

Genetically modified organisms (GMOs): possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory

2010/0208(COD) - 19/11/2014 - Committee recommendation tabled for plenary, 2nd reading

The Committee on the Environment, Public Health and Food Safety adopted the report by Frédérique RIES (ADLE, BE) containing a recommendation for second reading on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of genetically modified organisms (GMOs) in their territory.

The committee recommended that the position adopted at second reading by the Parliament should amend the Council position as follows:

Legal basis: the Directive should be based on Article 192, paragraph 1 of the TFEU (environment legal basis) and not Article 114 of the TFEU.

Co-existence measures: Members called for **Member States to be required to take the necessary measures to avoid the unintended presence of GMOs in other products** on their territory and in border areas of neighbouring Member States. Such measures shall be communicated to the Commission. The Commission shall develop guidelines to guarantee the effective functioning of co-existence measures in border areas of Member States.

Culture: during the authorisation procedure of a given GMO or during the renewal of consent/authorisation, a Member State may demand to **adjust the geographical scope** of the written consent or authorisation to the effect that all or part of the territory of that Member State is to be excluded from cultivation. Members proposed that the request be communicated to the Commission and, if applicable, to the competent authority responsible for issuing the written consent under this Directive **at the latest 60 days** from the date of the circulation of the assessment report.

Grounds for such a prohibition of GMOs: according to Members, these grounds are related to:

- **environmental policy objectives relating to impacts which might arise from the deliberate release or the placing on the market of GMOs** and which are complementary to the impacts concretely examined during the scientific risk assessment conducted according to this Directive and Regulation (EC) No 1829/2003 on genetically modified food and feed;
- town and country planning;
- land use;
- socio-economic impacts;
- avoidance of GMO presence in other products;
- agricultural policy objectives;
- public policy.

Time-limit: Member States may restrict or prohibit the cultivation of a GMO or of groups of GMOs defined by crop or trait or of all GMOs in all or part of their territory prior to the date of entry into force of the Union authorisation and for the whole duration of the consent/authorisation, provided that an established standstill period, during which the Commission was given the opportunity to comment on the proposed measures, has elapsed.

The Member State concerned should therefore **communicate the proposed measures to the Commission at least 75 days prior to their adoption**, in order to give the opportunity to the Commission to comment, and should refrain from adopting and implementing those measures during that period.

On the expiry of the established standstill period, the Member State should be able to adopt the measures as originally proposed or amended to take into account the Commission's comments.

During the standstill period, the authorisation **applicant/holder** who would be affected by measures restricting or prohibiting the cultivation of a GMO or group of GMOs in a Member State should refrain from all activities related to the cultivation of that GMO or a group of GMOs in that Member State.

Member States shall make publicly available any such measure to all operators concerned, including growers, at least six months before the start of the growing season. In the event that the GMO concerned is authorised less than six months before the start of the growing season, Member States shall make those measures publicly available upon their adoption.

Liability requirements and financial guarantees: Member States shall establish a **general mandatory system** of financial liability, and financial guarantees in their national laws on GMOs which applies to all operators and which ensures that the polluter pays for unintended effects or damage that might occur due to the deliberate release or the placing on the market of GMOs.

Implementing measures: no later than a year after the date of entry into force, the Commission shall adopt an implementing Regulation on environmental risk assessment of GMOs, building upon the 2010 EFSA guidelines on environmental risk assessment of genetically modified plants and strengthening them along the lines of the 2008 Council conclusions.

Transposition: Members called for the Directive to be transposed 12 months after its entry into force.