

**Mandates of the Working Group on the rights of peasants and other people working in rural areas and the Special Rapporteur on the right to food**

Ref.: OL OTH 121/2025

(Please use this reference in your reply)

2 October 2025

Excellency,

We have the honour to address you in our capacities as Working Group on the rights of peasants and other people working in rural areas and Special Rapporteur on the right to food, pursuant to Human Rights Council resolutions 54/9 and 58/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the two proposed European Union (EU) legislative proposals on new genomic techniques and plant reproductive material which may violate international human rights obligations, particularly the United Nations Declaration on the Rights of Peasants (UNDROP), by undermining farmers' rights to seeds, information and participation in the decision-making process.**

According to the information received:

*Proposal on New Genomic Techniques (NGTs)*

The proposal foresees that certain genetically modified organisms (GMOs) obtained by new techniques of genetic modification (new genomic techniques (NGTs)) will be exempted from the current requirements of Directive 2001/18 and its implementing regulations, which regulates GMOs dissemination in the EU. In particular, they would be exempted from the case-by-case risk assessment, traceability (i.e. mandatory publication of processes allowing to detect and identify the products obtained by NGTs), and product labelling.

In February 2024, the European Parliament adopted a position in favour of this proposal. During this vote some amendments were made demanding the ban on patents on products obtained by NGTs and a modification of EU patent law (Directive 98/44/CE), to prevent the extension of the scope of protection of a patent to plants or to plants' genetic information which cannot be distinguished from those obtained by conventional breeding.

On 14 March 2025, the Member States' representatives (Coreper) agreed on a mandate to start the trilogue negotiations on the file, which effectively started in May 2025. The proposed legislation aims to suppress current EU rules, under the pretext of adapting the legal framework to the technological developments of the past decades. The proposal creates two distinct pathways for plants

Permanent Delegation of the European Union  
to the United Nations Office and other international organizations in Geneva

obtained by NGTs to be placed on the market:

Plants obtained by category 1 NGT plants: according to the European Commission, they “could occur naturally or through conventional breeding methods” they would be exempted from the rules currently set out in the current GMO legislation and would not be labelled; however, seeds produced through those techniques would have to be labelled.

Plants obtained by category 2 NGT plants: all other plants obtained by NGTs; most rules under GMO legislation would apply (including a risk assessment, authorisation before they are placed on the market, and traceability requirements); they would be labelled as such.

It is expected that the vast majority of plants obtained by NGTs will fall into category 1.

### *Impact of New Genomic Techniques Proposal on Peasants and other rural workers*

Under the new proposal, which removes the requirement to publish detection and identification methods of products obtained by category 1 and 2 NGTs, nothing will prevent the scope of patents on GMOs/NGTs from extending to conventional seeds that were contaminated with one of these GMOs/NGTs or that present a trait similar to the patented trait, as this extension of the scope of patents is provided for in Directive 98/44/CE (articles 8 and 9). For peasants, it means that they will no longer be able to use and re-use their own peasant seeds, as the patent holder has a monopoly on the use and reproduction of the technique, product or genetic information (depending on the type of patent). Any use will therefore be conditioned to the agreement of the patent holder and the payment of license fees, and potentially followed by a conviction for fraud, including in cases of unintentional use resulting from a lack of traceability.

Concerning farm-saved seeds, the imposition of the patent model will have direct consequences for peasants: for seeds companies, it is much easier to trace patented genes in peasants’ fields, harvests and in final products (with the use of PCR or antigenic tests) than it is to trace protected varieties (varieties covered by a plant breeder’s rights). Consequently, this will put an end to the current circumvention by the majority of peasants of the unfair obligation of payment of license fees for farm-saved seeds for certain species. Hence, farmers will not have the right to freely re-use patented GMO seeds coming from their harvest, or even to re-use their own peasant or local seeds if those are undistinguishable from seeds covered by a patent. It will then be possible to sue them for patent infringement if their crops accidentally get contaminated or if their seeds contain naturally a trait which is similar to a patented trait.

Peasants, farmers and breeders will have no protection in the event of presence in their crops of patented traits. It will be their sole private responsibility to ensure that their crops are not contaminated or that they do not naturally contain a patented trait, which will be impossible in the absence of GMO/NGT crop traceability and in the absence of any coexistence rules, including the possibility

of national bans (“opt-out”). As seed companies have the technical means to identify any use of their patented traits, farmers may be sued for infringement of patented seeds following accidental contaminations, which will be unavoidable for several crops, and some seeds can survive in the land for 5 to 10 years, or if they use seeds that naturally contain a trait covered by a patent. Therefore, the release of GMOs/NGTs without traceability will ultimately threaten any guaranteed GMO-free agriculture and food sector, with disastrous consequences for this important sector of the European economy, which includes not only organic farming but also several denominations of origin and controlled designations. Without traceability, it will no longer be possible to ensure that the crops and final products are GMO/NGT and patent-free.

In case of infringement proceedings, it will be up to peasants, farmers and breeders to prove that they have not used a patented invention (reversal of the burden of proof), which will be impossible in the absence of an obligation to publish the process used to identify and distinguish a patented GMO from any other product. Their seeds and harvest may in some cases be seized during the proceedings, threatening their economic survival and their livelihood.

Proposal for a Regulation of the European Parliament and of the Council on the production and marketing of plant reproductive material in the Union, amending Regulations (EU) 2016/2031.

The EU proposal on Plant Reproductive Material (PRM) aims to repeal existing seed marketing directives and to replace them by a single EU-wide regulation . It introduces new categories for seed marketing – such as non-organic heterogeneous material, newly-bred conservation varieties, and amateur varieties – to promote biodiversity in the seed market. The proposal also seeks to regulate exchanges of seeds between farmers, to standardize rules for the marketing of seeds and other plant reproductive materials across Member States, including plant health, certification and traceability requirements, and defines the roles and obligations of professional operators involved in seed production and distribution.

In April 2024, the European Parliament adopted its position in favour moving the proposal forward. The Council has already held a number of meetings on this proposal, including recently during the meeting of the Agri-Fish Council on 24 June 2025. A majority of countries have taken a stance against any derogation for seed exchanges between farmers.

#### *Impact of Plant Reproductive Material Proposal on Peasants and other rural workers*

The proposal risks losing positive recognitions of peasants’ rights to seeds at national level, notably the right to exchange seeds between peasants. The main stake with the exchanges of seeds between peasants is to have this right recognized outside of the scope of the PRM marketing regulation, meaning that exchanges of seeds should not be considered as marketing but as mutual aid between farmers, and therefore not subject to the bureaucratic and plant health rules that apply to PRM marketed by seed companies, but only to the rules

applying to agriculture, which are much less discriminatory. There must be a full recognition of peasants' seed systems, i.e. the right to exchange seeds and other PRM, including for a compensation of costs, in quantities that are suited for agricultural production, when this exchange is done with the view to agricultural production and not a view to PRM marketing.

This right to exchange is only partially recognized in article 30 of the proposal on plant reproductive material of the European Commission (exchange in-kind between farmers), which provides for a derogation for peasants to exchange seeds which are not covered by a plant breeders' rights between themselves, but it concerns only seeds and only in limited quantities. The main barrier to the right to exchange being that any transfer of PRM between farmers is considered as marketing and peasants who exchange seeds are considered as professional operators. Therefore, these exchanges would be subjected to the plant health and bureaucratic obligations which apply to seed companies. Those requirements are extremely costly, burdensome, and incompatible with farmers' practices of peasant breeding and dynamic management of PRM, exposing those participating to those exchanges to potential fines.

The PRM proposal also seems to lack any provisions to protect peasants against biopiracy during the variety registration process. Indeed, the registration of new commercial categories, such as new conservation varieties, may be incompatible with peasants' rights and the objectives of the EU's international commitments (such as the International Treaty on Plant Genetic Resources for Food and Agriculture and the Convention on Biological Diversity) when these varieties have been previously developed, cultivated, and conserved by peasants and local or Indigenous communities, whose right to participate in decision-making under UNDRIP article 19. Indeed, in this case, farmers and local communities can no longer use the denomination for any ecotypes which do not correspond to the registered standard. In the proposal, there appears to be no provision to ensure the prior informed consent of indigenous peoples, or for peasant or local communities to participate in decision-making, before the registration of such varieties, nor to ensure the protection of their traditional knowledge about these varieties, and thus to avoid such biopiracy practices.

The information provided raises serious concerns regarding the potential impacts of the two proposals on New Genomic Techniques and Plant Reproductive Material on the rights and livelihoods of rural peasant farmers or indigenous communities. These concerns include the threat towards food sources, identity, traditions and polyculture practices. These initiatives seem to be proposed without peasants being informed in advanced about these factors which will impact their ability for producing processing, marketing and distribution of their products.

The text as it stands is therefore not in line with the EU's international obligations. It seems that the states have not consulted the peasants and other people working in rural areas through their own institutions. This risks infringing UNDRIP article 26 in ensuring the right to maintain and express their traditional and local knowledge, which creates vulnerabilities in harming farmers right to seeds and other resources. In addition, the International Treaty on Plant Genetic Resources for Food

and Agriculture (ITPGRFA), which the EU ratified, includes the farmers' right to information, to seeds and to participation.

The draft regulation on plant obtained by NGTs as it stands would breach the peasant rights to use and re-use their seeds, if those seeds are contaminated or contain naturally a trait that has been patented. If adopted, it will remove their right to freely choose their agricultural model and method. Consequently, this would force them to buy patented seeds every year, to avoid patent infringement proceedings. Additionally, the definition provided of "plants obtained by new genomic techniques" is not in line with the definition of "living modified organisms" provided for in the Convention on Biological Diversity (CBD).

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Moreover, without a joint modification of intellectual property legislation, these openings would constitute an open path to the suppression of the fundamental right of peasants and gardeners to use seeds from their own harvests. Indeed, at this stage, the PRM proposal does not provide for a ban on GMOs/NGTs or patents in new categories such as new conservation varieties, heterogenous material, etc., which are not varieties protected by a plant breeders' right. For the many European peasants and farmers who reuse their farm-saved seeds every year, the consequences would be heavy if patented seeds were marketed in these categories: they would not be able to benefit from the "farmer's exemption" allowing them to re-use the farm-saved seeds from certain species as this "exemption" is conditioned to the protection by a plant breeders' right, and they will not even be informed about patents since the PRM proposal does not provide for transparency on intellectual property rights (IPRs). Thus, if the seeds are patented and not covered by a plant breeders' rights, molecular markers of patented traits that are easily identifiable in crops and throughout the food chain will enable plant breeders to easily identify and prosecute farmers who do not pay royalties or use farm-saved seed for species which are not concerned by the "farmers' exemption".

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned observations.
2. Please provide detailed information on concrete measures taken or envisaged to ensure all peasants and other rural workers are able to participate in the decision-making process for the new proposals.

3. Has the EU considered removing the new proposals and other possible new proposals that prevent the enjoyment of environmental, food and water related rights concerning small-scale farmers and indigenous people?
4. Please indicate the steps taken by the EU to respect the content and articles of the United Nations Declaration on the Rights of Peasant and Other People Working in Rural Areas, including those relating to the right to participation in decision-making.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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working in rural areas

Michael Fakhri  
Special Rapporteur on the right to food