

## Farmers' Rights – Submission from Norway

The resolution 8/2013 of the 5th session of the Governing Body of the ITPGRFA invites Contracting Parties to report on activities related to the implementation of Farmers' Rights. Norway hereby submits information about the different issues addressed in the resolution.

### 1. Engagement of farmers' organisations and relevant stakeholders

In general, farmers and their organisations have multitude of channels for participation in and influence on policy processes in Norway. There are annual agricultural negotiations between the Government and the farmers' unions, resulting in an Agricultural Act. In the field of genetic resources, for example, *Felleskjøpet*, a farmer cooperative, is one of the owners of the only breeding company in Norway, Graminor AS, and is also the main distributor of seeds. There are also projects developing new varieties of forages with high level of farmers' participation. Farmers are also represented on the advisory board on plant genetic resources at the Norwegian Genetic Resource Centre. The Centre maintains close working relationships with both the major farmers' cooperatives and farmers' unions as well as with the smaller number of farmers who are more actively involved with issues directly related to seed diversity and cultivation of traditional varieties. During the last few years, farmers cultivating traditional varieties have become more organized, including loose networks and the establishment of cooperatives. Therefore, they have become more visible and it has become easier for the authorities to involve them in various processes.

### 2. National action plan

Genetic resources are included in the government's general Environment Strategy, 2008–15. The strategy sets out as the government's goal to maintain food security and sustainable agriculture through the use and protection of genetic resources in agriculture. Applying this strategy, the government aims to increase diversity of species and varieties that are cultivated, and promote the conservation and sustainable use of crop wild relatives and other varieties of utility plants, while embedding respect for genetic resources in the management of cultural landscapes and management plans for protected areas.

Norwegian policy on genetic resources is mainly implemented by the Norwegian Genetic Resource Centre with funding from the Ministry of Agriculture and Food. The Centre approved an overall strategy plan in 2013, and has a four year action plan for plant genetic resources, which also includes measures to implement Farmers' Rights.

Two examples of ongoing activities:

1. In order to recognise farmers' contribution to the conservation and development of plant genetic diversity, an annual Plant Heritage Award has been introduced. E.g. in 2006, one of the recipients of the award was Erling Olsen, a farmer and formerly a breeder at a Norwegian research facility. He was given the award for his conservation of more than 170 older varieties of potato. When he passed away earlier this year nearly all his valuable varieties had been conserved in the new potato gene bank, through close collaboration with the donor himself. The award serves as a way to provide farmers and the public in general with information on genetic resources and biodiversity, and it can also supply farmers with valuable in-pot on how to utilize such resources. It has also heightened the focus on conservation and sustainable use of older varieties of plants, and increased the demand for propagating material of such

varieties. This ensures that the varieties are actually used, which is the best guarantee against genetic erosion.

2. The Centre for Genetic Resources is also providing some financial support to farmers that are engaged in seed diversity. And in 2011, the Centre funded the establishment of a seed bank for old potato varieties, which provides access to seed potatoes of more than 60 varieties.<sup>1</sup>

In addition, the Centre published in 2013 a plan on how to further strengthen the implementation of Farmers' Rights in Norway. This paper identifies possible goals and activities related to all aspects of Farmers' Rights that are addressed in Article 9: save, use, exchange and sell farm-saved seeds; protection of traditional knowledge; benefit sharing; and participation in decision-making. The main recommendations from the report are linked to revision of seed regulation and increased use of economic support schemes in order to increase the diversity of varieties in active use.

### 3. Reviewing national measures affecting the realisation of Farmers' Rights

The Ministry of Agriculture and Food funded the study "Plant genetic diversity in agriculture and farmers' rights in Norway" (2012) that reviewed policy, legal and financial measures affecting the realisation of Farmers' Rights in Norway. Based on this, the Norwegian Genetic Resource Centre published a paper in 2013 on goals and possible activities, which are currently being acted upon by the Centre.

In 2010, Norway adjusted its seed regulation to be more accommodative to the approval and use of traditional varieties. E.g. the general DUS-criteria are applied in a less restrictive way and the registration fees for such varieties are reduced. While the fee for value testing and registration of ordinary varieties are 12.790 NOK, the fees for registration of conservation varieties are currently 695 NOK.<sup>2</sup> Some remaining challenges are linked to the definition of "region of origin", the quantity limitation for marketing traditional varieties and the possibilities to further develop so-called conservation varieties for cereals and forages. As of August 2014, 9 conservation varieties are approved: 3 potatoes, 1 rye, 1 barley and 4 wheat varieties.

### 4. Promote access to genetic resources under the MLS by local and indigenous communities and farmers

The Nordic Genetic Resource Centre (NordGen) is a gene bank maintaining germplasm of Nordic origin as well as material relevant for the Nordic region. NordGen is under common Nordic control and management. NordGen is the main source of old plant varieties for farmers in Norway, in addition to the Norwegian Genetic Resource Centre. NordGen stores more than 30,000 unique specimens of seed materials in its gene bank. The seed material stored at NordGen is available upon request for plant breeders, plant researchers, museums and other bona fide users. Germplasm is available in small quantities for research, breeding, conservation or similar purposes.

NordGen serves the scientific community, but does also honour reasonable requests from individuals when resources permit and the requester has a serious interest in seed saving and

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<sup>1</sup> <http://www.skogoglandskap.no/nyheter/2011/potetgenbanken>

<sup>2</sup> [http://www.mattilsynet.no/planter\\_og\\_dyking/plantesorter/godkjenning/#gebyrer](http://www.mattilsynet.no/planter_og_dyking/plantesorter/godkjenning/#gebyrer)

maintaining old or rare varieties. Individuals who are primarily looking for seeds in general for gardening instead of specific plant genetic resources, are kindly asked to use other sources, such as commercial seed suppliers.<sup>3</sup>

No charge is made for materials and it is easy to file an application. Recipients must sign an agreement on the transfer of material in line with the multilateral system under the Plant Treaty. There is a simplified agreement to be signed for farmers and hobby gardeners.

#### 5. Regional workshop

In March 2014, Norway organised an informal consultation among representatives from a few European countries on the possible interrelationship between the ITPGRFA and the different acts of the UPOV Convention, including issues related to Farmers' Rights.

The group considered UPOV and the ITPGRFA to be complementary systems that do not exclude each other. To the contrary, the group felt it would be fruitful for both instruments to identify issues of mutual supportiveness and complementarities. Furthermore, the benefit of increased awareness of the different instruments was stressed. In order to identify how the international instruments could be implemented in support to each other, one starting point could be to point out some relevant challenges for parties of each agreement and then identify how the implementation of the other could contribute to meet those challenges.

#### **Identified challenges of relevance**

*To achieve the objectives of the Treaty*

- There is need for more funding to meet the objectives of the Treaty, particularly there is a need for more predictable and sustainable user-based benefit sharing.
- The objectives of the Treaty will benefit from more active use of the Multilateral system (MLS) of the Treaty by breeders and the terms of the MLS therefore needs to be attractive and well known by breeders.
- There is a need for further discussion about the elements of Farmers' Rights in the Treaty, the actual status of implementation in different regions and options for better guidance for national implementation where required by Contracting Parties.

*To achieve the objectives of UPOV*

- Plant breeding is crucial to meet the future challenges for sustainable agriculture. Still, there seems to be a lack of sufficient recognition of the importance of plant breeding and the crucial role of breeders.
- Breeders' exception and non-commercial use are important parts of UPOV. They need to be better known at the international level, for example through wide dissemination of the revised FAQ document prepared by UPOV.
- There is also a need for more awareness on farmers as breeders and how they are recognised by UPOV.
- In the near future, there will be a stronger challenge for users of biological material to meet national and international requirements for disclosure of origin.

#### **In which ways could the ITPGRFA support UPOV?**

- Increased recognition of plant breeding and breeders?

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<sup>3</sup> <http://www.nordgen.org/index.php/en/content/view/full/1777>

- In the Governing Body resolutions and documents
- By continuing to strengthen the differentiation between plant breeders' rights and patents
- By increased valuation of the non-monetary benefits of new varieties
- Establish the use of the standard material transfer agreement (SMTA) as a certificate of origin?
- The use of the SMTA will create more certainty for sending material to countries with no protection of plant varieties?
- Sharing examples on best practices of implementing Farmers' Rights in the ITPGRFA?

### **How could UPOV support the ITPGRFA?**

- Share information and facilitate discussions on how to improve the participation by breeders in the MLS?
  - by including protected varieties into the MLS
  - by including expired varieties into the MLS
- Contribute to user-based benefit-sharing
- Clarify the legal space for farm-saved seeds (exceptions to Plant Breeders' Rights)?
- Clarify the possible consequences of the UPOV regulations on farmers' practices?
- If the 1991 Act of the UPOV Convention is too restrictive for potential new UPOV members, it could be considered to create a less comprehensive system for Plant Breeders' Rights ("UPOV light") as an option to those countries. This will reflect the fact that the different acts of UPOV were developed in parallel with the development of the agricultural sector of OECD countries, while the agricultural sector of many new countries might not be as mature yet.

### **Other issues raised**

- Farmers' access to appropriate varieties is an important farmers' right?
- Plant Breeders' Rights are not sufficient to ensure plant breeding for small markets (e.g. organic production) or for markets with low purchasing power, or to create propagating material that give higher priority to secure harvest rather than highest possible harvest?
- Seed regulations can sometimes be seen to pose strict standards and challenges to local farming practices. However, seed regulations can also support farmers by establishing testing requirements appropriate to areas where varieties are suitable for cultivation?
- Seed regulations should allow for the use of heterogeneous material by farmers?

### **Possible next steps**

- Participants could share the outcome of this consultation.
- Both secretariats should be encouraged to involve their members to contribute to identify and discuss the possible interrelations between the two instruments, in particular Farmers' Rights and exceptions to Plant Breeders' Rights. The outcome of the above discussions could e.g. be included in a joint publication from the two secretariats and their members.
- Create increased awareness of the respective instruments in each fora e.g. by the organisation of (joint) symposiums/work shops/special events prior to their respective meetings.
- There should also be a similar process of identifying possible interrelations between the ITPGRFA and WIPO focusing on patents and their impact on plant breeding and Farmers' Rights.

6. Financial and technical support for the implementation of Farmers' Rights in developing countries

Norway provides an annual contribution to the Benefit Sharing Fund equal to 0,1% of national seed sales. In 2013, Norway gave an additional contribution of 40 million NOK to the Benefit Sharing Fund.

Norway also assists in the implementation of the Plant Treaty and benefit-sharing through voluntary organizations. The main Norwegian organization in this regard is the Development Fund, which supports projects through local partners in Asia, Africa and Central America. In 2014, the Development Fund spends about 18 million Norwegian kroner on various projects addressing biodiversity in agriculture. These projects focus on farmers' rights to use and maintain genetic resources and biodiversity in agriculture. They combine practical field work with advocacy at the local, national and international level. It is important that farmers, research institutions and relevant authorities work together, with participatory plant breeding, local seed banks and field schools for farmers among the key instruments. Farmers' participation in political processes is underlined and the Development Fund helps farmers in partner organizations to participate in international negotiations by providing some of the funding.

**Further information**

- Andersen, Regine (2012): *Plant genetic diversity in agriculture and farmers' rights in Norway*, Fridtjof Nansen Institute <http://www.farmersrights.org/pdf/FNI-17%20RA.pdf>
- Asdal, Åsmund (2013): *Farmers' Rights and contribution to the conservation and development of plant genetic resources in Norway. Input to Norwegian policy on genetic resources* (In Norwegian), Skog og landskap, [http://www.skogoglandskap.no/filearchive/rapport\\_04\\_13\\_bonders\\_rettigheter\\_og\\_bidrag\\_til\\_bevaring\\_og\\_utvikling\\_av\\_plategenetiske\\_ressurser.pdf](http://www.skogoglandskap.no/filearchive/rapport_04_13_bonders_rettigheter_og_bidrag_til_bevaring_og_utvikling_av_plategenetiske_ressurser.pdf)
- Norwegian Genetic Resources Centre (2013): *Strategy plan for the Genetic Resource Centre* (In Norwegian), Skog og Landskap, [http://www.skogoglandskap.no/filearchive/rapport\\_19\\_13\\_strategiplan\\_for\\_norsk\\_genressurssenter.pdf](http://www.skogoglandskap.no/filearchive/rapport_19_13_strategiplan_for_norsk_genressurssenter.pdf)
- Norway's submission on Farmers' Rights to the 3rd session of the Governing Body of the ITPGRFA: [http://www.planttreaty.org/sites/default/files/gb5i08e\\_FRs\\_compilation.pdf](http://www.planttreaty.org/sites/default/files/gb5i08e_FRs_compilation.pdf)
- Norway's submission on Farmers' Rights to the 5th session of the Governing Body of the ITPGRFA: <http://www.farmersrights.org/pdf/Norway-informationpaperGB3.pdf>