

German science organizations slam European court over stem-cell ruling

European Court of Justice had no right to impose moral judgement on science, says influential group.

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It took several weeks to gather its thoughts. But the powerful Alliance of German Scientific Organizations has now publicly criticized an 18 October ruling from the European Court of Justice that bans patenting of inventions involving human embryonic stem (ES) cells and says that research using human ES cell lines is immoral (see [‘European court bans patents based on embryonic stem cells’](#)).

The alliance says that the wording of the judgement stretches far beyond the intellectual-property protection issue the court had been asked to consider. “The European Court of Justice is neither the proper place to decide on patent rights nor to impose a general moral order on the whole of Europe,” the alliance says in its [statement](#).

The ruling was sparked by a 2005 legal case, in which Greenpeace challenged a German patent. The case was referred to the German Supreme Court, which last year asked the European Court to clarify some terms used in the European directive on biopatenting.

In response, the European Court of Justice issued a binding legal opinion that says that any patents on inventions that are even indirectly dependent on human ES cells, and any research carried out using human ES cell lines, are ‘immoral’.

The Alliance of German Scientific Organizations includes all university rectors and seven research organizations, including the heavyweight Max Planck Society — as well as the Wissenschaftsrat, the government advisory body for science policy, and the DFG, Germany’s main science-funding agency.

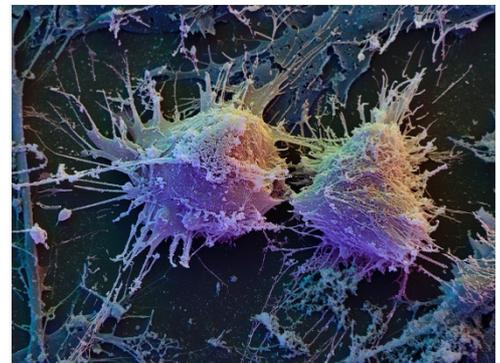
No consensus

Its statement, released on 7 December, says that the words of the European Court of Justice ruling could “discredit” human embryonic stem-cell research in general, and “morally discredit” researchers. It demands that the sentiments expressed in the court’s judgement not influence the right of German organizations to fund human ES cell research in Germany, which it says is carried out to the highest ethical standards.

Research on human ES cells is already restricted in Germany. Scientists there are not permitted to create their own cell lines, and they can only use imported cell lines that were created before 1 May 2007. Laws in the United Kingdom and Sweden, for example, are much more liberal, and allow scientists in those countries to create their own lines under strict control. Other countries, such as Ireland, ban research on human ES cells entirely.

The alliance’s statement says that, because there is no consensus within Europe on the morality of using human ES cells, decisions about how to regulate them should remain with national governments. That reasoning was recently applied by the European Court of Human Rights, which ruled on 3 November that Austria could make its own decision on allowing human egg donation for reproductive purposes without European-level guidance.

Some people have argued that induced pluripotent stem (iPS) cells, which are generated from mature cells that have been reprogrammed to acquire the properties of embryonic cells, obviate the need for research on human ES cells. “But this is not quite so,” says Elisabeth Knust, a developmental biologist who is DFG vice-president and a director at the Max Planck Institute of Molecular Cell Biology and Genetics in Dresden, and who helped to formulate the alliance’s statement. “We are still at the stage where we need to measure the potential of iPS cells against a standard, and that standard is human ES cells.”



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Inventions involving human embryonic stem (ES) cells cannot be patented in Europe, according to a European Court of Justice ruling.