

Czech Republic

Protection of Country Names

There is no *sui generis* law in the Czech legal system regarding country names. For the purposes of the trade mark registration of country names, their variations, common names and abbreviations, the IPO CZ applies Act No. 441/2003 Collection, on Trade Marks and bilateral Agreements between the Czech Republic (former Czechoslovak Socialist Republic) and Switzerland, Austria and Portugal.

Act No. 441/2003 Collection, on Trade Marks – provision of Section 4 b), f), g), h), l).

Grounds for refusal of protection

The following shall not be registered:

- b) a sign which is devoid of any distinctive character,
- f) a sign which is contrary to public policy or to accepted principles of morality,
- g) a sign which is of such a nature as to deceive the public, mainly as to the nature, quality or geographical origin of the goods or services,
- h) a sign applied for wines or spirits which contains a geographical indication, and such wines or spirits do not have that geographical origin,
- l) a sign the use of which is contrary to provisions of other laws or which is contrary to the obligations of the Czech Republic ensuing from international treaties. (See below 'Bilateral Agreements')

Bilateral Agreements

Article 4 Agreement between Austria and the Czechoslovak Socialist Republic on Indications of Source on Goods, Appellations of Origin of Products and other Marking Concerning the Origin of Agricultural and Industrial Product (Decree No. 19/1981) – *inter alia* the protection given by this agreement is granted to the country name "Austria";

Article 3 Agreement between Government of Portugal and the Czechoslovak Socialist Republic on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination (Decree No. 63/1978) - *inter alia* the protection given by this agreement is granted to the country name "Portugal";

Article 3 Agreement between Switzerland the Czechoslovak Socialist Republic on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination (Decree No. 13/1976) - *inter alia* the protection given by this agreement is granted to the country name "Switzerland".

The above-mentioned provisions are applied in the examination on absolute grounds before publication of the trade mark application in the Bulletin of the Office and also it might be asserted by third parties in *inter partes* invalidity proceedings after the trade mark registration.

Section 32 Act No. 441/2003 Collection, on Trade Marks

Invalidity

- (1) The Office shall upon request of a third person or on its own motion declare a trade mark invalid, if the trade mark has been registered in breach of the **provisions of Section 4** or Section 6.
- (2) Where the trade mark has been registered in breach of **Section 4 letter b)** or c) or d), it shall not be declared invalid if it has acquired a distinctive character in consequence of its use for goods or services for which it is registered after its registration.
- (3) The Office shall also declare a trade mark invalid in proceedings instigated upon motion of a person mentioned in Section 7 and for reasons mentioned in that provision.

(4) Where the trade mark is declared invalid, the trade mark shall be deemed never to have been registered.

(5) A trade mark may be declared invalid even after its proprietor surrendered the trade mark or after the trade mark lapsed.

(6) Where the ground for invalidity exists only in respect of some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

To sum up, as regards trade mark applications containing or forming country names, their variations or abbreviations etc., the IPO CZ applies standard criteria as on the other trade mark applications, provided that these must comply with the aforementioned provisions of the Trade Mark Act and Bilateral Agreements.