

Implementing EU seed legislation co-herent with UNDROP in Denmark

-the Landsorten example

“Webinar UNDROP - EU Seed Marketing Reform in Denmark”
29th November, 2022

Anders Borgen

Project funding by
BOOST (Organic RDD-6)
and DIVERSILIENCE (CoreOrganic)

Landsorten and ITPGRFA

The purpose is to make a diversity of seed available for niche markets (inter alia organic farming) of varieties fit for the purpose

Landsorten

- Membership organisation established 2021
- Mainly dealing with agricultural crops incl. cereals
 - plant breeding
 - maintaining and selection within conservation varieties
 - organising seed multiplication **and seed marketing**



Buurholt
Mobile seed cleaning and
milling



Farmers
Bakers
Millers
Landsorten



KOST
Culinary
development and
marketing



University of Copenhagen
quality analysis and research



Agrologica
Breeding and research



Legal focus points

- Home saving of seed
- seed marketing (=bring seed to the market)
 - for commercial exploitation
 - for other purposes

The scope of the directives

**Council Directive 2002/55/EC of 13 June 2002
on the marketing of vegetable seed**

Article 2

1. For the purpose of this Directive:
 - (a) "marketing": shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or **transfer aimed at commercial exploitation** of seed to third parties, whether or not for consideration.

EU seed legislation

Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed

Article 3

1. The Member States shall provide that cereal **seed may not be placed on the market unless it has been officially certified** as "basic seed", "certified seed", "certified seed, first generation" or "certified seed, second generation" and unless it satisfies the **conditions laid down in Annex II.**
- 2.

Conclusion:

It is financial impossible for Landsorten or anyone else to meet the certification requirements for niche markets

EU seed legislation new possibilities

- Conservation varieties
- Organic Heterogeneous Material
 - free of charge, but authorities doesn't want to register hundreds of OHM if grown only on limited areas
- Organic Bred Varieties

Conclusion:

New possibilities can be used for large scale production, but cannot ensure agro-biodiversity
No possibilities for financial return through variety protection

but the EU seed legislation also says:

Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed

Article 3

1. ...
2.
3.
4. **Member States may provide for derogations from the provisions of paragraphs 1 and 2:**
 - (a) for bred seed of generations prior to basic seed;
 - **(b) for tests or for scientific purposes;**
 - **(c) for selection work;**
 - (d) for seed as grown, marketed for processing, provided that the identity of the seed is ensured.

Landsorten's seed marketing strategy

- We only work with IPR free varieties, so no conflict with variety protection
- Initial dissemination of seed for test production
 - Small scale production of VCU free varieties are defined as test production exempted from the seed legislation
- Multiplication based on home saved seed and establishment of closed circles for millers
- Official registration of conservation varieties and Organic Heterogeneous Material for large productions (~500ha in 2023)

Home saving of seed

- Home saving of seed is allowed only for not IPR protected seed
- Home saving of protected varieties is only allowed for certain agricultural crops:
 - cereals
 - a few legumes
 - oil seed rape and flax
 - Vetch, alfalfa
- In respect of peasants rights, farmers growing less than 17,6ha of these crops can save seed without paying licence to the owner

Conclusion: It may be a violation of UNDRIP that small scale farmers are not allowed to save seed of other crops such as grass and clover seed, since there are no alternative unprotected seed on the market of these crops

Conclusion

- Seed of adapted varieties for organic farming and other niches is not always available in the EU.
- For many crops such as grass and clover, home saving of seeds is illegal, violating UNDROP and ITPGRFA
- Landsorten has challenged the system and tried to make alternative cereals available to farmers, and the **seed legislation has in our case not been the major obstacle** since the Danish authorities in the past years have been willing to administer the legislation in respect of farmers rights.
- Agro-biodiversity and access to seed in Denmark seems at present to be limited by financial rather than legal obstacles.