

Protection of biotechnological inventions

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The Committee on Legal Affairs adopted the draft recommendation by Mr ROTHLEY, adopting several amendments that re-established Parliament's position at first reading in relation to certain issues that the Members considered essential: - the non-patentability of the human body: the recommendation reaffirmed very clearly the principle of the complete ban on patenting the human body or elements of the human body; Members rejected the term "as such" that the Council wished to add to the ban on patents for "the human body or elements of the human body", which could reduce the scope of this ban; the processes for modifying the genetic identity of humans should also be deemed non-patentable - except for therapeutic purposes; it should be remembered that the Council did not want to ban the processes for modifying the genetic identity of human beings that "offended against human dignity"; - the recognition of the non-patentability of surgical or therapeutic treatment procedures applicable to the human body or the bodies of animals, which was not included in the common position and which Members wished to restore, with the exception of "ex vivo" therapeutic procedures; - the exclusion from patentability of processes for modifying the genetic identity of animals which were likely to cause them suffering or physical handicaps and also animals resulting from such processes. It rejected the restriction the Council wished to include in relation to this ban (in the Council's view, the processes in question would only be excluded from patentability in cases where they were "without any substantial benefit to man or animal" and "insofar as the suffering or physical handicaps inflicted on the animals concerned were out of proportion to the objective pursued"); - the "farmer's privilege" (in other words, farmers' rights): Members called for inclusion of the rule whereby the sale to a farmer of "patented animals and/or propagation material by the holder of the patent or with his consent" implied "authorisation for the farmer to use the animals produced in this way, as well as patented animals, for reproduction by him on his own farm". The scope and arrangements for this rule, which derogated from the principle whereby a patent on biological material covered all the biological materials obtained from that material through reproduction or propagation, should be set out by the Council on the basis of a Commission proposal and following consultation of the European Parliament.