

# Stop stealing protected varieties

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IO About half of the area sown with potatoes in Europe is planted with farm-saved seeds or illegally obtained propagation material. "It is completely unacceptable that the market is manipulated by cheaters," says Geert Staring, director of Breeders Trust in Brussels, Belgium. His organisation strives for fair play in the potato and grass sector. "The hunt for thieves is on."

**Breeders Trust is regularly in the news** with the most spectacular part of the work, namely conducting legal proceedings or organising a police raid and seizure of goods or paperwork. "That is always with permission of the judge, so a lot of homework precedes it," says Geert Staring. Since 2011, he has been director of Breeders Trust, an organisation founded in 2008 by ten international operating seed potato breeding and trading companies. As the development of a new potato breed takes at least ten years and costs up to 3 million euros, they were fed up with violators of plant breeders' rights. The ten companies together account for over 80% of the newly developed potato varieties within the EU. In 2012, the six largest grass seed companies in Western Europe joined the organisation.

## What is the goal of the shareholders?

"The companies were frustrated that, even though their varieties were protected by plant breeders' rights, they were stolen just like that. International, illegal trade and propagation took place without anyone raising a finger. They concluded that doing nothing was no longer an option. Our aim for fair play and a level playing field for everyone working through the whole potato and grass seed chain is non-competitive. What binds our shareholders and members is that they all subscribe to our mission. It is in the interests of the entire chain (including those who are not affiliated with Breeders Trust) that growers receive what they are entitled to and can continue to search unperturbed for new, better varieties in a market that is not troubled by malicious producers and traders."

## How does it work?

"We spend a lot of time on providing information, tracking tips and conducting our own research and making contacts with the authorities, such as inspection services, fraud investigators, customs, food safety authorities, etc. We also assist in setting up an infrastructure and the enforcement of plant breeders' rights.

"In every country where we operate, we have our own lawyer, because every country and EU member state has its own laws and regulations. In close consultation with our lawyers, we build a case and outline the

strategy. Incidentally, that does not always lead to a lawsuit in each case. Depending on the nature and size of the violation, this can lead to a warning or a mutual arrangement. Sometimes a friendly settlement with an abstention declaration is sufficient, but always under our conditions. If we do not have the conviction that a lesson has been learned, we will prosecute the fraud."

## How many people work at Breeders Trust?

"It is not necessary to put an enforcer behind every tree. That would also be unaffordable. But if you know that there is a fair chance that your fraud will be discovered, it is often enough to keep the majority in check. Compare it to traffic cameras to stop speeding cars. We receive tips from our own people and shareholders who are in the field daily. They know who they are dealing with in practice and know when the market is troubled. We also conduct mystery shopping and test buys and use modern detection and analysis techniques that accurately indicate where seed lots are and which varieties are at stake."

## Can you give some concrete examples in the potato sector?

"Farm Saved Seed (FSS) plays an important role in potatoes. A few years ago, ESA made an inventory and it showed that up to 50% of the total area of potatoes in Europe is planted with FSS or illegal propagation material. The re-use of last year's harvest is permitted, but in the case of the use of varieties protected by plant breeders' rights, a fair payment must be paid to the breeder. The latter is sometimes 'forgotten'. This involves only a small amount of often less than €100 per hectare, but in total we are talking about far over 10 million euros. In many countries, we only receive a fraction of what we are entitled to. So, there is still a lot of work to be done for us, but we are on the right track.

"Another recent example is that by the time plant breeders' rights nearly expire, which in the case of potatoes lasts for a period of 30 years, there are quite a few companies that start building up a stock of seed potatoes, either by propagating or by importing from a country where the variety is not protected. If that is the case, we come down very hard and prosecute the offender. This is sufficiently frightening to prevent others from enriching themselves in such a way.



Fraud can have catastrophic consequences for a farmer. An unsuspecting buyer believed he bought a reliable batch of Italian ryegrass with an official certificate. Instead, infringers put a cheap Westerwold ryegrass of unknown origin in the bag

“Finally, we are and always remain vigilant that no consumption potato is traded as seed potato and that the material is only propagated with the breeder’s consent. Only last year, we detected several cases of this type of fraud. It meant that the farmers planted uncertified seed potatoes, as they had not been inspected. That is illegal and it can create huge phytosanitary problems. Therefore, we could either inform the food authorities or go to court. In both cases, the growers ran the risk of having to harvest the seed potatoes again only one week after planting.”

**And in the grass seed sector?**

“In the past five years, we have bought certified bags of English and Italian ryegrass in various shops in France, Italy and Belgium. We have had the contents of these bags examined at a recognised laboratory. They found that in no less than 35% of the sampled batches, there was something else in the bag than stated on the label.

Fraud can have catastrophic consequences for a farmer. An unsuspecting buyer thinks he is buying a reliable batch of Italian Rye Grass, in this case with an official certificate, but when sowing, it appears that a cheap Westerwold ryegrass of unknown origin has been put in the bag. For Breeders Trust that is reason enough to inform certifying authorities in the EU countries and take action.

“Another example was the discovery of counterfeit labels. Bags of grass seed were sold with ‘home-made’ Polish labels. The swindlers, however, had not noticed that the Polish authorities had modified the layout of the labels in some places. Our report to the

Polish authorities was sufficient to stimulate action throughout Europe. In this case, the bags in Poland, France and Portugal were removed from the shelves by order of the authorities within 24 hours of our notification.

“One final example with grasses. Last year, we started to investigate the presence of pesticides in organic seeds that had been sold on the French market from Germany and Italy. The results were nothing short of shocking. An independent laboratory recognized that pesticide residues were detected in 40% of the sampled batches. We targeted batches of certain origin/exporters. All these origins, however, were officially certified. Reason enough for us to start a follow-up study this autumn and to continue to exert pressure on not only the certifying authorities, but also on the Fraud Investigation Services and Food Products Authorities to enforce the regulations adequately.”

**These are harsh measures!**

“We realise very well that conducting legal proceedings is a tough remedy and has a big impact on a company. But we cannot and will not accept that the effort of breeders remains unrewarded because an infringer runs off with a protected variety. Going to court is a final resort to show the parties involved and the chain that it is unacceptable for our members that the market is being manipulated by cheaters. There are lawsuits that last three years or longer, especially if it leads to a higher appeal, but Breeders Trust has the time. We are not only building up international case law, but our actions also have a deterrent effect. All in all, it is in the general interest.”