



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**

Note by the Secretary

At its [second meeting](#) of the Ad hoc Technical Expert Group on Farmers' Rights (AHTEG), the Expert Group agreed on a revised version of the [template](#) for collecting information on examples of national measures, best practices and lessons learned from the realization of Farmers' Rights

This document presents the updated information on best practices and measures of implementing Article 9 of the International Treaty submitted by Centro Internazionale Crocevia on 24 July 2019.

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



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Template for submission of

Measures, Best Practices and Lessons Learned from the Realization of Farmers' Rights as set out in Article 9 of the International Treaty

Basic information

- Title of measure/practice

Italy. Implementation of Farmers' Rights in the Italian legislation

- Date of submission

24 July 2019

- Name(s) of country/countries in which the measure/practice is taking place

Italy

- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person)

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- Type of institution/organization (categories)

Non-Governmental Organization

- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))

International Planning Committee on Food Sovereignty

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Description of the examples

Mandatory information:¹

- Short summary to be put in the inventory (max. 200 words) including:

- Implementing entity and partners

Centro Internazionale Crocevia

- Start year

2018

- Objective(s)

¹ This mandatory information is required in order for the measure/practice to be included in the Inventory.



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Analyze the status of the implementation of the Article 9 of the ITPGRFA at national and regional level in Italy.

- Summary of core components

Gaps and differences between European, national and regional laws that regulate the use, save, sell and exchange of farmers' seeds, as provided by Article 9.3 of the ITPGRFA.

- Key outcomes

In order to comply with the Farmers Rights, the Italian national and regional laws should be harmonized (modify the provisions of law 1096/1971 and subsequent amendments and related laws so that the whole legislative framework is compatible with the provisions of the Treaty), clarifying part of the legislation that is excessively lacking.

- Lessons learned (if applicable)

The regulation of industrial and commercial agriculture (formal seed systems) does not apply to peasant agriculture (informal seed systems), unless there is a clear aim to absorb it (ie modernization policies).

- Brief history (including starting year), as appropriate

Agriculture, farmers and rural areas are a huge and fundamental part of the Italian history and economy. In 1947, when the Italian Constitution was in the process to be written, the constituent's fathers gave the recognition of their importance through the Article 44, which provides:

“In order to achieve rational land exploitation and establish fair social relations, the law imposes obligations and restrictions on private land ownership, sets limits to its extension according to the regions and agricultural areas, promotes and imposes land reclamation, transformation of the estates and the reconstitution of the productive units; helps small and medium property.

The law provides provisions in favour of mountain areas.”

The aims of the provision are "achieving the rational land exploitation" and establishing "fair social relations": therefore, the Constitution assigns two specific goals to ensure the social function of agriculture. In order to reach the two goals, some examples are then listed, as an example but not limited to: "...setting obligations and restrictions on private land ownership and setting limits to its extension, imposing land reclamation and transformation of the latifundium, recognizing the importance of the small and medium landed property..."

These two specifications of the social function of agriculture characterize the way of life and the production models of rural communities and their deepest aspirations concerning the relationship with nature and the surrounding world.

In compliance with the principle of subsidiarity provided by Article 18 of the Italian Constitution, the law is implemented at three levels: regional, national and European.

- Core components of the measure/practice (max 200 words)

The Italian regulation has two normative sources: the national laws implementing European Commission Directives and Regulations recalling the internal market consolidation (based on the DHS criteria set up in the WTO and UPOV) and the regional laws implementing the ITPGRFA recalling the dynamic management of agriculture biodiversity. The first framework regulates plant genetic resources for food and agriculture just as a commercial good, while the second recognize the central role of peasants, their traditional knowledges and their role in the maintenance of biodiversity.

The national and regional laws differ for:

- the criteria required to register genetic resources in the national catalogue (DHS) or in the regional repertories (local characterization)



- the requirements that the custodian farmer has to comply with (maintenance of varietal purity, phytosanitary rules, spaces for storage, etc for the national laws)
- the definition of exchange and market: the national law aims to integrate the conservation varieties in the formal market with quantitative and geographical limitations, while the regional ones aims to regulate and facilitate the exchange and sale of seeds among farmers. The first one has the scope to regulate trade, the second to promote the dynamic management of agriculture biodiversity.
- Description of the context and the history of the measure/practice is taking place (political, legal and economic framework conditions for the measure/practice) (max 200 words)

The Italian seeds' legislative frame is huge and continuously redefined by several legislative interventions and modifications.

In order to understand the modifications occurred in the last 30 years, and assess the implementation of Farmers Rights as foreseen from the Preamble and the art.9 of the ITPGRFA, we should read the legislative through the two main areas defining global governance of agriculture: WTO regulating the area of intellectual property in the international trade (ref. TRIPS), and the CBD governing biodiversity conservation.

We can trace back this contraposition in the two main sources of the Italian seed legislation: on one side the Legislative Decree 212/2001 implementing the European Directives 98/95/EC and 98/96/EC concerning the consolidation of the internal marketing of seed and the common catalogue of varieties of agricultural plant species; on the other side on the Law 101/2004 which is the “ratification and implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture, with Appendix, adopted by the thirty-first meeting of the FAO Conference on 3 November 2001”. The art. 3 of the transposition law 101/2004 defines the responsibility of the Italian Regions to apply and implement the Treaty.

- To which provision(s) of Article 9 of the International Treaty does this measure relate

Art. 9.1

Art. 9.2a

Art. 9.2b

Art. 9.2c

Art. 9.3

Other information, if applicable

- Please indicate which category of the Inventory is most relevant for the proposed measure, and which other categories are also relevant (if any):

No.	Category	Most relevant ²	Also relevant ³
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² Please select only one category that is most relevant, under which the measure will be listed.

³ Please select one or several categories that may also be relevant (if applicable).



1	Recognition of local and indigenous communities', farmers' contributions to conservation and sustainable use of PGRFA, such as awards and recognition of custodian/guardian farmers		X
2	Financial contributions to support farmers conservation and sustainable use of PGRFA such as contributions to benefit-sharing funds		
3	Approaches to encourage income-generating activities to support farmers' conservation and sustainable use of PGRFA		
4	Catalogues, registries and other forms of documentation of PGRFA and protection of traditional knowledge		X
5	In-situ/on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites		X
6	Facilitation of farmers' access to a diversity of PGRFA through community seed banks ⁴ , seed networks and other measures improving farmers' choices of a wider diversity of PGRFA.		
7	Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection		
8	Farmers' participation in decision-making at local, national and sub-regional, regional and international levels		
9	Training, capacity development and public awareness creation		
10	Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.	X	
11	Other measures / practices		

- In case you selected 'other measures', would you like to suggest a description of this measure, e.g. as a possible new category? _____
- Objective(s)
- Target group(s) and numbers of involved and affected farmers⁵
- Location(s) and geographical outreach

- Resources used for implementation of the measure/practice
- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture?

⁴ Including seed houses.

⁵ Any classification, e.g. of the types of farmer addressed, may be country-specific.



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- Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words)
- Other national level instruments that are linked to the measure/practice
- Are you aware of any other international agreements or programs that are relevant for this measure/practice?
- Other issues you wish to address, that have not yet been covered, to describe the measure/practice

Lessons learned

- Describe lessons learned which may be relevant for others who wish to do the same or similar measures/practices (max 250 words).
- What challenges encountered along the way (if applicable) (max 200 words)
- What would you consider conditions for success, if others should seek to carry out such a measure or organize such an activity? (max 100 words)

Further information

- Link(s) to further information about the measure/practice
 - Law 1096/1971, Discipline Seeds activities,
<http://scs.entecra.it/leggiEdisposizioni/NORM-NAZIONALI/L-1096-71-05-02-2018.pdf>
 - Legislative Decree 3 November 1998, n. 455, Rules for adaptation to the requirements of the 1991 revised Act of the International Convention for the Protection of Plant News,
https://www.politicheagricole.it/flex/files/2/2/1/D.b73570d5424319557df1/20010424_21_2_DLvo.pdf
 - Lazio regional legislation 15/2000,
http://www.arsial.it/arsial/wpcontent/uploads/page/legge_regionale_1_marzo_2000.pdf
 - Legislative Decree 24 April 2001, n.212, Implementation of Directives 98/95 / EC and 98/96 / EC concerning the marketing of seed products, the common catalogue of varieties of agricultural plant species and related controls,
https://www.politicheagricole.it/flex/files/2/2/1/D.b73570d5424319557df1/20010424_21_2_DLvo.pdf
 - Law 6 April 2004, n. 101, "Ratification and implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture, with Appendixes, adopted by the thirty-first meeting of the FAO Conference in Rome on 3 November 2001", http://plantares.politicheagricole.it/docs_pdf/Legge%20ratifica%20Trattato%20FAO.pdf
 - Tuscany regional legislation 46/2004,
https://www.ambientediritto.it/Legislazione/Fauna%20e%20Flora/2004/toscana%20r2004_n.64.htm
 - Legislative decree 214/2005, protection against the introduction into and the spread within the community of organisms harmful to plants or plant products,
http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dat



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[aPubblicazioneGazzetta=2005-10-24&atto.codiceRedazionale=005G0221&elenco30giorni=false](#)

Legislative Decree 10 February 2005, n. 30, Code of Industrial Property, in accordance with Article 15 of the Law of 12 December 2002, n. 273,

http://www.uibm.gov.it/attachments/codice_proprieta_industriale.pdf

- Legislative Decree of 29 October 2009, n. 149 Implementation of Directive 2008/62 / EC concerning exemptions for the admission of ecotypes and agricultural varieties naturally adapted to local and regional conditions and threatened with genetic erosion, as well as for the marketing of seed and potato tubers for seeding of such ecotypes and varieties, http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2009-10-31&atto.codiceRedazionale=009G0166&elenco30giorni=false
- Decree of December 17, 2010, Application provisions of Legislative Decree October 29, 2009, n. 149, about the modalities for the admission to the National Register of the varieties of conservation of agricultural species, <http://scs.entecra.it/leggiEdisposizioni/NORM-NAZIONALI/Decreto%2017%20dicembre%202010.pdf>
- Law 194/2015, Disposizioni per la tutela e la valorizzazione della biodiversita' di interesse agricolo e alimentare, <http://www.gazzettaufficiale.it/eli/id/2015/12/11/15G00210/sg%20>