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Control system for non-wine GIs: how to make it genuine working in small market settings: a bunch of adaptive recommendations for Moldova

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Red tape: here's the rub

To further advance and promote the EU **voluntary food quality schemes** (PGI/PDO/TSG) for non-wine products in Moldova, the regulators along with the key industry stakeholders must get together and substantially improve access & competitiveness of control system for the GIs.

The offer of institutions performing controls of PGIs specifications or Control Bodies/CB, holding the required accreditation or reaccreditation issued by the National Accreditation Center in Moldova (MOLDAC), being in line with the international standards, including EN 45011, AA/DCFTA and national law of Moldova **is stunningly limited**.

The problem is fairly urgent and acute what regards Control Bodies for PGI/PDO/TSG **non-wine food products**: formally there is no CB with full (for both product + PGI/PDO/TSG) accreditation in Moldova. For cumbersome bottlenecks in the control system for non-wine PGIs in Moldova see the textbox.

Under the project implemented in 2015 in Moldova by Development Policy Foundation, (co-founded by Polish Aid) 2 products were registered as PGI (Rose Petals Jam of Calarasi and Apricot Palinka of Nimoreni). Nevertheless, to use PGI quality under the temporary national protection, producers' groups must undergo the control procedure (specification compliance), being currently impossible, due to the lack of appropriate control body in Moldova: holding valid accreditation for particular product class & being qualified to control PGI/PDO/TSG products at once.

As for September 2016, no control body in Moldova was accredited for PGI/PDO/TSG non-wine food products, according to the list published on MOLDAC's website. Among 15 institutions listed, only three of them are qualified to control fruit or vegetable preserves and two for fruit distillates respectively, **but none of them accredited for PGI/PDO/TSG**¹.

¹ MOLDAC, http://www.acreditare.md/public/files/registre/12_Registru_OCpr_mod_18_din_20.09.2016.pdf

The general MD accreditation system is highly bureaucratized, creating disproportionate barriers of entry for both local & international CBs: **accreditation procedure for non-wine PGI/PDO/TSG control bodies in Moldova is genuine burdensome, complex, costly and time-consuming, given little risk scope (voluntary scheme, supplementary to food safety checks) & shallow market & tangible untapped social impact of GIs in MD.**

The procedure of granting accreditation to CAB (Conformity Assessment Body) by MOLDAC is scheduled for maximum 2 years. At first the application is submitted, and then the assessment process follows (Law 235/2011, annex 1). The accreditation cycle lasts 4 years; reassessment can be applied 6 month before the expiry date. [BASED on Accreditation rules of MOLDAC, edition 5, issued on 03.03.2016].

What concerns the accreditation procedure for PGI/PDO/TSG products, MOLDAC issued the instructions (June 2016), applicable for wine products **only**². According to the document, the procedure is the same as in the case of accreditation for particular products classes, but it is always treated as initial accreditation – in case of control bodies already accredited for certifying products, passing the whole procedure once again is mandatory (lasting up to 2 years).

Puzzling complexity & entanglements of accreditation procedure has serious impact on the Control Bodies market: curbing market offer and triggering high indirect costs (related to accreditation process), being transferred onto the producers. **In effect, the costs of control are disproportionate to the benefits: the interest in the GIs products and the demand on the market is faint, the producers themselves don't seek this opportunity.**

The negative determinants of the compulsory certification and its impact on the producers, as well as market demand, are investigated by Jean-Luis Racine in World Bank commissioned study. The author states that the compulsory certification, as a legacy of Soviet times, being in most cases imposed on by the state, doesn't play the role of product or service quality confirmation for businesses. Another issue raised in the report is the multiplication of procedures and regulatory bodies: often the regulations imposed by different government bodies overlap, which forces the producers to obtain certification and inspection multiple times by different agencies – in case of food products they can be regulated by the national standards body, Ministry of Agriculture and Ministry of Health. A common practice is to use the product certification in the cases, when market surveillance would be a more effective solution. The requirements to be fulfilled by the producers contain the large list of detailed technical product characteristics (in case of Ukraine it can take the form of imposing recipes). Due to the complexity and multiplication of regulations and agencies responsible, entrepreneurs have difficulties in collecting information about the requirements. Moreover, the process is lengthy, expensive and creates a risk for corruption (average annual certification costs for Ukrainian SMEs, including labor costs, testing, official and unofficial payments, amounted to US\$2,000). The problem is also when the domestic conformity assessment body is missing. This situation generates additional costs for entrepreneurs for shipping, custom duties and time resources to certify and test their products abroad (it is related mostly to the small economies – e.g. Albania, Georgia or Moldova)³.

²Moldac, http://www.acreditare.md/public/files/Instructiuni/CS-OCpr-02_VIN_-_DOP_IGP_-_site.pdf.

³Racine, Jean-Louis. 2011. Harnessing Quality for Global Competitiveness in Eastern Europe and Central Asia. World Bank. © World Bank. <https://openknowledge.worldbank.org/handle/10986/2305> License: CC BY 3.0 IGO, pp. 197 – 221.

How to reconcile these arguments: variety is the spice of life & a quest for golden mean

Testing the models and solutions in praxis regulatory lab or flexible & **adaptive pathway formula** can be of the most effective solution for non-wine GI's control access entanglement in Moldova.

The control for non-wine GIs case is perfectly suiting **the adaptive path pilot model for industry dialog regulatory adjustment formula**: being voluntary & relatively low-risk & narrow-scoped (a few products & a few respective producers' groups) & limited stakeholders group & thus easy to manage & monitor & adapt and enforce the change, if needed: as such would be related to traceability and specification conformity for a few & narrow GI oriented products (in total 3-5) and its producers, raw materials suppliers, associated in groups or associations, with a mechanisms of mutual control already existing (instruments of traceability of origin).

The pilot model will focus exclusively on **non-wine GIs oriented control system** - the initial phase should avoiding risk-prone & controversial food safety issues. Though, the focal big producers (associated in the producers groups) in principle already have sanitary & food safety certification enabling them access not only to Moldavian, but also European common market and beyond.

How it works in the EU: it's not all rosy, still it's pretty *satisfactory*

The key concerns towards the official control systems in EU Member States are outlined in the recent audit report on this matter issued by DG Health & Food Safety (The audit's objective was the evaluation of the official control systems in place of the implementation of EU legislation concerning PDO/PGI/TSG for products, traceability and labeling.)⁴. The audit proofs various non-compliances problems, however the overall evaluation was summed up as **satisfactory, which in this case means effective, pragmatic actions, despite serious legal inconsistencies and administrative negligence.**

⁴ Overview report on a series of audits on Protected Designations of Origin (PDO), Protected Geographical Indications (PGI) and Traditional Specialities Guaranteed (TSG) for agricultural products and foodstuffs in EU Member States 2012-2014; Directorate-general for Health and Food Safety, EU 2015.

Generally, referring to the PDO/PGI/TSG sector, the lack of supervision of the CBs by the competent authorities were described as the key concern, however, as it was admitted, this fact did not influence the quality and result of controls performed.

In one MS the unaccredited CB was certifying GI products. Another example revealed that the control bodies in one MS, although accredited, **didn't have proper certificates to undertake official controls on PDO/PGI/TSG, which they performed. In other MS, during the audit, there was no duly accredited CB to undertake official controls of PGI/PDO/TSG, as all CBs were under accreditation process.**

A frequent problem identified in supermarkets was that PDO/PGI/TSG products were labelled incorrectly, in the moment they were divided and relabelled in terms of the market internal standards. A common finding in these cases was a lack of critical information – eg. that they were a PDO/PGI/TSG. On the other hand, some good practices in this field were observed: in one MS supermarket inspectors checked the correct products names and labels in DOOR database. Or, one marketing company had pre-prepared labels to ensure that product that was subdivided at retail level did not lose its PDO/PGI/TSG identity.

In one MS, official controls at farm and grower level were not undertaken, as the relevant **CAs had not been designated.**

A bunch of recommendations for MD:

The proposed solution draws on the following legal acts:

- Art. 367/ facilitation to trade + article 222/ Mutual Recognition & Annex 13 of AA EU – MD; set of practices & guides and recommendations by international standardizing bodies by ISO/ including article 6.4/national treatment of CASCO standards, further recommendations by IAF (International Accreditation Forum) & EA (European Accreditation) & ILAC/international organization for accreditation bodies on conformity recognition ISO 65/ EN 45011 for GIs;
- Article 8 of WTO TBT/ technical barriers to trade: CBs may enter into agreements with each other to help facilitate trade & contracting out accreditations from foreign CBs;
- EA2/17 used in combination with the relevant harmonized standards for conformity assessment bodies (e.g. OFIS/ EU organic CB list) and the related guidance documents issued by EA, ILAC and IAF;
- Article 14(1) of MD Law 235:2011 (published on 08.04.2016 in Romanian version with modifications) & result of the Twinning Light project “Support for the National Accreditation Centre MOLDAC to successfully undergo the EA peer evaluation process in order to be accepted as a signatory of the EA MLA for the selected scope”, implemented between September 2015 - April 2016, by Italian Accreditation Body ACCREDIA. The project purpose was to prepare National Accreditation Centre to sign the Bilateral Agreement with the European Cooperation for Accreditation, by successful closing of all the findings identified during the peer-evaluation of MOLDAC by EA team, further the LAW 235/2011 of MD was amended. The most significant changes were introduced to the chapter about international cooperation: the whole new chapter was introduced related

to the recognition of notification of CABs accredited in EU Member States (Art. 14(1), point 3), **still pending until the entry into force of the ACE Agreement (Agreement on Conformity Assessment and Acceptance of Industrial Products Protocol to the Association Agreement);**

- EU & MD broad prospects for mutual recognition agreements (MRAs) for conformity assessment;
- Accreditation procedure of MOLDAC in scope of ISO 65/ EN 45011;

How to proceed: in 2 simple steps:

- 1) The accreditation procedure of **Control Body (ISO 65/EN 45011) for non-wine GIs should be possibly simplified, streamlined and automatized: under the broad national treatment formula, both for bodies/entities accredited or registered in Moldova and the EU Member States, with a possibility of re/contracting in the EU of specific Control Body/institution accredited in EU by the Moldovan Control Bodies without the proper accreditation (ISO 65/EN 45011).**

The “light” accreditation form available online/via MOLDAC website should be considered & implemented & put into use: form with the attachments (uploads pockets), the link/s to respective & relevant accreditation of concerned CB or appropriate official CA registry in Member States, for a minimal administrative processing fee or just free of charge, with a pretty short deadline of approval, rejection or feed-back - listing of lacks & deficiencies, via email, without necessity of applying in person. Likewise it's for instance in PL: <http://www.minrol.gov.pl/Jakosc-zywnosci/Produkty-regionalne-i-tradycyjne/Kontrola-i-certyfikacja>

- 2) Regulatory improvement & joint permanent monitoring should introduced via established **all stakeholders embracing (regulators & producers & CBs: National Food Safety Agency /ANSA + field and accreditation units/MOLDAC + Ministry of Agriculture and Rural Development + AGEPI + EU DEL + NGOs + further interested parties) Multi-Stakeholders Task Force for Mainstreaming of non-wine GIs in MD (industry dialog & adaptive regulatory pathway approach);** With a mandate for monitoring, review and evaluation of post-control reports, conformity certification, as well as a mechanism of problem and needs identification regarding further controls or its procedural improvement, further mainstreaming of non-wine GIs in MD, in a spirit of trust & internal/mutual control seeding mechanism for the groups/ associations and its members.

The proposed adaptive pathway formula draws on open industry dialogue, Chatham House Rule (inducing openness), independent reviews by the facilitators and regular external/mutual & cross evaluations, being widely used in the EU and beyond in various sectors & narrow/specific regulatory scopes.

The publication expresses exclusively the views of the author and cannot be identified with the official stance of the Ministry of Foreign Affairs of the Republic of Poland

Bibliography:

Accreditation rules of MOLDAC, edition 5, issued on 03.03.2016:
http://www.acreditare.md/public/files/documente_informative/eng/4_RA_Accreditati_on_Rules_edition_5.pdf;

Overview report on a series of audits on Protected Designations of Origin (PDO), Protected Geographical Indications (PGI) and Traditional Specialities Guaranteed (TSG) for agricultural products and foodstuffs in EU Member States 2012-2014; Directorate-General for Health and Food Safety, EU 2015;

EIP-AGRI Focus Group on Innovative Short Food Supply Chain management, final report, 30 November 2015; https://ec.europa.eu/eip/agriculture/sites/agri-eip/files/eip-agri_fg_innovative_food_supply_chain_management_final_report_2015_en.pdf;

Racine, Jean-Louis. 2011. Harnessing Quality for Global Competitiveness in Eastern Europe and Central Asia. World Bank. © World Bank. <https://openknowledge.worldbank.org/handle/10986/2305> License: CC BY 3.0 IGO, pp. 197 – 222.