OPINION

COM (2015) 177

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory.

PART I – INTRODUCTORY NOTE

In accordance with Article 7 of Law No 43/2006 of 25 August 2006, amended by Law No 21/2012 of 17 May 2012 on monitoring, assessments and pronouncements by the Portuguese Parliament within the scope of the process of constructing the European Union, as well as the methodology for examining European initiatives, approved on 8 January 2013, the European Affairs Committee has received the **Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory** [COM(2015)177].

PART II – RECITALS

1. The European Union has a comprehensive legal framework in place for GMOs and derived products[1]. With regard to the authorisation of genetically modified food and feed (GM) for animals, the European Union has a legal framework through **Regulation (EC) No 1829/2003** on genetically modified food and feed. This regulation covers GMOs for food use, food containing or consisting of GMOs and food produced from or containing ingredients produced from GMOs. Also covered are GMOs for other purposes, such as cultivation, if they are to be used as raw material for the production of animal food and feed. Finally, Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms, which forms the other component in the legislative framework and covers GMOs for uses other than in food and feed for animals, more specifically for cultivation.

[1] Currently, the EU legal framework consists of the following laws: **Directive (EU) 2015/412** amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of genetically modified organisms (GMOs) in their territory; **Directive 2009/41/EC** on the contained use of genetically modified micro-organisms; **Regulation (EC) 1946/2003** on transboundary movements of genetically modified organisms; **Regulation (EC) 1830/2003**, concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms; **Regulation (EC) No 1829/2003** on genetically modified food and feed; **Directive 2001/18/EC** on the deliberate release into the environment of genetically modified organisms.

2. Both laws lay down the authorisation procedures which GMOs are required to follow before being placed on the market. They also set out the scientific basis[2] for the assessment of potential risks to human health, animal health and to the environment, as well as labelling requirements. In addition to these aspects, the regulation further lays down the rules on traceability and labelling of GMOs, as well as the traceability of food and feed products for animals produced from GMOs.

3. This analysis can be found in the political guidelines implemented by the European Commission for the period 2014-2019. In these guidelines, the Commission declared its intention to re-examine the legislation applicable to the authorisation of GMOs[3].

4. It is with this in mind that the European Commission proposes, through this initiative, to amend Regulation (EC) No 1829/2003 so as to allow Member States to restrict or prohibit the use of genetically modified organisms for food and feed for animals, which have been authorised by the EU.

5. It should be noted that within the scope of the current legal framework, the Commission plays a decisive role in the authorisation of GMOs. However, despite Member States being called to participate in this process[4], they have not been given

[2] Any authorisation for placing a product on the market must be duly justified and the main reasoning behind such justification is scientific assessment. The European Food Safety Authority (EFSA), in cooperation with the scientific bodies of the Member States, is responsible for the scientific assessment of the risk.

[3] Commission President, Jean-Claude Juncker, said: 'To me, it is simply not right that under the current rules, the Commission is legally forced to authorise new organisms for import and processing even though a clear majority of Member States is against it. The Commission should be in a position to give the majority view of democratically elected governments at least the same weight as scientific advice, notably when it comes to the safety of the food we eat and the environment in which we live. The relationship with national Parliaments is of great importance to me, notably when it comes to enforcing the principle of subsidiarity. I will explore ways to improve the interaction with national Parliaments as a way of bringing the European Union closer to citizens'.

[4] Member States are involved at two stages: 'they vote on draft decisions tabled by the Commission in the Standing Committee, and, if no decision can be reached at that level, they then vote in the Appeal Committee. As in all other committees set up under EU legislation, Member States vote in these committees under the rule of the qualified majority, as defined in the Treaty. Where there is no qualified majority in favour of or against the draft decision in the Appeal Committee, the result is “no opinion”'. It is important to note that since entry into force of Regulation (EC) No 1829/2003, there has never been a qualified majority among Member States in favour of or against a draft decision tabled by

the chance to air all their concerns in a field which is of considerable importance to European citizens. Nevertheless, the 2015 Directive gives Member States greater flexibility allowing them to restrict or prohibit the cultivation of GMOs in their territory[5], but also maintains the EU authorisation system based on risk assessment. The Directive thus takes into account one of the main concerns expressed over the years by Member States with regard to authorisation and, at the same time, follows the political guidelines presented by the Commission to the European Parliament in 2014[6].

6. It should also be mentioned that the scope of implementation of Directive (EU) 2015/412 **only applies to GMOs for cultivation** and not to GM food and feed for animals, which represent most authorisations granted in the EU.

7. Therefore, by proposing this legislative initiative, the Commission seeks to amend Regulation (EC) No 1829/2003 - **without amending the authorisation process** - to provide **Member States with decision-making power with respect to the use of GM food and feed for animals in their territory**, after these products have been **authorised[7], also ensuring that the measures implemented are in compliance with the rules of the internal market and, particularly, with Article 34 of the Treaty on the Functioning of the European Union (TFEU).** As such, this will allow Member States to resolve issues which are not covered in the European Union decision making process on a national level. Member States may invoke socio-economic or environmental reasons or other reasons relating to other uses of agricultural land.

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the Commission which authorises GMOs, either for cultivation or for genetically modified animal food and feed. The result has always been 'no opinion'.

[5] As long as these measures are justified based on compelling grounds other than risk to human or animal health or to the environment, in other words, different criteria to those assessed by the EFSA.

[6] Before the implementation of this Directive, Member States could provisionally restrict or prohibit the use of GMOs in their territory **only if they had new evidence that the organism in question constituted a risk to human health or to the environment, or in the event of an emergency**.

[7] It should be noted that in addition to cultivation, the placing on the European market and use of GMOs and derived products in human and animal food chains are subject to EU authorisation. This authorisation is dependent on demonstrating that no risk exists for human or animal health or the environment, after an exhaustive assessment by the EFSA, in collaboration with Member State scientific bodies.

9. It should be noted that in addition to cultivation, the placing on the European market and use of GMOs and derived products in human and animal food chains are subject to EU authorisation. This authorisation is dependent on demonstrating that no risk exists for human or animal health or the environment. There are currently 58 authorised GMOs in the EU for use in human and animal food (including corn, cotton, soya, rape-seed and sugar beet). With respect to the cultivation of GMOs in the EU, only corn (MON 810) is grown and in only three countries: Portugal, Spain and the Czech Republic. With regard to GM food and feed for animals, the European Union imports more than 60% of its needs.

10. In Portugal, GM corn has been grown since 2005 and crops currently cover an area of 8 542.41 hectares.

11. Finally, it should be mentioned that this initiative has been sent to the Agriculture and Sea Committee, which analysed it and approved the respective report, which is attached in full to this opinion and is an integral part thereof.

Taking into consideration the provisions of this proposal, the following issues require analysis:

a) The Legal Basis

The legal basis for this initiative is Article 114 of the Treaty on the Functioning of the European Union (TFEU).

b) The principle of subsidiarity

I. This initiative has its legal basis in Article 114 of TFEU which lays down the following: *'1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.*

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.

9. By way of derogation from the procedure laid down in Articles 258 and 259, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to above shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article 36, provisional measures subject to a Union control procedure."

II. This proposal seeks to provide **Member States with decision-making power with respect to the use of GM food and feed for animals in their territory,** after these products have been **authorised by the EU and after it is ensured that no risk exists** to health or the environment. Member States may invoke socio-economic or environmental reasons or other reasons relating to other uses of agricultural land to implement restrictive or prohibitive measures provided that such measures comply with EU law.

III. The proposed amendments do not affect the provisions of Regulation (EC) 1829/2003, more specifically with regard to authorisation procedure provisions relating to supervision which seek to ensure a high level of safety throughout the EU and, as

such, the aim is better achieved on an EU level. However, the reasons which Member States may now invoke, other than those relating to risks to health and the environment, have the underlying principle that national, regional or local decisions are more suitable for dealing with the specificities inherent to the use of GMOs and GM food and feed in the EU. It is thus considered suitable to grant Member States, in compliance with the principle of subsidiarity, greater flexibility to decide if they wish to restrict or prohibit the cultivation of GMOs in their territory. As such, the aim can be adequately achieved at a Member State level.

IV. In light of the above, it is presumed that the principle of subsidiarity is safeguarded. However, it is considered relevant to note that issues relating to the placing on the market and import of GMOs shall continue to be governed on an EU level so as to safeguard the proper functioning of the internal market.

c) The content of the initiative

This initiative proposes the amendment of **Regulation (EC) No 1829/2003** on the use of genetically modified food and feed for animals. The proposed amendments seek to provide **Member States with decision-making power to restrict or prohibit the use of GMOs in food and feed for animals in their territory**, after these products have been authorised by the EU and after it is **ensured that no risk exists** to health or the environment.
Member States may invoke socio-economic or environmental reasons or other reasons relating to other uses of agricultural land to implement restrictive or prohibitive measures provided that those measures are in line with EU law. This initiative thus complements decision-making flexibility already provided to Member States by Directive (EU) 2015/412, as this initiative only covers GMOs for cultivation.

As such, the addendum of Article 34-A is hereby proposed to the abovementioned regulation, which provides for the following:

'Article 34-A

Restrictions or prohibitions by Member States

1. Member States may adopt measures restricting or prohibiting the use of products referred to in Article 3(1) and in Article 15(1), authorised pursuant to this Regulation provided that such measures are:

a) reasoned and based on compelling grounds in accordance with Union law which shall, in no case, conflict with the risk assessment carried out pursuant this Regulation;

(b) proportional and non-discriminatory.

2. Where a Member State intends to adopt measures as provided for in paragraph 1, it shall first submit to the Commission a draft of those measures, and the corresponding justification. The Commission shall immediately notify the other Member States of the draft measures and the corresponding justification. The Member State may submit the draft measures and such information before the authorisation procedure provided for in Articles 7 and 19 has been completed.

During a period of three months from the date of submission to the Commission of the draft measures and information in accordance with the first subparagraph:

a) The Member State shall refrain from adopting and implementing those measures;

b) The Commission and the Member States may make any comments they consider appropriate to the Member State which has submitted the draft measures.

3. Measures adopted in accordance with paragraph 1 of this Article shall provide for a reasonable period of time during which existing stocks of the products referred to in Article 3(1) and Article 15(1), concerned by such measures which could legally be used before the date of adoption of the measures, may be used up.

4. Measures adopted in accordance with paragraph 1 of this Article shall not affect the use, in the Member State concerned, of food and feed containing an adventitious or technically unavoidable presence of genetically modified material which, by application of the thresholds set out in Articles 12 and 24, are not required to be labelled in accordance with this Regulation.

5. Paragraphs 1 to 4 of this Article shall not apply to GMOs for cultivation.'

8. In summary, through this initiative the **Commission proposes an amendment to the legal framework** for GM food and feed for animals, **broadening the solution agreed by Directive 2015 on the cultivation of GMOs for animals**. This is an important step as it will allow Member States to take into account the national context,

whenever legitimate grounds exist for restricting or prohibiting the cultivation of GMOs, with the exception of those relating to health and environmental risks.

PART III - OPINION

Considering the above as well as the Report by the competent committee, the European Affairs Committee is of the view that:

1. This initiative is in compliance with the principle of subsidiarity.
2. With respect to this initiative, the scrutiny process is concluded. However, taking into account the relevance of the matter in question, the European Affairs Committee shall monitor the legislative process on this initiative, more specifically by exchanging of information with the Government.

S. Bento Palace, 23 June 2015

The Member of Parliament Author of the Opinion **The Committee President**

(Ivo Oliveira) **(Paulo Mota Pinto)**

PART IV – ANNEX

Committee for Agriculture and Sea.

ASSEMBLEIA DA REPÚBLICA

Committee for Education, Science and Culture

Report of the Committee for Agriculture and Sea	Member of Parliament:
COM(2015)177	Miguel Freitas (PS)

[Proposal for a regulation of the European Parliament and of the council amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory.]

I INTRODUCTORY NOTE

Pursuant to Article 7(1) of Law No 43/2006 of 25 August 2006, amended by Law No 21/2012 of 17 May 2012 on monitoring, assessments and pronouncements of the Parliament in the context of building the European Union, as well as the *methodology for scrutinising European initiatives*, approved on 8 January 2013 by the European Affairs Committee, the *Proposal on a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory* [COM(2015)177], from the European Commission, was sent by that Committee to the Agriculture and Sea Committee for purposes of analysis and subsequent drawing up of this report. It was distributed on 12 May 2015.

II RECITALS

Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001, on the deliberate release into the environment of genetically modified organisms, and Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on the use of genetically modified food and feed for animals, form the legal framework applicable to the granting of authorisation for the placing on the market of GMOs and GM food and feed for animals in effect in the European Union. These laws seek to ensure the safety of GMOs and GM food and feed for animals, while also creating a single market for such products.

This legal framework has established a centralised procedure on a European Union level, according to which the Commission is empowered make implementing decisions to grant or refuse authorisation requests for GMOs and GM food and feed for animals, based on an assessment of the potential risks they pose for human or animal health or the environment, in addition to other legitimate factors.

Such implementing decisions are made in compliance with the examination procedure set out in 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, whereby Member States are involved in two phases. Firstly, on the permanent committee and, if necessary, on the appeal committee.

It should be noted that, when a GMO or GM food and feed for animals is authorised in accordance with Directive 2001/18/EC or with Regulation (EC) No 1829/2003, the Member States may not restrict, prohibit or impede the free circulation of this product in their territory, except in highly specific situations set out in Union law - which require that proof of the existence of a serious risk to health or the environment be provided.

In order to circumvent these limitations, some Member States have resorted to safeguard clauses and emergency measures (provided for in Directive 2001/18/EC and Regulation (EC) No 1829/2003) and the notification procedure provided for in the Treaty on the Functioning of the European Union (which requires that new scientific evidence be presented on the protection of the environment or work place). Other Member States have implemented unilateral prohibitions, with the respective legal consequences.

Recently, this situation was changed with respect to GMOs for cultivation, further to the implementation, in 13 March 2015, of Directive (EU) No 2015/412 of the European Parliament and of the Council of 11 March 2015 amending Directive 2001/18/EC as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory, amending Directive 2001/18/EC, with the purpose of authorising Member States to restrict or prohibit the cultivation of GMOs on their territory.

In general terms, the new provisions seek to provide Member States with decision-making power over the cultivation of GMOs on their territory, without calling into question the assessment of risks set out in the Union authorisation procedure on GMOs. At the same time, these provisions seek to provide greater predictability for operators and limit the use, by Member States, of the abovementioned safeguard clauses.

This has resulted in this Proposed Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed for animals on

their territory, wholly or partially, based on legitimate grounds in line with Union law - i.e., not related to risks to human or animal health or the environment, as these are already assessed on an EU level, in accordance with Regulation (EC) No 1829/2003.

Specifically, it proposes the addendum of Article 34-A to Regulation (EC) No 1829/2003, in the following terms:

‘Article 34-A

Restrictions or prohibitions by Member States

1. Member States may adopt measures restricting or prohibiting the use of products referred to in Article 3(1) and Article 15(1), authorised pursuant to this Regulation provided that such measures are:

a) reasoned and based on compelling grounds in accordance with Union law which shall, in no case, conflict with the risk assessment carried out pursuant this Regulation;

(b) proportional and non-discriminatory.

2. Where a Member State intends to adopt measures as provided for in paragraph 1, it shall first submit to the Commission a draft of those measures, and the corresponding justification. The Commission shall immediately notify the other Member States of the draft measures and the corresponding justification. The Member State may submit the draft measures and such information before the authorisation procedure provided for in Articles 7 and 19 has been completed.

During a period of three months from the date of submission to the Commission of the draft measures and information in accordance with the first subparagraph:

a) The Member State shall refrain from adopting and implementing those measures;

b) The Commission and the Member States may make any comments they consider appropriate to the Member State which has submitted the draft measures.

3. Measures adopted in accordance with paragraph 1 of this Article shall provide for a reasonable period of time during which existing stocks of the products referred to in Article 3(1) and Article 15(1), concerned by such measures which could legally be used before the date of adoption of the measures, may be used up.

4. Measures adopted in accordance with paragraph 1 of this Article shall not affect the use, in the Member State concerned, of food and feed containing an adventitious or technically unavoidable presence of genetically modified material which, by application of the thresholds set out in Articles 12 and 24, are not required to be labelled in accordance with this Regulation.

5. Paragraphs 1 to 4 of this Article shall not apply to GMOs for cultivation.'

Member States shall thus be authorised to implement measures to restrict or prohibit the use on their territory, wholly or partially, of GMOs, genetically modified food and feed for animals, a group of GMOs or a group of genetically modified food and feed for animals, provided that such measures are based on legitimate grounds in line with Union law and are in compliance with the principles of proportionality and non-discrimination between national and non-national products.

1. Principle of Subsidiarity

In general terms, the Principle of Subsidiarity aims at providing a specific degree of autonomy to a lower authority with regard to a higher authority, i.e., the division of competences among levels of power. It is one of the principles which constitute the institutional basis of Member States.

Applied within the context of the European Union, this principle means that Member States maintain the competences they can manage more effectively on a national level and that other competences which Member States are unable to deal with, pass to the Community.

In accordance with the provisions of Article 5(2) of the Treaty, three conditions must be met for the Community to apply the Principle of Subsidiarity: (1) an area which falls within the exclusive competence of the Community may not be contemplated, (2) the

Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and, (3) by reason of the scale or effects of the proposed action is better achieved at Union level.

The aim of the Proposed Regulation of the European Parliament and of the Council is to allow Member States to restrict or prohibit the use of GM food and feed for animals on their territory.

It can immediately be seen that an area which is the exclusive competence of the Community is not involved, as this competence is shared with the Member States, and the scope of competences is clearly respected.

It should also be noted that the proposed amendments do not affect the provisions of Regulation (EC) No 1829/2003, which seek to ensure that an aim is better achieved at a Union level, more specifically, the Union authorisation procedure. In other words, this aim cannot be dealt with competently by the Member States.

As such, with regard to matters other than those relating to risks to health and the environment, the proposal is based on the consideration that national, regional or local decisions are more suitable for dealing with the specificities inherent to the use of GMOs and GM food and feed for animals.

Finally, the scale or effects of the proposed action are better achieved at Union level. In other words, if the aims of this action cannot be sufficiently achieved by the Member States, centrally, regionally or locally, then the matter should be dealt with by the Union.

The current Union legal framework lays down the authorisation procedure for GMOs and GM food and feed for animals, and Member States may only implement measures under certain conditions set out in this framework. It is a framework which confers few possibilities on Member States to express considerations other than those relating to product safety, or through their vote on committees. The proposed Regulation of the European Parliament and of the Council changes this situation, confining Community action to the aims laid down in the Treaty and ensuring that decisions will be made as close as possible to its level, allowing Member States to implement, in their territory, measures to restrict or prohibit the use of GMOs and GM food and feed for animals based on legitimate considerations other than those linked to product safety, provided that they are in line with Union law.

In summary, it is considered that the Principle of Subsidiarity is respected.

2. The Principle of Proportionality

Taking into consideration that this Proposed Regulation of the European Parliament and of the Council only authorises Member States to implement justified measures in their territory on the use of GMOs and GM food and feed for animals, authorised under the existing legal framework and does not change the EU authorisation procedure (which is based on risk assessment, with the aim of ensuring a high level of protection for human life and health, animal welfare and health, the environment and consumer interests throughout the Union, while also safeguarding the efficient functioning of the internal market), which should remain standardised throughout the Community, it is considered that the said Proposed Regulation does not exceed that which is required to achieve the stated aims. Community action is limited to that strictly necessary to achieve the goals of the Treaties and, as such, respects the Principle of Proportionality.

III OPINION OF THE MEMBER OF PARLIAMENT AUTHOR OF THE REPORT

Although the opinion of the signatory is optional, it is felt that it should be noted that the amendment in question is highly significant in terms of Community policy on the use of GMOs and GM food and feed for animals.

Since 2001, efforts have been made to improve the legal framework on the authorisation of GMOs. This work has focused particularly on developments in scientific knowledge and analysis methodologies, especially with regard to direct and indirect, immediate and delayed effects, as well as in relation to the accumulated long-term effects of GM crops and GMOs on human health and the environment.

These efforts have led to changes in the European legal framework, allowing Member States to prohibit wholly or in part, under strict and clearly defined conditions, the use of GMOs in their territory and to establish suitable conditions for the cultivation of a specific variety. However, other issues were separate such as those relating to placing on the market (governed on a Union level so as to protect the internal market), questions relating to cultivation, better dealt with by Member States on a national, regional or local level as they related strictly to land use, local agricultural structures

and protecting habitats, ecosystems and landscape, and as such require greater flexibility.

After the implementation in 13 March 2015 of Directive (EU) No 2015/412 of the European Parliament and of the Council of 11 March 2015, amending Directive 2001/18/EC, allowing Member States to restrict or prohibit the cultivation of GMOs in their territory, a further step is now taken, amending Regulation (EC) No 1829/2003.

With this amendment, the Commission is transferring part of the decision-making power to Member States, but also contributing to a loss of coherence in the system, raising reservations with regard to the functioning of the internal market.

This is a situation which parliament has closely followed, as clearly seen recently with the approval of Parliamentary Resolution No 32/2015, recommending guidelines to the government with regard to the transposition process for the abovementioned Directive of the European Parliament and of the Council amending Directive 2001/18/EC of 12 March 2001, as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory (before implementation). More specifically, this involved assessing current legislation governing the cultivation of GM varieties and the implementation of the Directive with regard to the principle of precaution (but also with regard to aims relating to environmental and agricultural policy, land use, socio-economic and public order impacts). This Resolution lays down that decisions to restrict or prohibit the cultivation of genetically modified varieties shall require parliament to legislate (leading not only to greater scrutiny but also to shared responsibility by parliament in an area of policy where it is thought that political consensus will be more advantageous). This will provide transparent and accurate information on areas with GM crops through more suitable channels and ensure that consumers are given enough information for an informed and responsible choice (one of the major concerns of the Directive is to ensure a high level of protection for consumers through effective labelling and information requirements pursuant to Regulation (EC) No 1829/2003 and Regulation (EC) No 1830/2003).

The Agriculture and Sea Committee shall monitor this matter.

IV CONCLUSIONS

In light of the above, the Agriculture and Sea Committee has concluded as follows:

1. This Proposal for a Regulation of the European Parliament and of the Council seeks to amend Regulation (EC) No 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed for animals on their territory.

2. This Proposal for a Regulation of the European Parliament and of the Council lays down that Member States shall be authorised to implement measures to restrict or prohibit the use in their territory, wholly or partially, of a GMO or GM food or feed for animals, or a group of GMOs, provided that such measures are legitimately grounded in accordance with EU legislation, and observe the principles of proportionality and non-discrimination between national and non-national products.

3. This Proposal for a Regulation of the European Parliament and of the Council respects the Principles of Subsidiarity and Proportionality as laid down in the Treaty of the European Union, in accordance with that set out above.

4. The Agriculture and Sea Committee shall monitor this matter.

5. The Agriculture and Sea Committee hereby concludes the scrutiny of this initiative and in accordance with the provisions of Law No 43/2006 of 25 August 2006, amended by Law No 21/2012 of 17 May 2012, this report shall be sent to the European Affairs Committee for all due purposes.

S. Bento Palace, 27 May 2015

The Member of Parliament Author of the Report	**The Committee President**
[signature]	[signature]
(Miguel Freitas)	***(Vasco Cunha)***