



Press and Information

Court of Justice of the European Union

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Judgment in Case C-111/16
Giorgio Fidenato and Others

Member States may not adopt emergency measures regarding genetically modified food and feed unless it is evident that there is a serious risk to health or the environment

In 1998,¹ the European Commission authorised the placing on the market of genetically modified maize MON 810. In its decision, the Commission referred to the opinion of the Scientific Committee which stated that there was no reason to believe that that product would have any adverse effects on human health or the environment.

In 2013, the Italian Government asked the Commission to adopt emergency measures to prohibit the cultivation of maize MON 810 in the light of some new scientific studies carried out by two Italian research institutes. On the basis of a scientific opinion issued by the European Food Safety Authority (EFSA), the Commission concluded that there was no new science-based evidence to support the requested emergency measures and to invalidate its previous conclusions about the safety of maize MON 810. Despite this, in 2013 the Italian Government adopted a ministerial decree prohibiting the cultivation of MON 810 in Italian territory.

In 2014, Mr Giorgio Fidenato and others cultivated maize MON 810 in breach of the ministerial decree, for which they were prosecuted.

In the context of criminal proceedings brought against those persons, the Tribunale di Udine (District Court, Udine, Italy) asked the Court of Justice, in particular, whether emergency measures may, in relation to food, be taken on the basis of the precautionary principle. In accordance with the precautionary principle, Member States may adopt emergency measures in order to avert risks to human health that have not yet been fully identified or understood because of scientific uncertainty.

By its judgment delivered today, the Court points out, first of all, that both EU food law² and EU legislation on genetically modified food and feed³ seek to ensure a **high level of protection of human health** and consumers' interest, whilst ensuring the effective functioning of the internal market, of which the **free movement** of safe and wholesome food and feed is an essential aspect.

In that context, the Court finds that, **where it is not evident that genetically modified products are likely to constitute a serious risk** to human health, animal health or the environment, **neither**

¹ Commission Decision of 22 April 1998 concerning the placing on the market of genetically modified maize (*Zea mays* L. line MON 810), pursuant to Council Directive 90/220/EEC (OJ 1998 L 131, p. 32).

² Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1). Article 7 of that regulation, entitled '*Precautionary principle*', allows Member States to adopt provisional risk management measures '*in specific circumstances where ... the possibility of harmful effects on health is identified but scientific uncertainty persists*'.

³ Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ 2003 L 268, p. 1). Article 34 allows Member States to adopt emergency measures '*where it is evident that [authorised genetically modified] products ... are likely to constitute a serious risk to human health, animal health or the environment*'.

the Commission nor the Member States have the option of adopting emergency measures such as the prohibition on the cultivation of maize MON 810.

The Court emphasises that the **precautionary principle**, which presupposes scientific uncertainty as regards the existence of a particular risk, **is not sufficient for the adoption of such measures**. Although that principle may justify the adoption of provisional risk management measures in the area of food in general, it does not allow for the provisions laid down **in relation to genetically modified foods** to be disregarded or modified, in particular by relaxing them, since those foods have already gone through a full scientific assessment before being placed on the market.

Moreover, the Court finds that **a Member State may**, where it has officially informed the Commission of the need to resort to emergency measures and where the Commission has not acted, **adopt such measures at the national level. Furthermore, it may maintain or renew those measures, so long as the Commission has not adopted a decision** requiring their extension, amendment or abrogation. In those circumstances, the national courts have jurisdiction to assess the lawfulness of the measures concerned.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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