**Follow up to the European Parliament non-legislative resolution draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 × NK603 (DAS-Ø15Ø7-1 × MON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council**

1. **Resolution tabled pursuant to Rule 106(2) and (3) of the European Parliament's Rules of Procedure**
2. **Reference numbers:** 2019/2604 (RSP) / B8-0217/2019 / P8\_TA-PROV(2019)0314

**3. Date of adoption of the resolution:** 27 March 2019

**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)**, based on the grounds that the draft implementing decision at stake exceeds the implementing powers provided for in Regulation (EC) No 1829/2003 **(paragraph 1)** and that it is not compatible with the aim of Regulation (EC) No 1829/2003 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)**. In addition, the resolution calls on the Commission to suspend any implementing decision regarding authorisation of genetically modified organisms (GMO) until the authorisation procedure has been revised in such a way as to address the shortcomings of the current procedure, which has proven to be inadequate **(paragraph 5)** and to withdraw proposals for GMO authorisations if no opinion is delivered by the Standing Committee on the Food Chain and Animal Health **(paragraph 6)**. The resolution also reiterates the Parliament’s commitment to advancing work on the Commission proposal amending Regulation (EU) No 182/2011 and also calls on the Council to move forward with its work in relation to that Commission proposal as a matter of urgency **(paragraph 4)**.

The resolution calls on the Commission not to authorise the import for food or feed uses of any genetically modified plant tolerant to an herbicide that is not authorised for use in the Union **(paragraph 7)**. Furthermore, the resolution calls on the Commission not to authorise any herbicide-tolerant genetically modified (GM) plants without full assessment of the residues from spraying with complementary herbicides, metabolites and commercial formulations, as applied in the countries of cultivation **(paragraph 8**).

The resolution expresses concerns on the assessment by the European Food Safety Authority (EFSA) of data provided by the applicants (r**ecitals D to G**), refers to the fact that EFSA considers that further discussion is needed on the practical implementation of the post-marketing environmental monitoring plans **(recital H**).

The resolution recalls that the GM maize is made tolerant to glyphosate, and that questions concerning the carcinogenicity of glyphosate remain **(recital L),** and tolerant to glufosinate, the use of which is no longer permitted in the Union **(recital K)**. The resolution mentions that it can be expected that residues from spraying with both herbicides will be present in the harvest (**recital M**) and that they may also influence the composition of the plant **(recital N)**. The resolution statesthat the impact of spraying the GM maize with herbicides has not been assessed (**recital O**).

The resolution recalls the voting results on the draft implementing decision in the Standing Committee on the Food Chain and Animal Health **(recital R)**. 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 and it is not democratic **(recital S)**. Finally, the resolution recalls the rejection by the Parliament of the Commission's legislative proposal of 22 April 2015 amending Regulation (EC) No 1829/2003, and the Parliament's call on the Commission to withdraw that proposal and submit a new one **(recital T)**.

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

The Commission would like to explain that the draft implementing decision at stake authorises the renewal of the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 x NK603, 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) 182/2011 on comitology and Regulation (EC) No 1829/2003 on genetically modified food and feed, as illustrated below:

* On 20 October 2016, Pioneer and Dow AgroSciences jointly submitted to the Commission an application, in accordance with Articles 11 and 23 of Regulation (EC) No 1829/2003, for renewal of the authorisation for the placing on the market of maize 1507 x NK603 for food/feed uses.
* On 25 July 2018, EFSA published a favourable opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003. It concluded that no new hazards or modified exposure and no new scientific uncertainties were identified that would change the conclusions of its original risk assessment on this GM maize, adopted in 2006.
* In its opinion of 2018, 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 by Articles 6(4) and 18(4) of Regulation (EC) No 1829/2003.
* The public had the opportunity to comment on the EFSA opinion, but no scientific comments were made on this opinion.
* The draft Decision was voted on 7 March 2019 in the Standing Committee with no qualified majority against or in favour.
* In accordance with the rules set in Regulation (EU) 182/2011 on comitology, the Commission proposed the draft Decision to the Appeal Committee of 11 April 2019, where no qualified majority against or in favour was obtained either.

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, it 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 1507 x NK603. 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.

At the meeting of the Environment, Public Health and Food Safety Committee of the European Parliament on 14 March 2019, the Commission extensively explained the state of play of the authorisation procedure and why it had not exceeded its implementing powers.

With respect to 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:

* With respect to the specific concerns raised in **recitals K and L** of the resolution, the Commission would like to point out that the risk assessment in the context of an application for food and feed uses of a herbicide-tolerant GM crop is focused on the potential impact of the genetic modification on human and animal health and on the environment. The risk assessment and authorisation of herbicides is subject to the procedures set out in Regulation (EC) No 1107/2009, and the maximum residue levels (MRLs) are set under Regulation (EC) No 396/2005.
* Regarding **recitals M, N and O**, the Commission would like to stress that, during the risk assessment, herbicide-tolerant GM crops sprayed with the intended herbicide(s) are assessed and checked for intended and unintended effects regarding composition, agronomic and phenotypic characteristics.
* With regards to the comments in **recital T** on the Commission legislative proposal for a regulation amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory, the Commission would like to recall that it regrets the decision of the European Parliament of 28 October 2015 to reject the proposal. The Commission maintains its original proposal, which, if adopted, would enable Member States to address at national level considerations that are not covered by the EU decision-making process.
* Furthermore, with regards to the lacking support of Members States for any authorising decision of GMOs for food and feed uses **(recital S)**, the Commission submitted a proposal to the Council and the European Parliament on 14 February 2017 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.
* In conclusion, the Commission would like to stress that as for any legislative procedure submitted under the ordinary legislative procedure, the rules in place continue to apply during the negotiations between the co-legislators and until a final agreement is found. Consequently, the Commission has to continue processing the applications for GM food and feed.