Resolution on patents and plant breeders' rights

2015/2981(RSP) - 17/12/2015 - Text adopted by Parliament, single reading

The European Parliament adopted by 413 votes to 86, with 28 abstentions, a resolution on patents and plant breeders' rights.

The text adopted in plenary was tabled by the EPP, S&D, ECR and ALDE groups.

Parliament recalled that Directive 98/44/EC on the legal protection of biotechnological inventions, in particular Article 4 thereof, states that products obtained from essentially biological processes shall not be patentable. Whilst Directive 98/44/EC legislates for biotechnological inventions, Members considered that it was not the legislator's intention to allow the patentability of products obtained from essentially biological processes within the scope of the directive.

In the light of these considerations, Members expressed their concern that **the recent decision of the Enlarged Board of Appeal of the European Patent Office (EPO) on Cases G2/12 (tomatoes) and G2 /13 (broccoli)** could lead to more patents being granted by the EPO in respect of natural traits introduced into new varieties by means of essentially biological processes such as crossing and selection.

As numerous applications concerning products obtained from essentially biological processes are currently awaiting a decision by the European Patent Office, Parliament called on the Commission, **as a matter of urgency, to clarify the scope and interpretation of Directive 98/44/EC**, and in particular Article 4, in order to ensure legal clarity regarding the prohibition of the patentability of products obtained from essentially biological processes, and to clarify that breeding with biological material falling under the scope of a patent is permitted.

The Commission is called upon to:

- communicate its forthcoming clarification regarding the patentability of products obtained from essentially biological processes to the EPO so that it can be used as a supplementary means of interpretation;
- ensure that the Union will safeguard guaranteed access to, and use of, material obtained from essentially biological processes for plant breeding, in order – where applicable – not to interfere with practices guaranteeing breeders' exemption;
- pursue the exclusion from patentability of essentially biological processes in the context of multilateral patent law harmonisation discussions;
- report on the development and implications of patent law in the field of biotechnology and genetic engineering, as requested by Parliament in its resolution of 10 May 2012 on the patenting of essential biological processes.