

## GEOGRAPHICAL INDICATIONS AS OBJECT OF INTELLECTUAL PROPERTY RIGHT

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*Geographical indications are one of the least valued objects of intellectual property. In recent decades, however, particularly after the conclusion in 1994 of the Agreement on issues of intellectual property related to trade (hereinafter TRIPS Agreement), we register an increase of interest in several States for the system of protection of geographical indications. This interest is due in large part to economic effects, the geographical indications have in trade with agricultural and manufactured products. Concomitantly, geographical indications also perform numerous social functions. Given the specificity of the Moldovan economy, and proceeding from the European vector of development of our country strengthening the system of geographical indications is extremely important.*

**Key words:** agricultural policy, geographical indication, intellectual property, products with determined origin, quality systems, regional products.

*Indicațiile geografice reprezintă unul dintre cele mai puțin valorificate obiecte ale proprietății intelectuale. În ultimele decenii însă, în special după încheierea în 1994 a Acordului privind aspectele proprietății intelectuale legate de comerț (în continuare Acordul TRIPS), se înregistrează o creștere a interesului mai multor state pentru sistemul de protecție a indicațiilor geografice. Acest interes se datorează în mare parte efectelor economice palpabile pe care le au indicațiile geografice în comerțul cu produse agricole și manufacturate. Concomitent indicațiile geografice îndeplinesc și numeroase funcții sociale. Ținând cont de specificul economiei Republicii Moldova, dar și reieșind din vectorul european de dezvoltare a țării noastre consolidarea sistemului indicațiilor geografice se prezintă extrem de importantă.*

**Cuvinte cheie:** politica agricolă, indicație geografică, proprietate intelectuală, produse cu origine determinată, sisteme de calitate, produse regionale.

*Географические указания являются одним из наименее оцененных объектов интеллектуальной собственности. Однако, в последние десятилетия, особенно после заключения в 1994 году Соглашения по вопросам интеллектуальной собственности связанных с торговлей (далее Соглашение ТРИПС), регистрируется увеличение интереса некоторых государств к вопросу системы охраны географических указаний. Этот интерес объясняется в значительной степени экономическими последствиями которые географические указания имеют в торговле сельскохозяйственной и промышленной продукции. В то же время, географические указания выполняют и многочисленные социальные функции. Принимая во внимание особенности молдавской экономики, но и европейский вектор развития нашей страны продвижение системы географических указаний представляется чрезвычайно важным.*

**Ключевые слова:** сельскохозяйственная политика, географическое указание, права интеллектуальной собственности, продукция с определенным происхождением, системы качества, региональные товары.

**JEL Classification:** O34; O130.

**Introduction.** In the era of globalization more and more consumers around the world appreciate agricultural products with determined origin. This follows from the fact that agricultural products bear a clear imprint of the territory and the conditions from which they come. Climate, soil and people influence

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the quality of an agricultural product to such an extent that it is clearly different from other products in the same category.

In the European Union this was acknowledged for more time alongside the fact that commercialization of typical products in no way distinguishable in the multitude of products of the same type cannot create the necessary prerequisites for sustainable development. In this context, taking the best national practices (France, Italy, Portugal) it was established at Community level the GI protection system. This system involves the protection of geographical names used to identify certain products whose quality is influenced by their geographical origin. At the same time, the geographical indications protection system is not limited to the simple registration of names, but embraces a whole philosophy focused on the exploitation of the potential of products with determined origin.

**Backgrounds.** The major interest in the development and promotion of geographical indications arises from the fact that geographical indications have an important economic role and are valuable tools of marketing in the global economy. However, as mentioned by some authors, major problems are also related to geographical indications, because no other intellectual property is as complex, as anchored and involved in the world economy and politics as they [6].

Speaking about the historical evolution of the concept of geographical indication we can say that although geographical indications were used since antiquity to differentiate products and to concomitantly indicate their source of origin legal shaping of the concept of geographical indication in its current sense began at the close of the nineteenth century in some European countries (Portugal, France, Italy) and was completed at the beginning of the twentieth century in France, and because the system of geographical indications has proved to be successful, very soon other European countries have oriented their policies, particularly the agricultural and food ones towards the exploitation of the given system.

The study of specialized literature attests that geographical indications have become, at present, an important economic tool that contributes to solving problems of economic growth and competitiveness of rural areas both in developed and developing countries [1].

Analyzing the economic dimension of geographical indications, it can be highlighted the fact that unlike other intellectual property objects that have at their basis the activity of creation and the exclusive right in a new idea/product/process, which are founded from the prism of conception of property, in the case of geographical indications one cannot talk of the same approach. This is mainly due to the following:

- Geographical indication is not a product of human creation in the classical sense because the rights in a geographical indication relate to existing geographical names
- Geographical indication is not the object of monopoly rights and not included de facto in the property of persons initiating the process of recognition and protection on it.

The reasoning of assigning geographical indications to the category of intellectual property objects, according to the author, lies, especially, in the fact that geographical indications are an effective tool for conservation of cultural heritage, including regional know-how, and protection of geographical indications is a symbiosis of industrial property rights (particularly trademarks), copyright and quality systems. Proceeding from the similarity of functions performed by geographical indications with those performed by trademarks, as well as from their intangible nature, their assignment to the category of intellectual property objects is manifested thoroughly substantiated.

The added value of products with protected geographical indication is founded through the prism of neoclassical theory of utility value, since these specific objects of intellectual property provides:

- Certainty of geographical origin, methods used and quality expected;
- Minimization of transaction costs due to the fact that the consumer is guided in the choice of products by the information transmitted by the geographical indication;
- Presence of the additional value caused by the membership of an elite group of consumers.

Due to these properties, geographical indications have, in consumer perception, a greater utility than other similar products intended to meet the same needs.

Economically geographical indications present a complex instrument of using products of guaranteed origin involving the training of several factors. According to (Food and Agriculture Organization of the United Nations (2010)), to which we subscribe, geographical indications can be seen in a complex context that can be rendered through a closed cycle, in which the main role lies with producers interested in the exploitation of the product with determined origin and special qualities, and the role of support for the entire system, including for each stage rests with the state.

The main stages in the origin-linked quality virtuous circle are:

1. Identification: growing local awareness and appreciation of the potential of the product.
2. Product qualification: establishment of rules for value creation and the preservation of local resources.
3. Product remuneration linked to its marketing and to management of the local system.
4. Reproduction of local resources, boosting the sustainability of the system.
5. Public policies providing an institutional framework and possible support for the various stages in the circle.



Fig. 1. The origin-linked quality virtuous circle [4]

Proceeding from the logic functioning of the system of geographical indications and relying on previously analyzed materials one can define the system of geographical indications as being the totality of constituent elements – product, manufacturer, market, society, state – which interact with each other on the basis of economic principles and rules forming an integrity in which the exploitation of products with determined origin and guaranteed quality is organized in an efficient manner.

**Economic effects of the geographical indications system.** Numerous studies carried out at Community level, but not only, showed that a product with protected geographical indication may have positive effects on the sustainable economic development of the territories, the regional socio-cultural development and the preservation of the environment.

In particular:

1) Geographical indications are effective tools for promoting rural development, because they:

- help producers to get a superprofit in exchange for the guarantee of quality (high prices are obtained from products bearing the appellation of origin Mozzarella di Bufala Campana compared to other kinds of cheese mozzarella, the appellation of origin Camembert de Normandie compared to other kinds of cheese Camember, the appellation of origin Brie de Meaux and Brie de Melun compared to other kinds of cheese Brie, etc. The prices of products bearing the above AO are 35-45% higher than the prices for similar products without AO. In the EU, the price difference between the products with AO and GI and similar products without such appellations of origin is on the average 10-15% [8];

- help to the correct and equitable distribution of income throughout the production chain beginning with raw material producers and ending with traders (producers of cheese with appellation of origin will be willing to pay 15-20% more for milk harvested in accordance with the specifications for that appellation of origin) [7];

- exploit the place of origin of the product, create jobs, prevent rural exodus (one of the basic requirements for a geographical indication to be protected is that harvest or production, or processing must take place in the defined geographical area, which is usually a rural area. Thus, new jobs are created, and by this fact is prevented the rural exodus).

2) GIs are effective marketing tools, because they:

- promote the diversification of products (products bearing a geographical indication differ significantly from other products of the same kind, both through their specific qualities that are due to the geographical origin and the physical appearance which is usually different from that of other products. For

example the cheese with the appellation of origin Camembert de Normandie is sold in a container of poplar wood);

- allow producers to market obviously differentiated products that are quite easy to identify (due to the fact that the physical appearance of products with geographical indication is different from other products in the same category, manufacturers can easily differentiate products).

3) GIs are effective tools for preserving local traditions and natural resources, because they:

- encourage preservation of natural resources (most often products with geographical indication are traditional products, which are manufactured using natural resources characteristic of the geographic region, without using any chemical substitutes and without using production methods that adversely affect the environment);

- prevent uniformization of foodstuffs (geographical indications allow of preserving traditional recipes avoiding certain obligations that manufacturers should normally follow. For example, in the European Union, as in the Republic of Moldova, is forbidden to produce cheese in rooms that are not covered with tile using other than stainless steel surfaces, however, where to obtain a cheese with geographical indication is required that the entire process shall take place in a cave whose walls are covered with mold, this is possible).

4) GIs are a component part of our culture:

- contribute to the cooperation of local producers with a view to solve common problems (the whole concept of geographical indication assumes that producers in a defined geographic area will exert a collective effort to exploit the geographical indication, and as is generally known where there are more than one producer there are more chances of gain);

- play a positive role in building national identity, making the producers proud of their traditional unique products (as a rule products with geographical indication are traditional products manufactured according to recipes inherited from ancestors. They being promoted new generations of consumers can learn something new about themselves, about the nation to which they belong);

- positively influence tourism (products with geographical indication are true ambassadors of our culture, moreover, for foreigners may be of interest to know the tradition of making cheese or weave carpets for example. Thus, lately increasingly popular around the world become the tours, in which participants are given the opportunity to meet some local traditions. For example in Germany, France, Italy and Romania are popular the so-called wine roads, in Italy and France cheese roads are also popular. Moreover, very often for the purpose of promotion local producers organize festivals, outdoor exhibitions of products with geographical indication, which also attracts tourists).

Being aware of these facts at Community level has been continuously developed and perfected a system of protection and promotion of geographical indications. Thus, according to the study *Value of production of agricultural products and foodstuffs, wines, aromatized wines and spirits protected by a geographical indication* in 2010 the total exports of goods with protected geographical indication constituted €11.5 billion, which constituted 15% of the total EU exports in the agro-food field [3].

At the same time, exquisite attention began to be paid to exploitation of products with geographical indication also protected by countries other than European. Thus, geographical indications system is currently widely promoted in India, China, Mexico, Colombia, Peru, Georgia, etc. Although several countries have realized the economic importance and the potential of geographical indications and take full advantage of this system, in the Republic of Moldova geographical indications system has not yet become a reality, in spite of the huge potential of our country in this field.

**Table 1**

*Appellations of origin/geographical indications registered in the Republic of Moldova (by years)*

Years	1993-2000	2001-2010	2011	2012	2013	2014	Total
National applicants	2	0	0	0	4	0	6
Foreign applicants including:	5	811	6	8	5	19	854
- national procedure	5	0	0	2	0	0	7
- Lisbon Agreement	0	811	6	6	5	19	847
- Bilateral Agreement RM-UE	0	0	0	3136	0	357	3493
Total	7	811	6	3144	9	376	4353

Source: Elaborated by the author based on IP statistics [9].

**Development of geographical indications system in the Republic of Moldova.** We affirm that the Republic of Moldova has a great potential in the area of geographical indications because, according to data of the National Bureau of Statistics of the Republic of Moldova the exports of goods to the EU countries (EU-28) in 2014 totaled \$1246.0 mln. (9.6% more than in 2013), holding a share of 53.3% in the total exports (46.8% in 2013). The weight of agricultural products and foodstuffs in the total exports of the Republic of Moldova for 2014 is 38.8% [10]. The major problem of Moldovan agriculture lies, however, in the fact that the products are sold in bulk and consumer market is not diversified.

It should be noted that according to (Biroul Regional al FAO pentru Europa și Asia Centrală (REU), 2012) the Republic of Moldova has a well-developed wine industry. Vineyard area covers 148,500 ha, of which 107,800 ha are used for commercial production. The remaining 40,700 ha are planted around the village houses, the grapes being used to make domestic wine. According to the same source the Republic of Moldova also ranked fourth among the world exporters of unshelled walnuts, behind the United States, Mexico and China. Moldova is the largest European exporter of unshelled walnuts, with a volume of 9163 tons, worth 29.8 million euros. Throughout the country, there are plantations as field curtains, small orchards attached to households and commercial orchards [2].

The development of geographical indications system would address many problems facing Moldovan agro-food products:

- export in bulk (anonymity);
- lack of traceability of products;
- diversification of markets.

To have a more realistic approach of the prospects which geographical indications system has in the Republic of Moldova, the author conducted a survey among consumers. The method used was sociological inquiry. Survey results showed that products with protected geographical indication have in the Republic of Moldova an advanced potential, because of the 94% of persons who have indicated that geographical origin influences the quality of an agricultural product or foodstuff, 57% have attributed a great importance to it, in some cases even decisive. The results achieved in this chapter are comparable with the results achieved as a result of a survey conducted in 2005 among US consumers, in which it was established that for 72% of respondents geographical characteristics, such as soil, climate, influence the taste and quality of foodstuffs [4]. Moreover, the results achieved in Moldova are even more favorable for the establishment of the geographical indications system compared to the results achieved in the USA, because Moldovan consumers put more value on the geographical origin of the product (94% vs. 72%). This is attributable mainly to the fact that the Republic of Moldova is a predominantly agrarian state, and the average consumer is either from the rural environment or has ties of relationship with people from the rural environment thus being pretty well acquainted with the process of cultivation and production of agricultural products and foodstuffs.

Concomitantly, 88% of respondents prefer Moldovan products to imported ones where the price does not differ.

Furthermore, most of the respondents responded that they would choose a Moldovan product even if it will be more expensive, provided that the price difference would be reasonable. Unfortunately, according to the survey results, the notion of geographical indication is practically unknown. However, after respondents have been explained the essence of the notion of product with geographical indication it proved to place on products a potential added value. Of the 77% of people who answered affirmatively to the question whether they would be ready to pay more for a product with protected geographical indication 47.3% declared themselves ready to pay up to 10% extra, 43.58 % 10-20% more and 9.12% said they were prepared to pay even more than 20%. We recall in this connection that according to a poll conducted in 1999 in the Community space over 20,000 people, 51% of respondents said they were prepared to pay 10-20% more for a product with protected geographical indication to an equivalent product without protected geographical indication [5]. According other two studies conducted in 1996 and 1999 over 16,000 people in the Community space, 43% of the Community consumers are willing to pay extra 10% for products with protected geographical indication; 8% would pay extra 20%; and 3% would be ready to pay up to 30% more for products with protected geographical indication compared to a similar product which shows no signs of quality and origin [5].

Table 2

*The degree of confidence given by respondents to Moldovan products*

If the price of an agricultural product or foodstuff is the same will you?

		prefer a Moldovan product		prefer an imported product		make no difference by the criterion of geographical origin	
<b>Total</b>		<b>337</b>	<b>88%</b>	<b>9</b>	<b>2%</b>	<b>39</b>	<b>10%</b>
<b>Medium</b>	<b>Rural</b>	162	48%	4	44%	17	44%
	<b>Urban</b>	175	52%	5	56%	22	56%
<b>Sex</b>	<b>Feminine</b>	179	53%	6	67%	21	54%
	<b>Masculine</b>	158	47%	3	33%	18	46%
<b>Age</b>	<b>15-24</b>	31	9%	4	44%	12	31%
	<b>25-34</b>	99	29%	1	11%	12	31%
	<b>35-49</b>	131	39%	2	22%	11	28%
	<b>50 and more</b>	76	23%	2	22%	4	10%
<b>Education</b>	<b>Incomplete secondary</b>	14	4%	3	33%	7	18%
	<b>Secondary</b>	106	31%	3	33%	17	44%
	<b>Incomplete higher</b>	79	23%	2	22%	6	15%
	<b>Higher</b>	138	41%	1	11%	9	23%
<b>Level of income</b>	<b>Low (less than 1650 *MDL per person)</b>	114	34%	1	11%	15	38%
	<b>Average (1650 – 3050 MDL per person)</b>	147	44%	7	78%	15	38%
	<b>High (more than 3050 MDL per person)</b>	76	23%	1	11%	9	23%

\*1 MDL ~ 0,05 EUR

Source: [11].

In terms of results obtained in the Republic of Moldova, we draw the attention on the fact that the level of income influences not only the willingness to pay more but also the amount that the local consumer is ready to pay, thus, the higher the income is the readily the consumer will be to pay more in order to have the guarantee of origin and quality of an agricultural product or foodstuff.

Table 3

*Distribution of respondents prepared to pay more for a product with geographical indication by categories of income*

Are ready to pay more for a product with geographical indication

	Income up to 1650 *MDL/person		Income from 1650 to 3050 MDL/person		Income greater than 3050 MDL/person	
	No. of respond.	%	No. of respond.	%	No. of respond.	%
Up to 10%	61	62%	57	45%	22	31%
10-20%	32	32%	62	49%	35	50%
More than 20%	6	6%	8	6%	13	19%
<b>Total</b>	<b>99</b>	<b>100%</b>	<b>127</b>	<b>100%</b>	<b>70</b>	<b>100%</b>

\*1 MDL ~ 0,05 EUR

Source: [11].

**Conclusions.** Geographical indications system is a new system for the Republic of Moldova and is not yet used and appreciated at its true value. The results obtained by the Republic of Moldova in the field of the protection of geographical indications so far are modest and do not correspond to the real potential of our country in this area.

In the economic sense, geographical indications represent an advanced tool to exploit products with guaranteed origin and we firmly believe that this tool may be successfully implemented in our economy.

In conclusion, we should assert that the harmonious development of geographical indications system in the Republic of Moldova is in the interests of all economic actors:

- Producers get an effective mechanism for product differentiation and concomitantly for loyalty of customers;

- Consumers get access to a quality system reliably guaranteed by the manufacturer and the State;

- State benefit from the increased quantity and value of the consumption of local products.

Thus why, we believe that the agricultural policy of the Republic of Moldova shall be revised in the view of implementing the system of geographical indications.

#### REFERENCES

1. BARHAM, E. Translating terroir: the Global Challenge of French AOC Labeling. In: Journal of Rural Studies. 2003, vol. 19, issue 1, pp. 127-138 [accesat 12 februarie 2015]. Disponibil: [http://www.uky.edu/~tmute2/geography\\_methods/readingPDFs/barnam\\_terroir.pdf](http://www.uky.edu/~tmute2/geography_methods/readingPDFs/barnam_terroir.pdf)
2. BIROUL REGIONAL AL FAO PENTRU EUROPA ȘI ASIA CENTRALĂ (REU). Evaluarea situației privind agricultura și dezvoltarea rurală în țările parteneriatului estic. Republica Moldova [accesat 12 februarie 2015]. Disponibil: <http://www.fao.org/docrep/field/009/aq675ro/aq675ro.pdf>
3. CHEVER, T., RENAULT, C. et al. Value of production of agricultural products and foodstuffs, wines, aromatized wines and spirits protected by a geographical indication. 2012, october [accesat 12 februarie 2015]. Disponibil: [http://ec.europa.eu/agriculture/external-studies/2012/value-gi/summary\\_en.pdf](http://ec.europa.eu/agriculture/external-studies/2012/value-gi/summary_en.pdf)
4. VANDECANDELAERE, E., ARFINI, F., BELLETTI, G., MARESCOTTI, A. *Linking places, people, products: A guide for promoting quality linked to geographical origin and sustainable geographical indications*. Rome: FAO, 2010. 194 p. ISBN 978-92-5-106656-0.
5. GIOVANNUCCI, D. et al. *Guide to Geographical Indications: Linking Products and Their Origins*. Geneva, 2009. 207 p. ISBN 92-9137-365-6.
6. MUNTEANU, S. *Protecția indicațiilor geografice - subiect de actualitate politică și economic*. In: Intellectus. 2007, nr. 1, pp. 26-33. ISSN 1810-7079.
7. O'CONNOR, B. *The Law of geographical Indications*. London: Cameron May Ltd, 2004. 501 p. ISBN 9781874698999.
8. THOMPSON, S.R. et al. Markets Segmented by Regional - Origin Labeling with Quality Control. In: Conference of the International Association of Agricultural Economists (IAAE): international conference, august 12-18 2006. Gold Coast, 2006 [accesat 12 februarie 2015]. Disponibil: <http://ageconsearch.umn.edu/bitstream/25530/1/cp060511.pdf>
9. AGEPI. Indicații geografice [accesat 12 februarie 2015]. Disponibil: [www.db.agepi.md/GeogrIndications/SearchGI.aspx](http://www.db.agepi.md/GeogrIndications/SearchGI.aspx)
10. Biroul Național de Statistica [accesat 12 februarie 2015]. Disponibil: [www.statistica.md](http://www.statistica.md) 2015
11. MOGOL, N. Evaluarea perspectivelor sistemului indicațiilor geografice în Republica Moldova. In: Intellectus. 2014, nr. 3, pp. 38-48.

**Recommended for publication: 17.05.2015**