

ESA-Info: European Parliament supports exclusion of essential biological processes and derived products from patentability

10.05.2012;

To: ESA Association Members, ESA Individual Members
cc.: ESA Board ESA CIPR

Dear Members,

Today, **the European Parliament adopted a (non-legislative!) resolution, i.e. a political statement addressed mainly at the European Commission, the European Patent Office and the wider public, in which it *states its opinion that essential biological processes (i.e. processes such as crossing and selection) should be excluded from patentability under EU legislation.*** The EP also confirms and welcomes the respective decisions taken by the EPO. This part of the Resolution is thus identical with the ESA Position on IP.

Furthermore, **and most importantly**, the EP also *states its position that this exclusion from patentability shall also apply to products derived from such essentially biological processes.*

Also this part of the EP Position therefore is now fully in line with the ESA Position on IP!

The Resolution which you will find attached (esa_12.0301) was adopted by a very broad majority of 356 votes in favour, i.e. by an absolute majority of members! This send a very strong political signal to the European Commission, to the EPO – but last but not least to Member States in view of the still on-going discussions on the future European Patent.

Attached you will also find the further amendments to the resolution which were adopted (esa_12.0302) as well as two amendments that would have weakened the text which were rejected (esa_12.0303).

ESA will now try to capitalize on this success by calling upon Member States and European Parliament to practically implement this policy declaration by adding a limited breeders exemption to the provisions of the European Patent.

Here, it is worth noticing that the EP not only specifically addresses Commission and Member States with its request that a breeders exemption ‘should exist within patent law throughout the European Union’ (which could be interpreted as a reference to national measures such as in France and Germany) but also “*calls upon the Commission and Member States to ensure that the EU will continue to apply a comprehensive breeders exemption in its patent law for plant and animal breeding*”. This should be considered also as a clear reference to the European Patent.

Further specific information will be supplied to the bodies concerned in due course.

With kind regards,

Garlich von Essen

ESA Secretary General