

VIEWS ON NEW PLANT BREEDING TECHNIQUES

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Call for a more suitable regulatory framework for New Plant Genomic Techniques (NPGTs)

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Objective

We wish to support the legitimate request from a large part of the civil society, the scientific community and representatives of the food chain sectors in favour of a proper legal recognition of the New Plant Genomic Techniques (NPGTs). In view of the challenging goals of the European Green Deal and the respective Farm to Fork Strategy, we fully agree that “The EU needs to develop innovative ways to protect harvests from pests and diseases and to consider the potential role of new innovative techniques to improve the sustainability of the food system, while ensuring that they are safe.¹”

After the ECJ ruling on the case C-528/16 of 25 July 2018, by which the Court decided to consider innovative mutagenesis techniques as falling under the scope of the EU GMO Directive 2001/18/EC, it has become increasingly clear that the legislation needs to be updated to take into account new technological developments.

For the sake of the sustainability of the entire EU food chain, it is essential to secure a regulatory framework that is adapted to the plant varieties that are being developed through NPGTs, and which may deliver beneficial traits for the benefit of the whole society.

We are concerned by the regulatory gap between the EU and the rest of the world created by the ECJ ruling and ask the EU institutions to work towards an EU regulatory framework that is compatible with the ones of other countries having already regulated NPGTs. We believe that this is essential to enable NPGTs to deploy their full potential, and thereby contribute to many of the Sustainable Development Goals, in particular food security and climate change.

Facts

- The use of New Plant Genomic Techniques makes the breeding process faster and more precise. As a result of technological advancements in this field, NPGTs are even more accurate in comparison to traditional breeding techniques as they can deliver a much better targeted genetic improvement.

¹ EU Commission Communication “The European Green Deal – COM 2019) 640 (page 12)

- Contrary to transgenesis, even when these mutations are induced by human intervention, they do not involve the introduction of foreign DNA in the plant.
- NPGTs can be used to replicate or mimic mutations that can occur in plants naturally or by conventional breeding methods. As a consequence, derived products can hardly be differentiated.
- NPGTs can make a significant contribution to a greener agriculture by reducing the need for fertilizers and pesticides, while being more productive. In a time of a rising demand for food from a growing world population and extreme climate variations, plants must be able to thrive both under extreme cold and hot temperatures, high rainfall and droughts, while relying less on fertilizers and plant protection products. More accurate animal feeding resulting from the use of nutritionally improved crops may also improve feed conversion ratio and thereby improve nitrogen efficiency and decrease greenhouses gas emissions from livestock farming.

Our Concerns

In some third countries, plants resulting from NPGTs have already been placed on the market and an increasing number of plant varieties are being developed with these techniques around the world, by both the private and public sectors. Nonetheless, neither traders nor processors, nor the control authorities are able to ensure a proper control of compliance of imported goods with the EU legislation as clarified by the ECJ ruling.

This is because:

- The application of the ruling would require obligatory controls and traceability /labelling. Nevertheless, without the analytical tools to identify commodities derived from NPGTs this could be difficult to achieve. A scientifically reliable, legally enforceable and regulatory consistent identification of the origin of the mutation may not be possible considering new traits that could have occurred in nature without human intervention or with traditional breeding techniques. The lack of clear detection methodologies for NPGTs was specifically mentioned by the Joint Research Centre of the Commission last March 2019².
- For this reason, no laboratory, whether official or private, has presently the capacity to perform such controls.

The trading sector has also to accommodate with requirements in food chain logistics and contractual terms:

- Given that a number of exporting countries do not regulate NPGTs as GMOs, there will be no incentive for a number of exporters to pay attention to whether a shipment contains NPGT crops, in accordance with the concept of commodity. The extent to which Third Country will be willing to develop specific IP systems will depend on how important the EU market is for them (economically and politically wise) and the payback they can get for their investments. Any IP system would require a robust traceability system. The absence of analytical methods as “verification tool” will not only increase the costs as it will require certification of processes but will also expose EU operators to a risk of fraud.
- Third countries could file Specific Trade Concerns (STC) under WTO rules, on the grounds of trade distortions and restrictions.

The lack of clarity in the EU regulatory environment and the ECJ ruling also deprives European farmers from having access to plant breeding innovations, making EU agriculture and the supply chain

² European Network of GMO Laboratories (ENGL), Detection of food and feed plant products obtained by new mutagenesis techniques, 26 March 2019 (JRC116289)

gradually less competitive and less sustainable, while further eroding the position of the EU as a centre of excellence in research in the agri-food sector. With a less productive agriculture, this may also increase dependency on sourcing outside the EU.

For the reasons above, we feel there is an urgent need for the EU legislation to be adapted.

Our asks

- We urge authorities to suspend the enforcement of the decision of the Court of Justice to minimise trade disruption. This means that plants resulting from NPGTs should not be subject to the requirements from GM regulations until the legislation has been reconsidered.
- We ask authorities to reflect on a timely, proportionate and equilibrate EU-wide regulatory approach to address plants obtained through NPGTs. The resulting regulatory framework would allow an official oversight of such plants while not impeding their developments, trade and wide-scale adoption once proper risk assessment has been validated
- Since NPGTs can lead to a spectrum of changes (from single nucleotides to the creation of new metabolic pathways), and with no insertion of exogenous genetic material, NPGTs should not be regulated the same way as GMOs and risk assessment frameworks should be flexible and the degree of oversight commensurate with the risk.
- we ask that a further fragmentation of the internal market be avoided, by excluding provisions such as opt-out clauses.
- We ask to be properly informed in a timely manner of new genetic varieties obtained under NPGTs by business partners along the chain in order to be compliant with their duties in accordance with the General Food Law.