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Judgment of the Court of Justice in Joined Cases C-364/24 and C-393/24| Fidenato

Agriculture: Member States may under certain conditions prohibit the cultivation of genetically modified organisms (GMOs) in their territory

The Court endorses the procedure that allows the Commission, on demand of a Member State and with the tacit consent of the authorisation holder, to restrict the zone where the cultivation of a GMO is authorised and also confirms the lawfulness of the prohibition on cultivating MON 810 maize introduced in Italy on the basis of that procedure

An Italian farmer planted genetically modified maize (MON 810) even though such cultivation is prohibited in his Member State. The Italian authorities thus ordered the farmer to destroy the plants in question and imposed on him fines totalling € 50 000.

The prohibition was decided on the basis of a procedure laid down in EU law: ¹ in 2015, the EU legislature adopted provisions establishing common rules for determining the conditions under which Member States may restrict or prohibit the cultivation of GMOs in their territory as the legislature considered that such choices must be made at Member State level. The EU legislature provided, *inter alia*, that where a Member State, without providing any specific justification, demands adjustment of the geographical scope of the authorisation for the cultivation of a GMO and where the authorisation holder does not oppose it within 30 days, the European Commission takes formal notice of that adjustment, which immediately becomes applicable. That effectively results in the prohibition of the cultivation of the GMO in question in the territories where the authorisation, as adjusted, is not applicable. Within that framework, many Member States have restricted or prohibited the cultivation of MON 810 maize in all or part of their territory.

The farmer in question brought actions before the Italian courts against the decisions taken against him. Within the context of those actions, those courts have submitted several questions for a preliminary ruling to the Court of Justice so that, *inter alia*, the Court could verify the validity of the provisions laying down that procedure.

The national courts seek in particular clarification from the Court of Justice as to compliance with the free movement of goods, the freedom to conduct a business and the principles of non-discrimination and proportionality.

In its judgment the Court takes account of the fact that a prohibition of the cultivation of a GMO, such as the one in force in Italy, is decided with the tacit consent of the holder of the authorisation relating to that GMO. The Court also highlights that the EU legislature has a broad discretion when it intervenes in areas such as the cultivation of GMOs, which involve complex assessments and have political, economic and social repercussions, both at national and local levels. Against that background, the Court finds that the **procedure provided for by EU law since 2015 – which allows Member States, in line with subsidiarity, to seek the prohibition of the cultivation of a GMO in their territory without any specific justification where the authorisation holder is not opposed to it – is not contrary to EU law.**

The Court specifically holds that such a mechanism is not in breach of the principle of proportionality, nor does it create any discrimination between farmers from different Member States.

The prohibition on cultivating a GMO does not constitute an infringement of the free movement of goods either,

as it does not hinder undertakings from importing products containing that GMO nor does it hinder consumers from buying those products.

Last, the Court finds that the obligation to justify the restriction or prohibition of the cultivation of a GMO only applies where the authorisation holder is opposed thereto. In the present case, the tacit consent of the authorisation holder rules out that scenario and any interference with the freedom to conduct a business.

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 an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The prohibition of cultivation was laid down in [Commission Implementing Decision \(EU\) 2016/321](#) of 3 March 2016 adjusting the geographical scope of the authorisation for cultivation of genetically modified maize (*Zea mays L.*) MON 810 (MON-ØØ81Ø-6), adopted on the basis of the procedure set out in Article 26c of [Directive 2001/18/EC](#) of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.