

## Court deals major blow to European anti-GM crops lobby

March 22 2011, by Roddy Thomson

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An activist demonstrates against genetically-modified crops in France in 2008. France broke the law when it halted cultivation of genetically-modified crops without first asking the EU to impose emergency measures, the legal advisor to Europe's top court has said.

Europe's top court dealt a huge blow to the anti-GM foods lobby Tuesday, saying states broke EU law by halting genetically-modified crop cultivation without first seeking action in Brussels.

European Court of Justice advocate-general Paolo Mengozzi's opinion provided a major fillip to a lawsuit-hungry GM foods industry and stunned enraged environmental campaigners.

For countries defending a flood of legal action by GM-food giants led by US-based Monsanto, it marked a potentially fatal blow for campaigners

fighting to contain the march of so-called 'Frankenfoods.'

"The French authorities could not suspend the cultivation of genetically-modified maize MON 810 on national territory without having first asked the European Commission to adopt emergency measures citing a risk to health and the environment," Mengozzi said.

Judges are not bound by the legal opinion, but in the vast majority of cases the argument stands.

Mengozzi said France could not block MON 810 maize by invoking a safeguard clause, inserted into European Union law in 2004, because the strain was first authorised under an earlier directive in 1998.

"European law has been improved -- and the newer article gives states the right to present new scientific proof of a risk to health," Friends of the Earth expert Mute Schimpf told AFP.

"France took its decision following widespread consultation of the industry, the scientific community, farmers and consumers.

"Why should a company have a right under European Union law to attack a democratic state in this way?

"If the judges take the same view, it would mean not one single member state has the right to ban [GM crops](#), except the two already authorised," she railed, admitting "huge surprise."

Monsanto applied for MON 810 re-authorisation in 2007, for 10 years, but France the next year outlawed its growing, amid public outcry in a famously proud traditional farming nation.

The safeguard clause may not be invoked by states on their own, the

court said.

Besides, in this instance, the company was not informed of the legal basis for its exclusion from the French market.

The court also said the wrong foundation was used: it should have been based on law covering raw material foodstuffs and genetically-modified animal feed.

Only the European Commission can make that call, the court said, because only Europe-wide action could act sufficiently to protect health and the environment.

EU health commissioner John Dalli's spokesman refused to comment awaiting a definitive judgment.

Europe has got itself into a bind on GM foods. Just two crops are currently authorised -- a maize strain for animal feed and a potato for paper-making. Decisions on a lengthening list of others are in deadlock.

Six more states -- Austria, Bulgaria, Germany, Greece, Hungary and Luxembourg -- have also banned Monsanto maize cultivation.

The EU process for authorising new crops is in total impasse. The commission proposes that individual territories may use cultural and other non-science-based reasons to ban growing, provided they allow EU-wide movement of permitted crops and products.

Brussels wants restrictions removed because it fears they flout World Trade Organization rules.

Authorisations for marketing GM products are also stuck in the logjam, although governments voted last month to allow crops containing tiny

traces of genetically-modified produce to enter the European food chain for the first time.

A top US trade official recently lobbied openly for unfettered GM-foodstuffs access to the EU market of half a billion consumers.

"When Europeans come to the United States, they come and enjoy our cuisine with no concerns whatsoever," she said.

"Why should (you) have different standards in Europe?"

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