European Commission: Swedish Publicity Principle Not in Accordance with EU Requirements

IRIS 2007-10:1/32

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According to press reports, the European Commission called upon the Swedish government on 10 October 2007 to restrict their authorities' freedom to provide information. National rules on how to deal with information classified as confidential must be brought into line with EU requirements.

The criticism originated from an incident in 2005. The environmental organisation Greenpeace was refused access to information on genetically modified corn fodder imported by a US firm by the Dutch Agricultural Ministry. However, Sweden also had access to the same report, classified as secret, and released the information; the supreme administrative court ruled that failure to release the information would have infringed the obligation to provide information.

The basis of the enquiry from Brussels is evidently Art.25 of Directive 2001/18/EC of the European Parliament and Council dated 12th March 2001 on the deliberate release of genetically modified organisms into the environment, repealing Directive 90/220/EEC from the Council. This provision contains rules on the handling of information as part of the registration procedure that is required under the Directive, in order for GMOs to be marketed as a product. Under para.1, the Commission and the competent authorities may not pass any confidential information brought to their attention by virtue of the Directive, or any exchange of information, to third parties. The competent authority decides, after hearing the registrants' views on the subject, which information is to be handled as confidential (§ 3).

The obligation to provide information (*Offentlighetsprincipen*) enshrined in §2 Art.1 No.2 of the Swedish constitution is a central element of Swedish identity. Sweden was the first country in the world to establish, in law, the principles of press freedom and freedom of access to public documents. This right also extends to documents that have not been prepared by the authorities themselves.

The Swedish government now has two months in which to respond to the European Commission's charges.

Regeringsrätten, 23/11/2005, 7160-04

http://www.greenpeace.org/raw/content/sweden/rapporter-och-

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dokument/regeringsraettens-dom-angaaende.pdf

Ruling of the Swedish supreme administrative court on 23rd November 2005, 7160-04

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