**Follow up to the European Parliament non-legislative resolution on the Commission draft implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified oilseed rape Ms8, Rf3 and Ms8 × Rf3, 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:** 2023/2995 (RSP) / B9-0490/2023/ P9\_ TA (2023)0476

**3. Date of adoption of the resolution:** 14 December 2023

**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 on the Commission to withdraw its draft implementing decision and to submit a new draft to the Standing Committee on Plants, Animals, Food and Feed (**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. the protection of human life and health, animal health and welfare, the environment and consumer interests (**paragraph 2**).

The resolution recalls an analysis by an independent organisation indicating the insufficiency of the risk assessment (**recital K**). The resolution urges the Commission to consider 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, and calls for draft implementing acts to be accompanied by an explanatory memorandum explaining how they uphold the principle of ‘do no harm’ (**paragraph 4** and **recitals L** to **N**).

The resolution welcomes that the Commission recognise 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 recalls that the genetically modified (GM) oilseed rape is herbicide tolerant (glufosinate-ammonium-based herbicides) and calls on the Commission not to authorise the import of any herbicide-tolerant GM plant due to the increased use of complementary herbicides and increased risks to biodiversity, food safety and occupational health (**paragraph 6, recitals E, F, H** and **I**). 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 G**). The resolution also mentions that the use of glufosinate is no longer permitted in the EU and that glufosinate is classified as toxic to reproduction 1 B and therefore meets cut-off criteria of Regulation (EC) No 1107/2009 (**recital J)**.

The resolution states the fact that the authorising decision was not supported by a qualified majority of Member States and the appeal committee delivered no opinion on 28 November 2023 (**recital O)**. It recalls the amendments adopted by the European Parliament on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011, providing that a GMO shall not be authorised when there is no qualified majority of Member States in favour, and insists that the Commission respect this position and calls on the Council to proceed with its work and adopt a general approach on this file as a matter of urgency (**paragraph 7**). Furthermore, the resolution recalls the numerous resolutions objecting to GMO authorisations adopted by the European Parliament in its eighth and ninth terms (**recital Q**).

**6. Responses to 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 authorisation for the placing on the market of products containing, consisting of or produced from GM oilseed rape Ms8, Rf3 and Ms8 × Rf3 for food and feed and other uses, with the exception of cultivation.

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:

* on 8 February 2021, BASF SE submitted an application to the Commission for the renewal of that authorisation in accordance with Articles 11 and 23 of Regulation (EC) No 1829/2003 for the authorisation of the placing on the market of this GM oilseed rape for food/feed and other uses, with the exception of cultivation;
* on 26 April 2023, EFSA published an opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003 concluding that this oilseed rape is as safe as its non-genetically modified comparator and the tested non-genetically modified reference varieties with respect to the potential effects on human and animal health and the environment;
* in its opinion, EFSA considered all the specific 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 all the scientific comments received were scrutinised by EFSA[[1]](#footnote-1), which confirmed the conclusions of its initial scientific opinion;
* the draft decision was voted in the Standing Committee on 24 October 2023 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 28 November 2023, where no qualified majority against or in favour was obtained either;
* in accordance with the rules set out in Regulation (EC) No 182/2011 on comitology, it is for the Commission to decide on the adoption of the draft decision;
* on that basis, the Commission will proceed with the adoption of this decision.

The Commission therefore considers that by going forward with the adoption process of a decision that fully complies with the procedural steps set out by the co-legislators in the GMO legislation, it will not exceed its implementing powers.

With respect to the other points 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.

As regards to the EU’s international obligations (**paragraph 4** and **recitals L to N**), the Commission is highly committed to respecting EU 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. The Commission is currently working on the impact assessment with a plan to finalise it in 2024. As regards the call mentioned, in **paragraph 4,** for draft implementing acts to be accompanied by an explanatory memorandum explaining how they uphold the principle of ‘do no harm’, the Commission would like to stress that the draft decision is based on a positive EFSA scientific opinion, as described above.

Furthermore, in relation to the concerns expressed in **paragraph 5 as regards sustainability**, preparatory work is ongoing on a proposal for a legislative framework for sustainable food systems that intends to ensure that all foods placed on the EU market become increasingly sustainable in accordance with the Farm to Fork Strategy.

On the concerns about plant protection products (**paragraph 6** and **recitals D** to **J**), 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.

Finally, about 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 (**paragraph 7** and **recitals O** to **S**), 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 the 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. [Public consultations (europa.eu)](https://food.ec.europa.eu/plants/genetically-modified-organisms/public-consultations_en) [↑](#footnote-ref-1)