

No strings attached

Who wins and who loses when new GMOs get a free pass?

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Who benefits?

Big Agribusiness

The new deregulation law for new GMOs¹ will end safety checks for most new GMOs, but won't balance this with new liability clauses for corporations like Bayer, Chem China/Syngenta, BASF and Corteva, which market them. At the EU level, the general legal framework effectively shields regulators and corporations from lawsuits related to risks posed by these products. It also absolved corporations selling new GMOs and farmers growing them of liability if harm occurs after authorisation.

Additionally, if the deregulation law goes through, the new generation of GMOs would no longer be subject to either the EU Environmental liability directive² or national liability schemes applicable to growers of GM crops. This significant gap in coverage has not been addressed by the European Commission, the EU Parliament or the Council. In the event that harm is detected by chance, corporations marketing GMOs cannot be held liable. This is an extreme form of deregulation. This effectively offers a carte blanche to the biotech industry.

Who loses?

1. Neighbouring Farmers

Under EU Directive 2001/18, national GMO laws were designed to ensure transparency by requiring public registers of where GMOs are grown. Some Member States also imposed measures such as minimum distance rules between GMO and non-GMO fields and compensation mechanisms for contamination. However, the deregulation law for new GMOs abolishes even these weak safeguards, excluding them from national GMO laws entirely.

The deregulation law also removes the requirement for corporations to develop standardised detection methods for new GMOs. In cases of cross contamination, liability will be left to national law instead of being regulated uniformly at the EU level. This shift places the burden on, conventional and organic farmers, who will have to pay out of pocket for testing and other measures to prevent contamination, further disadvantaging them in an already uneven playing field.

2. The Food Sector

The food sector will also bear the financial burden of developing and paying for tests to detect new GMOs. Additionally, they will need to take measures to minimise contamination risks in their crops. Food processors and retailers will incur extra costs to keep conventional and organic products free from contamination by new GMOs.

3. Nature

The indefinite authorisation of new GMOs means they will remain on the market without monitoring measures. If harm occurs, no corporation will be held accountable.



The strength of EU food safety law lies in its stringent regulations on safety checks. Under EU law, potentially risky substances—including food contact materials, pesticides, feed additives and GMOs—must undergo thorough safety evaluations before entering the market.³ The EU has long acted in the belief that these comprehensive safety checks are the best approach for minimising the risks posed by all generations of GMOs. However, weak liability rules exist only in certain national GMO laws, applying primarily to GMO growers. Liability remains under the jurisdiction of national governments, meaning that at the EU level, neither regulators nor companies can be held legally accountable by civil society.

In contrast, the US regulatory system is weaker when it comes to safety checks. However, citizens and NGOs can initiate legal actions against regulators or companies for risks caused by products. Among the most well-known cases are those related to the pesticide glyphosate, in which Monsanto was held liable for harm caused to farmers using Roundup weedkiller⁴ and the US authority EPA was criticised for declaring glyphosate as safe.⁵ Similar legal actions have been brought for GMOs, such as challenges to GMO food labelling laws⁶ and recently against the lack of safety checks by US authorities.⁷



Conclusion



The EU Commission and the EU Parliament are pushing for a deregulated approach that surpasses even the lax standards of the US system, offering no comparable legal recourse for EU citizens or civil society organisations. By excluding most new GMOs from safety checks and removing mechanisms to hold corporations or regulator accountable in court, the EU embraces extreme deregulation to please a handful of biotech corporations at the expense of citizens, farmers, the food sector and nature. Those who wish to avoid new GMOs will bear the costs of preventing contamination in the food chain, while corporations reap the benefits of drastically reduced safety requirements and complete immunity from liability.

Endnotes:

- 1 The EU Commission published its law to deregulate most news GMOs in July 2023, the European Parliament agreed its position, following widely the Commission proposal for a Regulation of The European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625 https://food.ec.europa.eu/system/files/2023-07/gmo_biotech_ngt_proposal.pdf (European Commission, 2023).
- 2 https://environment.ec.europa.eu/law-and-governance/environmental-compliance-assurance/environmental-liability_en
- 3 The European Food Safety Authority (EFSA) runs risk assessments, before the European commission and other EU government bodies make a formal decision on its suitability for use and the authorisation
- 4 Case 3:20-cv-05151, The United States District Court for the Northern District of California, (07/2020) https://www.centerforfoodsafety.org/files/2020-07-27-ecf-01--complaint_98797.pdf https://www.centerforfoodsafety.org/files/2020-07-27-ecf-01--complaint_98797.pdf
- 5 <https://www.thenewlede.org/wp-content/uploads/2022/06/9th-circuit-on-glyphosate.pdf>
- 6 *Lawsuit Challenges "Bioengineered" GMO Food Labeling: Retailers and Advocates Argue Trump Rules Discriminate Against Tens of Millions of Americans*, Center for Food Safety (07/2020), <https://www.centerforfoodsafety.org/press-releases/6100/lawsuit-challenges-bioengineered-gmo-food-labeling>
- 7 https://www.centerforfoodsafety.org/files/2024-12-02--ecf-81--order-re-summary-judgment_44232.pdf

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