



Advisory Group on the Food Chain and Animal and Plant Health -  
Subgroup: Working Group on Seeds and Propagating Material

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Exchange in kind of PRM between farmers  
and specific needs in the EU PRM legislation

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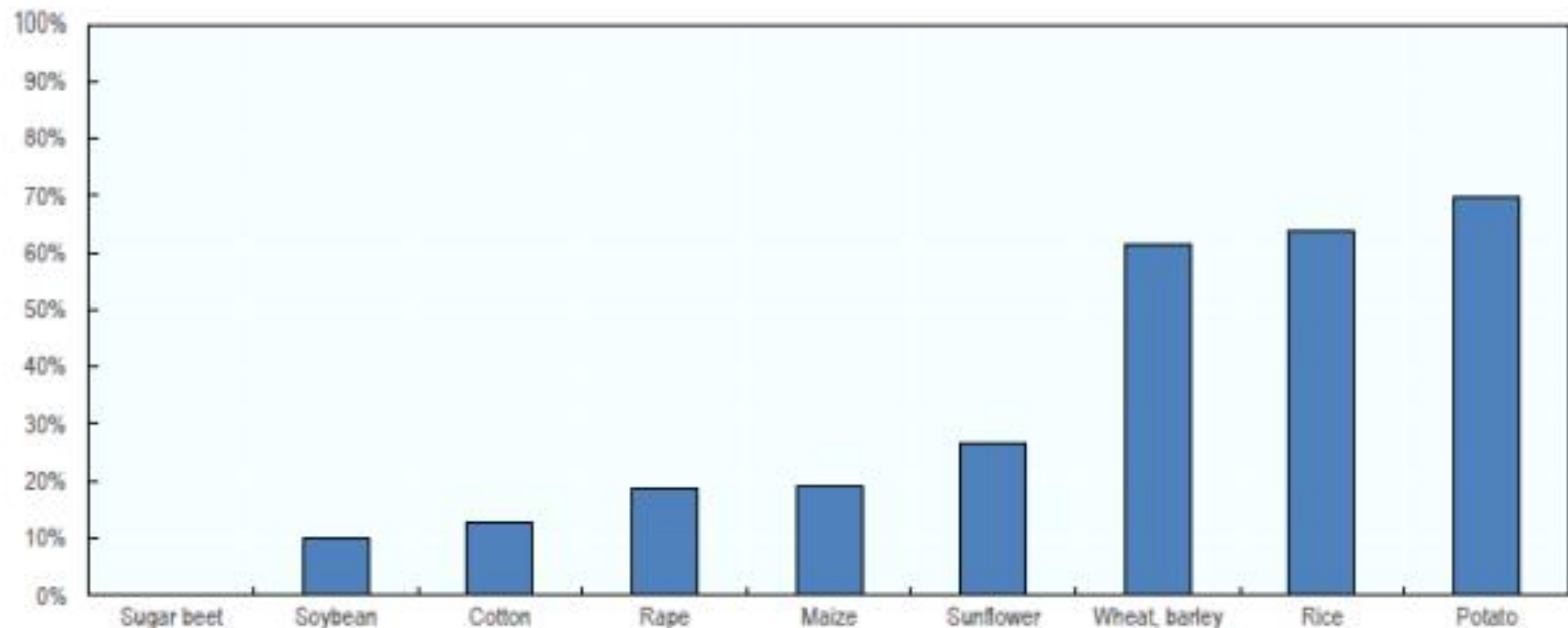
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# Peasant seed systems: claim or fundamental reality?

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- Farmers who select their own seeds obtain **heterogeneous populations**. A heterogeneous population is made up of individual elements with similar characteristics but with different genetic heritage: **this characteristic gives them evolutionary power**. It does not allow them to meet the criteria of stability and uniformity needed to enter the official catalogue of commercial varieties.
- This evolutionary dynamic is essential to respond to the **objectives of the EU Green deal** (reduction of pesticide use, adaptation to climate change, protection and development of agrobiodiversity) as well as the **necessary transition** to agricultural and food systems capable of counteracting climate change and making **agricultural systems resilient**.

**Figure 2.2. Farm-saved seed as share of total, 2016**



*Note:* Data refers to the global seed market. The estimated share of farm-saved seed here is the ratio of the estimated market value of farm-saved seed (valued at average prices by country) to the total estimated value of seed markets including farm-saved seed.

*Source:* OECD analysis using the Kleffmann Agriglobe database.

# Producing our own seeds

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- **Peasant seed systems encapsulate all the collective practices and knowledge of peasants** relating to self-generation, use, exchange and sale **of farm produced seeds within the framework of agricultural activity.**
- These systems are not only essential to the sustainability and renewal of peasant seed stocks, but are equally indispensable to the work and even the survival of peasants.
- Given the dominance of small and medium-sized farms, these activities are **spread differently** in the different European agricultural systems.

# Dynamic biodiversity management at farm level

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- **On-farm** production of reproductive and vegetative propagation material for on-farm cultivation is the best way to adapt it to the growing conditions for which it is intended, as it is **multiplied through successive production cycles**.
- This local adaptation is an essential factor in the **resilience of agro-systems** in the face of the magnitude, frequency and irregularity of climate change.
- The other essential resilience factor is the **intra- and inter-varietal diversity** of the reproductive material used.
- Farmers regularly renew this diversity through informal seed exchange systems. (Mula, 2013)

# Seeds, right to life and farmers' rights : report of the Special Rapporteur on the Right to Food, Michael Fakhri, Feb. 2022

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- “6. Today, broadly, there are **two different types of seed systems: farmers’ seed systems** and commodity seed systems. Farmers’ seed systems are defined by the long-standing continuous renewal of biodiversity and free distribution of seeds and knowledge among peoples. Seeds are gifted, shared, bartered, or bought and sold in informal or formal markets. Farmers’ seed systems make food systems **more resilient** against climate change, pests and pathogens. This is because the more diverse a food system and the more dynamic the global ecosystem, the higher the chance that any one species has a particular trait that enables it to adapt to a changing environment (and in turn, **pass that trait along**)”. (p.2)

(idem)

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- “10. In sum, **the more a seed system recognizes and supports farmers as stewards of a seed system** for all of humankind, the more likely this system fulfils people’s human rights. This is reflected in target 2.5 of the Sustainable Development Goals” (pg.3)



# Study on the Union's options to update the existing legislation on the production and marketing of plant reproductive material

SWD(2021) 90 final, Commission Staff Working Document, Brussels, 29/04/2021

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- *“Sub-option 2A: Balancing flexibility and harmonisation – more guarantees for users*
- ***Establishing an ad hoc (“legal” ndr) framework for the exchange of seed between farmers;”***

# ITPGRFA – Art 9 : clarification

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- Paragraph 3 of Article 9 reads: "*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.*"
- This is an expression often used in a similar way by the international legislator within the Treaties **in order to underline and reinforce** the object of protection referred to.
- In the case in question, the intention of the international legislator is clear: **it wants to make sure that in no way the rights of the peasants**, of which the law in question speaks and which it recognizes, **can be questioned or limited**; this must always happen, even in the presence of a national law, if any, which operates in this sense, that is, **to protect the rights of the peasants.**

Reference: Opinion prepared for the IPC and Crocevia by: Lorenza Paoloni, Full Professor of Agricultural Law at the Legal Department of the University of Molise ; Dr. Marianita Gioia, Research Fellow in Agricultural Law at the Legal Department of the University of Molise

# EU Biodiversity Strategy

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- The strategy states that **biodiversity** is also fundamental to **safeguarding food security** in the EU and across the planet, and its depletion poses a threat to food systems, jeopardising our food security as well as our nutrition.
- Biodiversity also underpins **healthy, nutritious** diets and improves both rural livelihoods and **agricultural productivity**.
- **Peasant seed systems are necessary for the renewal of agricultural biodiversity**

# United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas

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- In defining **the right to seeds**, UNDROP relied on a **number of binding** international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention), the CBD and its protocols, and the Treaty on Genetic Resources for Agriculture and Food (ITPGRFA).
- It used references from the UNDRIP, the Guidelines on the Right to Food adopted by States at FAO in 2004 and the reports submitted by the UN Special Rapporteur on the Right to Food. (see art.19 of UNDROP)

## References :

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<https://digitallibrary.un.org/record/1650694?ln=en>



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# Farmers are not seed companies

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For farmers, the use, exchange and sale of seeds from farm production is part of a collective effort of self-production of the means of production and **is not a market activity that constitutes the farmers' income**, which comes mainly from the sale of crops at markets.

# Dynamic management

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It should not be possible to contractually prohibit farmers from using a variety covered by a plant variety right to breed new varieties according to **classical processes of mass selection based mainly on dynamic management, open pollination and/or some direct crosses and progressive local adaptation during successive multiplications** and not to obtain homogeneous and stable varieties.

# Italian Seed legislation

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- **DECRETO LEGISLATIVO 2 febbraio 2021, n. 20**
- *Norms for the production for marketing purposes and the marketing of seed products in implementation of Article 11 of Law No 117 of 4 October 2019, for the adaptation of national legislation to the provisions of Regulation (EU) 2016/2031 and Regulation (EU) 2017/625. (21G00022)*

Reference:

[https://www.gazzettaufficiale.it/atto/stampa/serie\\_generale/originario/1/58](https://www.gazzettaufficiale.it/atto/stampa/serie_generale/originario/1/58)



# Italian Seed legislation

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- Art. 1 - Purpose and scope of application
- 1. This decree regulates the production for marketing purposes and the marketing of seed products by reorganizing, through coordination and integration, the relevant (...)
- **4. Farmers may carry out seed reuse or exchange part of the harvest (...)**
- 6. Operations which **do not aim at the commercial exploitation of varieties**, such as:
- (...) (d) **reuse of seed by farmers or exchange of part of the harvest by farmers, as referred to in paragraph 4.**

# French Seed legislation

- In France, **seed exchanges between peasants of varieties which are not protected by plant breeders rights, are considered as mutual aid or exchange of services**, instead of a commercial activity and therefore are not subject to regulations concerning seeds marketing.
- **Art. L.315-5 of the Rural Code:** « Actions carried out within the framework of their multi-year project by farmers who are members of an economic and environmental interest grouping for the benefit of other farmer-members are presumed to be **mutual aid** within the meaning of Article L. 325-1. The same shall apply, without prejudice to the regulations applicable to them, to **exchanges between farmers of seeds or seedlings not belonging to a variety protected by a plant variety certificate and produced on a holding outside any contract for the multiplication of seeds or seedlings intended for marketing** ».

# French Seed legislation

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- **Mutual agricultural assistance** is defined in Article L.325-1 of the Rural Code as « *a contract that is free of charge, even when the beneficiary reimburses the service provider for all or part of the costs incurred by the latter* ». It « *is carried out between farmers by exchanges of services in terms of work and means of operation* ».



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# CONCLUSIONS

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# Our proposals on the exchanges of PMR between peasants

- 1. The exchange of seeds between peasants should come under the framework of **mutual aid**, such as **exchanges of services** of labour and/or goods either occasionally, temporarily or regularly and rendered freely or in **exchange of expenses** and with **no obligation** to adhere to any organization.
- 2. Peasants must be submitted to the **same plant health regulations** which **apply to agricultural production and not those applicable to the production and marketing of plant reproductive material**. The regulation must be proportional to risks that are associated with agricultural production.

Reference : ECVC publication, [\*Incorporating Peasants' Rights to Seeds in European Law\*](#), October 2021.



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*Grazie!*

*ONE PERSON LIGHTS THE FIRE,  
BUT MANY COME TO WARM IT UP  
(Icelandic proverb)*