



Patents on Seeds: European Patent Office vs. the EU

New report documents how the EPO circumvents current regulations and laws

4 May 2026 / Patents on plants obtained from conventional breeding are prohibited in Europe. The EU made this clear in 2017 by amending the European Patent Convention (EPC) rules. However, current European Patent Office (EPO) practice shows that this ban is being consistently circumvented. As recent precedents demonstrate, the EPO is still granting patents on naturally occurring genes, which also by extension cover the plants that possess these genes in their genome. This has led to a contradictory situation in which naturally occurring genes are still being patented despite legal prohibitions and exclusions in patent law.

“Naturally occurring genes are discovered in existing varieties or wild plants. These gene variants can then also be used as ‘marker genes’ to select the desired plants. These patents cover the genes and the use of the respective plants for breeding. In some cases, even the harvest is affected”, Christoph Then says for *No Patents on Seeds!*.

This is particularly evident in the case of a patent held by KWS on conventionally bred maize with improved digestibility. The KWS patent EP3560330 was the first to be granted in 2022 after the new rule came into force. The patent covers naturally occurring gene variants and the plants selected using these gene variants - it further covers all the maize plants with the described trait for the production of animal feed.

“Despite the EU’s explicit intention to ban these patents, there is concern that hundreds of patents on conventionally bred plants will be granted in the coming years. This development hinders or even blocks access to biological diversity, which is indispensable for breeding plants with disease resistance and for adaptation to climate change. The impacts primarily affect small and medium-sized breeding companies, even if they have no intention of using genetic engineering. Agriculture is also affected”, Dagmar Urban says for Arche Noah, which is part of the international Coalition of *No Patents on Seeds!*.



In November 2025, the EPO rejected the opposition filed by *No Patents on Seeds!* against the KWS patent. *No Patents on Seeds!* has since filed an appeal against the EPO decision. However, as further research has shown, this patent is not an isolated case. In fact, at least five additional patents on natural gene variants—which also cover the respective plants—have been granted since then. Around 40 additional patent applications with similar claims were registered in 2025.

As part of the debate in 2024 on the future regulation of plants obtained from new genetic engineering (or new genomic techniques, NGTs), the European Parliament called for a ban on the granting of the above described patents and/or a restriction on the scope of these patents. The German Conference of Agriculture Ministers, which met in March 2026, also supports these demands. Recent representative opinion polls in Germany, France, Italy, the Netherlands and Poland show that the general public also regard patents on seeds as a major problem: 80% of the populations opposes them.

In fact, effective bans and restrictions in patent law are absolutely necessary: if such patents are not banned or effectively restricted in the future, there is a risk of dramatic consequences for plant breeding and agriculture. According to *No Patents on Seeds!* it is therefore all the more important that the European Parliament does not abandon its 2024 position. The vote on potential new regulations regarding NGT plants, which also addresses the issue of patenting, is scheduled to take place as early as May. However, the current text does not yet include effective bans on patents on seeds. The international coalition *No Patents on Seeds!* is therefore calling for the current legislative proposal to be rejected or amended to include effective prohibitions.

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Further information

- The new report: <https://www.no-patents-on-seeds.org/en/report-2026>
- More info about the maize patent: <https://www.no-patents-on-seeds.org/en/maize>
- The appeal of the maize patent (in German): https://www.no-patents-on-seeds.org/sites/default/files/news/Begr%C3%BCndung%20Beschwerde_%20EP3560330_KWS%20Verdaulichkeit.pdf
- The survey about patents: <https://www.no-patents-on-seeds.org/en/survey>
- Protocol German Conference of Agriculture Ministers (in German): <https://www.agrarministerkonferenz.de/documents/endgueltiges-ergebnisprotokoll-amk-bad-reichenhall-2026.pdf>

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