



Optional Quality Term 'Mountain Product' among Geographical Indications. How do we Stand in the Carpathian Countries

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Considered intellectual property, the geographical indications are constantly gathering important recognition in the market for both retailers and manufactures as wells as on trade dialogue among EU and other states. Quality is ultimately a subjective notion, but when attach it to foods intended to human consumption, its attributes are subject to regulations as well as policy and legislation procedures. This paper we will analyze the Geographical Indications having as benchmarks both quality schemes already largely recognized by consumers and we mention PGI - protected geographical indication, PDO – protected designation of origin, but also an emergent quality scheme - mountain product. Starting with legislation, the paper analyzes the situation of the recognized European quality schemes in the Carpathian countries also having as reference the status in other European mountain countries.

Keywords: mountain product, mountain areas, legislation, innovation, quality, geographical indication.

1. Introduction: Context and General Considerations

The Common Agricultural Policy (CAP) of the European Union (EU) contains certain provisions, including on quality aspects with the aim to secure on the markets the names of food products while promoting their elements of authenticity which may reside on ingredients or traditional knowledge linked to a specific territory. Product names may be given a "Geographical Indication" (GI) only if the relationship with the production area is proven. GI allow the potential consumers to distinguish quality products and in the same time are better market positioning for the manufacturers. Products that are considered or recognized by GI are published in product registers. Such registers provide information related to geographical specificity and manufacturing specifications for every listed product.

Since considered intellectual property, the geographical indications have become constantly important also for commercial policies of the EU regarding trade among states and other economic macro-regions. Other quality schemes of the EU are those which emphasize the traditional production ("Traditional specialty guaranteed" - TSG) and products made in areas that face natural handicaps, such as mountainous areas or island ("Mountain Product", "Outermost Regions - ORs"). In the context of this paper's purpose, which slightly targets territorial identity related to agro-food products, we will analyze the Geographical Indications having as benchmarks only quality schemes that include "PGI - protected geographical indication", "PDO - Protected Designation of Origin", as well as the "Mountain Product".

2. Legislation

Geographical Indications are mainly subject of legislation at European level by four normative acts which are adopted into national legislation by the Member States:

- a) “Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs”¹⁷⁸, replacing “the Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, which allowed third country producers to register their names in the European Union”¹⁷⁹;
- b) “Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007”¹⁸⁰;
- c) “Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008”¹⁸¹;
- d) “Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91”¹⁸².

The *mountain products* are recognized and addressed first time at European level, by legislation, in the *Regulation (EU) No 1151/2012* whereas, it is stated, inter alia, that “...a second tier of quality systems, based on quality terms which add value, which can be communicated on the internal market and which are to be applied voluntarily should be introduced. Those optional quality terms should refer to specific horizontal characteristics, with regard to one or more categories of products, farming methods or processing attributes which apply in specific areas. The optional quality term ‘mountain product’ has met the conditions up to now and will add value to the product on the market. To facilitate the application of Directive 2000/13/EC where the labelling of foodstuffs may give rise to consumer confusion in relation to optional quality terms, including in particular ‘mountain products’, the Commission may adopt guidelines”¹⁸³. Furthermore, Article 31 explicitly mentions the ‘mountain product’ as “an optional quality scheme that can be used for natural and processed products from mountain areas”¹⁸⁴.

In addition to the previously mentioned document a new act, the *Commission Delegated Regulation (EU) No 665/2014*¹⁸⁵ is into force, expressing the conditions upon which the term ‘mountain product’, could be used and the same time strengthening on positive externalities that may occur with the establishment of short supply chains.

¹⁷⁸ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0001:0029:EN:PDF>

¹⁷⁹ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:093:0012:0025:en:PDF>

¹⁸⁰ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0671:0854:EN:PDF>

¹⁸¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0787&from=FR#d1e39-1-1>

¹⁸² <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:084:0014:0034:EN:PDF>

¹⁸³ Regulation (EU) No 1151/2012, (44), p. 4-5.

¹⁸⁴ Ibidem, art. 31, 1 a, b, p.15.

¹⁸⁵ <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32014R0665&from=en>

Adoption of the European regulations for mountain product in the Romanian national legislation was made by:

- a) “DECISION no. 506 of 20 July 2016 on the establishment of the institutional framework and measures for the implementation of Delegated Regulation (EU) no. 665/2014 of the Commission of 11 March 2014 supplementing Regulation (EU) no. Regulation (EC) No 1.151 / 2012 of the European Parliament and of the Council as regards the conditions for the use of the optional quality term ‘mountain product’”¹⁸⁶;
- b) “ORDER Nr. 52 of March 3, 2017 on the approval of the Procedure for verifying the conformity of the data contained in the specifications in order to grant the right to use the optional quality term ‘mountain product’ and to verify compliance with European and national legislation by economic operators who have obtained the right use of that statement”¹⁸⁷;
- c) “REGULATION no. 787 of 17 April 2019 on the definition, description, presentation and labeling of spirits, the use of the names of spirits in the presentation and labeling of other foods, the protection of geographical indications of spirits, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages and repealing Regulation (EC) no. 110/2008”¹⁸⁸.

3. Quality schemes

Quality schemes ensure compliance with certain quality standards specific to the types of products certified by different schemes, protecting their provenance from possible counterfeit products, thus ensuring protection by geographical indication. Therefore we will analyze the schemes “Protected Geographical Indication (PGI)”, “Protected Designation of Origin (PDO)”, “Mountain Product”, the latter being treated extensively in the next section, having a distinct character, since it is an optional quality scheme having subsequent legislation which is still relatively new in the European Union member states.

Quality is ultimately a subjective notion, regardless of the context in which it is used as an appellation and even more so when we attach it to foods dedicated to human consumption. Quality attributes that shall be considered in the context of agricultural policies, beyond the basic requirements of health, safety, taste, can be:

- certain special ingredients;
- product attributes, in particular related to the geographical origin and the area of production (eg. mountain areas), animal breed, production method (eg. organic farming);
- processing, labeling and promotion in ways that develop a higher level of attractiveness for consumers;
- specific production methods that are distinct, often because of the application of traditional knowledge with a significant amount of authenticity.

Significant efforts to improve the quality of food produced by the European agriculture “have been part of European Agricultural Policy since the 1980s when it was introduced a labeling system for wine”¹⁸⁹. Later, in the ‘90s the EU focused on promotion and

¹⁸⁶ <https://www.madr.ro/docs/ind-alimentara/2019/produs-montan/hot-506-din-20-iulie-2016-produs-montan-actualizata.pdf>

¹⁸⁷ https://www.madr.ro/docs/ind-alimentara/2019/produs-montan/ORDIN-Modificat_-52-2017-modif-31.05.2019.pdf

¹⁸⁸ <https://www.madr.ro/docs/ind-alimentara/2019/regulament-UE-nr-787-17.04.2019.pdf>

¹⁸⁹ https://en.wikipedia.org/wiki/European_Union_wine_regulations

protection of local and authentic products having as main expertise best practices of the Member States, as France AOC (Appellation d’Origine Controlee) and Italy DOC (Denominazione d’Origine Controllata). To develop high commercial value of agro-food products at EU level, it’s a must to protect their names and to implement criteria based on which those specific names shall be used for certain products, so that the specific, traditional character to be preserved. The quality elements introduced in the Common Agricultural Policy (CAP) aim at *encouraging the diversification, protecting product names* (eliminating counterfeits and imitations), *educating consumers* about the specific characteristics of EU agri-food products.

European products designated by quality schemes could be split on those classified in terms of territorial origin and the ones that address a very specific method of production. PGI and PDO obviously are part of the first mentioned category here, since express specific links and roots among qualities, organoleptic attributes, properties, fame and geographical area.

Table 1. Geographical indications at EU level for foods, agricultural products and wines

Protected Designation of Origin (PDO)	Protected Geographical Indication (PGI)
„Each step of the production, processing and preparation process must take place in the specific region. For wines, this means that the grapes must come exclusively from the geographical area where the wine is made.” ¹⁹⁰	„For most products, at least one of the production, processing or preparation stages takes place in the region. In the case of wine, this means that at least 85% of the grapes used must come exclusively from the geographical area in which the wine is actually made.” ¹⁹¹
PDO: „it can be the name of a region, a specific place or a country; used to describe an agricultural or food product. The product must be: originating in that region, specific place or country; the quality or characteristics are due to the geographical environment with its natural and human factors; the raw materials used must come only from the defined geographical area; production, processing and preparation must take place only in the defined geographical area.” ¹⁹²	PGI: „it can be the name of a region, a specific place or a country; used to describe an agricultural or food product. The product must be: originating in that region, specific place or country; possess a specific quality, reputation or other characteristics attributed to geographical origin; the raw materials used may also come from outside the defined geographical area; some operations of the production process, such as: packaging, freezing, storage, etc., may take place outside the defined geographical area.” ¹⁹³

The Carpathian countries seem to have understood that certification schemes bring added value by guaranteeing organoleptic properties, consolidating a local gastronomic identity and increasing the visibility on the markets, both national and European or

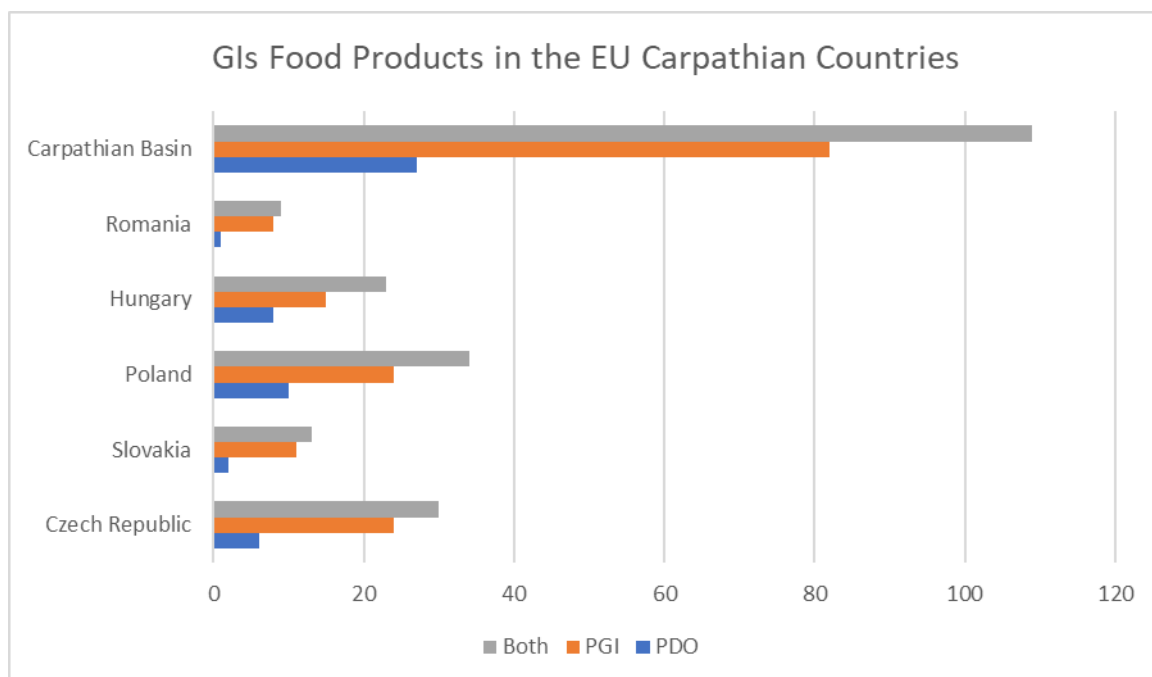
¹⁹⁰ https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/quality-schemes-explained_en#geographicalindications

¹⁹¹ Ibidem.

¹⁹² <http://www.rinaromania.ro/serviciile-noastre/certificare/agroalimentar/produse-agroalimentare/marci-dop-igp>

¹⁹³ Ibidem

international. Thus, although a forced cooperation is not feasible in between this Eastern bloc and the states of Western Europe where free market mechanisms have been adopted earlier and are already consolidated within the agri-food sector, we note that these Carpathian countries still have a considerable number of products certified by GIs. At present moment, when finishing writing this paper (June 2021) there are 109 GIs (PDO and PGI) registered¹⁹⁴ in the Carpathian States that are member of the EU.



4. Mountain Product

Optional quality scheme "mountain product" is not in the position to confuse consumers, instead acts as a response for a necessity; to promote certain categories of products with distinct qualities that maybe cannot always obtain PDO / PGI certification but have quality guarantees. At the same time, the mountain product can be granted regardless of whether there is a simultaneous PDO / PGI certification or not. The need lies in the value that proper certification and labeling can have for ensuring sustainable development of European mountain areas. Regional branding, certification and specific labeling for mountain products could provide considerable potential to support value chains and supply chains in mountain agriculture. Agro-food systems of the mountain regions “directly related to the environmental factors and production models give them obvious premises to be classified as products of higher quality, as niche”¹⁹⁵. The introduction of the term 'mountain product' on GIs subsequent legislation has the purpose “to raise the price of products from mountain areas where economic activity and life in general is more difficult in comparison to lower

¹⁹⁴ <https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/#>

¹⁹⁵ McMorran et al, Un label européen pour les produits alimentaires de montagne ? : Le rôle de la labellisation alimentaire et de la certification comme contribution au développement durable des régions montagneuses d'Europe, in Revue de Géographie Alpine, 2015, p. 4

altitude areas”¹⁹⁶. In order for this quality scheme to become effective and generate a coherent, concrete and quantifiable impact, a series of steps must be implemented to support the idea of mountain product quality and its well-defined origin, having as baseline: - the precise determination of the mountain area taken into account for a given product; - special quality criteria; - mapping of existing and potential certifiable mountain producers; - production regulation; - coherent and efficient mechanisms of monitoring and control¹⁹⁷.

In order to make the transition to the stage of implementation of this quality scheme in Romania and other European countries, we take into account general considerations, as a basis for the legislation set out in the previous chapter, as follows:

- Member States may adapt the derogation on processing outside the mountain area. While the delegated regulation allows for a 30km derogation outside the mountain area for milk and dairy products, this is not the case of slaughter of animals or carcass processing, neither for pressing and processing of olives. But the Member States may opt to either eliminate derogation or reduce the distance;
- To avoid possible fraudulent use of the term, EU Member States set up mechanisms of evaluation and control in order to monitor the use of the term. This translates into the definition of procedures for farmers who use the quality scheme and designation of a public body / entity responsible for the control and application of the quality scheme.

Since the *mountain product* officially came into use in July 2014, as an optional quality scheme, stakeholders all across European mountain area took measures to implement the scheme at national level. These processes are far from being successfully finalized since some Member States still need to implement adequate measures to protect the use of the term. The process must also be accelerated by defining and applying appropriate control systems. Not last, financial, or other forms of subsidies are needed to consolidate the use of this quality scheme, so that producers have immediate certainty about the benefits of using the term.

4.1. The Mountain Product and its status in Romania

With a third of its territory classified as a mountain area, mountainous areas with significant value from an economic, cultural, environmental and societal point of view, Romania was one of the most dynamic countries in terms of adopting European legislation in this regard. In the context of an intense lobby process that took years, issued by civil society and farmers' organizations, at central and European level, the Government issued the decision no. 506¹⁹⁸ to define the institutional framework and mandatory steps for implementing the 665 EU Regulation. Later, in March 2017, the Romanian Ministry of Agriculture issued the no.52 Ministerial Order¹⁹⁹ approving the procedure for using the term mountain product. Romania is the only EU country that has decided not to make use of the possible derogation (reducing the distance to 0 km), so that the entire added value through the quality scheme is kept in the mountain area.

The public body which coordinates territorial implementation of the scheme is the National Agency for Mountain Areas (ANZM), a decentralized structure of the Ministry of

¹⁹⁶ Gruia et al, Study regarding the geographical indication (GI) for mountain agri-food products, in Journal of Montanology, vol. VII, 2017, p.2.

¹⁹⁷ Ibidem, p.3

¹⁹⁸ <http://legislatie.just.ro/Public/DetaliiDocument/180412>

¹⁹⁹ <https://legeaz.net/monitorul-oficial-182-2017/omadr-52-2017-procedura-verificare-acordare-drept-utilizare-mentiune-produs-montan>

Agriculture and Rural Development. Main responsibility is the evaluation of applications for the optional quality term "mountain product", the authorization and monitoring being carried out by Agency's territorial branches on the basis of the national register held by the Agency under its supervision. This means a pre-authorization of producers before they are granted the right to use this quality term and label. The National Authority for Consumer Protection is responsible for the controls and will verify if the producers have been authorized to use the quality term on their packaging, and that the labeling is in accordance with national regulations.

The Order no. 49²⁰⁰ regulates the method of labeling at national level that complements the simple mention of the quality term "mountain product" [note that European regulations give Member States the right to impose a logo in the labeling system or not, European legislation referring strictly to the terminology applied to the label, not to the form].

We recall the fact that the Ministerial Order 52, by which the implementation of the quality scheme begins, was released in March 2017. Two years later there were over 500 authorized products - although only 75 in January 2019 - 264 milk based and dairy products, 9 meat-based products, 183 fruit and vegetable products, over 100 honey and beekeeping products, 9 fish-based and one product from the range of bakery assortments.

This growing interest can be explained in various ways. An effect is certainly due to the efforts to operationalize AZM, which has managed to allocate resources for awareness rising activities for the quality scheme, which are in fact mandatory efforts with the advent of the mountain law. This has led to a better understanding of the scheme among producers and at the same time a recognition (albeit limited) among consumers, which translates into an assurance that the purchased product actually comes from the mountain area, and production processes are verified, granted by competent bodies and comply with regulations. The creation of the national logo and a database with all authorized manufacturers certainly had its share of contribution, along with a media campaign supported on various channels.

By June 2021, there are 2245 authorized mountain products²⁰¹, of which only 3 are meat-based, the rest of the categories being relatively balanced. Meat products are difficult to obtain in economically efficient conditions when additional feeding is not possible. We shall understand this better in the following, by explaining the conditions upon which "mountain product" quality term is legit to be used.

Table 2. Terms and conditions for mountain products²⁰²

Animal products
1) The term "mountain product" is applicable to agro-food products obtained from animals raised in mountain areas and processed in mountain areas.
2) The term "mountain product" is applicable to products obtained from animals that were reared for at least the last two thirds of their life in mountain areas, in the case in which products are processed in those areas.
3) "Mountain product" is also applicable for products obtained upon transhumant animals, if reared for at least a quarter of their lives in transhumance and grazed on mountain pastures.

²⁰⁰ <http://legislatie.just.ro/Public/DetaliuDocument/210544>

²⁰¹ <https://www.madr.ro/industrie-alimentara/sisteme-de-calitate-europene-si-indicatii-geografice/produse-agricole-si-alimentare/produs-montan.html>

²⁰² National Agency for Mountain Area, Good practice guide on granting the right to use the optional quality term "mountain product", 2017.

Feeding

- 1) Feed intended for farm animals is regarded of mountain provenance if the rate of the annual feed that could not be produced in mountain areas, expressed as percentage of dry matter, doesn't exceed 50%. In the case of ruminants this is 40%.
- 2) For swine, the feed rate that cannot be produced in mountain areas, expressed as a percentage of dry matter, must not exceed 75% of their annual ratio.

4.2. The Mountain Product and its status in the EU Carpathian Countries

Since mountain product is a European quality scheme, we analyzed the situation in those States of the European Union with mountainous areas and in the Carpathian context, only the EU members (Romania – above, Czech Republic, Slovakia, Poland). Serbia and Ukraine are not member of the EU while Hungary although an important member for the Carpathian Convention, do not have such a significant territory of mountain area which would create viable foundations for launching the process to adapt the national legislation for “Mountain Product”.

By the end of 2020, there were 3 types of situations. Member States may decide to apply the regulations directly, may decide not to apply the regulations (being an optional quality scheme), or may choose to develop subsequent national legislation for a more appropriate application of European regulations to the real challenges and perspectives in their mountain milieu. Austria is the only European country that has directly applied European legislation for mountain product (mot-a-mot). Several states are conducting legislation procedures to adapt their national legislation to the EU Regulations (Italy, Germany, Slovenia, France, Croatia the Czech Republic, Bulgaria). Romania already completed this process, being the most dynamic EU country in terms of adopting the scheme. The third category of states is those that, so far, have not created subsequent national legislation or adopted European regulation (Portugal, Spain, Greece, Cyprus, Slovakia, Poland, Finland, Sweden)²⁰³.

In the following we will briefly present the situation of several states considering the 3 typologies mentioned above.

In Austria, a country with 73.4% mountainous territory, 54.7% agricultural land located in the mountain area, “the production of mountain products represents a significant part of the total output of Austrian agriculture (38.1%)”²⁰⁴. The adaptation process at national level does not exist because the regulation was adopted in its entirety with no derogations, so it allows processing outside the mountain area for a distance of up to 30km. There are no specific pre-authorizations, farmers can use the quality mark as long as they meet the criteria.

Romania and Czech Republic are the only Carpathian countries that developed subsequent national legislation. In the Czech Republic, 20.4% of the country's surface is represented by the mountainous area. 7.23% of agricultural outputs come from mountainous areas. First in 2011, the Czech Republic adapted its national legislation in order to integrate EU quality schemes in general. Since 2014 national authorities included the "mountain product" among them. The Czech Republic has not used the possibility to reduce the

²⁰³ EUROMONTANA, Implementation of the EU optional quality term „mountain product”. Where do we stand in the different member states?, 2020.

²⁰⁴ Santini F, Guri F, Gomez Y Paloma S. Labelling of agricultural and food products of mountain farming. EUR 25768 EN. Luxembourg (Luxembourg): Publications Office of the European Union; 2013. JRC77119. *(All figures on the mountainous area of the countries analyzed, as well as productivity figures, are taken from this report).*

processing distance derogation outside mountain areas²⁰⁵. In Romania 29.9% of the territory is mountainous "and 19.7% and 9.15% of Romanian agricultural production occurs in mountain areas. Romania begun the set-up on national legislation for mountain product since 2016 and is the first country to finalize the adoption process of the EU regulations. Also is the only country so far who decided not to use any derogation (reducing the distance to 0km)"²⁰⁶.

Slovakia and Poland, members of the EU and Carpathian Convention have not yet adapted their national legislation for implementation of the "Mountain Product" quality scheme. With only 2% of the territory classified as mountainous in Poland, the agricultural production here represents only 1.42% of the total national agriculture. For now, no legislative means have been identified for the implementation mountain product quality scheme and the numbers might not generate interest for such a thing. Instead in Slovakia, with 45.3% of the territory in the mountain area, the production related to the food industry here is over 20% of the total outputs. Despite the importance of mountain farming at national level, it is curious that mountain product quality scheme hasn't been implemented to date²⁰⁷.

5. Conclusions

This paper does not have a pronounced analytical character, but represents an effort to document processes, to highlight how geographical indications are used in the support of European territories. Thus, the conclusions are having a more general nature and can be considered hypotheses from which to explore in more detail the multiple valences of geographical indications. The quality schemes used Europe are contributing for a better market capitalization through agro-food product of European territorial diversity. Geographical identity is represented by *mountain product* quality scheme, *protected designation of origin*, *protected geographical indication*. The mountain product represents an emerging optional quality scheme, which is introducing notions of quality, standardization, in geographical areas which are still archaic, especially in the Carpathians, and the mid-term economic effect is represented by strengthening the small household, family farms, by their induction into the modern economic system. The fact that in the Carpathian area the GI certifications are less used attests reminiscences of the past, governed by centralized economic systems, hence the reluctance for cooperation and collaboration between the actors in the supply chain. Geographical indications are raising more interest today then decades ago, although are among primordial forms of intellectual property. Based on its direct link to a specific territory GIs might soon become effective tools for supporting the local development.

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²⁰⁵ EUROMONTANA, op.cit., p.15.

²⁰⁶ Ibidem, p. 14.

²⁰⁷ Ibidem, p.20



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