**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 soybean A5547-127 pursuant to Regulation (EC) No 1829/2003 of the   
European Parliament and of the Council**

**1.** **Resolution tabled pursuant to Rules 112(2) and (3) of the European Parliament’s Rules of procedure**

**2.** **Reference numbers:** 2022/2930 (RSP) / B9-0548/2022 / P9\_TA(2022)0433

**3.** **Date of adoption of the resolution:** 13 December 2022

**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 it 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. the protection of human life and health, animal health and welfare, the environment and consumer interests (**paragraph 2**).

The resolution recalls that the genetically modified (GM) soybean is tolerant to glufosinate-ammonium-containing herbicides (**recital D**) and calls on the Commission not to authorise the import of herbicide-tolerant GM plant products due to the increased use of complementary herbicides and the associated risks (**paragraph 6**).

The resolution welcomes that the Commission recognises the need to take sustainability into account for the authorisation of genetically modified organisms (GMOs) and expresses its disappointment that the Commission proceeds with GMO authorisations for import despite ongoing European Parliament objections and a majority of Member States voting against (**paragraph 5**).

The resolution also calls on the Commission to deliver on a proposal to ensure that hazardous chemicals banned in the Union are not produced for export (**paragraph 7**). Linked to this call, the resolution mentions glufosinate and the fact that, although its use has not been allowed in the Union since 31 July 2018, it has been exported from the Union to third countries since 2020 (**recital K**).

The resolution mentions that soya production is a key driver of large-scale deforestation in South America (**recital M**) and that deforestation is a major cause of biodiversity decline (**recital L**), and calls on the Commission to immediately suspend the import of GM soybeans cultivated in Argentina and Brazil until effective legally binding mechanisms have been put in place to prevent the placing on the Union market of products associated with deforestation and related human rights violations (**paragraph 8**).

The resolution highlights the amendments adopted by the European Parliament on 17 December 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 and calls on the Council to proceed with its work on this file as a matter of urgency, and states that the Commission should not authorise GMOs when there is no qualified majority of Member States in favour (**paragraph 9**).

The resolution mentions that glufosinate is classified as toxic to reproduction 1B, that the approval of glufosinate for use in the Union expired on 31 July 2018 (**recital G**) and that potentially higher quantity of residues from spraying with glufosinate may be present in the harvest (**recital F**). The resolution states that it is problematic that the assessment of herbicides and their residues is considered outside the remit of the European Food Safety Authority (EFSA) GMO Panel, as the formation of metabolites, as well as their composition and toxicity, can be impacted by the genetic modification itself (**recital H**).

The resolution recalls critical comments by the Member States during the three-month consultation, regarding the toxicological and environmental risk assessments of GM soybean A5547-127 (**recital I**).

The resolution urges the Commission to take into account the EU’s obligations under international agreements, such as the Paris Climate Agreement, the UN Convention on Biological Diversity and the UN Sustainable Development Goals (**paragraph 4** and **recitals J to O**).

The resolution recalls that the fact that authorising decisions continue to be adopted by the Commission without a qualified majority of Member States in favour has become the norm for decision-making on GM food and feed authorisations (**recital Q)**. Furthermore, the resolution recalls the numerous resolutions objecting to GMO authorisations adopted by the European Parliament in its eighth and ninth terms (**recital R**), and states that no change of law is required for the Commission not to authorise GMOs in the absence of qualified majority of Member States in favour in the appeal committee (**recital T**).

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

The Commission would like to recall that the draft implementing decision concerns the renewal of the authorisation for placing on the market of products containing, consisting of or produced from GM soybean A5547-127, but not on the cultivation of this soybean.

With respect to **paragraphs 1 to 3** of the resolution, the Commission would like to point out that the draft decision has been prepared in line with and has undergone the procedural steps set out in Regulation (EC) No 1829/2003 on GM food and feed and in Regulation (EU) No 182/2011 on comitology, as illustrated below:

* Commission Implementing Decision 2012/81/EU authorised the placing on the market of food and feed containing, consisting of or produced from genetically modified soybean A5547-127. The scope of that authorisation also covered the placing on the market of products other than food and feed containing or consisting of the genetically modified soybean A5547-127, for the same uses as any other soybean, with the exception of cultivation.
* On 10 December 2020, BASF SE submitted an application on behalf of BASF Agricultural Solutions Seed US LLC to the Commission for the renewal of that authorisation.
* On 20 June 2022, EFSA issued a favourable scientific opinion. It concluded that the renewal application did not contain evidence for any new hazards, modified exposure or scientific uncertainties that would change the conclusions of the original risk assessment on genetically modified soybean A5547-127, adopted by EFSA in 2011.
* In its scientific 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 by Article 6(4) and Article 18(4) of Regulation (EC) No 1829/2003.
* The public commented on the EFSA opinion, and no comments of scientific nature were received [[1]](#footnote-1).
* The draft decision was voted in the Standing Committee on 27 October 2022 with no qualified majority against or in favour.
* In accordance with the rules set out in Regulation (EU) No 182/2011 on comitology, the Commission referred the draft decision to the Appeal Committee on 8 December 2022, where no qualified majority against or in favour was obtained either.
* As a result, it is for the Commission to decide on the renewal of the authorisation of the placing on the market of products containing, consisting of or produced from GM soybean A5547-127.

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 the renewal of the authorisation of GM soybean A5547-127. 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 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 implementing act exceeds the implementing powers provided for in the basic act. The Commission is not required to justify the implementing act as regards these points. Nevertheless, the Commission has carefully considered the position expressed by the Parliament and would like to make the following comments:

In relation to **paragraph 5**, the overall objective of the Commission’s upcoming proposal on an EU framework for a sustainable food system is to ensure that all foods placed on the EU market increasingly become sustainable. According to the action plan that accompanied the Farm to Fork strategy, the timing for this proposal is before the end of 2023. In the meantime, the Commission will continue assessing the submitted applications for genetically modified food and feed under the existing rules set out by the co-legislators, which provide for high standards of protection of human and animal health and the environment.

With respect to the concerns about plant protection products (**recitals F** to **H**), the Commission would like to point out that the risk assessment in the context of an application for food and feed uses of an herbicide-tolerant GM crop is focused on the potential impact of the genetic modification on human and animal health and on the environment. The environmental risk assessment of active substances and plant protection products is done in accordance with Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market. The authorisation of GMOs is not linked to the authorisation of herbicides. The authorisation for herbicides and their respective ‘maximum residue levels’ under, respectively, Regulation (EC) No 1107/2009 and Regulation (EC) No 369/2005, apply to all the concerned uses, whether GMO or not.

It is important to recall that the EU has no power to interfere with the environmental law and standards established in third countries (**paragraph 6**), including the authorisation of herbicides. However, as announced in the Farm to Fork Strategy, the EU will engage actively with trading partners, especially with developing countries, to accompany the transition towards a more sustainable use of pesticides to avoid disruptions in trade and promote alternative plant protection products and methods.

With regards to deforestation (**recitals L** and **M** and **paragraph 8**), the Commission legislative proposal from November 2021 aimed at minimising the EU’s contribution to deforestation and forest degradation worldwide and at reducing the EU’s contribution to greenhouse gas emissions and global biodiversity loss. The Commission acknowledges the provisional agreement reached by the Council and the European Parliament in December 2022 on the issue.

The Commission considers that it takes into account a scientific evaluation of the highest possible standard, relevant provisions of the EU law and other legitimate factors relevant to the matter in consideration in its decisions (**paragraph 2**).

Furthermore, regarding the concerns expressed in **recitals J** to **O**, as well as **paragraphs 4** and **7**, the Commission is highly committed to respect international commitments in the field of the environment and committed in its Chemical Strategy for Sustainability from October 2020 to work on ensuring that hazardous chemicals banned in the EU are not produced for export. 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 the EU environment, is the appropriate tool to achieving the objectives set out by international instruments quoted in the resolution. 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.

Finally, with regard to the arguments concerning the decision-making process and the lack of support by the Member States for any GMO authorisation for food and feed uses (**recitals P** to **T**), the Commission submitted a proposal to the Council and the Parliament on 14 February 2017 to amend Regulation (EU) No 182/2011, changing the voting rules at the Appeal Committee. If adopted by co-legislators, it would increase transparency and accountability in the GMO decision-making process. In the meantime, the Commission continues to apply the procedures laid down in Regulation (EU) No 182/2011 on comitology and in Regulation (EC) No 1829/2003 on GM food and feed.

1. <http://ec.europa.eu/food/plant/gmo/public_consultations/index_en.htm> [↑](#footnote-ref-1)