

**Question for oral answer O-000146/2015
to the Commission**

Rule 128

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on behalf of the Committee on Agriculture and Rural Development

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on behalf of the Committee on Legal Affairs

Subject: Patents and plant breeders' rights

A recent decision (G2/12 and G2/13) by the Enlarged Board of Appeal of the European Patent Office (EPO) makes it possible to patent plant traits, including when these traits are developed from or could be obtained with essentially biological breeding techniques. This decision signifies a narrow interpretation of Article 53(b) of the European Patent Convention and thus implies broad possibilities for the granting of patents covering plant varieties. This goes directly against the breeders' exception, explained in Article 15 of the 1991 Act of the UPOV Convention and Article 15 of Regulation (EC) No 2100/94. Unrestricted access to biological material is necessary in order to stimulate the innovative strength of the plant breeding sector. This decision by the EPO undermines the innovative ability of the plant breeding sector to develop new varieties and poses a threat to global food production and food security. It will have a negative impact on European competitiveness and may lead to monopolies on the food market by decreasing the diversity of products offered to consumers.

It is of utmost importance to balance EU legislation (in particular Directive 98/44/EC) in order to fulfil international obligations on intellectual property rights (UPOV) and to boost innovative competitiveness within the European plant breeding sector. Rule 26 of the Implementing Regulations of the EPC states that Directive 98/44/EC shall be used as a supplementary means of interpretation for European patent applications and patents concerning biotechnological inventions. A clarification in Directive 98/44/EC will have an immediate effect on the practice of the EPO.

1. Is the Commission aware that this decision by the EPO hampers innovation by making breeders dependent on patent holders and consequently will have an effect on global food production and food security?
2. Can the Commission with great urgency clarify Directive 98/44/EC in order to ensure the effective exemption of plant varieties and traits from patentability and to secure the unrestricted use of biological material by breeders to stimulate innovation, guarantee a level playing field and create more opportunities for SMEs within the plant breeding sector, as requested in Parliament's resolution of 10 May 2012 on the patenting of essential biological processes¹?

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Deadline for reply: 27.11.2015

¹ Texts adopted, P7_TA(2012)0202.