

Committee on the Environment, Public Health and Food Safety  
The Chair

NH/mcd  
D(2015)60550

**D 321625 11.12.2015**

Mr Vytenis Andriukaitis  
Commissioner, Health and Food Safety  
European Commission  
Rue de la Loi 200  
BE - 1049 Brussels

Dear Commissioner,

As Chair of the Committee on the Environment, Public Health and Food Safety (ENVI), I am writing to express my utmost discontent in relation to the recent adoption by the European Commission of an implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603xT25<sup>1</sup>.

As you are certainly aware, the ENVI Committee, on 1 December 2015, made use of Parliament's right of scrutiny and adopted an objection to the draft Commission implementing decision. In its motion for a resolution (see Annex), the Committee considered, based on various reasons, that the Commission in its draft decision exceeded the implementing powers provided for in Regulation (EC) No 1829/2003.

The plenary vote on the objection was (and still is) foreseen on 16 December 2015. However, on 4 December 2015, the Commission quite unexpectedly decided to authorise the above-mentioned product before the European Parliament could actually vote on its motion for a resolution during the first plenary session after adoption in committee.

By taking this decision without awaiting the outcome of the vote in plenary, the Commission prevented the European Parliament from making full use of its right of scrutiny, set out in Article 11 of Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>2</sup>.

Moreover, the Commission has also conspicuously disregarded the principle of sincere cooperation between the institutions, enshrined in Article 13 of the Treaty on the European

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<sup>1</sup> OJ L 322, 8.12.2015, p. 58-63

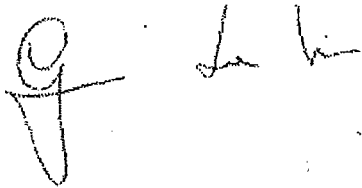
<sup>2</sup> OJ L 55, 28.2.2011, p. 13.

Union. By deviating from common practice, the Commission created an unfortunate and undesirable precedent.

For the sake of preserving good inter-institutional relations, and regardless of the outcome of the vote in plenary, I therefore urge you to provide an explanation as to why the decision authorising GM maize NK603xT25 was taken before the final vote on the objection could take place.

Moreover, I urge the Commission to abstain from adopting implementing acts in the future in cases where - as was the case for maize NK603xT25 - the Commission is aware of an upcoming vote on a particular draft implementing act in committee or plenary.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G. La Via'. The signature is written in a cursive style with a large initial 'G' and a horizontal line extending to the right.

Giovanni La Via

ANNEX

**European Parliament**

2014-2019



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*Committee on the Environment, Public Health and Food Safety*

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2015/0000(RSP)

08.12.2015

## **MOTION FOR A RESOLUTION**

pursuant to Rule 106(2) and (3) of the Rules of Procedure

on the Commission implementing decision (EU) 2015/2279 of 4 December 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × T25 (MON-ØØ6Ø3-6 × ACS-ZMØØ3-2) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council  
(2015/0000(RSP))

**Committee on the Environment, Public Health and Food Safety**

Rapporteur: Bart Staes

Co-Rapporteurs: Guillaume Balas, Lynn Boylan, Eleonora Evi

**B8-0000/2015**

**European Parliament resolution on the Commission implementing decision (EU) 2015/2279 of 4 December 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × T25 (MON-ØØ6Ø3-6 × ACS-ZMØØ3-2) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (2015/0000(RSP))**

*The European Parliament,*

- having regard to the Commission implementing decision (EU) 2015/2279 of 4 December 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × T25 (MON-ØØ6Ø3-6 × ACS-ZMØØ3-2) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council<sup>3</sup>;
  - having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed<sup>4</sup>, and in particular Article 7(3) and Article 19(3) thereof;
  - having regard to Articles 11 and 13 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>5</sup>;
  - having regard to the opinion delivered by the European Food Safety Authority ('EFSA') on 15 July 2015<sup>6</sup>;
  - having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety;
  - having regard to Rule 106(2) and (3) of its Rules of Procedure;
- A. whereas on 17 May 2010, Monsanto Europe S.A. submitted to the competent authority of the Netherlands an application in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003 for the placing on the market of foods, food ingredients, and feed containing, consisting of, or produced from NK603 × T25 maize;
- B. whereas the genetically modified MON-ØØ6Ø3-6 × ACS-ZMØØ3-2 maize, as described in the application, expresses the CP4 EPSPS protein which confers tolerance to glyphosate herbicides and PAT protein which confers tolerance to glufosinate ammonium herbicides and whereas the International Agency for Research on Cancer - the specialized cancer agency of the World Health Organization - classified glyphosate as probably carcinogenic to humans on 20 March 2015<sup>7</sup>;

<sup>3</sup> OJ L 322, 8.12.2015, p. 58-63

<sup>4</sup> OJ L 268, 18.10.2003, p.1

<sup>5</sup> OJ L 55, 28.2.2011, p. 13.

<sup>6</sup> EFSA GMO Panel (EFSA Panel on Genetically Modified Organisms), 2015. Scientific Opinion on application (EFSA-GMO-NL-2010-80) for the placing on the market of herbicide tolerant genetically modified maize NK603 x T25 for food and feed uses, import and processing under Regulation (EC) No 1829/2003 from Monsanto. EFSA Journal: 2015; 13(7):4165, 23 pp. doi:10.2903/j.efsa.2015.4165.

<sup>7</sup> IARC Monographs Volume 112: evaluation of five organophosphate insecticides and herbicides 20 March 2015 <http://www.iarc.fr/en/media-centre/iarcnews/pdf/MonographVolume112.pdf>

- C. whereas on 22 April 2015 the Commission deplored in the explanatory memorandum of its legislative proposal amending Regulation (EC) No 1829/2003 the fact that since the entry into force of Regulation (EC) No 1829/2003 the authorisation decisions have been adopted by the Commission, in accordance with applicable legislation, without the support of the Member States' committee opinion and that the return of the dossier to the Commission for final decision, very much the exception for the procedure as a whole, has become the norm for decision-making on genetically modified (GM) food and feed authorisations;
- D. whereas the Commission was appointed on the basis of a set of political guidelines presented to the Parliament and in those guidelines, a commitment was taken to review the legislation applicable to the authorisation of genetically modified organisms (GMOs);
- E. whereas the legislative proposal of 22 April 2015 amending Regulation (EC) No 1829/2003 was rejected by the Parliament on 28 October 2015<sup>8</sup> because while cultivation necessarily takes place on a Member State's territory, GMO trade crosses borders, which means that a national "sales and use" ban proposed by the Commission could be impossible to enforce without reintroducing border checks on imports;
- F. whereas the current approval system for GM food and feed is not functioning well given that, as was revealed by the French newspaper *Le Monde* on 14 October 2015<sup>9</sup>, six genetically modified maize varieties have been authorised for import into the EU carrying genetic modifications that were not included in the assessment when the crops were authorised and the additional GM traits were only notified to the European Food Safety Authority and the Commission by Syngenta in July 2015 despite the varieties having been approved for import between 2008 and 2011;
- G. whereas the Parliament, while rejecting the legislative proposal amending Regulation (EC) No 1829/2003, called on the Commission to withdraw its proposal and to submit a new one;
1. Considers that the Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1829/2003;
  2. Considers that any implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified organisms in accordance with Regulation (EC) No 1829/2003 in its current non-functioning version, should be suspended until a new Regulation is adopted on the basis of the Treaty on the Functioning of the European Union;
  3. Considers that the Commission implementing decision is not consistent with Union law, in that it is not compatible with the aim of Regulation (EC) No 1829/2003 and Regulation (EC) No 396/2005<sup>10</sup>, which is, in accordance with the general principles laid down in Regulation (EC) No 178/2002<sup>11</sup>, to provide the basis for ensuring a high level of protection of human life and health, animal health and welfare, environment and consumer interests in relation to genetically modified food and feed, whilst ensuring the effective functioning of the internal market;
  4. Calls on the Commission to repeal the Commission implementing decision ;
  5. Calls on the Commission to submit a new legislative proposal on the basis of the Treaty on the Functioning of the European Union, amending Regulation (EC) No 1829/2003 taking into

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<sup>8</sup> Texts adopted, P8\_TA(2015)0379

<sup>9</sup> [http://www.lemonde.fr/planete/article/2015/10/14/failles-dans-l-homologation-de-six-mais-ogm-en-europe\\_4788853\\_3244.html](http://www.lemonde.fr/planete/article/2015/10/14/failles-dans-l-homologation-de-six-mais-ogm-en-europe_4788853_3244.html)

<sup>10</sup> Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p.1).

<sup>11</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

account often expressed national concerns which do not only relate to issues associated with the safety of GMOs for health or the environment;

6. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.