



Geen patent op humane embryonale stamcellen: een goed signaal

No patent for human embryonic stem cells: A sensible decision and a good signal



Comece, 27 november 2008

Commission of the Bishops' Conferences of the European Community

The Secretary General of COMECE Fr Piotr Mazurkiewicz welcomes the decision made public today by the Enlarged Board of Appeal of the European Patent Office (EPO). "Obtaining a patent for embryonic stem cells goes against European patent law. This confirmation by the European Patent Office is a sensible decision and an important signal towards the protection of human embryos".

European patent law prohibits the patenting of human stem cell cultures whose preparation necessarily involves the destruction of human embryos. This is the decision reached by the Enlarged Board of Appeal of the European Patent Office (EPO) in its ruling from 25 November in appeal proceedings on the WARF/Thomson stem cell patent application. This application concerned a method for obtaining embryonic stem cell cultures from primates, including humans.

The patent application for human embryonic stem cells and therefore the use of human embryos for commercial purposes had drawn many critics from different quarters. In October 2006, in collaboration with the then Secretary General Mgr Noël Treanor, COMECE's President Bishop Adrianus van Luyn sent what is termed an Amicus Curiae Brief [1] to the Board of Appeal with the aim of putting forward the legal and ethical objections to the granting of the patent that was being applied for. In the light of the great importance of patents connected with research and industrial applications, by way of introduction they emphasised the EPO's very considerable responsibility to society as concerns applications relating to the inviolability of human life and its inherent dignity. Even if patent law is formally only designed to entitle one to prevent other people from using a given invention (or to sell licenses enabling them to use it), patents nevertheless imply a certain amount of support for the patented invention. They emphasised that for patent applications that relate to human life, the granting of a patent was, in their view, utterly bound up with the ethical dimension. In any case, according to the European Patent Convention, any biotechnological inventions which concern the use of human embryos for industrial or commercial purposes are excluded from patenting.

In the case at issue, Thomson applied, inter alia, to be allowed to patent human embryonic stem cell cultures; subsequently, in 2003, he had excluded the method of harvesting embryonic stem cells from human embryos in the blastocyst stage from the patent application; this represents the essential first step in the cultivation of stem cells. However, there is an inextricable link between the use of human embryos and the cultivation of human embryonic stem cells, as well as their use for industrial and commercial purposes; for this reason it is impossible to separate these two phases from each other when they are being considered in terms of patent law.

References

1. The COMECE Amicus Curiae Brief