

Mr. Jean-Claude Juncker
President
European Commission
Rue de la Loi 200
1049 Brussels

Mr. Antonio Tajani
President
European Parliament
Rue Wiertz 60
1047 Brussels

Mr. Donald Tusk
President
European Council
Rue de la Loi 175
1048 Bruxelles

Brussels, 21 November 2018

Re: European Court of Justice (ECJ) ruling on case C-528/16

Dear President Juncker,

Dear President Tajani,

Dear President Tusk,

The European food and feed chain acknowledges the ruling of the European Court of Justice (ECJ) in case C-528/16 of 25 July 2018 by which the Court interpreted the provisions of the EU's Directive 2001/18 in such a way that plants resulting from innovative, targeted mutagenesis breeding methods are subject to the provisions of the Directive. It follows that for plants used as food or feed, Regulations 1829/2003 and 1830/2003 apply as well, and although plants derived from conventional mutagenesis are to be considered as exempted from the provisions of Directive 2001/18, Member States are free to adopt measures regulating those organisms, provided that the other EU laws are respected.

We are committed to engage with policy makers, stakeholders and all interested parties to work for constructive change. Our goal is to obtain practical and science-based rules for products resulting from the latest breeding methods that foster public confidence and trust, and effectively unlock this great potential for a high-performing, innovative and diversified European plant breeding sector and agriculture, for Europe's food security, consumers and its environment.

To this end, and as increasingly requested by many scientists, stakeholders and EU trade partners, it has become urgent for the EU to adapt its legislation to reflect technical progress in breeding techniques.

As we recognise that science doesn't always mean acceptance, we would also encourage the European Commission to gather all interested parties (Member States, business, NGOs, academics, etc) in order to generate an open and inclusive debate leading to consensus on these technologies.

The prohibitive compliance requirements and costs for product approvals under Directive 2001/18 relative to the value of commodity crops will effectively cut off Europe's breeders and farmers from scientific progress and put them, as well as food and feed processors, at a competitive disadvantage to regions with more enabling regulations.

We therefore consider that this ruling can put at risk the sustainability of our agri-food chain and the supply of agricultural products in Europe. Its potential trade impact endangers future food and feed security in the European Union, as production of raw materials may move from the EU to other regions. It will also prevent the EU from taking its full share of the responsibility to make the best use of available land to meet the increasing food demand worldwide.

Moreover, it will not allow Europe to advance in the development of new, better adapted plant varieties that are both high-performing and resilient, contribute to healthy diets, mitigate the unavoidable effects of climate change and innovate for a more sustainable agri-food system.

Plant varieties and seeds are subject to a respected and robust regulatory regime; the varieties developed through the latest breeding methods should not be subject to Directive 2001/18 and related regulations if they could also have been obtained through earlier breeding methods or result from spontaneous processes in nature.

We underline that this position is not only broadly shared by scientists and experts but also increasingly adopted as principle regulatory approach by countries around the world. Plant varieties obtained by targeted mutagenesis are already commercialized in parts of the world which do not regulate them as GMOs. This ruling can only further undermine consumers' confidence in the ability of the EU to establish science-based safety standards.

Last but not least, we expect severe uncertainties to occur among all stakeholders from primary processors to consumers, when Member States adopt specific rules on conventional mutagenesis with effect on crop varieties lawfully being on the market since many years, without having been considered as crops which may potentially fall under the provisions of Directive 2001/18/EC.

The ECJ ruling shows that the existing GMO legislation no longer reflects current knowledge and scientific evidence and with that, jeopardizes food security in Europe by creating a massive non-tariff-trade barrier and putting on importers and processors a responsibility that cannot be managed given the volumes that are needed to meet the demand of the EU. On that account, and as a matter of urgency, the FFC would like to understand how the Commission will ensure that the implementation and enforcement of the ECJ ruling does not disrupt trade flows.

Yours sincerely,

[Art. 4.1(b)]
[Art. 4.1(b)]
CEFS

[Art. 4.1(b)]
[Art. 4.1(b)]
COCERAL and Unistock Europe

[Art. 4.1(b)]
[Art. 4.1(b)]
ESA

[Art. 4.1(b)]
[Art. 4.1(b)]
EuropaBio

[Art. 4.1(b)]
[Art. 4.1(b)]
European Flour Millers

[Art. 4.1(b)]
[Art. 4.1(b)]
EUVEPRO

[Art. 4.1(b)]
[Art. 4.1(b)]
FEDIOL

[Art. 4.1(b)]
[Art. 4.1(b)]
FEFAC

[Art. 4.1(b)]
[Art. 4.1(b)]
FERM

[Art. 4.1(b)]
[Art. 4.1(b)]
FoodDrinkEurope

[Art. 4.1(b)]
[Art. 4.1(b)]
Starch Europe

CC:

- Commissioner Andriukaitis, Commissioner Bieńkowska, Commissioner Hogan, Commissioner Malmström, Commissioner Moedas
- Director-General Anne Bucher (DG SANTE)
- Director-General Lowri Evans (DG GROW)
- Director-General Jerzy Bogdan Plewa (DG AGRI)
- Director-General Jean-Luc Demarty (DG TRADE)
- Director-General Jean-Eric Paquet (DG RTD)

	<p>CEFS stands for the European Association of Sugar Manufacturers and is an international non-profit organisation and a recognised interlocutor for the EU Institutions since 1953, sharing knowledge and technical expertise on sugar. CEFS' membership is composed of sugar-producing companies in the EU and Switzerland. This means 40 sugar manufacturers, supporting about 180000 direct and indirect jobs.</p>
	<p>COCERAL is the European association representing trade in cereals, rice, feedstuffs, oilseeds, olive oil, oils and fats, as well as agrosupply. Its aim is to ensure that European collectors, traders, importers, exporters and port silo storekeepers of these agricultural products can operate within a regulatory environment that does not hinder trade, while at the same time promoting strategies for the supply of safe food ingredients and feed raw materials to downstream EU agri. industries and consumers. COCERAL's full members are 20 national associations, 1 European association (Unistock) and 2 companies. The sector trades a considerable volume of agricultural raw materials destined to the supply of the food and feed chains, as well as for technical and energy uses. COCERAL has 1 associated member in Switzerland and 1 European Association (EUROMALT). Gafta is an extraordinary member of COCERAL.</p>
	<p>ESA European Seed Association is the voice of the European seed sector, representing those active in research, breeding, production and marketing of seeds. Its membership consists of more 36 national seed associations, representing more than 7000 seed businesses, and of more than 60 individual company members.</p>
	<p>EuropaBio is the European Association of BioIndustries. Our members are involved in research, development, testing, manufacturing and commercialisation of biotech products and processes in human and animal healthcare, diagnostics, bioinformatics, chemicals, crop protection, agriculture, food and environmental products and services. EuropaBio also counts a number of National Biotech Associations in its membership who in turn represent more than 1800 biotech SMEs.</p>
	<p>European Flour Millers' association is the voice of the European flour milling industry. It gathers the national associations from 28 European countries. They represent 3,800 companies employing some 45 000 people. With some 45 million tonnes of agricultural commodities processed in the EU each year, the sector is the largest single food user of EU domestic wheat, rye and oats.</p>
	<p>EUVEPRO is the European Vegetable Protein Association representing the interest of the producers of vegetable proteins for human consumption in the EU.</p>
	<p>FEDIOL the EU vegetable oil and proteinmeal industry association, represents the interests of the European seed and bean crushers, meal producers, vegetable oils producers, refiners and bottlers. FEDIOL's members are 12 national associations and associated company members in 5 other EU countries. With about 150 facilities in Europe the sector provides 20,000 direct employments. Its members process approximately 36 million tonnes of basic products a year, both of EU origin and imported from third country markets.</p>
	<p>FEFAC is the European Compound Feed Manufacturers' Federation. FEFAC represents 25 national Associations in 24 EU Member States as well as Associations in Switzerland, Turkey, Serbia, Russia and Norway with observer/associate member status, and is the only independent spokesman of the European Compound Feed Industry at the level of the European Institutions. The European compound feed industry employs over 110,000 persons on app. 4,000 production sites often in rural areas, which offer few employment opportunities.</p>
	<p>The Federation of European Rice Millers is the voice of the European rice milling industry. FERM is made up of 21 company members from around Europe as well as 3 national rice milling associations of Italy, Spain and Portugal. In representing over 90% of the milling capacity in Europe it is able to reflect credibly and authoritatively the interests of the industry.</p>
	<p>FoodDrinkEurope represents the European food and drink industry, the largest manufacturing sector in the EU in terms of turnover and employment. It aims to promote the industry's interests to European and international institutions, contributing to a framework addressing, inter alia, food safety and science, nutrition and health, environmental sustainability and competitiveness.</p>
	<p>Starch Europe is the trade association which represents the interests of the EU starch industry both at European and international level. Its membership comprises 24 EU starch producing companies, together representing more than 95% of the EU starch industry, and in associate membership, 7 national starch industry associations. Before October 2014 Starch Europe was called the AAF.</p>
	<p>Unistock Europe is the only European association of professional storekeepers for agribulk commodities in the European Union. Unistock Europe full members are present in 11 countries. With a total of approximately 79 port silos facilities Unistock Europe proactively represents the united voice for the agribulk storage sector towards the EU authorities. Unistock Europe is a full member of COCERAL.</p>