



**Friends of  
the Earth  
Europe**

## Implementing the ECJ ruling on GMO 2.0 crops and foods

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### Introduction

Over the summer, the European Union's (EU) top court ruled that a new generation of genetically modified (GM) food and plants – so-called 'GMO 2.0' – need safety checks before they can be used in the EU.<sup>1</sup>

The European Court of Justice (ECJ) clarified<sup>2</sup> that existing EU GMO safety law covers this new wave of GMOs, meaning they need safety checks, authorisation processes and would need to be authorised as GMO seed if cultivated. Thus farmers, breeders and consumers can take a well-informed decision on whether they want to use GMOs, and testing is carried out on the likely impacts on the environment. The ruling is not a ban: it simply means that GMO 2.0 are regulated and any cultivation or import as food and feed follows existing EU rules.

This is a blow for the biotech industry, which has been lobbying hard for a number of years to exclude the new GM techniques from the general GMO rules. But the court fully rejected any bypassing of EU safety and labelling rules and underlined that potential risks of new GMOs *"might prove to be similar to those that result from the production and release of a GMO through transgenesis."*

A side-note – the previous generation of GMOs encompassed transgenesis and mutagenesis techniques. Any crops produced from the former are covered by EU law, whereas ones produced by mutagenesis are deemed to be lower risk, and so are not.

### What does it mean for consumers?

Consumers retain their right to take well-informed decisions about the food on their plates.<sup>3</sup> Under EU law, GM food must be labelled. In fact, a number of GM foods are allowed in the EU, but due to strong rejection from the public the food sector phased them out over ten years ago, meaning the huge majority of foods sold do not use GM ingredients.

### What does it mean for farmers, breeders and the food sector?

Farmers, breeders and food processors remain able to tell whether a product is a GMO or contains GM ingredients. Thus they must all strictly follow the so-called traceability and labelling requirements for GM seeds, food and feed.<sup>4</sup>

<sup>1</sup> [http://www.foeeurope.org/sites/default/files/gmos/2018/gmo\\_20\\_briefing.pdf](http://www.foeeurope.org/sites/default/files/gmos/2018/gmo_20_briefing.pdf)

<sup>2</sup> <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-07/cp180111en.pdf>

<sup>3</sup> The one exception is where animals are fed with GM feed. Products coming from these animals are not labelled

<sup>4</sup> [https://ec.europa.eu/food/plant/gmo/traceability\\_labelling\\_en](https://ec.europa.eu/food/plant/gmo/traceability_labelling_en)

While the ECJ ruling is good news for EU companies in the food sector, which are very cautious about potential GM contamination in their supplies, it does not totally eliminate the problem.

The next step is to ensure proper safeguards against contamination incidents with new GM techniques from field trials in Europe, or imports from countries outside the EU, and ensure adequate quality control systems are in place.

Unfortunately, the European Commission has yet to work on testing methods for GM 2.0, which may cause some costs for breeders and food operators until the import controls by officials are fully implemented (see below).

The GM traceability rules allow breeding companies to receive information as to whether any gene-editing was used in the breeding process of their starting material.

### **What actions are required by national governments and the European Commission?**

An ECJ ruling is always final and cannot be challenged. It enters into force immediately. The most urgent steps to ensure its verdict is respected are a clear communication and coordination from the European Commission about the next measures to fully implement the ruling.

#### **A) Testing of imports**

Based on publicly available information, only one GMO 2.0 plant is grown commercially, a gene-edited rapeseed called Cibus in the USA and Canada. Therefore, imports from these countries should be tested. The European Commission should communicate immediately to exporters that any rapeseed imports from these countries need a certificate to ensure that they are free of gene-edited Cibus. This means a binding sampling and testing protocol for rapeseed imports similar to those developed for illegal trade with GM rice in 2006 and GM linseed in 2009.<sup>5</sup> This requires coordination from the European Commission and cannot be developed and implemented by the EU-28 governments alone.

In addition, the European Commission should work with national laboratories to develop testing methods for new GMO 2.0 techniques such as CRISPR-CAS. Whether for old or new GM, biotech companies are legally obliged to deliver a testing method for any GMO authorised in the EU. In addition, for imports European laboratories need to update their testing protocols for unapproved GMO 2.0, in a similar way to the ongoing updates for first generation GM authorised outside of the European Union.

#### **B) Field trials**

National governments need to ensure that any outdoor field trials of GMO 2.0 crops adhere to EU and national GM legislation. Any field trials that have not been approved under the GMO legislation are illegal and must be stopped immediately.

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<sup>5</sup> [http://europa.eu/rapid/press-release MEMO-06-310\\_en.htm](http://europa.eu/rapid/press-release_MEMO-06-310_en.htm); <https://www.reuters.com/article/trade-gmo-flax/europe-finds-gmo-in-11-canada-flax-shipments-idUSN0537374020091005>

## Conclusion

The European Commission needs to urgently reassure food operators and consumers that the ECJ ruling will be immediately adhered to. It needs to work with testing laboratories and biotech companies to confirm that food imports meet EU safety and transparency standards. National governments must ensure that any outdoor release of GMO 2.0 crops strictly adhere to GMO safety laws.



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