

## REGULATIONS OF USE — EU COLLECTIVE 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 collective mark.*

- Must be filed within **two months** from the date of submission of the EU collective mark application.

- Must **comply with public policy and accepted principles of morality.**

*e.g. the conditions of use discriminate between market operators without due justification*

- Must be a stand-alone document. Therefore, the regulations of use must **contain** the following **obligatory information** as required in Article 16 of the Commission Implementing Regulation (EU) 2018/626 of 5 March 2018 (hereinafter referred to as 'EUTMIR'), preferably structured as provided in Article 16 EUTMIR:

1. Name of the applicant.
<i>The name of the applicant must be <u>exactly the same</u> in the regulations of use as the one reflected <u>in the application</u>.</i>
2. The object of the association or the object for which the legal person governed by public law is constituted.
<i>This requirement regards the object of <u>the association/legal person</u>. Information on the object of the regulations of use or the purpose of the creation of the sign is irrelevant in this regard.</i>
3. The bodies authorised to represent the association or the legal person governed by public law.
<i>It is sufficient to refer to bodies authorised to represent the association (e.g. President of...). A list of actual names of persons is not obligatory.</i>
4. In the case of an association, the conditions of membership.
<i>The rules governing the conditions of admission to the association should be contained in the regulations of use itself. Cross-references to other document (e.g. articles to statutes or by-laws) are not sufficient.</i>
5. Representation of the EU collective mark.

*The representation of the sign must be exactly the same in the regulations of use as the one in the application. E.g. In case the sign is applied in colour, the regulations of use must contain a coloured representation of the sign.*

6. The persons authorised to use the EU collective mark.

*The regulations of use should contain a clear indication of who is entitled to use the EU Collective mark. The regulations of use should specify if any member is authorized to use the mark. If this is not the case, the regulations of use should indicate the additional requirements. The regulations of use should not allow the use of the EU Collective mark to non-members; e.g. 'third users', 'licensees', etc.*

7. Where appropriate, the conditions governing use of the EU collective mark, including sanctions.

*The regulations of use must include specific conditions of use imposed upon the authorized user, if applicable. For instance, specific conditions regarding the labelling or representation of figurative marks on the product.*

*The use and conditions of use within the regulations of use must refer to the representation of the sign as applied for (see point 5). Therefore, any variations in colour are not permissible, nor in case of figurative marks, their use as word marks.*

*It is mandatory to specify the appropriate sanctions (if any) in case that the conditions governing use are not respected.*

8. The goods or services covered by the EU collective mark including, where appropriate, any limitation introduced as a consequence of the application of Article 7(1)(j), (k) or (l) of Regulation (EU) 2017/1001.

*The list of goods and/or services must be exactly the same in the regulations of use as the one provided in the application. The reference to the EUTM application number or IR number is not sufficient.*

*Any subsequent restriction of the specification of the goods and/or services should be equally reflected in a new version of the regulations of use.*

9. Where appropriate, the authorisation referred to in the second sentence of Article 75(2) of Regulation (EU) 2017/1001.

*In case that the collective mark, by derogation of Art 7(1)(c) EUTMR, designates the geographical origin of the goods or services, it is mandatory to explicitly state in the regulations of use the possibility for any person whose goods and/or services originate in the geographical area concerned to become a member of the association.*

- Additional considerations:
  - The Office recommends avoiding the submission of **additional documents or annexes**. However, in case that in the regulations of use reference is made to any additional documents (e.g. rules governing the association), the Office recommends the submission of **working internet links** where their latest version is easily accessible. Annexes form part of the regulations of use. Therefore, any modification to the documents submitted as annexes must be notified to the Office.
  - In the event the applicant supplements the obligatory information contained in the regulations of use with **annexes**, these should be clearly identified with a number within the text of the regulations of use and in the attached documents, with a view to enable the reader to easily identify their connection and maintain consistency.
  - In case the applicant modifies the regulations of use in order to overcome any deficiencies identified by the Office, the applicant must **submit the revised regulations of use in full** (not excerpts).
  - Once the EU Collective mark has been registered, **any amended version of the regulations of use shall be submitted to the Office** by the proprietor of the EU collective mark pursuant to Article 79 EUTMR. Such **amendment will be re-examined** with a view to meet the requirements of Article 75 EUTMR and ensure that it does not involve one of the grounds for refusal enshrined in Article 76 EUTMR. Amendments to the regulations of use will take effect only from the date of entry of the mention of the amendment in the Register.
- Additional information on the examination of EU Collective marks is available at the EUIPO Guidelines: <https://guidelines.euipo.europa.eu/1803422/1789398/trade-mark-guidelines/1-introduction>
  - Part B Examination, Section 2 Formalities, Chapter 8 Kind of Mark, Paragraph 8.2. Collective marks
  - Part B Examination, Section 3 Absolute Grounds for refusal, Chapter 15 Collective marks