

**Committee of the Regions****NAT-V-006****88th plenary session  
27 and 28 January 2011**

**OPINION**  
**of the**  
**Committee of the Regions**  
**on**  
**FREEDOM FOR MEMBER STATES TO DECIDE ON THE**  
**CULTIVATION OF GENETICALLY MODIFIED CROPS IN THEIR**  
**TERRITORY**

**THE COMMITTEE OF THE REGIONS**

- welcomes the Commission proposal which aims to amend the existing legislation with a view to granting Member States greater freedom with regard to the possibility of restricting or prohibiting on their territory the cultivation of genetically modified organisms authorised at EU level;
- also welcomes the openness of this new approach whereby other reasons (social, sustainability-related, ethical, etc.) can be taken into account to prohibit the cultivation of GMOs on a given territory;
- calls on the Commission to identify the requirements and criteria relating to the implementation of new restrictive measures which may be taken and emphasises that local and regional authorities must imperatively be involved in decisions pertaining to the regions which concern them;
- considers that account must be taken urgently of the decisions and measures prohibiting GMOs adopted by the Member States or regions, as these decisions and measures, in the context of a transparent market for consumers, must not be exposed to a legal vacuum;
- highlights the following issues which need to be dealt with before amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory:
  - inadequacy of the existing rules on labelling of GM-derived products;
  - inadequacy of the risk assessment procedure and monitoring;
  - the adverse impact of GM crops on conventional or organic crops and on rural development policies;
- considers that closer collaboration on the cultivation of GMOs is needed between the EFSA and the relevant national and regional authorities, and asks the Commission to pursue the course it has already embarked upon in this matter.

Rapporteur

Mr Santarella (IT/EPP), Mayor of Candela

Reference documents

Proposal for a regulation of the European Parliament and of the Council amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory  
COM(2010) 375 final

Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the freedom for Member States to decide on the cultivation of genetically modified crops  
COM(2010) 380 final

## **I. POLICY RECOMMENDATIONS**

### THE COMMITTEE OF THE REGIONS

1. welcomes the Commission proposal which aims to amend the existing legislation with a view to granting Member States greater freedom with regard to the possibility of restricting or prohibiting on their territory the cultivation of genetically modified organisms authorised at EU level; furthermore, notes that the proposal does not call into question the system for authorisation and placing on the market already in place at EU level;
2. points out that the present European framework acknowledges the possibility for Member States to take the necessary steps at national level to ensure coexistence and avoid the accidental presence of GMOs in conventional or organic crops;
3. furthermore, underlines that the European Commission and the Council have acknowledged the need to improve existing provisions, particularly as regards the cultivation of GMOs, and considers that account must be taken urgently of the decisions and measures prohibiting GMOs adopted by the Member States or regions, as these decisions and measures, in the context of a transparent market for consumers, must not be exposed to a legal vacuum;
4. considers that many regional and local authorities have opposed genetically modified (GM) crops in their territories, declaring themselves to be "GM-free areas" and forming networks;
5. points out that the Commission's proposal to introduce a new article (26b) into the currently applicable Directive 2001/18/EC aims to allow Member States to adopt measures restricting or prohibiting the cultivation of all or particular GMOs authorised at EU level in all or part of their territory, provided that those measures are based on grounds other than those related to the assessment of the adverse effect on health and environment which might arise from deliberate release or the placing on the market of these GMOs;
6. furthermore points out that the measures must be restricted to the cultivation of GMOs, that they must not hinder the placing on the market or importing of genetically modified products or seeds and that they must be compatible with the EU's international obligations, particularly those pertaining to the World Trade Organization;
7. notes the positive approach taken by the European Commission which has reviewed the existing legislation on the cultivation of GMOs in light of experience and the application of the subsidiarity principle; however, deems that the proposals fail to address fully all the problems which GMOs pose for agriculture and regional development; calls on the Commission to identify the requirements and criteria relating to the implementation of new restrictive measures which may be taken and emphasises that local and regional authorities must imperatively be involved in decisions pertaining to the regions which concern them;

8. emphasises that agricultural and rural development policies will be affected by these decisions, insofar as opting for genetically modified farming implies choices other than those regarding the cultivation of conventional plants. For example, genetically modified crops tend to prefer models which place the emphasis on single crop farming and pose problems connected to the separation of distribution chains and, more generally, the coexistence of conventional, organic and GM crops;
9. highlights the following issues which need to be dealt with before amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory:
  - inadequacy of the existing rules on labelling of GM-derived products;
  - inadequacy of the risk assessment procedure and monitoring;
  - the adverse impact of GM crops on conventional or organic crops and on rural development policies;

*Inadequacy of the rules on labelling of GM-derived products*

10. deems the present system for labelling of products produced from the use of GMOs to be inadequate, especially as regards products derived from farm animals. In particular, the bulk of products from current GM crops are destined for use by farm animals, and only indirectly become foodstuffs for human consumption (for example meat, food or eggs) and therefore, under the current rules, they are not subject to labelling requirements. This situation restricts the end user's freedom of choice; even if opposed to such products, he or she will consume the GMOs unwittingly by purchasing and/or consuming products produced indirectly from GMOs;
11. calls for European legislation to be amended in order to make the distinction and labelling of food products originating from animals fed on GM feed compulsory; believes that clear identification of these derived products would result in the establishment of two markets, with potential economic advantages for producers who do not use GMOs, while guaranteeing information and freedom of choice for consumers;
12. emphasises that if derived products are not labelled, animals will probably be fed mostly on GM feed, moreover resulting in economic distortions and disproportionate financial constraints for producers and businesses wishing to establish GM-free supply and production chains. In particular, the production costs of products from farm animals (such as meat, milk and eggs) will probably be lower for countries which opt for GMOs, undoubtedly making these products more competitive, to the detriment of non-GM products;

*Inadequacy of the risk assessment procedure and monitoring*

13. underscores the criticisms often levelled at the scientific analyses conducted by the European Food Safety Authority (EFSA), regarding its internal procedures and opaque, incomprehensible decisions;
14. emphasises that greater coordination is needed between the EFSA and the competent authorities within each Member State in the GMO assessment procedure, while calling for the EFSA to act more vigorously and effectively, taking account of the scientific analyses carried out by the Member States;
15. stresses that, as homogeneous administrative areas, local and regional authorities are the most appropriate level for assessing the impact of the introduction of GM crops in each territorial context, for devising coexistence measures compatible with the principle of sustainable development and for reconciling local interests and managing the most appropriate solutions;
16. judges that in accordance with the subsidiarity principle, it is necessary to demonstrate the importance of coexistence between GM and GM-free crops for local and regional authorities. In particular, the problem of coexistence, primarily for GM plants whose nuclear genome has been genetically modified and cultivated plants with parent plants growing wild, is highly complex;

*The adverse impact of GM crops on conventional or organic crops and on rural development policies*

17. points out that genetically modified crops can prove to be incompatible with maintaining high quality conventional crops or organic crops and deprive some regions of the means to prepare and implement rural development strategies geared to their particular situation and their potential;

*General comments on the proposal for a regulation*

18. stresses the importance of the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory. Considering that the proposed rules offer the Member States additional freedom and that the key component of the proposal is to give more rights to the Member States rather than to expand harmonisation at EU level, the proposed measures may be deemed to comply with the principles of subsidiarity and proportionality. This possibility should be extended to the competent local and regional authorities, without any restrictions;
19. argues that the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory can help to preserve the diversity of types and methods of farming and thus freedom of choice for farmers and consumers, to the benefit of rural development;

20. regrets that the welcome possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory is to be curtailed by not allowing Member States or regions to invoke reasons pertaining to either human/animal health or environmental protection;
21. emphasises the need to provide stakeholders and the general public with complete and impartial scientific information on the use of GMOs for food purposes, whether for humans or animals;
22. emphasises that experience of cultivating GM plants in the Member States is still very limited and marginal and that publicity work on this matter has to be stepped up;

*Financial and/or administrative implications*

23. emphasises that the draft regulation does not contain a comprehensive description of the expected financial and administrative burdens, merely stating that the resulting burdens are difficult to predict. The increase in the administrative costs incurred by the Member States occasioned by the measures to implement the restriction on the cultivation of GMOs would seem to be unlikely, given that enacting the proposal would not substantially change the scale of the administrative burden and monitoring required by the current rules on the safety of genetic engineering in the agri-food industry;
24. points out that with regard to the financial impact on businesses, an even more rigorous restriction on the cultivation of GMOs would provide further support for the many organic businesses as well as the seed producers who make being GM-free a selling point for their products, knowing that this can help boost sales. The financial impact for these businesses would therefore be entirely positive;

*Monitoring and evaluation*

25. believes that a territorial impact evaluation should be carried out: this would make it possible to examine the political and socio-economic dimension of measures prohibiting or permitting GM crops at national or regional and local level;
26. believes that in order to put into practice the best choices regarding GMOs a system needs to be set up for proper scientific evaluation, which is not solely based on a posteriori empirical experience and which, to offer a truly in-depth and independent assessment of risks involved in cultivating a particular GMO, must also be conducted at local and regional level through specific studies. In particular, one highly important issue is whether there are wild parent plants in a given area which could lead to the uncontrolled spread of the GMO inserted into the cultivated GM plants. In the same way, it should be emphasised that regional and local authorities should be able to have recourse to the safeguard clause, insofar as the problem of seed purity has not yet been resolved;

*Recommendations*

27. calls for priority to be given to introducing measures to correct the problems mentioned at the beginning of this opinion. In particular, the inadequacy of rules on the labelling of GM derived products, risk assessment, the logic and rules of international trade and issues arising from the impact of GM crops on conventional crops must be addressed before the case for introducing the proposal can be evaluated properly. It hopes that until these corrective measures are introduced, the current ban on cultivating certain GMOs imposed by the Member States will remain in force under the precautionary principle;
28. upholds the need for rules on the labelling of food products produced from the use of GMOs (such as meat, milk, eggs);
29. considers that closer collaboration on the cultivation of GMOs is needed between the EFSA and the relevant national and regional authorities, and asks the Commission to pursue the course it has already embarked upon in this matter;
30. however, welcomes the openness of this new approach whereby other reasons (social, sustainability-related, ethical, etc.) can be taken into account to prohibit the cultivation of GMOs on a given territory;
31. feels that consistent implementation of the subsidiarity principle also means taking into account particular national or regional circumstances with regard to human/animal health or environmental protection as justification for prohibiting or restricting GMO crops;
32. reiterates and stresses the need for regional and local authorities to play an active and responsible part in the consultation process on the cultivation of GMOs;
33. in particular, asks that before GMOs are introduced into a Member State, specific studies and impact assessments are carried out involving timely consultation of the local and regional authorities concerned;
34. also calls for local and regional authorities to be provided with the means to call on the state with a view to prohibiting, on particular grounds, the cultivation of certain GMOs in their area;
35. calls on the Commission and the Member States to describe the resources and programmes needed to provide optimum technical and financial support for scientific research, including at local and regional level;
36. underlines the need for national and regional legislation on GMOs to refer explicitly to the precautionary principle;

37. agrees with the choice to establish a new simplified notification procedure under Directive 98/34/EC which is currently in force;
38. calls on the Member States and the regions to ensure cross-border cooperation with outlying areas, in order to safeguard Member States' choices with regard to GMOs;
39. in this context, recommends that the Commission set up a website containing links to the existing national location registers;
40. emphasises that it is not certain that the proposal will be able to meet the objectives it has set itself in view of international obligations (particularly in respect of the WTO);
41. draws attention to the success of the European initiative adopted on GMOs (over a million signatures collected) and wishes to know how this initiative will be integrated into the current debate.

Brussels, 28 January 2011.

The President  
of the Committee of the Regions

Mercedes Bresso

The Secretary-General  
of the Committee of the Regions

Gerhard Stahl



## II. PROCEDURE

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| <b>Title</b>                            | Freedom for Member States to decide on the cultivation of genetically modified crops in their territory  |
| <b>References</b>                       | COM(2010) 380 final and COM(2010) 375 final  |
| <b>Legal basis</b>                      | Art. 307(1) TFEU   |
| <b>Procedural basis</b>                 | Optional referral  |
| <b>Date of Council referral</b>         | 13 July 2010   |
| <b>Date of President's decision</b>     | 26 July 2010   |
| <b>Commission responsible</b>           | Commission for Natural Resources   |
| <b>Rapporteur</b>                       | Mr Santarella (IT/EPP), Mayor of Candela   |
| <b>Analysis</b>                         | October 2010   |
| <b>Discussed in commission</b>          | 14 December 2010   |
| <b>Date adopted by commission</b>       | 14 December 2010   |
| <b>Result of the vote in commission</b> | Majority   |
| <b>Date adopted in plenary</b>          | 28 January 2011  |
| <b>Previous Committee opinions</b>      | <ul style="list-style-type: none"> <li>– Opinion of the Committee of the Regions of 6 December 2006 on the Report on the implementation of national measures on the coexistence of genetically modified crops with conventional and organic farming - CdR 149/2006</li> <li>– Opinion of the Committee of the Regions of 17 November 2004 on the Communication from the Commission to the Council and the European Parliament - European action plan for organic food and farming - CdR 251/2004</li> <li>– Opinion of the Committee of the Regions of 16 May 2002 on the proposal for a regulation of the European Parliament and of the Council on genetically modified food and feed, the proposal for a regulation of the European Parliament and of the Council concerning traceability and labelling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (COM(2001) 182 final) and the proposal for a regulation of the European Parliament and of the Council on the transboundary movement of genetically modified organisms (COM(2002) 85 final) - CdR 33/2002</li> </ul> |