



**No patents on plants and animals!**

**Time for action – Now!**

**2017**

**How YOU can make a CHANGE!**

This document explains what measures can be taken by civil society to make their voice heard in order to prevent patents on conventionally bred plants and animals in Europe.

Provided by NO PATENTS ON SEEDS! in February 2017

[www.no-patents-on-seeds.org](http://www.no-patents-on-seeds.org)

Twitter: @NoPatentsOnSeed

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Photo credit: Campact



## The current situation and our goals



On 25 March 2015, the Enlarged Board of Appeal of the **European Patent Office (EPO)** confirmed an unacceptable interpretation of the current patent law: while **processes for conventional breeding cannot be patented, plants and animals stemming from these processes are patentable**. This is not only contradictory in itself, but it also **undermines the prohibitions in European patent law**: “Plant and animal varieties or essentially biological processes for production plants and animals” are excluded from patentability (Art 53 b, EPC).

### 1.) EU: The EU Biotech Directive prohibits patents on plants and animals

At the end of 2016, the **EU Commission published a Notice on the Biotech Directive (98/44/EC)** in order to give a clear interpretation of the legislator’s intention **stating that plants and animals obtained by “essentially biological” breeding are non-patentable**. Although this Notice is not legally binding, it will serve the Member States and the EPO as a guideline.

- We wanted this interpretation as an emergency measure, because it can be done quickly. If we wait for the legislators (democracy takes time, some years), in the meantime, thousands of patents on conventionally bred plants and animals will be granted. Then it will be too late. As a long-term goal, the directive itself could be amended.
- The EU Parliament (EP) does not have legal power in this. A resolution is non-binding, it is an expression of political will. Only if the Commission decides to go further and also amend the text of the Directive, then the EU Parliament and the EU Member states (=Council) would be involved. In any case, formally, only the Commission can take the initiative!

### 2.) European Patent Office: Change the interpretation of patent law within the Administrative Council of the EPO



Following the Notice of the EU Commission, the **Member States** of the EPO (EU member states + 10 other states) **have to take initiative in the Administrative Council of the EPO**. They have to make sure that the current **interpretation of patent law will be changed** and that **existing prohibitions are being reinforced**. In Europe, it is forbidden to patent plant varieties and conventional breeding methods. **In analogy to the Notice of the EU Commission, we want an amendment of the “implementing regulation” of the European Patent Convention that clearly states that these patents are illegal.**

**→THIS WILL BE OUR TOP GOAL IN 2017! HELP US ACHIEVE IT!**

As a long-term goal, the text of the European Patent Convention has to be changed. Here, the 38 contracting states of the EPO have to take the initiative.

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## What can be done on national level?

- **Talk to the leading Ministry** and the Agriculture Ministry. Find out who is responsible in your country. The leading ministry regarding “patents” is usually the Ministry for Justice, Economy or Innovation. But since we are dealing with patents on plants and animals, the Ministry of Agriculture can also be involved. (We already gathered information for most countries - contact us!)
- Websites of Agriculture Ministries of EU-member-states: [http://ec.europa.eu/agriculture/links-to-ministries/index\\_en.htm](http://ec.europa.eu/agriculture/links-to-ministries/index_en.htm)
- **Ask what your country’s position is!**
- Ask what the **national law** says about patents on seeds!
- Ask the ministry what they are going to say at the **meetings of the Administrative Council** (dates can be found on the EPO website: <http://www.epo.org/about-us/organisation/calendar.html>)! Explain the ministry why we reject patents on conventional breeds. Provide briefing material (i.e. the report from No patents on seeds! (2016): [http://no-patents-on-seeds.org/sites/default/files/news/report\\_patents\\_on\\_seeds\\_time\\_to\\_act\\_2016.pdf](http://no-patents-on-seeds.org/sites/default/files/news/report_patents_on_seeds_time_to_act_2016.pdf))!
- **Make sure that your minister says NO to patents on seeds!**
- Write a **civil society open letter** to the ministry!

## How can Member States take initiative?

- National Governments (responsible ministers) can **get active in the EPO** and **seek alliances** against these patents, convince other countries, ...
- National MEPs can urge National Governments to get active on the matter in the EPO.
- National Governments can **forbid these patents in the national law** (as a political sign, it won’t have an effect on European patents).

## What can be done on EPO level?

- The EPO is not an EU Institution. Within the EPO, each contracting state (all EU member states + 10 other states) has a representative within the Administrative Council. This representative usually comes either from the leading ministry or from the national patent office.  
NOTE: In practice, the national representatives probably don’t decide the political positions on themselves, but receive orders from the responsible ministry.
  - Talk to the responsible ministry, **UNLESS** you feel that there is no political control and that the national patent office takes decisions on its own, without consulting the ministry. In some countries, this is the case, because the ministry does not have resources (or they don’t care).
  - **Make sure that your representative says NO to patents on seeds!**
- You can look up representatives of the EPO here: <https://www.epo.org/about-us/organisation/administrative-council/representatives.html>



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## Campaigning and media work

- **Cooperate** with other like-minded organisations on national and EU-level!
- **Publish articles** in printed / online journals and newspapers!
- Initiate a **demonstration!**
- Use **social media** to distribute the demands (Twitter: @nopatentsonseed)!
- Stay informed on our homepage about recent actions you can join!
- Come up with an idea what else could be an effective measure in your country!
- **Remember: you don't have to be an expert on patents in order to make a change!**
- **Contact us** if you need more info, reports, factsheets, assistance, input on campaigning, ...

## Some inspiration – what we achieved in 2016

- We mobilised 65.000 Europeans to file an opposition against the Syngenta tomato patent!
  - We handed more than 320.000 signatures against patents on plants and animals over to the EPO!
  - The EU Commission came up with a Notice on the Biotech Directive (98/44/EC)!
- Find more details on our homepage.  
→ **We are on a good way, but there is still a lot to be done!**

## Get in touch with our national partner organisations



## THANK YOU FOR TAKING ACTION!

We'll be happy to offer **further support** and provide you with **more information!**

Contact Johanna Eckhardt (No patents on seeds, Junior Coordinator)

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