



ECONEXUS



OPEN LETTER TO COMMISSION PRESIDENT JUNCKER

cc. Commissioner Vytenis Andriukaitis  
Commissioner Phil Hogan  
Commissioner Karmenu Vella

9<sup>th</sup> August 2018

## Landmark ruling by the European Court of Justice clarifies that new techniques of genetic engineering fall under EU legislation on GMOs

Dear President Juncker,

On the 25<sup>th</sup> July 2018, the European Court of Justice (ECJ) released its decision on the legal status of a set of new techniques of genetic modification<sup>1</sup>. This decision, fully in line with the precautionary principle, leaves no space for interpretation: *'only organisms obtained by means of techniques/methods of mutagenesis which have conventionally been used in a number of applications and have a long safety record are excluded from the scope of that directive'*. **Thus, this decision must be applied to all products produced from new genetic engineering techniques, that have been developed more recently and that do not have a long safety record: they are GMOs and must be regulated as GMOs.**

Small scale farmers, food retailers, environmental groups, the European organic sector and the conventional GMO-free sector have all lauded this ruling. It shows that the European Union, through its progressive legislation and its precautionary principle, is able and determined to protect its citizens, the (raw material) supply chain and the environment from any potential harm that these new GMOs may cause if they are released without appropriate safety tests, traceability and consumer labelling.

The ECJ's decision comes at a time when a first product developed with the use of one of these new techniques, marketed as Rapid Trait Development System (RTDS), is already grown in parts of the US and Canada.<sup>2</sup> The US company marketing this herbicide-tolerant GM oilseed rape has informed the Commission's services that this

<sup>1</sup> [C-528/16](#), Confédération Paysanne and others, 25<sup>th</sup> July 2018.

<sup>2</sup> Cibus SU Canola is an herbicide-tolerant oilseed rape that was developed using a new genetic engineering technique called oligonucleotide-directed mutagenesis (ODM).

product was “likely entering the international commodity chain” and that “it can therefore not be excluded that commodities with RTDS products are imported in the EU”.<sup>3</sup>

Several EU member states have also permitted field trials with new GMOs outside the GMO legal framework. This includes at least Sweden, Finland, Belgium and the UK.<sup>4</sup>

In light of this ruling, the European Commission should now ensure that the EU’s GMO legislation is rigorously applied throughout all EU member states. Mr Juncker, we call on you to:

- Remind EU member states that they must stop all ongoing and planned releases in the environment that are not in accordance with the GMO legislation; should a member state fail to comply immediately, then the Commission should launch an infringement procedure.
- Enable EU member states to ensure that GMOs derived from new genetic engineering techniques do not enter the EU without any market authorisation; for this purpose, it should task the European Network of GMO Laboratories (ENGL) to develop methods for the detection of GMOs (authorised and unauthorised) developed through new genetic engineering techniques.
- Ensure that releases of GMOs must be in compliance with Directive 2001/18: all imports of unauthorised GMOs in the European Union must be blocked.
- Ask breeders and seed companies to exercise full transparency on techniques used to breed, select and multiply varieties marketed in the EU and developed since the adoption of Directive 2001/18.

With this ECJ decision, you now have the full legal certainty to ensure a high level of health and environmental protection from potentially harmful GMOs. The strict implementation of EU’s GMO laws can contribute to more food transparency in the EU and can additionally foster more confidence in EU rules amongst EU citizens.

Yours sincerely,



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On behalf of:

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<sup>3</sup> Letter from Cibus Europe B.V. to DG Health and Consumers, 27<sup>th</sup> January 2015, Ares(2015)2109110

<sup>4</sup> Greenpeace press release ‘[EU court set to rule on whether new GMOs fall under existing law](#)’, 23<sup>rd</sup> July 2018