Basic information

2019/2800(RSP) RSP - Resolutions on topical subjects	Procedure completed
Resolution on the patentability of plants and essentially biological processes **Subject** 3.10.04 Livestock farming 3.10.06 Crop products in general, floriculture 3.50.16 Industrial property, European patent, Community patent, design and pattern	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AGRI Agriculture and Rural Development	LINS Norbert (EPP)	04/09/2019

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	BIEŃKOWSKA Elżbieta

Key events

Date	Event	Reference	Summary
16/09/2019	Debate in Parliament		
19/09/2019	Decision by Parliament	T9-0020/2019	Summary
19/09/2019	Results of vote in Parliament		
19/09/2019	End of procedure in Parliament		

Technical information

Procedure reference	2019/2800(RSP)
Procedure type	RSP - Resolutions on topical subjects
Procedure subtype	Debate or resolution on oral question/interpellation
Legal basis	Rules of Procedure EP 142-p5
Stage reached in procedure	Procedure completed
Committee dossier	AGRI/9/01198

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Motion for a resolution		B9-0040/2019	19/09/2019	
Motion for a resolution		B9-0041/2019	19/09/2019	
Motion for a resolution		B9-0042/2019	19/09/2019	
Motion for a resolution		B9-0043/2019	19/09/2019	
Motion for a resolution		B9-0044/2019	19/09/2019	
Motion for a resolution		B9-0047/2019	19/09/2019	
Text adopted by Parliament, single reading		T9-0020/2019	19/09/2019	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2019)635	12/12/2019	

Resolution on the patentability of plants and essentially biological processes

2019/2800(RSP) - 19/09/2019 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the patentability of plants and essentially biological processes.

The resolution was tabled by the EPP, S&D, Renew, Greens/EFA, ECR and GUE/NGL groups.

As a reminder, free access to plant material (including plant traits) is absolutely essential for the innovative capacity of the European plant-breeding and farming sectors, their competitiveness and the development of new plant varieties in order to guarantee global food security, tackle climate change and prevent monopolies within the breeding sector, while at the same time providing more opportunities for SMEs and farmers.

Any restriction or attempt to hamper access to genetic resources may lead to an excessive market concentration in the field of plant breeding, to the detriment of market competition, consumers and the European internal market and food security.

Products emanating from essentially biological processes, such as plants, seeds, native traits and genes, must be excluded from patentability.

Directive 98/44/EC legislates for biotechnological inventions, in particular genetic engineering.

All EU legislators involved have made explicitly clear that the EU legislator’s intention when adopting Directive 98/44/EC was to exclude from patentability products derived from essentially biological processes.

The 38 contracting states to the European Patent Convention (EPC) have confirmed that their national law and practice are aligned to effectively exclude products obtained from essentially biological processes from patentability.

Parliament called on the Commission and the Member States to do everything in their power to obtain legal clarity regarding the prohibition of the patentability of products obtained from essentially biological processes by the European Patent Office (EPO).

Member States and the Commission are both urged to protect the innovative capacity of the European plant-breeding and farming sectors and the general public interest and to ensure that the Union will effectively 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 farmers’ rights and the breeders’ exemption.

Parliament called on the Commission to:

- submit an *amicus curiae* before 1 October 2019 with the Enlarged Board of Appeal of the EPO, reinforcing the conclusions laid down in its Notice of 2016 that the EU legislator’s intention when adopting Directive 98/44/EC was to exclude from patentability products that are obtained through essentially biological processes, and to attach this resolution to its statement;

- engage actively with third countries when negotiating trade and partnership agreements with a view to ensuring the exclusion of essentially biological processes and the products thereof from patentability;

- pursue the exclusion from patentability of essentially biological processes and their products in the context of discussions on the harmonisation of multilateral patent law;

- report on the development and the implications of patent law in the field of biotechnology and genetic engineering and to further analyse issues related to the scope of protection of patents.