



TEXTS ADOPTED

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Endocrine disruptors: state of play following the Court judgment of 16 December 2015

European Parliament resolution of 8 June 2016 on endocrine disruptors: state of play following the judgment of the General Court of the European Union 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 Commission roadmap for defining criteria for identifying Endocrine Disruptors in the context of the implementation of the Plant Protection Product Regulation and Biocidal Products Regulation²,
- having regard to the judgment of the General Court of the European Union of 16 December 2015 in Case T-521/14 (case brought by Sweden against the Commission, Sweden being supported by the European Parliament, the Council of the European Union, Denmark, Finland, France and the Netherlands)³,
- having regard to Article 17(1) of the Treaty on European Union (TEU),
- having regard to Articles 265 and 266 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the letter of 22 March 2016 addressed by President Jean-Claude Juncker to the President of the European Parliament ((2016)1416502),

¹ OJ L 167, 27.6.2012, p. 1.

² http://ec.europa.eu/smart-regulation/impact/planned_ia/docs/2014_env_009_endocrine_disruptors_en.pdf

³ <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d51da24ab07e534c8a920ba78762970884.e34KaxiLc3qMb40Rch0SaxuTa3r0?text=&docid=173067&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=717530>

- having regard to the UNEP/WHO report on the ‘State of the science of endocrine disrupting chemicals 2012’¹,
 - having regard to Rule 123(2) and (4) of its Rules of Procedure,
- A. whereas according to Article 5 of Regulation (EU) No 528/2012, active substances which are deemed to have endocrine-disrupting properties that may cause adverse effects in humans, either on the basis of scientific criteria to be specified or, pending the adoption of those criteria, on the basis of interim criteria, shall not be approved, except if one of the derogations referred to in Article 5(2) is applicable;
 - B. whereas Article 5(3) of Regulation (EU) No 528/2012 states that the Commission, no later than 13 December 2013, shall adopt delegated acts specifying scientific criteria for the determination of endocrine-disrupting properties of active substances and biocidal products;
 - C. whereas the Commission has still not adopted delegated acts specifying scientific criteria, which are now more than two and a half years overdue;
 - D. whereas the UNEP/WHO report called endocrine disrupters (EDCs) a global threat, and refers inter alia to the high incidence and the increasing trends of many endocrine-related disorders in humans, as well as noting the observation of endocrine-related effects in wildlife populations; whereas there is emerging evidence of adverse reproductive outcomes (infertility, cancers, malformations) from exposure to EDCs, and there is also mounting evidence of the effects of these chemicals on thyroid function, brain function, obesity and metabolism, and insulin and glucose homeostasis;
 - E. whereas the General Court of the European Union declared in its judgment of 16 December 2015 in Case T-521/14 that the Commission breached EU law by failing to act to adopt delegated acts to specify scientific criteria for the determination of endocrine-disrupting properties;
 - F. whereas the Court ruled in its judgement 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;
 - G. whereas on 28 March 2013 the Endocrine Disrupters Expert Advisory Group set up by the Commission and coordinated by the Joint Research Centre (JRC) adopted a report on the key scientific issues relevant to the identification and characterisation of endocrine-disrupting substances; whereas a fully-fledged proposal for scientific criteria was ready at the time after three years of work by the services;
 - H. whereas the Court went on to state that no provision of Regulation (EU) No 528/2012 required an impact assessment of scientific hazard-based criteria, and even if the Commission considered that such an impact assessment was necessary, this would not exonerate it from respecting the deadline laid down in the regulation (paragraph 74 of the judgment);
 - I. whereas the Court furthermore ruled that the specification of scientific criteria can only be carried out in an objective manner on the basis of scientific data related to the endocrine system, independently of any other consideration, in particular economic ones (paragraph

¹ <http://www.who.int/ceh/publications/endocrine/en/>

71 of the judgment); whereas the Court thus clarified that a socio-economic impact assessment is not appropriate for deciding on a scientific matter;

- J. whereas the Court furthermore ruled that the Commission, in the context of the application of the powers delegated to it by the legislator, cannot question the regulatory balance laid down by the legislator between the improvement of the internal market and the protection of both human and animal health and the environment (paragraph 72 of the judgment); whereas the Court thus clarified that it is inappropriate for the Commission to assess regulatory changes of sectorial legislation as part of the impact assessment related to the adoption of a delegated act;
- K. whereas the Court found that the interim criteria set in Regulation (EU) No 528/2012 cannot be seen as delivering a level of protection that would be sufficiently high (paragraph 77 of the judgment);
- L. whereas pursuant to Article 266 TFEU, the institution whose failure to act has been declared to be 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;
- M. whereas at Parliament's plenary sitting of February 2016, Vytenis Andriukaitis, the Commissioner responsible for Health and Food Safety, announced that the Commission would nevertheless continue to conduct the impact assessment, considering it a 'useful and even essential tool to guide its future decision on the criteria';
- N. whereas the Commission is obliged to carry out impact assessments for legislative and non-legislative initiatives which are expected to have significant economic, environmental or social impacts to map out alternative solutions, meaning that impact assessments are valuable tools helping regulators to assess policy options, but not to determine scientific matters;
- O. whereas Commission President Jean-Claude Juncker confirmed in his letter of 22 March 2016 to Parliament President Martin Schulz the Commission's intention to first seek the opinion of the Regulatory Scrutiny Board on the impact assessment before deciding on the scientific criteria, and then to adopt scientific criteria for the determination of endocrine-disrupting properties by the end of June 2016;
- P. whereas there is therefore no doubt that the Commission has not yet taken action to comply with the judgment of the Court, but rather persists in its breach of EU law as declared by the Court, and is thus now also in breach of Article 266 TFEU;
- Q. whereas it is absolutely unacceptable for the Commission, as the guardian of the Treaties, not to comply with the Treaties;
 - 1. Condemns the Commission not only for its failure to comply with its obligation to adopt delegated acts pursuant to Regulation (EU) No 528/2012, but moreover for failing to comply with its institutional obligations as laid down in the Treaties themselves, notably in Article 266 TFEU;
 - 2. Takes note of the Commission's political commitment to propose scientific criteria for the determination of endocrine-disrupting properties before the summer;
 - 3. Stresses that the General Court ruled that the specification of scientific criteria can only be carried out in an objective manner on the basis of scientific data related to the endocrine

system, independently of any other consideration, in particular economic ones, and that the Commission is not entitled to change the regulatory balance laid down in a basic act via the application of powers delegated to it pursuant to Article 290 TFEU, an issue that the Commission, however, evaluates as part of its impact assessment;

4. Calls on the Commission to comply immediately with its obligations under Article 266 TFEU and to adopt immediately hazard-based scientific criteria for the determination of endocrine-disrupting properties;
5. 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.