



European Commission risks farmers' rights by ignoring impact of new GMO deregulation on European patent law

In the course of 2023, DG SANTEⁱ intends to publish a legislative proposal to exclude certain “new genomic techniques”ⁱⁱ from European GMO legislation. Yet, the question of how such an amendment will impact European patent law has been simply left out of the initial impact assessment process and consultations conducted by DG SANTE on this initiative. This is dangerous given that all GMOs – new and old – are covered by patents, with very concrete consequences for farmers' rights to seeds.

To address this shortcoming, the European Coordination Via Campesina (ECVC), which represents small and medium-sized European peasants farmers, has published [a new report detailing the impact that the Commission's proposed deregulation of new GMOs would have on the application of European patent law](#). The report is accompanied by [an executive summary](#) highlighting the key points of the analysis and possible solutions.

In this report, which has been forwarded to the European Commission, **ECVC uses concrete examples to demonstrate that the removal of the traceability requirement for GMOs derived from "new genomic techniques" would lead to an abusive extension of the scope of patents to traditional farmers' seeds and commercial seeds**ⁱⁱⁱ. Such extensions will lead to the privatisation of native and traditional seeds by the few multinationals that hold the majority of patents on these techniques. These trends have already been observed in regions of the world where GMOs are deregulated. For farmers and breeders, the consequences will be concrete and disastrous, as they will not be able to re-use their own seeds for fear of being sued for infringement.

Furthermore, **in this report ECVC denounces the non-compliance with the decision of the Council of the European Union, which asked the European Commission to carry out a study in 2019 on the status of "new genomic techniques" in the law of the European Union**^{iv}. This decision was addressed to the European Commission as a whole and requested a study covering the whole of European law. This has not been complied with to date, since only DG SANTE has taken up the subject and has limited its initial proposals, initial impact study and its various consultations to GMO regulation alone. The impact on intellectual property rights has been explicitly excluded, even though this issue is the primary concern of the guaranteed GMO-free agricultural sector.

ECVC therefore considers that any proposal from the European Commission concerning the legal status of "new genomic techniques" which is not accompanied by a study of its impact on the concrete application of patent law would, on the one hand, be incomplete and contrary to the Council's request and, on the other hand, would not respond to the legitimate concerns of the agricultural sector as to the concrete risks of control of traditional and native seeds by patents and of violation of farmers' rights relating to seeds.

The report and executive summary are available in [English](#), [French](#) and [Spanish](#) on the ECVC website.

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i Directorate-General for Health and Food Safety of the European Commission.

ii That is, certain techniques of genetic modification (directed mutagenesis and cisgenesis).

iii That is, non-GMO seeds, obtained by traditional breeding processes.

iv European Council Decision 2019/1904.