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## Austria

### Biotechnology

## European Court of Justice Rules Against Upper Austria's GMO-free Zones

### 2005

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**Report Highlights:**

On October 5, the European Commission's Court of First Instance ruled against Upper Austria's request to have upper Austria declared a GMO-free zone. The European Commission originally rejected the province's GMO-ban two years ago, saying that there was no scientific justification for this ban. For this reason, Upper Austria prompted a court action and finally lost the legal battle on agricultural biotechnology against the European Commission. This was the first time the Court had ruled on a general prohibition of biotech crops in a region.

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Includes PSD Changes: No  
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[AU]

On October 5, the European Court of First Instance ruled that the Austrian province of Upper Austria (Oberoesterreich) is not allowed to legally deem itself a "GMO-free zone". The "precautionary principle" may still apply, but the ruling shows that there is no legal basis to create completely "GMO-free" zones.

In 2003, Upper Austria tried to completely ban the cultivation of seeds and plants containing genetically modified organisms by issuing a draft law. Upper Austria maintained that biotech crops could potentially damage ecosystems, and organic and conventional crops could not co-exist in the region's small-scale agriculture. The European Commission declared Upper Austria's move illegal under EU internal market rules. This prompted a court action by the Upper Austrians.

The European Court of Justice of First Instance argued that the general considerations of precaution constituted no proper scientific evidence. According to the court, the European Commission had not made a mistake by declaring the regional draft law illegal. The Commission welcomed the decision of the European Court of Justice because "it upholds the law and is a clear pronouncement that the free movement of goods within the EU has to be respected".