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PRESS RELEASE

Farming and civil society organisations sent a clear message to EPO – No to patenting of plants and animals resulting ‘exclusively’ from biological processes in Europe!

Today marked the deadline set by the European Patent Office (EPO) to end its consultation process (G3/19) that aimed to clarify legal concerns related to the patenting of conventionally bred plants and animals. The decision to be taken by EPO by next year could have severe consequences on the patenting of living organisms in Europe. Indeed, Copa and Cogeca and more than 50 other civil society organisations oppose this. The European farming community will never accept a system whose main purpose is to generate income for patent owners. We need breeding programmes that ensure open innovation and the development of better plants with greater value for farmers and the environment.

The European Commission has attempted to provide legal interpretation¹ and in June 2017, EPO decided to amend key articles (27b and 28) of the implementing Regulation to the European Patent Convention to exclude plants and animals resulting ‘exclusively’ from biological processes from being patented. Despite this, loopholes remain and the changes have not proven to be sufficient to avoid litigious patenting. In December 2018, EPO’s Technical Board of Appeal ruled on a pepper seed case that the convention did not preclude the patentability of products obtained from essentially biological processes. Moreover, the same board deemed that the Commission’s interpretation had no legal authority. In the wake of this decision, EPO registered an increasing number of these patents.

Faced with growing outcry, EPO has launched a procedure (G3/19) involving its highest legal decision-making body, the Enlarged Board of Appeal, to clarify whether this decision was in accordance with the rules and statutes of the European Patent Convention (EPC). The outcome of the consultation, which gathered a vast number of responses, will have to be taken into account by the Enlarged Board of Appeal in a decision expected next year.

Pekka Pesonen, Secretary General of Copa and Cogeca said, *“Copa and Cogeca’s position on the patenting of plants and animals is clear: we are opposed to any kind of patenting on plants, animals genes and genetic traits that can be found in nature or obtained through mutagenesis. Patents on products, traits or genes derived from genetic engineering breeding techniques should only apply to products that contain DNA that cannot be found in nature or cannot be obtained through conventional breeding methods or mutagenesis techniques.”*

Commenting on the procedure, Mr Pesonen added, *“It is now time for EPO to start listening to the farming community’s concerns as well as those voiced by civil society organisations. Otherwise, we will have no choice but to turn to the European legal authorities. We refuse the development of such a patent law system as it could be a disaster for farmers and small breeders alike and would reduce the amount of varieties on the market.”*

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Note to the editors:

- You can download the joint letter released by +50 civil society organisations against patents on plants and animals [HERE](#)

¹ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC1108\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC1108(01)&from=EN)

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