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MOTION OF CENSURE ON THE COMMISSION

pursuant to Rule 119 of the Rules of Procedure
(2016/1594(MOC))

Piernicola Pedicini, David Borrelli, Anja Hazekamp, Kateřina Konečná*, Sylvie Goddyn, Mireille D'Ornano, Isabella Adinolfi, Marco Affronte, Laura Agea, Daniela Aiuto, Marina Albiol Guzmán, Louis Aliot, Martina Anderson, Gerolf Annemans, Marie-Christine Arnautu, Nicolas Bay, Tiziana Beghin, Xabier Benito Ziluaga, Dominique Bilde, Mara Bizzotto, Mario Borghezio, Marie-Christine Boutonnet, Lynn Boylan, Steeve Briois, Gianluca Buonanno, Matt Carthy, Fabio Massimo Castaldo, Nikolaos Chountis*, Ignazio Corrao, Rosa D'Amato, Fabio De Masi*, Stefan Eck, Georgios Epitideios, Cornelia Ernst*, Eleonora Evi, Edouard Ferrand, Laura Ferrara, Luke Ming Flanagan, Lorenzo Fontana, Eleonora Forenza, Tania González Peñas*, Takis Hadjigeorgiou, Robert Jarosław Iwaszkiewicz, Jean-François Jalkh, Josu Juaristi Abaunz*, Janusz Korwin-Mikke, Stelios Kouloglou*, Merja Kyllönen, Marine Le Pen, Gilles Lebreton, Philippe Loiseau, Paloma López Bermejo*, Petr Mach, Curzio Maltese*, Dominique Martin, Jiří Maštálka*, Marisa Matias*, Georg Mayer, Jean-Luc Mélenchon*, Joëlle Mélin, Bernard Monot, Sophie Montel, Liadh Ní Riada, Franz Obermayr, Florian Philippot, Marcus Pretzell, Laurenţiu Rebega, Matteo Salvini, Jean-Luc Schaffhauser, Maria Lidia Senra Rodríguez, Barbara Spinelli*, Neoklis Sylikiotis*, Dario Tamburrano, Estefanía Torres Martínez, Mylène Troszczynski, Marco Valli, Harald Vilimsky, Marco Zanni,

Marco Zullo, Lola Sánchez Caldentey, Rina Ronja Kari*, Bruno Gollnisch, Jean-Marie Le Pen

*** Signatures withdrawn**

B8-0621/2016/rev.

Motion of censure on the Commission by the European Parliament (2016/1594(MOC))

The European Parliament,

– having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products[1],

– having regard to the judgment of the General Court of the Court of Justice of the European Union of 16 December 2015 in Case T-521/14, *Sweden v Commission*[2] , in which the Kingdom of Sweden, supported by, *inter alios*, the European Parliament, brought proceedings against the Commission for failure to adopt delegated acts laying down specific scientific criteria for determining endocrine-disrupting properties,

– having regard to Article 168 of the Treaty on the Functioning of the European Union (TFEU),

– having regard to Articles 265 and 266 of the TFEU,

– having regard to Article 17(8) of the Treaty on European Union, and Article 234 of the TFEU,

– having regard to the letter of Commission President Jean-Claude Juncker ((2016)1416502) dated 22 March 2016, addressed to the President of the European Parliament,

– having regard to Rule 119 of its Rules of Procedure,

A. whereas Regulation (EU) No 528/2012 is based on the precautionary principle and is aimed at ensuring that the manufacturing and making available on the market of active substances and biocidal products do not result in harmful effects on human or animal health or unacceptable effects on the environment;

B. whereas, according to Regulation (EU) No 528/2012, the Commission was required, by no later than 13 December 2013, to adopt delegated acts specifying scientific criteria for the determination of endocrine-disrupting properties of active substances and biocidal products;

C. whereas the Commission has not adopted the aforementioned delegated acts, either before or after 13 December 2013;

D. whereas the General Court decided in its judgment of 16 December 2015 that the Commission had a clear, precise and unconditional obligation to adopt delegated acts establishing the aforementioned scientific criteria by no later than 13 December 2013;

[1] OJ L 167, 27.6.2012, p. 1.
[2] Judgment of the General Court of 16 December 2015, *Sweden v Commission*, T-521/14, ECLI:EU:T:2015:976.

E. whereas the General Court rejected a specific legal argument put forward by the Commission to justify its failure to act and, in paragraph 74 of its judgment, ruled unequivocally that no provision in Regulation (EU) No 528/2012 requires an impact assessment of scientific risk-based criteria;

F. whereas at the European Parliament's plenary sitting of 2 February 2016 the Commission, represented by Vytenis Povilas Andriukaitis, Member of the Commission, announced that an impact assessment 'acts as a useful and even essential tool to guide its future decision on the criteria' and, moreover, that the Commission was intending to present 'first, an implementing regulation containing the criteria which will be applied to the chemical substances falling under the Plant Protection Product Regulation and under the so-called PRAC procedure. Second, a delegated act containing criteria applicable under the Biocidal Products Regulation';

G. whereas President Juncker confirmed, in his aforementioned letter of 22 March 2016 to the President of the European Parliament, the intention of the Commission to seek, first, the opinion of the Regulatory Scrutiny Board on the impact assessment, even though the General Court had stated that no provision in Regulation (EU) No 528/2012 requires an impact assessment of scientific risk-based criteria;

H. whereas those declarations are a confirmation of a continuous, constant and repeated infringement of Regulation (EU) No 528/2012 and of the General Court's judgment of 16 December 2015;

I. whereas the first paragraph of Article 266 of the TFEU provides: 'The institution whose act has been declared void or whose failure to act has been declared contrary to the Treaties shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union';

J. whereas, therefore, such repeated non-compliance represents a clear violation of the Treaties;

1. Regrets that the Commission failed to comply with its obligation to adopt delegated acts as required by Regulation (EU) No 528/2012;

2. Recalls that the Commission's obligation was to specify the scientific criteria for the determination of the endocrine-disrupting properties of active substances and biocidal products, while, according to the Better Regulation Guidelines of the Commission of 19 May 2015, the role of impact assessments is to collect evidence to assess whether future legislative or non-legislative Union action is justified and how such action can best be designed to achieve desired policy objectives;

3. Considers it unacceptable that, even after the condemnation by the judgment of the General Court of 16 December 2015, the Commission failed to adopt the delegated acts laying down specific scientific criteria for determining endocrine-disrupting properties of active substances and biocidal products;

4. Considers that policy options identified by impact assessments should in no case play a role in the identification of scientific criteria concerning endocrine-disrupting properties or the impact of certain substances on health;

5. Stigmatises as spurious and vacuous the attempts of the Commission to delay the adoption of the delegated acts, in breach of its duties under the Treaties, subordinating fulfilment of those duties to the carrying-out of an impact assessment not required by the legislation, and giving priority to the implementing measures under Regulation (EC) No 1107/2009 of the European Parliament and of the Council[1] on plant protection products;

6. Highlights a further infringement of the Treaties by the Commission, inasmuch as the Commission has not taken all the measures to comply with the judgment of the General Court;

7. Censures the Commission;

8. Instructs its President to forward this motion of censure to the President of the Council and the President of the Commission and to notify them of the result of the vote on it in plenary.

[1] Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).