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Italian Farmer Fights for Right to Cultivate GE Maize MON810

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Biotechnology - GE Plants and Animals

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Report Highlights:

On March 30, 2017, following a request for a preliminary ruling from the Italian District Court of Udine, the advocate general at the European Court of Justice (CJEU) Michal Bobek [proposed](#) the CJEU conclude that member states can adopt emergency measures concerning genetically modified food and feed only if they can establish, in addition to urgency, the existence of a situation which is likely to constitute a clear and serious risk for human, animal health, and the environment, as set out in Art. 34 of EU Regulation No. 2003/1829 on genetically modified food or feed. The CJEU Judges are now beginning their deliberations in this case. Judgment will be given at a later date.

Italian Farmer Fights for Right to Cultivate GE Maize MON810

Since July 2013, Italy has been banning the cultivation of genetically engineered (GE) crops, despite two European Food Safety Authority (EFSA) rulings stating no new scientific evidence has been presented to support Italy using the safeguard clause. For more information, please see GAIN [IT1643](#).

On October 1, 2015, the Italian Ministry of Agriculture notified the European Commission of Italy's decision to "opt out" of cultivating EU (European Union) authorized GE crops as per Directive [No. 2015/412](#), which allows Member States (MS) to prohibit in-country cultivation for reasons other than public health or the environment. Socioeconomic and public policy concerns could be used, but also town and country planning, coexistence, and land use. These reasons may be invoked individually or in combination, depending on the particular circumstances in the MS, region, or area in which the measures will apply.

In November 2015, Giorgio Fidenato, President of the Federated Farmers Association, and others ('the applicants') were prosecuted before the Italian District Court of Udine for having cultivated GE maize MON 810 in breach of a national decree issued July 12, 2013 prohibiting its cultivation in the Italian territory. [The decree was first introduced as an emergency measure based on Art. 34 of EU Regulation [No. 2003/1829](#) on genetically modified food or feed, and Art. 54 of EU Regulation [No. 2002/178](#)]. A penal order was issued, against which the applicants lodged an opposition, claiming that the national decree was unlawful since it was issued in breach of Art. 34 of EU Regulation [No. 2003/1829](#), and Art. 53 and 54 of EU Regulation [No. 2002/178](#).

In this context of criminal proceedings against the applicants, on February 24, 2016, the Italian District Court of Udine asked the European Court of Justice (CJEU) whether emergency measures concerning genetically modified food and feed might be taken on the basis of the precautionary principle for risks that have not been explicitly foreseen by Art. 34 of EU Regulation [No. 2003/1829](#).

The applicants, the Italian government, and the European Commission presented oral arguments at the hearing held in Luxemburg on February 9, 2017. The Commission stated, "Interim measures must be justified by a serious and evident risk for human, animal health, and the environment, as per Art. 34 of EU Regulation [No. 2003/1829](#). Such an interim measure is legal if justified by emergency and a risk assessment. The risk should be ascertained on the basis of reliable scientific data, showing that this measure is necessary in the absence of EU provisions within the meaning of Art. 53 of the EU Regulation [No. 2002/178](#)".

The Italian government agreed that interim measures under Art. 34 of EU Regulation [No. 2003/1829](#) need to be based on the existence of risks for human, animal health, and the environment. However, that does not preclude member states from adopting emergency measures in accordance with Art. 54 of EU

Regulation No. 2002/178 on the basis of the precautionary principle, even in cases where the Commission has not identified such risks.

On March 30, 2017, the advocate general at the European Court of Justice (CJEU) Michal Bobek [proposed](#) that the CJEU conclude that member states can adopt emergency measures concerning genetically modified food and feed only if they can establish, in addition to urgency, the existence of a situation which is likely to constitute a clear and serious risk for human, animal health, and the environment, as set out in Art. 34 of EU Regulation No. 2003/1829. The CJEU Judges are now beginning their deliberations in this case. Judgment will be given at a later date.