



NO PATENTS ON SEEDS!

Online presentation

Upcoming public hearings
at the European Patent Office
on maize and tomato patents
and handover of a new report

13 Oct. 2026



Find the recording & the presentations here:
www.no-patents-on-seeds.org/en/activities



Upcoming hearings on tomato and maize patents

New report

13 Oct. 2026

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Legal background - EU

EU Biotech Directive 98/44/EC

„plant and animal varieties“ and „essentially biological processes for the production of plants and animals“ are excluded from patentability (Art. 4)

„A process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.“ (Art. 2)

<https://www.no-patents-on-seeds.org/en/background/legal-framework>

<https://www.no-patents-on-seeds.org/en/background/documents>



More info



Legal background - EPO

European Patent Convention, Article 53 (b)

European patents shall not be granted in respect of: [...] (b) plant or animal varieties or essentially biological processes for the production of plants or animals.

<https://www.no-patents-on-seeds.org/en/background/legal-framework>

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European patents on classical breeding

between 2009 to 2024:

- around 1.500 **patent applications** on classical breeding
- around 340 patents on classical breeding **granted** by the European Patent Office

Pinto database by European Seed Association:

- lists 100 European patents on classical breeding affecting more than 1.000 plant varieties belonging to almost 40 species

More info in our reports:

<https://www.no-patents-on-seeds.org/en/background/publications>



New report

Patents on classical plant breeding under Rule 28 (2), EPC

The European Patent Office is still granting patents on plants obtained from and used in conventional breeding



The report will be published on 14 Oct. and can then be found here:
<https://www.no-patents-on-seeds.org/en/background/publications>



New report

Rule 28 (2), Implementing Regulation, introduced by the Administrative Council of the EPO in July 2017:

Under [Article 53\(b\)](#), European patents shall not be granted in respect of plants or animals exclusively obtained by means of an essentially biological process.

Applied for patent applications filed after 1 July 2017.



Rule 28 (2):

<https://www.epo.org/en/legal/epc/2016/r28.html>

European Patent Organisation (EPOrg)

European Patent Office (EPO)

(executive)

Chair: President
(appointed by the AC)

Examines patent applications,
grants patents and deals with
oppositions against patents

Examining and
opposition divisions

Administrative Council (AC)

(legislative)

40 Member States

Supervises the Patent Office
and reviews the legislation of
the Convention

European Patent Convention (EPC)

Legal base of the EPOrg with its 40 Member States

Implementing Regulations

Rules for granting of patents

Guidelines for Examination

Details for granting of patents



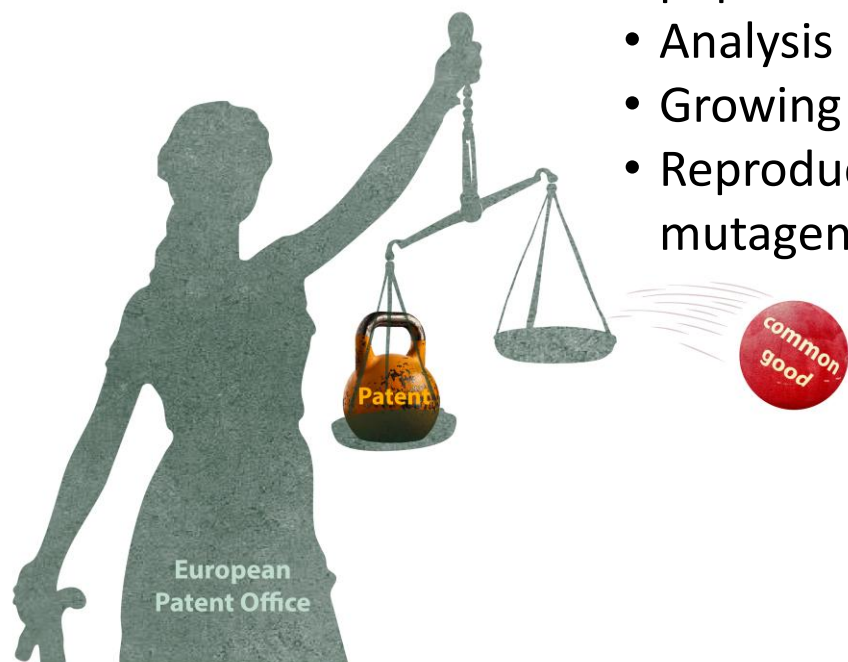


New report – Granted patents

- EPO still grants patents on plants obtained from crossing and selection
- patent holders use specific phrasing to bypass Rule 28 (2).

Patterns of claims:

- Identification of gene variants in existing plant populations and the selection of respective plants.
- Analysis of plant composition.
- Growing plants from seed.
- Reproducing pre-existing genes through random mutagenesis or new genetic engineering (NGTs).



**Rule 28 (2)
nullified**



Political solutions

- EU policymakers must act to ensure that the new Rule and the prohibitions in Article 53 (b) are actually enforced!



Political solutions

- **NGT Regulation (EU) 2026/1388** on plants obtained by certain new genomic techniques adopted in June 2026
- for the implementation, delegated acts are supposed to be finalised within two years
- EU Commission published an Implementation Strategy in July 2026
- The regulation provides as well several provisions on patents such as information on patents applied or granted or a code of conduct for license agreements.
- Working group of experts from EU member states
- Feedback provided by *No patents on seeds!* to the EU Commission: <https://www.no-patents-on-seeds.org/en/NGT-Consultation>



Upcoming hearings

- 20 October, hearing at the Board of Appeal of the EPO in Haar near Munich, attendance in person
- patent (EP3380618) by the company KWS claiming conventionally bred maize that can be grown in colder climatic conditions.
- The appeal was filed by the *No Patents on Seeds!* coalition.



Background material on the KWS patent (maize):

<https://www.no-patents-on-seeds.org/en/maize-cold-resistance>



Upcoming hearings

- On 22 October hearing, can be followed online
- patent (EP 3629711) by French company Vilmorin on tomatoes with natural resistance to a virus that is claimed to be a 'technical invention'
- a joint opposition has been filed by No patents on seeds! and around 40 breeders, gardeners, development organisations and environmental activists, including DeBolster
- Bayer and BASF have also filed an opposition against the patent



Background on the Vilmorin patent (tomato):

https://www.no-patents-on-seeds.org/en/jordan_virus



Thank you!

