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Spanish 'bio' controversy comes to an end

Reactions from the EU Court and the Spanish Government

In 2001 the Spanish Government withdrew the protection of the terms 'bio' and 'biológico' for use only on labels of organically certified products. Since then the organic sector has not ceased in its efforts to have the protection reinstated. After several discussions in various different forums, including the EU Commission, the case was referred to the Court of Justice of the European Communities, *i.e.* the EU Court, which gave it the reference number C-107/04 when its preliminary ruling started.

The first reaction of the EU Court to this issue was made public last month on 17 March 2005, when Mrs Julia Kokott, the General Lawyer of the EU Court charged with the case, presented her conclusions.

The Lawyer concluded that the Royal Decree 506/2001, issued by the then Spanish Government to liberalise the use of the terms 'bio' and 'biológico' on labels for non-organic food, is not compatible with the EU legislation. She considered that the Consolidated version of the EU Regulation No. 2092/91, which resulted in the Regulation EC No. 392/2004, clearly laid down the manner in which

terms describing organic products can be used. Those terms, and all their translations into the languages of the Member States, are considered to indicate that a product was produced under an organic production system. The use of one of these terms – or its translated equivalent – on the label of a non-organic product is only permissible when it does not imply any meaning to the consumer that the product has been organically produced.

Conclusions of the General Lawyer are not binding but they are usually followed by the Court.

Position of the current Ministry of Agriculture of Spain

A representative of the Spanish Ministry of Agriculture announced in BioFach in February this year, its intention to abolish the provision issued by the former Minister on the liberalisation of the terms 'biológico' and 'bio'. Subsequently, on 16 March, just one day before the conclusions of the EU Court Lawyer were made public, the new provision was officially confirmed by the Minister of Agriculture, Elena Espinosa, in the Spanish Parliament.

The Lawyer concluded that the Royal Decree, that liberalised the use of the terms 'bio' and 'biológico' on labels for non-organic food, is not compatible with the EU legislation.