

PAN Europe launches 2 new court cases against EU Commission for deceptive protection of health and the environment

PAN Europe has initiated 2 new legal actions before the General Court of the EU. The goal is to fix the misimplementation of the EU pesticide legislation. We challenge the new regulation on co-formulants, which is an empty legislation without an obligation for pesticide companies to provide the toxicity data. The second case concerns the re-approval of abamectin. The use of this highly toxic insecticide is restricted to greenhouses, pretending that they are closed systems. PAN Europe established that the Commission and Member States are well aware that pesticides leak from greenhouses and put at risk health and the environment.

.Salomé Roynel, a policy officer at PAN Europe said: *“Co-formulants are ingredients of pesticide products that increase the toxicity of the active substance. Thousands of different co-formulant chemicals are sprayed intentionally on our food and in the environment. With this new regulation, the Commission pretends it regulates co-formulant but in fact it does not. Without obliging the provision of toxicity data by the industry there will be no proper evaluation of these chemicals”.*

Co-formulants are often petrol-derived highly volatile solvents to which farmers are highly exposed. Mixtures of carcinogens or reprotoxins remain untested for their potentially devastating effects on farmers, their families and rural residents.

The European Food Safety Authority (EFSA) admitted in a recent report that for more than half the co-formulants the European Commission has no information on their toxicity. (1) PAN Europe advocates a strict protection of health and the environment, with the same level of safety for co-formulants as for active substances. (2)

Following a reform of the Aarhus regulation in 2021 NGOs have access to the EU Court on implementing acts decided between the Commission and Member States. Since then, PAN Europe has initiated a series of legal challenges on bad implementation of pesticide rules by the European Commission.

Martin Dermine, PAN Europe's executive director added: *“The pesticide industry keeps presenting co-formulants as 'inert' substances, while many of them are carcinogens or toxic to reproduction. They lobbied to maintain regulators in the dark and the Commission seemed to share their view. It has already been documented that co-formulants also present a high toxicity to the environment, in particular to insects and aquatic life. With this regulation, the Commission goes against the EU pesticide regulation, leaving citizens and the environment unprotected”.*

Close the greenhouse loophole

PAN Europe also attempts to close another loophole in the pesticide regulation: the special regime for greenhouses. The European Commission regularly re-approves pesticides (in this case abamectin) that are highly toxic to human health and the environment, but restricts them to greenhouses. This while pretending those are 100% closed systems.

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Hans Muilerman, senior chemicals officer at PAN Europe said: *“Abamectin is a highly toxic insecticide. The European Commission reapproved it for use in greenhouses only. The EU law imposes greenhouses to be closed systems that prevent emissions of pesticides into the environment. But the Commission and Member States are very well aware that current greenhouses are not closed and leak pesticides into the environment. It is a trick they use to keep very toxic pesticides on the market, with little or no control.”*

Over the last years other highly toxic pesticides, such as neonicotinoids or bifenthrin have been re-approved, restricting them to greenhouses. In parallel, the European Commission has published two guidance documents (3) in which it acknowledges that greenhouses are leaky systems. Earlier this year, the Commission reapproved abamectin for use in greenhouses. (4) It is a substance classified as toxic to reproduction category 2 and with strong suspicions of genotoxicity.

PAN Europe recently published a report, highlighting the contamination of the environment around greenhouses through pesticides. Concentrations of pesticides in surface water next to greenhouses exceeded up to 18 times the EU water quality standard, with some samples containing up to 35 pesticides simultaneously. The mix of highly toxic pesticides next to greenhouses puts the environment and public health at risk .

Manon Rouby, a legal adviser at PAN Europe said: *“This re-approval does not respect the EU legislation, in terms of human and environmental protection. There is no evaluation of the risk to human health nor the environment carried out by EFSA. They do as if no exposure will take place. This unlawful practice should stop.”*

Background information: PAN Europe legal cases to stop the evasion of legal rules

The European pesticide regulation provides for health and environmental protection. In case of substantial doubt on the safety of a product the precautionary principle should be applied. This was clearly explained in a groundbreaking ruling on derogations for banned pesticides in January 2023. The ruling explains *“Such prohibitions thus meet the objective of Regulation No 1107/2009 which is (...) in particular to ensure a high level of protection of human and animal health and the environment.”*

“In that regard, it should be borne in mind that those provisions are based on the precautionary principle, which is one of the bases of the policy of a high level of protection pursued by the European Union in the field of the environment, (...) in order to prevent active substances or products placed on the market from harming human or animal health or the environment.”

“Furthermore, it is clear (...) that the provisions governing authorisations must ensure a high standard of protection and that, in particular, when granting authorisations of plant protection products, the objective of protecting human and animal health and the environment should ‘take priority’ over the objective of improving plant production.” (5)

Hearing on cypermethrin court case

Many practices in the current implementation of the pesticide law are not in line with the law itself. (6) That is why we challenge them in court if possible. In October we had the hearing in the EU General Court on our appeal against the re-approval of beekiller Cypermethrin. We challenge the fact that the European Commission did not follow the conclusions of its scientific agency (EFSA) to ban this

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insecticide. Endocrine disruption, genotoxicity and extreme toxicity to aquatic life and bees were among the numerous issues highlighted by the EFSA. (7)

Another pending court case is the one we started in July 2022 against the extension of the approval of the fungicide Dimoxystrobin and the systematic pattern of extending approvals for pesticides that are proven to be very harmful. (8) A year later the EU decided to ban this very toxic pesticide from 2024, but the pattern of systematic prolongations continues till today. Recently our French member Générations Futures presented a new report on this unlawful practice and started cases against the prolongation of 5 very toxic pesticides. (9)

Our next court case will be against the re-authorisation of the widely used herbicide glyphosate. This case will be launched in January 2024. (10)

Documents

[Position paper on Co-formulants](#), November 2022

[Report: It rains pesticides from greenhouses](#), December 2023

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Note

- (1) [EFSA: Data collection on co-formulants\(link is external\)](#) (August 2022)
- (2) [Positions paper by PAN Europe on the regulation for co-formulants](#) (November 2022)
- (3) [Guidance document on negligible exposure\(link is external\)](#) (2014) [Guidance document on pesticides from greenhouses\(link is external\)](#)
- (4) COMMISSION IMPLEMENTING REGULATION (EU) 2023/515 of 8 March 2023 renewing the approval of the active substance abamectin in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011.
- (5) [Groundbreaking ruling of the European Court of Justice](#), January 2023
- (6) [Pestgate: why the EU pesticide control does not work the way it should](#)
- (7) [Court case against the re-approval of the insecticide cypermethrin](#)
- (8) [Court case against the prolongation of dimoxystrobin and the systematic prolongations](#)
- (9) [Report on systematic prolongations of pesticides and legal procedures\(link is external\)](#) (French)
- (10) [NGOs challenge glyphosate re-approval in EU court](#)

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