



## Updates on Plant Variety Protection

*Issue #64, 13 November 2024*

### 1. Editorial

The annual UPOV session took place in Geneva three weeks ago. You will find a report on the negotiations in this newsletter. There is also an article about a decision by the Italian Supreme Court, which shows that plant breeders' rights end where the public interest begins. An article by Inf'OGM gives an easy-to-read overview of the current developments of patents on plants in Europe, and sheds light on aspects of plant variety protection. The other articles of the newsletter all focus on farmers' rights and the contradictions with plant breeders' rights.

### 2. APBREBES Report on the 2024 UPOV Session

Our [report](#) on the last UPOV session is available on our website, as for every [previous session](#). With the decision to suspend the Working Group on Smallholders for two years, UPOV has confirmed its reputation of being unwilling to address the concerns of smallholder farmers. On the other hand, 19 years after the demand was made by NGOs and farmers' organisations, UPOV has now decided to open up the restricted area of its website and make the documents of the Consultative Committee available to the public. UPOV is now finally doing what has always been common practice in other multilateral organisations.

### 3. Italian Supreme Court Finds Plant Breeder's Contractual Terms were Contrary to Public Interest

In its [decision](#) of March this year, the Italian Supreme Court of Cassation showed the limits of plant variety rights. In a [contribution](#) on the [IPKat](#) website, Roberto Manno, an attorney with [weblegal.it](#), explains how the Italian Court followed the decision of the European Court of Justice in the *Nadorcott* case, where it ruled that agricultural production constitutes a public interest that justifies restricting the exercise of plant variety rights. Mr. Manno states that «the recent judgment helps to clarify that growers and nurseries having paid the equitable remuneration cannot be asked to destroy their plants». In a related [case](#), in which the American company Sun World International was once again the plaintiff, the Court ruled that Sun World International's existing plant variety right was invalid because it lacked novelty.

### 4. The Emergence of Posthuman Legalities and Peasant Rights

In a chapter of the [book](#) "the Incoherence of Human Rights in International Law" (restricted access), Dr Louisa Ashley, Head of Law at Leeds Law School, Leeds Beckett University, UK, analyzes how peasant rights have entered into the mainstream human rights discourse. She states that Paragraph 8, of Article 19 of UNDROP, affirming that states shall ensure that seed policies, PVP and other IP laws, shall respect

peasant rights, “is a direct response to the global imbalance precipitated by powerful transnational seed corporations associated with and legitimised by an exclusionary legal regime of plant variety protection and intellectual property laws”. She adds that this regime neglects knowledge embedded in seed-related practices of communities in favour of codified, decontextualized knowledge. A neglect that is “fuelled by misconceptions regarding the nature and importance of farmer seed networks”.

## **5. UNDROP and the Right to Seeds**

The comprehensive [article](#) by Fabien Girard, Associate Professor at the University of Grenoble Alpes, France, , traces the history of the concept and the genesis of Article 19 of UNDROP and shows how it enshrines the rights of farmers over their seeds in international human rights law. Article 19.1(d) of UNDROP stands as a significant advancement with its broad and unrestricted language. It recognises the crucial role of farm-saved seed practices in achieving the right to food and promoting on-farm innovation, all while reaffirming the supremacy of human rights guarantees over commercial interests.

## **6. Farmers’ Rights in the Plant Treaty: Interrelations and Recent Interactions with other International Regimes and Processes**

The [article](#) by Christian Prip, Senior Researcher at the Fridtjof Nansen Institute, Norway, asks to what extent international regimes dealing with plant varieties and related knowledge, and UNDROP in particular, have interacted and contributed to the implementation of the Farmers' Rights provisions of the ITPGRFA at the international and national levels? Regarding the interrelationships between Farmers’ Rights and intellectual property rights, he concludes that a common understanding between the two considerations has not been reached by Intellectual Property Rights forums. According to Mr. Prip, finding a shared understanding and coherent legal frameworks is therefore more likely to occur in individual countries through sui generis legal systems appropriate to the specific circumstances and needs.

## **7. Patents on living organisms: a growing appropriation**

Inf’OGM, the French association acting as a citizens’ watchdog, has published a new Dossier “Patents on living organisms: a growing appropriation» (restricted access). Written by Denis Meshaka, Journalist at Inf’OGM and H  l  ne Tordjman, Economist and Senior Lecturer at la Sorbonne Paris-Nord University, the Dossier provides an easy-to-read overview of the current developments of patents on plants in Europe, but also sheds light on aspects of plant variety protection. The authors raise a crucial question: «How far can living organisms - particularly plants - be privatised without compromising fundamental ethical principles and certain social balances, in particular the rights of farmers?» Inf’OGM is calling for donations (see top of [Website](#)) to continue their research work.

## **8. Subscription, Feedback & Contact**

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Feedback & Contact

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