
The implementation of new sustainability criteria in the EU sui generis system: an opportunity to discuss polycentric governance

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Abstract

A reform of the EU GI sui generis system for agricultural products, foodstuffs, wines, and spirits is currently discussed at the EU level. Among its heterogeneous objectives, this initiative includes specific aims linked to the Farm to Fork Strategy, which is at the heart of the Green Deal and was released by the EU Commission in May 2020. The Farm to Fork Strategy addresses a wide range of complex challenges aimed to achieve sustainable food systems, while preserving human development and the environment. Among the goals of the strategy, the EU Commission mentions the need to ‘strengthen the legislative framework on geographical indications (GIs) and, where appropriate, include specific sustainability criteria’. The nature of these criteria is still to be clarified, as well as the related objectives and implementation. This last point can be particularly challenging, given heterogeneous levels of engagement in protecting GIs at the national level for agricultural products and foodstuffs, despite the common framework of the Regulation (EU) 1151/2012.

To date, various theoretical approaches and methods have been used to analyse, understand, and assess the sustainability of specific GI systems. These analyses are mainly presented in the form of collections of case studies or single case studies. On the one hand, this variety is fundamental to give an array of different experiences in the protection of names for origin products and shows the complexity of sustainability as a multifaceted concept. On the other hand, it makes it more challenging to find common and user-friendly criteria to be implemented in the rules of procedure governing future applications and amendments.

Previous studies have described the possible impact of the introduction of sustainability criteria in existing GI rule systems from the perspective of the applicants and of national and EU authorities (1). This article makes a step further and explores possible options for operationalizing the new criteria at the local, national, and EU level. Moreover, it describes the possible consequences of the reform on the governance at different regional scales, considering the existence of widespread heterogeneities in the procedural rules and practices followed by the Member States at the national level (2).

In particular, two possible approaches will be considered: a bottom-up approach where the applicants enjoy a wider margin of manoeuvre in crafting the rules of sustainable production in the product specifications, and a top-down approach where a set of general criteria

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is identified by the EU Commission and implemented in the scrutiny at the national and EU level. Finally, this analysis will discuss how the introduction of new criteria in the GI *sui generis* system could represent an opportunity for achieving a more efficient polycentric governance at the local, national, and EU level.

Main references:

- (1) F. Guerrieri, The Farm to Fork strategy as an external driver for change: possible impacts on nested GI rule systems, *Journal of Intellectual Property Law and Practice* (forthcoming).
- (2) Max Planck Institute for Innovation and Competition, Overall Assessment of the EU system of protection of GIs for agricultural products and foodstuffs (forthcoming).

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