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## **MOTION FOR A RESOLUTION**

to wind up the debate on the statement by the Commission

pursuant to Rule 103(2) of the Rules of Procedure

by Brian Crowley, Rolandas Pavilionis and Marcin Libicki

on behalf of the UEN Group

on patents for biotechnological inventions

**European Parliament resolution on patents for biotechnological inventions**

*The European Parliament,*

- having regard to the 1973 European Patent Convention, in particular Article 53, point (a) thereof which precludes patenting of inventions contrary to 'ordre public' or morality,
  - having regard to Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions,
  - having regard to its resolution of 30 March 2000 on the decision by the European Patent Office with regard to patent No EP 695 351 granted on 8 December 1999 (PE 289.411),
  - having regard to the report from the Commission to the Council and the European Parliament entitled 'Development and implications of patent law in the field of biotechnology and genetic engineering' (COM(2005)0312),
  - having regard to Article 6(2) of the Treaty on European Union, which stipulates that the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950,
  - having regard to the report of the European Commission of July 2005 (COM(2005)312),
  - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas biotechnology is playing an increasingly important role in a broad range of industries and the protection of biotechnological inventions will certainly be of fundamental importance for the Community's industrial development,
- B. whereas patents are essential to the promotion of innovation;
- C. whereas in the evolving area of biotechnology, specific appropriate rules need to be established in response;
- D. whereas the definition of ethically motivated limits is of particular importance in biotechnology;
- E. whereas the European Patent Office granted a patent on 2 February 2005 (EP 1257 168) that includes a method of selection of human germ cells and the germ cells themselves,
- F. whereas the European Patent Office accepted opposition against the patent EP 695 351 (Edinburgh Patent) and made clear that patents on human embryonic stem cells cannot be granted,

- G. whereas that decision has again been opposed, so that the legal situation is still unclear,
- H. whereas a too-broad granting of patents on human DNA could stifle innovation,
- I. whereas Article 6 of Directive 98/44/EC excludes the cloning of human beings, and the Council, in its explanatory statements to Parliament, made clear that this ban on patenting not only covers reproductive cloning and that the term ‘human being’ in this regard covers the embryonic phase,
- J. whereas for the creation of embryonic stem cells, embryos have to be destroyed and the patenting of technologies where human embryos are destroyed or used for commercial or industrial purposes is excluded according to Article 6(2)(c) of Directive 98/44/EC,
- K. whereas the public must be fully informed and the Union must play a leading role in promoting public debate,
1. Supports biotechnology as a future technology and notes the importance of an appropriate political framework to support this technology;
  2. Supports further stem-cell research and other alternatives to promote human health but underlines its fundamental position regarding the application of biotechnology to human beings, especially the refusal of interventions in the human germ line, the refusal of cloning of the human being in all phases of its development and the refusal of research on human embryos, which destroys the embryo;
  3. Reaffirms that no consideration of research can be allowed to override that of the dignity of human life;
  4. Calls on the Commission to take all necessary measures to remove any ambiguity in European patent legislation and to close any loopholes that exist;
  5. Asks the European Patent Office and the Member States to grant patents on human DNA only in connection with a concrete application and asks that the scope of the patent should be limited to this concrete application so that other users can use and patent the same DNA sequence for other applications (purpose-bound protection);
  6. Asks the European Patent Office to set up within its institution a supervisory board to review sensitive decisions covered by Directive 98/44/EC;
  7. Requests that the European Group on Ethics in Science and New Technologies could be strengthened in this regard;
  8. Points out that patent EP1257 168 constitutes a violation of Directive 98/44/EC because human germ cells which are part of the human body are patented;
  9. Notes its deep concern over the potential of this patent to introduce methods for the selection of sex in humans;

10. Decides to formally oppose patent EP1257 168 and asks its services to prepare such an opposition immediately;
11. Asks the European Patent Office, the Commission and the competent authorities in the Member States to give no reason to doubt that all kinds of human cloning are excluded from patenting under Directive 98/44/EC;
12. Instructs its President to forward this resolution to the Council, the Commission and the European Patent Office.