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Institute hails European court ruling on patents derived from embryos

by Simon Caldwell by Catholic News Service

LONDON -- A leading Catholic bioethical institute has welcomed the decision of a European court to ban the patenting of any medical treatment derived from destructive experiments on human embryos.

The Oxford-based Anscombe Bioethics Centre praised the decision by the European Court of Justice as a "triumph of ethical standards over commercial interest."

"From the perspective of those who recognize the dignity of the human embryo, this is a small step in the right direction," said David Jones, director of the center formerly known as the Linacre Centre for Healthcare Ethics, serving the Catholic Church in Great Britain and Ireland.

"The court has acted with clear and commendable ethical consistency in judging that if it is wrong to profit from destroying human embryos, then it is wrong to profit from cells that are derived from destroying human embryos," Jones said.

"It should not matter if someone else has destroyed the embryos for you," he added. "Inventions that rely on using human embryos both profit from and encourage their destruction. This clear decision closes a loophole left by the European Patent Office."

The ruling, Jones explained, does not prevent human embryos from being destroyed or stop scientists from using human embryos in research, "but it does make it more difficult for commercial companies to profit from this destruction."

L'Osservatore Romano, the Vatican newspaper, ran a front-page article Oct. 19 on the court's decision, using the headline: "A sentence in favor of human dignity."

Written by Augusto Pessina, a professor at the medical school of the University of Milan, Italy, the article said: "The ruling is subtle, but clear. It affirms that a patent is possible on the use of human embryos if the invention has diagnostic or therapeutic aims with regard to the embryo in question. On the other hand, it cannot be the object of a patent if its use is aimed at scientific research."

"The court has not intervened on the possible creation and subsequent suppression of human embryos, but banning the patents places an important bulwark against these procedures," the article said.

The ruling, published Oct. 18, was made unanimously by 13 judges sitting in Luxembourg and concludes a case brought by Greenpeace, the environmentalist group, against Oliver Brustle of the University of Bonn, Germany.

Greenpeace had objected to Brustle filing a patent with the German government in 1997 when he was trying to convert embryonic stem cells into nervous tissue to treat patients suffering from Parkinson's disease.

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The court's 10-page judgment effectively bans the patenting in Europe of any process involving the removal of stem cells from an embryo and resulting in its destruction.

"Patents may not be granted for inventions whose commercial exploitation would be contrary to morality," the ruling says. "In particular, patents should not be awarded for uses of human embryos for industrial and commercial purposes."

Some scientists in Britain, where pharmaceutical companies have invested 50 million pounds (\$79 million) in embryonic stem cell technology, condemned the ruling.

Robin Lovell-Badge, head of stem cell biology at London's National Institute for Medical Research, said that if pharmaceutical companies "cannot protect their investment by being allowed to patent the results of their research it will be increasingly difficult to persuade them to finance cutting-edge trials in Britain."

"As a result of this ruling the investment we need is likely to go to countries outside Europe such as the U.S., China, Japan or India," he wrote in the London-based Daily Mail Oct. 19.

Lovell-Badge also criticized the decision of Yves Bot, one of the court's advocate generals, to define human life as starting from the moment of conception.

"I don't know how a judge should be able to define that in the absence of proper informed scientific knowledge," he said. "The human sperm is alive and the egg is alive -- is it any more alive when it becomes an embryo, even before implantation?"

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