

Dear Commissioner Borg, Commissioner Ciolos and Commissioner Potocnik,

We contact you to raise our concerns on the Regulation on making plant reproductive material available on the market (referred to here as the Seed marketing legislation), which is one of four legislative proposals in the animal and plant health package. As you know, the publication of the draft Seed legislation by the EU Commission on 6 May 2013 immediately caused a big uproar among civil society, farmers' and small breeders organisations across the EU. Last month, a number of NGOs has similarly expressed their concerns to the European Parliament (1). Also last month, a group of specialised seed and agricultural organisations published their common declaration in relation to the proposed EU regulation (2).

We have to say that we share most of those concerns and that we very much fear that this package will further reduce *de facto* genetic diversity in farming. This will restrict the possibilities of adapting seeds to climate change and improved agro-ecological systems. For sure, agrobiodiversity, especially genetic diversity within crop species, will not be protected by merely creating little niches, which are put in an even weaker position due to administrative burden and costs, so that small operators are likely to disappear in the near future. Ever bigger companies produce seeds designed to produce uniformity, to be sown in a sterile soil, dependent on chemical inputs of pesticides and artificial fertilisers, rather than robust resilience against an ever-more hostile environment. We therefore not only reproach DG Sanco for playing into the hands of multinational industrial seed producers and encouraging market concentration, but very much wonder why DG AGRI and DG ENVI did not fulfil their responsibility to be more vigilant and active in protecting agrobiodiversity and farmers' rights on access to seeds.

European legislation should be made to protect the rights of vulnerable actors and common values and heritage. Even when assuming that industrial farming operators in western countries could benefit from this legislation, farmers in developing countries will certainly not. As you know, the EU seed export market is the strongest in the world and therefore also has a big influence on food production elsewhere. In 2008, UN's IAASTD¹, concluded that "*Technologies such as high-yielding crop varieties, agrochemicals and mechanisation have primarily benefited the better resourced groups in society and transnational corporations, rather than the most vulnerable ones. To ensure that technology supports development and sustainability goals, strong policy and institutional arrangements are needed ...*"

In July 2009, the UN Secretary-General transmitted to the General Assembly the report entitled "Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation" by the Special Rapporteur on the right to food, Olivier De Schutter. The report stated: "*Just like research and development in agriculture in general, seed policies must be guided, not by a preconceived view about the benefits technology can bring to farming, but by a careful examination of their impacts on food security and, specifically, on the ability of the most vulnerable farmers to improve their livelihoods. The development of a commercial breeding sector separate from farming and, more recently, of a biotechnological sector, has led to increased demands for the protection of the rights of breeders and inventors of biotechnologies, demands which now have penetrated at the global level.*"

Furthermore, De Schutter states that "*the professionalisation of breeding and its separation from farming leads to the emergence of a commercial seed system, alongside the farmers' seed systems through which farmers traditionally save, exchange and sell seeds, often informally. This shift has led to grant temporary monopoly privileges to plant breeders and patent-holders through the tools of intellectual property, as a means to encourage research and innovation in plant breeding. In this*

¹ International Assessment of Agricultural Knowledge, Science and Technology for Development

process, however, the poorest farmers may become increasingly dependent on expensive inputs, creating the risk of indebtedness in the face of unstable incomes. Private-led research may seek to satisfy the needs of farmers in industrialised countries, while neglecting those of poor farmers in developing countries. The farmers' seed systems may be put in jeopardy, although most farmers in developing countries still rely on such systems, which, for them, are a source of economic independence and resilience in the face of threats such as pests, diseases or climate change."

Article 11 of the International Covenant on Economic, Social and Cultural Rights imposes on States three levels of obligations in the realisation of the right to food. States have an obligation to respect existing access to adequate food. This requires that they do not take any measures that result in preventing such access (see E/C.12/1999/5, para. 19). The introduction of legislation or other measures which create obstacles to the reliance of farmers on informal seed systems may violate this obligation. De Schutter concluded that *"agrobiodiversity may be threatened by the uniformisation encouraged by the spread of commercial varieties"* which is exactly what the EU seed legislation is doing.

We therefore urge you to modify or redraft the legislation in order to make it protect both farmers and agrobiodiversity; that it takes the farmers' and gardeners' demands on crop seed exchange into consideration; and that it covers the justified and specific demands of organic agricultural breeders, whose concerns on open-pollinated varieties are currently not addressed. It is a fact that open pollinating varieties do not fit into the system you propose. Uniformity is not a natural trait in seeds and particularly open-pollinated varieties do not exhibit static characteristics when propagated. The latter means that they do not remain consistent with their description (true-to-type). However, we assure you that there are many farmers who want to buy or exchange exactly those open pollinated varieties and their intrinsic variation.

In addition, the proposed definition on niche markets does not fit the requirements of small breeding enterprises. An obligatory registration as proposed by the EP-rapporteur and which seems to be backed by your DG would even worsen the situation. It is obvious that private gardeners would immediately stop their breeding activities if they were obliged to register, which is a heavy administrative burden and too costly for most of these breeders.

These are only some few examples without going into the details of the legislation. But again, this regulation should not dictate to farmers what might be in their interest but it should give them the possibility to plant and commercialise varieties even if they do not fit the, centralised EU catalogue system proposed. Furthermore we point out that consumers in European regions are very much in favour of old varieties, of a wide variety diversity, and of varieties that fit current and future needs of the organic farming sector. Consumers do have a desire for agriculturally diverse food, produced locally, on a small-scale. Consumers do not want the entire agrofood market to be owned by a few big companies. We very much fear that this regulation does not address these concerns and that it might even provoke a backlash against the EU, which is easily caricatured as an overly centralised, one-size-fits-all construction.

We very much hope, dear Commissioner, that you will take our concerns seriously into consideration. We are looking forward to hearing from you.

MEP Bart Staes, Martin Hausling, José Bové (Greens),

MEP Corinne Lepage (ALDE)

MEP Karin Kadenbach, Pavel Poc, Kathleen Van Brempt (S&D)

MEP Richard Seeber (EPP)

(1) (<http://corporateeurope.org/commercial-interests-should-not-prevail-over-food-security>)

(2) http://seedpolicy.arche-noah.at/files/declaration_vienna_2013-11.pdf