**Follow up to the European Parliament non-legislative resolution on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize MIR604 (SYN-IR6Ø4-5) pursuant to Regulation (EC) No 1829/2003   
of the European Parliament and of the Council**

1. **Resolution tabled pursuant to Rule 112(2) of the European Parliament's Rules of Procedure**
2. **Reference numbers:** 2020/2893 (RSP) / B9-0414/2020 / P9\_TA-PROV(2020)0367
3. **Date of adoption of the resolution:** 17 December 2020
4. **Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The resolution calls for the withdrawal of the draft Commission implementing decision **(paragraph 3)** on the grounds that the draft measure exceeds the implementing powers provided for in Regulation (EC) No 1829/2003 (**paragraph 1**) and that it is not compatible with the aim of that regulation and the general principles of Regulation (EC) No 178/2002, i.e. protection of human life and health, animal health and welfare, the environment and consumer interests **(paragraph 2**).

The resolution welcomes that the Commission recognises the need to take sustainability into account for Genetically Modified Organism (GMO) authorisations **(paragraph 4)** and calls the Commission to move forward with the development of those criteria with the involvement of the European Parliament and to indicate its process and timeframe **(paragraph 5)**.

The resolution urges the Commission to take into account the Union’s obligations to the Sustainable Development Goals and obligations under the Paris Climate Agreement and the UN Convention on Biological Diversity (CBD) **(paragraph 6)**.

The resolution calls on the Commission to stop authorising GMOs when no opinion is delivered by Member States in the Appeal Committee in accordance with Regulation (EU) No 182/2011 **(paragraph 7)**.

The resolution further calls on the European Food Safety Authority (EFSA) to review aspects of its risk assessment **(paragraphs 8** to **12)**

In the recitals, the resolution recalls critical comments by Member States during the three-month consultation period **(recitals I** and **J)**.

The resolution recalls the genetically modified (GM) maize is engineered to produce the protein mCry3A (also known as ‘Bt toxin’) for protection against specific lepidopteran pests **(recital F)** and refers to the toxicity of Bt proteins **(recitals M** to **O)** and their adjuvancy **(recitals P** and **Q)**. Further reference is made to the effects on non-target organisms and increased resistance **(recitals R** to **W)**.

The resolution also recalls the voting results in the Standing Committee **(recitals X)**. Furthermore, the resolution recalls that the return of the draft authorising decisions to the Commission for final decision, after not being supported by the Standing Committee, has become the norm for decision-making on genetically modified food and feed authorisations, which is problematic (**Recital Y**).

Finally, it recalls the numerous resolutions objecting GMO authorisations by the European Parliament, and states that no change of law is required for the Commission not to authorise GMOs in the absence of a qualified majority of Member States in favour in the Appeal Committee **(recitals Z** and **AA)**.

1. **Response to the requests and overview of the action taken, or intended to be taken, by the Commission:**

The Commission would like to recall that the draft implementing decision at stake renews the authorisation for the **placing on the market of products containing, consisting of or produced from genetically modified maize MIR604**, but not the cultivation of this maize.

With respect to **paragraphs 1** to **3** of the resolution, the Commission would like to point out that the draft decision has been processed in line with the procedural steps set out in Regulation (EU) 182/2001 on comitology and Regulation (EC) No 1829/2003 on genetically modified food and feed, as illustrated below:

* On 26 July 2018, Syngenta Crop Protection AG submitted to the Commission an application, in accordance with Articles 11 and 23 of Regulation (EC) No 1829/2003, for renewing the authorisation for the placing on the market of food and feed containing, consisting of or produced from genetically modified maize MIR604.
* On 7 November 2019, EFSA issued a favourable opinion in accordance with Articles 6 and 8 of Regulation (EC) No 1829/2003. It concluded that the renewal application did not contain evidence for new hazards, modified exposure or scientific uncertainties that would change the conclusions of the original risk assessment on genetically modified maize MIR604 adopted by EFSA in 2009.
* In its opinion, EFSA considered all the questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for in Articles 6(4) and 18(4) of Regulation (EC) No 1829/2003.
* The draft decision was presented to the Standing Committee on 7 October 2020 and no qualified majority against or in favour was obtained by the written procedure on 26 October 2020.
* In accordance with the rules set in Regulation (EU) 182/2011 on comitology, the Commission proposed the draft decision to the Appeal Committee of 3 December 2020 and no qualified majority against or in favour was obtained by the written procedure on 11 December 2020.

The Commission, therefore, considers that by adopting a decision that fully complies with the procedural steps set out by the co-legislators in the GMO legislation, the Commission does not exceed its implementing powers. Consequently, there are no reasons to withdraw the draft decision for renewal of the authorisation of the GM maize MIR604. Furthermore, following the submission of an application and the respective opinion of EFSA, Article 7(3) and Article 19(3) of Regulation (EC) No 1829/2003 oblige the Commission to act, namely to adopt a final decision on the application.

With respect with the **other provisions of the resolution**, the Commission considers that they fall outside the remit of the right of scrutiny, which is limited to the question of whether the draft implementing act exceeds the implementing powers provided for in the basic act. The Commission is not required to justify the draft implementing act as regards these points. Nevertheless, the Commission has carefully considered the positions expressed by the European Parliament and would like to make the following comments:

In relation to **paragraphs 4** and **5**, while the Commission reflects on a new approach that is aligned to the political ambition set by the European Green Deal and the Farm to Fork Strategy, it will continue processing outstanding applications for GM food and feed under existing rules and until a different approach based on sustainability considerations is designed.

The Commission is highly committed to respect international commitments in the field of the environment. However, it does not consider that an individual Commission decision authorising the placing on the market of a given genetically modified food and feed, which does not present risks to health or to the Union environment, is the appropriate tool to achieving the objectives set out by international instruments quoted in the resolution **(paragraph 6).** The international commitments of the EU under the UN Convention on Biological Diversity, the 2030 Agenda for Sustainable Development and Paris Agreement on climate change, relate to diverse objectives encompassing environment, education, fight against poverty, energy, innovation and many others.

With respect to concerns raised in **recitals P** to **R**, the Commission would like to stress that EFSA GMO Panel has discussed extensively the potential allergenic and adjuvant capacity of Cry proteins considering all available information, including literature on the topic, and has not identified safety concerns.

With regards to the lack of support by Members States for any authorising decision of GMOs for food and feed uses **(recitals Y** and **Z),** the Commission submitted a proposal to the Council and the Parliament on 14 February 2017 for a regulation amending Regulation (EU) No 182/2011 to change the voting rules at the Appeal Committee, which if adopted by co-legislators, would increase transparency and accountability in GMO decision-making process. The Commission would also like to recall that it regrets the decision of the Parliament of 28 October 2015 to reject the proposal of 22 April 2015 amending Regulation (EC) No 1829/2003, which, if adopted, would enable Member States to address at national level considerations, which are not covered by the EU decision-making process.