

Case C-305/00

Christian Schulin

v

Saatgut-Treuhandverwaltungsgesellschaft mbH

(Reference for a preliminary ruling
from the Oberlandesgericht Frankfurt am Main)

(Plant varieties — System of protection — Article 14(3) of Regulation (EC)
No 2100/94 and Article 8 of Regulation (EC) No 1768/95 — 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 21 March
2002 I-3527
Judgment of the Court (Fifth Chamber), 10 April 2003 I-3543

Summary of the Judgment

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 cannot require a farmer to provide the information specified in those provisions where there is no indication of use for propagation of a 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)

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 Commission 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. 72, operative part)