

Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (Recast) (Text with EEA relevance)

CHAPTER 3

**PROCEDURES**

*SECTION 2*

***Procedures for opposition, revocation and invalidity***

*Article 45*

**Procedure for revocation or declaration of invalidity**

- 1 Without prejudice to the right of the parties to appeal to the courts, Member States shall provide for an efficient and expeditious administrative procedure before their offices for the revocation or declaration of invalidity of a trade mark.
- 2 The administrative procedure for revocation shall provide that the trade mark is to be revoked on the grounds provided for in Articles 19 and 20.
- 3 The administrative procedure for invalidity shall provide that the trade mark is to be declared invalid at least on the following grounds:
  - a the trade mark should not have been registered because it does not comply with the requirements provided for in Article 4;
  - b the trade mark should not have been registered because of the existence of an earlier right within the meaning of Article 5(1) to (3).
- 4 The administrative procedure shall provide that at least the following are to be entitled to file an application for revocation or for a declaration of invalidity:
  - a in the case of paragraph 2 and paragraph 3(a), any natural or legal person and any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, and which, under the terms of the law governing it, has the capacity to sue in its own name and to be sued;
  - b in the case of paragraph 3(b) of this Article, the proprietor of an earlier trade mark as referred to in Article 5(2) and Article 5(3)(a), and the person authorised under the relevant law to exercise the rights arising from a protected designation of origin or geographical indication as referred to in Article 5(3)(c).
- 5 An application for revocation or for a declaration of invalidity may be directed against a part or the totality of the goods or services in respect of which the contested mark is registered.
- 6 An application for a declaration of invalidity may be filed on the basis of one or more earlier rights, provided they all belong to the same proprietor.