clearly visible when the TRIPS Agreement was being agreed. Some states (mostly those from the North America) stood out against excessive protection of the appellations of origin at the international level, while the approach of many European states was completely opposite. The development at the level of European Community is also very interesting, especially in relation to particular national legal regulations. I assume that near future (in the Europe) shows us, whether the concept of the appellation of origin reinforces its position among other subjects of industrial property rights or not.