



Plenary sitting

B8-0736/2016

1.6.2016

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 123(2) of the Rules of Procedure

on endocrine disruptors: state of play following the Court of Justice judgment of 16 December 2015
(2016/2747(RSP))

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on behalf of the EFDD Group

European Parliament resolution on endocrine disruptors: state of play following the Court of Justice judgment of 16 December 2015 (2016/2747(RSP))

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 products¹,
 - having regard to the judgment of the Court of Justice of the European Union (Third Chamber of the General Court) of 16 December 2015 in Case T-521/14 *Kingdom of Sweden v European Commission*, on the action for ‘Failure to act – Specific scientific criteria for determining endocrine-disrupting properties – The failure by the Commission to adopt delegated acts – Obligation to act’, submitted by the Kingdom of Sweden, with the intervention *ad adiuvandum*, amongst others, of the European Parliament, against the European Commission,
 - having regard to Articles 168, 234, 265 and 266 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Articles 14 and 17(8) of the Treaty on European Union (TEU),
 - having regard to the letter of 22 March 2016 addressed by President Jean-Claude Juncker to the President of the European Parliament ((2016)1416502),
 - having regard to Rules 119, 123 and 169(5) of its Rules of Procedure,
 - having regard to the motion of censure on the Commission pursuant to Rule 119 of the Rules of Procedure (2016/1594(MOC)),
 - having regard to legal opinion D(2016)24155 of 23 May 2016 delivered by the Legal Service of the European Parliament, in particular paragraphs 17, 19, 20 and 21 thereof,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas Regulation (EU) No 528/2012 is based on the precautionary principle so as to ensure that the manufacturing and making available on the market of active substances and biocidal products does 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 should have adopted no later than 13 December 2013 delegated acts specifying scientific criteria for the determination of endocrine-disrupting properties of active substances and biocidal products;

¹ OJ L 167, 27.6.2012, p. 1.

- C. whereas the Commission has not adopted the aforementioned delegated acts, either before or after 13 December 2013;
- D. whereas the Court of Justice decided in its judgment of 16 December 2015 in Case T-521/14 that the Commission had a clear, precise and unconditional obligation to adopt delegated acts in order to establish the aforementioned scientific criteria no later than 13 December 2013;
- E. whereas the Court of Justice, rejecting a specific legal argument given by the Commission in order to justify its failure to act, clarified (paragraph 74) unequivocally that no provision in Regulation No 528/2012 requires an impact assessment of scientific risk-based criteria;
- F. whereas on several occasions the Commission has confirmed its intention to proceed with an impact assessment before adopting the delegated act in question;
- G. whereas these declarations are confirmation of a continuous, constant and repeated infringement of Regulation No 528/2012 and of the Court Judgment of 16 December 2015 in Case T-521/14;
- H. whereas under Article 266, first indent, of the Treaty on the Functioning of the European Union, 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;
- I. whereas, therefore, such repeated non-compliant behaviour represents a clear violation of the Treaties perpetrated by the Guardian of the Treaty itself, the Commission;
- J. whereas according to a detailed and unchallenged report published in May 2015 by the Corporate Europe Observatory (CEO), DG ENVI of the Commission would have been able to deliver in time the set of scientific criteria for the definition of endocrine-disrupting chemicals;
- K. whereas according to the same report, the delay in adopting the delegated acts by calling for an illegal impact assessment was a plotted strategy taken by top bureaucrats at Commission level who chose to protect private industrial interests against human and environmental health protection;
- L. whereas a motion of censure against the Commission tabled by Mr Pedicini and others was first announced on 12 May 2016 during the plenary session and was then considered to have lapsed by President Schulz in a letter to all the Members of the European Parliament; whereas the reasons for this decision were based on an erroneous interpretation in extenso of Rule 169(5) of the Rules of Procedure;
- M. whereas the opinion of the Legal Service of the European Parliament, as requested by the ENVI Committee on 10 May 2016, clearly states that the only remedy left to the European Parliament is a 2-year-long procedure that, if successful, could only cause the Court to declare, once again, that the Commission's inaction has been unlawful, but could not force the Commission to adopt the delegated acts as required by Regulation No 528/2012 (the Biocides Regulation);

- N. whereas the Legal Service of the European Parliament adds that Parliament is obviously entitled to react to the Commission's posture in the framework of the political control it exercises over the Commission pursuant to Article 14 TEU;
1. Regrets that the Commission failed to comply with its obligation to adopt delegated acts as laid down in Regulation EU No 528/2012;
 2. Recalls that the obligation of the Commission was to specify the scientific criteria for the determination of endocrine-disrupting properties while, according to the Better Regulation Guidelines, the role of the impact assessments is to collect evidence to assess if future legislative or non-legislative EU 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 European Court of Justice of December 2015 the Commission has failed to adopt the delegated acts concerning the definition of specific criteria to determine endocrine-disrupting properties of active substances and biocide 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. Highlights a further infringement of the Treaty insofar as the Commission does not take all the measures necessary to comply with the judgment of the Court of Justice;
 6. Regrets that the President of the European Parliament first announced in plenary and then considered as lapsed the motion of censure pursuant to Rule 119 of the Rules of Procedure (2016/1594(MOC));
 7. Calls on the Commission to adopt delegated acts under Regulation EU No 528/2012 specifying scientific criteria for the determination of endocrine-disrupting properties of active substances and biocide products; calls on the Commission to act without delay and, at the latest, within two months, this act is to be considered a formal notice pursuant to Article 265 TFEU;
 8. Instructs its President to forward this resolution 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.