

МІНІСТЭРСТВА СЕЛЬСКОЙ
ГАСПАДАРКІ І ХАРЧАВАННЯ
РЭСПУБЛІКІ БЕЛАРУСЬ



МИНИСТЕРСТВО СЕЛЬСКОГО
ХОЗЯЙСТВА И ПРОДОВОЛЬСТВИЯ
РЕСПУБЛИКИ БЕЛАРУСЬ

ДЗЯРЖАЎНАЯ ЎСТАНОВА
«ДЗЯРЖАЎНАЯ ІНСПЕКЦЫЯ
ПА ВЫПРАБАВАННЮ І АХОВЕ
САРТОЎ РАСЛІН»

ГОСУДАРСТВЕННОЕ УЧРЕЖДЕНИЕ
«ГОСУДАРСТВЕННАЯ ИНСПЕКЦИЯ
ПО ИСПЫТАНИЮ И ОХРАНЕ
СОРТОВ РАСТЕНИЙ»

вул. Казінца, 62, 220108, г. Мінск
тэл./факс (017) 212 04 21
e-mail: belsort@sorttest.by
р/р ВУ60АКВВ36049000031835100000
ЦБП № 510 ААТ «АСБ «Беларусбанк»
г. Мінск, вул. Куйбышава, 18
БІК АКВВВУ2Х, АКПА 00488527
УНП 100386524

ул. Казинца, 62, 220108, г. Минск
тел./факс (017) 212 04 21
e-mail: belsort@sorttest.by
р/с ВУ60АКВВ36049000031835100000
ЦБУ № 510 ОАО «АСБ «Беларусбанк»
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на № UPOV Circular E-24/047
April 22, 2024

**UPOV (International Union for
the Protection of New Varieties
of Plants)**

**34 Chemin des Colombettes
CH-1211 Geneva, 20**

Dear colleagues,

We have a great honor to express our respect to you and all UPOV team and wish fruitful work to the Working Group on Guidance concerning Smallholder Farmers (WG-SHF)!

Many thanks for your message concerning UPOV Circular E-24/047 April 22, 2024.

Belarus considers this to be a very important aspect for the proper further development of variety breeding, as well as for maintaining such a sensitive balance between the protection of plant varieties and the use of varieties, including by smallholder farmers in relation to private and non-commercial purposes.

In our country, such a balance has been achieved and the development of national breeding and the development of small farms are balanced in terms of making profits and achieving the main goal of ensuring the country's food security and reasonable food prices. Belarus also cares about jobs, including in small farms sector.

Belarus is also concerned that, as a result of UPOV's clarification of the provisions of the Convention, Article 15(1)(i) of the 1991 Act of the UPOV Convention provides for the following compulsory exception:

“(1) [Compulsory exceptions] The breeder’s right shall not extend to
(i) acts done privately and for non-commercial purposes,”

we may face a situation similar to the adoption of UPOV/EXN/EDV “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention”, in which concepts contradicting with the Convention itself were introduced.

1. Is your country/intergovernmental organization implementing the exception “acts done privately and for non-commercial purposes”? If so, how is it implemented?

Yes, Belarus at the legislative level in the Law of the Republic of Belarus “On selection and seed production” has enshrined the provision that this law does not apply to actions carried out for private and non-commercial purposes on seeds of varieties (patented or not patented) and, accordingly, the crops of these varieties in individuals engaged in crop production and smallholder farmers in relation to private and non-commercial purposes are not controlled by inspectors in the field of seed production.

2. Concerning this exception, are there definitions for the following term: “acts done privately and for non-commercial purposes”?

There is the following definition who do not pursue the goal of making a profit.

3. Please specify legislation/regulation and jurisprudence concerning this exception.

LAW OF THE REPUBLIC OF BELARUS May 7, 2021 No. 102-Z «On selection and seed production of agricultural plants». Examples of jurisprudence concerning this exception are not within our competence.

4. Are there any challenges and/or opportunities in implementing this exception in your jurisdiction? Please explain.

There are no problems in implementing this exception in our country. Since a consensus has been found between breeders and small farmers. Additionally, national breeders, even for large agricultural organizations, allow propagation of seeds of patented varieties for their own needs, without sale to a third party. The Ministry of Agriculture also supports this position, aimed at achieving food security in the country and fair distribution of profits between all participants in the process. As a result, basic food products for Belarusians, even under sanctions pressure, remain in the sector of affordable goods for all categories of residents of the country.

Yours sincerely,

Director



Beinia V.A.