



**The European Union's Neighbourhood Programme for the Republic of Moldova**

**Support to Enforcement of the  
Intellectual Property Rights**

*EuropeAid/137467/DH/SER/MD*

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**Analysis of the Geographical Indications  
Status in the Republic of Moldova**

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**Support to Enforcement of the  
Intellectual Property Rights**

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**Annex 14**

# **Analysis of the Geographical Indications Status in the Republic of Moldova**

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### Abbreviations

AA	Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part
AAP	Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs
AGEPI	State Agency on Intellectual Protection
AO	Appellations of Origin
ACA	Agency for Court Administration
ACP	Agency for Consumer Protection
CB	Capacity Building
CS	Customs Service
DCFTA	Deep and Comprehensive Free Trade Area
EU	European Union
GD	Governmental Decision
GI	Geographical Indication
IP	Intellectual Property
IPO	Intellectual Property Objects
IPR	Intellectual Property Rights
MOLDAC	Moldac
MoAFI	Ministry of Agriculture and Food Industry
MoC	Ministry of Culture
MoE	Ministry of Environment
MoF	Ministry of Finance
MoH	Ministry of Health
MoJ	Ministry of Justice
MoRDC	Ministry of Regional Development and Construction
NFSA	National Food Safety Agency
PNAIAA	National Action Plan for the Implementation of the Moldova-EU Association Agreement
RM	The Republic of Moldova
SNPI 2020	National Intellectual Property Strategy until 2020
TRIPS	Trade-Related Aspects of Intellectual Property
TSG	Traditional Specialty Guaranteed
WIPO	World Intellectual Property Organization



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## Introduction

The present analysis aims to establish the current state of the GI system of RM, by analyzing the evolution of the legal framework, the institutional capacity and the level of implementation of various strategies and action plans in the domain.

The analysis seeks to identify the gaps present in the GI system, the issues that are causing the gaps, the regulatory gaps and the institutional capacity of relevant state authorities on addressing the identified gaps.

The objectives of the analysis are to establish:

- the timeline of the evolution of the GI system in RM, with a focus on the latest evolution in the area, including on laws, decisions, orders emitted by competent authorities;
- the fulfillment of the proposals as to geographical indications of the EC/TACIS project “*Support to PCA and WTO Implementation and to the EU-Moldova European Neighbourhood Policy Action Plan (ENPAP)*” and the EC TACIS Programme “*Strengthening the legislative framework and enhancing the enforcement of industrial property protection legislation*”;
- the level of implementation of the DCFTA Association Agreement (AA) between the EU and Moldova concerning the requirements for Geographical Indications and of the EU-Republic of Moldova Agreement on Geographical Indications;
- the level of fulfillment of the National Strategy on Intellectual Property;
- the level of implementation of the recommendations of the “*Study on how to improve the protection of geographical indications, appellations of origin and traditional specialties guaranteed in the Republic of Moldova*”;
- the training needs of the personnel involved in the GI system, including, but not limited to AGEPI’ officers.

While the analysis is not focused on identifying solution mechanisms for the identified issues, it will identify a potential area of interest in addressing the identified gaps.

### 1. Main steps of development of legal framework on geographical indications protection in Moldova

The legal framework on applicable to the reference area has evolved throughout the years, from general provisions to a complex normative framework, harmonized with the *acquis communautaire* and with the international treaties to which the Republic of Moldova is a party.



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In the period between **1993-1998**, a series of acts such as GD no. 456 of 26.07.1993 on the approval of the Regulation on the Protection of Industrial Property in Moldova<sup>1</sup> (obsolete), Law of Wine and Vine no. 131 of 02.06.1994<sup>2</sup> (obsolete) and the subsequent GD no. 760 of 10.11.95 on approving the Regulation for the production of the wine and of other wine products with appellations of origin<sup>3</sup>, the Law no. 588-XIII on the protection of trademarks and appellations of origin of the products<sup>4</sup> (obsolete), contained some rather general provisions on the protection of the AOs, yet none of the regulations mentioned above approached the GI term as defined by international treaties. As such, no significant evolution in the GI domain can be mentioned.

On the 1<sup>st</sup> of July 1998, the “Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, on the one hand, and the Republic of Moldova, on the other hand,”<sup>5</sup> signed in Brussels on 28 November 1994, came into force. Under the provisions of articles 49 and 50 of the PCA (objectives related to the intellectual property right), RM must ensure a level of protection of the IP rights similar to the level applied by the EU, **including** effective means to ensure the exercise of these rights.

As a result, during the **2000-2008**, a series of amendments to existing regulations introduced the concept of GI in the national legislation. Additionally, a series of provisions on border protection measures, including on the protection of AO have been established in the Customs Code of the Republic of Moldova, adopted on 20.07.2000. Of particular interest for the GI system is Law No. 103 of 16.05.2008<sup>6</sup> that modified the Customs Code of Republic of Moldova<sup>7</sup>, by introducing provisions related to the application of frontier measures for the protection of the GIs.

In the same period, RM became signed 3 important agreements in the area:

- the “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods,” of 14 April 1891 (Law No. 1330 of 27.10.2000<sup>8</sup>);
- the “Lisbon Agreement for the Protection of Appellations of Origin and their International Registration,” of 31 October 1958 (Law No. 1328 of 27.10.2000<sup>9</sup>) including the “Geneva Act of the Lisbon Agreement on the Designations of Origin and Geographical Indications”;
- the “Minsk Agreement on Cooperation for the Prevention and Repression of False Trademarks and Geographical Indications.

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<sup>1</sup> [Hotărîrea Guvernului nr.456](#) din 26.07.1993 cu privire la protecția proprietății intelectuale în republica Moldova.

<sup>2</sup> [Legea nr. 0131](#) din 02.01.1994 vîei și vinului.

<sup>3</sup> [Hotărîrea Guvernului Nr. 760 din 10.11.1995](#) pentru aprobarea Regulamentului de producere a vinurilor și altor produse vinicole cu denumire de origine.

<sup>4</sup> [Legea Nr. 588 din 22.09.1995](#) privind mărcile și denumirile de origine a produselor.

<sup>5</sup> [Acordul de Parteneriat și Cooperare](#) din 28 noiembrie 1994, intrat în vigoare la 1 iulie 1998.

<sup>6</sup> [Legea Nr. 103 din 16.05.2008](#) pentru modificarea și completarea unor acte legislative.

<sup>7</sup> [Codul Vamal nr. 1149](#) al Republicii Moldova.

<sup>8</sup> [Legea Nr. 1330 din 27.10.2000](#) pentru aderarea Republicii Moldova la Aranjamentul de la Madrid privind sancțiunile pentru indicațiile false sau înșelătoare de proveniență a produselor.

<sup>9</sup> [Legea Nr. 1328 din 27.10.2000](#) pentru aderarea Republicii Moldova la Aranjamentul de la Lisabona privind protecția indicațiilor locului de origine a produselor și înregistrarea lor internațională.



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On the 27<sup>th</sup> of March 2008, the Parliament of the Republic of Moldova **adopted** the Law no. 66-XVII on the protection of the geographical indications, appellations of origin and traditional specialties guaranteed<sup>10</sup> that entered into force on 25<sup>th</sup> of October of the same year. It was the first normative act that established a useful framework for the GI system and established the fundament of the protection of the GI system in RM. Over the years; the law was **amended** by Law No. 97 of 13.05.2016<sup>11</sup> and Law No. 101 of 26.05.2016<sup>12</sup> to reflect the latest harmonization with the EU legislation.

In addition to the law mentioned above, as of May 2017, the GI system in Moldova is regulated by the **following** normative acts:

- Law No. 101 on Approval of National Symbols Associated with Protected Geographical Indications, Protected Appellations of Origin and Traditional Specialties Guaranteed – that establishes the symbols related to GI, AO and TSG designated goods or products and the right to use the GI, AO or TSG designation<sup>13</sup>;
- Law No. 57-XVI of March 10, 2006, on vineyards and wines<sup>14</sup> that establishes regulations related to the production of wines with appellation of origin, with registered designation of origin and with geographical indication;
- GD No. 610 of July 5, 2010, on submission, examination, and registration of geographical indications names, appellations of origin and traditional specialties guaranteed that approves the Regulation on submission, examination, and registration of GI AO and TSG<sup>15</sup>;
- GD No. 644 of July 19, 2010, on appointing competent authorities empowered with attributions and responsibilities related to the products with appellations of origin, geographical indications and traditional specialties guaranteed, and competent authorities responsible for official controls on the conformity of the products<sup>16</sup>;
- GD no. 356 of June 11, 2015, on approval of the Technical Regulation “Organization of the wine market”<sup>17</sup> that establishes requirements related to the raw materials, the used technological procedures, the conformity evaluation procedures,

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<sup>10</sup> [Legea Nr. 66 din 27.03.2008](#) privind protecția indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate.

<sup>11</sup> [Legea Nr. 97 din 13.05.2016](#) pentru modificarea și completarea Legii nr. 66-XVI din 27 martie 2008 privind protecția indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate.

<sup>12</sup> [Legea Nr. 101 din 26.05.2016](#) pentru modificarea unor acte legislative.

<sup>13</sup> [Legea Nr. 101 din 12.06.2014](#) pentru aprobarea simbolurilor naționale asociate indicațiilor geografice protejate, denumirilor de origine protejate și specialităților tradiționale garantate.

<sup>14</sup> [Legea Nr. 57 din 10.03.2006](#) viei și vinului.

<sup>15</sup> [Hotărârea Guvernului nr. 610](#) din 05.07.2010 de depunere, examinare și înregistrare a indicațiilor geografice, a denumirilor de origine și a specialităților tradiționale garantate.

<sup>16</sup> [Hotărârea Guvernului nr. 644](#) din 19.07.2010 cu privire la desemnarea autorităților competente abilitate cu atribuții și responsabilități referitoare la produsele cu denumiri de origine și indicații geografice și la specialitățile tradiționale garantate și a autorităților competente responsabile de controalele oficiale privind conformitatea acestor produse.

<sup>17</sup> [Hotărârea Guvernului Nr. 356](#) din 11.06.2015 cu privire la aprobarea Reglementării tehnice „Organizarea pieței vitivinicole”.



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and the specific requirements for market surveillance, wine production traceability, etc. essential for the wines with GI and AO.

- GD no. 915 of July 26, 2016, on approval of the Regulation on enforcement of intellectual property rights by customs authorities<sup>18</sup>, that establishes procedures for the protection of IPR, including for products of GI, AO and TSG designation;
- MoAFI Order No. 50 of April 4, 2012, on the approval of the demarcation of wine - growing areas for the production of wines with a protected designation of origin<sup>19</sup>;
- MoAFI Order No. 149 of August 4, 2015, on the procedure for approval of food products specification with appellations of origin (AO), geographical indications and traditional specialties guaranteed<sup>20</sup>;
- MoAFI Order No. 12 of January 12, 2016, on the delimitation of wine-growing areas for the production of wines with a protected geographical indication<sup>21</sup>;

It should be noted that the protection of the GI system is also enforced in the Criminal Code of the Republic of Moldova No. 122-XV and the Contravention Code of the Republic of Moldova No. 218-XVI, that establishes sanctions for infringements in the GI field. Subsequently, the procedural aspects are referred to in the Code of Criminal Procedure of the Republic of Moldova No. 122-XV.

The development of the GI system in RM is envisioned in National Intellectual Property Strategy until 2020 approved by GD no. 880 of 22.11.2012<sup>22</sup> and the subsequent action plans:

- The Action Plan for 2012-2014 on the National Intellectual Property Strategy until 2020<sup>23</sup>
- The Action Plan for 2015-2017 on the National Intellectual Property Strategy until 2020<sup>24</sup>

In addition to the strategy mentioned above, the development of the GI system in RM is also a key element of the Association Agreement (AA) between the Republic of Moldova and the European Union and the associated action plans:

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<sup>18</sup> [Hotărîrea Guvernului nr. 915](#) din 26.07.2016 pentru aprobarea Regulamentului privind asigurarea respectării drepturilor de proprietate intelectuală de către organele vamale .

<sup>19</sup> [Ordin Nr. 50 al Ministerul Agriculturii și Industriei Alimentare](#) din 04.04.2012 cu privire la delimitarea ariilor geografice vitivinicole pentru producerea vinurilor cu indicație geografică și cu denumire de origine.

<sup>20</sup> [Ordin Nr. 149 al Ministerul Agriculturii și Industriei Alimentare](#) din 04.08.2015 cu privire la procedura de omologare a caietelor de sarcini pentru produsele agroalimentare cu denumiri de origine, indicații geografice și specialități tradiționale garantate.

<sup>21</sup> [Ordin Nr. 12 al Ministerul Agriculturii și Industriei Alimentare](#) din 28.01.2016 cu cu privire la delimitarea ariilor geografice vitivinicole pentru producerea vinurilor cu indicație geografică protejată.

<sup>22</sup> [Hotărîrea Guvernului nr. 880](#) din 22.11.2012 cu privire la Strategia națională în domeniul proprietății

intelectuale pînă în anul 2020.

<sup>23</sup> *Ibidem.*

<sup>24</sup> [Hotărîrea Guvernului nr. 491](#) din 11.08.2015 cu privire la aprobarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale pînă în anul 2020.



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- National Action Plan for Implementation of the Association Agreement Republic of Moldova - European Union in the period 2014-2016<sup>25</sup>
- National Action Plan for Implementation of the Association Agreement Republic of Moldova - European Union in the period 2017-2019<sup>26</sup>

A constituent element of the AA is the Agreement between the Republic of Moldova and the European Union on the protection of the geographical indications for the agricultural and food products<sup>27</sup> (AAFP) ratified by the European Union on 26.10.2012, and by the Republic of Moldova on 27.12.2012 and entered into force on 01.04.2013<sup>28</sup>. The AAFP establishes the list of mutually protected GIs and AOs. Also, the Agreement stipulated the *ex officio* compliance with the rights and the mutual protection of the GI and AO of a party on the territory of the other party. It established the principles on control of the internal markets, of the conformity of the products, as well as of the import and export of goods, for preventing the infringement of the rights.

The Agreement provisions fall within the provisions of the Deep and Comprehensive Free Trade Area (DCFTA), the arrangement between the EU and the Republic of Moldova that establishes a preferential trade relationship, based on mutually advantageous treatment. The DCFTA is a part of the AA, and is aimed at promoting and protecting quality agricultural products.

## 2. Government bodies and state control authorities with responsibilities in GI sphere

To **enforce** the provisions of articles 33 and 34 of the Law No. 66/2008 on the protection of the geographical indications, appellations of origin and traditional specialties guaranteed, GD no. 644 of 19.07.2010 on the designation of competent authorities vested with powers and responsibilities relating to products with appellations of origin and geographical indications and traditional specialties guaranteed, and competent authorities responsible for official controls on the conformity of those products, depending on the categories of products and their specific characteristics was approved. The decision establishes the competencies of the national institutions involved in the development and protection of the GI system in RM

### *AGEPI*

The primary role in the system of protection of geographical indications lies with the State Agency for Intellectual Property (AGEPI), which is the national office in the **field of**

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<sup>25</sup> [Hotărîrea Guvernului nr. 808](#) din 07.10.2014 cu privire la aprobarea Planului național de acțiuni pentru implementarea Acordului de Asociere Republica Moldova – Uniunea Europeană în perioada 2014-2016.

<sup>26</sup> [Hotărîrea Guvernului nr. 1472](#) din 30.12.2016 cu privire la aprobarea Planului național de acțiuni pentru implementarea Acordului de Asociere Republica Moldova – Uniunea Europeană în perioada 2017-2019.

<sup>27</sup> [Acordul dintre Republica Moldova și Uniunea Europeană](#) privind protecția indicațiilor geografice pentru produsele agricole și alimentare.

<sup>28</sup> [Legea Nr. 317 din 27.12.2012](#) pentru ratificarea Acordului dintre Republica Moldova și Uniunea Europeană cu privire la protecția indicațiilor geografice ale produselor agricole și alimentare.



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**intellectual property protection and the only authority that grants legal protection** to the GI on the territory of the Republic of Moldova. According to art. of the Law No. 66/2008 on the protection of the geographical indications, appellations of origin and traditional specialties guaranteed, AGEPI is also the competent authority of the Republic of Moldova within the Special Union of the Member States to the Lisbon Agreement.

### *Ministry of Agriculture and Food Industry*

MoAFI is the competent authority empowered with attributions and responsibilities related to the following products with potential appellations of origin, geographical indications and traditional specialties guaranteed designation: *cereals and cereal products, fruits and fruit products, vegetables and vegetable products, nuts, teas, natural extracts from plants, oils, meat and meat products, fish and fish products, milk and dairy products, food, eggs, honey, confectionery products, bread and bakery products, pasta, spices, sauces, cosmetic products, essential oils, tobacco and tobacco products, wine and alcoholic products, beer, non-alcoholic drinks, natural mineral waters*. MoAFI is also entitled to approve or reject specifications for correspondent GI, AO and TSG products.

### *Ministry of Regional Development and Construction*

MoRDC is the competent authorities on approving GI specifications for *construction materials and products*.

### *Ministry of Culture*

MoC is the competent authority for potential *handicraft* products that can benefit of GI, AO and TSG designations.

### *Ministry of Environment*

The MoE is the competent authority with tasks and responsibilities related to the mineral raw material with appellations of origin and geographical indications such as *stone, sand, clay, diatomite, tripoli formation, bentonite, etc.*

### *Ministry of Health*

The MoH, according to GD no. 644 of 19.07.2010, is the competent authority with attributions and tasks related to the products with appellations of origin and geographical indications such as *medicinal mineral waters; medicinal teas; para-pharmaceutical products*.

The mentioned authorities are responsible for **approving task specifications, finalizing general principles, approving stages and control procedures** to ensure **compliance with specifications**.

On the other hand, the following institutions are responsible for **official controls** on the **conformity** of products with designations of origin and geographical indications and traditional specialties guaranteed by particular areas:

- Agency for Consumer Protection– *all areas*;
- National Food Safety Agency – *cereals and cereal products (flour, groats), fruits and fruit products, vegetables and vegetable products, nuts, tea, natural herbal extracts, oils, tobacco and tobacco products*;
- Wine and Food Technology Centre of the Scientific-Practical Institute of Horticulture and Food Technologies – *cereals and cereal products (flour, groats)*,



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*fruits and fruit products, vegetables and vegetable products, nuts, tea, natural herbal extracts, oils;*

- Sanitary-Veterinary Agency and the Safety of Products of Animal Origin – *meat and meat products, fish and fish products, milk and dairy products, food, fats, eggs, honey;*
- State Inspectorate for the Supervision of Alcohol Production – *wine and alcoholic beverages;*
- State Public Health Surveillance Service– *soft drinks, natural mineral waters;*
- State Inspection in Construction – *building materials and products;*
- Ministry of Culture – *handicraft items;*
- Agency for Geology and Mineral Resources– *mineral raw material (stone, sand, clays, diatomite, tripol, bentonite, etc.);*
- The Medicines Agency – *medical mineral waters, medicinal teas, pharmaceutical products.*

### 3. Recommendations and tasks of international agreements, national programs and action plans and international and national projects in GI sphere and their fulfillment

3.1. The EC projects “Support to PCA and WTO Implementation and to the EU-Moldova European Neighbourhood Policy Action Plan (ENPAP)” and the EC TACIS Programme “Strengthening the legislative framework and enhancing the enforcement of industrial property protection legislation”.

The EU project “Support to PCA and WTO Implementation and the EU-Moldova European Neighbourhood Policy Action Plan (ENPAP)” was an essential project for RM targeted at **strengthening the institutional development** of RM state institutions. The project aimed at providing the necessary assistance for implementing the PCA and ENP AP provisions in RM.

The project focused on strengthening the capacity of relevant Moldovan institutions on policy and legal aspects including on *legal approximation, raising public awareness and monitoring the ENPAP implementation*. The project also provided *assistance* on fulfilling obligations and commitments under WTO Agreements.

Under the auspices of the project, a series of laws, Government decisions and regulations were adopted or modified. On the IPR dimension, the project was essential to developing the **legal framework** on IPR, a scope which was achieved by elaborating the drafts of fundamental laws on IPR, including the draft of the Law on protection of the origins of goods, geographical indications and of traditional knowledge, that was latter as adopted as Law No. 66/2008 on the protection of the geographical indications, appellations of origin and traditional specialties guaranteed. Additionally, a series of regulations on products conformity, evaluation



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or certifications were published<sup>29</sup>. While none of them directly targeted the GI system, the rules above established the groundwork necessary for advanced in the domain.

Some of the most valuable assets provided by the project are:

- support on the draft Law on Copyright and Neighbouring rights and the draft Law on Protection of New Plant Varieties;
- a Report on best EU practices of Commissions/Committees on Intellectual Property;
- logistic, financial and technical support to the MoAFI and AGEPI for implementation of the plant varieties legislation;
- a Report on the best EU practice on the protection of designations of origin, geographical indications and traditional specialties;

The EC TACIS Programme “Strengthening the legislative framework and enhancing the enforcement of industrial property protection legislation” was a project **designed to address** the IPR system in particular. It provided assistance through an initial conformity analysis of the law on patents, on trademarks and appellations of origin and the law on industrial designs. Based on this analysis, new laws on patent, trademarks, protected names and industrial designs were drafted. The project contributed to the wine laws package and the drafted the design of upcoming legislation on IPR.

AGEPI also benefited from a series of training on a wide are of topics such as conformity analysis methodology, law drafting, Designs for enterprises, harmonization practices and an introduction to protected denominations such as PDO, PGI, and TPG.

The projects proved to be a fundamental element of the establishing of a modern framework on IPR. Furthermore, the two projects had contributed to the inception of the GI system in RM. However, as successful as the projects were, the task to develop and advance the IPR legal framework belongs to the state’s authorities. In this order of ideas, the projects revealed a series of gaps that had to be overcome, with a view to build a functional and relevant system of laws, decisions, and orders that would contribute to the protection of the IPR rights in RM and, subsequently the developing of a modern GI protection system. As such, in the following years, to establish a viable GI system, the Government of RM had to:

- identify the potential of the GI system in RM;
- develop a strategy on IPR that would address the GI concept;
- approve and continuously adjust the law on geographical indications, by implementing the best practices in the EU;
- identify the institutions tasked with the development of the GI system and the protection of the protected denominations;
- increase the institutional capacity of the designated institution in aspects related to the GI system;
- implement concrete actions on implementations of the law by emitting corresponding acts such as orders and regulations that would allow the implementation of the law on IPR;

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<sup>29</sup> Prospects for EU-Moldova economic relations, p.116, CASE Reports, No. 67/2006, Warsaw 2006.



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- implement protection, control and enforcement mechanisms in the IPR area, inclusively on the GI dimension;
- continuously train the human resources involved in the GI system;
- promote the value of protected denominations.

### 3.2. National Intellectual Property Strategy until 2020 and Actions Plan for 2012-2014 and for 2015-2017

Between 2010 and 2012, AGEPI in consultation with WIPO, NCIP, Government Institutions and other stakeholders worked on drafting an IP strategy that would reflect the changes undergone in the national IPR system as a result of adapting the national legislation to the AA, and to various international tools on IP.

On the 22 of November 2012, the Government of the RM **approved** the GD no. 880 on the National Intellectual Property Strategy until 2020<sup>30</sup>.

The “National Intellectual Property Strategy until 2020” **establishes** a series of objectives on the development and modernization of the national GI system, the strengthening of institutional capacities of the bodies charged with functions and responsibilities for the development and protection of the GI system, the identification of potential GI products, the continuous improvement and harmonization of the national legal framework on GI with EU legislation.

Specifically, the strategy identifies the specific gaps and weakness in the GI system such as:

- the lack of a baseline study on GI, the lack of a manual on the protection of GI and, subsequently;
- the lack of guides on the system of GI, the lack of a cohesive product promotion strategy at both national and international level;
- the lack of implementing an *ex-officio* control on GI, the lack of adequate procedures related to the registration and use of the GI and AO products,
- the lack of established laboratories of quality certification of goods with GI, AO and TSG designation.

To adequately address the gaps, the implementation of the strategy was set-up to take place in three stages: 2012-2014, 2015-2017 and 2018-2020. Annual implementation reports will accompany each implementation steps.

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<sup>30</sup> [Hotărîrea Guvernului nr. 491](#) din 11.08.2015 cu privire la aprobarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale pînă în anul 2020.



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The adoption of the SNPI 2020 was accompanied by the **approval** of “The Action Plan for 2012-2014 on the National Intellectual Property Strategy until 2020<sup>31</sup>”, that established a series of task on implementing the strategy.

On the 18.06.2015, the Report<sup>32</sup> on the **realization** of the “Action Plan for 2012-2014 on the implementation of the SNPI 2020<sup>33</sup>” was presented to CNPI. On the same meeting, the AGEPI presented an Informative note<sup>34</sup> on the development of the GI, AO and TSG system in RM

While the report revealed that significant achievements had been accomplished, especially from the AGEPI, additional efforts were deemed to be necessary to fulfill the objectives outlined in the SNPI. Some of the most remarkable results are the publishing of the *Practical Guide “Protection of Geographical Indications, Designations of Origin and Certificates of Specific Character for Agricultural Products and Foodstuffs for Moldovan farmers and food industry”*, the “*Study on how to improve the protection of geographical indications, appellations of origin and traditional specialties guaranteed in the Republic of Moldova*<sup>35</sup>”, the approval of “*Law on Approval of the National Symbols Associated with Protected Geographical Indications, Protected Appellations of Origin and Traditional Specialties Guaranteed*<sup>36</sup>”,

It should be noted that some of the gaps identified are steaming from the dynamical characteristic of the GI, AO and TSG system, both on the national and the international dimension. While some disparities are caused by the lack of adequate activity from certain state authorities, some of the objectives are continuous by design.

On the 11 of August 2015, by GD no.491, the “The Action Plan for 2015-2017 on the implementation of the SNPI 2020 was approved. The second stage of the implementation of the SNPI 2020 addresses the previously identified gaps:

**A) Specific Objective 1.3 (including Protection and proper use of distinctive, origin and quality signs, industrial designs and traditional specialties guaranteed)**

- The lack of a unified repository on potential GI, AO and TSG products.
- The lack of a centralized repository on producers and association of producers manufacturing or producing GI, AO or TSG products

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<sup>31</sup> [Hotărîrea Guvernului nr. 491](#) din 11.08.2015 cu privire la aprobarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020.

<sup>32</sup> [Raport de monitorizare consolidat](#) referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 pentru anul 2014.

<sup>33</sup> [Cu privire la prezentarea raportului](#) de monitorizare consolidat privind rezultatele îndeplinirii acțiunilor incluse în Planul de acțiuni al Strategiei naționale în domeniul proprietății intelectuale .

<sup>34</sup> [Notă informativă](#) cu privire la dezvoltarea sistemului de protecție a indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova (AGEPI).

<sup>35</sup> [Studiu](#) privind căile de îmbunătățire a protecției indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova.

<sup>36</sup> [Legea Nr. 101 din 12.06.2014](#) privind aprobarea simbolurilor naționale asociate cu indicațiile geografice protejate, denumirile de origine protejate și specialitățile tradiționale garantate.



- Disparities in developing precise mechanisms such as guides, instructions, ministerial orders, to be used by potential beneficiaries in order to ensure protection of GI, AO or TSG
- Inconsistencies in promotion, by some state authorities involved in the protection system of GI, AO or TSG of the established mechanism

**B) Overall objective 3. Development and modernization of the national intellectual property system, enhancement of transparency and coherence**

- Gaps in implementing successful EU practices the promotion and protection of GI, AO or TSG
- Inconsistencies in implementing of a precise mechanism for enforcement of the protection of GI, AO or TSG, especially on EC GI, AO or TSG.
- Gaps in providing technical, logistic and legal assistance in setting up producer associations, including NGOs, and unilateral efforts on providing their education in the field.
- Disparities in the joint efforts of competent institutions in developing and promoting of the National protection system for FI, AO, and TSG

**C) Specific Objective 4.2. Institutional CP of bodies empowered with functions and responsibilities concerning legal protection of intellectual property**

- The needs to further address the instruction, continuous training and improvement need of the personnel in intellectual property, especially in ministries, state agencies and enforcement authorities.

**D) Specific Objective 4.3. Institutional CP of bodies empowered with functions and responsibilities concerning enforcement of intellectual property rights**

- The need to develop a unified or interconnected information system to ensure exchange of data on protection and application of protected GI, AO and TSG between competent authorities with responsibilities in the field.

On the 2<sup>nd</sup> of May 2017, the annual “Consolidated Monitoring Report on The Action Plan for 2015-2017 on the implementation of the SNPI 2020”<sup>37</sup>, was presented by AGEPI. The document was preceded by a similar report for the 2014<sup>38</sup>, 2015<sup>39</sup> and 2016<sup>40</sup> reporting years. The paper addressed the developments on the activities undergone during the 2015 reporting year, including on the steps taken to resolve established issues on GI. The report underlines the activities undergone by AGEPI and other state authorities on the activities undergone on the

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<sup>37</sup> [Raport de monitorizare consolidat](#) referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020.

<sup>38</sup> [Raport de monitorizare consolidat](#) referitor la realizarea Planului de acțiuni pentru anii 2012-2014 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 pentru anul 2014.

<sup>39</sup> [Raport de monitorizare consolidat](#) referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 pentru anul 2015.

<sup>40</sup> [Raport de monitorizare consolidat](#) referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 pentru anul 2016.



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implementation of the SNPI 2020, including but not limited to the drafting of normative acts, delimitation of geographical areas relevant to GI, the participation in conferences, seminars, and other activities on GI.

The report **outlines** that, while all the gaps were tackled, continuous activities should be made to improve the system of GI further.

Some of the pending gaps that should be addressed by the end of the reporting year are

- The focus on wine GI in detriment of other GI potential products, especially non-food products.
- The lack of progress on drafting specifications for GI products, especially non-wine products.
- The lack of progress in establishing certification methodologies on non-wine potential products with GI, AO TSG designation potential
- The lack of progress in simplifying the accreditation procedure for certification control authorities.
- The slow progress in developing the mechanism and tools on effective protection of the GI;
- Deficiencies in applying a functional *ex-officio* mechanism on GI;
- Slow progress on establishing an interconnected unified system on GI
- No positive actions on promoting IPR in the national educational system, especially at academic institutions with focus on agriculture and manufacturing

Nevertheless, it should be noted that, as a result of the steps taken to implement the SNIP 2020, a series of normative acts have been amended to reflect the new developments in the GI system. Specifically, as of May 2017, the Law no. 66-XVI of 27 March 2008 on the Protection of geographical indications, appellations of origin and traditional specialties guaranteed was amended to reflect the Presidents Decree no. 1997 from 25.03.2016<sup>41</sup>, by which RM signed the “Geneva Act on the Lisbon Agreement for the Protection of Appellations of Origin”<sup>42</sup>.

Additionally, the drafting of the amendments to the GD no. 644 of 19 July 2010 on the competent authorities with the powers and duties to control products with protected DOs, GIs and TSGs is reaching a final stage. When approved, the normative act will reflect the actual organizational structure of the authorities involved with control measures in the GI system.

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<sup>41</sup> [Decretul Președintelui republicii Moldova Nr. 1997 din 25.03.2016](#) pentru aprobarea semnării Actului de la Geneva al Aranjamentului de la Lisabona privind denumirile de origine și indicațiile geografice.

<sup>42</sup> [Actul de la Geneva al Acordului de la Lisabona](#) privind denumirile de origine și indicațiile geografice, 2015.



### 3.3. The Study on how to improve the protection of geographical indications, appellations of origin and traditional specialties guaranteed in the Republic of Moldova, 2013

The „Study on how to improve the protection of geographical indications, appellations of origin and traditional specialties guaranteed in the Republic of Moldova,” was an essential activity of the paragraph 1.3.1 of the “Action Plan for 2012-2014 on implementing the SNIP until 2020”.

The study was a multifaced research of the GI field in RM covering the legal, institutional, educative and functional dimensions of the GI system.

The purpose of the research was to assess the state of the protection system of GIs, AO and TSG in RM, identify specific gaps, and problems, and propose recommendations for the development of the national system of protection of GIs, AO and TSG.

To achieve the purpose of the study, various tools such as questionnaires, statistics, etc where used by AGEPI to (or “intending to”) present and exhaustive analysis on the state of the GI system in RM

The Study identified the following stringent gaps that directly affected the institutional effort on the development of GI system:

- the lack of substantial actions for the creation of the environment necessary for the execution of the delegated tasks according to the provisions of GD 644/2010;
- inadequate mechanisms for the implementation of the legal provisions and gaps in ensuring the facilitated access of the potential beneficiaries the GI system
- deficiencies on establishing and implementing a clear, transparent and efficient specification homologation mechanism
- the lack of clear mechanisms on the protection of GI and AO, by each of the institutions, according to its regulation area;
- inadequate actions on designing guides or instructions for potential beneficiaries:
- subpar efforts in establishing control procedures and methodologies;
- the lack of joint efforts by the authorities in charge, in establishing a list of products, and subsequently a list of producers of products with GI, AO and TSG potential
- the need to amend and revise normative acts according to the actual organizational structure, and subsequently, to delegate the competencies necessary for the control functions of the appointed institutions;
- the need to revise the list of the supervisory bodies appointed according to the provisions of GD 644/2010, update it according to reflect developments in the actual organizational structure and delegate the competencies necessary for the control functions to the appointed institutions;
- the failure to undertake branch studies on the potential of products with potential GI, AO and TSG potential by each of the institutions responsible with the homologation of the terms of reference, depending on its regulation area (within the agreed deadlines);



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- the failure to establish an effective mechanism for granting the right to use the GI within the established limits and according to established standards agreed;
- the need to create and approve the terms of reference setting out strict rules that are going to be observed for the production of the product with GI;

In addition to the gaps mentioned above, the study revealed that, while the authorities involved with the development and protection of the GI system in RM, undergone a series of activities on the matter at hand, additional efforts are necessary to:

- Increase the promotion of the GI system at a national level;
- Promote the advantages of the system of protection of the geographical indications;
- Raise the capacity and efficacy of the authorities involved in the GI system;
- Increase the promotion of national and international GI products by means of exhibitions, presentations, campaigns, etc.;
- Establish support clusters for support for the registration and promotion of the GI, AO, and TSG and of the corresponding products, both at local and international level;
- Encourage the creation of the producer's associations and ensure adequate training in the area;
- Acceleration of the process of recognition and protection of the GI, both at national and at international level;
- Develop practical mechanisms for putting the potential of these intellectual property objects into value;
- Elaborate recommendations for making progress in the registration and use of the GI as efficient marketing instruments;
- Use the competitive potential of the geographical indications as indicators of the origin and quality for the diversification of the exports, the increase in the volume of commercial exchanges, for enhancing the competitiveness of the local products and their added value;
- Raising awareness at the level of the decision-making factors, associations of producers and authorities of the local public administration on the proper use of the GI for the promotion and enhancement of the competitiveness of the products.
- Take concrete actions for enhancing the institutional capacities of the authorities in charge, including training / specializing the employees in the area of GI, AO, TSG.
- Perform a general analysis, together with AGEPI, of the opportunity to register GIs, AOs, and TSGs on the name of the competent authority, according to the regulation area.

One of the biggest issues that affected, at that point, the evolution of the GI system in RM was the lack of interest in the concept of GI by some stakeholders. Although some authorities were not well-known with the GI system, most of them were reluctant on increasing their involvement in the field.



Furthermore, the study established that some state authorities had demonstrated superficial insights on the GI system, and were unable to identify their role in the GI system and the institutional needs, and have failed to undertake effective actions on promoting the GI system. This translated to a communication vacuum between stakeholder and beneficiaries. With some exceptions, information on GI was not available on the respective institution's web pages or official bulletins.

As such, the study revealed that additional effort should be taken in raising the level of professionalism of the personnel involved in the GI system, the need to employ additional specialists at all stages of the GI system, including but not limited to training sessions, seminars, documentation visits, exchange of experience.

Within the National Commission on IP meeting from 18.06.2015 on the report on "Regarding the development of a system for protection of GI, AO, and TSG in the Republic of Moldova"<sup>43</sup>, several institutions presented their information on the implementation of the recommendations of the Study. While certain improvements have been noted, most of the gaps identified by the study were englobed in the "The Action Plan for 2015-2017 on the Implementation of the SNIP until 2020".

While the Study took place in 2013, it's still a valuable asset to the development of an efficient and robust GI system in RM and should serve as a reference point on the progress in the GI sphere.

### **3.4. The Association Agreement between the EU and the Republic of Moldova**

On the 1<sup>st</sup> of July 2016, The "Association Agreement (AA) between the European Union (EU), the European Atomic Energy Community (EAEC) and their Member States (MSt), and the Republic of Moldova (RM)" came into force on 1 July 2016<sup>44</sup>. The AA, signed on 27 June 2014<sup>45</sup>, contains specific obligations of the parties concerning the protection and enforcement of intellectual property, including the protection and enforcement of GI.

The Chapter 9 "Intellectual property rights" of the Title V "Trade and trade-related matters" of the AA addresses the obligations of RM on IPR, including GI. Specifically, GI is referred to in Subsection 3 of Chapter 9, in the following articles:

- Scope (art. 296);
- Established geographical indications (art. 297);
- Addition of new geographical indications (art. 299);
- Scope of protection of geographical indications (art. 300);

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<sup>43</sup> [Cu privire la prezentarea raportului](#) de monitorizare consolidat privind rezultatele indeplinirii actiunilor incluse in Planul de actiuni al Strategiei nationale in domeniul proprietatii intelectuale.

<sup>44</sup> [Acordul de Asociere](#) între Uniunea Europeană și Comunitatea Europeană a Energiei Atomice și statele membre ale acestora, pe de o parte, și Republica Moldova, pe de altă parte.

<sup>45</sup> [Legea Nr. 112 din 02.07.2014](#) pentru ratificarea Acordului de Asociere între Republica Moldova, pe de o parte, și Uniunea Europeană și Comunitatea Europeană a Energiei Atomice și statele membre ale acestora, pe de altă parte.



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- Right of use of geographical indications (art. 301);
- Enforcement of protection (art. 302);
- Implementation of complementary actions (art. 303);
- Relationship with trademarks (art. 304);
- General rules (art. 305);
- Cooperation and transparency (art. 306);
- Geographical Indications Sub-Committee (art. 307);

Additionally, GIs are addressed in Chapter 12 “Agriculture and rural development”. The Annex VII to Chapter 12 established the timeframes for the fulfillment of the obligations assumed by RM

To implement the AA, on October 7, 2014, by GD No. 808, the National Action Plan for Implementation of the Association Agreement Republic of Moldova - European Union in the period 2014-2016<sup>46</sup> was approved. A year later, on October 12, the plan was amended by GD No. 713 on the modification and completion of GD no. 808 of 7 October 2014<sup>47</sup>.

The action plan contains more than 26 activities related to GI including legislation amendments, registration of established national GIs in the EU circuit, increasing the transparency of the GI system, implementing viable protection and control mechanisms of both national and EC protected GI, including the development of effective border protection measures, continuous training for personnel involved in the protection, standardization, and certification of GI products, cooperation efforts on developing the GI system, etc.

The 2016 Report on the implementation of the PNAIAA was rather optimistic on the GI dimension<sup>48</sup>. Some notable achievements such as the establishment of homologation procedures of GI, AO, and TSG agricultural products or the approval of regulations on the wine market, positively contributed to the development of the GI system in RM

However, it should be mentioned that, at this point, it was evident that the GI system was evolving unilaterally. While the wine industry is of particular interest to the economy of RM, such an evolution would prove to be inefficient, in the long run, for the development of a multi-dimensional GI system in RM

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<sup>46</sup> [Hotărîrea Guvernului Nr. 808](#) din 07.10.2014 cu privire la aprobarea Planului național de acțiuni pentru implementarea Acordului de Asociere Republica Moldova – Uniunea Europeană în perioada 2014-2016.

<sup>47</sup> [Hotărîrea Guvernului Nr. 713](#) din 12.10.2015 cu privire la modificarea și completarea Hotărîrii Guvernului nr. 808 din 7 octombrie 2014.

<sup>48</sup> [Raportul](#) privind realizarea Planului Național de Acțiuni pentru Implementarea Acordului de Asociere RM-UE.



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On December 30, 2016, the PNAIAA during 2017-2019 was approved by GD No. 1472<sup>49</sup>. The plan focuses on five key activities, aimed at solving essential gaps in the GI system. Specifically, the action plan establishes the following gaps to be addressed:

- the consolidation of the institutional capacities of state's authorities;
- the need to address the lack of qualified personnel involved with control and certification prerogatives;
- the need to address the lack of standards in the GI domain;
- the improvement of the GI protection mechanism on local markets;
- the establishment of effective border control and protection mechanisms;

Another essential tool for the development of the GI system in RM, instituted by the AA is the Geographical Indications Subcommittee. The institution is responsible for monitoring the evolution of the Agreement on Geographical Indications and serves as a forum for cooperation and dialogue on geographical indications. It plays an essential role in shaping RM's GI system according to the European model. In 2017, the presidency of the Subcommittee is held by RM.

A complementary tool to the AA is the "Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs (AAP)" that establishes the framework for the protection of more than 3,200 EU GIs for food products, wines and spirits already protected within the EU. The agreement was ratified on 27.12.2012 by the Parliament of RM<sup>50</sup>

The agreement will ensure that national GI will be recognized and protected in EU. Furthermore, the arrangement acts as a tool for promoting trade of quality agricultural products between EU and RM and establishes clear and concise objectives on IPR policies.

On the 01.04.2013, at the National Commission on Intellectual Property meeting<sup>51</sup>, the Action Plan for the implementation of the provisions of the AAPs was drafted. The action plan focuses on:

- Creating the conditions for the participation of the Moldavian party to the activity of the Mixed Committee Moldova – EU for monitoring the implementation of the Agreement.
- Establishing the legal framework for the implementation of the Agreement between the Republic of Moldova and the EU on the protection of the geographical indications
- Enhancing institutional capacities of competent authorities on the implementation of the legislation in the GI area and on the application of the provisions of the Agreement

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<sup>49</sup> [Hotărîrea Guvernului Nr. 1472](#) din 30.12.2016 cu privire la aprobarea Planului național de acțiuni pentru implementarea Acordului de Asociere Republica Moldova – Uniunea Europeană în perioada 2017–2019.

<sup>50</sup> [Legea Nr. 317 din 27.12.2012](#) pentru ratificarea Acordului dintre Republica Moldova și Uniunea Europeană cu privire la protecția indicațiilor geografice ale produselor agricole și alimentare.

<sup>51</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 01.04.2013.



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- Addressing the training need of the national institutions on GI protection
- Ensuring the implementation of the obligations of the Republic of Moldova according to the Agreement
- Creating a transparent on-line medium on the information on Eu protected GIs, protected on the territory of the Republic of Moldova.
- Ensuring transparent and accurate submission of newly registered local GI in the EU
- Identifying areas with the potential to produce GI and AO products.
- Promoting of the opportunities provided by the protection system of the GI and increasing the interest towards their registration

### 3.5. The activity of the National Commission for Intellectual Property

The National Commission for Intellectual Property (NCIP) is a state body established by Government Degree no. 489 from 29.03.2008, and act as a consultative body on IPR. It was established to coordinate the collaboration between state authorities and relevant stakeholder on matters concerning the enforcement, development, and protection of the IPR system in RM

The main tasks of the NCIP are:

- coordination of activities in the field of combating and preventing violations of intellectual property rights, the fight against counterfeiting, importing and trading in counterfeit products in the Republic of Moldova;
- consulting and proposing measures and actions aimed at developing and strengthening the system of protection of intellectual property;
- assistance in the implementation of the strategy and programs for the development of the national system of protection and use of intellectual property objects, international and regional agreements in the field of intellectual property to which the Republic of Moldova is a party.

As of May 2017, the NCIP held ten meetings of which six addressed specific issues on the national system of GI, AO, and TSGs:

- On the 21.12.2012<sup>52</sup> meeting, the NCIP discussed the need to establish an adequate legal framework on approving the national symbols for GI, AO and TSGs products<sup>53</sup> and the promotion of for GI, AO and TSGs by state institutions involved in the advancement and development of the national GI, AO and TSG system. Additionally, the NCIP recommended to all concerned state authorities to positively

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<sup>52</sup> [Hotărâre Comisiei Naționale](#) pentru Proprietate Intelectuală din 21.12.2012, CNPI

<sup>53</sup> [Cu privire la concursul pentru](#) crearea simbolurilor nationale asociate indicatiilor geografice protejate, denumirilor de origine protejate si specialitatilor traditionale garantate, CNPI.



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contribute to the implementation of the National strategy until 2020 on intellectual property, including on GI related activities<sup>54</sup>.

- The NCIP meeting from 01.04.2013<sup>55</sup> was entirely focused on the system of GIs, DOs, and TSGs<sup>56</sup>. The meeting addressed specific issues on the legal framework on GI, AO and TSG protection, registration practices of GI and AO products, and on the activities, actions, and responsibilities of state bodies on the action plan on implementing the RM-EU AA on GI AO and TSG products.
- The 11.03.2014 meeting<sup>57</sup> of the NCIP, reviewed the measures and activities implemented by various state authorities tasked with responsibilities in the system of GI, AO, and TSG in RM, analyzed the level of implementation of the national strategy<sup>58</sup> and reviewed the The Study on the improvement of the protection of geographical indications, designations of origin and traditional specialties guaranteed in the Republic of Moldova<sup>59</sup>.
- On the 18.06.2015<sup>60</sup>, the NCIP discussed the necessities of improving the legal framework on GI, AO and TSG (specifically the GD nr. 644 from 19.17.2010), the need to identify potential GI, AO and TSG products and subsequently to enhance the protection of GI, AO and TSG products, and the need to increase the functional capacity of state authorities and institutions with responsibilities in the GI, AO and TSG sphere<sup>61</sup>.
- On the 19.04.2016<sup>62</sup> and the 02.05.2017<sup>63</sup> meetings, the NCIP addressed the administrative<sup>64</sup> and functional<sup>65</sup> issues that prevented, at that point, the valorisation of GI, AO and TSG products. The meetings also reviewed the 2015<sup>66</sup> and 2016<sup>67</sup> reports on the level of implementation of the national strategy.

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<sup>54</sup> [Cu privire la la Strategia Nationala](#) de Proprietate Intelectuala pina in anul 2020, CNPI.

<sup>55</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 01.04.2013, CNPI.

<sup>56</sup> [Cu privire la sistemul de protecție](#) a indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova (cadru legal, cadru instituțional, situația la zi).

<sup>57</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 11.03.2014.

<sup>58</sup> [Cu privire la prezentarea raportului de monitorizare](#) consolidat privind rezultatele îndeplinirii acțiunilor incluse în Planul de acțiuni al Strategiei naționale în domeniul proprietății intelectuale.

<sup>59</sup> [Cu privire la realizarea recomandărilor](#) nr. 4-11 din Hotărârea CNPI din 01.04.2013.

<sup>60</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 18.06.2015.

<sup>61</sup> [Cu privire la dezvoltarea sistemului](#) de protecție a indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova.

<sup>62</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 19.04.2016.

<sup>63</sup> [Hotărâre Comisiei Comisiei Naționale](#) pentru Proprietate Intelectuală din 02.05.2017.

<sup>64</sup> [Cu privire la dezvoltarea sistemului](#) de protecție a indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova, 2017.

<sup>65</sup> [Cu privire la dezvoltarea sistemului](#) de protecție a indicațiilor geografice, denumirilor de origine și specialităților tradiționale garantate în Republica Moldova, 2016.

<sup>66</sup> [Cu privire la aprobarea Raportului de monitorizare](#) consolidat referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 (perioada de raportare 2015).

<sup>67</sup> [Cu privire la aprobarea Raportului de monitorizare](#) consolidat referitor la realizarea Planului de acțiuni pentru anii 2015-2017 privind implementarea Strategiei naționale în domeniul proprietății intelectuale până în anul 2020 (perioada de raportare 2016).



The NCIP is one of the key elements of IPR protection in RM and plays a pivotal role in the development of the national GI system. While the commission acknowledged the progress in the GI domain, it also established critical shortcomings in assuring the adequate evolution of the national GI system such as:

- the absence of a mechanism on awarding the right to use of the protected GI and AO designation and, subsequently, the impossibility to use the protected GIs and DOs by registrants;
- the lack of a unified registry on products that can be awarded a GI, AO or TSG designation;
- the lack of geographical areas delimitation by GI, AO or TSG;
- gaps in ensuring real-time updates to the GI registry;
- the need to simplify the homologation of FI, AO and TSG specifications;
- the need to establish a clear certification mechanism for GI, AO and TSG products;
- the need to raise awareness and improve the visibility of the GI system in RM

Furthermore, contrary to NCIP recommendations, **no branch studies have been conducted** in the GI, AO and TSG domain by relevant ministries.

In addition to the above mentioned, the NCIP noted that continuous efforts should be undertaken in order to:

- implement the SNIP 2020;
- ensure collaboration between state authorities with tasks and responsibilities in the GI system;
- continuously harmonize the national legislation to relevant European regulations;
- implement a functional and efficient dispute resolution mechanism on GI AO and TSG products;
- ensure the protection of national and international GI, AO and TSG products;
- increase technical capacities of state authorities with tasks and responsibilities in the GI system;
- identify potential producers and producers associations of potential GI, AO and TSG products;
- increase the interest of relevant stakeholders in the GI domain;
- promote the intrinsic value of the GI concept;
- raise the level of professionalism of employees and experts involved in the GI area;
- improve the visibility of GI related information.

#### 4. The pending gaps in Geographical Indications protection in Moldova



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The field of GI has emerged as a particularly difficult challenge for countries in transition and subsequently, for RM. While, in a relatively short time frame, RM managed to establish a competitive and modern GI framework, a series of gaps continue to hinder the development and the protection of the national GI system.

Since the adoption of the Law no. 66-XVII on the protection of the geographical indications, appellations of origin and traditional specialties guaranteed, the legal framework in GI has benefitted from a positive change towards a mature, efficient and functional GI system in the RM. One of the leading actor in the development of the current GI system is AGEPI. Over the years, the institution contributed to the optimization of the legal framework on GI, supervised a series of measure related to the development of the GI system and undertaken a series of activities on the promotion of the GI system in RM. While the institution has prioritized the GI system in its activity and allotted significant institutional resources, the results have been affected by the substantial inertia from other state authorities tasked with responsibilities in the GI system.

Another key institution is the CNIP. While it acts by emitting recommendations, the institution played a major role in coagulating the efforts of various state authorities tasked with responsibilities in the GI sphere. While the CNIP established a notable presence in RM's IPR environment, the constituent state authorities which constituted the institution

One of the most performing state authority in the GI sphere is MoAFI. The ministry is one of the few state authorities that has taken concrete steps in assuming its responsibilities established by the law, and the GD no. 644 from July 19, 2010<sup>68</sup>. Specifically, MoAFI approved the Ministerial Order No. 149 from 04.08.2015 on approving Regulations on the procedure for approval of specifications for food products with designation of origin, geographical indications and traditional specialties guaranteed<sup>69</sup> that established the procedures for the adoption of technical specifications.

Of a particular interest is MoAFI's approach to the recognition of conformity assessment bodies. In order to be recognized by MoAFI, the assessment bodies must be accredited according to the EN 17065 "General requirements for bodies operating with products certification system" standard. The standard must be purchased by the assessment body. At this point, certification is possible only in the wine sector.

Furthermore, the procedure for the right to use the goods protected by GI, AO, and TSG is currently regulated only for wine products, with the procedure being free of any fees. Currently, the ministry is drafting the amendments to the Order No. 149 from 04.08.2015 which will define procedures on the right to use the GI, AO, and TSG, the requirements for conformity assessment bodies and procedures for official control of respective products.

While the MoRDC has taken some measures on identifying potential products that could benefit from a GI or AO designation, it reached the conclusion that, at this point, no local

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<sup>68</sup> [Hotărîrea Guvernului nr. 644](#) din 19.07.2010 cu privire la desemnarea autorităților competente abilitate cu atribuții și responsabilități referitoare la produsele cu denumiri de origine și indicații geografice și la specialitățile tradiționale garantate și a autorităților competente responsabile de controalele oficiale privind conformitatea acestor produse.

<sup>69</sup> [Ordinul Nr. 149 al](#) Ministerului Agriculturii și Industriei Alimentare din 04.08.2015 cu privire la procedura de omologare a caietelor de sarcini pentru produsele agroalimentare cu denumiri de origine, indicații geografice și specialități tradiționale garantate.



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construction materials presents potential for a GI appointment. Currently, the institution has not issued any documents on management and control of products with designations of origin.

The MoC has reported that, at this point, it hasn't issued any documents on management and control of products with designations of origin. The institution has taken steps on promoting the GI system, but only related to the general concept of GI rather than particular handicraft goods that could pose GI value. It should be noted that the domain of handicraft products is governed by the Law of the Republic of Moldova No. 135-XV of March 20, 2003 on folk artistic handicrafts<sup>70</sup>.

The MoH is yet to undertake some affirmative action on the GI system. On the other hand, the ministry is actively involved on the harmonization of national legislation with Directive 2001/83/EC the manufacture, distribution and use of medicinal products, authorizes only drugs made in accordance with the rules of Good Manufacturing Practice established the MoH no. 739 of 23.07.2012 on the Regulation on the authorization of medicinal products for human use and the introduction of post-authorization changes<sup>71</sup>. However, this provision excludes medicinal teas and healing mineral waters from the State List of authorized medicinal products in the Republic of Moldova. Any other products that could fit the GI designation are yet to be identified.

To summarize, currently, MoAFI is the only institution that has initiated drafting modification to acts related to the regulated areas established GD No. 644 of July 19, 2010. However, the normative acts, instructions, and guides on the procedure for the homologation of the terms of reference have only been elaborated for the wine sector. While the institution has taken steps to creating a specialized structure for the GI and AO, including in training of specialists for the implementation of the protection system applied to the GI, AO and TSG, at this point, the human resources involved in the domain are limited.

Attempts to identify, in a non-formal manner, the potential products with GI, AO have been undertaken only by MoRDC and MoAFI. None of the institutions is currently involved in any branch studies related to GI products.

However, some of the biggest issues with the GI system is the lack of an efficient system of certification, that will allow producers to benefit from the right of use of a GI designation. A control body in Moldova is yet to be accredited for protected GI, DO or TSG non-wine food products. While according to the list published on MOLDAC's website some organizations are qualified to control fruit or vegetable preserves or fruit distillates none of them is accredited for protected geographical denominations<sup>72</sup>.

While the CNPI, AGEPI, MoAFI, and to a lesser extend other state authorities have identified the gaps that need to be addressed, and have taken extensive actions on overcoming the most stringent of them, currently, a series of gaps are yet to be solved.

### A. Protection Gaps

The main purpose of the GI system is to protect products that are of a certain specification. When no protection is ensured, the motivation to follow requirements, or to adapt products to

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<sup>70</sup> [Legea nr. 135 din 20.03.2003](#) privind meșteșugurile artistice populare.

<sup>71</sup> [Ordinul Ministerului Sănătății Nr. 739](#) din 23.07.2012 cu privire la reglementarea autorizării produselor medicamentoase de uz uman și introducerea modificărilor postautorizare.

<sup>72</sup> Geographical Indications in the EaP countries; Know how of the control system for the GIs.; p.16, W. Szpociński.



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the exigency of the requirement is inexistent. Furthermore, the lack of an efficient protection mechanism encourages a *mens rea* attitude where infringement of GI designations is considered permissible.

Furthermore, even if a particular product of GI, Do or TSG designation is not produced or manufactured in RM, the protection of the designations must be ensured, in order to protect international established designations. Therefore, control procedures and methodologies must be enacted and implemented in all spheres of GI.

- the lack of clear mechanisms on control measures and protection of GI and AO, by each of the institutions involved in the GI system, according to its regulation area;
- the need to develop a viable mechanism of border protection for national and international GI designated products;
- the lack of transparent control procedures on the protection of established GIs on the local market;
- the lack of a specialized Court of Law, or at least the lack of trained judges, specialized in the problematic of IPR, including on the GI system;

### **B. Administrative and regulatory gaps**

While the main legal framework on the GI indications is harmonized with the EU legislation, RM is yet to establish clear and efficient mechanisms of implementation of the law in practice. Specifically, the lack of orders and regulations both at a ministerial and institution level is hindering the implementation of the provisions enacted in the above-mentioned law. Some of the main gaps are:

- the need to revise the necessity of a *right to use mechanism* for GI designation, taking in to account existing homologation and certification procedures;
- the lack of ministerial orders on specifications for GI products other than wine products;
- the lack of a clear, transparent and efficient mechanism on the homologation procedure on specifications especially for non-agricultural goods that can be designated as GI and AO;
- the lack of a real-time electronic registry interconnected with other electronic e-government registries on IPR;
- the need to address the ambiguities on the requirements for the accreditation of certification bodies for non-wine-sector products with a protected GI and AO designation, especially on the accreditation procedures established Law no. 235 of 01.12.2015 on the accreditation activities and conformity evaluation;
- the need to establish a multifaced, concurrent and transparent certification mechanism consisting of both a state designated institution and private entities;
- the need to establish simplified accreditation procedures for laboratories, institutions, and entities involved in the certification of established GI products;
- the need to revise the mechanism of territorial geographical delimitations on established and potential GI and AO;



### **C. Institutional capacity gaps**

Institutional capacity is the ability of a state institution to act in a domain of competence. The basis of the functional capacity is linked to the human resources involved and the availability of tools to undertake actions in the sphere of competence.

At this point, to strengthen the institutional capacity of the authorities involved in the GI system the following gaps have to be addressed:

- the need to increase the level of awareness of the personnel involved in the protection and the promotion of GI, AO, and TSG;
- the need to establish cooperation mechanisms between institutions tasked with responsibilities in the GI domain;
- the need to establish task forces by competence and ensure their continuous cooperation;
- the need to establish appropriate communication mechanism between stakeholders and beneficiaries;
- the lack of cooperation between institutions with responsibilities in the GI system and local authorities;
- the need to establish effective cooperation between state authorities with responsibilities in the GI and scientific institutions of interest;
- the limited efficacy of the authorities involved in the GI system;

### **D. Training gaps**

One of the fundamental reason for the limited expansion of the GI system and, subsequently the slow rate of registration, is the limited proficiency of relevant stakeholders in the domain.

Without a strong understanding of the concept of GI, the system that powers the GI, the legal framework and the advantages of the GI any progress in establishing a functional GI system in RM is impossible.

The drafting of appropriate normative acts including orders, regulations, specifications cannot be achieved without appropriate knowledge of the specifics and particularities of the GI system.

Furthermore, entrepreneurs that are interested in approaching the GI system, need to benefit from training and be provided with guides or instructions on the topic of GI. The training must be focused on the specific requirements of the GI designation, the procedures associated with the registrations of the GI, the procedure on the right to use a protected designation and the tools that can be used in order to benefit from the protection of the GI.

In this order of ideas, the following gaps should be addressed:

- the need to design guides and instructions covering multiple areas in the GI domain, by each of the institutions involved in the promotion of the GI system;
- the need to keep the guides and instructions up-to-date to the latest developments



- The need to encourage the creation of the producer's associations and ensure adequate training in the area.
- the need to establish a unified assistance center for entrepreneurs, consumers, and mass-media organizations
- the need to establish a platform for continuous training, including an on-line e-learning platform

### **E. Discoverability gaps**

The GI system of RM is still affected by discoverability issues. The consumer awareness of the GI system, the advantages of a GI designated product is limited. Entrepreneurs artisans and NGO's are not familiar with the GI system. While AGEPI was involved in a series of training and promotion activities, the institution is unable to promote the GI system without continuous input and assistance from central and local authorities. Therefore, the following gaps have to be addressed:

- the need to increase the promotion of the GI system at a national level;
- the need to upscale the promotion of the advantages of the system of protection of the geographical indications;
- the need to promote the value and the benefits of GI, AO and TSG designated products compared to generic products;
- the need to individualize the promotion of established national GI products at national and international exhibitions, presentations, campaigns, etc.;
- the need to implement media campaigns on GI, AO and TSG products;
- the need to establish support clusters for the registration of the GI, AO and TSG products;
- the need to continue the organization of think-tanks, conferences, meetings on the GI system;

### **F. Technical gaps**

In order to ensure the development of GI system, a series of tools must be established to assure the development of the GI, including by identifying potential GI products.

- the need to establish and maintain a list of products with potential, GI, AO and TSG potential;
- the need to set up and maintain a list of producers and producers' associations involved with products with potential, GI, AO and TSG potential;
- the need to undertake scientific studies on the identification of accurate product specifications and production requirements for established and potential GI, AO and TSG products;
- the lack of branch studies on the value of established and potential GI, AO and TSG products, by each of the institutions responsible with the homologation of the terms of reference, depending on its regulation area



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It should be noted that while in the last few years, the GI system in RM benefitted from a lot of attention from the main stakeholders involved in the GI system, the evolution of the GI system cannot be separated from related developments in the field of IPR. The system of GI is an integral part of the IPR dimension and is bound to the setbacks that affect the system as a whole.

Furthermore, the GI system is yet to be considered a priority for most of the institutions tasked with responsibilities in the IPR system. As mentioned above, AGEPI alone is not capable of handling all the aspect of the gaps identified in the GI system. Furthermore, AGEPI cannot and should not substitute the competencies of other institutions involved in the GI sphere. The effort on building an efficient IPR system in RM should be distributed evenly in all the aspects related to the consolidating of the IPR system in RM.

It should be mentioned that the GI system in RM is also affected by detrimental prioritization of other tools and mechanisms in the agriculture domain, such as the system of ecological agriculture. While the two systems carry distinctive characteristics, some methods, methodologies, and regulation concepts are similar and beneficial for both systems, therefore potential mutual development benefits should be explored. Both of them present a significant importance for RM, therefore the evolution of one system should not be detrimental to the other system, and both systems should be approached concurrently.

In addition to that, the development of the GI system in RM manifests a unilateral evolution trait focused on wine products. In this order of ideas, the state has adopted a series of laws, government decisions and orders such as the Law a No. 57-XVI of March 10, 2006, on vineyards and wines, the GD No. 356 of 11.06.2015 regarding the approval of the Technical Regulation "Organization of the Wine Market" and the subsequent ministerial orders, including the MoAFI Order no. 50 of 04.04.2012 on the delimitation of geographical areas for the production of wines with geographical indication and designation of origin, that are establishing the necessary legal framework for the protection of GI and AO wines. While the wine industry presents a significant importance for the economy of RM, the GI potential in other areas should not be ignored.

In this order of ideas, the evolution of the GI system is also directly linked to the state efforts on creating a favorable climate for investments. Particularly, in order to promote the concept of GI to local producers, the state should develop a series of measures of stimulating the interest of both the producers and the consumers of products with GI denominations. This could be done by creating favorable fiscal policies for producers involved with GI, lessen the certification burdens imposed to GI producers, develop a system of incentives for producers involved with geographical denominations, and more. This will allow producers to keep a competitive price for GI products and, in the same time, will allow consumers access to high-quality products.

### 5. The training needs for government agencies involved in IPR protection and enforcement of GI, AO and TS domain and for companies in Moldova

The GI system is a complex system, with ramification in a lot of sciences such as law, agriculture or economy, for example. One of the biggest challenges is actually defining the range of products that poses certain characteristics, are produced in a certain manner and are sourced from a certain geographic area. The differences between GI, AO, and TSG, while quite evident for theoreticians may seem rather vague for the general public, entrepreneurs and even



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for public officers. As such, in the following years, it's necessary to adopt an educational and training strategy that will popularize the concept of GI among existing professionals, but, at the same time, polish the skills of the human resources already involved with the GI system.

It's necessary, at this point, to increase the prevalence of the IPR in the **national education strategy**. The GI concept should be popularized in higher educational institutions, especially in universities that have law, agriculture and marketing faculties.

As to the instruction needs, continuous training sessions should be undertaken for **AGEPI's** employees. While the personnel involved with GI is proficient, their skills and proficiency should be improved by favoring their participation in think-tanks, conferences, seminars, meetings on GI matters. Additional support must be offered to AGEPI's personal in elaborating guides and instructions.

On the other hand, instruction on GI aspects should be accelerated for **public officers and specialists from within state authorities** tasked with responsibilities in the GI system. It's a known fact that the stagnation of the development of the GI system is a result of the lack of expertise on the intrinsic aspects of the GI. As a result, tasks that require drafting acts, regulations, specifications and any other acts associated with the development of the GI system is severely impacted. In addition to that, any training efforts must be approached on a continuity basis. A focus-group containing specialists from MoAFI, MoC, MoE should be established, with the purpose of keeping them up-to-date with the latest developments in the GI domain.

Further training efforts should be provided for personnel of **control authorities tasked** in the GI system, including on aspects such as establishing control methodologies and templates, on legal certification and standardization aspects, and more.

The training efforts must be increased and continuously provided for public officers involved with **CS**, especially for the personnel involved in border control procedures. The training and instruction efforts should be focused on developing the necessary skillset to identify potential infringement scenarios and undertake the appropriate procedures on enforcing legal provisions on the protection of IPR rights, including of national and international products with GI designations.

Instruction and training should be provided for **producers and producer's association** both on promoting the GI system as to familiarize them to the legal toolkit on GI, including on registration, certification and accreditation aspects. In addition to that, producers should be familiarized with tools that will allow them to protect their GI designated products both in national and international markets.

Additionally, assistance, including methodological assistance, should be provided to various **NGOs**, particularly for NGO's focused on promoting culture, agriculture and handicrafts.

Certification and accreditation bodies and organization should also be guided and schooled in applying correct procedures for GI designations, especially since it's a new domain of activity.

Of a particular concern is the level of preparedness of the **judicial system** in the IPR domain. Judges and court specialists, prosecutors and enforcement professionals must be attracted in training seminars on IPR, including on GI. An increased cooperation with the MoJ and ACA



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The GI should also be popularized in RM's **society**, by intercalating with various cultural events on handicrafts, agriculture and other relevant industries. The promotion of the GI should be backed by information campaigns designed to underline the value of GI not only from an economic point of view but also as a tool to promote RM's heritage. Also, consumers should be informed of the advantages of a GI designation on aspects such as the increased quality of GI products.



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