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**THE SUMMARY OF THE HABILITATION CANDIDATE ACADEMIC  
ACHIEVEMENTS**

**1. Name and Surname**

Edyta Całka

**2. Diplomas, scientific / artistic degrees - giving the name, place and year of obtaining them and the title of the doctoral dissertation.**

- 1991-1996: Master's studies at the Faculty of Law and Administration of Maria Curie-Skłodowska University in Lublin, completed with a very good mark
- 1996: Master's exam with a very good mark and obtaining master's degree in law at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin
- 1999-2000: Postgraduate Management Studies at the College of Management and Finance at the Warsaw School of Economics, completed with a very good mark
- 2001-2006: doctoral studies at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin
- 2006 the defence of the doctoral dissertation on "*Geographical indications of origin. Comparative Law Study*" and obtaining the academic degree of doctor of law at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin. Supervisor: Prof. Ryszard Skubisz, reviewers: Prof. Maria Poźniak-Niedzielska, Prof. Andrzej Wróbel

### **3. Information on previous employment in scientific units**

- 1.10.2001-30.09.2006 – an assistant at the Department of the European Union Law at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin
- 1.10.2006 – still – assistant professor at the Department of the European Union Law at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin

### **4. Indication of the achievement resulting from art. 16 sec. 2 of the Act of 14 March 2003 on academic degrees and academic title, and on degrees and title in the field of art (Journal of Laws of 2016, item 882, as amended in Journal of Laws of 2016, item 1311.):**

#### **a) the title of scientific / artistic achievement,**

*“Indications of Natural Mineral Waters, Spring Waters and Table Waters. The Study on the European Union Law and Polish Law”*

#### **b) (the author / authors, the title / titles of the publication, the year of publication, the name of the publishing house, publishing reviewers),**

Edyta Całka, *“Indications of Natural Mineral Waters, Spring Waters and Table Waters. The Study on the European Union Law and Polish Law ”*, Warsaw 2019, Publishing House C.H.Beck, ss. 328, ISBN: 978-83-8158-510-1

The publishing reviewer of the monograph is: prof. dr hab. Ryszard Skubisz

#### **c) the discussion of the scientific / artistic purpose of the above work / works and results achieved, discussing their possible use,**

##### **1. The purpose and scope of the study and justification of the subject**

The monograph referred to above and submitted for evaluation is devoted to the problem of natural waters of underground origin, which include natural mineral waters, spring waters and table waters. The dissertation is the first study in Polish and European legal literature which comprehensively presents the issue of indications of natural mineral waters, spring waters and table waters in the light of European Union law and Polish law.

Before the scientific purpose of the work is discussed in detail, it seems essential to indicate the need for research on the subject matter which is dictated by several important



reasons. First of all, the choice of the topic of the work was associated with the lack of monographs, which would constitute a comprehensive and in-depth analysis of the subject matter of natural waters of underground origin in EU and Polish law. Although the indications used in the labelling natural groundwater are a basic tool for market communication between producers and consumers, legal issues related to water indications are only mentioned in a few studies. Meanwhile, the problem of labelling natural mineral waters, spring waters and table waters is current, has a significant practical significance and is undergoing considerable changes. The study is particularly important due to the constantly growing demand for natural bottled waters and the market importance of the bottling industry in the economy of the European Union and Poland, but also in relation to the need to protect the health, life and economic interests of consumers, realised through the requirement of proper water indications.

The issues discussed in the work constitute a special area of legal exploration, which is characterized by a high degree of complexity. The rudiments of classification, description, exploitation and use of natural groundwater are the subject of theoretical and practical study, both in law, as well as in hydrogeology and balneology. In general, the subject of drinking water, in particular natural mineral waters, spring waters and table waters being food products, belongs to the food law. In particular, the provisions of this law contain regulations constituting the "food information law". This law, issued at the level of the European Union, contains both general food labelling standards as well as standards applicable to the labelling of specific foods, such as natural bottled water. To the extent that the indications of these waters function as trademarks, indicating in particular the geographical origin of the waters, the subject of standardization comes into the area of industrial property law, including the law against unfair business practices.

In the above context, it is worth noting that the issues discussed in the monograph are dispersed in various legal provisions and are subject to the regulation of various acts of secondary legislation of the European Union. What is more, in the area indicated in recent years there has been a particularly dynamic development of the EU legislation. It has led to the phenomenon that can be defined as excess of legal provisions. The profusion of legislation means that the same issues (e.g. concerning the mandatory use of certain indications on the labels of waters, the ban on misleading consumers, etc.) may fall within the scope of application of different EU and national legislation. As a result, in a given state of affairs, it is possible to look for different types of legal protection

grounds, because there is a convergence of norms, which in their hypotheses combine different instructions. The problem of this accumulation has not been explicitly regulated in the EU or national legislation. Therefore, there is a need to conduct research in the field of convergence, perceived as a mechanism ordering the structure, functioning, including coexistence of European Union law and Polish law in the field of natural mineral waters, spring waters and table waters.

Turning to the discussion of the scientific objective of the work, it should be emphasized that it is essentially related to the presentation and in-depth analysis of EU legal regulations and national law regarding the indications of natural mineral waters, spring waters and table waters. In particular, the basic research problem was what indications of natural mineral waters, spring waters and table waters are obligatory and what are optional in relation to the provisions of EU law and Polish law. Legal discourse is inextricably accompanied by a more specific question about the fundamental purpose of labelling natural groundwater, which is implemented by granting a leading role to some of the water indications.

The starting point for the analysis of such research objectives was to establish that in this field the basic normative source is the Directive of the European Parliament and the Council 2009/54 / EC of 18.6.2009 on the exploitation and marketing of natural mineral waters. For this reason, the area of scientific exploration focused on the issue of water labelling in the light of the provisions of this directive and national regulations transposing the directive into Polish law. It is worth noting, however, that the indicated monograph is not a detailed commentary on the substantive provisions of Directive 2009/54 / EC or the results of its implementation in national law. It aims primarily to illustrate, within the framework of a multi-faceted research perspective, both general and specific requirements for the indications of natural bottled waters<sup>1</sup>, which requirements are implemented through the legal obligation to label water as food product.

In this context, it should be borne in mind that Directive 2009/54 / EC applies only to natural mineral waters and spring waters. It does not refer to table water. However, the introduction of this additional category of natural bottled waters in the provisions of the Act of 25/08/2006 on food and nutrition safety and the Regulation of the Minister of Health of 31 March 2011 on natural mineral waters, spring waters and table waters,

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<sup>1</sup> In the study, the collective term "bottled water" or the synonymous term "natural bottled water of underground origin" is used for natural mineral waters, spring waters and table waters



which transpose Directive 2009/54 / EC into of the Polish legal order, determined including indications of table waters in the scope of the monograph.

## **2. The method of the study**

In my work, I mainly used a dogmatic (analytical and legal) research method. This method enabled me to carry out detailed validation studies and to make a doctrinal interpretation of the sources of EU and national law in the examined area of law. In addition, I analyzed and properly interpreted the decisions made in the process of applying the law by the Court of Justice of the European Union and national courts. Achieving research goals was also related to the use of Polish and foreign literature in order to analyze doctrinal claims concerning issues discussed in the monograph. Due to the multiplicity of analyzed sources, especially in the field of general principles of EU law and food law, I focused on those that present the most representative positions of doctrine or argue with accepted theses. The basic analytical and legal method was supplemented by historical and legal studies. First and foremost, they concern the origin of nomenclature, classification and legal regulations in the field of natural mineral waters, spring waters and table waters, as well as the provenance of the concept of "spring of water". The above methods of research allowed me to conduct interpretative reasoning, which in turn allowed me to formulate the main thesis of the work.

## **3. Research thesis**

In the system of sources of European Union law, the 2009/54 / EC Act functions as a vertical (sectoral) regulation. In regard to natural indications of groundwater, it introduces additional regulations and exceptions from the general, horizontal rules on the labelling of foods introduced in Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25.10.2011 on the provision of food information to consumers. Directives therefore have the character of detailed normative instructions on the indications of natural mineral waters and spring waters.

In the field of water indicating, the directive harmonizes thoroughly (totally) the national legislation of the Member States. Following the adoption of the model of total harmonization, the legal concepts introduced in Directive 2009/54 / EC should be interpreted in a manner appropriate to the autonomy of the concepts of European Union law. In

particular, the autonomous "EU conceptual framework" cannot be modified in the process of implementing Directive 2009/54 / EC into national law.

In the above context, the main thesis of the dissertation comes down to the claim that the basic concept introduced in Directive 2009/54 / EC in the field indications of natural mineral waters and spring waters is the term "spring" or, more broadly, the term "origin of water from the spring. " Only in relation to table waters the term in question is not of major importance due to the specificity of these waters and the acceptability of their origin "from various sources". Table waters, however, are a narrow category of natural bottled waters of little practical importance.

In accordance with the intended purpose of Directive 2009/54 / EC and its general systematics, the essential purpose of labelling natural mineral waters and spring waters is to clearly indicate the spring of the water. This issue, which is a specific leitmotif of the work, is of key importance from the point of view of naming and classification of natural waters of underground origin. It involves the use of obligatory official generic name of the water category in the mandatory labelling. Above all, however, by referring to the concept of the "spring" of water, it is possible to indicate its geographical origin and the characteristic properties associated with this origin. The geographic element in question, which in fact serves as a qualified geographical indication, allows to distinguish natural mineral water or spring water from other waters of the same type available on the market. It is of particular importance when the name of the source of natural groundwater or an indication of the place of extraction of water from the spring has been used as the trade name of the water.

The exegesis of the polysemic term "spring" leads to further conclusions. Essentially, they relate to the definition of the discussed concept, which - although it is used in various provisions of Directive 2009/54 / EC - is not specified in it. The binding interpretation was made by the Court of Justice of the European Union. According to the Court's interpretation, the "spring" of natural mineral water or spring water means one and the same origin of the water that can be extracted from one or more natural or drilled holes (intakes). In particular, the origin of water, or more precisely - "the spring" , is determined by the following factors: first, the geographical origin of the water from the same underground deposit or aquifer, secondly, identical water properties, genetically related to geological conditions of its geographical origin, and thirdly, the stability of water composition. Therefore, in the light of the EU definition, the term 'spring' differs from the concept of 'the intake' from which the



water is extracted. The "spring" itself defines the geographical origin of the water and its characteristic properties. This definition refers to the Latin model of naming and classification of natural groundwater, introduced more than a century ago in France. As a consequence of this kind of conceptual connection, some associations of the EU term "spring" and the French term "terroir" can be made to indicate the origin of wines and other agricultural food products from a specific geographical location. The discussed type of relationship between water and the source of its geographical origin, in the sense of "terroir" provenance, is an important clue for interpretation in the area of law under study. As a result, it leads to the conclusion that the term "spring", in the sense of Directive 2009/54 / EC, differs from its general understanding of adopted in hydrogeology.

The term 'spring', developed in the case-law of the Court of Justice has, therefore, a specific context. It is an autonomous EU concept that fits into the general scheme and objectives of Directive 2009/54 / EC. Due to its transnational nature, the term should be interpreted in a unified manner, omitting a different national terminology. Thus, the term should be the basic interpretative guide for national legislation and judicature in the process of implementing Directive 2009/54 / EC.

Provisions that the national legislator intends to transpose from the Directive 2009/54 / EC into the Polish legal order dictate that in the indications of natural mineral waters and spring waters the name of the "hole or set of holes forming the intake" be used instead of the "spring" name. However, providing information on the hole from which the water is extracted does not exhaust the obligation laid down in Directive 2009/54 / EC to provide consumers with reliable information on the origin of water from the spring.

Due to the fact that the denotation ranges of the "spring" and "hole" differ substantially, the lack of normative congruence cannot be considered negligible. In essence, it leads to the final thesis of incorrect transposition of Directive 2009/54 / EC into Polish law regarding the determination of natural mineral waters and spring waters.

#### **4. The structure of the work**

The subject scope of the monograph, as well as the assumed thesis, determined the layout of the work. It consists of an introduction, four chapters and an ending.

Chapter I is a general and preliminary part for further detailed considerations. In this chapter, I discussed the sources of EU law and Polish law in the field of protection of indications of natural mineral waters, spring waters and table waters. The remarks contained

in this part of the monograph are devoted above all to Directive 2009/54 / EC as a regulation of the EU secondary legislation. In particular, the genesis of the directive, its legal character, objectives and scope were clarified. It is also important to analyze the type of harmonization adopted in Directive 2009/54 / EC. The model of harmonization determines the interpretative arrangements in the process of implementing the directive to the national legal order. The legal discourse on the transposition of Directive 2009/54 / EC into Polish law is inextricably linked to the question of the limits of legal regulations governing the indications of natural bottled water in the directive itself, as well as other EU and national laws. Interaction between the directive and other legal sources is crucial in Chapter I. The multitude of EU and national law regulations raises the problem of establishing the hierarchy and relations between them. From a practical point of view, it is particularly important to establish the relationship of Directive 2009/54 / EC to Regulation No. 1169/2011 on providing customers with food information. Establishing these relations in the area of water indications allows for in-depth analysis of more detailed issues of sources of law concerning geographical indications of natural waters of underground origin. These indications show geographical origin of water from the spring. As goods constituting the subject of industrial property rights, they may be subject to various regulations of international, EU and national law. Therefore, in this chapter, I have reviewed and evaluated existing legal provisions regarding geographical indications of natural bottled water as compared to other regulations relating to geographical indications and names of origin for agricultural products and food products.

Chapter II is devoted to the problem of natural waters of underground origin constituting a raw material for the production of bottled waters. I discussed the general issues in the field of hydrogeology and balneology in the scope in which they serve to demonstrate the specificity of natural groundwater, their classification and nomenclature. These waters are characterized by a large diversity, which is reflected in different regimes of legal protection of both the waters themselves and their indications. For this reason, in this chapter, I have distinguished natural waters covered by the subject matter of Directive 2009/54 / EC from other groundwater, which include medicinal waters. I have also characterized a separate category of the so-called ordinary drinking water supplied by the water supply system and intended for human consumption. In common perception, the properties of this water are often confused with the characteristics of natural groundwater. The most important part of the considerations of Chapter II are comments on the distribution of groundwater to natural mineral waters, spring waters and table waters. This division differs from the classification of water adopted in hydrogeology and balneology. It was introduced in Directive 2009/54 / EC, which takes



into account primarily the needs of the bottling industry, whose basic volume is made up by natural bottled waters. The different types of bottled water, as defined in the Directive and in national legislation, are subject to different requirements for indications. For this reason, the starting point for the analysis of the indications used in the labelling of each kind of water is the recognition of water as a natural mineral water or the assessment and generic qualification of water as spring or table water. However, the assignment of a given water to a specific category is connected with the fulfilment of strictly defined requirements introduced in the normative definitions of natural bottled waters. Therefore, in Chapter II, I discussed in detail the definitions of natural mineral waters, spring waters and table waters. Within these definitions, I also explained the key issue from the monograph's point of view: "the origin of water from the spring".

Chapter III contains the characteristics of indications of natural bottled waters in the light of food law. Bottled waters, as food products, are subject to the general rules on food labelling. Therefore, the preliminary considerations of this chapter concern the general issues of food and food law. As part of the legal analysis of the above issues, I defined the terms "labelling" and "indication" of food products. In the scope of the definitions in question, there are indications of natural bottled waters. These indications constitute the most important information carrier about waters. Placed on the labels, they are a source of information addressed to both consumers and other participants of the logistics chain. For this reason, they cannot mislead consumers. Discussion of the general ban on misleading in indications of water as food products ends the general (consolidated) part of Chapter III. Detailed considerations of this part of the work are related to the presentation of particular types of indications of natural bottled waters. These indications are divided into obligatory indications, which are required by law, and optional supplements, voluntarily (though not arbitrarily) used by producers. The analysis of water indications leads to the conclusion that, apart from the core that creates the trade name supplemented by the generic name of the water category, the labels of natural bottled waters must indicate the place where the water is extracted from the spring and the name of that spring. The above obligatory indications must be supplemented with such information as: declaration on the analytical composition of the water, information on acceptable processes to which water is subjected in the production process, the degree of carbonation, the name and address of the producer, country or place of origin (in cases specified by law), package capacity, date of minimum durability and water storage conditions. The final part of the research on the problems of individual types of natural bottled water indications is devoted to facultative indications, with particular emphasis on a separate and

significant category of these supplements, which are dietary and health statements used in water labelling. Chapter III is concluded by the remarks concerning the liability of producers for unlawful indication.

Chapter IV is a detailed elaboration of previous considerations regarding the indication of the geographical origin of natural groundwater from the spring. Essentially, this part of the work is devoted to the issues of geographical indications of natural mineral waters, spring waters and table waters. As far as the indications of natural bottled waters are concerned, the discussed issue is of key importance. The practical conclusions of the dissertation (in relation to which the basis for scientific exploration has been discussed and justified in various areas corresponding to the subject of previous chapters) are formulated in Chapter IV. First of all, in Chapter IV, I have defined the concept of geographical indications of origin and pointed out their basic functions in indications of natural groundwater. I have also made extensive remarks regarding the individual character of natural groundwater indications against the background of collective rights arising from the protection of geographical indications of other food products. In the scope of detailed considerations of this part of the monograph, I have made an in-depth analysis of the issues related to the protection of geographical indications of natural mineral waters, spring waters and table waters. The starting point of this analysis was the presentation of my thesis that the indication of the geographical origin of water from the spring, in the meaning of Directive 2009/54 / EC, remains in some analogy to the concept of origin of agricultural food products (mainly wines) determined by *terroir*. Based on this thesis, I have defined the term "water spring" by combining it with the origin of *terroir* wines. I discussed the "spring of water" issue on the basis of the judgement of the Court of Justice of the European Union of 24/06/2015 in case C-207/14 *Hotel SavaRogaška, Gostinstvo, turizem in storitve, d.o.o. v. Republic of Slovenija*. The judgement was issued in the preliminary ruling proceedings against the background of art. 8 of Directive 2009/54 / EC. In the light of the indicated provision, the indication of the geographical location of water extraction from the spring and the name of this spring form the most important element of the water indication. The above indications used as trade names of waters act as qualified geographical indications. In accordance with the provisions of Directive 2009/54 / EC, the use of these indications on water labels not only entails the obligation to inform recipients of the geographical origin of water, but also provides an important information on the characteristics of water arising from its origin from the spring. For this reason, in the light of art. 8 of the directive, the information in question must not mislead recipients as to the place of the water exploitation from the spring. Due to the fact that in the national provisions transposing



Directive 2009/54 / EC to the Polish legal order the term "spring", which is an autonomous concept of EU law, has been replaced by the words "hole" and "intake", I devoted a special part of the discussion to the comparative law analysis. The list of the terms in question allowed a full picture of the implementation process of Directive 2009/54 / EC to the Polish law in the field of natural mineral waters and spring waters. The final part of Chapter IV concerns the protection of geographical indications of waters under unfair competition law. In particular, these provisions apply to the use of fraudulent or deceptive geographical indications of natural mineral waters, spring waters or table waters, which may constitute unfair competition or unfair marketing practice.

The dissertation is concluded with the ending, which is in fact a recapitulation of research and analysis carried out in earlier parts of the monograph. It is - together with the introduction - a brace that combines detailed considerations and at the same time a conclusion formulated in the main thesis of the work.

## **5. The use of the study results and final conclusions**

The multifaceted research perspective undertaken in the monograph, including theoretical, dogmatic and historical analysis, allowed to formulate and confirm the thesis presented in the work. In particular, the deliberations carried out in the dissertation, ending with "de lege ferenda" remarks, deserve to be taken into account in the course of legislative work in the field of natural mineral waters, spring waters and table waters and in the adjudication functions of national authorities responsible for the application of the law.

In the above context, it should be first of all clarified that the use of the polysemantic (imprecise) term "spring" in Directive 2009/54 / EC does not absolve the national legislator, in the process of implementing the directive, from exercising due diligence in creating good law while respecting the substance of the directive and its purposes. Therefore, in connection with the basic thesis of the monograph on the incorrect implementation of Directive 2009/54 / EC into Polish law in the scope of normative water indications requirements, it seems justified to formulate a desideratum to the Polish legislator demanding an amendment of national regulations, in particular the provision of § 7 of the Regulation of the Minister of Health on natural mineral waters, spring waters and table waters, which provision is to transpose Article 8 of Directive 2009/54 / EC to Polish law. The above demand is connected above all with the necessity of introducing a legal requirement to indicate in the labelling of natural mineral waters and spring waters the "origin of the water".

When formulating other *de lege ferenda* conclusions in my work, I pointed out that due to the small practical significance of table water categories, the abolition of this generic category of waters should be considered. Table waters, excluded from the scope of the Directive 2009/54 / EC, remain exclusively in the area of Polish law. In contrast to natural mineral waters and spring waters, those waters are fully natural, because their special properties can be shaped in the production process. Removing the table water category would increase the degree of transparency of national law not only in the areas of production and distribution, but also the labelling of natural bottled waters.

In addition, due to the respect of the principle of legal transparency and in connection with the European Commission's legislative activities aimed at reforming the EU law on natural bottled waters, I proposed in the study the introduction of a comprehensive law in the single act of European Union law on natural mineral waters and spring waters, including bottled medicinal water. Such regulation, based on the legal solutions adopted in the current Directive 2009/54 / EC, could contribute to the introduction of uniform, clearly defined requirements for the labelling of all types of natural bottled waters.

## **5. The presentation of other scientific and research achievements**

### **Introduction**

My other scientific and research achievements mainly include publication activity and active participation in scientific conferences. Listing these achievements is associated with the presentation of scientific interests with particular emphasis on the main research topics contained in publications and presentations. It also includes the presentation of some of the significant research results.

First of all, I would like to emphasize that by obtaining the degree of doctor of law, basic scientific and research studies carried out by me have mostly been documented by publications of a monographic character. They will be as follows: 1) publication of *Geographical Indications of Origin. The Study on Community Law and Polish Law*, Publisher Wolters Kluwer, Warsaw 2008, p. 363; - prepared on the basis of the doctoral thesis, but on the basis of the changed legal status, which in comparison with the doctoral thesis, involved further research and development in the area covered by the amended law; 2) own part of the



XLIX Section § 282-285, pp. 1247- 1349 (in total p. 102, 9 sheets) in the collective work "Private law system. Industrial Property Law ", volume 14 B, edited by RSkubisz, C.H.Beck Publishing House, Warsaw 2012; 3) own part of *Chapter XLIX* §300-302, pp. 7-121 (jointly pp. 114, 10 sheets) in the collective work "System of Private Law. Industrial Property Law ", vol. 14 C, ed. R Skubisz, C.H.Beck Publishing House, Warsaw 2017 - publication (item 3) prepared on the basis of the previous study in" System of Private Law. Industrial Property Rights ", vol. 14 B, ed. R Skubisz, CHBeck Publishing House, Warsaw 2012 (point 2), was developed on the basis of the changed legal status concerning geographical indications of origin of agricultural products and means, along with an extended discussion of issues related to geographical indications of other products , which covered both current statements of the legal doctrine and the latest case law of the EU courts, which entailed the undertaking of further research and development in the indicated fields of law.

My other studies have been published in collective works or published in the form of scientific articles in reviewed and scored magazines.

In addition, my work includes co-authorship of a commentary on the Act on fighting unfair competition and also a text important from the point of view of distinctive indications in EU law. The text was published in English (it is my contribution and at the same time the result of my function as a Polish expert in the legislative work of the European Commission concerning the protection of distinctive indications in European Union law).

### **Main strands of scientific achievements**

After obtaining the degree of doctor of law, my scientific and research activity took diversified character. It covers primarily issues related to industrial property law and European Union law. In particular, my scientific and research interests are focused on four main research areas: the first related to the EU policy of quality and regimes of legal protection of geographical indications of origin for different types of products, the second related to the issues of distinctive indications in unfair competition law, the third concerns natural aspects of groundwater as measures and the fourth covering issues of institutions and sources of European Union law.

## **Natural groundwater as food products in European Union law**

My scientific research, after obtaining the degree of doctor of law, regarding natural aspects of groundwater, initially related to water as special food products. An expression of the interest in this subject was a publication covering the origins of nomenclature and definitions of natural mineral waters and protection of these waters in the light of Directive 2009/54 / EC (E. Całka, Natural mineral water protection in the light of Directive 2009/54 / EC, European Judicial Review 2016 , No. 2, pp. 23-28). The considerations contained in the study have become the primary background and at the same time the starting point for further detailed scientific research in the subject matter. However, they proved to be so useful that the publication was reprinted in the industry journal of the bottling industry (E. Całka, Protection of natural mineral waters in the light of the provisions of Directive 2009/54 / EC, reprint, Source Quarterly of the Polish Chamber of Commerce "Industry of the bottling industry" 2018, No. 2, pp. 23-28).

The issue of natural groundwater was also the subject of numerous papers presented by me during open lectures and scientific conferences (Annex 4).

## **Geographical indications of origin as goods covered by industrial property law. Regimes of legal protection of geographical indications of origin of particular types of products as an instrument of the European Union policy of quality**

In modern terms, these indications as intangible goods are part of exclusive rights, covered by the collective name of industrial property. In the European Union, the protection of such indications is provided by different systems for the registration of designations of origin and geographical indications that are different for agricultural products and food products, wines, aromatised wines and spirit drinks. The indicated protection regimes are regulated by the regulations of various EU regulations creating the so-called package of quality policy measures. Currently, this package, which is an instrument of the EU agricultural policy, is made up of: Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality systems for agricultural products and food products, Regulation (EU) No 1308 of the European Parliament and of the Council / 2013 of 17/12/2013 establishing a common organization of agricultural product markets (for wines), Regulation (EU) No 251/2014 of the European Parliament and of the Council on the



definition, description, presentation, labelling and protection of geographical indications of aromatized wines (applicable to aromatized wines) and Regulation (EC) No. 110/2008 of the European Parliament and of the Council of 15.1.2008 on the definition, description, presentation, labelling and protection of geographical indications of spirit drinks.

The standardization method, characteristic of the field of geographical indications, which distinguishes a large diversity of protection concepts, carries significant research problems. Meanwhile, in Polish legal literature, the issue of this kind of distinctive indications is the subject of few studies that are fragmentary and rather general (introductory) to this subject. Therefore, in order to conduct an in-depth analysis of the law of geographical indications and fill the gap in Polish literature, in the initial stage of my scientific and research activity I focused on the study of the protection of geographical indications and indications of origin of agricultural products and food products against the background of the Council Regulation provisions at that time. (EEC) No. 2081/92 of 14.7.1993 on the protection of geographical indications and indications of origin for agricultural products and food products (E. Całka, *The Commentary on the Judgment of the European Court of Justice* of 10 November 1992, Patent Counsel 2001, z. 4 - gloss, E. Całka, Oscypek with Champagne, Rzeczpospolita of November 28, 2001, No. 278, E. Całka, *Protection of Geographical Indications of Origin*, Trade Law Digest 2002, No. 9, pp. 21-30, E. Całka, Translation of Judgements Nr: 62 (ECJ judgement of 4.3.1999 in the Gorgonzola case), No. 114 (ECJ judgement of 10.10. 1992 in the case of Exportur), 119, in the collective work "*Case-law of the European Court of Justice*", ed. R. Skubisz, C.H. Beck, Warsaw 2003, theses of the judgements in the translation of E. Całka, pp. 112, 201-202; full texts of judgements in the translation of E. Całka in the electronic version on the enclosed CD, E. Całka, *Translation of Judgements: No. 20 (ECJ judgement of 7.5.1997 in the case of Pistre)*, No. 21 (ECJ judgement of 7 November 2000 with the Warsteiner), No. 22 (judgement of the Court of 15.10.2003 in the case of Nordmilch), No. 23 (verdict of the ECJ on November 18, 2003 in the case of BudejovickyBudvar), in collective work "*Industrial Property. Case-law of the Court of Justice of the European Communities and the Court of First Instance*", ed. 1, ed. R. Skubisz, Zakamycze Publishing House, Cracow 2004, pp. 388-480). The most important study in this regard was the doctoral thesis prepared by me "*Geographical Indications of Origin. A comparative Law Study*".

After obtaining the degree of doctor of law, I continued my research in the field of geographical indications. First of all, it prompted me to develop the EU legal protection of

geographical indications for agricultural products and food products, which in principle manifested itself in the dynamics of the legal state. Due to the lack of current studies in the national literature on the subject, on an ongoing basis I analyzed the area of law. The main goal of my research work was to verify the main research thesis in the scope of the progressive convergence of protection of geographical indications in European Union law (Ełka, *Validation arrangements in the field of Protection of Geographic Origin Indications on the example of the Court of Justice of the European Communities in the Warsteiner case*, in collective work) *Legal interpretation, Separations in selected branches of law* ", ed. L. Leszczyński, Maria Curie-Skłodowska University Publishing House, Lublin 2006, pp. 189-200, E. Całka *Translation of judgements: No. 21 (judgement of the ECJ from 7.1.2004 in Gerolsteiner), No. 29 (ECJ judgement of 7.5.1997 in the Pistre case - corrected translation), No. 30 (ECJ judgement on 7 November 2000 in the case of Warsteiner - corrected translation), No. 31 (ECJ judgement of 20.5.2003 in the Prosciutto di Parma case), No. 32 (judgement of the Court of 15.10.2003 in the Nordmilch case - corrected translation), No. 33 (ECJ verdict 18.11.2003, Budejov case ickyBudvar - corrected translation)*, in collective work "Industrial property. Case-law of the Court of Justice of the European Communities and the Court of First Instance ", ed. 2, ed. R. Skubisz, Zakamycze Publishing House, Krakow 2006, pp. 310-317 and pp. 453-570; E. Całka, *Translation of the opinion (1/94) of the Court No. 1, judgements: No. 35 (ECJ judgement of 22.9.1988 in Edam case), No. 36 (ECJ judgement of 16.5.2000 in the case Belgium v. Spain) ) and opinions to the judgements No: 35, 36*, in the collective work "Industrial Property. Case-law of the Court of Justice of the European Communities, the Court of First Instance and the Office for Harmonization in the Internal Market ", ed. R. Skubisz, Publishing House Wolters Kluwer, Warsaw 2008, pp. 19-53 and 629-674; E. Całka, *Collision of a Trademark with a Geographical Indication - commentary on the ECJ judgement of 2.07.2009 in Case C-343/07 Bavaria, European Judicial Review 2009*, No. 11 co-author R. Skubisz, pp. 36-41; E. Całka, Chapter V Protection of geographical indications in collective work "Protection of Intellectual Property", ed. A. Adamczak, M. duVall, Warsaw University Publishing House, Warsaw 2010, pp. 251-268; E. Całka, *Translation of verdicts: No. 23 (verdict of the ECJ from 7.1.2004 in the Gerolsteiner case - corrected translation), No. 28 (ECJ judgement of 7.5.1997 in the Pistre case - corrected translation), No. 29 (ECJ judgement from 16.5.2000 in the case Belgium v. Spain - corrected translation), No. 30 (judgement of the ECJ 7.11.2000 in the case of Warsteiner - corrected translation)*, in collective work "Industrial Property. The case law of the Court of Justice of the European Union ", ed. R. Skubisz, ed. 3, Publisher Wolters Kluwer, Warsaw 2015, pp.



323-329, 405-454). An important achievement was the publication of a monograph entitled *"Geographical Indications of Origin. Study on Community Law and Polish Law"*, Publisher Wolters Kluwer, Warsaw 2008, p. 363, based mostly on the assumptions and concept of a doctoral dissertation, but on the basis of the changed legal status introduced by Council Regulation (EC) No. 510/2006 of 20.3.2006 on the protection of geographical indications and names of origin for agricultural products and food products. Regulation No. 510/2006 repealed Regulation No 2081/92, due to the lack of conformity of this second regulation with the TRIPS agreement. Therefore, the new area of scientific exploration involved a comparative analysis of legal solutions regulated in Regulation No. 2081/92 and the new Regulation No. 510/2006 as regards the Community protection of geographical indications of products originating from third countries, protection of indirect geographical indications, registration procedure, etc. The genesis and objectives of Regulation No. 510/2006 have been discussed extensively. The most recent literature on the subject was also elaborated. Geographical indications of wines and spirits were left behind, which was justified due to the structure and scope of Regulation No. 510/2006 and functional differences between the system of protection of geographical origin indications for agricultural food products and the protection system of wines and spirits.

The final achievement of my research in the field of protection of geographical indications of origin in European Union law was a monographic publication, which is part of one of the most important collective studies for the Polish legal community, i.e. Private Law System (Chapter XLIX §281, in the collective work *"Private Law System. Industrial Property Law"*, volume 14 B, ed. R Skubisz, CHBeck Publishing House, Warsaw 2012, co-author E. Nowińska, pp. 1245 -1247, Chapter XLIX § 282-285, in the collective work *"System of private law."*, Volume 14 B, edited by R Skubisz, Wydawnictwo CHBeck, Warsaw 2012, pp. 1247-1349, in total p. 102). The study I prepared was a comprehensive and profound legal study regarding the protection of geographical indications of origin of agricultural products and food products as well as wines and spirits in international and EU law. It is monographic in the sense that it presented in a comprehensive and systematic manner the legal issues of geographical indications of origin under Regulation No. 510/2006 (former regulation on geographical indications for agricultural products and food products), Regulation No. 1234/2007 (former regulation regarding, among others, geographical indications of wines) and Regulation No. 110/2008 (geographical indications of spirit drinks). In the discussed chapter of the Private Law System, I also outlined the issue of geographical indications of

mineral and spring waters, which, due to their distinctness, are not covered by the provisions of agricultural law of the European Union. The core of this publication is a scientific analysis covering such issues as: concept, types and classifications of geographical indications, definitions of names of origin and geographical indications in Regulation No. 510/2006, registration procedure for these designations and names, the rights from their registration and protection of these rights. The above issues of work are illustrated by abundant current case law of the Court of Justice of the European Union (judgments in the Chiciak case, Gorgonzola case, Warsteiner case, Bud II case). An in-depth analysis of this case-law and the statement of the legal doctrine allowed me to construct a thesis of the comprehensive nature of Regulation No. 510/2006 and exclude the admissibility of national protection of qualified geographical indications for agricultural products and food products.

The aforementioned thesis was finally clarified and positively verified in the next part of the Private Law System prepared by me (E. Calka, Chapter XLIX§299, in the collective work "System of Private Law, Industrial Property Law", volume 14 C, ed. R Skubisz, Publisher CHBeck, Warsaw 2017, co-author E. Nowińska, pp. 5 - 7, E. Calka, Chapter XLIX§300-302, in the collective work "System of Private Law, Industrial Property Law", vol. 14 C, ed. R Skubisz, CHBeck Publishing House, Warsaw 2017, pp. 7-121, in total p. 114). In this matter the key verdict was the one of the Court of Justice of the European Union in the SalameFelino case, in which the Court confirmed that qualified geographical indications cannot be protected as such at the national level, as the protection of qualified geographical indications can only be ensured at the level of the European Union by registering in European Commission. National rules may provide for the protection of such indications only on the basis of appropriate protection for ordinary geographical indications. Notwithstanding the above, due to the repeal of Regulation No. 510/2006 and its replacement by the current Regulation No. 1151/2012, in this study it was necessary to organize the legal status being the basis of the legal protection of geographical indications and names of origin for agricultural products and food products. For this reason, all issues related to geographical indications of agricultural products and food products in European Union law, falling within the scope of the publication (including the new definition of protected indications of origin and protected geographical indications, changes in the registration procedure, the objection procedure, etc.), have been subjected to legal analysis under the provisions of Regulation No. 1151/2012. Geographical indications of wines were discussed on the basis of the new Regulation No. 1308/2013. In addition, the issue of geographical indications of wine sector products has been



discussed in an extended manner, taking into account the protection of the indications of aromatized wines, included in a separate Regulation No. 251/2014.

From the point of view of my achievements in the field of regimes for the protection of geographical indications in the law of the European Union, my scientific research covering the subject of geographical indications of industrial products also deserves attention. These studies were the subject of the studies prepared by me in the legislative work of the European Commission on the new European Union Regulation on geographical indications, so-called non-agricultural products (E. Całka, Study on geographical indications protection for non-agricultural products in the internal market. Final report - 18 February 2013, ed. D. Thual- co-authors M. Alexandre, A. Aubard, D. Dobrev, I. Ferto, A. Gerz, A. Kelli, M. Klopčič, F. Lossy, M. Ndiaye, E. Olivascaceres, J. Oravcová, A. Rindborg, M. Reed, L. Romanescu, L. Stanisauskaite, K. Strossov, T. Taushanova, S. Valchanova-Krasteva, D. Velebova, M. Vittori, A. Wirsig, D. I Zandoná, Brussels 2013, pp. 328).

The issue of diversified legal protection of geographical indications of origin of particular types of products was also the subject of numerous papers presented by me during open lectures and scientific conferences (Annex 4).

### **Distinctive indications in the law of unfair competition**

Another area of my scientific activity includes the problem of the law of unfair competition. In particular, my research in this area concerned the protection of distinctive indications in the provisions of the Act on Combating Unfair Competition. In the area under examination, my scientific achievements were concentrated, though not limited, to studies that commented on Art. 8 and 9 ZNKU. The scope of application of these provisions has been discussed in detail in the light of Regulation No. 510/2006 (E. Całka, Commentary on Article 8 and commentary on Article 9, collective work "Act on Combating Unfair Competition." Commentary, 3rd edition, ed. J. Szwaja, Publisher CH Beck, Warsaw 2012, co-author M. Poźniak-Niedzielska, pp. 340-370) and Regulation No. 1151/2012 (E. Całka, Commentary on Article 8 and commentary on Article 9, in collective work) Act on combating unfair competition, commentary, 4th edition, edited by J. Szwaja, CH Beck Publisher, Warsaw 2016, co-author M. Poźniak-Niedzielska, pp. 316-345, E. Całka, Scope of the provisions of the Act on Combating Unfair Competition regarding protection of geographical indications of origin

of agricultural products and food products, in collective work "Competition law 25 years, the First Polish Congress of Competition Law", ed. T. Skoczny, Wydawnictwo Wolters Kluwer, Warsaw 2016, pp. 669-677, E. Całka, Comment d on Article 8 and a commentary on Article 9, in the collective work "Law on combating unfair competition. Commentary, ed. 5, edited by J. Szwaja, C.H. Publishing House. Beck, Warsaw 2019, co-author M. Poźniak-Niedzielska, pp. 325-353). In subsequent editions of the commentary to art. 8 and 9 ZNKU I paid particular attention to the updating of the verdicts of national and EU courts in the application of the premise of the danger of confusion, delocalisation, fanciful signs and the collision of geographical indications with trademarks.

In the context of the last of the above-mentioned issues, it should be emphasized that both trademarks and geographical origin indications are distinctive indications and perform similar functions in trade. Trademarks distinguish goods of the same type with the criterion of origin from a specific entrepreneur, and geographical indications - on basis of the geographical origin. The key is therefore to distinguish between the indicated types of distinguishing indications. This is a matter of practical significance, as evidenced by numerous national trademark infringement cases that are also geographical indications or attempts to register trademarks containing a geographical indications of origin (E. Całka, Trade-mark collision with a geographical indication - a gloss to the ECJ verdict of 2.07. 2009 in Case C-343/07 Bavaria, European Judicial Review 2009, No. 11 co-author R. Skubisz, pp. 36-41, E. Całka, Registration of trademarks including a geographical indication in the light of selected case-law of the Court of Justice of the European Union, Material and Legal and procedural problems of protection of intellectual property, with particular emphasis on the circulation of such goods, A collection of papers from the seminar of patent counsel at universities, Cedzyna, 15-16 September 2014, ed. A. Adamczak, Inventiveness and Intellectual Property Protection 2014, No. 38, p. 33 -43).

The problem of distinguishing indications in the law of unfair competition was also the subject of the papers presented by me at scientific conferences (Annex 4).

## **The institutional system of the European Union and the application of European Union law in the Member States**



Issues of the institutions and sources of European Union law have been the subject of my research from the beginning of the scientific work (E. Całka, Chapter 2 - Institutions, § 1-5, 10-15, in collective work "European Law, outline of the lecture", ed. R. Skubisz, E. Skrzydło-Tefelska, 2 edition, Maria Curie-Skłodowska University Publisher, Lublin 2004, pp. 67-100 and pp. 109-118, Ewa Całka, Translation of verdicts: No. 91 (verdict of the ECJ of November 20, 2001) in the AMJ case), No. 92 (ECJ verdict of 27.9.2001 in the case of W. and E. Głoszczuk), in the collective work "Case law of the European Court of Justice", ed. R. Skubisz, CH Beck Publisher, Warsaw 2003, thesis of verdicts in the translation of E. Całka, pp. 143-146, full texts of verdicts translated by E. Całka in an electronic version on the accompanying CD). After obtaining the degree of a doctor of law, my interests in this field focused on updating issues related to the institutional system of the European Union in the field representation of member states in EU institutions and bodies, after Poland's accession to the European Union. I also drew attention to the new offices and agencies of the European Union that were created at that time (E. Całka, Chapter 2 - Institutions, § 1-10, in the collective work "European Law, outline of the lecture", ed. R. Skubisz, E. Skrzydło-Tefelska, 3rd edition, the University of Maria Curie-Skłodowska Publishing House, Lublin 2006, pp. 63-105).

My other papers mainly concern broadly understood issues of the application of European Union law in the Member States and legal and international issues in European Union law resulting from the membership of the European Union in international organizations and international agreements concluded between the Member States of the European Union, with particular focus on functional interpretation by the Court of Justice of the European Union in the preliminary rulings (E. Całka, *Validation arrangements for the protection of geographical indications of origin on the example of the judgement of the Court of Justice of the European Communities in the Warsteiner case*, collective work "Legal interpretation, Separations in selected branches of law", ed. L. Leszczyński, Publisher Maria Curie-Skłodowska, Lublin 2006, pp. 189-200. E. Całka, *Translation of Court Opinion 1/94 of 15.11.1994 on Community competences to be concluded international agreements, No. 1 and judgment No. 35 (judgment of the ECJ dated 22.9.1988 in Edam case) and a commentary to judgment No. 35*, in the collective work *Industrial Property. Case-law of the Court of Justice of the European Communities, the Court of First Instance and the Office for Harmonization in the Internal Market*", ed. R. Skubisz, Publisher Wolters Kluwer, Warsaw 2008, pp. 19-53, 629-634 and 652-674).

A particular subject of my interest was the issue of the evolution of the principle of priority of EU law in the case law of the Court of Justice of the European Union. The legal analysis of the examined matter showed that the Court, due to the requirement to protect the national identity of the Member States, has so far made the absolute principle of priority a relative principle that allows in certain situations the possibility for member states to invoke their constitutional values in order to waive the priority of the application of EU law. In this area, I published an article entitled *The Principle of Priority in European Union Law. Selected Issues*, *Studies Iuridica Lublinensia* 2016, vol. 25, No. 1, pp. 47-58. The discussed issue was also the subject of papers presented by me during open lectures and scientific conferences (Annex 4).

In the final part of the presentation, I would like to point out that:

- By decision of December 12, 2006, I received the award of the Minister of Agriculture and Rural Development of the Republic of Poland in the Competition of the 4th edition announced by the President of the Patent Office of the Republic of Poland for the best thematic works in the field of industrial property protection. The award was granted to me in connection with the decision of the Jury of the competition on the distinction of the doctoral dissertation titled "Geographical Indications of Origin. Comparative Law Study" (Annex No. 4, point II. H)
- I took an active part in 15 international and national scientific conferences during which I gave speeches and took part in the discussion (Annex No. 4, point III. B)
- As part of cooperation with the European Center in Nancy, I participated in two subsequent editions of the POLONIUM program, including the exchange of research workers from both institutions to conduct research in the field of selected problems of EU law. In the last edition of the POLONIUM program for 2012-13 I participated in the implementation of the program on the safety of food products in the context of the free movement of goods
- In my didactic work, I conducted and still conduct lectures and classes - at master's and bachelor's studies at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin. I also lectured for patent counsels in Lublin and Warsaw, legal advisers in OIRP in Lublin, notary apprentices in the Notarial Chamber in Lublin and trainee advocates in Regional Advocacy Council in Radom. For 9 years I have been lecturing for



trainee lawyers in Regional Advocacy Council in Lublin. I also give lectures for advocate trainees in Polish Chamber of Patent Counsels in Warsaw (Annex 4, point III.I).

- I was a supervisor 63 Law Masters and promoted 52 Administration Masters and 54 BAs (48 undergraduates of administration and 6 internal security bachelors) conducting master's and diploma seminars in European Union law and industrial property law at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin (Annex 4 , III.J).

- I actively participate in the popularization of science in the country and abroad. Acting as a Polish expert in the legislative work of the European Commission, I prepared two legal expertises in English. In addition, due to the knowledge and experience in the field of Polish cultural heritage, on 23.3.2005, the Minister of Agriculture and Rural Development of the Republic of Poland appointed me under art. 5 para. 2 of the Act of 17.12.2004 on Registration and Protection of Names and Indications of Agricultural Products and Food Products and on Traditional Products (Journal of Laws of 2005 No. 10, item 68) to participate in the work of the Council for Regional Affairs and Traditional Names of Agricultural Products and Food Products. As a member of the national Council, I participate in the assessment of applications for registration of names of origin and geographical indications of regional and traditional products originating in Poland before they are sent by the Minister of Agriculture to the European Commission.

- I performed and still perform various organizational functions - I was the Coordinator for External Funds of the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin and a member of the Library Committee at the Faculty of Law and Administration of Maria Curie-Skłodowska University in Lublin. For many years I have been a member of the Faculty Didactic Committee at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin (Annex No. 4, point IIIQ).

A detailed list of published scientific papers and detailed information on didactic achievements, scientific cooperation and popularization of science is provided in Annex 4.

  
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Edyta Calka