

MOTION FOR A RESOLUTION

further to the Commission statements

pursuant to Rule 37(2) of the Rules of Procedure

by the following Members: Breyer, Hautala, Lannoye and Echerer

on behalf of the Verts/ALE Group

on the decision by the European Patent Office on the cloning of human beings

B5-0291/2000**Resolution on the decision by the European Patent Office on the cloning of human beings***The European Parliament,*

- having regard to the European Patent Convention 1973 (EPC), in particular Article 53a thereof which precludes patenting of inventions contrary to “ordre public” or morality,
 - having regard to Patent Number EP 695 351 issued by the European Patent Office (EPO) on 8 December 1999 for the isolation, selection and propagation of animal transgenic stem cells including human cells,
 - having regard to its various resolutions on human cloning, human rights and the ethical dimensions of genetic engineering,
 - having regard to recommendation 1425 of the Parliamentary Assembly of the Council of Europe of 20 September 1999 stating “that neither plant, animal nor human derived genes, cells, tissues or organs can be considered as inventions nor be subject to monopolies granted by patents.”,
- A. whereas the said patent embraces within its description in paragraph 0011 “all animal cells, especially of mammalian species, including human cells” and Claim 48 of the patent is for the use of such “animal cells” to produce an embryo enabling germline transmission of the selectable marker (for example a herpes virus or an antibiotic resistance gene),
- B. whereas the EPO has sought to excuse the granting of this patent on the grounds of a simple error in the wording and interpretation of Claim 48 but has seriously misled the public by not revealing that Description 0011 expressly applies the claimed invention to human cells and that it has clearly granted a patent for the production and possible cloning of genetically modified human embryos,
- C. whereas its resolution on human cloning of 15 January 1998 (B4-0050/98) states: “whereas the cloning of human beings, whether carried out on an experimental basis, in the context of fertility treatments, preimplantation diagnosis, for tissue transplantation, or for any other purpose whatsoever, is unethical, morally repugnant, contrary to respect for the person and a grave violation of fundamental human rights which cannot under any circumstance be justified or accepted”,
- D. whereas the said patent is clearly contrary to “ordre public” or morality and the principles adopted by this House,
- E. whereas this is not an isolated case and amongst the many hundreds of patents already granted in the field of human genetics there are others which may breach this prohibition,

- F. whereas there is no provision within the EPC or the operating rules of the EPO to amend or revoke a patent on its own initiative; whereas there must be effective legal safeguards to allow patents to be revoked ex officio in the case of manifest mistakes in the application of the Convention, without the need for recourse to legal challenge by third parties,
 - G. whereas whilst Greenpeace and other non-government organisations are to be congratulated on their diligence in uncovering this abuse of the patent system, proper scrutiny of patent applications requires more appropriate solutions,
 - H. whereas the EPO is an unaccountable body acting as both judge and jury and which should not have the power to make public policy through its actions, whereas there needs to be a review of the powers and procedures of the EPO,
 - I. whereas urgent action is called for by the European Union to revoke this patent and to revise European patent law in order to close such legal loopholes,
- 1. Commits itself without delay to filing an opposition to patent number EP 695 351 and calls on the other institutions of the European Union and Member State governments to do likewise;
 - 2. Calls further for an immediate and thorough review of all existing patents and patent applications in Europe which could be in breach of the principle of non-patentability of humans, their genes or cells and human embryos;
 - 3. Calls on the Commission to set out clear guidelines to ensure that all research in biotechnology is carried out in an ethical manner and ensures respect for human dignity;
 - 4. Calls on the Member States to instigate a Conference of the Contracting States to the EPC to amend the Convention to exclude any possibility of patents on human genetic material and to bring existing EU law into line with this objective;
 - 5. Demands revision of the operations of the EPO to ensure that it becomes publicly accountable and subject to democratic control in the exercise of its functions, and to amend its operating rules to provide the possibility of revoking a patent on its own initiative;
 - 6. Calls on its President to forward this resolution to the Council, the Commission, the governments of the Member States and the European Patent Office.