

Parties to the main proceedings

Applicants: Salzburger Gebietskrankenkasse and Bundesminister für Arbeit, Soziales und Konsumentenschutz

Interveners: Alpenrind GmbH, Martin-Meat Szolgáltató és Kereskedelmi Kft, Martimpex-Meat Kft, Pensionsversicherungsanstalt and Allgemeine Unfallversicherungsanstalt

Questions referred

1. Does Article 5 of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, ⁽¹⁾ which establishes the binding effect of documents within the meaning of Article 19(2) of Regulation (EC) No 987/2009, also apply in proceedings before a court within the meaning of Article 267 TFEU?

2. If Question 1 is answered in the affirmative:

a) Does the aforementioned binding effect also apply where proceedings had previously taken place before the Administrative Commission for the Coordination of Social Security Systems and such proceedings did not result either in agreement or in a withdrawal of the contested documents?

b) Does the aforementioned binding effect also apply where an 'A 1' document is not issued until after the receiving Member State has formally determined that insurance is compulsory under its legislation? Does the binding effect also apply retroactively in such cases?

3. In the event that, under certain conditions, the binding effect of documents within the meaning of Article 19(2) of Regulation (EC) No 987/2009 is limited:

Does it contravene the prohibition on replacement set forth in Article 12(1) of Regulation (EC) No 883/2004 if the replacement occurs not in the form of a posting by the same employer but instead by another employer? Does it matter whether

a) the second employer has its registered office in the same Member State as the first employer, and

b) the first and the second posting employer share staffing and/or organisational resources?

⁽¹⁾ OJ 2004 L 284, p. 1.

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 17 October 2016 —
Confédération paysanne, Réseau Semences Paysannes, Les Amis de la Terre France, Collectif vigilance
OGM et Pesticides 16, Vigilance OG2M, CSFV 49, OGM: dangers, Vigilance OGM 33, Fédération
Nature et Progrès v Premier ministre, Ministre de l'agriculture, de l'agroalimentaire et de la forêt**

(Case C-528/16)

(2017/C 014/29)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Confédération paysanne, Réseau Semences Paysannes, Les Amis de la Terre France, Collectif vigilance OGM et Pesticides 16, Vigilance OG2M, CSFV 49, OGM: dangers, Vigilance OGM 33, Fédération Nature et Progrès

Defendants: Premier ministre, Ministre de l'agriculture, de l'agroalimentaire et de la forêt

Questions referred

1. Do organisms obtained by mutagenesis constitute genetically modified organisms within the meaning of Article 2 of Directive [2001/18/EC] of 12 March 2001,⁽¹⁾ although they are exempt under Article 3 of and Annex IB to the directive from the obligations laid down for release and placing on the market of genetically modified organisms? In particular, may mutagenesis techniques, in particular new directed mutagenesis techniques implementing genetic engineering processes, be regarded as techniques listed in Annex IA, to which Article 2 refers? Consequently, must Articles 2 and 3 of and Annexes IA and IB to Directive 2001/18 of 12 March 2001 be interpreted as meaning that they exempt from precautionary, impact assessment and traceability measures all organisms and seeds obtained by mutagenesis, or only organisms obtained by conventional random mutagenesis methods by ionising radiation or exposure to mutagenic chemical agents existing before those measures were adopted?
2. Do varieties obtained by mutagenesis constitute genetically modified varieties within the meaning of Article 4 of Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species,⁽²⁾ which would not be exempt from the obligations laid down in that directive? Or, on the contrary, is the scope of that directive the same as that which under Articles 2 and 3 of and Annex IB to the Directive of 12 March 2001, and does it also exempt varieties obtained by mutagenesis from the obligations laid down for the inclusion of genetically modified varieties in the common catalogue of agricultural plant species by the Directive of 13 June 2002?
3. Do Articles 2 and 3 of and Annex IB to Directive 2001/18/EC of 12 March 2001 on the deliberate release into the environment of genetically modified organisms constitute, insofar as they exclude mutagenesis from the scope of the obligations laid down in the directive, a full harmonisation measure prohibiting Member States from subjecting organisms obtained by mutagenesis to all or some of the obligations laid down in the directive or to any other obligation, or do the Member States, when transposing those provisions, have a discretion to define the regime to be applied to organisms obtained by mutagenesis?
4. May the validity of Articles 2 and 3 of and Annexes IA and IB to Directive 2001/18/EC of 12 March 2001 with regard to the precautionary principle guaranteed by Article 191(2) of the Treaty on the Functioning of the European Union, in that those provisions do not subject genetically modified organisms obtained by mutagenesis to precautionary, impact assessment and traceability measures, be called in question, taking account of the development of genetic engineering processes, the appearance of new plant varieties obtained by means of those techniques and the current scientific uncertainty as to their impacts and the potential risks they represent for the environment and human and animal health?

⁽¹⁾ 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 — Commission Declaration (OJ 2001 L 106, p. 1).

⁽²⁾ Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ 2002 L 193, p. 1).

Action brought on 18 October 2016 — European Commission v Republic of Poland

(Case C-530/16)

(2017/C 014/30)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: W. Mölls and J. Hottiaux, acting as Agents)

Defendant: Republic of Poland