



## *No Patents on Seeds!*

### Annual report on activities 2021



Photo: Thomas Einberger

#### **The organisation**

*No Patents on Seeds!* (Keine Patente auf Saatgut e.V.) is a non-profit organisation with its own statutes. It was founded in 2018 and is registered in Germany. The NGO is committed to following up on the activities of the previous international *No Patents on Seeds!* organisation. Its statutes can be found here: <https://www.no-patents-on-seeds.org/en/about-us/statutes>.

The members of the organisation in 2021 were: Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL), ARCHE NOAH, Biorespect, Bund Naturschutz in Bayern (BN), Corporate Europe Observatory, Danish Seed Savers, Gene-ethical network (GeN), IG Nachbau, Kein Patent auf Leben!, Munich Environmental Institute, Oxfam, Plataforma Transgénicos Fora, ProSpecieRara, Public Eye and SWISSAID (<https://www.no-patents-on-seeds.org/en/about-us/member-organisations>).

EU Transparency Register TR ID: 562793946026-60

#### **The team**

Dr Christoph Then is the executive director of the organisation.

Mag. Johanna Eckhardt coordinates public outreach (responsibility for the website, social media, organisation of media releases, newsletters) and contact to the experts of EPO member states. Johanna is based in Vienna and is supported through the infrastructure of the ARCHE NOAH organisation.

Dr Ruth Tippe, Anne-Charlotte Moy (LLM) and Andreas Bauer-Panskus conduct ongoing patent research and are organising a database of relevant patents.

#### **The initial situation**

The Administrative Council of the European Patent Office (EPO) decided in 2017 that patents could no longer be granted on plants and animals derived from “essentially biological processes” of breeding. New Rule 28(2) was subsequently added to the Implementing Regulations of the European Patent Convention (EPC). This was an important success for the previous international

coalition of *No Patents on Seeds!*.

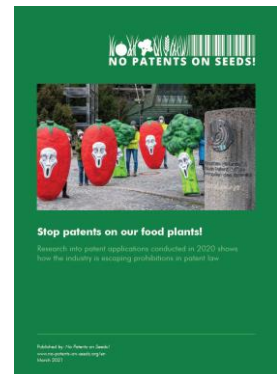
However, this decision does not go far enough in completely excluding patents on plants and animals derived from conventional breeding. Although the Enlarged Board of Appeal of the EPO confirmed the validity of the new Rule 28 (2), the definition of "essentially biological processes" remains problematic. The Enlarged Board of Appeal also introduced a new cut-off date rule, although this only applies to patents filed on or after 1 July 2017. Consequently, hundreds of patents on conventional breeding may still be granted, and it may take over 10 years for the EPO to develop case law.

## Activities

The most important activities in 2021 were:

- **Patent research and publication of a report on current patent applications**

The research for this report included the evaluation and categorization of patent applications for plants and animals filed at the EPO in 2020. We identified, in particular, patent applications covering both genetic engineering and conventional breeding. Many companies evidently see this as an opportunity to circumvent the existing prohibitions, and thus extend claims on genetic engineering methods to conventional breeding. The patent research was continued after publication. <https://www.no-patents-on-seeds.org/en/publications/report2021>



- **Handover of around 200,000 signatures**

A petition supported by WeMove collected around 200,000 signatures. Besides handing over the petition, we held public demos outside the EPO building in Munich in March and June, using 'shields' with painted tomato and broccoli faces. <https://www.no-patents-on-seeds.org/en/activities/petition>



Photo: Falk Heller

- **Dispute with the German Federal Ministry of Justice**

Besides meetings and extensive correspondence with the minister, we also held a public demo outside the German Ministry of Justice building in Berlin. However, even though there was an announcement from the German government in their coalition agreement that action would be taken against patents on plants and animals, this was not implemented. An international online symposium was eventually organised by the ministry at which *No Patents on Seeds!* was able to present relevant demands and arguments.



Photo: Jörg Farys

<https://www.no-patents-on-seeds.org/en/activities/freedom>

- **Public demos around barley and beer**

The hearing for an appeal against a patent on barley and beer was held online in June 2021. The patent was later confirmed. In this context, we publicly highlighted the case of an organic barley breeder whose breeding activities were being severely hampered because of patent applications. We also organised a public demo against patents on barley and beer outside the EPO building, which coincided with an Administrative Council meeting held in October.

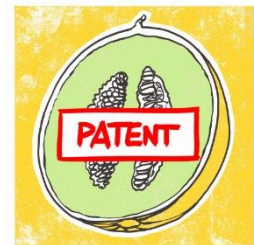


Photo: Thomas Einberger

[https://www.no-patents-on-seeds.org/en/news/Patent\\_on\\_barley\\_and\\_beer\\_upheld](https://www.no-patents-on-seeds.org/en/news/Patent_on_barley_and_beer_upheld)  
and <https://www.no-patents-on-seeds.org/en/news/new-genetic-engineering>

- **Our patent cases**

An opposition / appeal against a Monsanto patent on melons (EP1962578) led to its final revocation by the Board of Appeal in 2021. Another patent on melons held by BASF (EP2814316) was selected for a further opposition. A hearing on a patent covering salmon and trout was held in November 2021, and resulted in the deletion of claims on fish. <https://www.no-patents-on-seeds.org/en/patent-cases>



- **Income and expenses**

In 2021, our funding reached around 100,000€. Our expenses were nearly identical to our funding. Our funders were mainly the members of the organisation and the Gene-ethical Foundation.