According to the Advocate General Article 9 of the Biotechnology Directive does not limit the scope of protection of patents for biotechnology inventions. Nonetheless protection for DNA sequences as such is included.

In its previous opinion on 18 March 2008 the Dutch Court of First Instance referred a question to the European Court of Justice on the interpretation of Article 8 and 9 of the Biotechnology Directive. The Advocate General in his opinion comes to the conclusion that it is irrefutable that Article 9 of the Biotechnology Directive does not limit the scope of protection granted by that article.

The Advocate General agrees with the Dutch court that it is correct in its opinion that Article 9 cannot be interpreted as limiting the scope of patent protection for DNA sequences as such. Nonetheless protection for DNA sequences as such is included.

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