

## ECJ rules that 'new breeding techniques' are GMOs

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News

The European Court of Justice (ECJ) has published its much-awaited ruling on the legal status of food and feed crops derived from certain new genetic modification techniques.



*Photo credit: Press Association*

The Luxembourg-based court on Wednesday gave clear confirmation that organisms from these new gene editing techniques are covered by existing EU GMO regulation.

It said that organisms obtained by mutagenesis, otherwise known as 'new breeding techniques' by the biotech industry, are in fact genetically modified organisms (GMOs), and are subject to the 2001 EU GMO directive.

The landmark decision corroborates the January 2018 opinion of one of the court's Advocates General.

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Reaction to the ruling was mixed, with environmentalists generally welcoming the decision while the body representing the biotechnology sector at EU level voiced concerns about the possible consequences.

The Greens in Parliament said on Wednesday that “despite heavy lobbying by the industry looking for ways to circumvent” the GMO directive, the court’s ruling was “a victory for European food safety and the environment.”

Bart Staes, the group’s spokesperson on GMOs, said, “Today’s ruling is a victory for food safety and the environment. Just because the industry has come up with new ways to modify organisms does not mean that these techniques should be exempt from existing EU standards on GMOs.”

The Belgian MEP added, “Recent scientific studies show that these new techniques might not be as accurate as the industry claims them to be, that’s why it’s essential that they come under the same labelling requirements and impact assessments as existing GMOs.

“These new patented organisms may have unintended effects, as well the potential to increase our dependence on the agri-chemical industry, and therefore must be stringently monitored by the European Food Safety Authority for any risks to human, animal and environmental health.”

Further reaction came from the Brussels-based campaign group Corporate Europe Observatory whose agribusiness campaigner Nina Holland also welcomed the ruling.

She said, “This is a big victory for the environment, farmers and consumers. It clarifies that EU decision makers have to ensure that products from these new techniques are assessed for potential food safety and environmental risks, and that they are properly labelled as GMOs.

“Big agribusiness corporations will continue their lobbying in Brussels to escape EU safety rules for the new GMOs, but today’s ruling leaves no doubt: Products from gene editing are covered by the existing EU GMO rules.

“This ruling also means that the secret, unregulated field trial currently run in Belgium is illegal. The CRISPR-technique does in no way have a ‘history of safe use’, and the plants used in this trial are undoubtedly GMOs. Belgian authorities should act accordingly and halt this trial.”

Elsewhere, Mute Schimpf, food and farming campaigner at Friends of the Earth Europe, was also pleased with the decision, saying, “These new ‘GMO 2.0’ genetic engineering techniques must be fully tested before they are let out in the countryside and into our food. We welcome this landmark ruling which defeats the biotech industry’s latest attempt to push unwanted genetically-modified products onto our fields and plates.”

Schimpf added, “The biotech industry has been arguing that GMO 2.0 foods and crops should not go through existing EU safety and labelling laws. Today’s decision therefore preserves the EU’s food safety and traceability standards, which would have been threatened by any ambiguity in the ruling.

“EU and national lawmakers now need to ensure that all new genetically modified products are fully tested, and they must also support the small-scale, nature-friendly agriculture we urgently need.”

However, EuropaBio’s Secretary General John Brennan highlighted what he called industry’s “concerns” about the judgement.

He warned that in the absence of improved legal clarity in this area, Europe could “miss out on significant benefits” of certain applications of genome editing.

Brennan said, “In addition to providing consumer and environmental benefits, such as enhanced nutrition, improved health or a more circular economy, innovations made possible by genome editing hold enormous promise to keep Europe at the forefront of socio-economic development, continuing to generate jobs and growth in the EU.

“Unfortunately, this court ruling, which is inconsistent with the advocate general’s ruling published in January, does not provide the necessary regulatory clarity needed by EU researchers, academics and innovators.”

He said that following more than 10 years of discussions, it was hoped that this ruling would provide the “legal certainty and predictability needed by EU public and private researchers to deliver solutions to the UN’s Sustainable Development Goals.”

Brennan said, “Public confidence and science-based decision-making are both important for ensuring that genome editing can deliver needed solutions. Looking forward, EuropaBio believes that the next step, for the EU and its member states, is to engage citizens in an inclusive and fact-based dialogue on what genome editing is, and what it will or will not be used for.

“It will be important to build knowledge, develop understanding and deliver risk-proportionate policy approaches, allowing innovation, which is already taking place in other parts of the world, to also benefit the EU’s society, economy and the environment.”

EuropaBio is the European Association for Bioindustries which promotes the biotechnology industry, representing 76 members and 17 national biotechnology associations.

Meanwhile, the European Seed Association (ESA) branded the ruling “a missed opportunity for agricultural innovation in the EU.”

In a statement, the ESA said the ruling on the regulatory status of plants resulting from some of the latest plant breeding methods is “widely seen as decisive for their practical take-up by European researchers, breeders and farmers.”

The statement went on, “It is a watershed moment for the EU’s agri-food chain the EU and it now seems that the court’s decision subjects almost all plants obtained with these methods to the EU’s regular GMO legislation with its prohibitive costs and political uncertainty of final market approval.

Garlich von Essen, ESA secretary general, added, “It is now likely that much of the potential of these innovative methods will be lost for Europe - with significant negative economic and environmental consequences. That strikes a serious blow to European agriculture and plant science.

“While other parts of the world go ahead with these innovations without unnecessary overregulation, Europe’s breeders and farmers will once again loose out, without a chance to explore the huge potential and benefits of these plant breeding innovations in practice.”

The matter was referred to the ECJ by the French Conseil d’Etat after nine NGOs initiated a court case in France related to mutagenesis and the most recently developed mutagenesis methods.

The European Commission’s Scientific Advisory Mechanism (SAM) has published an explanatory note on new techniques in agricultural biotech.

It said that “the precision and control over changes made is greater than with the use of conventional breeding or established techniques of genetic modification. As a consequence, these new techniques result in fewer unintended effects”.

### **About the author**

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