

Unmasking new GMOs

protecting farmers and consumers' right to transparency

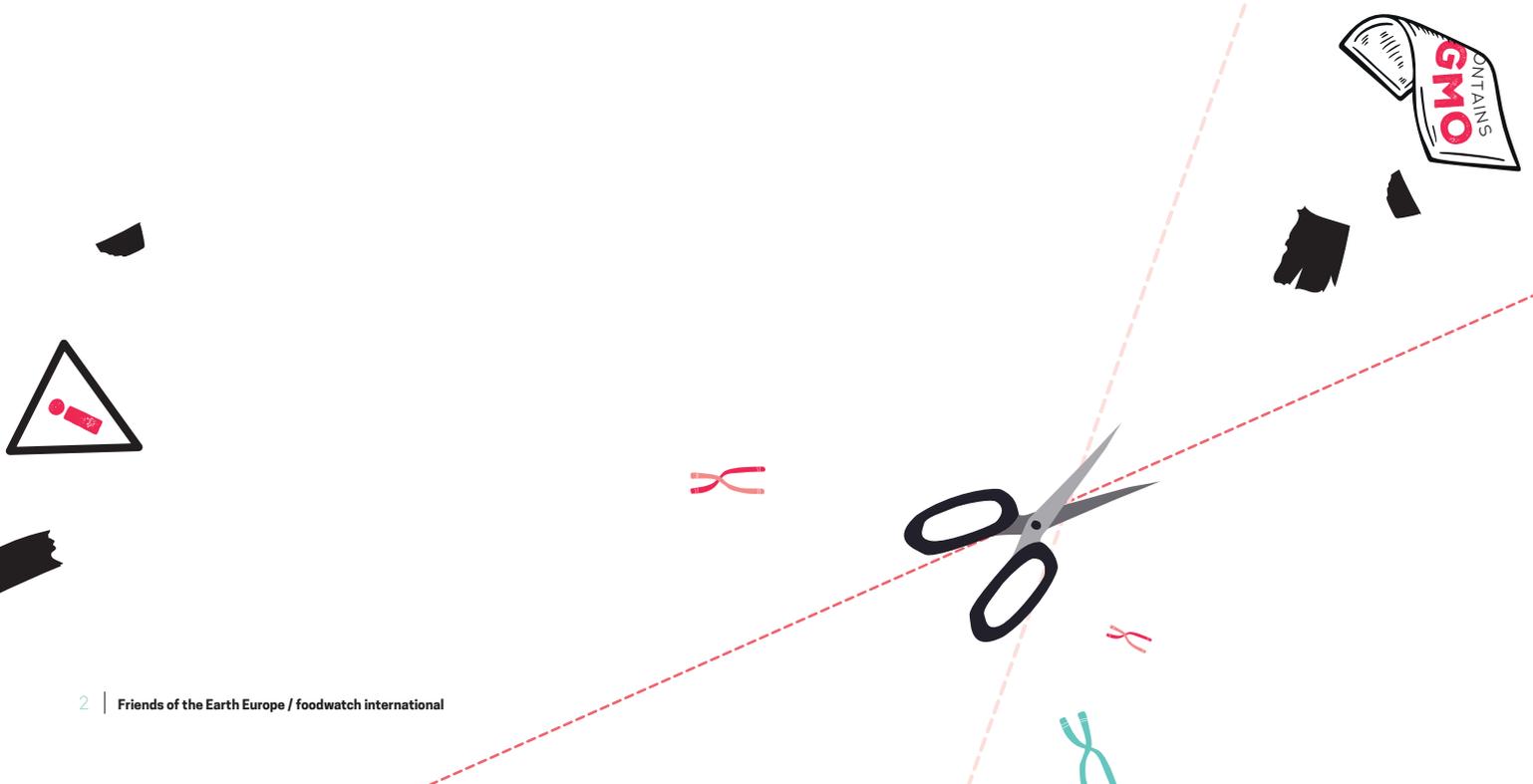
FRIENDS OF THE EARTH EUROPE & FOODWATCH INTERNATIONAL BRIEFING ON THE RISKS OF EUROPEAN GMO LABEL DEREGULATION

BRIEFING (Second edition) | October 2023



The European Commission's proposal to widely deregulate the new generation of Genetically Modified Organisms (new GMOs) - now called New Genomic Techniques or NGTs for political purposes - plans to take away farmers', food processors', retailers' and consumers' right to be informed whether the feed and food they buy contains new GMOs.

The law proposal of the EU Commission is one that meets the demands of the agribusiness lobby rather than its citizens' best interests. Studies show that, as long as consumers have the information whether their food contains GMOs or not, they prefer to choose conventional, organic or GMO-free options.¹ This means that, if there is not a demand for GMO products, (many) farmers would not buy new GM seeds, limiting the European market and global pesticide corporations' sales of these products.



The European Commission's proposal erodes labelling for new GMOs

The EU Commission proposes to exclude the majority of new GMOs from the current GMO rules. In detail, it means that pre-marketing authorisation, safety checks, traceability, labelling and monitoring would not longer apply for them.² It also means that consumers, farmers, and the whole food chain would no longer know whether the seeds, ingredients and final food products they buy contain new GMOs or not.

The Commission groups the vast majority of new GMOs in a so-called 'category 1' and claims that they would carry the same risks as conventional plants. Article 5 of the proposal states that rules that apply to existing GMOs shall not apply to these 'category 1' plants.³

A smaller group of new GMOs will fall into 'category 2' for which the Commission wants to maintain some form of GMO labelling. Article 23 states that "labelling of authorised category 2 NGT products may also mention the trait(s) conveyed by the genetic modification, as specified in the consent or the authorisation pursuant to Sections 2 or 3 of Chapter III of this Regulation."

However, the additional labels that the European Commission proposes for 'category 2' new GMOs include misleading claims such as that they "can contribute to a sustainable agri-food system". This proposal is unacceptable for three reasons. Firstly there is, to date, **no evidence** of new GMOs having an advantage for the environment. Secondly, there is **no clear definition** at EU level on what is a sustainable agri-food system, since the key piece of legislation to define this - the Sustainable Food Systems legislation - is being delayed. And thirdly, **misleading greenwashing** claims might go against the proposed legislation on Green Claims.⁴

Most importantly, the proposal goes against the General Food Law that enshrines consumers' right to know what they are eating.



“EXCLUDING NEW GMOS FROM LABELLING REQUIREMENTS SACRIFICES CONSUMERS’ RIGHT TO TRANSPARENCY AND INFORMATION FOR HYPOTHETICAL NEW MARKETS FOR ALREADY BIG CORPORATIONS. THE EUROPEAN COMMISSION SHOULD PROTECT ITS CITIZENS’ BEST INTEREST INSTEAD OF APPEASING THE INDUSTRY.”

Mute Schimpf, food campaigner at Friends of the Earth Europe.

The right to transparency taken away



Consumers' rights within the EU law dismissed

From a consumers' perspective, GMO labelling is essential to ensure transparency and information about the food they buy. Clear and transparent labelling gives orientation and prevents from being misled. Only with labelling are consumers able to make an informed choice. Within the current EU GMO legislation, multiple provisions emphasise the consumer's right to understandable and transparent information ***whether the food product contains or consists of GMOs or is produced from or contains ingredients produced from GMOs*** (Art 12 Regulation 1829/2003). A comprehensive labelling requirement for new GMOs can be derived from these transparency requirements.

The right of consumers to be informed is also enshrined in the Treaty of the European Union,⁵ as well as in the EU General Food Law.⁶

“IN OUR ASSESSMENT THE PROPOSAL OF THE EUROPEAN COMMISSION TO EXCLUDE CERTAIN NEW GMOS FROM THE CURRENT STRICT LABELLING REGIME IS ACTING IN CONTRAVENTION OF THESE TWO FUNDAMENTAL EU LAWS. CONSUMERS WOULD NO LONGER BE ABLE TO MAKE INFORMED CHOICES ON THE MARKET.”

Heidi Porstner, Foodwatch International spokesperson on GMOs.

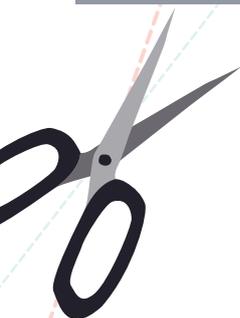
Transparency and traceability in the food production chain deleted

Labelling requires a high level of traceability along the food chain and the implementation of tests and certifications. If consumers do not want to buy food containing or being made out of GMOs (including new GMOs), producers and retailers must be able to provide the necessary guarantees that their food is GMO-free. These guarantees can only be made if every step of the supply chain provides information on whether they use ingredients or raw materials containing or being made out of GMOs. By eliminating the mandatory labelling of new GMOs, the European Commission proposal makes it impossible to offer certified GMO-free food, as:

- Farmers won't know anymore whether they are using new genetically modified seeds.
- Food producers won't know anymore whether they are using new GM ingredients.
- Retailers won't know anymore whether the food they offer contains new GMOs.
- Consumers won't know whether the food they buy and eat contains new GMOs.

That is why the continued application of the existing EU GMO legislation is key as it:

- protects the **rights of consumers enshrined in the EU Treaty** to transparent information on food;
- ensures **traceability** of new GMOs from seed to food;
- maintains **freedom of choice** for farmers, producers and consumers and ensures food security and food safety.



Current GMO labelling rules

With the current EU GMO rules, any food with ingredients like rapeseed oil made of GM rapeseed or cornflakes made of GM maize must be labelled as containing or being made of GMOs on the product.⁷

The existing transparency and labelling rules for GMOs have resulted in a situation of far reaching market rejection of GM food in the European Union. Whilst more than 60 GMOs are

authorised to be imported to the EU as food and feed, supermarkets have phased them out since the early 2000s and any attempts to promote GM food have failed in the last 20 years.

In 2018, the European Court of Justice ruled that newer generation of GMOs also are GMOs and therefore fall under EU GMO rules for labelling, traceability and risk assessment.⁸



Consumers' rights versus Big Agri's profits

The current EU Commission's proposal to exclude new GMOs from the existing legislation is based on agribusiness' unproven claim⁹ that the majority of new GM plants would be as safe as conventional plants.

In contrast, the voices of over 60,000 consumers were ignored, who have clearly spoken out in favour of safety and transparency. They asked to maintain the labelling and safety checks for all generation of GMOs. This clear message was dismissed in the preparatory steps for the draft legislation.

In addition to being unreasonably biased towards the industry, the proposal is also based on unjustified expectations. It is built upon insufficient independent research on the impact of new GMOs on biodiversity, due to lack of public funding.¹⁰ If you don't look for problems, you rarely find them until it is too late.

In fact, the release of new GMOs into our fields will most probably create specific new risks for our ecosystems¹¹ and could have impacts on human and animal health.¹² The genome editing tool of CRISPR for instance relies on complex repair mechanisms of the DNA.¹³ This repair process cannot be predicted. Its outcome could change vital traits such as the fitness of the plants and impact how organisms act in ecosystems. Faced with the dramatic loss of species and whole ecosystems, putting untested new GM plants into nature feels irresponsible. Without acknowledging this lack of research, the health and food safety branch of the European Commission (DG Sante) concluded that the majority of new GMOs would be as safe as conventional plants. This is based on the very limited research of the EU authority for food safety, EFSA.¹⁴



**KEEP REGULATED
& LABELLED**



Endnotes:

- 1 Bundesinstitut für Risikobewertung (BfR): Durchführung von Fokusgruppen zur Wahrnehmung des Genome Editings (CRISPR/Cas9), 2017, Abschlussbericht. <https://mobil.bfr.bund.de/cm/350/durchfuehrung-von-fokusgruppen-zur-wahrnehmung-des-genome-editings-crispr-cas9.pdf> and <https://www.foodwatch.org/de/representative-umfrage-deutliche-mehrheit-befuerwortet-kennzeichnung-und-risikopruefung-von-neuer-gentechnik>
- 2 https://food.ec.europa.eu/system/files/2023-09/gmo_biotech_ngt_proposal_2023-411_en.pdf and the annex https://food.ec.europa.eu/system/files/2023-09/gmo_biotech_ngt_proposal_2023-411_annex_en.pdf
- 3 The definition of category 1 new GMOs is unclear and based on arbitrary criteria. https://ensser.org/press_release/analysis-statement-by-ensser-on-the-eu-commissions-new-gm-proposal-here-for-annex-1-on-ngt-equivalence-criteria
- 4 https://environment.ec.europa.eu/topics/circular-economy/green-claims_en
- 5 Consumers' rights to be informed are enshrined in the **Treaty of the European Union**: "In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests." (Article 169(1) Treaty of the European Union)
- 6 **The EU General Food Law adds to Article 169(1) of the Treaty of the European Union**: "In order to ensure the safety of food, it is necessary to consider all aspects of the food production chain as a continuum from and including primary production and the production of animal feed up to and including sale or supply of food to the consumer because each element may have a potential impact on food safety." (**Regulation (EC) 178/2002 (recital 12)**)
And: "Food law shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume." (**Article 8 (1) of Regulation (EC) 178/2002**)
- 7 See regulation 1829/2003 <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003R1829:20080410:EN:PDF>
- 8 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-07/cp180111en.pdf>
- 9 The agri-business push for deregulation includes the demand to exclude new GMOs from GMO labelling: We are of the opinion that any transparency requirements regarding compliance control and customer choice can be fulfilled in a predictable, reliable and harmonized way without putting respective conventional-like NGT plant varieties under the strict and cumbersome GMO labelling obligations. PBI Advocacy Brief; 07-05-2021; https://www.amsem.ro/ImageHandler.ashx?UploadedFile=true&pg=d63ee450-0f3a-4e83-b811-127758e634a0&image=/App_Data/UserImages/File/ESA/2021/PBI%20Advocacy%20Brief%20ESA.pdf; <https://euroseeds.eu/app/uploads/2023/05/23.0265.3-Value-chain-Letter-NGTs.pdf>
- 10 <https://www.the-scientist.com/news-opinion/crispr-can-create-unwanted-duplications-during-knock-ins-67126>
- 11 Kwall, K. (2021a) Genome-edited *Camelina sativa* with a unique fatty acid content and its potential impact on ecosystems. *Env Sci Eur* 33:38, <https://doi.org/10.1186/s12302-021-00482-2>
- 12 https://www.testbiotech.org/sites/default/files/New_GE_unintended_effects_2.pdf
- 13 <https://www.the-scientist.com/news-opinion/crispr-can-create-unwanted-duplications-during-knock-ins-67126>
- 14 Technically the so called targeted mutagenesis and cisgenesis plants are declared as safe as conventional plants by DG Sante EFSA came to the rather surprising conclusions that in 10 years of research an assessment from 2012 remains still valid: EFSA here are no new data since the publication of the 2012 EFSA opinion that would challenge the conclusions raised in that document (EFSA GMO Panel, 2012). The conclusions of the EFSA 2012 scientific opinion remain valid. <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2022.7621> Whilst the most relevant techniques so called Crispr CAS 9 was used first time in plant breeding in 2013. DG Sante asked EFSA to compare the risks of NGT "with those associated to plants obtained by conventional plant breeding techniques and plants obtained with EGTs" <https://open.efsa.europa.eu/study-inventory/EFSA-Q-2021-00361>
- 15 <https://friendsoftheearth.eu/press-release/400-000-europeans-oppose-push-for-deregulating-new-gmos/>

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.

foodwatch international is a non-profit campaigning organization that fights for safe, healthy and affordable food for all people. We give consumers a loud voice, speak up for transparency in the food sector and defend our right to food that harms neither people, nor the environment. foodwatch is a citizen-based watchdog in the food sector. We uncover and challenge food industry practices that violate the rights or interests of consumers, with the aim of forcing political decision makers to address loopholes in European and national food policies. By conducting research, exposing scandals, mobilising consumers and lobbying governments, foodwatch provides an important counterweight to the power of the food industry. Our campaigns have raised awareness on a range of vital topics and led to successful legal challenges and some significant changes in food industry practices and governmental policy. As a consumer rights organisation, foodwatch is independent of governments, the EU and the food industry. We are financed through membership fees and donations.

Conclusion



For over two decades, there have been well established and functioning rules for GMOs, now derailed by lobbies of big agribusiness that want to open up new markets and increase their profits at the expense of farmers and consumers. Between April and November 2022, more than 420,000 European citizens demanded that their governments and the European Commission keep the new generation of GMOs regulated and labelled under the current GMO legislation. Labelling is not just a mere formality, it is a fundamental right that empowers farmers, food producers, retailers and consumers to make informed choices and decide what they grow in their fields, use in their products, sell in their supermarkets and eat. We all have the right to opt for GMO-free alternatives.

WE URGE...

We urge ministers and the European Parliament to reject the proposed legislation and keep new GMOs strictly regulated and labelled as GMOs, in the best interests of farmers, consumers and the environment.



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October 2023 (Second edition). **Design:** contact@onehemisphere.se **Images:** © Shutterstock.



Friends of the Earth Europe gratefully acknowledges financial assistance from the European Commission (LIFE Programme). The sole responsibility for the content of this document lies with Friends of the Earth Europe. It does not necessarily reflect the opinion of the funder mentioned above. The funder cannot be held responsible for any use that may be made of the information contained therein.

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