



NBT Platform's position regarding European Court of Justice's ruling on Case C-528/16

On 25th July 2018, the European Court of Justice (ECJ) delivered its ruling on [Case C-528/16](#) which aims to clarify the [legal status of mutagenesis](#). The NBT Platform welcomes the ECJ's intentions to clarify the regulatory framework around NBTs but regrets to see its conclusions that modern forms of mutagenesis a priori lead to products covered by the EU GMO legislation.

The consequence of this legal interpretation is the EU deprivation of capacity to tackle societal challenges related to climate change and food security. It will threaten the economic growth of the EU plant breeding sector, create difficulty at maintaining employment, weaken the competitiveness of many small and medium enterprises vis-à-vis countries outside the EU and hamper transitions towards more sustainable agriculture methods.

Extended version

In recent years, scientific progress has led to the rapid development of innovative methods of plant breeding, commonly referred to as New Breeding Techniques (NBTs). However, the novel nature of these technologies has led to the discussion whether these techniques lead to products that are subject to the EU GMO legislation (EU Directive 2001/18/EU on Deliberate Release of Genetically Modified Organisms).

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mutagenesis a priori lead to products covered by the EU GMO legislation.

Missing the opportunity to innovate Europe

The NBT Platform believes that the European Union is missing the opportunity to allow the continuous evolution of plant breeding, therefore threatening the continuous progress of the plant breeding techniques. This further deprives the European society to benefit from the many opportunities opened by the latest developments of the plant breeding technologies.

Existing techniques might not be enough

Global population growth is causing a rising demand for food. The [United Nations estimates](#) that by 2050 around ten billion people will live on the planet and in order to provide sustenance for them, the agriculture sector needs to adapt fast and develop new ways of assuring food security.

Existing techniques alone do not represent a sustainable solution. To tackle global challenges we depend on the complete tool box of breeding techniques. The reduced availability of freshwater, natural limits in arable land, and widespread soil degradation already led to a slowdown in productivity. Furthermore, climate change is threatening crops worldwide, making environmental conditions (e.g. droughts and floods) amongst the leading causes of harvest loss. Therefore, next to conventional techniques, NBTs help farmers to cultivate crops that need less pesticide and use fewer natural resources (e.g. water, land, fertilizer and energy) than conventionally bred crops.



The European plant breeding sector is at risk

The European plant breeding sector is a frontrunner in terms of technologic innovation accounting for nearly 50% of all global research on NBTs and representing a market value of around €7 billion. However, of the more than 7000 companies in the EU seed sector, a significant portion (in some Member States up to 90%) are Small-and-Medium-Size Enterprises (SMEs), which are widely recognised as a major driver of innovation and economic growth.

Unfortunately, many of these companies depend heavily on NBTs to remain competitive and now that new forms of mutagenesis fall under the scope of the Directive 2001/18/EC, many SMEs will not be able to withstand the competition of foreign enterprises and will have to abandon or relocate their activities, with negative implication on jobs, R&D and economic growth.

With an average R&D investment level of 10% per year, the total R&D investment value is estimated at around €700 million per year. A loss of 30% of the R&D in the EU would mean a loss in investment in high level equipment and jobs amounting to €210 million.

The European Union becomes a museum

The European Union is not alone, and in many other parts of the world, governments and public authorities are in the process of providing NBTs with an appropriate legal framework. For example, United States, India, Canada, Japan and the Republic of Korea determined that all crops derived from the use of NBTs, do not fall a priori in their own GMO legislation, but require a case-by-case assessment.

With such a regulatory framework these countries support the commercial development of NBTs without harming the investments made in R&D and the economy. Conversely, by not allowing a scientifically sound assessment of the many

products and applications made possible by NBTs, the competitiveness of the EU plant breeding sector is hampered.

The ECJ decision impairs the whole food supply chain

The ECJ ruling not only harms the European plant breeding and farming sector but the whole food supply chain. For example, NBTs help food producers and retailers to aim for higher quality standards for their products by achieving a longer shelf life, slowing the natural process of rotting and reducing oxidative browning after processing or bruising during transport. This ultimately results in less food waste, a lower environmental impact and a reduction of cost for the end users.

Finally, NBTs are important for consumers as well, as they make it possible to improve food quality by further enhancing healthy traits such as vitamin levels, and by reducing allergens and pesticides residues. They also help in ameliorating food proprieties such as colour, odour, flavour and texture.

About the NBT Platform

The NBT Platform is a coalition of SMEs, industry and members of prominent academic and research institutes. Its aim is to provide policy makers and stakeholders with clear and precise information on NBTs and to generate awareness about their benefits for the European economy and society as a whole.

More information on www.nbtplatform.org, or contact us via info@nbtplatform.org.