



The International Treaty  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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**Views, Experiences and Best Practices on the Implementation of Farmers' Rights Submitted by Contracting Parties and Relevant Organizations**

*Note by the Secretary*

*This document presents the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty submitted by Norway on 9 October 2012.*

*The submission is presented in the form and language in which it was received. Minor editorial changes include the full rendering of acronyms and the correction of spelling.*

## CONTACTING PARTIES

### Norway

Options for the development and strengthening of Farmers' Rights in Norway: Report from the Norwegian Genetic Resource Centre to the Norwegian Ministry of Agriculture and Food.

The 4<sup>th</sup> Governing Body of the ITPGRFA recognized, in its Resolution 6/2011 *Implementation of Article 9, Farmers' Rights*, that exchange of experiences and mutual assistance between Contracting Parties can significantly contribute to making progress in the implementation of the provisions on Farmers' Rights in the International Treaty. The Governing Body therefore invited Contracting Parties and other relevant organizations to submit views, experiences and best practices on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders. Proposals for ways and means through which these views, experiences and best practices can be exchanged between and among Contracting Parties and relevant stakeholder groups were also requested.

In November 2011 Ms. Regine Andersen's study *Plant genetic diversity in agriculture and farmers' rights in Norway*, FNI-report 17/2012 was first published in Norwegian by the Fridtjof Nansen Institute. In order to follow up on the findings in Ms. Andersen's study, The Norwegian Ministry of Agriculture and Food commissioned the Norwegian Genetic Resources Centre to develop a plan for the development and strengthening of Farmers' Rights in Norway. This work is currently in progress, and will focus on challenges to crop genetic diversity in Norwegian agriculture, and recommendations for increasing crop diversity on both small and large scale.

This submission below is inspired by the key findings from the FNI-report and includes some initial reflections by the Norwegian Genetic Resources Centre and the National Committee for Plant Genetic Resources for Food and Agriculture with regard to the strengthening of Farmers' Rights in Norway. The views and ideas portrayed below are those of an array of different stakeholders and do not reflect governmental policy.

#### *The context of Farmers' Rights in Norway*

Given the cold climate and mountainous terrain, only about 3 per cent of Norway is cultivated. The main share of agricultural land is used for fodder production for livestock. Grains are mostly grown in the south-east and middle of the country with barley and wheat being the most important crops. Livestock raising and dairy farming is important throughout the country, especially in mountain regions. Fruit and vegetable production varies from region to region. Potatoes are the main staple. In many coastal and mountainous areas the farms were traditionally small and subsistence oriented, often accompanied by fishing. Industrialization throughout the 20th Century and especially the development of the oil and gas industry from the 1970s and onwards, has generated many new jobs in industry and service sectors, and become the backbone of the modern Norwegian economy. Farming has been greatly affected

by modernization; through emigration to the towns, farm closures and structural changes (bigger units).

Though not a member of the European Union (EU), Norway is closely integrated with the EU through the European Economic Area (EEA) agreement. The EEA Agreement provides for the inclusion of EU legislation covering the four freedoms; the free movement of goods, services, persons and capital, in addition to cooperation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture. Norwegian agricultural policy is not a part of the EU's Common Agricultural Policy (CAP), but is informed by EU-policy in areas under the jurisdiction of the EEA-agreement, e.g. food safety, animal welfare and seed legislation. The high level of cost in Norway means there is need for strong protection of farmers by the Norwegian government if this sector is to survive, through grants and tolls on imported agricultural produce.

Norway is a member of the 1978 Convention of the International Union for the Protection of New Varieties of Plants (UPOV). This version of the UPOV-Convention protects Plant Breeders' Rights' but still allows farmers to save seed from their own harvest of protected varieties to use the following season and exchange them with other farmers. The 1991 Convention under UPOV restricts this possibility, and was rejected by the Norwegian government in 2005 on the grounds of Farmers' Rights.

The conservation of plant genetic resources for food and agriculture (PGRFA) is one of many areas where Nordic cooperation is important. Together with the other Nordic countries Norway has established The Nordic Genetic Resource Centre (NordGen). The centre administers the common Nordic gene bank and the depositing of material in the Global Seed Vault in Svalbard. The centre is also involved in development of new material, including through a pre-breeding partnership programme that will involve farmers.

The awareness of Farmers' Rights among the Norwegian authorities, in the population at large, and among farmers themselves can be argued as being generally low. Although there is no single organization for Farmers' Rights in Norway, the different farmers' organizations are becoming increasingly aware and involved in this area, e.g. through participating on the national committees for genetic resources, chaired by the Norwegian Genetic Resources Centre.

The following key areas were identified in the enclosed report *Plant genetic diversity in agriculture and farmers' rights in Norway, FNI-report 17/2012*. These areas have in turn informed the current debate in the National committee for plant genetic resources for food and agriculture.

*The right to save, use, exchange and sell seeds*

Norwegian farmers today mainly use commercial varieties and modern methods of cultivation/production. They are mostly satisfied with the available assortment of seeds and propagating material – but many farmers outside the mainstream bulk production, e.g. organic and biodynamic farmers find that their needs are not met by supplies available from authorized seed shops, and seek out other channels. In 2010, some 4.4% of the total Norwegian agricultural land was being cultivated organically (including biodynamic agriculture). There are probably fewer than 100 farmers who cultivate older or special varieties (FNI-report 17/2012). Most of these farmers are engaged in small-scale agriculture.

The right to save, use, exchange and sell seeds is related to regulations regarding the approval and protection of crop varieties, requirements for listing on the National list of varieties, DUS-testing (distinctness, uniformity and stability of crops) and the costs associated with this. In practice these regulations influence farmers' possibilities to use their own seeds and to develop their own crop material, as well as exchange and sell such material.

New regulations for conservation varieties and amateur varieties have improved farmers' possibilities to grow and sell plant varieties that do not meet the normal DUS requirements for listing on the National list of varieties. Reduced fees have lowered the threshold for production and sale of seeds in small quantities of such varieties and the first authorized seed shop for conservation varieties has been established. The Norwegian Genetic Resources Centre is currently working with the Nordic Genetic Resource Centre (NordGen) and the Norwegian Food Safety Authority on facilitating the inclusion of relevant conservation/traditional varieties on the official crop list, so more such crops can be grown and their seeds sold.

A remaining legislative hindrance is related to the crops' area of origin. Old varieties from the Nordic climate zone, and thus have properties that make them suitable for cultivation in Norway, can't be listed on the National list of varieties as long as it's not proven that they were historically cultivated in Norway. Although it is very likely that varieties or very similar crop varieties have grown in Norway sometime in the past, it has to be documented that this is actually the case. Presenting such documentation is often difficult, and advocates of crop diversity believe the requirements for documenting traditional use in Norway should be relaxed.

Legislation regarding the improvement of old varieties/landraces and development of amateur varieties of cereals is another unresolved issue. Norwegian regulations for amateur varieties make it possible to register new small scale varieties and to further develop varieties/landraces of vegetables, but not crops used for grain or fodder.

Farmers that improve landraces and develop new varieties of cereals on farm conduct important work that could be stimulated further. Currently, there is no real opportunity to multiply and sell seeds of new or improved landraces, unless one expects sales so great that they will justify the investments required to register new plant varieties on the variety list. Listing on the variety list, on the other hand, entails fulfillment of additional requirements that it might be hard for landraces to meet.

Instead of the existing restrictions one could establish incentives that encourage the use and development of locally adapted varieties, which is precisely the type of effort that the world's farmers have gained great appreciation for, and that is also a major reason why Farmers' Rights has gained a central role in eg. The Plant Treaty.

#### *Rights related to relevant traditional knowledge*

The FNI-report also stresses the importance of ensuring that traditional knowledge is preserved. For biodiversity farmers' traditional knowledge is invaluable and even decisive for their ability to conserve and develop crop genetic diversity on their farms, and for building up economically sustainable production based on this diversity. Preserving traditional knowledge takes place at all levels, from the individual farmer, institutions working with crop genetic diversity to national governments and international organizations.

At the level of the Genetic Resources Centre it is of great importance that traditional crops' properties are thoroughly scrutinized and that all knowledge is made readily available. Obtaining information on the characteristics, use, and relevant history of crop varieties and other genotypes of plants is a huge and almost endless task that amongst others; NordGen and the Norwegian Genetic Resources Centre are working on. NordGen's standard for information on varieties includes passport data (data on a variety's origin intellectual etc.), characterization data (morphological descriptions), and evaluation data (studies of utilization potential). The information database on preserved material in NordGen gene bank and the national collections is gradually being expanded. There is still a huge gap between needs and goals regarding documentation, preservation and dissemination of the knowledge on preserved genetic material, and the resources available for this.

There is hope that the Norwegian Nature Diversity Act of 2009 may open up new doors for the funding of agrobiodiversity in the future. An Action Plan for Hay Meadows and the choice of hay meadows and wetlands as Selected Habitat Types is already in place under the Act, and involves some allocations of funds and activities to protect these areas.

The FNI-report points out that there no integrated plan on how this "cultural treasure" should be maintained and transmitted exists and that a strategic approach to the traditional knowledge of agricultural plant genetic resources is missing. The report recommends the development of an overall strategy for traditional knowledge. Clearly defining "responsibility" is an important task for such a strategy. The responsibility of the Norwegian Genetic Resources Centre should be limited to knowledge on crop varieties and genetic diversity, while others must focus on entrepreneurship on the farms, the cultural heritage this knowledge represents etc. Collaboration between different organizations and government agencies in the field of agriculture and environment would be important for the development of a strategy for traditional knowledge.

#### *The right to share benefits accruing from the use of genetic resources*

Benefit sharing is about recognizing and compensating farmers for their contribution to the conservation of plant genetic resources. This entails supporting farmers and communities in their efforts to preserve the diversity and making sure that farmers of all regions benefit from the further development of plant varieties. Providing farmers with financial support for their excess costs of using and developing crop diversity can be an efficient measure in this regard.

Such costs arise when seeds, seed potatoes and other propagating material is more expensive than that of the commercial varieties that are traded in larger quantities, and when the yields obtained from the traditional crop varieties are lower and of less value than other varieties. On the other hand, crops and products from special plant varieties can obtain higher prices because they have particular characteristics or qualities that consumers are willing to pay for. The general rule though, is that products from such varieties involve an excess price in the market.

Financial support could be used to ensure that reasonably priced breeding material is available on the market, but also to compensate farmers for cultivating certain varieties that give lower yields. Financial support for a scheme for crop insurance compensation for traditional varieties is also much sought after. In Norway a financial support scheme is already in place for valuable, historic cattle breeds and the Norwegian Genetic Resources Centre has suggested that such support is also given to preserve valuable historic breeds of sheep.

The Norwegian Genetic Resources Centre is involved in a partnership that has set up a gene bank for traditional grain varieties in order to ensure that seeds of conservation varieties and other old varieties that are not in regular trading are available in quantities large enough for farmers to be able to cultivate an area mechanically and thus check if a variety is appropriate for professional cultivation on farm. The gene bank currently holds about 50 varieties. A Norwegian gene bank for potatoes is being established and the Norwegian Genetic Resources Centre plans to help the enrichment of potato minitubers at the scale necessary for professional testing. It must be stressed that these measures for the time being only will give the necessary quantities needed for trials and testing and that farmers cultivating special varieties of grain and potatoes will still need to produce the breeding material needed for cultivation for sale themselves.

The Norwegian Genetic Resources Centre hopes that the gene banks for grain and potatoes will help increase farmers demand for conservation varieties and other old varieties and in turn stimulate regular production of such varieties on commercial terms. It could still, however, be necessary to consider financial support for enrichment to ensure that the price of seed, etc. is on par with seeds of conventional varieties. Such support could be given both to specialist seed suppliers specializing in crops rarely used and regular suppliers as a compensation for trading in varieties that are less profitable than commercial varieties.

Direct financial support for cultivation of valuable historical plant varieties that are otherwise not being used could also be considered. If public authorities want such varieties to be grown by farmers who have their income from agriculture, it is possible to encourage this

through direct financial support, in line with eg. support schemes for organic farming. In the EU there is provision for support for cultivation of plant varieties of high genetic value through the European Agricultural Fund for Rural Development (EAFRD), but to our knowledge there are few examples of established support schemes where farmers are supported directly for cultivating traditional crop varieties. In Norway, the EU and other countries with agricultural grant schemes, financial support towards cultivation of valuable plant varieties could be integrated into the established system of land grants for farming, as a type of payment for ecosystem service.

There is also a case for separate crop insurance compensation scheme for old and small scale varieties. In 2011 many farmers in Norway experienced weather related crop injury, both conventional farmers and those who cultivated conservation varieties and other traditional crop varieties were affected. As compensation is given in term of the volume of the lost crop, and not crops' quality and value, farmers that cultivate small scale, higher valued crops with smaller yields were hit extra hard.

The regulation on crop compensation already allows compensating the reduced value of fruit from crop injury, and not just the total quantity. The Norwegian Genetic Resources Centre suggests that the rules are changed, so that lost revenue from reduced quality and value, not only volume can be compensated when cultivating landraces and plant varieties that contribute to the sustainable use and conservation of plant genetic diversity.

#### *The right to participate in decision-making processes*

Norwegian farmers are on the whole active in political decision-making processes, mainly as members of either one of the two main unions for farmers and smallholders. Organic producers have their own organization (Oikos). The unions' networks stretch across the whole country and are also generally well connected at the national political level. At the international level, e.g. EEA-relevant policy, the farmers unions and other organizations play an important role, exerting influence through contact with sister organizations at the European level. Every spring the two main farmers unions negotiate with the Norwegian government in order to set the level of grants that Norwegian farmers receive. Agrobiodiversity is relevant for these negotiations, especially as the Ministry of Environment is on the government's negotiating committee.

A large part of the agricultural sector is organized through cooperatives that are fully or partially managed by the farmers themselves. To some extent this is also the case with genetic resources as both plant breeding and seed sale in Norway takes place under the auspice of a large cooperative (Felleskjøpet Agri), and is in principle controlled by farmers. As mentioned earlier farmers are also represented in the National Committee for Plant Genetic Resources chaired by the Norwegian Genetic Resources Centre. As in other European countries, farmers' influence in Norway is often regarded as weak facing the dominating retailers in the grocery market. This was also the conclusion of the National Inquiry Commission for the Power Relations in the Food Supply Chain, established by the Norwegian government in 2010.

Despite that farmers in principle have great influence in Norway, the farmers who are especially interested genetic diversity (“biodiversity farmers”) are usually in minority and will often feel that their views are not shared or understood by other farmers. As a result they often experience that their views aren’t heard in cooperative boardrooms and other relevant fora. Organization – whether within an existing body or by creating a separate organization or network – might be one way of facilitating a better flow of information, enabling the biodiversity farmers to become more actively involved in relevant decision-making processes. This has already been the case with regard to organic farming that with support from the environmental movement has had great impact on the design of regulations and measures for encouraging organic farming, in Norway as in the rest of Europe.

Norwegian Genetic Resource Centre, as the 9<sup>th</sup> of October 2012