

Press and Information Division

**PRESS RELEASE No 14/04**

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Judgment of the Court of Justice in Case C-182/01

*Saatgut-Treuhandverwaltungsgesellschaft mbH v Werner Jäger*

**HOLDERS OF COMMUNITY PLANT VARIETY RIGHTS ARE FREE TO  
CHOOSE THE LEGAL FORM THEY WISH TO TAKE**

*Consequently, a limited liability company may enforce the rights of holders who are members of other organisations of holders, where those organisations are shareholders in the company enforcing the rights concerned*

Regulation No 2100/94 establishes a system of Community plant variety rights<sup>1</sup>. The person who has bred or discovered and developed a variety is entitled to a Community plant variety right. The regulation provides for an exception to the general principle of protection of the holder's rights, known as the "agricultural exemption". Farmers may use, on their holdings, harvested material from a protected variety without having to obtain the holder's authorisation. That exception was adopted on the basis of the public interest in safeguarding agricultural production.

A 1995 regulation lays down the conditions to give effect to that exception and provides that farmers (apart from "small farmers") who make use of this option must pay the holder of the plant variety right limited remuneration<sup>2</sup>. The regulation also deals with the farmer's information obligation, by virtue of which the farmer must provide certain information to the holder, and with the ability of individual holders, several holders collectively or an organisation of holders to enforce their rights.

Mr Jäger, a German farmer, refused to provide Saatgut-Treuhandverwaltungsgesellschaft mbH (a German limited company engaged in trust

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1 Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ 1994 L 227, p.1).

2 Commission Regulation (EC) No 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) No 2100/94 (OJ 1995 L 173, p. 14).

management in relation to seeds) with any information about whether he had made use of the agricultural exemption during the 1997/1998 growing season.

The Landgericht Düsseldorf dismissed the action brought by Saatgut-Treuhandverwaltungsgesellschaft on the ground that it was not entitled to bring such an action. The Oberlandesgericht Düsseldorf, on appeal, asked the Court of Justice whether a limited company can constitute an "organisation of holders" and whether a holder of a Community plant variety right may require information from any farmer, irrespective of whether there is any evidence to suggest that the agricultural exemption has been used.

The Court started by pointing out that the term "organisation of holders" is not defined in the 1995 Regulation. However, it noted that the regulation leaves the choice of which legal form the organisation is to take to the holders and that therefore it may be an association or a limited company.

The Court held that, if the holders are free to choose the legal rules applicable to their organisation, the same must also be true as regards the members. Consequently, an organisation of holders may be made up of both natural persons and other organisations, which themselves have members who are holders of rights. However, a holder of a plant variety right who is not a member of any organisation of holders (i.e. is neither a direct nor an indirect member) cannot arrange for his interests to be safeguarded by such an organisation in return for payment.

Finally, the Court concluded that it follows from its case-law<sup>3</sup> that the two regulations at issue do not enable the holder, where he has no evidence that the agricultural exemption may have been used, to ask a farmer whether he has exercised that right.

*Unofficial document, for media use only, which does not bind the Court of Justice.*

*Available languages: English, French, German.*

*The full text of the judgment can be found on the internet ([www.curia.eu.int](http://www.curia.eu.int)).*

*In principle it will be available from midday CET on the day of delivery.*

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<sup>3</sup> Judgment of 10 April 2003 in Case C-305/00 *Saatgut-Treuhandverwaltungsgesellschaft mbH* [2003] ECR I-3525 (see also press release No 32/03).