



EUROPEAN COMMISSION

PRESS RELEASE

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GMO: Commission asks Council to agree on its proposal to grant Member States more subsidiarity on cultivation

On the 26th September 2013, the General Court of the European Union delivered a ruling finding that the Commission failed to act on a GMO cultivation request which had been submitted twelve years ago in 2001.

In line with this ruling, the Commission today acted by referring the cultivation request to the Council of Ministers. It is now up to the Ministers to take a position by qualified majority on this request. The European Food Safety Agency had already submitted a positive opinion on this request in 2005, 2006, 2008, 2011 and 2012, in all six positive opinions.

This 2001 request falls under the "old" pre-Lisbon comitology procedure, which means that if the Council is not able to muster a qualified majority, either for or against the authorisation, then the Commission is obliged by law to grant the authorisation.

In parallel, the Commission has requested a fresh debate in the Council of Ministers of its so-called "cultivation proposal" on which the European Parliament has already adopted its opinion which would allow Member States to restrict or prohibit cultivation of GMOs on their territory on grounds other than those relating to risks to health and the environment.

Commissioner in charge of Health, Tonio Borg, said: *"Duty bound to comply with the ruling of the Court, the Commission has decided today to send a draft decision of authorisation of the maize 1507 to the Council: in the coming months, ministers will be invited to take a position on this authorisation request"*.

Commissioner Borg continued: *"The Court's decision on maize 1507 confirms the urgency of reconciling strict and predictable European authorisation rules for GMO cultivation, with fair consideration of national contexts. Three years ago, the Commission tabled a proposal, broadly supported by both the Parliament and the Council, to provide a solution to the current deadlock on the authorisation process. I therefore urge Member States to engage and support the Commission's proposal, so that the Presidency and Council can form a compromise enabling the Cultivation proposal to move forward."*

Next steps

The Commission has requested a discussion with Member States during the Environmental Council which will meet on 13 December 2013.

Background

The genetically modified **maize 1507 (Bt maize)** was developed to confer resistance to specific harmful moth larvae for maize such as the European corn borer. It is currently authorised in the EU for food and feed uses, but not for cultivation. In 2001, the company Pioneer submitted an application for the authorisation of the maize 1507 for cultivation under the Directive (2001/18/EC) on the deliberate release of GMOs into the environment.

In 2007, Pioneer initiated a first action for **failure to act before the General Court of the European Union** against the Commission for not having presented a decision of authorisation of that maize for vote to the Regulatory Committee. This action was closed by the Court following the Commission's proposal to the Regulatory Committee of February 2009, for a draft authorisation decision. The Committee, however, failed to deliver an opinion. In 2010, Pioneer launched a second action for failure to act (case T-164/10) against the Commission for not having, following the absence of opinion by the Regulatory Committee, referred to the Council a proposal for an authorisation decision, in line with the comitology procedure applicable at the time¹.

On 26 September 2013, the General Court issued the judgment in relation to case T-164/10 that the Commission failed to act under Directive 2001/18/EC by not submitting to the Council a proposal under Article 5(4) of the Comitology Decision 1999/468/EC.

Therefore, in accordance with Article 266 of the TFEU and the Court's ruling, the **Commission now submits a proposal for an authorisation decision on maize 1507 to the Council**. To ensure a high level of protection of health and the environment, the decision of authorisation has been slightly amended in order to include recommendations made by the European Food Safety Authority (EFSA) in 2011 and 2012 as regards the conditions of authorisation and the environmental monitoring of maize 1507.

The Cultivation Proposal

In response to a long standing request from several Member States, the Commission published in **July 2010 a proposal for a Regulation revising Directive 2001/18/EC to provide a legal basis to Member States in order to decide on GMO cultivation on grounds other than those based on a scientific assessment of health and environmental risks** performed at European level. Thanks to this amendment Member States will be able to restrict or prohibit GMO cultivation in part or all of their territory without recourse to safeguard clauses which up to now have not been backed by EFSA.

The European Parliament adopted a first reading opinion on the proposal in July 2011. In Council, despite efforts of consecutive Presidencies, and most particularly of the Danish Presidency in 2012, no agreement could be reached due to the blocking position of a minority of Member States. The Commission has persevered in its efforts to address the concerns of these blocking Member States while gaining the support of the large majority of Member States in favour of the proposal.

¹ Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ((OJ L 184, 17.7.1999, p. 23)

For more information

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