



Plenary sitting

B9-0218/2024

15.4.2024

MOTION FOR A RESOLUTION

pursuant to Rule 111(3) of the Rules of Procedure

on the Commission delegated directive of 14 March 2024 amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas (C(2024)01585 – 2024/2694(DEA))

Martin Häusling

on behalf of the Greens/EFA group

European Parliament resolution on the Commission delegated directive of 14 March 2024 amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas (C(2024)01585 – 2024/2694(DEA))

The European Parliament,

- having regard to the Commission delegated directive of 14 March 2024 amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas (C(2024)01585),
- having regard to Article 290 of the Treaty on the Functioning of the European Union,
- having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources¹, and in particular Article 28(6), second subparagraph, and Article 35(7) thereof,
- having regard to Rule 111(3) of its Rules of Procedure,
- A. whereas Directive (EU) 2018/2001 establishes a common framework for the promotion of energy from renewable sources;
- B. whereas Article 28(6) of Directive (EU) 2018/2001 requires the Commission, by 25 June 2019 and every two years thereafter, to review the list of feedstock set out in Parts A and B of Annex IX to that Directive with a view to adding feedstock in accordance with the principles set out in Article 28(6), third subparagraph, to that Directive;
- C. whereas Article 28(6), second subparagraph, of Directive (EU) 2018/2001 empowers the Commission to adopt delegated acts to amend the list of feedstock set out in Parts A and B of Annex IX to that Directive by adding, but not removing, feedstock;
- D. whereas feedstock that can be processed only with advanced technologies is to be added to Part A of Annex IX to Directive (EU) 2018/2001 and feedstock that can be processed into biofuels, or biogas for transport, with mature technologies is to be added to Part B of Annex IX to that Directive;
- E. whereas delegated acts are to be based on an analysis of the potential of the raw material as feedstock for the production of biofuels and biogas for transport, taking into account the principles of the circular economy and of the waste hierarchy established in Directive 2008/98/EC of the European Parliament and of the Council²; the Union sustainability criteria laid down in Article 29(2) to (7) of Directive (EU) 2018/2001; the

¹ OJ L 328, 21.12.2018, p. 82.

² Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

need to avoid significant distortive effects on markets for (by-)products, wastes or residues; the potential for delivering substantial greenhouse gas emissions savings compared to fossil fuels based on a life-cycle assessment of emissions; the need to avoid negative impacts on the environment and biodiversity; and the need to avoid creating an additional demand for land;

- F. whereas, according to point 13 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³, the Commission is to carry out impact assessments of its delegated acts which are expected to have significant economic, environmental or social impacts, and the final results of the impact assessments are to be made available to the European Parliament, the Council and national parliaments, and made public at the time of adoption of the delegated act;
- G. whereas recital 91 of Directive (EU) 2018/2001 states that feedstock for advanced biofuels and biogas for transport, for which technology is more innovative and less mature and therefore needs a higher level of support, should, in particular, be included in an annex to that Directive;
- H. whereas, according to that definition, advanced biofuels would mean those produced from materials building blocks such as complex sugar (e.g. cellulose) or alcohol polymers, or those produced from waste sugars or from waste triglycerides, and which require less mature, advanced methods to break down complex molecules or for pre-treatment;
- I. whereas adding crops grown on degraded land to Part A of Annex IX to Directive (EU) 2018/2001 would only add non-cellulosic materials like oils (e.g. carinata, pennycress and camelina) to that Annex, as cellulosic and lignocellulosic material in crops grown on degraded land are already included in Part A of that Annex under ‘other non-food cellulosic material’ and ‘other ligno-cellulosic material except saw logs and veneer logs’;
- J. whereas the 2022 final report of the Commission on assessment of the potential for new feedstocks for the production of advanced biofuels (the ‘assessment report’)⁴ defines the processing technologies for intermediate crops and crops grown on degraded land for the aviation sector, namely hydroprocessing (‘HEFA’), as mature technologies;
- K. whereas the assessment report identifies a medium risk of fraud for damaged crops that are not fit for use in the food or feed chain, excluding substances that have been intentionally modified or contaminated in order to meet that definition;
- L. whereas the assessment report concludes that there needs to be a strict definition and implementation of the concept of ‘degraded land’ to tackle the risk of additional demand for land and suggests that a ‘low ILUC risk’ certification could mitigate that risk;
- M. whereas the assessment report identifies a high risk of fraud for crops grown on

³ OJ L 123, 12.5.2016, p. 1.

⁴ <https://op.europa.eu/en/publication-detail/-/publication/ec9c1003-76a7-11ed-9887-01aa75ed71a1/language-en>.

severely degraded land, as their definition is not uniform across regions even within the Union let alone outside the Union and, in addition to that, estimates that most land degradation will occur in Central and South America, sub-Saharan Africa and Asia where monitoring and verification might be more challenging;

- N. whereas the assessment report identifies a medium-high risk of fraud for cyanobacteria and recommends that they are only included in Part B of Annex IX to Directive (EU) 2018/2001;
- O. whereas the assessment report identifies a risk of market distortion for fusel oils from alcoholic distillation, given their current use as solvent in industry and their rigid supply, and recommends that they are only included in Part B of Annex IX to Directive (EU) 2018/2001;
- P. whereas, in the case of intermediate crops, the application of that term is very broad and the examples given with the use of ‘such as’ does not narrow down its application; whereas, with respect to the examples given, there is in practice no mechanism to prevent fraud, such as the incorrect labelling of ‘intermediate crops’ from regions where two full harvest cycles per year are possible, or the use of intermediate crops for biofuel production where the Commission sees it as an additionality in a short vegetation period while in reality it is a well-established crop rotation in temperate zone with one main crop followed by a cover crop which has its use;
- Q. whereas, in the case of intermediate crops, the assessment report identifies a high risk of additional demand for land as well as market distortion; whereas those crops when not harvested are currently typically grown for agronomic and environmental effects and are generally ploughed into the soil; whereas placing them in Annex IX to Directive (EU) 2018/2001 could result in large amounts of those crops being harvested for the new purpose of biofuel production, with negative impacts on the environment, agronomy and the existing markets and creating competition in the food and feed sectors;
- R. whereas, in the case of intermediate crops, there is a lack of clear guidance on how to fulfil the requirement of not triggering demand for additional land, as well as on how the Commission plans to verify whether this has taken place;
- S. whereas, in the case of intermediate crops, there is a lack of clear guidance on how to monitor the maintenance of soil organic matter content, as well as on how the Commission plans to verify whether this has been maintained; whereas rules on scope of the audit to include soil organic carbon levels are laid down only for the purpose of applying the emission saving credit for soil carbon accumulation⁵;
- T. whereas the condition linked to the feedstock ‘intermediate crop’ in relation to maintenance of the soil organic matter content, in addition to the fact that there is currently no harmonised minimum obligation to audit the fulfilment of that condition,

⁵ Commission Implementing Regulation (EU) 2022/996 of 14 June 2022 on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria (OJ L 168, 27.6.2022, p. 1).

might, given the general function of soil-incorporated intermediate crops to improve soil organic matter content, be satisfied only by use of external inputs; whereas the Commission delegated directive seemingly accepts this logic as it does not require that the soil organic matter content be maintained without the use of external inputs;

- U. whereas, as stated in the assessment report, in the case of crops grown on severely degraded land, a risk exists that low nutrient content or erosion are compensated by additional use of agricultural inputs, and therefore increase use of synthetic fertilisers and pesticides; whereas a risk exists, according to the assessment report, that land degradation or pollution requires adjustments in cultivation practices, for example additional nutrients or water use, which could result in causing or aggravating existing degradation or pollution;
 - V. whereas the assessment report identifies land properties of feedstock as a primary risk indicator, incentivising fraud; whereas the Commission delegated directive adds to both Parts A and B of Annex IV to Directive (EU) 2018/2001 feedstock which is partly characterised by land properties or cultivation practices but where land properties or cultivation practices cannot be reliably monitored and verified by auditors; whereas the main content of the Commission delegated directive is therefore inclusion of feedstock representing a high risk of fraud;
1. Objects to the Commission delegated directive;
 2. Instructs its President to forward this resolution to the Commission and to notify it that the delegated directive cannot enter into force;
 3. Considers that the Commission is exceeding the power delegated to it in Article 28(6), second subparagraph, of Directive (EU) 2018/2001, by significantly expanding the definition of ‘feedstock that can be processed only with advanced technologies’;
 4. Considers that any new or amended delegated act adopted under Directive (EU) 2018/2001 could have significant economic, environmental and social impacts, and urges therefore the Commission to ensure that such delegated acts are systematically made subject to public consultation and impact assessment in accordance with point 13 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making;
 5. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.