

## BELGIUM

Contribution received in reply to UPOV Circular E-24/047 of April 22, 2024

**From:** Ben De Temmerman (FOD Economie - SPF Economie) <ben.detemmerman@economie.fgov.be>  
**Sent:** Tuesday, April 30, 2024 6:12 PM  
**To:** mail, Upov <upov.mail@upov.int>  
**Cc:** Shannah Boens (FOD Economie - SPF Economie) <shannah.boens@economie.fgov.be>; Geoffrey Bailleux (FOD Economie - SPF Economie) <geoffrey.bailleux@economie.fgov.be>; Guillaume Brasseur (FOD Economie - SPF Economie) <guillaume.brasseur@economie.fgov.be>; Déborah Pletinckx (FOD Economie - SPF Economie) <deborah.pletinckx@economie.fgov.be>  
**Subject:** RE: Action by May 20, 2024: call for replies to questions by the WG-SHF (UPOV Circular E-24/047)

Dear UPOV Secretariat,

Thank you for reaching out to us regarding these questions.

Please find answers to them, as regards Belgium, in the original e-mail indicated in [blue](#).

Best regards,

**Ben DE TEMMERMAN**

Directorate-General for Economic Regulation  
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**De :** mail, Upov <[upov.mail@upov.int](mailto:upov.mail@upov.int)>

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**À :** mail, Upov <[upov.mail@upov.int](mailto:upov.mail@upov.int)>

**Objet :** Action by May 20, 2024: call for replies to questions by the WG-SHF (UPOV Circular E-24/047)

UPOV Circular E-24/047 April 22, 2024

Distribution: Council members

Madam,

Sir,

At its fifth meeting, held on March 22, 2024, the Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use (WG-SHF) concluded that gathering information would be useful to consider the development of guidance concerning smallholder farmers in relation to private and non-commercial use and agreed that the Office of the Union should invite all UPOV members to reply to the following questions.

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 acts done privately and for non-commercial purposes,”

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

**The exception “acts done privately and for non-commercial purposes” is implemented in Belgian law. As such, breeder’s rights do not extend to such acts.**

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

**Belgian law does not provide for a definition of the term “acts done privately and for non-commercial purposes”. It is up to the Belgian courts to interpret this term.**

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

**The exception “acts done privately and for non-commercial purposes” is laid down in Article XI.116 of the Belgian Code of Economic Law.**

**French version:** <http://www.ejustice.just.fgov.be/eli/loi/2013/02/28/2013A11134/justel>

**Dutch version:** <http://www.ejustice.just.fgov.be/eli/wet/2013/02/28/2013A11134/justel>

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

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