

President Juncker
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

25 July 2019

Dear President Juncker,

We write regarding the ruling of the European Court of Justice (Case C-528/16), delivered one year ago, on 25 July 2018, that concluded that organisms obtained by directed mutagenesis techniques are to be regarded as genetically modified organisms (GMOs) as defined in Directive 2001/18.

Despite having had a year in which to act, the Commission has failed to take meaningful action to implement this important ruling.

The ruling confirms that directed mutagenesis are not so-called “new breeding techniques”, but GMOs according to the legal definition.

The Court found that these new techniques present risks which “might prove to be similar to those that result from the production and release of a GMO through transgenesis” and should thus be fully submitted to the precautionary measures put in place by the EU. The Court added that only techniques “with a long history of safe use” might be exempt from risk assessment, traceability and labelling.

New genetic modification techniques cannot claim this long history, and recent scientific studies show that they indeed result in off-target effects¹, possibly giving rise to human health and environmental risks. A further reason why it's essential that they are subject to full safety assessments and labelling and traceability requirements.

Once the ECJ ruling made the legal status of these techniques clear, it was the role of the EU Commission to make available the necessary technical tools to effectively implement the ruling at Member States and EU level.

Examples of action that could have been taken, along with Member States, include putting in place controls of imports from countries in which plants produced with the new genetic technologies are cultivated (e.g. ODM rapeseed, TALEN soybean). Without these measures in place, there is no way of knowing whether these products are entering the EU market, potentially putting animal and human health at risk. The Commission has also not launched infringement proceedings against countries which continue to run unauthorised field trials with crops created with these new techniques.

¹ This term is used here to include unintended, unanticipated, off-target, non-target or unpredicted effects.

Traceability of these new GMOs is indeed a complex issue, but studies have found that traceability, and therefore labelling of these products, is indeed technically feasible², given commitment and political will. Furthermore, in our understanding, the detection of the products of these techniques will in any case be necessary in order for patent owners to claim their rights.

Some stakeholders don't agree with the ECJ ruling and are calling for GMO law to be changed to exempt their techniques in a push for deregulation. This will only accommodate narrow business interests to the detriment of wider society including the rights of consumers, farmers and breeders, as well as the Precautionary Principle, as enshrined in the TFEU.

We believe that the Commission urgently needs to take the steps to uphold and enforce the ECJ ruling.

We therefore urge you, one year on, to move ahead with this important task, and we look forward to hearing how you intend to do so at your earliest convenience.

Yours sincerely,

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Ellie Chowns MEP

Catherine Rowett MEP

cc. Commissioner Andriukaitis, Commissioner Katainen, Commissioner Moedas

² See, for example, https://www.researchgate.net/publication/326014805_New_Breeding_Techniques_Detection_and_Identification_of_the_Techniques_and_Derived_Products