

ANALYSIS OF THE ALBANIAN NATIONAL LEGISLATION IN THE LIGHT OF THE INTERNATIONAL LEGAL FRAMEWORK RELEVANT TO THE CONSERVATION AND USE OF ANIMAL GENETIC RESOURCES

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Communication

Abstract: The Albanian legislation on conservation, management and sustainable economic use of Farm Animal genetic Resources is an intensive developing process. It aims to the FAnGR development in accordance with the requirements and obligation arising from the accession to various international convention (CDB, WTO etc...), and to align it with other legislations of EU member states. The legislative development is part of the work that Albania is implementing in the context of the Global Plan of Action for the Conservation of Animal Genetic Resources (FAO).

Albanian current legislation treats only generally the entirety of the requests that should be fulfilled in order to enable the conservation and administration of the biological diversity of farm animals. It is necessary to develop it in order to solve the entirety of the problems regarding the need and necessity of the administration of this national asset, to meet, in an optimal way, the food security of current and future generations.

Key words: Animal Genetic Resources, legislation, Albania

Introduction

In Albania, livestock production development is linked to the market needs for livestock products and provides more than 50% of the total agricultural production, which accounts for almost 18% of the GDP. The main reasons for the increasing erosion of animal genetic resources (AnGR) have been identified by the Government in a number of factors, such as, *inter alia*, lack of adequate legislation, infrastructures and financial resources. In this context, the Government of Albania with the support of FAO in September 2004, has started a legislative process in order to improve the national legislation on conservation, management, genetic

improvement and sustainable economic use of AnGR in the light of relevant international legal framework (*Ingrassia, 2005*). In the efforts context that Albania has made to gain the status of EU candidate country and, in particularly in the efforts to fulfil the obligations deriving from the Association and Stabilization Agreement, adequacy of the legislation is considered a priority. Agriculture legislative framework is changing and developing continuously.

The purpose of this study is the analysis of the actual Albanian national legislation relevant to the conservation and use of animal genetic resources and based on it, the formulation of recommendations for their development.

A brief description of the international legal framework relevant to the conservation and use of AnGR

The most significant international convention on the conservation and use of genetic resources is the CBD, which entered into force in 1993 and has since been ratified by over 190 countries, including Albania in 1994. The convention's goals are “*conservation of biological diversity, the sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilisation of genetic resources*”. The CBD encompasses wildlife and domesticated species and, thus, all AnGR. The signatory states are committed to develop national strategies, plans and programmes for the conservation and sustainable use of biodiversity and to integrate them into their sectorial policies. Great importance is placed on *in-situ* conservation of biodiversity, to be supplemented by *ex-situ* conservation activities, preferably in the countries of origin.

The Biosafety Protocol to the CBD seeks to protect biological diversity from the potential risks posed by living modified organisms (LMOs) resulting from modern biotechnology. The Protocol is likely to become relevant to AnGR as the use of biotechnology in breed improvement and conservation is not a new phenomenon.

The WTO is the organization promoting and administering multilaterally-negotiated free trade rules. Relevant in the context of FAnGR are its:

- (i) Sanitary and Phytosanitary Measures (SPS) Agreement
- (ii) Agreement on Technical Barriers to Trade (TBT)
- (iii) Trade-Related Intellectual Property Rights (TRIPs) Agreement

The *Codex Alimentarius* is the reference point for the harmonization of international regulations for consumer protection. The regulations encompass, *inter alia*: (i) Food standards for commodities; (ii) Codes of hygienic or technological practice; (iii) Evaluation of pesticides and veterinary drugs; (iv) Limits for pesticide residues and (v) Guidelines for food additives and contaminants.

In addition to the above, the Codex Alimentarius has also established general standards for: (i) food labeling; (ii) methods of analysis and sampling; (iii) food hygiene and (iv) food import and export inspection and certification systems.

The OIE aims to ensure transparency in the global animal disease and zoonosis situation and provides guarantee of the safety of food of animal origin through a science-based approach. Within its mandate under the WTO SPS Agreement OIE safeguards world trade by publishing health standards for international trade in animals and animal products. To that effect, it formulates regulations and measures to prevent animal diseases.

Agenda 21 is a soft law instrument. Its Chapter 14 on *Promoting Sustainable Agriculture and Rural Development* (SARD) highlights the fact that SARD's major objective is to increase food production in a sustainable manner and enhance food security. Among the programme areas included in Chapter 14, of particular relevance is programme area on the conservation and sustainable utilization of animal genetic resources for sustainable agriculture. According to the management-related activities specified in this programme, Governments should: (i) draw up breed preservation plans for endangered populations, including semen/embryo collection and storage, farm-based conservation of indigenous stock and *in-situ* preservation; (ii) plan and initiate breed development strategies; and (iii) select indigenous populations, on the basis of regional importance and genetic uniqueness, for a 10- year programme, followed by the selection of an additional cohort of indigenous breeds for development.

The EC policy and regulatory framework is composed of a set of instruments embracing several aspects of relevance to AnGR management. EU legislation is made up of directives and regulations, which must be implemented at the member state level. While regulations are binding in their entirety, directives define the outcomes to be achieved.

In summary, the following policies or regulations are most relevant in relationship to FAnGR conservation and use:

The Common Agricultural Policy (CAP) regulates production, trade and processing of agricultural products in the EU. Council Regulation (EC) No 1782/2003 introduced the Single Farm Payment with significant implications for the utilization of FAnGR. Council Regulation (EC) No 1257/1999 established the framework for support for sustainable rural development including protection of the environment. Under this framework Commission Regulation (EC) No 817/2004 provides financial support to be given to farmers rearing animals of local breeds, indigenous to the area and in danger of being lost. Support for conservation measures is further strengthened by Council Regulation (EC) No 1698/2005. Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)¹

¹ Article 27

EU is a party to the CBD and – as a consequence – all EU countries are obliged to develop national biodiversity strategies that – in the context of agricultural biodiversity – also address conservation of AnGR. Related to the implementation of the Biodiversity Action Plan for Agriculture, Council Regulation No 870/2004 explicitly aims to increase the emphasis on the conservation of AnGR.

A further body of EU legislation relates to the management of animal breeding. Animal breeding legislation covers cattle, pig, sheep, goat and equine species. Related to improvement of animal health within the EU, there is a body of legislation permitting intra-community trade and imports of animals in accordance with health standards and obligations under international law. Finally, the EU legislative framework for food safety affects livestock production and marketing, and hence the utilization of AnGR.

In October 2010, a legally binding protocol on Access and Benefit-Sharing (ABS) was successfully negotiated by the 10th Conference of the Parties to the Convention on Biological

Diversity (CBD), the Nagoya Protocol². This Protocol provides a framework for all types of genetic resources, including Animal Genetic Resources for Food and Agriculture (AnGRFA).

Albanian National legislation

Although most countries like Albania are bound by virtue of membership to the CBD and the WTO, the effective implementation of international commitments is hampered by lack of administrative infrastructure and other resources (*Ruli G. 2010*) The analysis of the Albanian legislation shows the presence of legislation regulating specific field relevant to AnGR, such as breed improvement, identification and registration. Notwithstanding this, Albania clearly

1. For the purpose of Article 39(1) and Article 40 of Regulation (EC) No 1698/2005, paragraphs 2 to 13 of this Article shall apply as relevant.

2. Any commitment to extensive livestock farming or manage livestock farming differently shall comply with at least the following conditions:

(a) grassland management shall continue;

(b) the whole of the grazed area per livestock unit shall be maintained, avoiding both over-grazing and under-utilization;

(c) livestock density shall be defined taking into account all grazing livestock kept on the farm or in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.

3. Commitments to limit the use of fertilizers, plant protection products or other inputs shall be accepted only if such limitations can be assessed in a way that provides reasonable assurance about compliance with those commitments.

4. Support may relate to the following commitments:

(a) to rear farm animals of local breeds indigenous to the area and in danger of being lost to farming;

(b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

² The Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization to the convention on biological diversity

lacks advanced breed improvement programmes, reproducers selection, a system of animals recording and legislation enforcement. Furthermore, in the 90's, the breeding centres, also regulated by national legislation, were not functioning properly (Status Report for Animal Genetic Resources, Republic of Albania, 2002).

An analysis of the Albanian national legislation in the light of the international legal framework shows its inadequacy to implement the international requirements. None of the pieces of national legislation analysed specifically refers to concepts deriving from the above-mentioned international instruments.

Act No 9426, of 28.01.2008 "On Livestock Breeding", Decision No. 219 of 16.05.2002, amended, "For the protection of the buffalos indigenous breed from extinction" and the Decision No.1708, on 29.12.2008 "For the implementation of the *In-situ* conservation breeding programs for small ruminants", are the only legislative products specifically regulating management and conservation of FAnGR, which carries out only partially the provision of article 27, 4 (a) of the Commission Regulation (EC) No 1974/2006 of 15 December 2006. The "Livestock Breeding Act" is quite comprehensive on this regard and is the only part of legislation which could implement some of the provisions of the CBD and the above Commission Regulation (EC), as far as conservation and protection of livestock genetic resources is concerned.

The purposes of this Act are:

- (i) protect, improve and conserve the livestock genetic resources quality,
- (ii) increase the livestock production and improve its quality and
- (iii) conserve the genetic variation of farm animals.

The Act regulates the following matters:

- (i) livestock conditions and practices for a good breeding, methods and technologies for animal breeding and feeding
- (ii) criteria for preparation and approval of breed programmes;
- (iii) gene funds and native breeds;
- (iv) professional services in the area of animal breeding;
- (v) establishment and administration of gene banks;
- (vi) establishment of breeders' associations; and
- (vii) trade in breed materials;

In this Act some of the most important issues on conservation, management and sustainable use of FAnGR are listed:

In terms of Article 26³, breeding improvement programmes should specify the breeding objectives, the size of the population, the rearing and breeding methods, and the development and research tasks. Such programmes should also ensure the genetic improvement and the quality of animal products. Any animal or breed can be object of one or more breeding programmes. A breeding programme shall be in force for not less than 5 years. The breeding programmes shall be prepared and implemented by the specialized institutions and breeding associations and shall be approved by the Ministry of Agriculture, Food and Consumer Protection (MoAFCP) based on the initial opinion of the MoAFCP's Livestock Committee.

In terms of Article 58⁴ on the conservation of genetic variability and genetic reserves of farm animals, the Republic of Albania shall establish and maintain genetic reserves for individual species, breeds and lines of farm animals in form of a minimum number of farm animals, doses of semen, ova and embryos.

For the purpose of conservation of breeds and/or lines, and in order to ensure sufficient production of animal products, the breeding programmes shall ensure the genetic variability of farm animals. The procedures shall be defined by the government while the funds for this purpose shall come from the state budget.

According to the law, the Government's programme for the animal biological diversity conservation shall aim at the:

- Conservation of all breeds of farm animals breed in the territory of Albania, with special emphasis on the indigenous breeds;
- Establishment of the gene bank for animal breeding;

³ Chapter III. Breeding programs, improvement and conservation of farm animal features, Article 26, Breeding improvement programs:

1. The breeding program shall define the breeding objectives, population size, methods of growth and reproduction, selection, development and the objectives of the research measures for an effective breeding of farm animals, extent of genetic improvement, quality improvement of the livestock products, conditions for coordination and use of the breeding programs services according to zootechnical standards.

2. Zootechnical standards of farm animals are defined by regulation of the Minister of Agriculture, Food and Consumer Protection.

3. Breeding programs are designed by specialized institutions and animal breeding organizations and are approved by the Minister of Agriculture, Food and Consumer Protection, based on the opinion given by the Livestock Committee.

4. Breeding programs are implemented by specialized institutions and animal breeding organizations. Any type or breed of farm animal may be subject of one or more breeding improvement programs.

The law No .9426, date 28.01. 2008

⁴ Article 58 Preservation of genetic variability.

1. Republic of Albania holds and provides genetic resources, in a minimal number of animals, doses of semen, eggs and embryos, for specific species, breeds and lines of farm animals,

2. For breeds and/or lines conservation purposes and to ensure the sufficient animal production, the breeding program provides genetic variability of farm animals.

3. Funds for conservation and maintenance of genetic recourses are provided by the State Budget and/or private donors.

4. Modalities and procedures of conservation and maintenance of genetic recourses are defined by the Council of Ministers.

- Education and training in the field of conservation of biological diversity in animal husbandry;
- Promotion of public awareness concerning the importance of the conservation of biological diversity;
- Coordination with other programmes in the agriculture sector.
- Programmed timeframe
- Financial resources needed for the programme.

Based on Article 59, the public service responsible for the establishment and the functioning of the gene bank shall monitor the livestock diversity through surveys and systematic analysis. In term of Article 60, the indigenous breeds⁵ shall be under a special protection regime by the government, which should promote and support livestock products. In addition to the breeds listed in the law, the Minister has the power to add other breeds to this list, following the request of a Minister-approved organization or institution. The indigenous breeds should be protected at the national and international level in accordance with the international agreements and conventions of which Albania is part. As was mentioned above, in the context of the CBD, Decisions 219 and Decision No.1708, on 29.12.2008 “For the implementation of the *In-situ* conservation breeding programs for small ruminants” are the only national examples of financial incentives provided by the state to protect and conserve a breed considered as being ‘at risk of extinction’.

Article 61 establishes that special accompanying documents should identify farm animals traded in as breeding animals or animals to be presented in expos, fairs, etc.

According to Article 63, the trade in embryos can take place only with an institution or organization specialized in embryos collection, preparation, storage, transplantation and trade following the provisions of the “On the Veterinary Service Act”.

Article 64 permits the import and export of the breeding materials. Breeding animals intended for import and export should, be registered in the genealogical book of an approved organization, be easily identifiable and accompanied by the necessary livestock and veterinary documents.

The law identifies the breeders organizations and other specialized organizations as the nationally approved livestock organizations. These organizations should be approved by the Minister and should comply with different requirements as set by the law (e.g. compliance with organizational and technical requirements, presentation of a breeding programme, control of a certain number of animals, etc).

⁵ Indigenous breeds as listed in Article 60: indigenous cattle, indigenous buffalos, indigenous sheep and its ecotypes, indigenous goats and its ecotypes, indigenous pigs, indigenous ducks, chicken, turkeys, horses, donkeys and bees.

According to Article 89, the training is carried out by the agricultural professional schools, agricultural high schools, agricultural colleges, universities, agricultural research institutes, and by other education or training organizations, whose programmes include also livestock breeding.

On some limitations of current legislation

In the current Albanian legislation the problems regarding the conservation, development and economic sustainable use of biodiversity in farm animals, are treated only in general terms. The issues arising from the necessity of meeting the requirements of international documents and/or issues addressed in EU legislation are not detailed and fully developed.

Therefore, the National legislation does not give any answer to the following questions:

Which should be the means, methods and infrastructures that must be implemented in order to develop the necessary capacities for the conservation, development and use of farm animal genetic resources?

What kind of institutions and public or private structures should be developed and which should be the relation between them?

This legislation is not constructed in order to achieve full integrity of the legal conditions and/or regulations necessary to establish the legislative background, on which can be processed and developed policies and action plans, to enable:

(i) Identification and monitoring of situations that characterize the development of biodiversity and the processes or activities which may have negative effects on the conservation and sustainable development of biodiversity.

(ii) Development of the capacities for the *In-situ* and *Ex-situ* conservation of biodiversity.

(iii) Equitable access and effective recognition of every genetic source.

(iv) Elaboration of integration policies in line with, the potential opportunities of conservation and sustainable use of biodiversity processes, and with the entirety of the activities and development in other key sectors of the economy and the socio-economic and political development programs.

(v) Exchange of information and the regulation of the right for access.

(vi) Recognition and acquisition of biotechnologies, methodologies and necessary infrastructure for their transfer.

(vii) Technical and scientific cooperation in the field of conservation and sustainable use of biodiversity.

The National legislation for the conservation of genetic diversity provides the implementation of gene-bank for the Cryoconservation *Ex-situ* of embryos, semen, oocytes, cells or tissues and/or the genetic bank for the *ex-situ in vivo* conservation (The law No. 9426, Article 58/1). In the meantime this legislation

does not solve a range of issues relating to the establishment and administration of the Cryobank and/or *Ex-situ in vivo* conservation bank. Among them may be ranked as most important, issues related to:

- (i) Ownership of gene bank material,
- (ii) Need for agreements/contracts between owner of donor animal and the gene bank, addressing the transfer of the germ plasm
- (iii) Agreement on costs of collection, freezing, storage
- (iv) Conditions for accessing the germ plasm by future users
- (v) Exclusion of Intellectual Property Rights claims
- (vi) Clearly defined sanitary status
- (vii) Statement of gene bank to follow best practices
- (viii) Protection of germ plasm related data

The current legislation does not treat in accordance with the requirement of international documents and legislation of EU member states a queue of issues related to the management of biodiversity of farm animal genetic resources. It is necessary to complement the legislation with provisions concerning issues related to:

- (i) Register of breeds with a zootechnical assessment
- (ii) Evaluation of the degree of breed endangered
- (iii) State of use of a breed
- (iv) Information system of farm animals biodiversity
- (v) Cooperation in international farm animal genetic resources databases
- (vi) International cooperation in the field of farm animal genetic resources

The Act No. 9426, dated 28.01. 2008, and the bylaw framework of the Ministry of Agriculture do not reflect provisions in order to solve issues related to the conservation and administration of the genetic variability in farm animals, such as:

- (i) Criteria for the estimation of genetic variability within breeds
- (ii) Monitoring and assessment of genetic variability for individual breeds
- (iii) Monitoring and assessment of inbreeding and degree of relationship for individual breeds
- (iv) Calculation and determination of genetic reserves by types of genetic material
- (v) Ensuring and maintenance of genetic reserves by species, breeds and lines of farm animals
- (vi) *In situ* conservation
- (vii) *Ex situ* conservation
- (viii) Conditions of rearing for indigenous breeds of farm animals
- (ix) Procedure for recognition of new indigenous breeds of farm animals
- (x) Recognition of breeding program for new indigenous breeds
- (xi) Sale of breeding material of indigenous breeds of farm animals
- (xii) Register of indigenous breeds of farm animals

(xiii) Scope of conservation of specific indigenous and other breeds in gene bank in *in-situ* conservation

(xiv) Scope of conservation of specific indigenous and other breeds in *ex situ* gene bank

The approximation of the Albanian legislation for the conservation, administration and sustainable use of farm animal genetic resources, requires the treatment of the above mentioned issues. To fulfil this legislative development it is necessary to take into consideration the existing conditions of Albania, the actual and the middle-term capacities, as well as the experiences of countries that has joined EU recently, such as Slovenia⁶, or going through the accession process, such as Serbia⁷.

Possible ways of the Albanian national legislation developments seeking compliance with international agreements.

There are substantial differences between developed and developing countries with regards to the state of legal and regulatory framework on the management of animal genetic resources.

Developing countries, like Albania, often point to lack of capacity as a major obstacle to the development of legislation. In many instances, the implementation and monitoring of legislation does not rapidly follow enactment. This is mainly due to the lack of capacity in developing countries, where implementation procedures are slowed by the absence of adequate human and financial resources, as well as weak institutional and infrastructure development (*Ingrazia et al. 2005*) Other reasons relate to conflict and lack of communication and cooperation between different sectors. The latter generally occurs between the different ministries. In Albania this situation appears in the cooperation between the MoAFCP and the Ministry of Environment, Forests and Water Administration (MoEFWA). Consequently, the legislation development process and its implementation is complex. It is not only required to fully reflect the requirements of international documents and conventions and to be in line with the EU legislation, but also realistically applicable to the current conditions of Albania.

The legislative development process must create real opportunities to implement the strategic priorities outlined in the Global Plan of Action, Interlaken Declaration on Animal Genetic Resources, *FAO, Switzerland, September 2007*.

⁶ Regulation on conservation of farm animal genetic resources, *Official Journal of the Republic of Slovenia, No 18/02, 110/02 – ZUreP- 1, 110/02 – ZGO- 1 and 45/04 – ZdZPKG Slovenia*

⁷ Preservation of genetic reserve of domestic animals and livestock biodiversity *Official Gazette Republic of Serbia", No. 41/09*

In order to realize a successful legislative process for the conservation, administration and the sustainable economic use of FAnGR, the responsible authorities should keep in consideration the facts that:

(i) The setting of national standards for domestically-produced food and for imported food should be in line with the WTO SPS Agreement and in harmony with *Codex Alimentarius* standards.

(ii) The national legislation, the necessary infrastructures, public and private institutions shall be developed in line with the WTO SPS Agreement and in harmony with standards provided by the Office International des Epizooties.

(iii) Development of the legislation for the establishment of minimum standards for intellectual property rights requires implementation in line with the WTO Trade Related Intellectual Property Rights Agreements.

(iv) Development of the legislation addressing Living Modified Organisms-related issues, under the Biosafety Protocol of the Convention on Biological Diversity, is very important.

(v) Development of the specific legislation regarding animal welfare is an actual need.

The Albanian National legislation should be harmonised with the general policies for agriculture and rural development, intended to establish a long-term vision of the agricultural development and its role in contributing to the national economy, in terms of both a contribution to the gross national product and to employment goals.

The legislative development and implementation need to take into account the strong linkages between technical aspects of Farm Animal Genetic Resources management (e.g. breeding programmes and conservation of breeds) and other factors that may influence general implementation of the legislation (e.g. influencing decisions relating to breeding programmes or the keeping of traditional breeds)

Animal genetic resources offer important opportunities to significantly improve food security through rural economic diversification and development. To realize this potential, it is necessary to improve the Albanian legislation in order to create the conditions for a sustainable use of animal genetic resources. Currently, the Albanian legislation has not developed such condition. It should be carried out taking into consideration that sustainable use is defined in the CBD as “the use of the components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations”

Conclusion

In the current Albanian legislation the problems regarding conservation, development and economic sustainable use of biodiversity in farm animals, are

treated only in general terms. The issues arising from the necessity of meeting the requirements of international documents and/or issues addressed in EU legislation are not detailed and fully developed.

The Albanian legislation is not constructed in order to achieve full integrity of the legal conditions and/or regulations necessary to establish the legislative background based on which can be processed and developed policies and action plans.

The development of the Albanian National legislation related to FAnGR should be harmonised with the general policies for agriculture and rural development intended to establish a long-term vision of the agricultural development.

Issues related to: (i) national and local programs for *In-situ*, *Ex-situ* and *Ex-situ in vivo* conservation of endangered native breeds of farm animals, (ii) establishment and management of the National Gene Bank for *In-situ in vivo* and/or *Cryobank*, (iii) establishment of national database for FAnGR, (iv) legislative development addressing Living Modified Organisms and animal welfare etc..., should be treated more specifically.

Analiza albanskog nacionalnog zakonodavstva u svetlu međunarodnog pravnog okvira relevantnog za zaštitu i korišćenje životinjskih genetičkih resursa

A. Kume

Rezime

Albanski zakon o konzervaciji, upravljanju i održivom ekonomskom korišćenju genetičkih resursa je intenzivni proces koji je još u razvoju. On ima za cilj razvoj FAnGR u skladu sa zahtevima i obavezama koje proističu iz pristupanja različitim međunarodnim konvencijama (CDB, WTO, itd.), i usklađivanje sa drugim zakonodavstvima država članica EU. Razvoj zakonodavstva je deo posla koji se u Albaniji sprovodi u kontekstu Globalnog akcionog plana za očuvanje životinjskih genetičkih resursa - Global Plan of Action for the Conservation of Animal Genetic Resources (FAO).

Albansko sadašnje zakonodavstvo tretira samo generalno celovitost zahteva koje treba ispuniti da bi se omogućilo očuvanje i upravljanje biološkom raznovrsnošću domaćih životinja. Neophodno je da se ono razvije u cilju rešavanja celine problema koji se odnose na potrebu i neophodnost upravljanja ovim nacionalnim bogatstvom, na optimalna način, sa stanovišta bezbednosti hrane za sadašnje i buduće generacije.

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Received 3 April 2012; accepted for publication 22 November 2012