19 February 2026

Press Release

New Patent on Tomato Breeding Undermines European Patent Ban

European Patent Office Completely Undermines the Intention of European Patent Law

Munich, Schiltern – The European Patent Office (EPO) has once again granted a patent on the traditional breeding of tomatoes with resistance to TBRFV, the so-called Jordan virus. The patented gene variants were not invented but discovered in wild tomatoes from countries of origin such as Peru. The patent claims appear to be formulated specifically to circumvent the explicit prohibition on patents on breeding methods based on crossing and selection and on the plants resulting from them. 'In its application, the Dutch company Rijk Zwaan describes plant breeding as a "growing seeds to produce plants'. And the EPO has accepted this scandalous patent!', criticises Dagmar Urban, seed policy expert at ARCHE NOAH.

As a result, because not even a so-called "disclaimer" was included, the patent could cover all tomato plants that contain the DNA segments conferring resistance to the TBRFV virus. Plants that inherit the natural gene variants providing such resistance, obtained through crossing and selection with wild tomato plants, could also be affected. This completely undermines the rule adopted in 2017 establishing a patent ban. The ban on patents on breeding methods based on crossing and selection and on the resulting plants was renewed and strengthened in 2017 at the initiative of the EU. According to the EPO, a "disclaimer" is meant to protect traditional breeding from being affected by such patents – yet in practice, this idea does not work, as the new patent again demonstrates. 'The EU wanted to stop the monopolisation of natural genetic resources and classically bred plants. If the EU does not react now, it will lose credibility,' says Urban.

Patents on plants with natural characteristics represent an existential problem especially for small and medium-sized traditional breeders. These patents create high costs and significant legal uncertainty. They are monopolies on the use of the claimed characteristics for 20 years. Access is very often granted only through licensing agreements and against high fees, and it may also be refused entirely. Under these conditions and due to legal uncertainty, breeding projects must be abandoned. According to information in the industry database Pinto, Rijk Zwaan controls access to 39 plant varieties via the new patent – varieties that otherwise, according to the intention of European patent law, should be freely available for further breeding.

In recent years, the EPO has increasingly expanded patenting to the area of classical breeding. Examples of recently granted patents on naturally occurring genes include maize, spinach, tomatoes and lettuce.

In discussions on the future regulation of plants derived from new GMOs (also called new genomic techniques/NGT), the European Parliament proposed at least banning patents on classical plant breeding and naturally occurring gene variants. Additionally, patents on new GMOs should also be banned, according to the EP position. However, none of these demands are included in the current draft text from

December 2025. ‘ARCHE NOAH calls on the European Parliament to reject this draft or clearly improve it in order to strengthen the necessary bans on patents,’ concludes Dagmar Urban.

Research report by “No Patents on Seeds!” on recently granted patents (December 2025): www.no-patents-on-seeds.org/en/7-Patents

Enquiries:
ARCHE NOAH, Society for the Conservation and Dissemination of Crop Diversity
Axel Grunt
Head of Communications
+43 680 2379245
axel.grunt@arche-noah.at

Image service:
Download at www.arche-noah.at/presse-medien/pressefotos
Enquiries to presse@arche-noah.at