Possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory

2015/0093(COD) - 22/04/2015 - Legislative proposal

PURPOSE: to amend existing legislation in order to give Member States the possibility to restrict or prohibit the use of genetically modified food and feed on their territory.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EC) No 1829/2003 allows Member States to adopt measures restricting or prohibiting the use of authorised GMOs and GM food and feed only if they are able to demonstrate that the product in question is likely to pose risks to health and to the environment. The Regulation requires the Commission as risk manager to take a decision on an application for authorisation in a reasonable period of time (to grant an authorisation or refuse an authorisation).

Since the entry into force of Regulation (EC) No 1829/2003, **there has never been a qualified majority amongst Member States in favour of or against a draft Commission Decision** authorising Genetically Modified Organisms (GMOs) and Genetically Modified (GM) food and feed. The result has always been a “no opinion” for all stages of the procedure. As a result, the authorisation decisions have been adopted by the Commission, in accordance with applicable legislation, without the support of the Member States’ committee opinion.

Regarding cultivation of GMOs, Directive (EU) 2015/412 grants Member States more flexibility to decide whether or not they wish to cultivate GMOs on their territory without affecting the risk assessment provided in the system of Union authorisations of GMOs. However, that Directive does not cover GMOs and GM food and feed authorised under Regulation (EC) No 1829/2003.

In its Communication on the reviewing the decision-making process on genetically modified organisms (GMOs), the Communication concluded that the current legal framework should be amended, by extending the approach agreed in Directive (EU) 2015/412 to other products covered by the Regulation (EC) No 1829/2003.

CONTENT: the Commission proposal amends Regulation (EC) No 1829/2003 to introduce new provisions allowing Member States to **restrict or prohibit the use of GMOs and GM food and feed covered by the GMO legal framework, in part or all of their territory,** in **complement to the possibilities already offered to Member States with respect to GMOs for cultivation** by Directive (EU) 2015/412. The proposal does not affect the Union procedure of authorisation based on risks which should remain harmonised at Union level in order to maintain a same level of safety throughout the EU.

According to the proposed Regulation, Member States may adopt measures restricting or prohibiting the use GMOs or GM food and feed products provided that such measures are:

- **reasoned and based on compelling grounds in accordance with Union law** which shall, in no case, conflict with the risk assessment carried out pursuant this Regulation;

- **proportional and non-discriminatory**.

Where a Member State intends to adopt measures restricting or prohibiting the use of products, it shall first submit to the Commission a draft of those measures, and the corresponding justification. The Commission shall immediately notify to the other Member States the draft measures and the corresponding justification.

During a period of 3 months from the date of submission to the Commission of the draft measures and various information:

- the Member State shall refrain from adopting and implementing those measures;
- the Commission and the Member States may make any comments they consider appropriate to the Member State which has submitted the draft measures.

The proposal does not allow Member States to restrict or prohibit the use of products which **do not have to be labelled** under the GMO legal framework, even if they may contain a small proportion of GMOs or GM food and feed below the thresholds set out therein.

Provisions are also established to protect the rights of economic operators which lawfully placed on the market a GMO or a GM food and feed before the Member State adopt measures pursuant to the proposal. Sufficient time should be given to operators to allow the phasing out of the product from the market.