

# no patents on seeds

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Mr Jerzy Bogdan Plewa  
Director-General  
DG AGRI  
European Commission  
Rue de la Loi 130  
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Brussels, 20<sup>th</sup> December 2017

## **Re: High number of patent applications for plants and animals**

Dear Director-General,

The signatory organisations are concerned about the high number of patent applications for plants and animals filed by a small number of applicants. This poses a threat to the European system for breeding innovation.

Although the European Commission issued a legal interpretation, and although the European Patent Office (EPO) decided last June to amend Articles 27 (b) and 28 of the Implementing Regulation to the European Patent Convention to exclude from patentability plants and animals resulting ‘exclusively’ from essentially biological processes, the signatory organisations consider that this change will not be sufficient to exclude plants and animals from patentability.

At the Conference organised by the EPO and CPVO on 29<sup>th</sup> November in Brussels, it became clear that the EPO and groups of experts with close ties to this organisation are looking for ways to continue granting patents on plants and animals, including on native traits as well as mutations.

This situation is unacceptable for farmers, breeders and consumers, as it restricts access to genetic material for further innovation and totally ignores the concerns of European citizens.

The signatory organisations are opposed to any kind of patenting of plants, animals, genes and genetic traits that can be found in nature or obtained through mutagenesis. For varieties obtained by mutagenesis, regardless of the breeding technique the breeder has chosen to use, the only IP protection possible is the Community Plant Variety Right (CPVR). Patents on products, traits or genes derived from genetic engineering breeding techniques should only cover products that contain DNA sequences and traits that cannot be found in nature (including through mutations) or cannot be obtained through conventional breeding methods or mutagenesis techniques.

Representing almost all seed users, the signatory organisations regret that the EPO, which is a powerful organisation, refuses to listen to our concerns.

The signatory organisations request that the “Commission Notice of 3<sup>rd</sup> November 2016 on certain articles of Directive 98/44/EC on the legal protection of biotechnological inventions” be made legally binding.

Europe has the best innovative plant breeding sector in the world. The Community Plant Variety Right (CPVR) system has worked well for 50 years, creating a positive environment for breeding. It gives farmers access to an excellent and diverse range of plant varieties. Breeders in Europe currently create around 3,000 varieties a year which shows just how well the system is working. Without this system, 90% of the varieties would disappear in the next 10 years to the economic benefit of a few multinationals.

The high-level symposium "Finding the Balance", organised on 18<sup>th</sup> May 2016 by the Dutch Presidency and the European Commission, highlighted that this successful innovation model is threatened by patents on seeds and animals.

The signatory organisations urge the European Commission to prevent the destruction of the European model for breeding innovation and to change Directive 98/44/EC to render legally binding the exclusion from patentability of plants, animals, genes and genetic traits that can be found in nature or obtained through conventional breeding.

Yours faithfully,

Eduardo Cuoco  
Director  
IFOAM

Monika Messmer  
President  
ECO-PB

Pekka Pesonen  
Secretary General  
Copa-Cogeca

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Coordinator  
No patents on seeds!