

RECENT DEVELOPMENTS IN POLISH SEED LAWS

On 5 January, 2012 the President of the Republic of Poland submitted a new bill which is to amend the existing Seed Act of 2003 ("Proposal"). The Seed Act of 2003 regulates the issue of GMO seed registration and trade in Poland.

The Proposal is to regulate the registration, production and marketing of seed and plant propagating material. The Chancellery of the President sought to amend the existing legislation after the President vetoed a different proposal submitted by the Polish government in August 2011 on the grounds that it infringed European Union regulations on GMO.

The purpose of this client briefing is to provide a summary of the Proposal.

Key issues

- Summary of developments in 2011
- Presidential bill of 5 January, 2012
- Most important amendments
- Current status of GMO
- Conclusions

SUMMARY OF DEVELOPMENTS IN 2011

The Seed Act of 2003, which is currently in force in Poland, forbids the trading and registration of GMO seeds. This regulation runs counter to the EU rules on GMO and, following the European Court of Justice's decision in case C-165/08, Poland is obliged to align its legislation with that of the EU.

In order to implement the necessary measures following the European Court of Justice's judgement and to regulate the issue of GMO in Poland, the Polish government submitted a legislative proposal in 2010 ("Governmental Proposal"). The President vetoed the Governmental Proposal, which passed the first stage of the legislative process in the Polish lower house of Parliament, arguing that the Parliament changed the original Governmental Proposal significantly, i.e. by removing nearly all the provisions regarding GMO. The bill did not address the main concerns identified by the European Court of Justice in its judgement, i.e. that Polish regulations on GMO were too restrictive in relation to those of Council Directive 90/220/EEC (repealed by Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms). Since the Presidential

veto was not overridden, the Seed Act of 2003 is still in force.

RESIDENTIAL BILL OF 5 JANUARY, 2012

The majority of the provisions in the Proposal are based on the Governmental Proposal, which was vetoed by the President. The most significant amendment in comparison to the existing Seed Act of 2003 is that all GMO regulations were excluded from the scope of the Governmental Proposal. The President concluded that the issue of GMO trade and cultivation should be the subject of a separate "mother-bill", which would regulate GMO-related issues in a comprehensive manner.

MOST IMPORTANT AMENDMENTS

The list of proposed amendments is long but the majority are not material. The most important include:

- a faster registration procedure in accordance with EU legislation;
- lower costs of registration for producers and suppliers;
- variety identification with respect to propagating materials and fruit

plants in accordance with Council Directive 2008/90/EC; and

- exemption from registration for small producers whose production and sales are intended for final use on the local market.

CURRENT STATUS OF GMO

The status of GMO has not changed since the Seed Act of 2003; therefore the registration of and trading in GMO seeds on the territory of Poland are forbidden.

CONCLUSIONS

Submitting a proposal to the Parliament is the first step in a long legislative process, and it is not unusual to see a substantially different law being enacted after an arduous time in both chambers. Therefore, once enacted, the Proposal may turn out to contain a number of provisions which were not included originally. Should the Proposal be enacted, the Seed Act will be replaced in its entirety and because the Proposal does not contain any regulations on GMO, the issue of GMO will not be regulated at all, unless a separate proposal is submitted by then. As at today's date, no proposal has been submitted to Parliament.

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