

**EUROPEAN UNION**

Contribution received in reply to UPOV Circular E-23/116, of July 6, 2023

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**Sent:** 31 August 2023 09:04  
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**Cc:** Dirk Theobald <[Theobald@cpvo.europa.eu](mailto:Theobald@cpvo.europa.eu)>  
**Subject:** FW: URGENT FW: [EXT]\*\*EXTENSION OF DEADLINE:\*\* Action by August 31, 2023: WG-SHF – Proposals: FAQs (UPOV Circular E-23/116)  
**Importance:** High

Dear Mr Button, dear Peter,

Thank you for your request for input for the update on the FAQs in relation to small holder farmers/subsistence farmers and apologies for the late answer due to the holiday period.

As regards the list on options for matters to be considered in the revision of the FAQs, and raised in the last Working Group meeting, We would like to propose the following in relation to the derogations on 'acts done privately and for non-commercial purposes':

*Explain that the exception to breeder's right in relation to acts done privately and for non-commercial purposes can cover seed of protected varieties that is exchanged or sold by small holder/ subsistence farmers within the local community, whether free of charge or not, for their own private use and outside their commercial activity.*

This would mean that if a small holder/subsistence farmer, who is not a seed producer (but a grain producer), would occasionally exchange or sell small amounts of seed of protected varieties to other farmers for their private use within the local community, would be covered by the 'acts done privately and for non-commercial purposes'.

It would be proportionate include this in the exceptions as this kind of transfer is usually limited to small holder/subsistence farmers, is taking place occasionally as this not their basic commercial activity, covers very small amounts, is taking place in the local community and is restricted to private use of the seed.

As regards the FAQs, these would need to be amended accordingly. I note that there is already a FAQ on '*Is it possible for subsistence farmers to exchange propagating material of protected varieties against other vital goods within the local community?*' This could be amended to cover occasional selling of small amounts of seeds by small holder/subsistence farmers under certain conditions.

Kind regards  
Päivi Mannerkorpi