

C.E.D.R.



**European Council for Agricultural Law
Comité Européen de Droit Rural (C.E.D.R.)
Europäisches Agrarrechtskomitee**

XXVIIe. European Congress and Colloquium of Agricultural Law

Luzern - 11 – 14 September 2013

Commission I

National Report - Norway

Lene Bårli - Katrine Lillerud - Evald Jon Strøm -

Lawyers

Advokatfirma DLA Piper Norway DA

Index

1.	INTRODUCTION.....	4
1.1	The interpretation and understanding of the questions asked.....	4
1.2	The latest statistics from the Norwegian agricultural sector	4
1.3	The portion of women in the Norwegian agricultural enterprises.....	5
2.	DEFINITIONS OF COHABITEES	6
3.	THE LEGAL DEVELOPMENT IN THE AGRICULTURAL SECTOR FOR COUNTRYWOMEN THROUGH THE CHANGES IN ALLODIAL AND FAMILY LEGISLATION	6
3.1	Concession of estates without allodial right's.....	6
3.2	Laws of inheritance and succession and family law	7
3.3	Allodial privilege.....	7
3.3.1	Historical background	7
3.3.2	What is the allodial privilege?.....	8
3.3.3	Legal development	8
3.4	Concessionary regulations and family law.....	9
4.	OTHER COUNTRYWOMEN IN TYPES OF AGRICULTURE	10
4.1	Strengthening women's role in reindeer husbandry	10
5.	TRANSACTIONS OF AGRICULTURAL HOLDINGS	12
5.1	Statistics on transfers of holding	12
5.2	Transactions between cohabitees and between parents and their children.....	13
5.2.1	Settlement of estate after separation.....	13
5.3	Tax consequences and results	14
5.3.1	Property value taxation.....	15
5.3.2	Document / Stamp Duty relating to property transfers	15
5.4	Corporate aspects	15

6.	LAND LAW AND TENANCY	15
6.1	Leasing farm land.....	15
6.2	Tenancy (renting of a farm)	16
7.	FINANCIAL AID, WITH A SPECIAL FOCUS ON WOMEN IN MULTIFUNCTIONAL AGRICULTURE ENTERPRISES.....	16
7.1	Increase focus on women in agricultural enterprises- pilot project.....	17
7.1.1	Enterprise development - 75% financial aid for countrywomen.....	18
7.1.2	Generation change - 60% financial aid to women	18
8.	INTERNATIONAL PERSPECTIVE.....	18
8.1	Norway and the EU - "outside and inside".....	19
8.2	Norway and the UN.....	20
9.	POLITICS AND AGRICULTURE - VISIONS FOR THE FUTURE	21
9.1	Political organisation for the women of the agriculture - "Bygdekvinnelaget" (translation: "Norwegian country-women association").	22
9.2	What is being done.....	22
10.	A BRIEF SUMMARY	23

LEGAL STATUS OF COHABITEES WITH SPECIAL REGARD TO COUNTRYWOMEN AND THEIR CHILDREN IN THE AGRICULTURAL ENTERPRISE IN NORWAY

1. INTRODUCTION

1.1 The interpretation and understanding of the questions asked

In the following this national report will elaborate on the legal position of cohabitees and their children in the Norwegian agricultural enterprise sector. The report will pay special regard to exemplifying the legal position and role/function of countrywomen in Norwegian agriculture. Attention will be given to highlight what has been, and still are, the main legal differences between males and females both in traditional farming and forestry enterprises as well as in the reindeer husbandry business.

Furthermore, a short introduction of Norway's international engagement will be presented.

In addition the Norwegian government's future goal is to increasing the percentage of females in agricultural enterprises and its initiatives to achieve gender equality through legal, political and financial means, this will be elaborated further.

This report will not address the seven questions of "Commission I" in the exact sequence of order set out by the CEDR questionnaire., but for the sake of good order we will refer to the questions answered in the different sections. The questions asked in "Commission I" part A "*Stocktaking*" are mainly addressed in issues 5 of this report. Whilst the legal evaluation in part B regarding the "*legal developments*" are mainly answered in issues 3, and the questions in part C concerning the "*future prospects*" are for the most part addressed in issue 9. It will be indicated in the beginning of each subsection which questions have been addressed.

The report will mainly focus on the legal position of female cohabitees, with either a male or female partner. The legal position of the children of the cohabitees in comparison to those of married couples will be elaborated upon under issue 5.2.

1.2 The latest statistics from the Norwegian agricultural sector

The following sections will answer letter A, question 1 - 2.2.

Norway is a small country with a population of 5,0¹ million people. Geographically, and mainly due to the mountain and fjords, Norway has limited land available for agriculture. A approximately only 3.2% of the total area of the country of 324 000 sq. km is useable.

The latest updated statistic from 2010 shows that the employment in the Norwegian agriculture represented 50 000 full-time position equivalents. This constitutes only 2.3% of the total employment in Norway.

¹ Population statistics 1 January 2013 from Statistics Norway:
<http://www.ssb.no/befolkning/statistikker/folkemengde>

From 2002 to 2010 employment in agricultural sector decreased with 2.5% per year. According to the statistical data from 2010 Norway had 55 000 active farmers compared to 61 200 farmers in 2002. In that same year the total income in Norwegian agriculture was NOK 37.7 billion, which is approximately EUR 49 million.²

Traditionally, forestry has formed a part of Norwegian agriculture because farm forests have always been operated by farmers. In addition, there are large areas of forest that do not form part of farm forest, where operations may be industrial and with a separate processing industry. Forest areas constitutes 23% of Norwegian land areas.³

Reindeer husbandry is also included in Norwegian agriculture. In addition, hunting, fresh water fishing and tourism form part of the income base of many farmers. Sea fishery or industrial fish-farms are however, excluded from this report's definition of farming.

Norwegian farmers are to a great extent organised in cooperatives when it comes to processing raw products and trading. However, there are no special or particular company structures that are only used within the farming industry. The most common form of organising is sole proprietorship. This will be further elaborated upon in issue 5.4 below.

1.3 The portion of women in the Norwegian agricultural enterprises

The portion of women who participate in agricultural enterprises has increased over the last 30 years. In this regard both Scandinavian countries Norway and Sweden stand out compared to many of the other western countries where women have reduced their overall contribution to the work load.

Numbers from Statistics Norway show that the portion of female ownerships has slightly increased. In 2010, 39.8% of the economically active participants in the agricultural sector were women. Compared to 1980 the same number was 30.3%.⁴ This constitutes an increase in the portion of female ownership with almost 10% over the last 30 years.

The percentage of female owners is considerably lower than the portion of women who contribute with their work effort in Norwegian agricultural enterprises. The numbers from Statistics Norway do however show a slight increase over the last decade. In 2000, 13.6% of agricultural enterprises were owned by women. Whilst 10 years later, in 2010 the percentage had increased by 0.8% to 14.4%.⁵

² Norwegian Agricultural Economics Research Institute statistics:
http://www.nilf.no/publikasjoner/Andre_publicasjoner/Utsynet/2011/utsyn_over_norsk_landbruk-tilstand_og_utviklingstrekk_2011

³ Ibid.

⁴ Report from the UN Food and Agriculture Organization 2010-2011:
<http://www.fao.org/docrep/013/i2050e/i2050e00.htm>

⁵ Link to Statistics Norway:
<https://www.ssb.no/statistikkbanken/selectvarval/Define.asp?subjectcode=&ProductId=&MainTable=Ti>

2. DEFINITIONS OF COHABITEES

This section answers letter A, question 1.

In Norway cohabitees, in the legal sense, are defined as two persons above the age of 18, irrespective of sex, that are not married to each other, but live together in a matrimonial like relationship, cf. section 28 a of the Norwegian Inheritance Act⁶.

There is no general equal treatment for cohabitees and spouses in the Norwegian legal framework. However, in some areas cohabitees are treated the same way as spouses, whilst in other areas cohabitees are treated as singles.

For example the Norwegian Children's Act⁷ section 4 a (after the change in 2005) treat cohabitees equal to spouses. The act includes among other things joint custody, child custody and visiting rights, plus demands for arbitration when couples separate.

There is no legal preference to whether the child shall live with its mother or its father after separation. The child shall live wherever its considered best for the child. This applies regardless to the parents being married or not.

3. THE LEGAL DEVELOPMENT IN THE AGRICULTURAL SECTOR FOR COUNTRYWOMEN THROUGH THE CHANGES IN ALLODIAL AND FAMILY LEGISLATION

The following section will answer letter A, questions 2.2.2-2.2.4, 2.2.8 and B questions 3.2-3.5 and question 4.1.

Within the Norwegian agricultural sector there are some specific institutions, including the Allodial Privilege Act⁸ and the Concession Regulations. These are some of the legal fundaments within Norwegian agriculture and have had a significant impact on agricultural enterprises throughout Norwegian history.

These institutions are still present today and considerably mark the Norwegian agricultural sector.

3.1 Concession of estates without allodial right's

Concessionary regulations form the setting for owning an agricultural enterprise (also referred to as the "**estate**" or "**farm**"). The main principle is that the owner himself lives on and operates the estate. Today the duty is of limited duration. The government has, however, suggested that it should be permanently tied to the estate. The main reason for the concessionary regulations is the belief that personal ownership is to the best for the Norwegian agriculture, in addition to settlement in rural areas. This is also a well-known principle within the EU. In this way the price level of farm estates are kept down. It is clear that such rules reduce the possibility for

[nglyst12&nvl=&PLanguage=0&nyTmpVar=true&CMSSubjectArea=jord-skog-jakt-og-fiskeri&KortNavnWeb=laeiti&StatVariant=&checked=true](#)

⁶ Act of 3 March 1972 no. 5

⁷ Act of 8 April 1981 no. 7

⁸ Act of 28 June 1974 no. 58

other company forms. In recent years the regulations concerning lease of land have thus been eased .

Today, the obligation to *acquire* concession applies to all built-on properties larger than 100 acres, where cultivated land is more than 25 acres.

If the property consists of more than 500 acres of productive forest, it is required that the owner lives on the farm and runs the farm for at least 5 years. It is however possible to apply for exemption.

Closely related family (i.e. grandparent-parent-child- grandchild and one collateral branch) do not need concession, but have to live on and run the farm.

3.2 Laws of inheritance and succession and family law

There is no joint capital- ownership between cohabitees.

The main rule with regard to finances is that the two parties living as cohabitees are regarded as a single parents. The legislation is built on the concept that cohabitees may only regulate their financial situation in an agreement. However, cohabitees have no financial responsibility/obligation for each other, the opposite situation to that of spouses.

From 1 July 2009 cohabitees with common children have acquired a limited right to inheritance from each other and a right to undivided estate. This also applies for cohabitees (if one cohabitee is diseased) who have had or expect a common child .Cohabitees with no common children have no such right of inheritance after the law. But if the cohabitees have lived together more than 5 years this right may be agreed by a will, see section 28 b of the Inheritance Act.

Spouses or cohabitees do not pay the inheritance tax, cf. section 2 of the Norwegian Inheritance Tax Act⁹.

3.3 Allodial privilege

The following sections will answer letter B, question 4.1.

3.3.1 Historical background

In the traditional agricultural family, the farms were driven as family enterprises. This meaning that both men, women and children were important for the operation of the farm, and that all family members had regular tasks on the farm. Most farms, except small holding farms, had servants, and the preceding generation of farmers were also a part of the community on the farm.

Women had a large area of responsibility involving much heavy work, such as taking care of the house, the barn, animals and the children, in addition to cooking and fetching water.

⁹ Act of 19 June 1964 no. 14

To illustrate the work-load involved, one cow needs a total of 30 litres of water in 24 hours - thus that amounts to many heavy buckets of water to be carried. Especially in combined farms, women had an important part in the farming. Women had sole responsibility for the farm while the man was away fishing, working in the woods or driving for the mines. Early official statistics placed the wife under the generic term "housewife", a term that does not cover the many tasks she actually had.

The agricultural census operated on a man's notion, based on a fact that the man was the farmer and in practice had the right of disposal on the farm, even if the wife had inherited the farm from her parents.

The allodial privilege is an old distinctive Norwegian legal institution and an important part of Norwegian agricultural policy (which was written down as early as in the tenth century).

Historically, it has been of great significance when it comes to preserving the freehold of farmers. Thus, this is even enacted in Section 107 of the Norwegian constitution from 1814.

The legal regulations of allodial rights can be complicated, but in principle they solve problems arising from generational change.

3.3.2 What is the allodial privilege?

The allodial privilege is a family right. If a farm estate has been in the family for at least 20 years, the descendants are entitled to take over the property on probate case, or if it is sold outside the family.

The priority of the descendants to this privilege is regulated after the descendant's lines and age.

Earlier men were prioritised before women regardless of age. However, over the last 50 years there has been continuous development towards complete gender equality, so that the oldest child now no matter what sex has the best priority. This complete gender equality was nominated as late as in 2010.

Someone who takes over the property on allodial privilege has a personal duty to occupy and operate the estate. There is no condition to be a qualified farmer.

3.3.3 Legal development

In recent years there have been several attempts to remove the allodial privilege all together, but it seems like this right still has a strong hold in Norwegian society.

Studies show that a clear majority of Norwegian farmers wish to keep the allodial privilege. The government has recently suggested that the extent of the allodial privilege is to be reduced to only apply to the last owners. It has been discussed however if this suggestion might be in conflict with the constitutional right in section 107.

In 2010 the size of the farmland limits were in order to have allodial privilege were increased, so that the farmland should be at 25 acres, and the forest area a minimum of 500 acres, see issue 3.1. Accordingly estates with less farmland than these limits are not subject to the allodial privilege.

Since the allodial privilege is a personal right, companies cannot obtain this privilege. This is a factor that limits the use of holding companies within agricultural enterprises. A transfer to a company (no matter who owns it) provokes the right of the family to take over the estate on allodial privilege.

Spouses or cohabitees who obtain allodial free agricultural land together will both gain the allodial privilege when they have owned the land for 20 years or more.

Furthermore, the Allodial Privilege Act has rights that protect the remaining spouse/cohabitee at the death of the first against claims of concession of both their own children, grandchildren or common children, as well as child of another partner or others with allodial rights. These rules are equal for males and females or for spouses or cohabitees of same sex.

Furthermore, adopted children are treated equal to biological children, but their priority is not counted from biological birth, but from the date of the adoption.

Most all allodial farms are still owned by males, as statistics show that the percentage of female ownership is only at 13%. On the other hand this means that the above stated right of protection against the use of this right at the demise of a spouse or cohabitee mostly protect females, as statistics also show that males live shorter. As will be elaborated further below this also means that countrywomen usually have to move from the farm in case of a divorce or separation, see issue 5.

3.4 Concessionary regulations and family law

This section will answer letter A, question 2.2.5.

The longest living always has a right to a fitting residence/house on the farm free of charge, if this is not unreasonable, i.e. after an overall evaluation where the interests of the one that claims concession are considered. The claimer of the right of allodial concession of the farm must pay for such housing of the remaining partner. If the allodial privilege is not taken up the right is maintained. If the property is joint ownership between the spouses, the children may, when they turn 18 years old and the survivor receives pension or is 100% disabled pensioner, claim concession of the farm property, see section 34 of the Allodial Privilege Act.

Grandchildren may also claim allodial privilege at the age of 25, if the concession is not obviously unjustified, cf. section 34 of the Allodial Privilege Act.

The same applies for the property if it is the deceased's separate estate, but it is agreed that the "*separate estate turns joint ownership/community property by death*" cf. Allodial Privilege Act section 34 second sub-section.

The deceased's child of another partner may claim concession of the property at the age of 18 years if this is not clearly unjustified, cf. section 35 of the Allodial Privilege Act.

Others with allodial rights may usually not claim the property when it has been joint ownership in at least 5 years, and the longest lived cannot yet claim pension or disabled pension. However, if it is clearly unjustified to hinder the use of the privilege, concession of the estate may be demanded before this time.

4. OTHER COUNTRYWOMEN IN TYPES OF AGRICULTURE

These sections will answer letter C, question 5 and 6.

4.1 Strengthening women's role in reindeer husbandry

As mentioned above reindeer husbandry is also included in Norwegian agriculture.

The Sami reindeer husbandry has its own distinctive characteristics and working partnerships. The working partnership consists of one or more families which shepherd and guard the reindeers of the different husbandries together.¹⁰

The Sami reindeer husbandry is based on the Convention of 2 October 1751 (Lappecodisillen) between Sweden, Finland and Norway (at the time Sweden and Denmark/Norway), plus the Indigenous and Tribal Peoples Convention of 1989 (ILO nr. 169), the International Covenant on Civil and Political Rights article 27 from 1966, and the Norwegian laws through the Norwegian constitution section 110 a and the Reindeer Husbandry Act¹¹, which is supplemented by the annual reindeer husbandry agreement that regulates the economic relations between the government and the reindeer farmers in the same way as general the agricultural agreement.¹²

The paramount objectives for the politics of the Norwegian reindeer husbandry is an ecological, economical and culturally viable reindeer husbandry.

The Sami areas are divided into "siidaer" (herding units) and districts. Within the regulations lies an extensive autonomy. The Sami areas are east in the middle part of Norway and in the north, most of them far north in Finnmark.

To be allowed to operate Sami reindeer husbandry, permission is required. Permission can only be obtained by Sami lineage. It is also required that parents or grandparents had reindeer husbandry as main industry, and that the reindeer husbandry is part of a herding unit.

There are differences in reindeer husbandry in Finnmark and in the south of Norway. In Finnmark, where most of the reindeer herdsman live, there are more internal conflicts. The reason is that the reindeer herdsman in Finnmark have not been able to regulate the number of herding units in a reasonable way. The consequence being that there are not enough resources for the number of reindeer. In the south, on the other

¹⁰ Strengthening of the female role in reindeer husbandry, see government website : <http://www.regjeringen.no/nb/dep/lmd/aktuelt/nyheter/2009/jan-09/reindrif-styrker-kvinnerens-rolle.html?id=543899>

¹¹ Act of 15 June 2007 no. 40

¹² Reindeer agreement 2013/2014, see government website: <http://www.regjeringen.no/nb/dep/lmd/dok/regpubl/prop/2012-2013/prop-104-s-20122013/1.html?id=719954>

hand, there is balance between the reindeer and the resources, resulting in a better economy for the industry.¹³

Spouses/cohabitees can run reindeer husbandry together (joint responsibility). There is no difference between the sexes. If the spouse holding the permission to reindeer husbandry dies, the survivor has the right to take over the permit. The same applies for cohabitees if they have lived together in a matrimonial like relationship for more than 2 years cf. Reindeer Husbandry Act section 13 fourth sub-section. If the relationship ends in separation, permission cannot be handed over to the other partner.

Sami common law is protected through the above mentioned conventions and laws.

The Sami traditions are however different in the north and in the south. In the north the Sami cling more to their old traditions. As an example when the children receive reindeer it is regulated by rigid traditional rules who can take over the permission for reindeer husbandry. In the south however, the families decide the generational change through consensus, by deciding who is more qualified amongst the willing - thus through a more flexible system.

If several family members are qualified, the oldest receives the permit. Running reindeer husbandry is however a physically demanding challenge, which often lead to a natural priority of boys. In many ways the physical challenges have increased the past years because modern tools like road bicycles and snowmobiles are heavy to operate.

Equality between the sexes in reindeer husbandry is characterised as weak (e.g. St. meld. Nr. 28 (1991-1992):23). For this reason, different projects are activated rendered on the polarisation of males and in an effort to increase the gender equality. In the latest reindeer husbandry agreement it was among other things decided to:

1. Set aside NOK 1.0 million toward measures directed at women.
2. Establish different arrangements, e.g. higher subsidy to herding units with a woman as single leader.
3. To give subsidy by relief by pregnancy/childbirth, and subsidy for spouses/cohabitees.
4. Arrange certificate of apprenticeship especially for women
5. Arrange so that strategies for women are treated thorough in the negotiations of the reindeer husbandry agreement 2014/2015.

Reindeer husbandry is of course in general subject to ordinary rules of law.

¹³ Report on gender equality in reindeer husbandry, see government website:
<http://www.regjeringen.no/nb/dep/lmd/dok/horinger/horingsdokumenter/2011/horing---rapport-om-likestilling-i-reind/horingsnotat.html?id=641246>

Therefore, there are many unsolved challenges, e.g. where the reindeer husbandry is operated from an allodium where reindeer husbandry does not have allodial privilege and/or a company is established in connection with processing.

5. TRANSACTIONS OF AGRICULTURAL HOLDINGS

The following section will answer letter A, questions 2.2.6-2.2.8, 2.3 and B questions 3.6-3.8 and 4.1.

5.1 Statistics on transfers of holding

In Norway, approximately 5% of the farms and agricultural holdings are being transferred to new owners every year.¹⁴ One third of these properties are sold on the free market, i.e. to the market price. Whilst, three out of five agricultural holdings are transferred within the family.

The last counting of the agricultural holdings in Norway shows that 25.2% of the agricultural holdings are owned by women, 68.6% by men and 6.2 % are estates of a deceased person/impersonal or not given.¹⁵ Numbers from Statistics Norway show that 1/10 farmers are women.¹⁶

The Norwegian Marriage Act¹⁷ regulates to a high degree the administration of an estate in the case of a divorce of a married couple. Cohabitees, do however not fall within the scope of the Marriage Act. In a case of separation cohabitees need to regulate their financial circumstances and the division of property in an agreement. Statistics show that most cohabitees who have worked in an agricultural estate do not enter into such cohabitation agreements.

Separations of agricultural sector couples thus might entail additional challenges compared separations of other couples. These challenges include issues such as;

- the farm could have a big economic value tied up in buildings and working equipment that cannot be realised without ruining the basis of the industry;
- both their home and work are located on the farm;
- the farm has been part of one of the partner's family for generations;
- the financial situation of the cohabitees is often closely connected to the financial situation of the farm

¹⁴ Statistics Norway, "Concession of agricultural estates (2010)" page 2. See link: <http://www.ssb.no/laeiti>

¹⁵ Statistics Norway, "Farming in Norway (2011)" page 21. See link: <http://www.ssb.no/jord-skog-jakt-og-fiskeri/artikler-og-publikasjoner/landbruket-i-norge-2011>

¹⁶ Statistics Norway, "Farming - a bit too hard for women". See link: <http://www.ssb.no/jord-skog-jakt-og-fiskeri/artikler-og-publikasjoner/landbruk-i-tyngste-laget-for-kvinner>

¹⁷ Act 4 July 1991 no. 47

Furthermore, statistics show that in the situations where cohabitees have regulated the financial situation and the division in case of a separation in contract, there are still other motives that are predominant in the end.

5.2 Transactions between cohabitees and between parents and their children

In the event of someone buying a farm there are three issues that should be considered before concluding the agreement.

1. Do you have to apply for a license to run the farm?
2. Are you obliged to live on the property?
3. Is the farm subject to allodium?

When buying an agricultural holding or a forestry with a size over 100 acres, the new owner must apply for a license to be able to take over the farm. An obligation to live on the farm might be placed as a condition for issuing the license.

Covered under item 3.1 above.

5.2.1 Settlement of estate after separation

The division of assets between cohabitees when they decide to separate, is either regulated by a cohabitee agreement or in cases where there is no agreement, the cohabitees have to reach an agreement after deciding to separate. As mentioned above under issue 5.1 statistics have shown that this is most frequently the case.¹⁸

In both cases, big investments have often been made in the farm, thus agreement or not buying one of the cohabitees out of a joint property ownership proves problematic. Statistic shows that the male is most frequently the person staying on the farm, buying the part that belonged to the female cohabitees. In many cases, there is perhaps the man who has the license to run the farm, which explains the fact that the man tends to be the one taking over when separating.

In the case of a separation, many partners tend to find the solutions that are most easily practiced, in spite of other regulations in the contract.¹⁹

These solutions, among many, is e.g. that the couple decides that both partners stay on the farm, but in separate houses, the woman stays on the farm and the man helps out as a relief worker or e.g. that they realise that one cannot do the work without the other, and they sell the farm.

¹⁸ "Shall or shall not? About agreements and separation of couples in the agricultural sector", report from rural area investigation. See link: <http://www.bygdeforskning.no/nyheter/ny-rapport-skal-skal-ikke-om-avtaler-og-samlivsbrudd-i-landbruket>

¹⁹ Ibid.

5.3 Tax consequences and results

Up until 2005 capital gain profits were tax-free when the seller had owned the farm for 10 years or more. However, in 2005 the Finance Act ²⁰ was revised. For tax-free realisation of an agricultural enterprise/farm or forestry, four consecutive conditions have to be fulfilled, cf. the Finance Act section 9-13:

1. Ownership for at least 10 years.
2. The property must be characterised as an ordinary farm or forestry. A prerequisite for considering the property an "ordinary farm", is that the farm has a certain amount of farmland. ²¹ Special production of eggs, chickens or pork in a large scale could after the circumstances, result in the property losing the character of being an ordinary farm. A clean nursery property is e.g. not covered by the tax exemption. ²²
3. The price cannot be higher than 75% of the estimated value of the property.
4. One has to sell to an heir.

When spouses settle their estate after a divorce, the division of the assets are not considered a realisation according to the Taxation Act section 9-2. This means that married couples can sell their part of the joint property to the other spouse without the property being taxable.

Realisation between cohabitees, on the other hand, is considered a realisation according to the Taxation Act, hence it is taxable.

If one of the cohabitees is transferring their half of the farm to the other, this will be taxable under the Taxation Act Section 5-1 second sub-section. The capital gains relating to their private housing will, however, be exempt from taxation under the Tax Act Section 9-3 provided that he/she has owned the house for more than one year and lived in the house at least one of the two years prior to the transfer.

The farm's remaining assets will be taxable.

The private farm house, however, is usually exempt of taxation even though the rest of the farm property is taxable. Realisation of the real estate private farm house is tax free if one has been living there for one of the last two years. Taxation of the forest and the farmland is however limited.

²⁰ Act of 26 March 1999 no. 14

²¹ Taxation-ABC, field "Agriculture - realisation". See link:
<http://www.skatteetaten.no/no/radgiver/rettskilder/handboker/lignings-abc/>

²² Cf. The tax board 1987 p. 467. See link:
<http://www.skatteetaten.no/no/radgiver/rettskilder/handboker/lignings-abc/>

5.3.1 Property value taxation

The private farm house on the farm, is object of property value taxation (Norw.: Eiendomsskatt).

The other working buildings (i.e. barns, stables, garage for tractors etc.) on the farm are exempt of property value taxation.

5.3.2 Document / Stamp Duty relating to property transfers

Document/Stamp duty (Norw.: dokumentavgift") is normally calculated on the basis of the sales value of the estate, of 2.5%.

For properties acquired pursuant to qualified allodium right of inheritance, the document fee should be based on the valuation of the estate prior to sale.

In property transfers performed when the parents are still alive, the document fee is based on 100% of the proceeds from the sale.

5.4 Corporate aspects

Traditionally, Norwegian agricultural enterprises are organised as sole proprietorship (Norw: "Enkeltmannsforetak"). The reason for this is probably that it is the easiest form of enterprise when it comes to accountancy, taxation and registration. This type of enterprise structure is owned and operated on the farmer's own account and personal economic risk.

A sole proprietorship is not a company, neither a legal entity of its own. It is not distinguished between the owner's personal debt and the company's debt, because the owner has a personal and unlimited liability for all debt, without regard to where it arises from.

The company form of the farm, entails differences in the right to inherit the farm, and the taxing of the farm. Different company forms also result in different duties.

6. LAND LAW AND TENANCY

The following sections will answer letter A, questions 2.2.2 and B questions 3.2.

6.1 Leasing farm land

In 2011, 42 % of the farm land in Norway were rented farm land. Further, 65 % of the agricultural holdings rented farm land.²³

²³ Statistics Norway, "50 year of agricultural history in text and numbers" page 1. See link: <http://www.ssb.no/jord-skog-jakt-og-fiskeri/artikler-og-publikasjoner/50-aars-landbrukshistorie-i-tekst-og-tall>

In Norway, it is a requirement that agricultural areas are being used and operational. Hence, a new owner must decide within a year whether he/she is to operate the farm land him/herself or lease the farm land.

A contract regarding rental of agricultural land is regulated of the Agriculture Act.²⁴ The contract must be in writing, and it has to have a duration of minimum 10 years. In addition there is a condition that the contract leads to operational good solutions, cf. the Act clause 8, subsection 2.

6.2 Tenancy (renting of a farm)

When a farm is leased, it is called tenancy. A contract regarding tenancy is regulated by the Tenancy Act.²⁵

A contract regarding tenancy must be in writing. An oral agreement is binding all the time the leasehold is operational, cf. the Act clause 3, subsection 1.

The contract has to contain a detailed overview of the leasehold land, as well as information regarding the rights and duties of the parties to the contract, cf. the Act clause 3, subsection 2.

The rent must be paid in money. Payment in natural produce is not accepted, cf. the Act clause 6, subsection 1. If the parties cannot decide on a price, the price is defined by the relevant municipal.

The contract has to be presented to the municipal, cf. the Act clause 4, subsection 1.

The duration of the contract is normally 5 years, but the municipal may, in special occasions, accept a shorter duration time, cf. the Act clause 7.

A party who wants to end the tenancy when the contract period is due, must give notification of vacating one year in advance of 14 April at the latest, and two years before the ending of the contract period at the earliest, cf. the Act clause 8, subsection 1.

Statistics show that tenancy was most natural until 1950. After 1950 it became more common to rent farm land, as shown above in item 6.1.²⁶

7. FINANCIAL AID, WITH A SPECIAL FOCUS ON WOMEN IN MULTIFUNCTIONAL AGRICULTURE ENTERPRISES

The following section will answer letter A, questions 2.2.1, letter B question 3.1 and letter C, question 5, 6.1- 6.2.

In Norway today, farming is the subject for alternative ideas and untraditional farming strategies, due to the changes in the agricultural industry the last 40 years.

²⁴ Act of 12 May 1995 no. 23 "the Agriculture Act".

²⁵ Act of 25 June 1965 no. 1, "the Tenancy Act".

²⁶ Statistics Norway, "50 year of agricultural history in text and numbers" page 1.

These new ideas and strategies involve the industrial and commercial development of farming and forestry.

The Norwegian government has been focusing on ecological farming for many years. The target of the government is that before 2020, 15 % of the production of food will be ecological in 2020.²⁷

There is an increased interest in untraditional farming and additional business related to farming, for instance tourism, bioenergy, different food concepts ("local food", "ecological food" etc.).²⁸ The Norwegian government provides different kinds of subsidy schemes in this relation.²⁹ There is also major focus on helping countrywomen in agricultural enterprises.³⁰

From 1 July 2008, the Cooperatives Act³¹, section 69 first sub-section, requires 40% gender balance for cooperative companies. According to the Act, the companies are allowed a transition period of five years. However, figures from 2009 indicate that many companies already meet the requirement regarding gender balance. With effect from 1 July 2009, new rules have been introduced in the Allodial Rights Act providing full gender equality. Cohabitants and spouses will now also be treated equally.

Of Innovation Norway's (IN) allocations to rural development, approximately 40% of grants and 37% of loans with interest support went to countrywomen in 2008, while the corresponding figures were respectively 29% and 22% in 2005.

7.1 Increase focus on women in agricultural enterprises- pilot project

The Ministry of Agriculture has contributed with NOK 200,000 to a pilot project in Steinkjær to increase the focus on females in the agricultural sector. The Project aims to contribute to generate a set of samples for female initiatives /enterprise that also other municipalities may benefit from.

The goal of the project with a horizon of two years is to create more equality and diversity in the Steinkjær agriculture" amongst other a regard to ownership and recruitment. It is also a goal to increase alternative use of the land owner's and the country society's resources as well as to increase the knowledge of the importance of the multifunctional agriculture for society in addition to improve the knowledge of sex and gender equality in the agriculture as a starting point to develop policies/politic.³²

²⁷ Report from NILF: (Norwegian institute of agricultural and economical science). "Perspective of Norwegian Agriculture".

²⁸ See the Norwegian Agriculture Authority webpage: <https://www.slf.dep.no/no/> and the article from the Norwegian news agent E24: <http://e24.no/naeringsliv/salget-av-oekologisk-oeker-men-boendene-bliir-faerre/20263177>

²⁹ See white paper no. 19 (1999-2000) (Ministry of agriculture and food 1999)

³⁰ Cf. the article "Innovation among agricultural women".

³¹ Act of 29 June 2007 no. 81

³² Steinkjær pilot project: http://www.regjeringen.no/upload/LMD/Vedlegg/likestilling_steinkjerlandbruket.pdf

7.1.1 Enterprise development - 75% financial aid for countrywomen

IN³³ may offer substitutes/financial aid for projects regarding product developments, building of competence and market analysis, test sales, networking, marketing of new products and similar with up to 50% of approved cost estimate. For persons under 35 years of age and females this subsidy may constitute up to 75%.³⁴

7.1.2 Generation change - 60% financial aid to women

Persons under the age of 35 years may in addition apply for grants in relation to smaller investments due to a generational change. IN may offer aid/grants for smaller investments in the agricultural property due to change of ownership. The grant may constitute up to 40% of the approved cost estimate. For persons under 35 years of age and females this subsidy may constitute up to 60% of this cost estimate.

8. INTERNATIONAL PERSPECTIVE

The following section will answer letter B questions 4.2- 4.3, letter C, question 6.2.

Norway is not a member of the EU. However, there are two treaties which are especially important for Norway in international relations. That is the EEA agreement and the agricultural part of the WTO treaty.

The Common Agricultural Policy and the Common Fisheries Policy of the EU are not part of the EEA Agreement. Free movement of goods within the framework of the EEA Agreement does not apply to all products. Following Article 8 (3) (a) and (b) of the EEA Agreement, only products falling under certain chapters of the Harmonised Commodity Description and Coding System, as well as products specified in Protocol 3, are subject to the principle of free movement of goods.³⁵

Based on the EEA Article 19 agreement³⁶ from 2003, Norway and the EU were to negotiate the terms concerning trade of selected agricultural products (milk, meat, vegetables and so on) every two years.

The reasoning behind this is a desire for a gradual process of liberalisation regarding the trading of these goods. Norway and the European Commission reached an agreement after nearly three years of negotiations in January 2010 about the new draft agreement.

³³ The goal of Innovation Norway is to promote nationwide industrial development with focus on both business economy and Norway's national economy. It also has the goal of releasing the potential of the different districts and regions in Norway by contributing to innovation, internationalization and promotion.

³⁴ See Innovation Norway: <http://www.innovasjon Norge.no/Finansiering/Investeringer---tilleggsnaring-landbruk---person/>

³⁵ See the EFTA Secretariat website: <http://www.efta.int/eea/policy-areas/goods/agriculture-fish-food.aspx>

³⁶ See the EFTA Secretariat website: <http://www.efta.int/eea/policy-areas/goods/agriculture-fish-food/agricultural-products.aspx>

The agreement is pr. 16 November 2011 ratified by all Parties, and therefore enters into force on 1 January 2012. It includes increased import quotas into Norway on meat and cheese.³⁷

8.1 Norway and the EU - "outside and inside"

Within the old first pillar the EEA- agreement covered most of the cooperation with the EU, but not all. Important areas that are not covered are amongst other EU's common trade policy with third countries, a common agricultural policy (CAP), the common fishery policy (CFP), common tax rules, as well as the entire regulatory framework of the economic and monetary union.³⁸

Protocol 3 of the EEA agreement regulates the trade with processed agricultural products between Norway and the EU. In opposition to the ordinary agricultural products, the processed products are as a main rule, encompassed by the EEA agreement concerning the freedom of movement of goods. The parties to the agreement may however use customs, export aid or price reductions in order to equal out the price differences on the basic products that are components of the processed product, in order to level out the competition (conditions) for the producers.

In accordance with the EEA agreement protocol 3, article 2, the parties shall each year review the toll tariffs of the processed agricultural products encompassed by the protocol. Furthermore article 6 states that under protocol 3 each of the parties to the EEA agreement may request that the EEA standing committee reevaluates protocol 3 again, both with regard to the scope of the processed products entailed and the tariffs. In contrast to the article 19-agreement which is a bilateral agreement between EU and Norway, negotiation under protocol 3 are done in accordance with the procedure set out in the EEA agreement.

The opportunity to equal out the price difference which the EEA agreement allowed for under protocol 3 is in Norway used to shape the so-called raw material compensation scheme (RÅK). The intention of RÅK is to compensate the high price difference of agricultural raw materials in Norway compared to those of foreign countries, by equalling out the price of raw material which is included in the industrially processed agricultural products. This system is supposed to facilitate the Norwegian food industry so they may produce processed agricultural products based on Norwegian agricultural raw materials for further sales both in Norway and abroad. The Norwegian RÅK-system has three elements:

- Customs on imported and processed agricultural products (RÅK-varer)
- Price reduction by way of Norwegian raw materials in domestic production of RÅK-products.

³⁷ See webpage Europalov.no: <http://europalov.no/rettsakt/utvidet-handel-med-landbruksprodukter-mellom-norge-og-eu/id-4180>

³⁸ Official Norwegian Report 2012:2 Outside and inside, Norway's agreements with the EU: <http://www.regjeringen.no/nb/dep/ud/dok/nou-er/2012/nou-2012-2/6.html?id=669391>

- Export aid for the use of domestic production RÅK-products containing Norwegian raw materials.

In practice the RÅK- Scheme functions in such a way that the food industry may apply for subsidies by way of price reductions for a raw material that is contained in the processed product, and/or apply of subsidies by a way of export grants in order to equal out the competitive disadvantage due to the price difference of the raw material between Norway and other countries in the export market. The RÅK-scheme enables Norway to maintain an import protection on agricultural products and thereby protect the Norwegian agricultural production at the same time as the food industry is compensated for the fact that they may not export to the world market at market prices.³⁹

8.2 Norway and the UN

The 2 September 2010 Norway handed in its 8th report regarding the implementation of the rights in the UN convention concerning elimination of all forms of discrimination against women to UN's committee on female discrimination (CEDAW). Ministry of children, equality and social inclusion (BLD) has coordinated the work on Norway's the 8th report to CEDAW.

Norway is part of the United Nation's female (anti)discrimination convention. Regarding agriculture and equality the report could show for the following with regard to the latest developments in the agricultural sector. Not only had the proportion of female farmers increased from 7.3% in 1979 to 14.3% in 2009. The proportion of women in organic farming is 16%. Which shows that the Government's focus on new agricultural industries has resulted in new jobs for women. Women constitute 60% of employment on the 800 farms that provide green care services to the health, education and social care sectors.

According to this report one out of three forest properties are operated in combination with agriculture. One out of four forest owners is a woman, and approximately 15-16% of forest owners with positive income from forestry are women.

Furthermore, women in the agriculture statistically have longer education and better income from employment outside the farm than men in the same positions.

In the Sami agriculture, 25% of the shares in the agricultural enterprises are held by women.⁴⁰

Due to the particular focus on the equal right in the agricultural sector the Government has on its own initiative developed a strategy for gender equality described in more detail below in issue 9.

³⁹Official Norwegian Report 2012:2: <http://www.regjeringen.no/nb/dep/ud/dok/nou-er/2012/nou-2012-2/22.html?id=669739>

⁴⁰Norway's 8th UN report to CEDWA", see government website: <http://www.regjeringen.no/nb/dep/bld/aktuelt/nyheter/2010/norges-8-rapport-til-fns-kvinnediskrimin.html?id=614698>

9. POLITICS AND AGRICULTURE - VISIONS FOR THE FUTURE

The following section will answer letter C questions 5 and 6 .

In the "Strategy for Gender Equality in the Agricultural Sector" from 2007⁴¹, the representatives from the agricultural sector and the Ministry of Agriculture and Food have jointly developed a strategy to increase the female participation in the agriculture sector.

The aim is to reach a female participation of 40% in agriculture and related businesses. The measures listed in the strategy involve several actors in the sector, ranging from authority bodies to the single farmer and the farmers unions. Key areas of this strategy are as follows:

- increase the number of female land owners and increase the number of establishments,
- increase the number of female participants in agriculture and in related businesses, and
- strengthen female influence and power in the agricultural sector.

Countrywomen own approximately 25% of all agricultural enterprises/estates. The portion of personal female owners at increased from 6.3% in 1979 to 14.3% 2009 and 16% for ecologically driven agricultural enterprises. Every fourth forest owner is a female, and of those owners with a positive income from the forestry 15% are females. Countrywomen in agricultural enterprises have longer education and higher income outside of the farm than men.

Country women have long been prioritised for grants to community development funds and women have in the later years showed positive trends in the establishment of agricultural enterprises such as the courtyard, and green travel and local food delicacies. Of IN's grants to country development 42 % of grants and 41% of loans with interest benefit/aid were given to women in 2009. Comparable numbers from 2005 were 29% and 22%. In 2010 76% of establishing grants were given to women. The Norwegian agriculture sector is thus now moving in the right direction towards achieving the goal of increased portion of females with the help of IN's financial aid.

More co-operative organisations have achieved the goal of at least 40% females on the Boards. The mentor courses have contributed to recruit females into boardroom and leader positions. IN also has an own focus within such different programmes for females.⁴²

⁴¹ "Strategy for Gender Equality in the Agricultural Sector" from 2007 ", see government website: http://www.regjeringen.no/nb/dep/lmd/tema/likestilling_i_landbruket.html?id=955

⁴²White paper no. 9 (2011–2012) Agricultural and food policy, "Welcome to the table", see government website: <http://www.regjeringen.no/nb/dep/lmd/dok/regpubl/stmeld/2011-2012/meld-st-9-20112012/12.html?id=665238>

The Ministry will work actively to follow up the work on the strategy to achieve equality and further develop the means with the aim to achieve increased equality and increased participation of women in the agriculture and food enterprises.

9.1 Political organisation for the women of the agriculture - "Bygdekvinnelaget" (translation: "Norwegian country-women association").

The Norwegian country-women association/party was created as an independent women's organisation 15 November 1946 under the name "Norges Bondekvinnelag". The organisation was separated from the Norwegian Farmers' Union with the aim to activate more women in agricultural holdings and cultivation. The organisation changed its name to "Norges Bygdekvinnelag" in 2002.

The Norwegian country-women association is concerned with social initiatives in rural communities, and campaign for women's financial and social rights in the farming industry.

Local food and food traditions are part of the core expertise of the Norwegian country-women association. Today, the Norwegian country-women association functions as the most important promoter and preserver of Norwegian food traditions and healthy food.

Another core expertise is environmental issues. The Norwegian country-women association focuses on preserving nature and basis of existence for future generations, by protecting fertile soil and the diversity of nature. The Norwegian country-women association is also focusing on keeping the regional and rural societies alive to safeguard our cultural heritage. To achieve this goal the organisation emphasises importance of entrepreneurship in the agricultural sector, by favouring community development and including women more actively in the cultivation.

The Norwegian country-women association has approximately 14 000 members today. The annual meeting is the highest decision-making body and the Executive Committee is responsible for the organisation's operations, with five employees in the office in Oslo.⁴³

9.2 What is being done

To exemplify the above mentioned, Norway's farmer's association and the Norwegian agricultural co-operative have arranged campaigns to rise the share of women in agricultural boards, both in trade unions and in interest groups, as well as manufacturer unions and customer unions (which stand for most of the retailing with the primary manufacturer).⁴⁴

⁴³ The webpage of the Norwegian country-woman association/party; <http://bygdekvinnelaget.no/om-bygdekvinnelaget>

⁴⁴ See webpage of the Norwegian agricultural co-operative: <http://www.landbruk.no/Kurs/Lederutvikling/Ta-Grep>

Some of the campaigns have been organised in projects with support from the Ministry of Agriculture and Food. After the introduction of the rule of 40% representation of women in the boards of unions, the need for recruitment has disappeared. The most important thing today is recruitment on a more elementary level, so that the few women on top do not get burned-out with too many board positions. Among other things Norwegian agricultural co-operative has a mentoring program called "take action" cf. link below. Seeing that the 40% representation of women is attained, the mentoring program is now also open for men.⁴⁵

Even though the 40%- rule does not apply to political organisations and interest groups, it is still a goal to achieve a dispersion between men and women. In the Farmer's Association's board there is e.g. six women and six men (and since one deputy board member appears on each meeting, the reality is seven women, though the deputy board member does not have the right to vote in the meetings).

The Farmer's Association has two women in the leading trio. Norway's Forest Owner Alliance are not as good as the Farmer's Association, and they only have one female board member out of a total of nine. However, they have established an interest group called "Girls in forestry"- with a vision to make a difference for girls in forestry.⁴⁶

The Norwegian Farmers' and Small Holding Association has three women and four men, with two women in the leading trio. Most of the programmes are based on studies and reports from "District/Rural areas Studies" and "The Agricultural study office".

The Regional Society for women is an interest group doing studies for "women's economic and social right" under the standards "Life of women". The interest group arranges "Women's days" and distribute "Women's scholarship".⁴⁷

10. A BRIEF SUMMARY

The following section will answer letter C question 7.

Based on the above it is safe to say that women are being prioritised and urged to participate in Norwegian agriculture. The portion of women who participate in the agricultural enterprises has indeed increased over the last 30 years, and after a development in the allodial privilege over the past 50 years complete gender equality was finally obtained in 2010. The 40%-rule of female representation in cooperative companies has also had an effect. The most viable solution is possibly wide recruitment in gatherings, networks and mentoring programs. This will bring more options and it will also be more likely that the candidates have closer knowledge of the industry.

To reach the above mentioned goal of a female participation of 40% in agricultural and related businesses, a lot of projects have been planned. The projects include

⁴⁵ See newspaper Rogaland Blad: <http://www.rb.no/Innenriks/Politikk/article4175754.ece>

⁴⁶ See the organisation Women in Forestry from 1986:
http://www.jenteriskogbruket.no/meny_1_2_00.asp.

⁴⁷ See the Norwegian country-women association: <http://bygdekvinnelaget.no/kvinneliv>.

higher subsidy to herding units with female leaders, arrangements of certificates of apprenticeship for women, a pilot project in Steinkjær to increase the focus on females in the agricultural sector as well as arrangements of different campaigns to raise the share of women on agricultural boards such as trade unions and interest groups.

* * *