



Hof van Justitie: geen patent op menselijk embryo's

Human embryos cannot be patented



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COMECE welcomes the Judgement of the European Court of Justice (ECJ). In the Case Oliver Brüstle v Greenpeace, the ECJ, in a preliminary ruling, decided that destructive research on human embryo cannot be patented.

In this context, the ECJ had to give a clear legal interpretation of the concept of "human embryo". This concept remained not defined in Directive 98/44/EC. The Court now defines a "Human embryo" as:

- *A human ovum, as soon as fertilised if that fertilisation is such as to commence the process of development of a human being.*
- *A non-fertilised human ovum into which the cell nucleus from a mature human cell has been transplanted*
- *a non-fertilised human ovum whose division and further development have been stimulated by parthenogenesis.*

This judgement therefore provides a broad, scientific sound definition of a human embryo.

Indeed, fertilization marks the beginning of the biological existence of a human being that undergoes a process of development. Therefore the human embryo, at every stage of development, must be considered a human being with potential, and not just a "potential human being". Furthermore, it has to be welcomed that "the removal of a stem cell from a human embryo at the blastocyst stage, entailing the destruction of that embryo " cannot be patented either.

Finally, COMECE expects, as a positive consequence of this judgement, the push forward that may now be given to scientific research on alternative sources. These remained till now in the shadow of research on human embryonic stem cells. The use of adult stem cells, stem cells derived from umbilical cord blood and others offer, in some cases already, significant possibilities for regenerative medicine. These methods enjoy wide acceptance both on scientific and ethical grounds.

This judgement can foster existing and promising fields of research which can combine the respect of human life with efficient and innovative treatments for healing people. Therefore this Judgement of the ECJ has to be welcomed as a milestone in the protection of Human life in EU legislation, that will most likely have a positive impact in concrete Policy fields like the Funding of Research in the EU.