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GMO Compass

Setting-up of this website financially supported by the European Union within the European Commission's Sixth Framework Programme from 1 January 2005 until 28 February 2006.

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what's what.



GMO Food Database.

Want to know for which food products or plants gene technology plays a role?

Enter here the name of a product, foodstuff, ingredient or organism:

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Environmental associations: lawsuit against Amflora in the European Court of Justice

(11 May 2010) Several environmental associations state the intention to take legal action in the European Court of Justice against the cultivation approval for the genetically modified (GM) 'Amflora' potato. A decision is not expected before the end of 2011. However, it remains unclear whether the lawsuit will be acknowledged.

More than forty associations and firms are driving for the reversal of the cultivation approval issued at the beginning of March for the GM starch potato known as 'Amflora'. As a first step, the group has submitted an appeal against the approval pronounced by the EU Commission. Dismissal of this appeal is expected, upon which the group would address the European Court of Justice (ECJ). If this court acknowledges the suit, the actual legal proceedings may begin.

The lawsuit brought by the associations is grounded primarily on the [G](#)antibiotic resistance marker gene used in the 'Amflora' potato. The group claims that the transfer of this gene to bacteria cannot be ruled out. Therefore, the danger exists that important antibiotics may lose effectiveness against bacterial pathogens, states Hubert Weiger, chairperson of the German Association for Environmental Protection and Nature Conservation (Bund für Umwelt und Naturschutz, BUND).

According to Christoph Palme, legal advisor to the associations, the approval of 'Amflora' therefore violates the valid European legal guidelines on green gene technology. Since 2005, the Deliberate Release Directive (2001/18) conditionally prohibits the approval of genetically modified plants that contain antibiotic-resistance markers.

The directive does not declare all marker genes used in GM plants to be unacceptable, referring only to those "that may have damaging effects on human health or the environment" (article 4). The European Food Safety Authority (EFSA) and other scientific institutions repeatedly have addressed the question of whether this restriction applies to the nptII marker gene used in the 'Amflora' potato and which provides resistance to the antibiotic known as [G](#)kanamycin.

In its final step towards approval, the EU Commission

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had requested a "consolidated, scientific assessment" from the expert Panel for Gene Technology (GMO) and Panel for Biological Hazards (BIOHAZ) at EFSA. The resulting survey was published in summer 2009. It concluded that "negative effects on human health and the environment" resulting from the use of marker genes in genetically modified plants "are unlikely, according to current scientific knowledge". The survey also states that the transfer of a marker gene from GM plants to bacteria remains unsubstantiated to date, both under natural conditions and in the laboratory. Only in the case of actual occurrence of such "horizontal gene transfer" would it be possible that the antibiotic resistance of GM plants be passed on to pathogens.

See also on GMO-Compass:

- ▶ [New EFSA Opinion: BASF now calls for approval of the Amflora potato \(News, 11 June 2010\)](#)
- ▶ [EU-Law Overview: The Two Laws Governing Genetically Modified Plants](#)
- ▶ [Food Safety Evaluation: Antibiotic Resistance Genes: A Threat?](#)

Further information:

- ▶ [Klage gegen Amflora vor Europäischem Gerichtshof \(BUND press release 11.05.2010, German language\)](#)
- ▶ [Amflora BASF](#)

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