

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 Malta on 23 May 2018.

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

Malta's communication to the ITPGRFA Secretariat in reply to the invitation to submit views, experiences and best practices as examples of possible options for national implementation of Article 9 of the International Treaty, and information regarding the arrangements for the Ad Hoc Technical Expert Group on Farmers' Rights - ITPGRFA - NCP GB8-05 Farmers' Rights

The Maltese authorities implement Article 9 of the International Treaty through the application of practices which are instituted under national law and hereby provide an overview of such guidelines and case examples relating to their implementation.

Guidelines for Representation of Farmers

In the discharge of its obligations at law and in pursuit of government policy, the Agriculture Directorate consults and is regularly approached by individuals, organizations, entities, co-operatives, associations, non-government organizations (NGOs) or other groups lobbying farmers' collective interests or purporting to represent individual farmers in matters concerning their rights and obligations. It is therefore important, in the interest of the farming community and of individual farmers, for the Agriculture Directorate to ascertain in each case that such interlocutors have a clear mandate to advocate their members' or clients' interests, and in the case of entities or groups that they are constituted and operate according to law and upon principles of good governance.

Collective Entities or Groups

Organizations may be registered under various laws with different regulators depending on the aims and nature pursued by the entity or group and the decisions taken by the members. Normally the Organizations that deal with the Agricultural Directorate are registered with one of the following regulators:

- **Commissioner for Voluntary Organizations**

Registers any voluntary organizations in accordance to Ch. 492 of the laws of Malta; Voluntary Organizations Act.

- **Cooperatives' Board**

Registers Cooperatives in accordance to Ch. 442 of the laws of Malta; Cooperative Society Act.

- **Registrar of Trade Unions Registers**

Associations in accordance to Ch. 452 of the laws of Malta; Employment and Industrial Relations Act.

- **Registrar of Companies**

Companies and other forms of commercial partnerships in accordance with Ch. 386 of the laws of Malta; Companies Act Registration with a regulator allows organizations to be recognized under the law of Malta and ensure that these organizations are monitored and overseen by an official regulator.

The Agriculture Directorate will invariably require representatives from organizations speaking or lobbying on behalf of members to submit a copy of the statute and a certificate of good standing from the regulator, prior to engaging in discussions, together with the appropriate mandate given by the internal organs of the organization according to the procedures set out in the statute or prescribed by the applicable law.

Representation of Individuals

In the discharge of their individual obligations and pursuit of their individual rights, farmers may often choose to resort to representation by third parties. Where such third parties form part of and are bound by the rules applicable to regulated professions, such as architects and civil engineers, notaries, lawyers, and chartered accountants, the Directorate will invariably accept the professionals' representation as part of their regulated service. On the other hand farmers may choose to be represented by third parties in the form of companies or individuals through personal choice. The following cases may present themselves:

- **Companies or entities offering services under a regulated framework**

Examples of this in the agricultural sector may be the offer of advisory services to farmers, which is regulated by the mechanisms established under Legal Notice 113 of 2010.

- **Companies or Individuals offering services pertaining to specifically regulated obligations**

Examples of this are the drawing up of fertilizer plans, which under Legal Notice 321 of 2011 and its amendments may be drawn up by suitably qualified persons recognized by the Agriculture Directorate.

- **Companies or Individuals offering services for non-regulated obligations**

Examples of this are representations made concerning a variety of issues arising both from legal or administrative matters which do not require any form of qualification on the part of the representative.

The Agriculture Directorate will invariably require representatives which are companies or entities offering services under a regulated framework to submit an updated certificate of good standing from the relevant Board or Competent Authority established by law for such purpose.

The Agriculture Directorate will invariably require representatives which are companies or entities offering services pertaining to specifically regulated obligations to submit a copy of their qualifications as well as a written and signed specific or general mandate from the farmer for the specific purpose which is accompanied by a copy of a valid farmer's identification document.

The Agriculture Directorate will invariably require representatives which are companies or entities offering services for non-regulated obligations to submit a signed specific or general mandate from the farmer for the specific purpose which is accompanied by a copy of a valid farmer's identification document.