

## EU CASE LAW ON GMOs

### 1. CJEU Case Law

**Case C-478/13 *Commission v Poland* [2013] nyr.**

2 October 2014

Article 31(3), b) Directive 2001/18/EC – Registers for recording the location of GMOs grown in accordance with the directive – Notification to the competent authorities – Criterion related to the areas where GMO are placed on the market – Inadequacy of this criterion – Requirements related to the implementation of a directive

**Case C-281/11 *Commission v Poland* [2013] nyr.**

19 December 2013

Contained use of genetically modified micro-organisms - Directive 2009/41/EC - Incorrect and incomplete transposition - Main objectives of Directive 2009/41 : the protection of human health and the environment – Broader implementation of definitions provided for under Directive 2009/41 – Concepts of accident and user – Insufficiency of a national rule on conflict of laws

**Case C-313/11 *Commission v Poland* [2013] nyr.**

18 July 2013

Regulation (EC) No 1829/2003 – Animal feed - Genetically modified feed -Production, placing on the market or use – Action for infringement (Article 258 TFEU) – Dismissal – National prohibition not yet in force

**Case C-542/12 *Fidenato* [2013] nyr.**

8 May 2013

Domestic authorisation scheme applied to the placing on the market of MON 810 – Use and trading of MON 810 authorised in virtue of Council common catalogue of varieties of agricultural plant species — Article 26a of Directive 2001/18/EC – Measures to avoid the unintended presence of genetically modified organisms – Article 26a cannot justify such a domestic authorisation scheme

**Case C-36/11 *Pioneer Hi Bred Italia Srl v Ministero delle Politiche agricole alimentari e forestali* [2012] nyr.**

6 September 2012

Council Directive 2002/53/EC – Common catalogue of varieties of agricultural plant species – Genetically modified organisms accepted for inclusion in the common catalogue – Regulation (EC) No 1829/2003 – Article 20 – Existing products –Directive 2001/18/EC – Article 26a – Measures to avoid the unintended presence of genetically modified organisms – National measures prohibiting the cultivation of genetically modified organisms accepted for inclusion in the common catalogue and authorised as existing products pending measures based on Article 26a of Directive 2001/18/EC

**Joined cases C-58/10 to C-68/10 *Monsanto SAS e.a.* [2011] nyr.**

8 September 2011

Agriculture – Genetically modified animal feed – Emergency measures – Measure adopted by a Member State – Provisional suspension of an authorisation granted pursuant to Directive 90/220/EEC – Legal basis – Directive 2001/18/EC – Article 12 – Sectoral legislation – Article 23 – Safeguard clause – Regulation (EC) No 1829/2003 – Article 20 – Existing products – Article 34 – Regulation

(EC) No 178/2002– Articles 53 and 54 – Conditions of application

**Case C-442/09 *Bablok e.a.* [2011] nyr.**

6 September 2011

Genetically modified food for human consumption – Regulation (EC) No 1829/2003 – Animal feed - Articles 2 to 4 and 12 – Directive 2001/18/EC – Article 2 – Directive 2000/13/EC – Article 6 – Regulation (EC) No 178/2002 – Article 2 – Apicultural products – Presence of pollen from genetically modified plants – Consequences – Placing on the market – Definition of ‘organism’ and ‘food for human consumption containing ingredients produced from genetically modified organisms’

**Case C-165/08 *Commission v Poland* [2009] ECR I-6843**

16 July 2009

Genetically modified organisms – Seed – Prohibition on placing on the market – Prohibition on inclusion in the national catalogue of varieties – Directives 2001/18/EC and 2002/53/EC – Reliance on ethical and religious grounds – Burden of proof

**Case C-552/07 *Commune de Sausheim v Azelvandre* [2009] ECR I-987**

17 February 2009

Directive 2001/18/EC – Deliberate release of genetically modified organisms – Location of release – Confidentiality

**Case C-121/07 *Commission v France* [2008] ECR I-9159**

9 December 2008

Failure of a Member State to fulfil obligations – Directive 2001/18/EC – Deliberate release into the environment and placing on the market of GMOs – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Non-compliance – Article 228 EC (Article 260 TFEU) – Judgment complied with during the proceedings – Pecuniary penalties

**Joined cases C-439/05 P and C-454/05 P *Land Oberösterreich v Commission* [2007] ECR I-7141**

13 September 2007

Appeal – Directive 2001/18/EC – Decision 2003/653/EC – Deliberate release into the environment of genetically modified organisms – Article 95(5) EC – National provisions derogating from a harmonisation measure justified by new scientific evidence and by a problem specific to one Member State – Principle of the right to be heard

**Case C-132/03 *Codacons et Federconsumatori* [2005] ECR I-4167**

26 May 2005

Regulation (EC) No 1139/98 – Article 2(2)(b) – Additional labelling requirement for foodstuffs – Compulsory particulars concerning the presence of material derived from genetically modified organisms (GMOs) – Genetically modified soya beans and maize – Exemption from the requirement in the case of adventitious presence not exceeding a particular level – Foodstuffs intended for particular nutritional use – Infants and young children – Whether derogation applies – Precautionary principle

**Case C-429/01 *Commission v France* [2003] ECR I-14355.**

27 November 2003

Failure of a Member State to fulfil obligations - Failure to transpose Directive 90/219/EEC -

Genetically modified organisms - Contained use

**Case C-316/01 *Glawischnig* [2003] ECR I-5995.**

12 June 2003

Freedom of access to information - Information relating to the environment – Directive 90/313/EEC - Breaches of the rules on labelling of foodstuffs produced from genetically modified organisms

**Case C-296/01 *Commission v France* [2003] ECR I-13909.**

20 November 2003

Failure of a Member State to fulfil obligations - Failure to transpose Directive 90/220/EEC - Genetically modified organisms

**Case C-236/01 *Monsanto Agricoltura Italia e.a.* [2003] ECR I-8105.**

9 September 2003

Regulation (EC) No 258/97 - Novel foods - Placing on the market - Safety assessment - Simplified procedure - Substantial equivalence to existing foods - Foods produced from genetically modified maize - Presence of residues of transgenic protein - Measure by a Member State temporarily restricting or suspending the trade in or use of a novel food in its Territory

**Case C-6/99 *Association Greenpeace France e.a.* [2000] ECR I-1651.**

21 March 2000

Directive 90/220/EEC - Biotechnology - Genetically modified organisms - Decision 97/98/EC  
- Maize seeds

**Case C-156/93 *European Parliament v Commission* [1995] ECR I-2019.**

13 July 1995

Legislation on organic production of agricultural products - Respective powers of the Council and the Commission - Prerogatives of the Parliament

## **2. General Court Case Law**

**Case T-240/10 *Hungary v Commission* [2013] nyr.**

13 December 2013

Directive 2001/18/EC – Deliberate release of genetically modified organisms – Placing on the market Amflora potato – Comitology procedure (Council Decision 1999/468) – Prior consultation of EFSA - No qualified majority at regulatory committee level and at Council level - Additional opinion requested by the European Commission to EFSA – Additional opinion not communicated neither to the regulatory committee nor to the Council - Essential procedural requirement involving a matter of public policy – Principle of institutional equilibrium – Requirement must be raised by the EU court of its own motion – Nullification of the authorisation

**Case T-164/10 *Pioneer Hi-Bred Intl* [2013] nyr.**

26 September 2013

Authorisation procedure for placing on the market – Comitology - Failure by the Commission to submit a draft decision to the Council - Action for failure to act

**Case T-69/08 *Poland v Commission* [2010] ECR II-5629**

9 December 2010

Approximation of laws – Directive 2001/18/EC – National provisions derogating from a harmonisation measure – Commission decision rejecting those provisions – Not notified within the six-month period laid down in the first subparagraph of Article 95(6) EC (now Article 114(6) TFEU)

**Case T-42/05 *Rhiannon Williams v Commission* [2008] ECR II-156**

10 September 2008

Access to documents – Regulation (EC) No 1049/2001 – Preparatory documents relating to the adoption of Directive 2001/18/EC on GMOs – Partial refusal of access – Implied refusal of access – Exceptions relating to the protection of commercial interests, protection of international relations and protection of the decision-making process – Obligation to state reasons

**Joined Cases T-366/03 and T-235/04 *Land Oberösterreich and Austria v Commission* [2005] ECR II-4005**

5 October 2005

Approximation of laws – National provisions derogating from a harmonisation measure – Ban on the use of genetically modified organisms in Upper Austria – Conditions for application of Article 95(5) EC (Article 114(5) TFEU)

### **3. WTO Dispute Settlement Body**

*European Communities - Measures Affecting Asbestos and Asbestos-containing Products* (WT/DS135/11, 12th March 2001)