

Euroseeds statement on IP and NGTs

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The European plant breeding and seed sector is firmly of the view that an effective protection and practical enforcement possibilities of intellectual property rights are a precondition for the continuous innovation in plant breeding¹. Only on the base of a fair return on its exceptionally high level of research and development investments can the industry continue to bring improved products to farmers and growers across the wide range of species and markets that it works with.

Given the specific nature of the sector, the breeding technologies used and the products derived therefrom, it must be acknowledged that no single IP system is capable of covering all the relevant innovations and needs. Euroseeds considers that plant variety protection based on the 1991 Act of the UPOV Convention is the most suitable existing *sui generis* intellectual property system for the protection of plant varieties *per se* as it provides for effective protection of plant varieties of all genera and species in order to obtain return on investment; and it also guarantees the continuous flow of improved plant varieties by safeguarding access to genetic variability through the so-called breeder's exemption, which is a key cornerstone of plant variety protection. Euroseeds confirms that specific other forms of IP protection, such as e.g. patents for biotechnological inventions as provided for by EU Directive 98/44, need to coexist with the prevalent system of plant variety protection.

Over the past two decades, the interaction between these two IP systems has continuously evolved and has been supplemented by (i) specific decisions adapting the legal framework such as the adoption of Rule 28(2) by the European Patent Office or the introduction of the limited breeder's exemption in patent laws through Article 27(c) of the Unified Patent Court Agreement; (ii) [PINTO](#), an industry-led database for creating transparency with regard to patented traits in marketed plant varieties; (iii) and company-led initiatives such as the [International Licensing Platform Vegetable](#), or the recently established [Agricultural Crop Licensing Platform](#) aimed at making patented traits broadly accessible. All these developments have in common that they contribute to balancing broad access to genetic variability on the one hand and return on investment on the other hand with the wish to speed up the deployment of scientific and technical progress across the sector and entire agri-food chain. This also includes the objective to maintain fair competition and freedom of choice for both breeders and farmers.

Besides developments in the current practice of granting patents, also the most recent scientific progress in plant breeding methods such as gene editing has re-triggered the discussion on whether the aspired balance and the associated political objectives may be at risk and new or reinforced regulatory or legislative measures could be required to re-calibrate it. Euroseeds

¹ <https://euroseeds.eu/app/uploads/2019/07/12.0100-Euroseeds-position-Intellectual-Property-1.pdf>

acknowledges this discussion which is also very present within the plant breeding and seed production sector itself. We share the Commission's view and emphasize the importance to calibrate a balanced framework which supports breeders' access while also preserving investment incentives.

Euroseeds also strongly supports the Commission's announcement to assess, "as part of a broader market analysis, the impact that the patenting of plants and related licensing and transparency practices may have on innovation in plant breeding. It will also assess their impact on breeders' access to genetic material and techniques, on availability of seeds to farmers and on the overall competitiveness of the EU biotech industry ²." The Commission has announced to report on its findings by 2026, identifying possible challenges in the sector, and to decide on any possible follow-up actions. Euroseeds looks forward to contribute to this upcoming assessment, providing the input from its wide membership across Member States, species, market segments and company structures.

As the voice of Europe's entire plant breeding and seed sector, Euroseeds remains committed to contribute to and to advocate for a system of intellectual property rights that takes the needs of all stakeholders involved in the development of innovative technologies and products into account. Such system needs to successfully balance deserved, effective protection and fair, broad access, to the benefit of Europe's agri-food sector and society.



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² Question 15 of https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_3568