

# Top EU lawyer clears way to stem-cell patent ruling

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A human egg used to produce stem cells but unable to develop into a viable embryo can potentially be patented, a key EU legal chief said Thursday.

In an opinion of huge interest for biotechnology companies investing in

stem-cell research, Advocate General Pedro Cruz Villalon said such eggs did not meet the definition of what constituted a human embryo.

Cruz Villalon recommended that the European Court of Justice should therefore find that they do not come under EU rules which deny patents on eggs which could develop into a human embryo.

The ECJ is Europe's top court on questions of EU law and regularly publishes opinions by its senior lawyers on pending cases.

The court mostly follows such recommendations.

Cruz Villalon was commenting on a case brought by International Stem Cell Corporation against the UK Intellectual Property Office for refusing to grant it two patents.

The British authorities had argued that since the eggs involved were active and developing, even if not fertilised by male sperm, then European Union law meant the company could not secure a patent on them.

ISC contested the ruling, saying the eggs, activated by a chemical process known as parthenogenesis, could not develop into human beings as they lacked the full parental DNA required.

Human [embryonic stem cells](#) originally came from normally fertilised eggs but this caused serious ethical misgivings since the embryos were subsequently destroyed as the [stem cells](#) were collected.

As a result, scientists welcomed the development of parthenogenesis as it met at least some of these concerns, allowing them a clearer conscience in one of the pioneer fields of healthcare research.

Cruz Villalon also recognised, however, that recent research had pointed to the possibility that such [eggs](#) might in the future be so modified that they could in effect be considered [human embryos](#).

In that case, European Union member states would still have the right under existing law to deny patents on ethical and moral grounds, he said.

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