

Summary of dissertation

‘Traditional knowledge and geographical indications.

In search of effective legal protection’

The subject of this doctoral dissertation is to examine and assess the effectiveness of the protection of traditional knowledge, which is the knowledge possessed by local and indigenous communities, using instruments provided for the protection of geographical indications.

The main aim of the work was to conduct a detailed analysis of the legal regimes relating to traditional knowledge and geographical indications and to find the common denominators for these concepts, and then to answer the question whether the protection of traditional knowledge with the use of the mechanisms provided for geographical indications can be effective. The consequence of the conducted research was the thesis that geographical indications do not ensure effective protection of traditional knowledge.

The following research methods were used in the work: the dogmatic-legal method and the comparative legal method, conducting a thorough analysis of the literature relating to the subject of this dissertation, as well as legal acts of Poland, Brazil, India, Panama, Peru, Indonesia and Kenya, EU legislation and the international regulations. Another research method used in the work is the systemic method (analysis of the functioning of specific systems for the protection of traditional knowledge and geographical indications) and the structural method (presentation of definitions relevant to the subject of the dissertation). The author also conducted empirical research consisting in the analysis of legal acts and case law relevant to the subject of this dissertation. The work largely uses English-language publications, as well as Polish and Portuguese literature.

The dissertation consists of four chapters, each ending with conclusions summarizing the presented considerations. The first chapter refers to the basic issues related to traditional knowledge. The meaning of the concept was explained, the purpose of protecting this knowledge was presented, as well as the actions taken in this direction. Moreover, the author discussed principles of protection of traditional knowledge contained in international regulations and European Union acts: the Convention on Biological Diversity, drawn up in Rio

de Janeiro on June 5, 1992, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity and Regulation (EU) No 511/2014 of the European Parliament and of the Council 16 April 16, 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union, as well as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of April 15, 1994 and the Doha Ministerial Declaration of November 14, 2001 but also a new WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.

The second chapter presents specific systems for the protection of traditional knowledge: regional legislation containing *sui generis* regulations, taking the African model law as an example, and national *sui generis* systems, based on the systems of Panama, Peru and Brazil. This chapter also focuses on the issues related to the protection of traditional knowledge with the use of instruments provided for by the intellectual property law: copyrights, patents and trademarks.

The third chapter was devoted to geographical indications. The issues related to the nomenclature relating to geographical indications were presented, as well as the concept and the functions they perform in economic transactions were discussed. International legal acts relating to the above-mentioned subject were also discussed: the Paris Convention for the Protection of Industrial Property of March 20, 1883, the Madrid Agreement of April 14, 1891, the Lisbon Agreement on the protection of designations of origin and their international registration of October 31, 1958 and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The European Union legislation covering the protection of geographical indications was also analyzed, in particular based on the regulations contained in Regulation (EU) 2024/1143 of the European Parliament and of the Council of 11 April 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialities guaranteed and optional quality terms for agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2019/787 and (EU) 2019/1753 and repealing Regulation (EU) No 1151/2012 (describing also the main assumptions of repealed Regulation (EU) No 1151/2012 of the European Parliament and of the Council 21 November 21, 2012 on quality schemes for agricultural products and foodstuffs), Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description,

presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, Regulation (EU) 2023/2411 of the European Parliament and of the Council of 18 October 2023 on the protection of geographical indications for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 and case law of the Court of Justice of the European Union. The rest of the chapter discusses issues related to the protection of geographical indications in Polish legislation, presenting the most important legal acts on the subject: the Act of June 30, 2000 on industrial property law, the Act of April 16, 1993 on combating unfair competition, and the Act of March 9, 2023 on the registration and protection of designations of origin, geographical indications and traditional specialties guaranteed of agricultural products and foodstuffs, wines or spirits and on traditional products. This chapter also indicates the consequences of violating the rights of the holder of geographical indications.

The fourth chapter is of key importance for the research problem of the dissertation, containing a detailed analysis of the effectiveness of the protection of traditional knowledge with the use of the systems intended for geographical indications. Examples include India, Brazil, Kenya, Indonesia and Poland. The research conducted led to the previously mentioned position that geographical indications are not an effective instrument for the protection of traditional knowledge. This chapter also includes considerations on whether it is possible to say that Polish traditional knowledge exists. What is more, the author also analyzed the impact of the COVID-19 pandemic on traditional knowledge and geographical indications.

The culmination of the doctoral dissertation is a part containing final conclusions and *de lege ferenda* postulates, where the author presented her own postulates for the creation of a regulation aimed at protecting traditional knowledge of a universal nature, and also proposed a number of mechanisms that, in her opinion, should be included in it.

