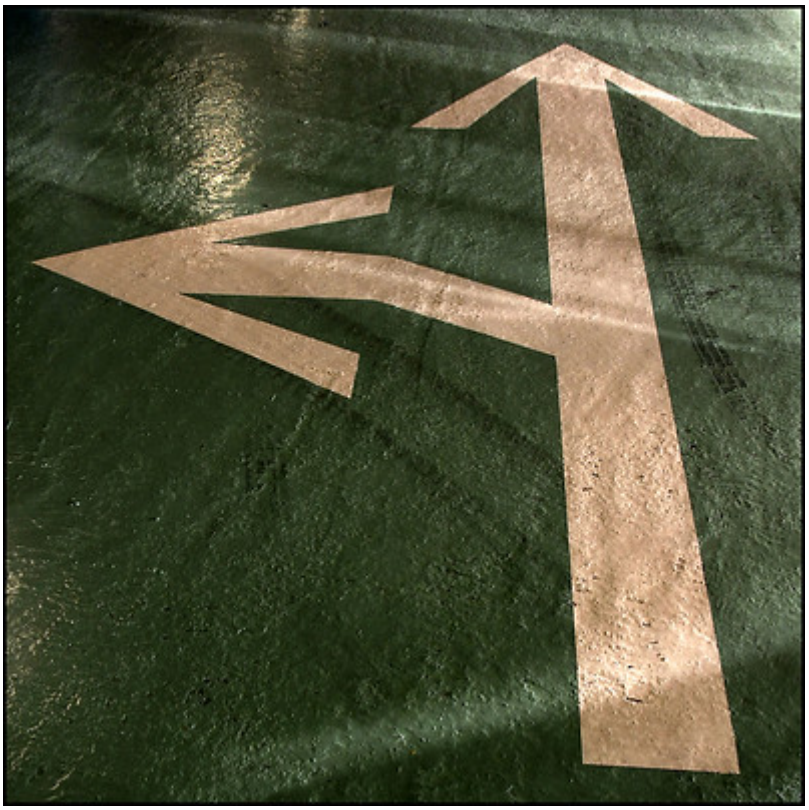
Veille citoyenne d'information sur les OGM et les semences

# Patents and GMOs: different stakeholders, different solutions

Par Eric MEUNIER

Publié le 26/02/2025, modifié le 09/03/2026

Since July 2023, the issue of patents on living organisms has been at the heart of debates in the European Union. These debates were sparked by the European Commission's proposal to stop assessing the risks associated with GMOs, to stop labelling them as such, and to put an end to their detection and identification. In December 2024, a conference allowed several stakeholders of the debate to express their opinion.



On December 9, 2024, German MEP Martin Häusling organized an online conference[i] on the issue of patents and new genetic modification techniques. Stakeholders such as the European Coordination of Via Campesina (ECVC), the No Patent on Seeds (NPoS) coalition and Copa-Cogeca were able to compare their point of view[ii]. Multinationals also had the opportunity to express their view *via* the Euroseeds structure. The conference provided an opportunity to weigh up the different approaches to the issue of patents.

## Copa-Cogeca, ECVC, NPOS... solutions at opposite ends of the spectrum!

For Copa-Cogeca, a body representing professional agricultural organizations and agri-food cooperatives, the issues of GMO deregulation and patents must be dealt with separately. Its proposal is therefore simple: adopt GMO deregulation as quickly as possible, and postpone the discussions on the issue of patents until a later date. Copa-Cogeca also believes that consideration should be given "*to find an intelligent way how to mix [the] two plant variety rigths systems*" existing in Europe, namely the Plant Variety Certificate (PVC) on the one hand, and patents on the other.

As it recently reiterated in response to a proposed solution put forward by Poland[iii], ECVC, the European farmers' union, believes that one of the major problems with the deregulation proposed by the European Commission concerns the risk to have a "*corporate control of all cultivated biodiversity and the food chain to a handful of seed companies via the patents they hold*". ECVC has argued that one of the key points is to maintain the existing obligation for GMO producers to provide detection and identification methodes enabling products obtained by new techniques to be traced. Otherwise, "*farmers and traditional seed producers who use or market seeds containing a genetic sequence that is similar to a patented sequence obtained by NGT, either naturally or as a result of contamination, will no longer have any means of opposing abusive patent infringement proceedings*".

For the European coalition No Patents on Seeds, the European Union's objective should at least be "*to [...] completely exclude conventionally-bred plants from patent law*"[iv]. NPoS believes that there is sufficient leeway "*to enforce a ban on the patenting of plants obtained from random mutagenesis* ". Although the notion of "random mutagenesis" is not legally defined, the coalition proposes that this technique of genetic modification should be considered as an essentially biological process and, as such, should be unpatentable, just like the products obtained[v].

## Euroseeds proposes an imprecise solution, to say the least

During the conference, another player had the opportunity to express its view. This was Euroseeds, an organization representing multinational seed companies. Through the voice of Petra Jorasch, Euroseeds[vi] presented its point of view, with proposals that had already been published in July 2024[vii], but which had gone rather unnoticed at the time. In connection with the issue of genetic modification techniques, the multinational seed companies are proposing a number of measures which, in their view, would make it possible to guarantee a system of intellectual property protection, while maintaining access to plant material for seed companies.

For example, one of the proposals put forward by the multinationals represented by Euroseeds is directly linked to the GMO issue. Stating that it has long supported the principle of excluding so-called "*essentially biological*" processes from patentability, Euroseeds proposes that this exclusion be extended to all "*breeding methods yielding non-repeatable results (such as random mutagenesis based on chemicals or irradiation and protoplast fusion)*". In simpler terms, the multinationals want a genetic modification technique they call "*random mutagenesis*" (without defining it) to be considered unpatentable, being submitted to the same consideration as the one on essentially biological processes. They specify that the resulting products should also be excluded from patentability. It is important to emphasize here that this proposal, combined with the absence of any obligation to provide a GMO detection and identification method as proposed by the European Commission, would enable multinationals to market patented GMOs without having to declare them as such. The case of Cibus and its canola 5715 is one example. Initially presented and authorized in Canada as obtained by oligonucleotide-directed mutagenesis, this GM canola was declared in Europe to have in fact been obtained by "*random mutagenesis*". Thanks to this

move, Cibus hoped to escape a 2018 decision by the Court of Justice of the European Union[viii].

Another proposal is to limit the scope of a patent. Euroseeds considers it important that "*the effect of a product patent on biological material must not extend to any biological material which has the same properties but has occurred naturally or results from undirected and thus not repeatable processes like random mutagenesis and protoplast fusion*". However, the organization does not demand that the obligation to provide a method for the detection and identification of GMOs be maintained - the one and only condition under which such a proposal might seem feasible.

More broadly, and in line with Copa-Cogeca's analysis, Euroseeds believes that the two intellectual property systems which are the plant variety certificate (Euroseeds talks about plant breeders' right - PBR) "*to protect a plant variety and [the] patents to protect technologies and characteristics obtained through biotechnological processes*" need to be supported and improved. The organization proposes, for example, that "*the PBR system must be strengthened and improved*" to enable seed companies to resolve the difficulties they encounter in asserting their rights to farm-saved seed (information from farmers and collection of the "*fair remuneration*" that these farmers must pay).

A final example is the proposal made for seed companies. Euroseeds recommends that the breeder's exemption provided for in patent law in certain countries "*such as France, Germany and the Netherlands*" be adopted by other countries. This exemption gives seed companies access to patented varieties in the case of varietal improvement work. An exemption which applies to the research phase, but not to the marketing phase, as explained by RAGT and Florimond Desprez in 2023[ix].

i Martin Häusling, « Freier Zugang zu Saatgut- Für ein krisensicheres Ernährungssystem », December 2024.

ii To read about ECVC and NPoS' opinions, see :

https://infogm.org/en/gmo-patents-is-it-possible-to-break-the-deadlock/

To read about Copa-Cogeca's opinion, see :

https://infogm.org/en/copa-cogecas-ambiguities-on-the-issue-of-plant-patents/

iii ECVC, « New GMOs and patents: Poland's Illusory Solutions », January 2025.

iv NPoS, « What can be achieved at EU level against patents on seeds? », 9 December 2024.

v Christoph Then (No Patents on Seeds!), « Short comment on the expert opinion: "Legal options for changing the patent protection of plants in Germany, Europe and international law – Expert opinion commissioned by the Bundestagsfraktion Bündnis 90 /Die Grünen" », December 2024.

vi Martin Häusling, « Freier Zugang zu Saatgut- Für ein krisensicheres Ernährungssystem », from 57min50sec to 1h59, December 2024.

vii Euroseeds, « Euroseeds View on Intellectual Property », 4 June 2024.

viii Eric Meunier, « Colza Cibus : une mutation aux origines mystérieuses », *Inf'OGM*, 29 septembre 2020 (in french).
Eric Meunier, « Canola OGM : le gouvernement canadien au secours de Cibus », *Inf'OGM*, 10 novembre 2020 (in french).

ix Eric Meunier, « Des semenciers dénoncent les brevets, mais… », *Inf'OGM*, 21 mars 2023 (in french).

---

Adresse de cet article : https://infogm.org/en/patents-and-gmos-different-stakeholders-different-solutions/