

WRITTEN QUESTION E-3326/09

by Anja Weisgerber (PPE-DE), Albert Deß (PPE-DE) and Markus Ferber (PPE-DE)
to the Commission

Subject: Biopatent directive

Directive 98/44/EC on the legal protection of biotechnological inventions¹ lays down the legal framework for the patenting of biotechnological inventions. Patenting of biological matter is not a priori precluded. In July 2008 a patent was granted which protects a method whereby the leptin receptor gene can be detected in pigs. The animal itself, however, cannot be patented. There is, nonetheless, legal uncertainty regarding whether the patenting of the test may also have consequences for traditional breeding methods. Cross-breeding/selection are not new inventions, but methods used for centuries. Broadly-defined patenting possibilities would lead to huge dependence on big international concerns. This would hinder or even make impossible conventional breeding. The authors are expressly opposed to animals being patented, as that would be interference in creation.

Can the patenting of the test method lead to genes also being patented and consequently result in restrictions on breeding methods used to date, i.e. is it only a question of patenting of the work method (gene test) or also of the production method (breeding)? The legal position needs to be clarified. Does the Commission plan to make the law in this area more precise?

¹ OJ L 213, 30.7.1998, p. 13.