

## Hungarian Co-existence Legislation Underway

On 9 November, the Hungarian government passed the draft amendment of the Act on Gene Technologies (1998/XVII) incorporating a new chapter with co-existence rules. This move was preceded by a lengthy preparation process, which goes back to late 2004. As a first step, the Ministry of Agriculture convened a special working group, composed of fellow state agencies, expert organizations, such as the Chamber of Agriculture, the Seed Council and the Association of Plant Breeders, research institutions, organic growers, but also a representative of environmental NGOs could participate. During the first half of the year, the working group met every month, and its members were free to express their stance and opinion both in writing and person. During the debates it soon turned out that most participants – including those representing agriculture organizations – favour a strong co-existence rule and would rather keep GMOs out of the country, with the ministry itself not leaning towards GMOs either. Pressure came from an unexpected direction: the Minister of Economy, after his visit to the US tried to convince his colleague that biotechnology is the future of agriculture. Fortunately, agriculture officials didn't bow to it – at least up to now – and thus, there was a chance to create good legislation. The ministry began its work with the group by making an overview of existing and planned co-existence laws in other EU Member States, and decided that Hungarian regulation should be part of the comprehensive GMO act, and not a separate piece of legislation. Especially as co-existence wasn't the only purpose of the amendment, but the present text needs to be changed in a number of points to fine-tune it to EU-legislation, for example a paragraph on the application of the safeguard clause was also added.

In the course of its work, the group discussed several drafts and made important amendments. Thus, the final version adopted by the government, while it does have some shortcomings, contains fairly strict and wide-ranging provisions. The core of the co-existence regulation itself is a two-step approval process. Farmers wishing to plant GMOs must have a diploma proving that they have the necessary knowledge to do it, and request permission from the competent authority for each planting. After receiving the request, the authority must seek the opinion of the Ministry of Environment, and based on this, issues a preliminary approval, which still doesn't entitle the farmer to start planting. In order to do that, he/she must obtain the agreement of all land owners and users within the isolation zone. In their declaration, neighbours must also oblige themselves not to plant any sexually compatible plants, and this commitment may be prosecuted. (Under Hungarian land distribution, according to the ministry's calculations, in case of a 6 hectare plot this may mean as many as 57 agreements!) If one neighbour refuses to make this declaration, permit can't be granted. Illegal activities or the breach of permit conditions can be fined.

Permits will be valid for one planting season, and their list will be made public by the authority. Even after planting, the farmer is obliged to keep GMO seeds and crops separately and to observe precautionary measures. The law would also oblige seed traders to check whether their buyers have planting permit, to keep records of their sales of GMO seeds and to report them to the authority annually.

Detailed rules and isolation zones are not included in the law itself, but will be regulated by a lower-level decree, which is not passed yet. Most likely the distances will be defined as twice the ones for elite seed production – e.g. 400 metres for corn, however, the authority can also prescribe bigger separation zones as well. The weakest point of the legislation is liability and compensation, as the proposal doesn't create any special mechanism, in spite it was repeatedly demanded mainly by organic farmers. In its present form, the text only contains a reference to the Civil Code's provisions on hazardous facilities, thus, in case of contamination conventional farmers could only seek compensation in the court which tends to be a lengthy and expensive process. Officials argued that the establishment of a fund or insurance obligation would cause serious legal problems under the Hungarian system. However, even in the absence of any mechanism, Hungarian co-existence legislation, if passed in its present form, will probably be among the more restrictive in Europe.

The legislative process continues now in Brussels, as the draft was submitted for notification, which may take 3 months (and be prolonged with a further 3 in case many comments come). As general elections in Hungary are scheduled for next April/May, if the notification process isn't accomplished by very early 2006, our Parliament won't be able to pass the law only after the summer holidays, potentially leaving farmers without protection for another year. Therefore we keep our fingers cross for a speedy and smooth notification process.

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