



## What can be achieved at EU level against patents on seeds?

The Green parliamentary group in the Bundestag presents an expert opinion

**9 December 2024 / *No Patents on Seeds!* welcomes the publication of an expert opinion commissioned by the Green parliamentary group in the German Bundestag. However, the international organisation does not agree with some important points, in particular, with the chances for a ban on the patenting of non-genetically engineered plants. The expert opinion will be presented today in an online event at the European Parliament.**

The expert opinion questions whether the proposals put forward by the EU Parliament and the EU Council of Ministers in regard to a possible ban or restrictions on the patenting of plants derived from new genetic engineering (NGT), could actually be implemented. *No Patents on Seeds!* agrees with the expert opinion that the proposals currently on the table would have hardly any effect at all. The reason: in order to prohibit patents on genetically engineered plants, international treaties, such as the European Patent Convention (EPC), would need to be amended.



In the expert opinion, a ban of patents on non-genetically engineered plants, e.g. obtained from random mutagenesis, is presented as a controversial issue. Such plants inherit only random genetic modifications. Genetic engineering, on the other hand, makes it possible to directly insert or alter specific genes. This is the reason why genetic engineering is considered to be a technical invention in European patent law, and is thus excluded from the otherwise applicable prohibitions on the patenting of plants and plant breeding.

*No Patents on Seeds!* comes to the conclusion that the expert opinion is too undifferentiated in its approach. It does not take into account the historical, biological and technical differences between genetic engineering and other forms of breeding, and therefore misjudges the freedom to act within the existing legal framework.

According to the analysis carried out by *No Patents on Seeds!*, there is sufficient leeway at EU level to enforce a ban on the patenting of plants obtained from random mutagenesis. This prohibition would fall within the scope of the interpretation of the EPC; it does not require an amendment to the EPC itself. Therefore, the aim of the EU should be to at least completely exclude conventionally-bred plants from patent law.

“We see similar tendencies in the report as we saw before 2017. At that time, the EU was already successful in tightening the prohibitions in patent law with regard to conventional breeding. For this purpose, a new rule for interpretation of the current law was adopted. Just before, many experts were of the opinion that such an initiative would not be successful. However, at that time, the EU has prevailed and should now not hesitate to push this demand again,” says Christoph Then for *No Patents on Seeds!*.

*No Patents on Seeds!* is also in favour of prohibitions which go much further in regard to patents on genetically engineered plants and animals. However, this would require an amendment to the EPC itself.

Estimates suggest that this would take a long period of around 10 years to succeed. In contrast, it would only take a few months for the EU to bring in a ban on non-genetically engineered plants. Over 1000 conventionally-bred plant varieties are already affected by patents in Europe, which makes the adoption of this prohibition particularly urgent.

## Contact

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## Further information

*No Patents on Seeds!* (2024) Seed patents: A huge challenge for the European Union. Analysis of the problem, case studies and potential solutions, <https://www.no-patents-on-seeds.org/en/report-2024>

The expert opinion commissioned by the Greens: <https://www.gruene-bundestag.de/unsere-politik/fachtexte/patente-auf-pflanzen-koennen-begrenzt-werden/> (German, soon available in more languages)

The comment by *No Patents on Seeds!*: <https://www.no-patents-on-seeds.org/en/opinion>

Registration for the Online roundtable on 9 Dec./14.30h:

[https://us06web.zoom.us/webinar/register/WN\\_1IEC8tOkSoKjt-Sq36efWw#/registration](https://us06web.zoom.us/webinar/register/WN_1IEC8tOkSoKjt-Sq36efWw#/registration)  
<https://www.martin-haeusling.eu/termine.html>

More info: <https://www.no-patents-on-seeds.org/en/analysis>

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