

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

2010/0208(COD) - 10/09/2014 - Commission communication on Council's position

The Commission considers that the common position adopted by the Council with qualified majority **reflects the original goals of the Commission's proposal** and takes into account many concerns of the European Parliament.

The Commission indicated that it could accept in full, in part, in principle or subject to rewriting **21 of the 28 amendments** proposed by Parliament.

The main amendments **accepted by the Commission and incorporated in full, in part or in principle in the position of the Council** at first reading include the following points:

- explanation of particular aspects of the EU harmonised environmental risk assessment required under Directive 2001/18/EC ;
- the importance of ensuring that national measures restricting or banning GMO cultivation do not prevent biotechnology research being carried out ;
- a call for adoption of updated guidelines on environmental risk assessment ;
- the inclusion of an indicative list of grounds for justifying opt-out measures, subject to rewording to make clear that grounds invoked by Member States to justify opt out measures do not conflict with the EU wide environmental risk assessment. The Commission considers that the wording proposed by the Council is in line with the objective of the proposal.
- the importance of making available to operators (including growers), in a timely manner, the information necessary about any restriction or prohibition of GMO cultivation in the territory of a Member State, and to give them sufficient time to adapt and finish the current cultivation season when the measures concern GMOs already authorised at Union level ;
- particular reference to the importance of national measures being in conformity with the principle of proportionality ;
- the entry into force of the Regulation.

The Commission **does not accept the amendment modifying Article 22 of Directive 2001/18/EC on free circulation**, because the proposal will allow Member States to restrict exclusively the cultivation of GMOs on their territory and not the trade or import of GM or conventional seeds, food and feed.

However, the Commission does accept the Council's modified wording of recitals 13 and 18 and the new Articles 26 b (9) and 26 c (6) of the amended Directive on free circulation and import of authorised GMOs in all Member States and their use in Member States which neither restrict nor prohibit GMO cultivation, and the new recital 20 as regards the free movement of conventional seeds, plant propagating material and of the product of the harvest.

The Commission also accepts **new provisions inserted by the Council** regarding the proposal, these being the following :

- replacement of the regulation by a directive;
- restriction of the geographical scope of the application (step 1) : the Commission accepts the Council's common position establishing a two consecutive steps procedure (at the time of the definition of the scope of the application by the applicant and after the GMO has been authorised) to allow Member States to restrict or prohibit cultivation of a GMO ;
- the procedures to follow prior to adoption of opt-out measures ;
- the 2 year deadline for adoption of opt-out measures ;
- a 6 months transitional period allowing Member States to apply the provisions of the Directive to GMOs already authorised before its entry into force (maize MON 810), or for which an application is already at an advanced stage ;
- the option for a Member State to change its position on cultivation of a GMO during the term of validity of the authorisation ;
- the Commission's obligation to present a report no later than four years after the entry into force of the Directive, regarding the use made by Member States of the Directive accompanied by any legislative proposals the Commission considers appropriate.

For these reasons, the Commission accepts the Council's common position.