

Green light for new GMOs?

**HOW THE EU COMMISSION BROKE ITS OWN
RULES TO LET THE BIOTECH INDUSTRY HELP
REWRITE GMO SAFETY LAWS**

BRIEFING | March 2021

Summary

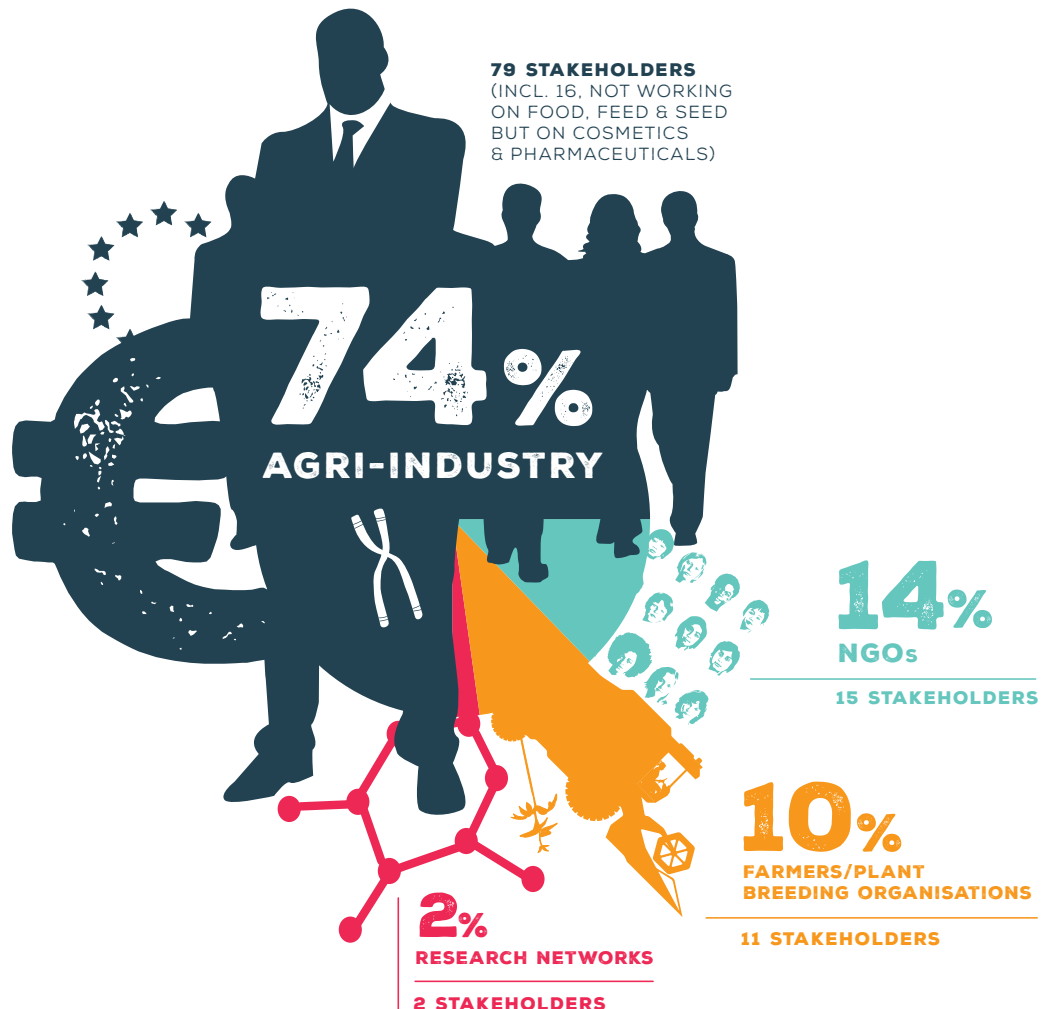
“The Farm to Fork strategy promises a sustainable approach to the food system, yet any notion of protecting the environment has been thrown out of the window in the latest consultation on future legislation for GMOs. **The European Commission seems to be ignoring its own guidelines on a fair and balanced process.** Instead, the consultation was secretive, dominated by industry, and key issues around the protection of the environment and consumer choice have been ignored. The European Commission needs to clean up the mess by publishing contributions to the study like it normally would, and recognise that it was flawed in its scope and set-up, and so cannot be used to justify any changes in GMO safety laws.” 

- Mute Schimpf, Friends of the Earth Europe's food and farming campaigner

Biotech companies are using the European Green Deal and Farm to Fork strategy to promote the latest forms of genetically modified crops and seeds, and the European Commission appears to have fallen for the spin. A recent consultation on future legislation to protect consumers and the environment from new forms of genetically modified organisms (GMOs) failed to address key questions on risk and allowed industry voices to dominate.

The result could be that GMOs are allowed into Europe without adequate protection for human health or the environment, with unlabelled GMOs on supermarket shelves. Promises made in the Farm to Fork strategy of less pesticide use and more sustainable approaches to farming would be left to wither on the vine.

WHO DID THE EU COMMISSION CONSULT ABOUT REWRITING GMO SAFETY LAWS?



What's the issue?

The European Union's Farm to Fork strategy¹ promises a fair, healthy and environmentally friendly food system, with a commitment to halve pesticide use and significantly increase the amount of organic farmland (to 25%) by 2030. A healthier and more sustainable food system is also key to the European Green Deal.

Yet despite these commitments, the Farm to Fork strategy has opened the door to increased reliance on genetically modified crops, which would increase pesticide use and put the organic sector at risk. Following a long campaign from the seed industry and others that has painted a misleading picture of genetically modified crops as a solution to climate change, the health department of the European Commission (DG Sante) is looking at how to exclude GMOs from transparency and safety checks.

Biotech companies want less regulation for GMOs and have sought to portray² new GMO techniques such as gene editing, and CRISPR-CAS as no different from traditional plant breeding methods – even though the techniques involve editing plant DNA.

Their campaign for less regulation was dealt a setback in 2018 when the European Court of Justice ruled³ that existing EU GMO safety law applies to the new generation of GMOs. The court said that the new GMOs should not be excluded from EU safety and labelling rules and underlined that the potential risks posed by new GMOs: “might prove to be similar to those that result from the production and release of a GMO through transgenesis.” Under the current law, the protection of human health and the environment states that attention must be given to controlling risks from the deliberate release of GMOs.

The ECJ ruling means that the new generation of GM crops and seeds should go through safety checks, an authorisation process and be labelled before they can be placed on the market. Farmers, breeders and food and feed processors must strictly follow the EU's traceability and labelling requirements for GM seeds so that it is possible to know whether a product is genetically modified or whether it contains GM ingredients.⁴

The Commission then delegated much of the responsibility for implementing the ruling to Member States and stepped back from coordinating technical aspects of how to test for contamination in imports.⁵

Following delays from the Commission, some Member States raised concerns, and requested a study on practical questions of the implementation from the ruling.⁶

The set-up of the study has now given rise to strong concerns that the process has been captured by industry after a stakeholder consultation, led by the Commission's Health and Food department (DG Sante), ignored the Commission's own guidelines. In doing so it allowed industry representatives to dominate the responses, and framed questions so that the key issues of risks to human health and environment were not on the agenda.

The findings of the consultation - scheduled to be published in April 2021 - will have a key influence over whether the ECJ ruling is implemented, or GMO safety law is weakened with exemptions carved out for new GM techniques.

Footnotes:

- 1 European Commission - Farm-to-Fork-Strategy https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/actions-being-taken-eu/farm-fork_en
- 2 Embracing Nature, Corporate Europe Observatory, 2018, <https://corporateeurope.org/en/food-and-agriculture/2018/05/embracingnature>
- 3 Ruling of the European Court of Justice, 25 July 2018, Case C-528/16 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-07/cp180111en.pdf>

- 4 https://ec.europa.eu/food/plant/gmo/traceability_labelling_en
- 5 <https://friendsoftheearth.eu/news/public-exposed-to-illegal-gm-food-due-to-lack-of-import-tests/>
- 6 Council Decision (EU) 2019/1904 on the study on new genomic techniques, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D1904&from=EN>

How the consultation was set up to prioritise the interests of the biotech sector

The idea that high-yielding crops will allow areas to be The EU Commission's DG Sante ignored its own guidelines⁷ in three crucial areas, which allowed the interests of the biotech sector and the broader agri-industry to be overrepresented, and has so far prevented normal public scrutiny of what was submitted.

Below are the three areas - stakeholder participation, the scope of the survey questions, and transparency - the relevant excerpts from the Commission's own guidelines on stakeholder consultations, and what happened in practice.

1 Stakeholder participation

What the Commission's guidelines say:

The basic rule is to consult broadly and transparently among stakeholders who might be concerned by the initiative, seeking the whole spectrum of views in order to avoid bias or skewed conclusions ("capture") promoted by specific constituencies.

The minimum standards define three stakeholder types, those:

- Affected by the policy
- Who will have to implement it
- Who have a stated interest in the policy.

The guidelines for Targeted Consultations like this one say "Privileged access for some stakeholders should be avoided."

What happened:

The European Commission chose the stakeholders for the closed consultation, with just 14% of stakeholders representing civil society groups – while 74% came from industry, many of which have a documented interest in exempting new GMOs from safety laws.⁸ A number of biotech companies were represented multiple times, both individually and as part of umbrella organisations.

For example, Bayer/BASF is a member of EuropaBio, the Bio-based Industries Consortium (BIC), European Crop Protection Association, Euroseeds and European Biopharmaceutical Enterprishowes (EBE). Syngenta is a member of EuropaBio, European Crop Protection Association, and Euroseeds, and grain trader Cargill is represented by at least nine industry bodies.

By contrast, small seed networks which like the biotech industry supply seeds, but which do not have a financial interest in deregulating new GMOs, were initially excluded from the consultation. Some were eventually accepted after interventions from NGOs. The Commission also asked cosmetic and pharmaceutical lobby groups to participate, even though the GMO legislation covers only food, feed and seeds issues.

Meanwhile only one consumer group, one animal welfare group and four environmental NGOs were invited to participate.

The Commission designed the consultation in such a way that a disproportionate number of industry bodies were allowed to participate, and allowed a number of biotech groups with a financial interest in deregulating new GMOs to be represented multiple times.

Footnotes:

7 [6] European Commission – Guidelines on Better Regulation (stakeholder consultation guidelines pp 67-87), states: 'The basic rule is to consult broadly and transparently among stakeholders who might be concerned by the initiative, seeking the whole spectrum of views in

order to avoid bias or skewed conclusions ("capture") promoted by specific constituencies.' p 76 <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>
8 Full list of stakeholders can be found here https://ec.europa.eu/food/plant/gmo/modern_biotech/stakeholder-consultation_en

2 Scope

What the guidelines say:

Where is it still possible to influence the outcome of the policy preparation, what items or aspects have already been decided?

What happened:

The study ignores a core aspect that has “already been decided” in the policy preparation – the 2018 European Court of Justice ruling. Instead of looking for gaps in the implementation of existing GMO safety laws, it instead opens up the scope much more broadly, allowing for the laws to be rewritten and weakened.

The consultation was also written to give more space to discuss the potential benefits of new GMOs, as opposed to the risks. Of the 29 questions in the survey,⁹ seven related to how potential users of new GMOs could benefit from their use, and just three referenced concerns about safety impacts. With answers limited by word count, this meant it was difficult to provide detailed and appropriate input on different risks posed by the new GMOs.

3 Transparency

What the guidelines say:

Results of consultations should be published and displayed on websites linked to the single access point on the internet and adequate feedback given on how the results of the consultation have been taken into account.

What happened:

The consultation has been hidden from scrutiny with the normal process of ensuring transparency by publishing submissions immediately ignored. DG Sante has indicated that responses will not be published until the study is complete. This conflicts with the Commission’s own rules that say that contributions must be published, raising concerns that the results of the consultation will not be balanced, but instead will favour the interests of industry and encourage deregulation of the new GMOs.



Footnotes:

9 <https://cloud.foeeurope.org/index.php/s/ATrL3oXmofaFK5j#pdfviewer>

An old story, re-framed

Concerns about the environmental impacts of GMO crops and seeds, coupled with consumer reluctance have meant that the biotech industry has struggled to get a foothold in the European market. But the big biotech companies want to increase access to European markets, and to do this they want weaker safety laws.

In 2017 the International Seed Federation (ISF)¹⁰ launched a campaign to get governments worldwide to adopt a zero-regulation approach to new genetic modification techniques as governments around the world considered how these new techniques would be regulated. Key to their campaign was a communication guide¹¹ that suggested emphasising that new forms of gene editing were a natural evolution of plant breeding techniques that have been used for thousands of years. It also suggests that there are environmental and climate benefits to new GMOs.

The European Seed Association has taken a similar line of argument, suggesting similarly argued that the new GMOs should be regulated in the same way as conventional crops. They claim that if existing GMO legislation is applied to new GM techniques, they will be forced to move their research and development out of Europe.

Euroseeds, the industry body representing research, breeding and production of seeds, launched a social media campaign¹² in July 19 with the hashtag #Embracing Nature, seeking to: “engage with a wider public interested in learning about plant breeding and latest plant breeding methods and to encourage a European regulatory and policy environment that supports plant breeding innovation”.

And yet in the USA, where new GMOs face fewer safety restrictions and are beginning to be cultivated, there is little evidence to support the hype. One of the two crops grown there with the new techniques - a herbicide-resistant strain of rapeseed - is specifically designed to be used with a weed-killer. The environmental track record of these crops is devastating - the cultivation of herbicide-resistant GM crops has led to increased herbicide use in North America and reduced yields,¹³ as weeds become resistant overpower the crop.

Not sustainable

The Commission’s commitment that a “healthier and more sustainable EU food system is a cornerstone of the European Green Deal” is a welcome ambition, but there is no place for unregulated GM crops in such a vision.

The Farm to Fork strategy says that “new innovative techniques, including biotechnology and the development of bio-based products, may play a role in increasing sustainability, provided they are safe for consumers and the environment,” and it goes on to claim that the review of GM regulation will look at “the potential to improve sustainability along the supply chain”.

But the Commission’s review of the GM regulations has not addressed the issue of sustainability, and in particular it has failed to address key questions concerning the sustainability of wider environmental impacts, including the economic impact on the organic and conventional farming, and the social impacts for farming communities.

The biotech industry’s record GM crops reveals increased pesticide use, including heavy reliance on the toxic herbicide glyphosate, with worrying levels used in Paraguay and Argentina where GM crops have been extensively grown. The rapeseed Cibus, one the new GMO varieties currently being grown commercially, is again herbicide-resistant.

Unregulated GMOs also threaten the viability of the organic sector as farmers will not be able to guarantee that their produce has not been contaminated with GM seeds or crops.

A number of scientists have spoken out in support of the need to regulate these new forms of GMOs. The European Network of Scientists for Social and Environmental Responsibility issued a statement¹⁴ highlighting the likelihood of unintended mutations and unintended effects as a result of gene editing techniques. The scientists argue that all GMOs should be labelled to ensure consumers are aware that the plant or product they are buying contains GMOs.

Friends of the Earth Europe supports this argument, and believes that there is no place in a sustainable food system for GMOs because of the risks to the environment, the cost to farmers, and the risks to human health.

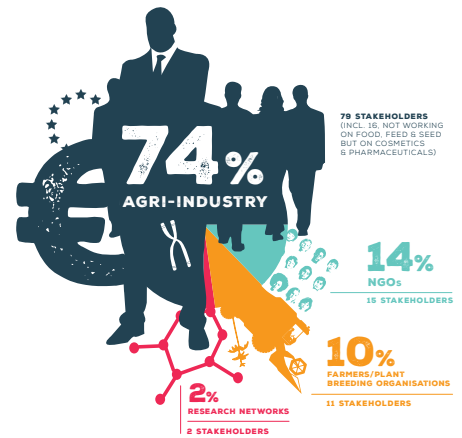
Footnotes:

- 10 Seed world, International edition 2017, https://www.worldseed.org/wp-content/uploads/2017/07/Seed-World_articles_May-2017.pdf
- 11 Embracing Nature, Corporate Europe Observatory, 2018, <https://corporateeurope.org/en/food-and-agriculture/2018/05/embracingnature>
- 12 <https://www.euroseeds.eu/embracing-the-power-of-nature/>
- 13 Herbicide Resistance Traits in Maize and Soybean: Current Status and Future Outlook, September 2019, Plants 8(9):337, https://www.researchgate.net/publication/335702592_Herbicide_Resistance_Traits_in_Maize

- e_and_Soybean_Current_Status_and_Future_Outlook; Benbrook, C., Do GM crops mean less pesticide use? November 2001, Pesticide Outlook 12(5):204-207, DOI: 10.1039/b108609j, Soares de Almeida et al., Use of genetically modified crops and pesticides in Brazil: growing hazards, Ciênc. saúde coletiva vol.22 no.10 Rio de Janeiro out. 2017, <https://doi.org/10.1590/1413-812320172210.17112017>; Bardocz, Z., Genetically Modified Crops: Seeds of Hope or Deception? February 2018, <http://www.fao.org/cfs/home/blog/blog-articles/article/en/c/1104228>
- 14 ENSSEER Statement on New Genetic Modification Techniques. September 2017. <https://ensser.org/publications/ngmt-statement/>

Conclusion

**WHO
DID THE EU
COMMISSION
CONSULT
ABOUT REWRITING
GMO
SAFETY LAWS?**



While the Farm to Fork strategy appears to be a step forwards towards a more sustainable approach to agriculture, the flawed approach used to review the legislation for new GMOs suggests the Commission is looking to open the door for new weaker rules for GMOs in Europe, putting the environment and consumer health at risk.

Industry has been allowed to dominate the consultation, key questions of risk have been ignored, and there has been no public scrutiny or accountability.

New laws for GMOs must not be decided on such a basis. The Commission must investigate, immediately publish the consultation submissions, and remedy the process.

The European Union needs to move away from the intensive agricultural techniques promoted by agribusiness and the biotech industry and invest in supporting farmers to diversify their crops and develop environmentally friendly farming methods, including agroecology and organic agriculture.

Friends of the Earth Europe is calling on the European Commission to:

- Fully implement the European Court of Justice's ruling and ensure new GMOs are subject to basic safety checks and authorisation requirements,
- Follow its own transparency guidelines and immediately publish all contributions to its stakeholder consultation.
- Take accountability for the flawed setup of the consultation and not use it to justify any policy conclusions - including rewriting GMO safety and labelling laws.

Friends of the Earth Europe is the largest grassroots environmental network in Europe, uniting more than 30 national organisations with thousands of local groups. We are the European arm of Friends of the Earth International which unites 74 national member organisations, some 5,000 local activist groups, and over two million supporters around the world. We campaign on today's most urgent environmental and social issues, challenging the current model of economic and corporate globalization, and promoting solutions that will help to create environmentally sustainable and socially just societies. We seek to increase public participation and democratic decision-making. We work towards environmental, social, economic and political justice and equal access to resources and opportunities on the local, national, regional and international levels.

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March 2021. Design: www.onehemisphere.se **Images:** (front cover) cambiam cells within a plant. © Digital Photo / Shutterstock. (Inside): © Shutterstock.



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