

no patents on seeds

EU Commission says plants and animals derived from conventional breeding should be regarded as non-patentable

European governments need to ensure new rules of interpretation become legally binding

3 November 2016 / In a long awaited explanatory statement, the EU Commission takes the view that plants and animals that are obtained by means of “essentially biological” breeding are non-patentable. This statement is in strong contradiction to the current practice of the European Patent Office (EPO), which has already granted more than 100 patents on conventional breeding, e.g. on tomatoes and broccoli.

The international coalition *No Patents on Seeds!* has for many years been demanding that these patents are stopped. With the support of many thousands of supporters, they have filed petitions and oppositions. They are seriously concerned about the increasing monopolisation of the seed and food production. The organisations in the international coalition are now calling on the political decision-makers to ensure that the EPO fully adopts the EU statement, and the rules for the interpretation of patent law become legally binding.

“This is a huge success for civil society organisations and all the thousands of people fighting against patents on plants and animals. However, the statement issued by the EU Commission is not legally binding and it will need some further definitions to render it effective. It is now the task of the European governments to bring the EPO under political control”, says Christoph Then, coordinator of the coalition *No Patents on Seeds!*.

In June 2016, civil society organisations handed over around 800.000 signatures to the Administrative Council of the EPO. This body consists of the representatives of the 38 Member States of the EPO and oversees the correct application of the patent law. Current patent law prohibits patents on “plant and animal varieties” as well as on the “essentially biological” breeding of plants and animals. However, these prohibitions have been extensively eroded in current EPO practice. This latest statement issued by the EU Commission echoes demands made by the EU Parliament and reflects the position of several European governments, such as Austria, Germany, the Netherlands and France. In these countries the national patent laws have already been changed to prohibit these patents.

“The EPO has its own vested financial interests in granting these patents. The relevant prohibitions now need to be adopted, and decision-making at the Administrative Council of the EPO can play a crucial role in their enforcement. The EU Commission statement is an important milestone in ending this abuse of patent law”, says Iga Niznik from Arche Noah, Austria, which is part of the coalition *No Patents on Seeds!*.

The coalition *No Patents on Seeds!* is also demanding further clarification on the legal details needed to render the prohibitions effective: The legal definition of “essentially biological” breeding should include all methods and biological materials used in conventional plant breeding. In addition, further legal measures are required to make sure that the prohibitions cannot be circumvented by clever wording of the claims. For example, it has to be made clear that plant

characteristics derived from conventional breeding and plant varieties are not within the scope of patents granted on methods of genetic engineering.

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The statement of the EU Commission: <http://ec.europa.eu/DocsRoom/documents/19622>

The report of No Patents on Seeds with patents cases and political demands:

http://no-patents-on-seeds.org/sites/default/files/news/report_patents_on_seeds_time_to_act_2016.pdf