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The new Russian Law of Geographical Indications: a critical assessment

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Introduction

This article presents the results of the first analysis of the Russian Law of Geographical Indications (GIs) as it appears after the recent reform that has come into force on 27 July 2020. Indeed, the international scholarly literature is increasingly paying attention to the GI systems in force outside of the EU and of the Anglo-Saxon world. For instance, notable contributions have recently focused on the domestic legislation of countries such as China, Viet-Nam, India and many more.¹ Russia, instead, has remained an under-researched jurisdiction.²

However, as mentioned earlier, recently the Russian GI Law³ has been deeply reformed. Particularly, taking the EU system and the Geneva Act of the Lisbon Agreement as models, this country has introduced a dual *sui generis* regime that includes both the Appellation of Origin (AO) and the Geographical Indication (GI) as paradigms for the protection of Indications of Geographical Origin (IGOs). Hence, the time has come to provide a critical analysis of the Russian *sui generis* GI regime as it appears after these recent amendments.

On the basis of the best available sources: legal texts; governmental documents; statements by high officers; case studies; relevant economic data and others, the present article will investigate this legal frame in two separate, albeit related, directions. First, the new provisions of the Russian *sui generis* GI Law will be critically assessed. Next, the paper will discuss whether and to what extent this reform can achieve the ambitious goals that it has set itself.

More specifically, Section 1 provides a short overview of the evolution of GI rules in Russia from the dissolution of the Soviet Union until the present; Section 2 introduces the key points of the new reform and critically assesses them; Section 3 provides an overall comment on the new provisions; finally, Section 4 investigates whether the reform can have the impact that the Russian legislators expect. The analysis will take into account four separate issues: first, the adequacy of the developmental policy to support and

¹ See, among the others, the sources in Irene Calboli and Wee Loon Ng-Loy, *Geographical Indications at the Crossroads of Trade Development and Culture* (Cambridge University Press 2017) and Dev Gangjee (ed), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar Pub 2016).

² Apart from some blog posts, no academic contributions written in English have recently analysed the Russian Law of Geographical Indications. A description of the legal frame of this country can be found only in Bernard O'Connor, *The Law of Geographical Indications* (Cameron May 2004) 318-326 and Irina Kireeva and Bernard O'Connor, 'Geographical Indications and the TRIPS Agreement: What Protection Is Provided to Geographical Indications in WTO Members?' (2010) 13 *The Journal of World Intellectual Property* 275. A general presentation of Russian IP Law that, however, does not focus on GIs, can be found in AV Kashanin, *Intellectual Property Law in Russia* (Kluwer Law International 2015) and Thomas S O'Connor, 'Development of Intellectual Property Laws for the Russian Federation' (2011) 64 *Journal of Business Research* 1011. The transition between the Soviet and the Russian IP system is presented in Michael Newcity, 'Russian Intellectual Property Reform: Towards a Market Paradigm' (1993) 36 *German Yearbook of International Law* 328.

³ Provided under section 3, part 4 of the Civil Code of the Russian Federation. Available at <https://wipolex.wipo.int/en/text/537082>

enhance GIs; second, the consumers' awareness of the meaning and functions of GI labels; third, the ability of the producers to effectively use the new system and, fourth, to what extent this reform can foster Russian exports.

All the sources and data cited below are valid as of 16 November 2020.

1. Outline of the evolution of *sui generis* GI rules in Russia

The legislation of the Soviet Union did not provide *sui generis* protection to IGOs. These could be protected as trade marks but only on the basis of a specific authorisation granted at the end of a complex procedure that saw different bureaucratic bodies involved.⁴

After the dissolution of the Soviet Union, the Federal Law of 1992 'On Trademarks, Service Marks and Designations of Places of Origin of Goods' (Trade Marks Law) introduced AOs in the new-born Russian legal frame.⁵ These new provisions were influenced by the Lisbon Agreement.⁶ For instance, art 30 Trade Mark Law provided a definition of AOs based on art 2(1) of the latter, although Russia, to date, has signed neither the Lisbon Agreement nor the more recent Geneva Act.⁷

In 1993, the Russian Federation applied for WTO membership. This led to the creation of a Working Party on the accession process and marked the beginning of a long round of discussions. As part of this process, part 4, section 3 of the Civil Code was introduced in 2006. In practice, this was the first substantive *sui generis* GI Law of the Russian Federation. Just like the previous provisions of the Trade Marks Law, it provided protection only to AOs. These early rules were amended several times until the accession of Russia to the WTO in 2012 and also later. A complete analysis of the evolution of these provisions would exceed the scope of the present paper, however.⁸

Today, the rules on the protection of IGOs are still provided at arts 1516ss Civil Code. However, as mentioned above, Federal Law No. 230-FZ, passed on 26 July 2019 and come into force on 27 July 2020, has introduced important innovations that significantly change the Russian GI system. Moreover, following the reform, a new set of specific labels has been introduced to distinguish origin product on the marketplace.⁹

Finally, it is expedient to mention that the register of the Russian Federal Service for Intellectual Property (Rospatent), i.e. the IP Office in charge of the examination of the applications, features 252 registered AOs up to the present. More in detail, as to the origin of the applicants, 207 registrations have been granted to local producers; 41 to foreign producers whereas 4 of them are currently out of force. With regard to the nature of the registered products, the register currently features the following entries: 82 for mineral waters; 59 for handcrafts, 55 for agricultural products and foodstuffs; 9 for alcoholic drinks; 2 others.

⁴ Alexander Grigoriev, 'Situation and Prospects of the Legal Protection of Geographical Indications in the Soviet Union', *Symposium on the International Protection of Geographical Indications. Santenay (France) 9 and 10 November 1989* (WIPO 1990).

⁵ Another way to provide protection to geographical names was the Law of Unfair Competition.

⁶ Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958, last revised 1979) <https://www.wipo.int/export/sites/www/lisbon/en/legal_texts/lisbon_agreement.pdf>

⁷ Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (20 May 2015) <https://www.wipo.int/edocs/pubdocs/en/wipo_pub_239.pdf>

⁸ For details on this issue, see Daria Kim, 'Protection Of Geographical Indications In Russia: Is Russian Vodka A Protected GI?' (*Intellectual Property Watch*, 31 August 2012) <<https://www.ip-watch.org/2012/08/31/protection-of-geographical-indications-in-russia-is-russian-vodka-a-protected-gi/>>.

⁹ Rospatent Decree No. 94 of 03 July 2020 'On approval of labels of protection of geographical indication and appellation of origin of goods in the form of emblems'.

2. Analysis of the Russian Law of Geographical indications after the new reform

The Explanatory Note attached to the bill of the abovementioned Federal Law No. 230-FZ, stated that the reform was necessary as protection of IGOs is strategic to attract investments, preserve rural settlements, provide jobs, and develop tourism.¹⁰ Hence, the Note added, among the other things, that it was necessary to extend protection to goods that, because of their nature, cannot be granted AO protection.¹¹ Moreover, other consultative bodies stated that this reform was useful for achieving different goals, such as: promoting regional brands; protecting producers and informing consumers; identifying, protecting and promoting Russian traditional products both on the domestic and on the foreign markets and, finally, fostering the overall economic development of the Russian Federation and especially of its rural areas.¹² The policymakers indicated that the EU *sui generis* GI system was taken as a model.¹³ Therefore, this paper will present and discuss some of the most notable features of the new Russian *sui generis* GI Law by comparing it with the EU regime for the protection of agricultural products and foodstuffs, which currently falls under the scope of Regulation 1151/2012.

As anticipated above, the most notable innovation implemented by the reform is undoubtedly the introduction of the GI paradigm in the Russian legal frame. In particular, the definition of GI provided under the new art 1516 Civil Code resembles the one set forth at art 5(2) Regulation 1151/2012:

a designation identifying goods originating from a geographical area, whose specific quality, reputation or other characteristic is largely related to its geographical origin (product characteristics). At least one stage of the production, which has a significant impact on the formation of the special characteristics of the goods, shall be carried out within this geographical area.

Also the definition of AOs, that was based on art 2(1) Lisbon Agreement, has been amended by adding a locality requirement, similar to the one that can be found at art 5(1)(c) EU Regulation 1151/2012, that stipulates that every step of the production must take place in the designated area. In particular, it now reads as follows:

a designation consisting in or containing a contemporary or historical, official or unofficial, full or abbreviated name of a country, urban or rural inhabited settlement, locality or another geographical area, and also a designation which is derivative from such name and which has become recognised as the result of being used in respect of merchandise whose

¹⁰ Russian State Duma, ‘Explanatory Note to the Draft Federal Law “On Amendments in Part Four of the Civil Code of the Russian Federation”’ (13 July 2018) <<https://sozd.duma.gov.ru/bill/509994-7>> 1.

¹¹ Ibid, 2.

¹² The Science, Education and Culture Committee of the Council of the Russian Federation, ‘Opinion on the Federal Law “On Amendments to Part Four of the Civil Code of the Russian Federation and Articles 1 and 23 of the Federal Law ‘On State Regulation of Production and Circulation of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products and on Limiting Consumption (Drinking) of Alcoholic Beverages”’ (N°3.9-03/1082, 22 July 2019) <<http://sozd.duma.gov.ru/download/90AC7BFA-F082-459C-B973-4581B640B124>> 3; The Economic Policy Committee of the Council of the Russian Federation, ‘Opinion on the Federal Law “On Amendments to Part Four of the Civil Code of the Russian Federation and Articles 1 and 23* of the Federal Law ‘On State Regulation of Production and Circulation of Ethyl Alcohol, Alcoholic and Alcohol-Containing Products and on Limiting Consumption (Drinking) of Alcoholic Beverages”’ (N°3.6-04/1510, 22 July 2019) <<http://sozd.duma.gov.ru/download/1A82AE00-C356-444D-A700-3E63E5C2E1BF>> 4.

¹³ Liliya Gumerova, ‘Regional Brands: Experience, Challenges Ahead’, *5th International legal forum ‘Legal protection of intellectual property: problems of theory and practice’* (Moscow, 17 February 2017) <<http://council.gov.ru/media/files/IybAdzDbtI8rqGD5WqULkbsegAaARI9a.pdf>> 3.

special properties are exclusively or predominantly defined by the natural conditions and/or human factors specific of the given geographical area. All stages of production, which have a significant impact on a formation of special qualities of goods, shall be carried out within this geographical area.

The introduction of this proviso indeed confirms that the Russian legislators wanted to mimic the EU system, at least in their intentions. In fact, the locality requirement is a peculiarity of the EU GI rules that appears neither in the Lisbon Agreement nor in the TRIPs.¹⁴

Turning now to the nature of the applicants, the new art 1518(1) Civil Code reads as follows:

A geographical indication can be registered by one or more citizens, one or more legal entities, as well as an association (union) or other association of persons, the creation and activities of which do not contradict the legislation of the country of origin of the goods.

While the EU legislation normally requires the applicant to be a group¹⁵ - except from special cases¹⁶ - here it is specified that applicants can be individuals, legal entities or unions. Particularly, 'legal entities' (*юридические лица*) refers to companies whereas 'associations and unions' (*ассоциации и союзы*) refers to producers' groups, consortia, syndicates and alike. For the first time, this reform has explicitly recognised 'associations' as subjects to whom GIs can be granted. This sounds surprising from an EU perspective. However, it must not be forgotten that during the Soviet era the economy was managed by public bodies only. Hence, Russia has only recently and gradually developed a system of private associations. Thus, GIs have always been registered by single entities, such as companies or individuals.¹⁷

More specifically, the subjects listed under art 1518(1) Civil Code are entitled both to the registration of an AO/GI and to apply for the exclusive rights related to them. Indeed, a peculiarity of the Russian *sui generis* GI system is that it treats these two aspects, registration and exclusive rights, as distinct. In particular, the Russian Civil Code stipulates that the applicant for the registration of an IGO also applies for the related exclusive rights, i.e. the right to use the indication in the course of trade, including online trade.¹⁸ Similarly, everyone who wants to use the IGO after its registration must apply for the granting of the exclusive rights, provided that they operate in the designated area and that they make a product with the characteristics prescribed by the registered specification.¹⁹ The exclusive rights last for a period of 10 years, after which they must be renewed.²⁰ Coherently with this setup, also the opposition procedure, introduced for the first time by this reform, can be filed either against the registration of and AO/GI or merely the granting of exclusive rights to one or more stakeholders.²¹

Therefore, under Russian Law, GIs and AOs are labels with specific rightsholders (*правообладатель*), as the law itself calls them, that can use the indication on the basis of an authorisation that is separate and independent from the simple registration of the name. This differs significantly from the EU model that, following the general theory of *sui generis* GIs, considers the latter as a collective and 'open' right without

¹⁴ Cf art 5(1) Regulation 1151/2012; art 2(1) Lisbon Agreement; art 2 Geneva Act, art 22(1) TRIPs.

¹⁵ Art 49(1) Regulation 1151/2012.

¹⁶ *Ibid.*

¹⁷ This had additional consequences. For instance, collective marks did not exist in Russia before 1992. See, Newcity (n 2) 351.

¹⁸ Art 1519 Civil Code.

¹⁹ Art 1518(2) Civil Code.

²⁰ Art 1531 Civil Code.

²¹ Art 1524(3) Civil Code.

rightsholders but only users or beneficiaries that can lawfully market a product under its registered name as long as they produce it complying with the specifications.²²

Another relevant innovation implemented by the reform concerns the registration of IGOs of foreign origin. In this case, the law makes a distinction between AOs and GIs.²³ In particular, the former can be protected only if they are protected as AOs in the country of origin, whereas GIs are available to any applicant whose jurisdiction provides a level of protection equal to that provided under the Russian Law. This is indeed an improvement as, beforehand, only IGOs protected as AOs in their home jurisdiction could be registered in Russia and this actively hindered foreign investments and gave rise to conflicts.²⁴

With regard to the level of protection granted, the Russian Law reproduces some provisions of the EU Law and of art 23(1) TRIPs. Hence, among the other things, the rules protect the registered indications from any unauthorised use even if the place of origin of the product is indicated, translated or accompanied by expressions such as ‘style’, ‘type’, ‘imitation or alike’.²⁵

As to the contents of the application files, once again, the reform has taken the EU legal frame as a model.²⁶ It is, however, interesting to point out that the new Russian Law does not set forth a unitary group of requirements for both quality schemes as in the EU.²⁷ Instead, it often splits the provisions on the application files in two, depending on whether the application is for an AO or a GI, often leading to a mere duplication of the rules. Furthermore, another peculiarity worth mentioning is represented by art 1522.1(3) that allows to change the nature of the applications or of the registrations, thus allowing GIs to become AOs and vice versa. This is a peculiar mechanism that suggests that, although this reform has juxtaposed AO and GI, these are still seen as practically distinct.

3. A few comments on the new Russian *sui generis* GI rules

The reform analysed in the previous section, come into force on 27 July 2020, is probably the most significant amendment to the Russian GI Law in a decade. In general, while some interesting steps have been taken, other aspects of the current legal frame show that Russia is still in a transition phase towards a fully complete and modern *sui generis* GI system.

The introduction of the ‘Geographical Indication’ model is an important development in line with the standards of the EU and of the Geneva Act. The adoption of a model of IGO protection less demanding than AO could allow a larger number of producers to apply for registration both for agricultural and non-agricultural products. Furthermore, the explicit inclusion of associations of stakeholders shows the intention

²² For an explanation of these essential principles of EU GIs, see, among the others, Erik Thévenod-Mottet and Marie-Vivien Delphine, ‘Legal Debates Surrounding Geographical Indications’ in Elizabeth Barham and Bertil Sylvander (eds), *Labels of origin for food: local development, global recognition* (CABI 2011); Louis Lorvellec, ‘You’ve Got to Fight for Your Right to Party: A Response to Professor Jim Chen’ (1996) 5 *Minnesota Journal of Global Trade* 65.

²³ Art 1517(2) Civil Code.

²⁴ This should solve issues that arose in the past in Russia, the most famous of which is the ‘Napa Valley’ case. Here, a US company applied for registration of an AO for NAPA VALLEY in 2013. The application was rejected because this name was protected in the US as a certification mark. Eventually, the Russian IP Court held that the registrability of an IGO protected in a foreign country must depend on the level of protection granted to it and not on the formal means of protection applied there. See, Russian Intellectual Property Court case СИИ-237/2017, *Napa Valley Vintners v Federal Service for Intellectual Property*.

²⁵ Instead, the much-debated concept of ‘evocation’, enshrined at art 13(1)(b) Regulation 1151/2012, does not seem to have an equivalent in this new text.

²⁶ Cf art 8 Regulation 1151/2012.

²⁷ Arts 1522 and 1522(1) Civil Code.

of the Russian legislators to lean towards a GI system that favours the cooperation of the producers in all the fundamental aspects of the administration of an origin product, such as the drafting of the specifications and so on. The fact that individual applicants are still allowed without exceptions shows that, despite taking the EU system as a model, the rationale behind it cannot be fully applied by Russia. In fact, as explained above, the list of possible applicants provided at art 1518(1) Civil Code is the direct result of the evolution of the legal and economic history of this country and, therefore, a different outcome cannot be expected in the near future. Finally, the clarification of the requirements for the registration of a foreign GI shows the commitment of the legislators to solve some longstanding dysfunctions of the Russian system.

There are at least two aspects of the new reform that show that there is still much to be done before the evolution of the Russian *sui generis* GI regime can be considered complete, however. First of all, the distinction between the registration of the geographical name and the possibility to apply for the exclusive rights for the use of it appears extravagant. In this scenario, in fact, AOs and GIs are considered as assets belonging to the first successful applicant and, only later, to every other producer who applies for the exclusive rights. In the last analysis, this amounts to a top-to-bottom approach where the authorisation to the use of an IGO is granted on an individual and case-by-case basis. As observed above, this contradicts a large part of the general theory of *sui generis* registration-based GIs and creates a system with little to no precedent.

Secondly, the reform has designed a system where AO and GI are treated as two separate systems. More than once, in fact, these two paradigms have been simply juxtaposed in the text with independent sets of rules, often very similar or identical, concerning the application, the opposition procedures and others. Hence, it seems that the Russian legislator has been unable to design a unitary and coherent *sui generis* system capable of accommodating in a structured way both AO and GI.

Therefore, the analysis of the provisions introduced by the reform show Russia as a country that is still in the middle of a slow and sometimes contradictory evolution. Indeed, the legislators seem to have learned some lessons from almost 15 years of experience and the attention paid to leading models, such as the EU, is commendable. However, our assessment also shows a country in which the development of an effective *sui generis* GI system seems far from over. In particular, interesting and long-awaited innovations still coexist with elements that remind, at least to some extent, of the old mechanisms of IGO protection, based on individual authorisations, often convoluted and potentially arbitrary.

Finally, it is likely that the future developments of this new *sui generis* system will be determined by how effectively it will be able to meet the ambitious policy objectives that it has set itself. This delicate issue will be analysed in the next section.

4. Critical analysis of the possible impact of the reform

This section will analyse the main policy goals of the reform and determine whether they can be effectively implemented. In particular, it will analyse whether: first, the reform will be able to fulfil its developmental goals; second, the consumers recognise GI labels and understand their meaning and function; third, the producers are informed and ready to make the new system work. Finally, the paper will share some thoughts on the possible effects of this reform on Russian exports and on the trade relations between Russia and the EU, in the hypothesis that the current economic sanctions are waived.

4.1 The reform may not bring the desired socio-economic effects on development

The social and economic development of rural areas is one of the priorities of the Russian developmental policy.²⁸ In this context, the new reform is expected to facilitate the accomplishment of these goals. Particularly, it is predicted that the adoption of the less demanding GI paradigm will, on the one hand, make it easier for producers to develop their own regional/local brands and, on the other, will encourage foreign applications.²⁹ This project has some grounds.³⁰ However, it is still unclear whether the Russian administrative bodies will be able to provide all the financial, informational, and administrative support required to fulfil the task.

A prediction of the impact that the reform will have on Russian rural development would amount to little more than a speculation. Nevertheless, the analysis of the registration of AOs prior to the introduction of the new rules shows that they did not bring tangible results to the economic development of rural areas and small communities. Indeed, the analysis of the Russian register shows that out of 252 registered names, 59 AOs (23.4%) are marked as ‘abandoned’, i.e. without a rightsholder. Furthermore, as anticipated in the introduction, 4 of them are ‘inactive’, i.e. cancelled.

Several reasons can explain these trends, each one representing a challenge for the future success of the new GI Law. First of all, the Russian territory is vast and diverse. Hence, specific policies aimed at supporting and guiding the regions of the country in the implementation of the rules and in the promotion of the new system are needed. In fact, the Russian legislators themselves have acknowledged and emphasised the necessity of administrative, financial, and informational assistance.³¹ However, no coherent and specific policy for the support of the GI regime has been developed and none is on the agenda so far.

Another critical issue concerns the producers themselves. Indeed, most of the traditional local goods, which can qualify for GI protection, are niche products manufactured in small villages. However, in these areas the outflow of population for urban areas is extremely acute, and the negative trend for production capacities has become more and more evident.³² It is known that one of the goals of the EU Common Agricultural Policy is the preservation of rural areas and the sustenance of small local communities.³³ Hence, Russian policymakers may follow these existing practices. Furthermore, since the Russian *sui generis* GI regime also protects handicrafts, some initiatives in favour of the sustenance of the latter would be relevant. In Russia the situation is particularly complex, however. In fact, public authorities themselves have recognised that producers of niche goods often do not have enough resources to establish and promote their activities at national level and, even more so, on foreign markets.³⁴

²⁸ Decree of the President of the Russian Federation of 16 January 2017, n.13 ‘On approval of the Basic state policy of regional development of the Russian Federation for the period until 2025’ Part III, art 6.

²⁹ Liliya Gumerova, ‘Rospatent press conference on the entry into force of the law on Geographical Indications’ (14 July 2020) <<https://rospatent.gov.ru/ru/news/geograficheskie-ukazaniya-osnova-dlya-budushchego-razvitiya-rossijskih-regionov>>.

³⁰ Although the link between GI protection and socio-economic development is object of debate, different studies presents the positive effects of origin labels in this field. See, Isolina Boto and others, ‘The Geography of Food: Reconnecting with Origin in the Food System’ (2013); FAO&SINER-GI, *Linking People, Places and Products: A Guide for Promoting Quality Linked to Geographical Origin and Sustainable Geographical Indications* (2nd edn, FAO 2010).

³¹ Grigory Ivliev, ‘Rospatent press conference’ (n 29).

³² Council on Intellectual Property Matters ‘Minutes of the meeting of the Council on Intellectual Property Issues of the Council of the Russian Federation’ (19 December 2017) 26.

³³ See also, Recitals 1-5, Regulation 1151/2012.

³⁴ Ministry of Economic Development of the Russian Federation, ‘Rospatent press conference on the entry into force of the Law on Geographical Indications’ (14 July 2020).

<https://www.economy.gov.ru/material/events/press_konferenciya_rospatenta_o_vstuplenii_v_silu_zakona_o_geograficheskikh_ukazaniyah.html>; Council on Intellectual Property Matters (n 32) 15.

Indeed, from the very beginning of the reform project, it was acknowledged that robust sales channels and infrastructures for the protected niche goods are almost absent and must be developed.³⁵ However, no sound policies concerning these issues have been publicly presented yet. In fact, to date, only some minor financial supportive measures for Russian applicants have been introduced such as a discount on online application fees along with reduced fees for small businesses. Something that can be considered a true support to rural developments and small local communities is yet to be seen, nevertheless.

4.2 Russian consumers may not recognise GI labels

Another goal of the new reform is to provide information to consumers and protect them from misleading practices and counterfeiting³⁶. Presumably, however, Russian consumers will be largely unable to recognise origin products³⁷ and to understand the meaning of the newly introduced labels. Indeed, most of these goods are known only at local level and few of them are recognised throughout the country thanks to their reputation as high-quality goods, e.g. Vologda butter and Bashkirsky honey³⁸. Furthermore, there is no specific demand for niche products among the majority of Russian consumers and, generally speaking, the origin of the goods is not considered as an element that adds to the prestige and status of a products.

In spite of this, producers seem to be convinced that the reform will provide an additional opportunity to get consumers' attention, including through special labelling which will let them to easily identify the products.³⁹ However, research shows that even in the EU, where the GI system is advanced and well-structured, consumers often struggle to recognise the GI labels and to understand their meaning.⁴⁰ Therefore, it seems that the task for the Russian producers will be arduous unless significant informational support is provided to consumers.

4.3 Enhancing producers' protection, cooperation and support may be difficult due to lack of awareness

The protection of and the support to producers play a central role among the goals of the new reforms, as they are expected to be significant contributors to regional budgets.⁴¹ However, producers' lack of awareness on GI protection⁴² leads to substantial adverse consequences.

Generally speaking, the central problem is represented by the lack of knowledge that many producers have concerning the functioning of GI Law. Among the others, one serious issue regards the inefficiency of the system of publications of the new registrations.⁴³ Particularly, in different cases it has emerged that stakeholders are not aware of the possibility to apply for the exclusive rights that, as mentioned earlier, in Russia are considered distinct from the mere registration of the name. This has brought in the practice to

³⁵ Council on Intellectual Property Matters (n 32) 26.

³⁶ Ivliev (n 31).

³⁷ Council on Intellectual Property Matters (n 32) 37.

³⁸ Council on Intellectual Property Matters (n 32) 14, 29.

³⁹ Maxim Novikov (n 30).

⁴⁰ Ramona Teuber, 'Consumers' and Producers' Expectations towards Geographical Indications: Empirical Evidence for a German Case Study' (2011) 113 *British Food Journal* 900; Klaus G Grunert and Kristina Aachmann, 'Consumer Reactions to the Use of EU Quality Labels on Food Products: A Review of the Literature' (2016) 59 *Food Control* 178. See also, EU Commission, 'Inception Impact Assessment: revision of the EU geographical indication systems in agricultural products and foodstuffs, wines and spirit drinks' (29 October 2020).

⁴¹ The Science, Education and Culture Committee of the Federation Council (n 12) 2.

⁴² Council on Intellectual Property Matters (n 32) 15.

⁴³ Alexey Robinov, 'Some Issues with the Application of Legislation on AOs in Court Practice' (24th Rospatent International Conference 'Transformation of IP in the Contemporary Environment', 20 October 2020) 49.

two main undesirable consequences: first, many producers are not aware of the chance to benefit from a GI; second, the first producer who registers an AO or a GI for a good and gets the exclusive right to use it, automatically and immediately excludes the other producers active in the same geographical area from the legal use of the registered name, thus giving rise to lawsuits.⁴⁴ Some practitioners have suggested that this flaw in the procedure could be fixed by introducing a grace period that should give the stakeholders time to acknowledge the new registration and take action, if deemed necessary.⁴⁵ It is too early to say whether this proposal will be accepted and included in a future amendment, however.

These dysfunctions may be overcome by enhancing cooperation among producers and favouring the formation of producers' groups. It is likely that this will be difficult, however. In fact, as shown earlier, the Russian GI Law does not require the applicants to be an association and, indeed, still today Russian producers are not used to forming groups.⁴⁶ Furthermore, they often seek exclusive rights only and, therefore, are not interested in AOs or GIs that, because of their very nature, can be used by anyone who complies with the specification.⁴⁷

Therefore, the goals of the reform related to the enhancement of producers' protection, support and cooperation may be challenging to achieve in the practice. This is due to the fact that the Russian producers themselves often appear to be unprepared or simply unaware of the functioning and benefits of a *sui generis* GI regime.

4.4 Export promotion and Russia-EU relations

The Russian government claims that the new reform of GI rules will promote Russian products on foreign markets⁴⁸. Furthermore, it is maintained that the accession to the Geneva Act of the Lisbon Agreement can make it possible for producers of traditional goods to improve access to foreign markets.⁴⁹

These positive results cannot be excluded *a priori*, but the available trade data suggest that the expected effects on the export of origin products is likely to be negligible. Indeed, export statistics concerning Russian AO goods - especially honey, mineral waters and alcoholic drinks - indicate that currently Russia keeps its trade relations mostly with neighbouring or former Soviet countries.⁵⁰ In the current situation, where the Russian Federation is subject to economic sanctions, the reform might not have a substantial impact on the trade between this country and other countries/regions, such as the EU.

Nevertheless, it is possible to make at least two predictions on the effect that this new GI reform could have on the EU/Russia trade relations should the sanctions be waived, completely or partially. Firstly, export of food products from the EU might improve as Russia will be granting protection to EU PGIs. This may concern some goods that are under sanctions at present, such as dairy products, meat and meat products,

⁴⁴ For an anthology of cases, *ibid*, 50.

⁴⁵ *Ibid*.

⁴⁶ The case studies of successful cooperation among producers are still too few. One of them is the Guild of Vologda Butter Producers that was established by the seven rights-holders of the AO n°27 'Vologda butter' in 2009 to ensure the quality of the product and fight against counterfeiting. See, Vologda Region Government <https://vologda-oblast.ru/o_regione/brendy/vologodskoe_maslo/>.

⁴⁷ Russia is not the only post-Soviet country where a culture of cooperation and association is missing due to historical reasons. A similar scenario was described to us by a senior officer of the Polish Ministry of Agriculture in the context of the works of the Research Team on GIs of the Max Planck Institute for Innovation and Competition.

⁴⁸ The Economic Policy Committee of the Council of the Russian Federation (n 12) 4; Gumerova, 'Rospatent press conference' (n 29).

⁴⁹ The Russian Federation has not applied for membership yet. The government is actively discussing about it, however.

⁵⁰ For more details, see UN Comtrade database (2018) <<https://comtrade.un.org/data/>>.

