



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

**Views, Experiences and Best Practices as an example of possible options for
the national implementation of Article 9 of the International Treaty
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 the EU Commission on 4 July 2018.

The submission is presented in the form and language in which it was received.

ITPGRFA	In the European Union
Article 9 - Farmers' Rights	
<p>9.1 The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.</p>	<p><u>DG AGRI</u></p> <ul style="list-style-type: none"> - Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing Regulation (EC) No 1467/94 - Communication on genetic resources for food and Agriculture (2013) - Following an initiative tabled by the European Parliament in 2013, the European Commission contracted two "Preparatory actions on EU plant and animal genetic resources in agriculture". The first preparatory action was launched in July 2014 for a period of two years and the second in January 2016 for three years. <p>The aim of the first preparatory action is to deliver inputs on how to improve communication, knowledge exchange and networking among all the actors potentially interested in activities related to the conservation of genetic resources in agriculture. Finally, the preparatory action aims to find ways towards a sustainable and economically viable use of these resources.</p> <p>The objectives of the second study are to better understand the stakes of European neglected genetic resources in agriculture and to tap onto their economic potential. It aims to provide inspiring examples of how to make the conservation of neglected breeds and varieties economically viable and encourage farmers and other stakeholders to engage in similar projects across the EU.</p> <p>(http://www.geneticresources.eu/)</p> <p><u>DG SANTE</u></p> <ul style="list-style-type: none"> - Directive 2008/62/EC: Derogations for agricultural landraces and varieties naturally adapted to local conditions, threatened by genetic erosion; marketing their seed and seed potatoes. - Directive 2009/145/EC: Derogations for accepting vegetable landraces and varieties traditionally grown in certain regions, threatened by genetic erosion and varieties with no intrinsic value for commercial production but developed growing under particular conditions marketing of their seed. - Directive 2010/60/EU: Derogations for marketing fodder plant seed mixtures for use in preservation of the environment. - Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production.
<p>9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with</p>	<p><u>Member State responsibility</u></p> <p><u>DG AGRI</u></p> <p>(Rural development measures / CAP)</p> <ul style="list-style-type: none"> - <u>Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural</u>

<p>national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:</p>	<p><u>Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005</u></p> <p><i>Art 28.9 Support may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under paragraphs 1 to 8. Such commitments may be carried out by beneficiaries other than those referred to in paragraph 2.</i></p>
<p>a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;</p> <p>b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and</p>	<p><u>DG AGRI</u></p> <ul style="list-style-type: none"> - Communication of genetic resources for food and agriculture (https://ec.europa.eu/agriculture/sites/agriculture/files/genetic-resources/pdf/com-2013-838_en.pdf) - Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs - Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules - Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 - Council Regulation (EU) No 1308/2013 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 (<i>Article 152.1.(vii) - Producer organisations</i>) - The European Network for Rural Development (ENRD) is the structure that brings together all the stakeholders aiming to achieve improved rural development results in the EU. The network serves as a hub for the sharing of information about how Rural Development policy, programmes, projects and other initiatives are working in practice and how they can be improved to achieve more (https://enrd.ec.europa.eu/). - <u>Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005:</u> (i) A simplified aid scheme for small farmers, (ii) European innovation partnership 'agricultural productivity and sustainability' based on Operational Groups (OGs), to be formed by interested actors such as farmers, producers and scientists. - € 167 million EU support to promote agricultural products in the European Union and in non-EU countries in 2018 (http://europa.eu/rapid/press-release_IP-18-101_en.htm) <p><u>DG SANTE</u></p>

	<ul style="list-style-type: none"> - Directive 2008/62/EC: Derogations for agricultural landraces and varieties naturally adapted to local conditions, threatened by genetic erosion; marketing their seed and seed potatoes. - Directive 2009/145/EC: Derogations for accepting vegetable landraces and varieties traditionally grown in certain regions, threatened by genetic erosion and varieties with no intrinsic value for commercial production but developed growing under particular conditions marketing of their seed. - Directive 2010/60/EU: Derogations for marketing fodder plant seed mixtures for use in preservation of the environment. - Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production.
<p>c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.</p>	<p><u>DG AGRI</u></p> <p><u>- Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005:</u></p> <p>Further improving the market orientation of European agriculture will be supported by allocating new resources to farmers, enabling them to be reliable participants in the food production chain:</p> <ul style="list-style-type: none"> -> <u>Professional and interprofessional organisations</u> will be promoted, and, for certain sectors, there will be specific regulations on competition law (milk, beef, olive oil, cereals). Such organisations will be able to increase efficiency by negotiating sales agreements on behalf of their members. -> The European Innovation Partnership (EIP) "Agricultural Productivity and Sustainability" aims to provide a working interface between agriculture, bio-economy, science and others at EU, national and regional level. (http://ec.europa.eu/agriculture/eip/index_en.htm) -> EIP Focus Group on Genetic Resources - cooperation models (https://ec.europa.eu/eip/agriculture/en/publications/eip-agri-brochure-cooperating-genetic-resources) -> EIP Focus Groups of the European Innovation Partnership on "Agricultural Productivity and Sustainability" -> DIVERSIFOOD, Horizon 2020 funded project (2015-2019) with the objective to achieve local high quality food systems by covering the whole food chain from genetic resources to marketing, connecting all the different actors involved -> LIVESEED, Horizon 2020 funded research consortium aiming to boost organic seed and plant breeding efforts (emphasizing participatory breeding), and increasing the availability of cultivars adapted to organic growing <p><u>Better Regulation Principles:</u> The European Commission is committed to adopting "better regulation", that is EU policies and laws that achieve their objectives at minimum cost in order to deliver maximum benefits to citizens, businesses and workers while avoiding all unnecessary regulatory burdens. Better regulation covers the entire policy cycle – policy design and preparation, adoption, implementation (transposition,</p>

	<p>complementary actions, etc.), application (including enforcement), evaluation and revision.</p> <p>Stakeholders and citizens have their say through public consultations (https://ec.europa.eu/info/consultations_en) and various other feedback mechanisms (http://ec.europa.eu/info/law/better-regulation/have-your-say_en) throughout the policy cycle (from the preparation phase to proposals for new laws).</p> <p>EU citizens and people living in the EU may petition Parliament on issues to do with EU policy that affect them directly, as may companies and other organisations with head offices in the EU (http://www.europarl.europa.eu/at-your-service/en/be-heard/petitions)</p>
<p>9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.</p>	<p><u>Shared competency with Member States</u></p> <p><u>DG SANTE</u></p> <ul style="list-style-type: none"> - Council Regulation (EC) N°2100/94 on Community plant variety rights And Commission Regulation (EC) 1768/95 implementing rules on the agricultural exemption (farm saved seed obtained from protected varieties) provided for in Art 14(3) of Regulation 2100/94 <p><i>Art 2.3 unless otherwise specified in this Regulation, the details relating to the exercise of the rights, to the use of the authorisations or to the fulfilment of the obligations shall be governed by the law of the Member States, including its international private law, in which the farmer's holding on with the derogation (farm saved seed) is used, is located.</i></p> <ul style="list-style-type: none"> + national systems of plant variety protection <p><u>DG GROW</u></p> <ul style="list-style-type: none"> - Directive 98/44/EC of July 1998 on the legal protection of biotechnological inventions Art 11 provides for a derogation for farmers to make farm saved seed under the same conditions than in Regulation 2100/94 - Similar rules for the Unitary patent + national rules for patents <p>NB: For non-protected varieties and plants not covered by patent, the farmers can save and use farm saved seed. The selling of seed and other propagating material is subject to the 12 specific Directives on the marketing of seed.</p>