

REGULATIONS OF USE (RoU) — EU CERTIFICATION MARKS

- Should be drafted in a **clear** and **accessible** manner.
i.e. with sufficient clarity and precision to enable the reader to understand the requirements that must be met for using the EU certification mark.
- Must be filed within **two months** from the date of submission of the EU certification mark application.
- Must **comply with public policy and accepted principles of morality**.
e.g. the applicant would not be entitled to carry out the certification (for example, for lack of compliance with statutory provisions); the authorisation or conditions of use discriminate between market operators without due justification (such as a lack of objective criteria or application of inadmissible criteria).
- Must **contain** the following **obligatory information** as required in Article 17 of the Commission Implementing Regulation (EU) 2017/1431, of 18 May 2017:

1. Name of the applicant.
2. A declaration of the applicant stating that it does not carry on a business involving the supply of goods or services of the kind certified.
<i>'I hereby declare that I do not carry on a business involving the supply of [goods] [services] [goods and services] of the kind certified'.</i>
3. Representation of the EU certification mark.
<i>The representation of the sign must be <u>exactly the same as</u> the one reflected <u>in the application</u>.</i>
4. The goods or services covered by the EU certification mark.
<i>The list of goods and/or services must be <u>exactly the same as</u> the one provided <u>in the application</u>.</i>
5. The characteristics of the goods and/or services to be certified by the EU certification mark (e.g. material, mode of manufacture of goods or performance of services, quality or accuracy).
<ul style="list-style-type: none"> ▪ <i>The characteristics must be clearly specified and explained <u>in respect of which goods and/or services are being certified</u>, with the need to allow the relevant public</i>

to clearly and precisely understand them.

- In case it covers a variety of products, with different characteristics to be certified, depending on the individual product category, standards to be certified must be specified for each of the different types of goods.
- With regard to services, their characteristics and not the features of the service providers must be specified for each of the different types of services.
- The description of the characteristics can be described in general terms, with no need to detail all technical aspects and specifications, which can be simply completed by references to official (i.e. private or public bodies) or generally available sources (e.g. by the applicant itself) by means of annexes or direct website links.
- The goods or services at issue cannot be certified in respect of their geographical origin, as established in Article 83.1 of the EUTMR.

6. The conditions governing the use of the EU certification mark, including sanctions.

- Need to include specific conditions of use imposed upon the authorised user:
 - that the mark is to be used as an EU certification mark;
 - whether there are fees to be paid in connection with the use of the mark;
 - etc.
- Mandatory to specify the appropriate sanctions that apply in the event:
 - the conditions governing the use are not respected; and
 - the EU certification mark is misused.

7. The persons authorised to use the EU certification mark.

- Clear indication of who is entitled to use the EU certification mark:
 - (i) Any person who meets the required standard (as specified in points 5 and 6)
 - (ii) A specific category of persons (the objective criteria to be clearly set out)
- If the applicant intends to list the authorised users of the EU certification mark, it must be referred to by means of a website link that will allow a systematic update without the need to modify the regulations of use.

8. How the certifying body is to test those characteristics and to supervise the use of the EU certification mark.

- Need to specify the testing methods used and the supervision system employed by the applicant/owner of the EU certification mark to make sure that the goods and/or services marked actually possess the certified characteristics:
 - the methods and frequency of the testing and supervision;
 - the qualification of the persons carrying out the tests and the supervision;
 - the 'triggers' of additional or enhanced tests or supervision measures;
 - etc.

Both sets of measures (testing and supervision) have to be described by the

applicant with sufficient clarity as to convince the Office, as well as market operators, that these are adequate in order to ensure that the certification mark truly covers goods and/or services that are effectively certified.

- *The applicant does not necessarily need to carry out the tests or supervise the conditions of use. In some cases, it might be necessary to cooperate with more specialised external testers and/or supervisors.*
- *Likewise, testing the goods and/or services marked, as well as supervising the conditions of use, can be limited to sample or random checks and do not need to extend to the entirety of certified goods or users.*

Note: In the event the applicant supplements the obligatory information contained in the RoU with **annexes**, these should be clearly identified with a number within the text of the RoU and in the attached documents, with a view to enable the reader to easily identify their connection and maintain consistency.