



**Friends of
the Earth
Europe**

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A poisoned chalice

Why the Greek Opt-out proposal for GM crops will do more harm than good.

April 2014

Introduction

Granting national governments more say over cultivating genetically modified (GM) crops on their territory has received broad support from a range of governments and organisations, including Friends of the Earth Europe.

However, new proposals from the Greek presidency, if agreed, represent an empty offer – providing little legal basis for countries who oppose GM crops, and extreme bias to companies who profit from GM technology. The European Commission must provide genuine powers to national governments to keep their fields GM-free.

Summary assessment of the European Council's current proposal

Under the current proposals, national governments who oppose GMOs should be forced to ask biotech companies, like Monsanto and Syngenta, to exclude them from authorisation applications. This puts governments and citizens who oppose GM crops on the back-foot against the biotech industry's desire for profit.

This represents a significant weakening in the text adopted in the European Parliament in July 2011 – which potentially granted genuine powers to national governments to ban the cultivation of GMOs:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2011-0314%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

The current proposal has significant political, democratic and legal weaknesses that undermine the power of governments to ban GM crops. The proposed grounds upon which to ban GM crops are legally weak and would potentially open-up countries to legal challenges from biotech companies – despite democratically agreed positions that oppose GMOs. The proposals also reduce the importance of rigorous scrutiny of the health and environmental risks. This represents a weakening of the European safety net that has kept Europe relatively GM free, and the fundamental precautionary principle that European policy is based upon.

National bans based on weak grounds could be challenged via trade agreements, as stated by the legal expert of the Council (April 2011), or through legal challenges. Real rights as proposed by the European Parliament are essential to afford legal protection for member states.

The proposal makes it obligatory for governments to ask the biotech industry for consent to ban a GM crop nationally. Only if the industry rejects this, governments could use a second option for banning a GM crop, but the reasons permitted are legally weak and unclear.

Recommendations:

Friends of the Earth Europe recommends that member states do not support the Greek opt-out proposal but seek to improve it in line with the proposal from the European Parliament, demanding stricter rules to assess GM crops as well as make a necessary substantial reform of the EU decision making process on GMOs.

Minimum improvements/requirements:

- Delete any option that gives biotech companies any role in the decisions of governments to restrict the cultivation of a GM crop. This means deleting any prerequisite that governments seek biotech companies consent for a ban. This idea puts sovereign states and private companies on an equal level and formalises the biotech industries role in policy-making.
- Change the legal base for the proposal to make it legally solid (from article 114 of the treaty to article 192 (refers to environmental issues)).

Political background:

In summer 2010 the European Commission launched a proposal to offer member states new rights to ban the cultivation of GM crops on their territory. Friends of the Earth Europe assessed it as politically and legally flawed, due to lack of legal certainty for the bans and background deals to accelerate the authorisation of new GM crops.

The European Parliament made substantial changes of the draft to close the gaps and amended it in a way to legally strengthen bans in July 2011.

Now, with 19 governments opposing the GM maize 1507, governments have more power to make the major changes needed for the proposal. So far four countries (UK, France, Germany and Belgium) have blocked the opt-out proposal since 2011. However, it is apparent that the UK is now signalling that they support the proposal.

The proposal from the Greek Council presidency represents an updated version of the proposal from that was discussed amongst governments in 2012. These amendments have resulted in the proposals on the table, that provide limited legal basis for countries who oppose GM crops, and extreme bias to companies who profit from GM technology.

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Belgium (Flanders & Brussels)	Friends of the Earth
Bulgaria	Za Zemiata
Croatia	Zelena Akcija
Cyprus	Friends of the Earth
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