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

2010/0208(COD) - 05/07/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 548 votes to 84, with 31 abstentions, a legislative resolution on the proposal for a regulation 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 GMOs in their territory.

Parliament adopted its position at first reading, under the ordinary legislative procedure, which amends the Commission proposal as follows:

Legal basis:Parliament considers that the proposal should be based on Article 192(1) of the Treaty on the Functioning of the European Union (as opposed to Article 114).

Free circulation: without prejudice to Article 23 (Safeguard clause) or Article 26b, Member States may not prohibit, restrict or impede the placing on the market of GMOs, as or in products, which comply with the requirements of this Directive.

Confidentiality: without prejudice to the protection of intellectual property rights, access to material necessary for independent research on potential risks of GMOs, such as seed material, shall not be restricted or impeded. According to Members, in order for Member States to be able to investigate the compatibility of a certain GM-variety with a specific receiving environment, access to the GM material must not be restricted.

Unintended presence of GMOs: Member States shall take appropriate measures to avoid the unintended presence of GMOs in other products on their territory and in borderareas of neighbouring Member States.

Culture: according to the amended text, Member States may adopt, on a case-by case-basis, measures restricting or prohibiting the cultivation of particular GMOs or of groups of GMOs, provided that: those measures are based on:

- duly justified grounds relating for example to pesticide resistance; the invasiveness or persistence of a GM variety; the maintenance and development of agricultural practices which offer a better potential to reconcile production with ecosystem sustainability; the maintenance of local biodiversity;
- grounds relating to socio-economic impacts for example the impracticability or the high costs of coexistence measures or the impossibility of implementing coexistence measures due to specific geographical conditions such as small islands or mountain zones; the need to protect the diversity of agricultural production; the need to ensure seed purity;
- other grounds that may include land use, town and country planning, or other legitimate factors.

In cases where those measures concern crops which are already authorised at Union level, Member States ensure that farmers who cultivated such crops legally have sufficient time to finish the current cultivation season.

Measures put forward by the Member States should have been subject to a prior independent cost-benefit analysis, taking into account alternatives and a prior public consultation lasting at least 30 days.

In addition, Member States shall: (i) make publicly available any such measure to all operators concerned, including growers, at least six months before the start of the growing season; (ii) adopt those measures for a maximum of five years and shall review them when the GMO authorisation is renewed.

Members suggest that regions within Member States may adopt measures restricting or prohibiting the cultivation of GMOs on their territory.

Liability requirements: Parliament calls on the Member States to establish a general mandatory system of financial liability and financial guarantees, for example through insurance, which applies to all business 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.

Research: a new recital states that restrictions or bans on cultivation of GMOs by Member States should not prevent biotechnology research from being carried out provided that, in carrying out such research, all necessary safety measures are observed.