



New patent law in Austria sends a clear signal against patents on seeds

Random mutations excluded from patent protection

28 April 2023 / The Austrian Parliament (Nationalrat) has passed an amendment to national patent law – this is in effect a new patent law which excludes, in particular, random genetic mutations from patent protection. It means that patents such as those issued by the European Patent Office (EPO) in recent years on, e. g. brewing barley and maize, can no longer be granted in Austria. Even though the law is not binding for future EPO decisions, it sends a clear Europe-wide signal for the general prohibition of patents on conventional breeding.

"This change in the law brings us a big step closer to ending the abuse of patents in Europe," says Katherine Dolan from Arche Noah, which is part of the *No Patents on Seeds!* alliance. "Yesterday's decision makes Austria a pioneer in Europe, as the new patent law explicitly excludes all methods of classical plant breeding from patentability."



No patents on seeds! expects the rest of Europe to follow in Austria's footsteps and prevent conventional plant breeding from being blocked by an increasing number of patents on biodiversity. Ultimately, this is not about introducing new prohibitions into European patent law, it is about the correct interpretation of existing prohibitions which, amongst others, prohibit patents on plant varieties. In Europe, plant varieties and conventional breeding methods are excluded from patentability.

Nevertheless, the EPO has already granted around 300 patents on conventionally-bred plants. This means that unless the patent holders give their consent, the plant varieties covered by these patents can no longer be used to breed and market improved varieties. The free use of all varieties available on the market for further breeding is, however, considered to be a major driving force behind plant breeding in Europe. Recently, even the German Plant Breeders' Association (BDP) has shown great concern about these patents.

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Further information

- The law on the homepage of the Austrian parliament (German):
<https://www.parlament.gv.at/gegenstand/XXVII/ME/229?selectedStage=100>
- The position paper of the German Plant Breeders' Association (BDP) (German):
https://www.bdp-online.de/de/Branche/Patentschutz/BDP_Position_Patentschutz.pdf

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