



## PRESS RELEASE

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### **European Court of Justice: Honey containing pollen from genetically modified maize MON 810 must not be marketed – „zero tolerance“ for genetically modified material without approval**

Today, the European Court of Justice issued a groundbreaking judgment (legal case C-442-09).

Honey containing pollen from genetically modified maize MON 810 needs an approval before being marketed because it is „genetically modified food“ in the sense of European genetic engineering law. With its decision, the highest European Court made clear that even tiniest traces of genetically modified (GM) material in food or feeding stuff demand a safety control and a special approval following genetical engineering law. Without an approval, it is illegal to market such food. According to the European Court of Justice, the strict standards now required are necessary to protect people’s health from the so far unknown risks of genetic engineering. The decision is important not only for beekeeping, but in general for the production of food and feeding stuff as well as for trade.

Information on the lawsuit: German beekeepers went to German courts to demand protection against the unwitting input of pollen from GM modified maize MON 810 of the Monsanto company. A laboratory found pollen from this maize in Karl Heinz Bablok’s honey. Bablok, who lives close to the south German town of Augsburg, is one of the litigating beekeepers. MON 810 is approved for its use in feeding stuff as well as in some processed food made from maize kernel (e. g. polenta). However, there is no approval for other food containing pollen of the crop.

The Bavarian Higher Administrative Court presented the case to the European Court of Justice. The latter now largely confirmed the beekeepers’ legal opinion. Each food containing material from genetically modified plants is subject to European genetic engineering law. It is then food



„made from genetically modified organisms“. This means that there must be a safety control and that an approval according to the European regulation on genetically modified food and feeding stuff (VO 1829/2003) is required. According to German law, an infringement of this can be chargeable. This is not only valid for honey and other food produced within the boundaries of the European union, but also for imports containing traces of material from genetically modified crops that don't have sufficient approval within the EU.

The European Court of Justice contradicts the opinion of the European Commission, which claims that honey doesn't need a control nor an approval because the pollen came into the honey unwittingly and without human assistance. According to the European Court of Justice, even smallest amounts of MON 810 pollen getting into the honey unwittingly make it a produce that must no longer be marketed. Nor was it sufficient that the Monsanto maize has an approval for being cultivated. In the court's opinion, a comprehensive approval is necessary also for food with an input of this pollen.

Thus, the Court confirms the policy of „zero tolerance“ for traces of genetically modified material which does not have the approval necessary according to European law.

Following the judgment by the European Court of Justice, beekeepers now – depending on the individual case - may have a claim for damages against a farmer if MON 810 pollen from his cultivation gets into their honey. If the beekeeper can no longer sell his honey, this is considered a „major impairment“ causing a claim for damage. If the beekeeper moves his bees in order to prevent this impairment, it is also possible that the cultivator is liable for the additional work and expense of the beekeeper.

Whether the beekeepers also have a claim for protection (e. g. cutting off the panicles) depends on German genetic engineering law. In the case of beekeeper Bablok, the Augsburg administrative court, balancing the interests of both parties, ruled that there should be no such claims for protection. The Bavarian Higher Administrative Court as the second level of jurisdiction indicated that it might share this view.

According to their lawyers, GGSC from Berlin, the beekeepers do not have to tolerate the impairment. They have a claim to be protected from GMO cultivation. This is true especially for



crops with pollen that can spread into a huge area without any means of control if cultivated in the open air. Thus, the pollen can get into food, and the risks going along with this have neither been thoroughly studied nor are they covered by an official approval. Crops like MON 810, which have such a gap of approval, are hardly „capable of co-existence“ and unbearable for traditional agriculture. Chances are that it is necessary to appeal to the Federal Administrative Court in order to prosecute the beekeepers' claim for protection.

Currently, it is prohibited in Germany to market MON 810; however, Monsanto have taken action for its renewed approval.

The beekeepers' case is pleaded for by Berlin lawyers GCC in the European High Court as well as in the Bavarian Higher Administrative Court. The German beekeepers' association Mellifera e. V. initiated the German „Alliance for the Protection of Bees against Genetic Engineering in Agriculture“, which supports the litigating beekeepers. Members of the Alliance are the umbrella organisations of German beekeepers as well as several associations of the German food economy.

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