

PROTECT AGROBIODIVERSITY AGAINST PATENTS ON CONVENTIONALLY-BRED SEEDS!

Patents on plant and animal varieties and conventional breeding methods are prohibited in Europe. Patents can only be granted if a trait is directly inserted into the genome via genetic engineering.

However, industry wants patents to be granted on plants and animals, even if they are not obtained from genetic engineering.

Conventional breeding will be affected by these patents.

The EU has to stop these developments. The entire spectrum of biological diversity must continue to be available for future conventional breeding. As long as patents on plants and animals are not completely banned, patents must be strictly limited to genetic engineering methods.

Ensure that European patent laws are correctly interpreted! Make it clear: patents on plants and animals are not permitted if they are obtained from crossing, selection, random mutagenesis or spontaneous genetic changes which occur naturally.

Patents on genetically engineered plants were first permitted in 1998

Thousands of patents on genetically modified plants and animals have already been granted in Europe. This was authorised by the EU in 1998 in Directive 98/44/EC which only allows patents to be granted on genetically engineered plants. The European Patent Office subsequently adopted this EU regulation for its 39 contracting states.

The number of CRISPR-patents is soaring

Corporations such as Bayer and Monsanto originally introduced patenting as a way of turning their transgenic seed sectors into lucrative business models. Plants obtained from new genetic technology (NGTs) are now routinely patented, and large international corporations, such as Corteva (formerly DowDupont) and Bayer, are currently spearheading developments. As a result, medium-sized European breeders wanting to use the new technology are often forced into signing contracts with larger corporations, and thus into dependency.

Extension of patent claims to conventional breeding

In many cases, the scope of these patents is not limited to genetically engineered plants. They often include claims on the respective genetic modifications, even if they are the result of random mutation. For example, patents were granted to Kleinwanzlebener Saatucht (KWS) on maize obtained from conventional breeding and then 're-engineered' with CRISPR/Cas. This is a way for companies like KWS to control access to biodiversity without the involvement of genetic engineering. The EPO has already granted several hundred patents on conventionally-bred plants, despite EU attempts in 2017 to stop this practice. These patents cover more than 1.000 conventionally-bred European varieties.



Save European breeders' freedom!

The independence of traditional breeders in Europe must be maintained. They must not have their access to biological diversity controlled, hindered or blocked, particularly in the face of climate change and extinction of species. Patents on processes based on crossing, selection, the use of natural genetic variations or random mutagenesis must be prohibited. Extending claims included in patents on genetic engineering to conventionally-bred plants and animals, plant varieties or animal breeds must also be prohibited.

Austria is leading the way: No patents on conventionally-bred seeds!

In Austria, the legislator has already successfully amended national patent law and limited patents to genetically engineered seeds. According to the Austrian Patent Act, patents are not permitted if they are "based on natural phenomena such as crossing, selection, non-targeted mutagenesis or random genetic modifications occurring in nature."

For these regulations to become effective at the European level, the EU in particular would now have to clarify that only genetically modified plants can be patented, but not conventionally-bred plants and animals (including random mutagenesis). Many more politicians now seem to be ready to take action. Both the EU parliament and EU member states are aware of this growing problem, and their willingness to act is increasing.

Those who grow NGT plants will reap patents

Some stakeholders are implying that the EU could ban patents on genetically engineered seeds in an attempt to increase the acceptance of genetic engineering in agriculture. Thus, creating the impression that if NGT plants are exempt from regulation they would no longer be patented. However, this is incorrect. Genetic engineering regulation has nothing to do with patent law. NGT plants are patentable in the EU, even if they do not have to be tested for risks. All 39 contracting states of the European Patent Office (EPO) would have to agree before patents on genetically engineered plants were actually banned. Unanimity would be required to amend the existing laws. This route is being blocked by industry, patent attorneys and several EPO contracting states.

The EU can ensure that existing prohibitions are interpreted correctly

The EU can follow a similar path to Austria and prevent patented genetic engineering from affecting conventional breeding. This is not about changing the laws, but about interpreting existing bans. A majority of three-quarters of the vote in the Administrative Council of the EPO would be sufficient. The EU could already bring about 27 of the 30 votes needed for a majority.

Corporations want patents in order to control conventional breeding

An initiative to ban patents on conventional breeding would be extremely urgent: if there is no clear and legally secure interpretation of the prohibitions, corporations, such as Bayer and Corteva, BASF and Syngenta, will soon be able to control all seeds – produced with or without genetic engineering. The question is not about whether NGT plants will be patented, as this is unavoidable under current legislation. No matter who cultivates NGT plants, they will reap patents.

The really crucial question is whether it is possible to prevent these patents from also affecting conventional breeding or accidentally created gene variants.