



Greenpeace EU media briefing – 23 January 2024

## **Draft EU law on new GMOs threatens legal rights of farmers, faces ECJ rejection**

As members of the European Parliament and EU governments are about to vote on a draft EU law by the European Commission on new genetically modified organisms (new GMOs), [new legal analysis by Greenpeace](#) has found the law could violate the individual rights of farmers, in particular their fundamental rights to property and the freedom to run a business.

The proposed law does not provide sufficient protection against the contamination of crops with new GMOs, which are obtained through so-called new genomic techniques (NGTs), and would introduce [patents](#) on new GMOs, leading to a loss of autonomy for European farmers. The amendments introduced in the European Parliament's environment committee would not solve the patent problem<sup>1 2</sup>.

If adopted, the proposed law could also violate a broad body of EU constitutional law, including several articles of the Treaty on the Functioning of the European Union (TFEU) and of the EU Charter of Fundamental Rights, notably related to ensuring a high level of protection of human health and the environment, and a high level of consumer protection, according to the legal analysis. The main reasons are that it waters down risk assessment for a category of new GMOs and even removes it completely for another category. The Commission also proposes to remove traceability and labelling requirements<sup>3</sup> that are necessary to protect consumers and farmers who choose not to use GMOs.

Because of these legal failings, the Court of Justice of the EU could ultimately invalidate the law. In the meantime, this law would pose an unprecedented challenge to health and environmental

---

<sup>1</sup> NGTs are often used to just dress up the patent claims as technical inventions, and then claim the patent on all - including conventional - plants with characteristics similar to those described in the patent, exploiting the current loopholes in the interpretation of patent law.

<sup>2</sup> The amendments proposed to prevent patents on NGT plants would be ineffective in protecting farmers, according to [Testbiotech](#) and to farmers' group [ECVC](#).

<sup>3</sup> [Detection](#) and traceability of new GMOs are feasible.

protection principles at the basis of EU legislation, including the [precautionary principle](#). It could also set a precedent for the deregulation of other GMOs<sup>4</sup>.

In the [new draft law](#), the Commission describes new GMOs as safe and proposes to fully remove (for the most part) or water down safety checks for them, ignoring warnings by scientists<sup>5</sup> and without substantial evidence or long safety records, since very [few new GMOs have so far reached the market](#). The German Federal Agency for Nature Conservation (BfN) and independent scientists have warned that risks associated with new GMOs are not lower than the risks related to the previous generation of GMOs.<sup>6</sup> For example, according to [BfN](#), the GABA tomato, engineered for increased GABA content (a plant compound which can lower blood pressure), could affect human health, because of [excessive accumulation of GABA neurotransmitters](#). The [scientific Society for Ecology](#) in Germany, Austria and Switzerland (GfOE) has also warned about removing risk assessment for the majority of new GMOs.

The “criteria of equivalence to conventional plants”, used by the Commission to justify removing safety checks for most GMOs, has been criticised by the European Network of Scientists for Social and Environmental responsibility (ENSSER), who qualifies it as unscientific, warns that it covers genetic modifications way beyond [what current conventional breeding could achieve](#) and that such equivalence is not a guarantee that new GMOs are safe. More recently, the French National Agency for Food, Environmental and Occupational Health and Safety (ANSES), has published an opinion explaining that gene editing techniques “can lead to changes in the biological functions of plants, which are not taken into account in the Commission's category 1<sup>7</sup> proposal, and that [health and environmental risks cannot be ruled out](#).”

## State of play

The European Parliament's environment Committee will vote on the Commission's proposal on [24 January](#), and a vote for the whole European Parliament is expected in February.

---

<sup>4</sup> The proposal covers NGT plants, but in addition to plants (domesticated and wild), biotech companies are carrying out experiments using NGTs to create [insects, vertebrates and microorganisms](#) with new characteristics.

<sup>5</sup> According to the European Network of Scientists for Social and Environmental Responsibility (ENSSER) “[critical scientific expertise and its supporting scientific evidence was completely ignored](#)”.

<sup>6</sup> According to BfN, plants produced by the techniques covered in the proposal (cisgenesis and targeted mutagenesis) have a [similar if not greater risk potential](#) compared to plants produced by conventional genetic engineering. A group of experts and scientists issued a statement in December 2023 warning that it is [scientifically incorrect](#) to assume that the risks to health or the environment from NGT plants are generally lower.

<sup>7</sup> The proposal creates [two categories of new GMO plants](#): GMOs under category 1 would be considered equivalent to conventional plants and fully deregulated, while GMOs under category 2 would only need to comply with watered down safety checks.

Several members of the European Parliament's environment committee support the Commission's proposal and have proposed amendments that puzzle and worry [scientists](#) and [farmers' organisations](#)<sup>8 9</sup>. MEP Jessica Polfjård, rapporteur in the environment committee, has [proposed](#) to allow most new GMOs (category 1) in organic farming, which [EU law explicitly forbids](#) (article 11 of the EU's organic farming legislation), going against the overwhelming will of the [organic farming sector](#).

Pro-GMO advocates argue that new GMOs will help deliver societal benefits on sustainability, including adaptation to climate change. However, so far, the few new GMOs that have reached the market have [failed to deliver on these claims](#).

EU institutions have a responsibility to protect Europe's people and nature, which includes protecting health and the environment in accordance with the [precautionary principle](#), which is a founding principle of EU law. According to Greenpeace's legal assessment, the proposal violates this principle.

The [Council](#), presided by Belgium since January, is trying to secure an agreement between governments on the Commission's proposal, after a deal was [rejected](#) in December. Several MEPs have repeatedly pointed to the flaws in the Commission's proposal on new GMOs, and several countries' representatives have voted against a political agreement in December, or abstained.

#### **Contacts:**

**Eva Corral – Greenpeace EU GMO campaigner:** +32 479 60 12 89, [eva.corral@greenpeace.org](mailto:eva.corral@greenpeace.org)

**Greenpeace EU press desk:** +32 (0)2 274 1911, [pressdesk.eu@greenpeace.org](mailto:pressdesk.eu@greenpeace.org)

This press briefing is also on: [www.greenpeace.eu](http://www.greenpeace.eu)

For breaking news and comment on EU affairs: [www.twitter.com/GreenpeaceEU](https://www.twitter.com/GreenpeaceEU)

Greenpeace is an independent global campaigning network that acts to change attitudes and behaviour, to protect and conserve the environment and to promote peace. We do not accept donations from governments, the EU, businesses or political parties. Greenpeace has over three million supporters, and 26 independent national and regional organisations with offices in more than 55 countries.

EU Transparency Register: 9832909575-41

---

<sup>8</sup> The amendments proposed to prevent patents on NGT plants would be ineffective, according to [Testbiotech](#) and to farmers' group [ECVC](#).

<sup>9</sup> According to Testbiotech, the amendments to annex 1 proposed in ENVI Committee "[lack sufficient scientific basis and would turn mandatory risk assessment of NGT plants into a rare exception](#)".