



The Rt Hon Michael Gove, MP
Secretary of State for Environment, Food and Rural Affairs
Seacole Building
2 Marsham Street
London
SW1P 4DF

25 July 2018

Dear Secretary of State

We are writing to inform you that a field trial of genome edited *Camelina Sativa* which is currently being conducted by Rothamsted Research, is unlawful under the Genetically Modified Organisms (Deliberate Release) Regulations 2002, which implement EU Directive 2001/18/EC regulating the release of GMOs into the environment.

As you may be aware, the legal status of genome edited plants has been a matter of dispute, with some organisations (including our own) arguing that they fall under GMO legislation, whilst others have argued that they do not. Today a ruling from the Grand Chamber of the European Court of Justice (ECJ) has clarified this matter.¹

The ruling states that Article 2(2) of Directive 2001/18 must be interpreted as meaning that organisms obtained by means of techniques/methods of mutagenesis constitute GMOs within the meaning of that provision. Further, the ruling states that Article 3(1) of Directive 2001/18, read in conjunction with point 1 of Annex I B to that directive, cannot be interpreted as excluding, from the scope of the directive, organisms obtained by means of new techniques/methods of mutagenesis which have appeared or have been mostly developed since Directive 2001/18 was adopted.

In May 2018, a field trial at Rothamsted Research commenced comprising 20 strains of *Camelina sativa*: 17 genetically modified (GM) lines, two genome edited lines and one wild-type, or control line.² The trial of the GM lines received consent from Defra under GMO legislation, following the required risk assessment and consultation process under legislation covering the experimental release of genetically modified organisms (GMOs).³ However, the gene edited lines were treated as

¹ European Court of Justice. ECLI:EU:C:2018:583 JUDGMENT OF THE COURT (Grand Chamber). 25 July 2018. <http://curia.europa.eu/juris/document/document.jsf?text=&docid=204387&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=709582>

² WHERE GM MEETS GE. Rothamsted Research Press Release. <https://www.rothamsted.ac.uk/news/where-gm-meets-ge>

³ ENVIRONMENTAL PROTECTION ACT 1990, SECTION 111: CONSENT TO RELEASE GENETICALLY MODIFIED ORGANISMS, REFERENCE: 18/R8/01. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708552/gmo-decision-letter-18r801.pdf

falling outside the legislative requirements for GMOs and no risk assessment was published or consultation held prior to their release. Instead, the Advisory Committee on Releases to the Environment (ACRE) provided advice on genome-edited *Camelina sativa* plants with increased levels of oleic acid under S.124 of the Environmental Protection Act 1990.⁴ That advice states:

“ACRE considers that Camelina sativa plants produced by CRISPR-Cas9 genome-editing could have been produced through traditional breeding techniques. CRISPR-Cas9 genome-editing is a mutagenesis technique. Recombinant nucleic acid molecules were involved in the development of CRISPR-Cas9 genome-edited Camelina lines. However, DNA from the CRISPR-Cas9 transformation vector is not present in either of the two genome-edited Camelina lines in question i.e. no transgenes are present. Consequently, it would not be possible to determine whether these lines had been produced by genome-editing or by traditional mutagenesis because they would be genetically indistinguishable”.

It is clear from today’s judgment that this advice erred in law, as organisms obtained by mutagenesis, including new genome editing techniques, are GMOs and are subject to the obligations laid down by the GMO Directive. Only organisms obtained by mutagenesis techniques which have conventionally been used in a number of applications and have a long safety record are exempt from those obligations.

In the light of today’s judgement, the trial is clearly unlawful and should cease immediately. Any future trials of genome edited plants will require a full risk assessment and public consultation prior to the open release of such plants into the environment.

Yours sincerely,



Dr Helen Wallace
Director
GeneWatch UK
86, Dedworth Rd, Windsor, SL4 5AY.
Email: helen.wallace@genewatch.org



Liz O'Neill
Director
GM Freeze
Open Space Cooperative, Unit 1, 41 Old Birley Street, Hulme, Manchester, M15 5RF.
Email: liz@gmfreeze.org

⁴ ACRE advice: application for a trial of GM camelina (18/R08/01).
<https://www.gov.uk/government/publications/acre-advice-application-for-a-trial-of-gm-camelina-18r0801>