

## Request for Internal Review

### EUROPEAN COMMISSION

Mr. Markos Kyprianou  
EU Commissioner for Health  
DG Health and Consumer Protection  
B-1049 BRUSSELS

Dear Mr. Kyprianou,

**Justice & Environment** represented by the undersigned **dr. Csaba Kiss** as Chair hereby submits to the European Commission the following

### Request for Internal Review

**pursuant to Article 10 of the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies against the following European Community legal acts:**

- 2007/701/EC – Commission Decision of 24 October 2007 authorizing the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603xMON810 (MON-ØØ6Ø3-6xMON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (notified under document number C(2007) 5140)
- 2007/702/EC – Commission Decision of 24 October 2007 authorizing the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122 (DAS-59122-7) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (notified under document number C(2007) 5141)
- 2007/703/EC – Commission Decision of 24 October 2007 authorizing the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507xNK603 (DAS-Ø15Ø7-1xMON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (notified under document number C(2007) 5142)

**Justice & Environment** thinks that the three Commission Decisions by not requiring the respective authorization-holders to label their products with the words “genetically modified” but merely with the words “maize” and “not for cultivation”, are against the respective provisions (cited later) of the Regulations (EC) No. 1829/2003 and (EC) No. 1830/2003.

**Detailed reasoning to the request for internal review:**

## A) The Applicant

Justice & Environment is a network of public interest environmental law organizations based in the EU member states (see: [www.justiceandenvironment.org](http://www.justiceandenvironment.org)).

Justice & Environment is legally registered as an “association with full legal capacity” according to the respective domestic law under the file number 34213713 by the Dutch Chamber of Commerce.

The statutory seat of Justice & Environment is in Amsterdam (the Netherlands) at:  
Plantage Middenlaan 2D,  
1018 DD Amsterdam,  
Netherlands

The center of operation of Justice & Environment is in Brno (Czech Republic) at:  
Dvořákova 13,  
602 00 Brno,  
Czech Republic

The current members of Justice & Environment are:

- The Center for Environmental Public Advocacy (VIA IURIS, Slovakia)
- The Estonian Fund for Nature (ELF, Estonia)
- The Environmental Law Service (EPS, Czech Republic)
- The Environmental Management and Law association (EMLA, Hungary)
- ÖKOBÜRO – Koordinationsstelle österreichischer Umweltorganisationen (ÖKOBÜRO, Austria)

The associate members of J&E are:

- Association for Environmental Justice (Spain),
- The Centre for Legal Resources (Romania),
- The Front 21/42 (Macedonia),
- The International Institute for Law and the Environment (Spain),
- The Legal Information Centre (Slovenia),
- The Milieukontakt (Netherlands)
- The Zelena Akcija (Croatia)

Justice & Environment aims to use law to protect people, the environment and nature. Its primary goal is to ensure the implementation and enforcement of EU legislation through the use of European law and the exchange of information.

The Justice & Environment Network is a non-partisan independent NGO.

## B) Criteria set by the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council

Justice & Environment meets the criteria set by the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council required from a non-governmental organization to be able to submit a request for internal review. The aforementioned criteria are set in two articles:

### Article 10 Paragraph 1

*“any non-governmental organization”*

Justice & Environment clearly and undoubtedly falls under the category of a non-governmental organization, which is demonstrated by the fact that it is registered as an association by the Dutch Chamber of Commerce.

### Article 11

*“(a) it is an independent non-profit-making legal person in accordance with a Member State’s national law or practice;”*

Justice & Environment is independent from both governmental and business interests, which is demonstrated by the fact that its membership includes only non-profit, non-governmental organizations registered in European Union Member States such as Austria, Czech Republic, Estonia, Hungary and Slovakia.

Justice & Environmental is also a non-profit-making entity, which is demonstrated by the respective provisions of its statute.

Justice & Environment is a legal person, which is demonstrated by the fact that it is registered as an association by the Dutch Chamber of Commerce.

Justice & Environment is registered in accordance with the national law of the Netherlands, the latter being a Member State of the European Community since 1957.

*“(b) it has the primary stated objective of promoting environmental protection in the context of environmental law;”*

Justice & Environment aims to use law to protect people, the environment and nature. Its primary goal is to ensure the implementation and enforcement of EU legislation through the use of European law and the exchange of information.

Justice & Environment works at EU and national levels. Internationally, Justice & Environment focuses on implementation and transposition of horizontal as well as sectional legal issues. The strong grass roots contacts of its members encourages Justice & Environment to concentrate on horizontal problems with the Aarhus Convention and related legislation, Environmental Impact Assessment, Environmental Liability, Pollution, Waste, GMO, Natura 2000, Transport and organizational capacity.

Justice & Environment cooperates with the Green 10. As a legal specialist, Justice & Environment fills a niche in providing hard evidence for the lobbying efforts of EU level environmental NGOs. Organizations such as the EEB, Bankwatch, T&E and Birdlife International need this information for their lobbying efforts.

The information flow is two way: Justice & Environment also receives information from the Green 10 on current issues in EU policy development and lawmaking, enabling it to keep up with the state of the play. Justice & Environment then re-distributes this information to its network members.

#### **What Justice & Environment does in detail:**

- National Transposition Legal Analyses
- Collecting case studies
- Compiling joint position papers
- Strategic complaints
- Discussion and education
- Outreach
- Needs Analysis

#### **Areas of J&E activity in 2007:**

In 2007 Justice & Environment's activities were carried out in three main pillars:

- activities on the international level,
- activities on the national level,
- capacity building activities.

Each of these pillars interacts in synergy; one enhancing and supporting the other two.

Justice & Environment has seven international priority issues for 2007

- Aarhus Convention
- Environmental Liability Directive (ELD)
- Integrated Pollution Prevention and Control Directive (IPPC)
- Natura 2000
- Strategic Environmental Impact Assessment (SEA)
- Environmental Impact Assessment (EIA) in Transport Infrastructure Projects, and
- South Eastern Europe Capacity Building (SEE).

*“(c) it has existed for more than two years and is actively pursuing the objective referred to under (b);”*

Justice & Environment was established informally in 2003 and officially incorporated in September 2004.

Justice & Environment was registered by the Dutch Chamber of Commerce on 30 September, 2004.

Justice & Environment has been operational since its incorporation in the above mentioned fields.

*“(d) the subject matter in respect of which the request for internal review is made is covered by its objective and activities.”*

The subject matter of the Commission Decisions in respect of which the present request for internal review is made concerns the regulation of Genetically Modified Organisms (GMOs). Justice & Environment has dealt with GMOs in the previous years in numerous aspects, such as

- GMO regulation needs-analysis during the preparation for the Workplan 2007
- cooperation with Green 10 environmental NGOs in particular with Greenpeace International and Greenpeace Austria and Greenpeace Hungary
- protection of biodiversity in the implementation of the Workplan 2006 and Workplan 2007 of Justice & Environment

## C) Requirements of the request for internal review

Article 10, paragraph 1 of the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council, sets formal as well as material requirements for the request for internal review, in order to be eligible for consideration by the respective Community institution or body. These are:

*“to the Community institution or body that has adopted an administrative act”*

The present request for internal review is addressed to the Commission of the European Union. All three Commission Decisions that are requested to be reviewed were adopted by the Commission and were signed by Mr. Markos Kyprianou as Member of the Commission as EU Commissioner for Health.

*“an administrative act”*

All three Commission Decisions that are requested to be reviewed qualify as administrative acts according to Article 2, paragraph 1, point g of the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council:

*“any measure of individual scope under environmental law, taken by a Community institution or body, and having legally binding and external effects;”*

The Commission Decisions are measures having an individual scope and not having a legislative effect, which is demonstrated by the fact that all are addressed to specific legal entities such as

- Monsanto Europe S.A., Scheldelaan 460, Haven 627 — B 2040 Antwerp — Belgium (2007/701/EC)
- Pioneer Overseas Corporation, Avenue des Arts 44, B-1040 Brussels, Belgium and
- Dow AgroSciences Europe Ltd., European Development Centre, 3 Milton Park, Abingdon, Oxon OX14 4RN, United Kingdom (2007/702/EC) and (2007/703/EC)

The Commission Decisions are adopted under environmental law – see below.

The Commission Decisions are taken by a Community institution or body – see above.

The Commission Decisions are having legally binding and external effect. The Commission Decisions:

- contain provisions on authorization (Article 2), on labeling (Article 3) and on monitoring (Article 4), identically in each Commission Decision and use a legal language that is used for having a mandatory effect (e.g. *“the authorization holders shall ensure that”*); therefore they are undoubtedly legally binding
- contain provisions that relate to private legal entities not being Community institutions or bodies; therefore they are clearly having an external effect

*“under environmental law”*

All three Commission Decisions that are requested to be reviewed fall under environmental law according to Article 2, paragraph 1, point f of the Regulation (EC) No. 1367/2006 of the European Parliament and of the Council:

*“Community legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of Community policy on the environment as set out in the Treaty: preserving, protecting and improving the quality of the environment, protecting human health, the prudent and rational utilization of natural resources, and promoting measures at international level to deal with regional or worldwide environmental problems;”*

The regulation of GMOs falls under the scope of European Community (Union) environmental law according to the following sources:

- Ludwig Kramer: EC Environmental Law, Sweet & Maxwell, London, 2003, page 224
- Ludwig Kramer: Casebook on EU Environmental Law, Hart Publishing, Oxford-Portland Oregon, 2002, Page 233

- Jan H. Jans: European Environmental Law, Europa Law Publishing, Groningen, 2000, page 382
- Wybe Th. Douma: European Environmental Case Law, TMC Asses Press, the Hague, 2002, page 484

Moreover, the construction that regulation of GMOs fall under the scope of Community environmental law is reinforced by the judgment of the European Court of Justice in the case Association Greenpeace France and Others v. French State, GM Maize (C-6/99).

*“request must be made in writing”*

The present request is made in writing and addressed to the European Commission.

*“within a time limit not exceeding six weeks after the administrative act was adopted, notified or published, whichever is the latest”*

All three Commission Decisions were adopted on 24 October 2007 and published in the Official Journal of the European Community on 30 October 2007.

The six-week deadline of submission expires on 11 December 2007 before which date the present request is submitted to the European Commission.

*“The request shall state the grounds for the review.”*

See below.

## D) Grounds for the review

The respective body of legal enactments regulating the field of GMOs comprises the:

- Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC
- Regulation (EC) No. 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed and
- Regulation (EC) No. 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labeling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC

The Directive 2001/18/EC (which is a legislative instrument binding only on Member States and providing a legislative framework according to which certain results are required to be achieved) has the objective, in accordance with the precautionary principle, of approximating the laws, regulations and administrative provisions of the Member States and to protect human health and the environment when:

- carrying out the deliberate release into the environment of GMOs for any other purposes than placing on the market within the Community, and
- placing GMOs on the market as or in products within the Community.

There is a general obligation upon Member States to ensure that all appropriate measures are taken to avoid adverse effects on human health and the environment which might arise from the deliberate release or the placing on the market of GMOs. GMOs may only be deliberately released or placed on the market in conformity with the Directive 2001/18/EC.

A clear objective of the Directive 2001/18/EC is the protection of the environment and human health. That objective is also enshrined in the EC Treaty in Articles 6 and 152, although the Directive 2001/18/EC itself is based specifically on Article 95.

The Directive 2001/18/EC establishes a system of authorization for the release of GMOs with different but parallel provisions applying respectively to GMO release where such release is for some purpose other than marketing and to GMO release where GMOs are to be marketed as or contained in products. In either case, subject to limited exceptions, a release may take place only with and subject to the conditions of an authorization by EC legislation or from the competent authority of a Member State. An authorization has effect throughout the Community.

It follows therefore that Community law does not permit of any tolerance in relation to GMO content where the relevant GMO has not been authorized.

*For example, Article 4(5) of the Directive 2001/18/EC (which covers the general obligations imposed on Member States) provides that, in the event of an unauthorized release, the release must be “terminated”. The ordinary meaning of such an obligation is that the release must be stopped in its entirety, not stopped in part only or reduced in volume. The only circumstance in which unauthorized GMO content is tolerated is by virtue of transitional measures whereby authorization is not required for adventitious or technically unavoidable trace elements of GMO to a threshold of 0.5%, where an application for authorization in relation to that GMO has reached a certain stage in the process of consideration and certain stringent conditions have been met.*

The Directive 2001/18/EC also provides for the continued monitoring of GMO products for their potential effects on human health or the environment. To that end, the Directive 2001/18/EC seeks to ensure traceability of GMOs at all stages of the placing onto the market of products in which they are contained. With that in mind, Article 21 therefore provides for labeling and packaging of GMO products and provides:

**“1.** Member States shall take all necessary measures to ensure that at all stages of the placing on the market, the labeling and packaging of GMOs placed on the market as or in products comply with the relevant requirements specified in the written consent referred to in Articles 15(3), 17(5) and (8), 18(2) and 19(3).

**2.** For products where adventitious or technically unavoidable traces of authorized GMOs cannot be excluded, a minimum threshold may be established below which these products shall not have to be labeled according to the provision in paragraph 1. The threshold levels shall be established according to the product concerned, under the procedure laid down in Article 30(2).

**3.** For products intended for direct processing, paragraph 1 shall not apply to traces of authorized GMOs in a proportion no higher than 0,9 % or lower thresholds established under the provisions of Article 30(2), provided that these traces are adventitious or technically unavoidable.”

Article 21 therefore imposes an obligation to label authorized GMOs and product with authorized GM content. It recognizes however that there may be situations in which adventitious and technically unavoidable traces of authorized GMO cannot be excluded. In such circumstances, and only in such circumstances, there is an exception to the general obligation to label GM products where the technically unavoidable or adventitious content is lower than a specified threshold. In relation to products intended for direct processing, that threshold has been set at 0.9%. That threshold derives from an amendment to the Directive 2001/18/EC made by Regulation (EC) No. 1830/2003.

Regulations (EC) No. 1829/2003 and (EC) No. 1830/2003 apply a special regime to food and feed containing, consisting of or produced from GMOs. Regulations differ from Directive 2001/18/EC in that they are binding in their entirety, are directly applicable in Member States and bind individuals and companies as well as Member States. Regulation (EC) No. 1829/2003 establishes rules for the authorization, supervision and labeling of GM food and feed which are applicable to such food and feed irrespective of whether or not they contain products which have previously received an authorization pursuant to Directive 2001/18/EC. The objectives of the Regulation (EC) No. 1829/2003 are found in its Recitals, inter alia, as follows:

**“1.** The free movement of safe and wholesome food and feed is an essential aspect of the internal market and contributes significantly to the health and wellbeing of citizens, and to their social and economic interests.

**2.** A high level of protection of human life and health should be ensured in the pursuit of Community policies.

**3.** In order to protect human and animal health, food and feed consisting of, containing or produced from genetically modified organisms (hereinafter referred to as genetically modified food and feed) should undergo a safety assessment through a Community procedure before being placed on the market within the Community.”

With regard to labeling, the recitals to the Regulation (EC) No. 1829/2003 provide:

“**17.** In accordance with Article 153 of the Treaty, the Community is to contribute to promoting the right of consumers to information. In addition to other types of information to the public provided for in this Regulation, the labeling of products enables the consumer to make an informed choice and facilitates fairness of transactions between seller and purchaser.

**18.** Article 2 of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labeling, presentation and advertising of foodstuffs provides that labeling must not mislead the purchaser as to the characteristics of the foodstuff and among other things, in particular, as to its nature, identity, properties, composition, method of production and manufacturing.

[...]

**20.** Harmonized labeling requirements should be laid down for genetically modified feed to provide final users, in particular livestock farmers, with accurate information on the composition and properties of feed, thereby enabling the user to make an informed choice.

**21.** The labeling should include objective information to the effect that a food or feed consists of, contains or is produced from GMOs. Clear labeling, irrespective of the detectability of DNA or protein resulting from the genetic modification in the final product, meets the demands expressed in numerous surveys by a large majority of consumers, facilitates informed choice and precludes potential misleading of consumers as regards methods of manufacture or production.

**22.** In addition, the labeling should give information about any characteristic or property which renders a food or feed different from its conventional counterpart with respect to composition, nutritional value or nutritional effects, intended use of the food or feed and health implications for certain sections of the population, as well as any characteristic or property which gives rise to ethical or religious concerns.

**23.** Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labeling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC(16) ensures that relevant information concerning any genetic modification is available at each stage of the placing on the market of GMOs and food and feed produced therefrom and should thereby facilitate accurate labeling.

**24.** Despite the fact that some operators avoid using genetically modified food and feed, such material may be present in minute traces in conventional food and feed as a result of adventitious or technically unavoidable presence during seed production, cultivation, harvest, transport or processing. In such cases, this food or feed should not be subject to the labeling requirements of this Regulation. In order to achieve this objective, a threshold should be established for the adventitious or technically unavoidable presence of genetically modified material in foods or feed, both when the marketing of such material is authorized in the Community and when this presence is tolerated by virtue of this Regulation.

**25.** It is appropriate to provide that, when the combined level of adventitious or technically unavoidable presence of genetically modified materials in a food or feed or in one of its components is higher than the set threshold, such presence should be indicated in accordance with this Regulation and that detailed provisions should be adopted for its implementation. The possibility of establishing lower thresholds, in particular for foods and feed containing or consisting of GMOs or in order to take into account advances in science and technology, should be provided for.

**26.** It is indispensable that operators strive to avoid any accidental presence of genetically modified material not authorized under Community legislation in food or feed. However, in order to ensure the practicability and feasibility of this Regulation, a specific threshold, with the possibility of establishing lower levels in particular for GMOs sold directly to the final consumer, should be established as a transitional measure for minute traces in food or feed of this genetically modified material, where the presence of such material is adventitious or technically unavoidable and provided that all specific conditions set in this Regulation are met. Directive 2001/18/EC should be amended accordingly. The application of this measure should be reviewed in the context of the general review of the implementation of this Regulation.

**27.** In order to establish that the presence of this material is adventitious or technically unavoidable, operators must be in a position to demonstrate to the competent authorities that they have taken appropriate steps to avoid the presence of the genetically modified food or feed.”

The Regulation (EC) No. 1829/2003 itself makes, inter alia, the following provision for the labeling of GM food in Article 12:

“1. This Section shall apply to foods which are to be delivered as such to the final consumer or mass caterers in the Community and which:

- (a) contain or consist of GMOs; or
- (b) are produced from or contain ingredients produced from GMOs.

2. This Section shall not apply to foods containing material which contains, consists of or is produced from GMOs in a proportion no higher than 0,9 per cent of the food ingredients considered individually or food consisting of a single ingredient, provided that this presence is adventitious or technically unavoidable.

3. In order to establish that the presence of this material is adventitious or technically unavoidable, operators must be in a position to supply evidence to satisfy the competent authorities that they have taken appropriate steps to avoid the presence of such material.

4. Appropriate lower thresholds may be established in accordance with the procedure referred to in Article 35(2) in particular in respect of foods containing or consisting of GMOs or in order to take into account advances in science and technology.”

Parallel provisions apply in relation to GM feed.

Again, therefore, the precondition for the exclusion from the general obligation to label products with GM content is that the content is adventitious or technically unavoidable. The burden of proving that GM content is “*adventitious or technically unavoidable*” lies firmly with operators, which are defined in the Regulation (EC) No. 1829/2003 as “*the natural or legal person responsible for ensuring that the requirements of this Regulation are met within the food businesses or feed businesses under its control*”.

In the opinion of Justice & Environment, all three Commission Decisions breach the respective provisions regarding labeling of Regulation (EC) No. 1829/2003 and Regulation (EC) No. 1830/2003.

Each of the three Commission Decisions requested by the present request to be reviewed for internal review contain an identical provisions in Article 3 calling the authorization holders to label the authorized products

- “maize” (Paragraph 1) and
- “not for cultivation” (Paragraph 2)

However, this is contrary to the respective provisions of the aforementioned Regulations (EC) No. 1829/2003 and (EC) No. 1830/2003 to an extent that

Regulation (EC) No. 1829/2003 states in its Article 13, paragraph 1, that

“1. Without prejudice to the other requirements of Community law concerning the labeling of foodstuffs, foods falling within the scope of this Section shall be subject to the following specific labeling requirements:

(a) where the food consists of more than one ingredient, the words ‘genetically modified’ or ‘produced from genetically modified (name of the ingredient)’ shall appear in the list of ingredients provided for in Article 6 of Directive 2000/13/EC in parentheses immediately following the ingredient concerned;

(b) where the ingredient is designated by the name of a category, the words ‘contains genetically modified (name of organism)’ or ‘contains (name of ingredient) produced from genetically modified (name of organism)’ shall appear in the list of ingredients;

(c) where there is no list of ingredients, the words ‘genetically modified’ or ‘produced from genetically modified (name of organism)’ shall appear clearly on the labeling;

(d) the indications referred to in (a) and (b) may appear in a footnote to the list of ingredients. In this case they shall be printed in a font of at least the same size as the list of ingredients. Where there is no list of ingredients, they shall appear clearly on the labeling;

(e) where the food is offered for sale to the final consumer as non-pre-packaged food, or as pre-packaged food in small containers of which the largest surface has an area of less than 10 cm<sup>2</sup>, the information required under this paragraph must be permanently and visibly displayed either on the food display or immediately next to it, or on the packaging material, in a font sufficiently large for it to be easily identified and read.”

Regulation (EC) No. 1829/2003 states in its Article 25 Paragraph 2 that

“2. No person shall place a feed referred to in Article 15(1) on the market unless the particulars specified below are shown, in a clearly visible, legible and indelible manner, on an accompanying document or, where appropriate, on the packaging, on the container or on a label attached thereto. Each feed of which a particular feed is composed shall be subject to the following rules:

(a) for the feeds referred to in Article 15(1) (a) and (b), the words ‘genetically modified (name of the organism)’ shall appear in parentheses immediately following the specific name of the feed. Alternatively, these words may appear in a footnote to the list of feed. It shall be printed in a font of at least the same size as the list of feed;

**(b)** for the feed referred to in Article 15(1)(c), the words ‘produced from genetically modified (name of the organism)’ shall appear in parentheses immediately following the specific name of the feed. Alternatively, these words may appear in a footnote to the list of feed. It shall be printed in a font of at least the same size as the list of feed;

**(c)** as specified in the authorization, any characteristic of the feed referred to in Article 15(1) such as those indicated hereunder, which is different from its conventional counterpart:

- (i)** composition;
- (ii)** nutritional properties;
- (iii)** intended use;
- (iv)** implications for the health of certain species or categories of animals;

**(d)** as specified in the authorization, any characteristic or property where a feed may give rise to ethical or religious concerns.”

Regulation (EC) No. 1830/2003. states in its Article 4 Paragraph 6 that

“**6.** For products consisting of or containing GMOs, operators shall ensure that:

**(a)** for pre-packaged products consisting of, or containing GMOs, the words ‘This product contains genetically modified organisms’ or ‘This product contains genetically modified [name of organism(s)]’ appear on a label;

**(b)** for non-pre-packaged products offered to the final consumer the words ‘This product contains genetically modified organisms’ or ‘This product contains genetically modified [name of organism(s)]’ shall appear on, or in connection with, the display of the product.

This paragraph shall be without prejudice to other specific requirements in Community legislation.”

All the above cited provisions of the two respective Regulations (EC) No. 1829/2003 and (EC) No. 1830/2003 clearly require that the words “genetically modified” must appear on the labeling of authorized products containing GMO. However, the three Commission Decisions requested to be reviewed consider it sufficient to label the respective products simply with the words “maize” and “not for cultivation”.

On the one hand, the fact that the three Commission Decisions do not require the authorization holders to label their products with the words “*genetically modified*” delivers the false message that the labeling of the products in question is sufficient and perfectly legal without the use of the words “*genetically modified*”.

On the other hand, this is not only misleading in terms of the content of the labeling but it is clearly against the respective provisions (cited above) of the Regulations (EC) No. 1829/2003 and (EC) No. 1830/2003.

Justice & Environment believes that the conditions for placing on the market of certain products containing GMOs were invented for the protection of the environment and the health of the people of the European Union.

Therefore, Justice & Environment considers the precise and exhaustive labeling of GMO products an indispensable condition of ensuring a high level of protection for both the environment and human health as stipulated by Article 95 Paragraph 3 and Article 152, paragraph 1 of the Treaty.

For this reason, Justice & Environment respectfully asks the Commission to:

- consider the legality of the three Commission Decisions as cited above
- remedy the unlawfulness of the three Commission Decisions if found in breach of the respective Community environmental law as cited above
- inform Justice & Environment about its decision in the aforementioned matter.

Done at Budapest, 3 December 2007

For Justice & Environment  
dr. Csaba Kiss  
Chair of the Association  
[www.justiceandenvironment.org](http://www.justiceandenvironment.org)

**Postal Address:**

to the name of dr. jur. Pavel Cerny  
Justice & Environment  
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602 00 Brno  
Czech Republic

**Attachments:**

Statutes of Justice & Environment  
Registration Document of Justice & Environment