

General Court of the European Union strengthens the precautionary principle

Legal revision of risks of genetically engineered soybeans is admissible in court

14 March 2018 / The General Court of the European Union today confirmed the right of civil society organisations to submit legal cases concerning the health risks of genetically engineered plants. The case was prompted by market authorisation being issued for the import of genetically engineered soybeans produced by US companies Monsanto and DuPont/Pioneer which, according to analysis undertaken by Testbiotech and other experts, have not been adequately investigated for health risks. The EU Commission wanted to prevent Testbiotech from initiating a legal revision of a decision allowing the import of these genetically engineered soybeans. In response, Testbiotech filed a precedent case at the General Court of the European Union to gain access to justice (T-33/16). The court today confirmed the rights of Testbiotech.

“The EU Commission has allowed the import of genetically engineered soybeans despite concerns about the risks to human health. In addition, the Commission tried to prevent the court from re-examining the approval,” says Christoph Then for Testbiotech. “The decision today is an important step towards strengthening the precautionary principle in the EU.”

In May 2015, Testbiotech together with GeneWatch UK, filed a complaint against the authorisation issued for the import of genetically engineered soybeans that are changed in their oil quality. The EU Commission exceeded the legally defined time-frame for its response by more than a month. Then, in its answer, the Commission claimed that according to the relevant EU Regulation 1367/2006 only risks concerning the environment could be reviewed, but not the risks to human health. Today this legal interpretation was rejected by the General Court of the European Union.

Testbiotech has filed two other cases at the EU court against imports of genetically engineered soybeans. One of these is against genetically engineered soybeans developed by Monsanto that produce insecticidal proteins. Amongst others, there are concerns that the insecticidal proteins intensify the immune reaction to allergens which occur in soybeans (C-82/17 P). A further case concerns genetically engineered soybeans developed by Bayer that are engineered to be resistant to several herbicides. However, the health risks associated with the consumption of such beans were not assessed (T-173/17).

Testbiotech considers these legal cases to be test cases breaking new ground in legal jurisdiction. Now that legal clarity has been provided and these legal revisions are admissible, the EU court has to clarify in more detail how it will deal with scientifically-based concerns and the role of the precautionary principle. In addition, Testbiotech wants to see more clarity on the burden of proof incumbent on the EU Commission to provide evidence of safety. Despite today’s decision these questions are still not finally settled. Indeed, Testbiotech has already forwarded several questions to the highest level of the EU court to find out more about how the court in general deals with

scientifically-based concerns in this context (C-82/17 P).

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Links:

Testbiotech court cases: <https://www.testbiotech.org/en/node/1640>

Court press release regarding today's decision: https://curia.europa.eu/jcms/jcms/p1_887757/en/

Court decision: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=200243&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=533861>