Pesticide Action Network Europe

Tonio Borg
Member of the European Commission
Responsible for Health and Consumers
B-1049 Brussels
Belgium

Brussels, 20th of June 2013

Re.: National Implementation of the Directive 2009/128/EC of 21 October 2009

Dear Commissioner Borg,

I am writing to you in the name of Pesticide Action Network Europe (PAN Europe) regarding the implementation of the Directive 2009/128/EC of the 21 October 2009 on Sustainable Use of Pesticides (SUD).

PAN Europe, together with its 32 members, would like, first of all and most important, to thank you and your services for having published, among others, the National Action Plans on DG SANCO's homepage. It is a very useful tool, allowing the public to be involved and we hope you will continue to develop it.

PAN Europe, together with its 32 members, has recently been reading all the national action plans currently available in English[1], and while we do recognise that a number of the NAPs seem proactive in taking a more precautionary approach in public areas, especially parks, sport areas, etc… we think it is necessary to address you asking for clarification on a number of points:

- Investigate if Member States really undertook the public consultation as foreseen in the SUD, starting with Sweden.
- The overall objectives of the NAPs in Malta, Lithuania, and Hungary.
- The quantitative objectives, targets, and timetables in the NAPs in Bulgaria, Cyprus, Finland, Slovenia, Slovakia, Hungary, Malta, Spain, and the United Kingdom, and to a minor extend also in Czech Republic, Lithuania and even Denmark.
- If Hungary and United Kingdom intend to ban aerial spraying, while asking all Member States, still having aerial spraying in place, to explain how guidelines have been updated taking in accounts the requirements in the SUD.
- Address an inspire Member States in taking actions on integrated pest management.
- Daring to continue the debate on introduction of a pesticide tax at national level.

[1] The NAPs currently available in English include: Bulgaria, Cyprus, Denmark, Finland, Slovenia, Slovakia, Czech Republic, Hungary, Lithuania, Malta, Spain, and United Kingdom.

Furthermore, regarding Member States obligation to ensure that all EU farmers start implementing integrated pest management on their farm as from the 1st of January 2014, we wish to encourage you to show the many general standards already defined in serious IPM guidelines, showing that IPM is a system approach, where farmers in the future are meant to undertake agronomic actions to prevent the pest from coming, to use alternatives where possible and only use pesticides as a last resort, as well as to highlight this by organising a training session with stakeholders. For instance this training session could be linked to the IPM symposium that IOBC-IBMA and PAN Europe intend to organise jointly on the 28th of November 2013 building on last year's symposium, to discuss voluntary and mandatory aspects of IPM, and how to include it properly into CAP reform.

The detailed analyse of these requests is annexed to this letter.

Finally, we kindly ask you and you services to consider keeping informed the general public about the development of the SUD implementation as well as add to the webpage where NAPs are published, the publish national information regarding how Member States intend to implement IPM as from the 1st of January 2014.

We would be delighted to discuss this with you in more details.

Sincerely yours

François Veillerette
President of PAN Europe

Annex

1. **Consultation of stakeholders lacking in some Member States**

It is specified in article 4 of the SUD that "*When drawing up and revising their National Action Plans, Member States shall take account of the health, social, economic and environmental impacts of the measures envisaged, of specific national, regional and local conditions and all relevant stakeholder groups."*

In the story behind the thematic strategy[2] possible involvements are proposed to be included: Procedures for giving the public effective opportunities to participate in developing, implementing and monitoring the National Action Plan and any revisions

Though during the national preparation of the NAPs, certain Member States have not undertaken the needed consultations of stakeholders, for instance in Sweden.

2. **Several Member States have failed the overall objectives of the NAP**

Article 1 of the SUD says "*This Directive establishes a framework to achieve a sustainable use of pesticides by reducing the risks and impacts of pesticide use on human health and the environment and promoting the use of integrated pest management and of alternative approaches or techniques such as non-chemical alternatives to pesticides".*

Though in the National Action Plans (NAPs) that has recently been published and has been translated into English[3] other overall objectives have wrongly been added, among others:

- Lithuanian NAP: The aim of this Plan is to promote the well-targeted and cost-efficient use of plant protection products, to ensure food safety and sustainable agricultural development, to protect human health and the environment from the risks related to the use of plant protection products… (first point of point 15)
- Hungarian NAP: Maintenance of plant health safety in Hungary by applying the minimum amount of plant protection products… (First point of point 3).
- Furthermore, the Maltese NAP seems completely to lack identification of the overall objectives.

We kindly ask you to investigate this further as the objectives in the SUD are clearly respected in Lithuania, Hungary and Malta.

3. **Majority of NAPs lack quantitative objectives, targets, and timetables**

In article 4.1 of the SUD it is clearly mentioned that *"Member States shall adopt National Action Plans to set up their quantitative objectives, targets, measures and timetables to reduce risks and impacts of pesticide use on human health and the environment and to encourage the development and introduction of integrated pest management and of alternative approaches or techniques in order to reduce dependency on the use of pesticides."*

Though reading the NAPs, it is clear that only very few Member States set quantifiable objectives:

- Only one country, Denmark, has set overall quantifiable objective aiming at a 40% reduction in **use** from 2011 to 2015.
- Two Member States have fixed not really impressing sub-objectives, with Czech Republic

[2] http://ec.europa.eu/environment/ppps/pdf/pesticides_en.pdf

[3] The NAPs currently available in English include: Bulgaria, Cyprus, Denmark, Finland, Slovenia, Slovakia, Czech Republic, Hungary, Lithuania, Malta, Spain, and United Kingdom.

aiming at a 10% reduction in **residues** from domestic production from 2010 to 2020, while Lithuania aims at a 2 % reduction in overall **MRLs** levels from 2010 to 2017, and land use for **organic** to increase by up to 2% between now and 2017

Though, while the Danish overall use reduction target is relatively unambitious, as it only compensates for an increased use in the earlier period of 37%. And the sub-objectives in Czech Republic and Lithuania does not promise any real change, as the MRLs might be below legal requirements (see point 3), while the objective on organic is 'up to', there is actual no overall targets in any of the NAPs from Bulgaria, Cyprus, Finland, Slovenia, Slovakia, Hungary Malta, Spain, and the United Kingdom fix quantifiable objective, even though this is a requirement in the SUD.

We therefore kindly ask you to question the actual quantitative objectives, targets, and timetables in the NAPs in Bulgaria, Cyprus, Finland, Slovenia, Slovakia, Hungary Malta, Spain, and the United Kingdom, and to a less extend also in Czech Republic, Lithuania and even Denmark

4. **SUD used exclusively to comply with other EU legislation, not in compliance with objective**

Instead of ensuring the compliance of the SUD by fulfilling the objectives set in article 4.1, a number of Member States are wrongly arguing to reduce risk to human health and the environment by ensuring implementation of other existing EU legislations, for instance:

- The Finnish NAP has an objective to ensure that Maximum Residue Levels in food are respected and to include feed,
- The Cypriot NAP has an objective to reduce the percentage of cases exceeding the Maximum Residue Limits, which should follow a declining trend so that until 26 November 2017 the percentage of exceeds will not exceed 3%, while
- The Bulgarian NAP has an objective to ensure compliance with EU directives on drinking water, surface water and the water framework directive, and
- The United Kingdom NAP has, as one of the overall objectives, to ensure that pesticide pollution of water does not result in the UK failing to meet its objectives under the Water Framework Directive.

In the story behind the strategy[4] it is clearly stated: *"One of the shortcomings of the current legal framework is that the actual use-phase of pesticides is not sufficiently addressed, although it is a key element for determining the overall risks. The very purpose of this Thematic Strategy is to address this deficiency."*

As a result, an effective compliance with the Sustainable Use Directive must go beyond what has already been fulfilled in other EU laws, such as the Drinking Water Directive, (EU Directive 98/83) the Water Framework Directive (Dir. 2000/60), the maximum residue levels of pesticides in or on food and feed of plant and animal origin (Reg. 396/2005). Thus Member States should have specific and additional measures in place to reach the objectives of SUD.

5. **No changes in national policies on aerial spraying**

Article 9.1 of the SUD states that "*Member States shall ensure that aerial spraying is prohibited', while article 9.2 specifies potential derogations, which among others make it very clear that aerial spraying is not allowed in residential areas*."

After having read though the published NAPs we have a feeling that the national policies on aerial spraying will not change much as a result of the SUD.

[4] http://ec.europa.eu/environment/ppps/pdf/pesticides_en.pdf

Some Member States, Hungary[5] and United Kingdom[6], does not even bather to use the wording ban aerial spraying with derogation; while the Hungarian NAP speaks about 'accepts with risk mitigation' the United Kingdom's NAP speaks about 'allowed'.

One Member State, Czech Republic, does not give any details on what they intend to do on aerial spraying, while, a number of member states, for instance the Lithuanian NAP refers to derogations of national guidelines in place, and for which no or only a few updates has been made.

Finally, certain Member States does not respect the rules defined on when derogations can be giving, for instance does Slovakia argue for the need to "spray in large areas", which does not seem to be among the derogations allowed.

We do recognise that many of the shortcomings could occur due to a translation error etc…, though we kindly ask you to verify the objectives, the changes and the derogations to find out if the SUD requirements are fulfilled regarding a ban in Hungary and UK, if the national guidelines have been updated and if the derogations are limited, contrary to what seems to apply in Slovakia.

6. Integrated Pest Management

Article 4.1 of the SUD clearly states that Member States should use the NAPs "*to encourage the development and introduction of integrated pest management and of alternative approaches or techniques in order to reduce dependency on the use of pesticides.'* Article 14.4 saying *'Member States shall describe in their National Action Plans how they ensure that the general principles of integrated pest management as set out in Annex III are implemented by all professional users by 1 January 2014"*, while article 14.3 states that by 30 June 2013 Member States shall report to the Commission explaining how necessary conditions for implementation of integrated pest management are in place.

As explained in PAN Europe's best practice NAP from 2010[7] we see the new IPM system building on a good, accessible and independent advisory and training system, strict checks, and detailed monitoring, and with Member States developing guidelines as a 'ladder', defining prohibited, mandatory and voluntary measures for each crop (if possible including not just pesticides but also fertiliser management).

We believe that each farmer as from the 1st of January 2014 shall be obliged to deliver an annual IPM plan (as the mandatory cross compliance criteria), while farmers wishing to apply more holistic approaches to farming should be entitled to receive agri-environmental payments, when applying a more holistic approach to farming containing an entire package of measures, in a 'prevention-first' approach.

While many of the NAPs highlight the importance of developing more resilient agricultural system

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[5] The Hungarian NAPs states: *"By the conditions of Article 8 paragraph (2), Directive 2009/128/EC allows the Member States to authorise the aerial spraying, at national level, if they strictly respect the risk mitigating restrictions, furthermore if the particular phytosanitary case cannot be solved by other means. Aerial spraying has a long history of several decades in Hungary under very strict legislation and conditions. In view of the structure of Hungarian agriculture, the relief and climatic factors and the temporarily occurring extreme phytosanitary risks, it is justified to maintain the possibility of aerial plant protection activity under the specific system."*

[6] The UK NAPs states: *"Aerial application of pesticides is not extensive in the UK. Applications tend to be limited to aerial spraying of herbicides to control bracken in upland areas, but may also include the need for other applications, such as fungicide for potato blight, in particular years. (…)"*

[7] http://www.pan-europe.info/Resources/Reports/NAP_best_practice.pdf

to resist better to pest attacks:

- Finland highlighting the importance of crop rotation,
- Slovakia highlighting the importance of protecting national predators,
- Hungary speaking about the importance of keeping soil fertile),
- Only Czech Republic recognises the need to upgrade cross compliance rules, by making Good Agricultural Environment Conditions (GAEC) to comply with the measures for the general principles of integrated pest management, while

None of the available NAPs link agri-environmental payments of farmers to delivery of holistic approaches.

Instead, the majority of the measures proposed in the NAPs are single components and aim at precision farming (ex. Cyprus investigating promotion of the use of low-drift nozzle), but should instead be focused on prevention though solid agronomy first.

Furthermore, certain Member States already have private or public Integrated Production schemes in place – for instance in Slovenia, Bulgaria, Hungary, Slovakia – and some of them are being promoting as organic, even though they are not. For instance, the Slovenian NAP claims that "the basic principles of organic farming and integrated production are similar" (p. 26, *Temeljna načela ekološkega kmetijstva in integrirane pridelave so podobna*), however there are significant differences in the basic principles of organic farming and integrated production. The key principle in organic plant production is to use humus and organic fertiliser as the source of plant nutrients, while synthetic mineral fertilizers are excluded; according to the research, plant health issues are strongly related to this. It is therefore fundamental that the concept of organic and the concept of IP are kept separate.

Also, it is important that actions are taking in both organic and conventional farming. In a few NAPs actions is wrongly limited to the organic sector for areas, which should be mainstream ex.

- Hungary to set up forecast and/or warning systems in organic farming, Finland to encourage more use of biological control in organic farming),

While a lot of NAPs target only supporting systems ex.

- Malta speaking about Rural Development funding to be reserved for training, advisers and information.

We estimate that there is a lot of work that still need to be done, and encourage DG SANCO to build on the training session in IPM jointly organised with DG AGRI speaking about training as well as advisory services; to organise a new training session, this time also involving stakeholders, to discuss with Member States how to update their GAEC as part of cross compliance, and their agri-environmental schemes to encourage a more holistic approach towards a package of agronomic measures.

In addition, we hope that you and your services will follow up on the good practice, also publishing the Member States reports, to be delivered by 30 June 2013, explaining how necessary conditions for implementation of integrated pest management are in place.

7. Introduction of a pesticide tax and ensuring VAT rules on pesticides are increase

In the story behind the thematic strategy[8] it is mentioned that *''taxation should be investigated further in order to establish a 'banded' taxation system as a proxy for true externalities in the future''*.

A few paper were done in the past, for instance the VAT overview done by DG TAX-UD back in 2008 (DOC.2441/2008 – FR, a publication from DG TAX-UD on "Taux de TVA appliqués dans les

[8] http://ec.europa.eu/environment/ppps/pdf/pesticides_en.pdf

États membres de la Communauté européenne". In the view of the SUD implementation and in line with the EU communication on resource efficiency from September 2011 highlighting the need to allow the economy to create more with less, delivering greater value with less input, we encourage you to increase the work in this field to encourage member states to start considering taking real actions, first of all to stop applying lower VAT levels -like in Slovenia- and also to introduce real pesticide tax, building on the workshop that the Danish government did in Copenhagen on the 30th of May 2013.