

Regulation (EU) 2026/1388

1. Introduction

The new EU NGT Regulation gives voluntary patent licensing platforms a specific role in the future European framework for access to patented plant biological material.

Article 30 (see annex 1 for full text) requires the European Commission, together with the Member States, to oversee the development of an EU-wide Code of Conduct. Representatives of voluntary patent licensing platforms are expressly identified among the stakeholders to be invited to participate in drawing up the Code.

For ILP Vegetable this is strategically important. Much of the architecture envisaged by Article 30 already exists within ILP, including a patent register, standard licence agreements, bilateral licensing, the Expert Committee and the Baseball Procedure.

At the same time, the Regulation introduces policy expectations that should be tested against ILP's current rules and practices.

2. What Article 30 seeks to achieve

The Article 30 framework focuses in particular on:

- clear, comprehensive and publicly accessible information on relevant patents and patent applications;
- licensing under fair and reasonable conditions, including through voluntary licensing platforms;
- cost-attractive participation in voluntary platforms in order to facilitate participation by breeders which are SMEs;
- standard licence agreements;
- fair and impartial mechanisms for settling disagreements on licensing fees;
- appropriate consideration of SME breeders and other stakeholders;
- objectives, indicators and an annual reporting framework allowing the functioning of the Code to be monitored.

3. Why this matters for ILP?

Article 30 can be viewed as both an opportunity and a regulatory challenge. The Regulation effectively recognises voluntary licensing platforms as part of the potential solution to patent-access concerns in plant breeding. This gives ILP an opportunity to demonstrate that effective industry self-regulation can provide transparent, fair and workable access to patented traits.

However, the future Code may also create expectations that go beyond the present ILP framework. In particular, ILP should be prepared to demonstrate not merely that procedures exist, but that access is practically affordable, transparent, fair and measurable. If voluntary arrangements do not deliver fair and reasonable access in



practice, the Regulation provides for Commission monitoring and evaluation and leaves open the possibility of further legislative action.

At the Board meeting we want to discuss the aforementioned and to formulate action points.

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Annex 1: Text of article 30

Regulation (EU) 2026/1388 Article 30 - Code of conduct

1. The Commission, in cooperation with the Member States, shall oversee the drawing-up of a code of conduct at Union level to enhance the transparency of information relating to patents on plant biological material, to facilitate breeders' access to such material and to enhance legal certainty for breeders and farmers ('code of conduct').

2. The Commission shall invite the owners of patents relating to NGT plants, **representatives of voluntary platforms for the licensing of patents on plant biological material**, plant breeder and farmer organisations as well as other civil society organisations and other interested parties, as appropriate, to participate on a voluntary basis in the drawing-up of the code of conduct.

3. The Commission shall aim that the code of conduct include the following commitments by patent owners:

(a) the provision of clear, comprehensive and publicly accessible information on patents and patent applications covering biological material incorporated in plant varieties placed on the market in the Union;

(b) arrangements for the licensing of patents under fair and reasonable conditions, including through the voluntary platforms referred to in paragraph 2;

(c) the amicable settlement of patent disputes involving breeders which are SMEs, or involving farmers in the case of unintentional minor presence of patented biological material in their fields.

4. The Commission shall aim that the code of conduct include the following commitments by voluntary platforms for the licensing of plant biological material:

(a) cost-attractive fees for participation in the platforms to facilitate participation in the platforms by breeders which are SMEs;



(b) standard licence agreements;

(c) fair and impartial mechanisms for settling disagreements on licensing fees.

5. By 17 July 2033 and every five years thereafter, the Commission shall publish a report on the evaluation of the functioning of the code of conduct. In its evaluation, the Commission shall examine the results of the drawing-up of the code of conduct referred to in paragraphs 1 to 5 and of the monitoring referred to in paragraph 6. In this context, the Commission shall also assess if and to what extent provisions covered in the code of conduct have been infringed and if the code of conduct has ensured fair and reasonable access to patented NGT plant biological material. The report shall be accompanied, where appropriate, by legislative proposals to safeguard the good functioning of the sector, in particular access to patented NGT plant biological material for primary users, including farmers.

6. The code of conduct shall be ready by 17 January 2028.

(Official source: EUR-Lex, Regulation (EU) 2026/1388 of the European Parliament and of the Council of 17 June 2026 on plants obtained by certain new genomic techniques and their products, and amending Regulation (EU) 2017/625.)