

Case C-182/01

Saatgut-Treuhandverwaltungsgesellschaft mbH

v

Werner Jäger

(Reference for a preliminary ruling
from the Oberlandesgericht Düsseldorf)

(Plant varieties — System of protection — Article 14(3) of Regulation (EC) No 2100/94 and Articles 3(2) and 8 of Regulation (EC) No 1768/95 — Organisation of holders — Meaning — Organisation's obligation to act only for its members — Use by farmers of the product of the harvest — Obligation to provide information to the holder of the Community right)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 7 November 2002 I - 2266

Judgment of the Court (Fifth Chamber), 11 March 2004 I - 2286

Summary of the Judgment

1. *Agriculture — Uniform laws — Protection of plant variety rights — Article 3(2) of Regulation No 1768/95 — Meaning of organisation of holders — Limited liability company — Whether covered*
(Council Regulation No 2100/94, Art. 14; Commission Regulation No 1768/95, Art. 3 (2))
2. *Agriculture — Uniform laws — Protection of plant variety rights — Article 14(3) of Regulation No 2100/94 and Article 8 of Regulation No 1768/95 — Holder not able to request the information specified in the provisions in question from a farmer where there is no indication of use by the latter, for propagating purposes, of the product of the harvest obtained from seeds of a protected variety*
(Council Regulation No 2100/94, Art. 14(2) and (3); Commission Regulation No 1768/95, Art. 8)

1. Article 3(2) of Regulation No 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Regulation No 2100/94 on Community plant variety rights is intended to allow holders of Community plant variety rights to organise themselves appropriately in order to enforce the rights which they derive from Article 14 of Regulation No 2100/94, leaving the choice of which legal form the organisation is to take to those holders; the organisation may thus take the form of a limited company.

invoke the rights of holders who, although not members of the first organisation or of another organisation which is, have appointed it to safeguard their interests in return for a consideration.

(see paras 51, 58, operative part 1)

Such an organisation may invoke the rights of holders who are members of another organisation where the other organisation is itself a member of the first organisation. However, it may not

2. The provisions of the sixth indent of Article 14(3) of Regulation No 2100/94 on Community plant variety rights in conjunction with Article 8 of Regulation No 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Regulation No 2100/94 cannot be construed as meaning that the holder of a Community

plant variety right can require a farmer to provide the information specified in those provisions where there is no indication that the farmer has used or will use, for propagating purposes in the field, on his own holding, the product of the harvest obtained by planting, on his own holding, propagating material of a variety other than a hybrid or synthetic variety which is

covered by that right and belongs to one of the agricultural plant species listed in Article 14(2) of Regulation No 2100/94.

(see para. 62, operative part 2)