

*Unofficial translation of the parliament of Styria decision Nr. 187 from 24<sup>th</sup> May 2006 based upon and amending a draft, officially submitted to the European Union in 2005 according to Directive 98/34)*

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**Decision of the Provincial Parliament of Styria Nr.187  
9<sup>th</sup> session of the XV. Legislative period from  
24<sup>th</sup> of May 2006**

**Act of ..... putting into place precautionary measures for genetic engineering  
(Styrian Genetic Engineering Precautionary Measures Act – Austrian designation:  
StGTVG) and amending the Styrian Nature Conservation Act 1976**

**Article 1**

**Styrian Genetic Engineering Precautionary Measures Act - StGTVG**

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**Part 1**  
**General**

**Objectives and scope**  
**Section 1**

1) This Act serves

1. to protect European protected areas, nature protected areas, nature parks and the National Park 'Gesäuse';
2. to protect all agricultural land which is farmed GM-free;

(2) This Act shall not apply to work with genetically modified organisms in a closed system within the meaning of Section 4 point 7 of the Genetic Engineering Act.

**Definitions**  
**Section 2**

The following definitions shall apply for the purposes of this Act:

1. **GMOs:** genetically modified organisms within the meaning of Section 4 point 3 in conjunction with point 1 of the Genetic Engineering Act, or a combination of genetically modified organisms, genetically modified organisms combined with other organisms, or products comprising or containing genetically modified organisms;
2. **Application:** any activity aimed at using GMOs in the natural environment, in particular through sowing, planting out, cultivating or grafting;
3. **Approval under genetic engineering law:** written consent from the competent authority within the meaning of Articles 6, 7, 15, 17 or 18 of the GMO Release Directive;
5. **Precautionary measures:** measures employed in connection with the application of GMOs in order to prevent contamination by GMOs;
6. **Contamination:** the spread of GMOs above a threshold value of 0.1 percent (%);
7. **Impairment:** the spread of GMOs within European protected areas (Natura 2000 network), nature protected areas, nature parks and the National Park 'Gesäuse' to an extent that contradicts the purpose of protecting these areas according to the Styrian Nature Conservation Act 1976 and the Act on National Park 'Gesäuse';
8. **Neighbours:** all owners of, as well as parties entitled to use, land if this land could be contaminated or impaired as a result of the application of GMOs.

**Part 2**  
**Authorisation procedure**

**Obligation to obtain authorisation**  
**Section 3**

The application of GMOs is permitted only with the authorisation of the authority.

**Application**  
**Section 4**

The following shall be included with the application:

1. the land registry designation of the parcels of land intended to be used for application of GMOs;
2. proof of ownership or right of use relating to the parcels of land intended to be used;
3. proof of the consent of the landowner(s) to the intended use for the duration of the application where the applicant is not the sole owner or is only the party entitled to use the land;
4. names and addresses of the owners of the parcels of land immediately adjacent to the land intended to be used for the application of GMOs;
5. a description of the size, location and nature of the parcels of land intended to be used for the application of GMOs as well as a plan of location;
6. information enabling identification of the GMO to be applied;
7. proof of approval under genetic engineering law;
8. details of the project (intended purpose, schedule for application, methods of application, number of GMOs, method of disposal or destruction of the GMOs, in particular the second growth) and – if possible - any information on the cultivation of neighbouring parcels of land;
9. details of the intended precautionary measures.

**Party status**  
**Section 5**

The following shall have party status in the official procedure for authorisation of the application of GMOs:

1. the applicant;
2. the neighbours;

## **Objections Section 6**

The neighbours are entitled to insist on compliance with the legal provisions which serve to protect their land from contamination and impairment by GMOs within the meaning of Section 8(1) and (2).

## **Rights to consultation Section 7**

- (1) Within the course of the investigation, the authority must consult:
1. the municipality in which the land intended for the application of GMOs is located, as well as neighbouring municipalities;
  2. the Provincial Chamber for Agriculture and Forestry;
  3. the Styrian Chamber of Employees
  4. the environmental organisations recognised under Section 19 (7) of the Act on Environmental Impact Assessment 2000.

(2) The bodies referred to in paragraph 1 may send the authority their opinions within the framework of their right to consultation. The authority must invite those parties entitled to consultation who have submitted a written opinion within the set time limits to an oral debate, and give them the opportunity to provide a more detailed explanation of their opinion.

## **Authorisation Section 8**

(1) Authorisation shall be granted if in accordance with the state of the art of science and technology the proposed precautionary measures ensure that contamination by GMOs of other agricultural land that is farmed GM-free is prevented.

(2) In or beside European protected areas, nature protected areas, nature parks and the National Park 'Gesäuse' authorisation shall be granted if in accordance with the state of the art of science and technology the proposed precautionary measures ensure that the purpose of protecting these areas are not impaired.

(3) Authorisations shall be granted with the stipulation of requirements and conditions, if thereby contamination or impairment by GMOs could be prevented. In particular, authorisation may also be granted on the condition that the entitlement conferred may not be utilised before proof of insurance. The sum insured must be calculated to adequately cover the risk of damage facing the parties which may be affected. If the taking out of such insurance is not possible or is unreasonable, the authority must prescribe an equivalent provision of security.

(4) The authority must notify the Provincial Chamber for Agriculture and Forestry of the authorisations that have been granted for publication in their information bulletin with following data.

1. the name of the municipality or municipalities in which the land intended for the application of GMOs is located;
2. the area of application in hectares;
3. the species of cultivation (cultivars) and the variety name of the genetically modified plant and
4. the designation of the GMO including the unique identifier which has to be announced by the consent holder according to Commission Regulation (EC) No 65/2004.

### **Precautionary measures Section 9**

(1) The Provincial Government may lay down precautionary measures for individual GMOs in an Order. In so doing, the behaviour of GMOs specific to their species or variety, different aims of production (e.g. crop or seed production), regional aspects (e.g. form and size of the parcels of land in a region, climatic conditions, topography, surrounding structures) and genetic measures protecting against out-crossing shall be taken into account.

- (2) The following, in particular, shall be considered measures in accordance with paragraph 1:
1. compliance with isolation distances between parcels of land with GM crops and those with GM-free crops of the same species or genus or between parcels of land with GM crops and areas protected under nature conservation law;
  2. the installation pollen traps or pollen barriers on the parcels of land belonging to the applicant which is based on scientifically-sound knowledge;
  3. compliance with appropriate crop rotation systems and the planning of the production cycle (planting arrangements for different flowering and harvesting periods);
  4. the control of the population around the edges of fields by means of suitable cultivation methods;
  5. the selection of optimum sowing times and suitable cultivation methods;
  6. the careful handling of seed;
  7. the use of varieties with reduced pollen production or of sterile male varieties;
  8. the cleaning of the drilling machines before and after use;
  9. the joint use of drilling machines only by farmers that use the same production system (GM or GM-free production);
  10. appropriate tillage of the land during and after harvest.

**Part 3**  
**Inspection**

**The authority to inspect**  
**Section 10**

(1) Where necessary in order to enforce this Act, bodies entrusted with enforcement and the experts consulted by these bodies are authorised to access and inspect parcels of land, carry out analyses, demand the necessary information and to take the quantity of samples necessary for analysis, without compensation.

(2) Except where a delay could prove dangerous or if the purposes of the investigation could be impaired, the parties entitled to use the land shall be informed in good time. The bodies and experts must avoid any unnecessary disturbance or obstruction to the rights of use or interference with the rights of third parties.

(3) The landowners or the parties otherwise entitled to use the land are obliged to permit actions in accordance with paragraph 1 and to provide the authorities with all the information necessary for the enforcement of this Act.

(4) In the case of sampling, a duplicate sample shall be provided where possible. A record shall be made of the sampling.

(5) The Provincial Government may transfer, by means of a ruling, the carrying out of the inspection of particular tasks associated with the inspection to third persons. Only in the field of GMO-analysis accredited testing bodies may be called upon for the analyses. Tasks that have been transferred shall be fulfilled under the supervision and control of the transferring authority.

(6) The costs of sampling and analysis shall be borne by the province. If on the basis of an analysis an infringement of this act is established then the holder of authorisation shall bear the costs.

**Restoration**  
**Section 11**

(1) If GMOs have been applied without authorisation, the authority must order the perpetrator to discontinue any further implementation of the project immediately and to restore the previous state of affairs.

(2) If the perpetrator cannot be ordered to do this, the owner of the parcel of land on which GMOs have been applied shall then be so ordered, provided he/she

1. consented to or permitted the application tacitly or
2. was aware of the application when he/she acquired the parcel of land or with due diligence must have been aware of the application.

(3) Where a delay could prove dangerous or if a liable party within the meaning of paragraphs 1 and 2 cannot be so ordered, the authority shall carry out the measures under paragraph 1 without delay against reimbursement of costs, where necessary by force.

(4) The landowners and parties otherwise entitled to use the land must permit the implementation of measures in accordance with paragraphs 1 to 3.

## **Styrian genetic engineering log Section 12**

(1) The Provincial Government must keep a genetic engineering log. This log consists of two parts.

(2) The first part has to include following data:

1. the name of the municipality or municipalities in which the land intended for the application of GMOs is located;
2. the area of application in hectares;
3. the species of cultivation (cultivars) and the variety name of the genetically modified plant and
4. the designation of the GMO including the unique identifier which has to be announced by the consent holder according to Commission Regulation (EC) No 65/2004.

This part is conducted as a public register which has to be general accessible in an electronic form.

(3) In the second part of the log the provincial government has to register at least the data concerning

1. names and addresses of the owners of land and the party entitled to use the parcels of land intended to be used for the application of GMOs;
5. the designation according to the land register of the parcels of land intended to be used for the application of GMOs

Inspection in this part of the genetic engineering log is permitted by anyone under existing legal restrictions, in particular those concerning environmental information and data protection.

## **PART 4 Concluding provisions**

### **The authorities**

#### **Section 13**

The authority of first instance is the Provincial Government. The appeals authority is the Independent Administrative Senate.

## **References**

### **Section 14**

(1) References in this Act to other provincial Acts shall be understood to be references to the version currently in force.

(2) References in this Act to legal provisions of the *Bund* shall be understood to be references to the following versions:

1. Genetic Engineering Act [Austrian designation: GTG], Federal Law Gazette No 510/1994, most recent version in Federal Law Gazette No 127/2005;
2. Act on Environmental Impact Assessment 2000, Federal Law Gazette No 697/1993, most recent version in Federal Law Gazette I No 14/2005;
3. Act on Environmental Information, Federal Law Gazette No 495/1993, most recent version in Federal Law Gazette I No 6/2005;
4. Act on Data protection 2000, Federal Law Gazette No 165/1993, most recent version in Federal Law Gazette I No 13/2005;

(3) References in this Act to legal provisions of the European Union shall be understood to be references to the following versions:

1. The GMO Release Directive: 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, OJ L 106 of 17.04.2001, p. 1, most recently amended by Regulation (EC) No 1830/2003 of the European Parliament and of the Council, OJ L 268 of 18.10.2003, p. 24.
2. Regulation on genetically modified food and feed: Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (Text with EEA relevance) Official Journal L 268 , 18/10/2003 P. 1
3. Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms - Official Journal of the European Union L 10/5 16/1/2004 P. 5

## **Penalty provisions**

### **Section 15**

(1) An administrative infringement is committed by anyone who

1. applies GMOs without authorisation in accordance with Section 3;
2. does not comply with conditions laid down in rulings in accordance with Section 8.

(2) An administrative infringement is also committed by anyone who

1. prevents the bodies of the authority from carrying out the inspection activities under Section 10;
2. impedes the carrying out of measures in accordance with Section 11(1) and (3).



(3) Administrative infringements in accordance with paragraph 1 shall be punished with a fine of up to EUR 30 000.

(4) Administrative infringements in accordance with paragraph 2 shall be punished with a fine of up to EUR 15 000.

(5) Any such attempt is punishable.

(6) The deed shall not be punished if it constitutes an element of a punishable act that is within the jurisdiction of the courts.

### **Community law Section 16**

(1) This Act transposes the GMO Release Directive of the European Community.

(2) This Act has been notified in accordance with the provisions of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services, amended by Directive 98/48/EC (notification number 2005/297/A).

### **Transitional provisions Section 17**

Application of GMOs that was carried out before the entry into force of this Act will continue to be permitted, subject to any later decision by the authority. Authorisation shall be applied for within one month of the entry into force of this Act.

### **Entry into force Section 18**

This Act shall enter into force on the first day of the month following promulgation, that is .....

### **Article 2 Amendment to the Styrian Nature Conservation Act 1976**

The Styrian Nature Conservation Act 1976, Provincial Law Gazette No 65/1976, most recent version published in Provincial Law Gazette No 56/2006 is amended as follows:

1. The following paragraph 4 is inserted in Section 1:

“This Act shall not apply to the application of GMOs within the meaning of the Styrian Genetic Engineering Precautionary Measures Act [Austrian designation: StGTVG], Provincial Law Gazette No ../.....”

2. The following paragraph 8 is inserted in Section 37:

“Section 1(4) in the version of the amendment in Provincial Law Gazette No ../.... shall enter into force on the first day of the month following promulgation, that is ..... .”

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**9<sup>th</sup> session of the XV. Legislative period from**  
**24<sup>th</sup> of May 2006**

Graz 24<sup>th</sup> May 2006

Signatures: