Pesticide Action Network Europe

To: members of the PAFF Committee - Section "Phytopharmaceuticals - Legislation"

Brussels, 5 July 2024

Subject: EU Standing Committee on Plants, Animals, Food and Feed; 10-11 July - position of Pesticide Action Network (PAN) Europe

Dear members of the PAFF committee,

On 10 and 11 July, you are invited to the EU Standing Committee on Plants, Animals, Food and Feed to discuss and/or adopt opinions on several proposals of the European Commission. In advance of this meeting, please find below PAN Europe's position on certain issues that relate to the protection of human health and the environment, for which we kindly request your particular attention.

Agenda issues

1. Proposal for renewal of the approval of captan for outdoor uses
2. Proposal for renewal of the approval of metrafenone
3. Proposal for renewal of the approval of folpet
4. Proposal for extension of the approval period of captan, metrafenone, pendimethalin
5. Proposal for non-renewal of the approval of metribuzin
6. Proposal for non-renewal of tritosulfuron
7. EFSA conclusions: mecoprop-P
8. Drat review/renewal reports: 8-hydroxyquinoline, pydiflumetofen, flutolanil
9. Confirmatory information: pendimethalin
10. Trifluoroacetic Acid (TFA)
11. Acetamiprid
12. Guidance Documents: emergency authorisations, negligible exposure

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1. New proposal for renewal of the approval of captan for outdoor uses

PAN Europe is concerned to see that **captan** is currently proposed for renewal of its approval for use in open fields, in the absence of a qualified majority on an earlier proposal to restrict its use to permanent greenhouses. We understand that this sudden change in the Commission's proposal is in response to political pressure from certain Member States in SCoPAFF but we want to highlight that it has no scientific backing and no legal ground. On the contrary, EFSA's conclusions clearly show that captan poses a risk to consumers' health and to wild mammals, fish and aquatic invertebrates as well as non-target arthropods (critical area of concern). This means that no safe use of captan could be established by EFSA considering the approval criteria of the Pesticide Regulation (Article 4), especially for outdoor uses. PAN Europe was already extremely critical of the attempt by the Commission to eliminate the identified high risks to these non-target species by restricting captan use to permanent greenhouses, as there was no actual scientific demonstration by EFSA that these are closed spaces, preventing its emission into the environment. Evidently, the new proposal is even more worrying. **A recent statement by EFSA from 2024 showed that it cannot be realistically demonstrated that the risks to non-target organisms would be lowered to an acceptable level by implementing risk mitigation measures**, as now proposed by the Commission. Ironically, this was acknowledged by the Commission itself when responding to written questions from Members of the European Parliament[1] in May 2024. Moreover, according to a recent case law[2], the Commission must ensure that such measures are actually (and not theoretically) demonstrated, in order to re-approve a substance. This is not the case for captan. The proposal to restrict captan use outside the flowering stage of the crop and when no flowering weeds are present in the rows of the treated crops, as well as to minimise the drift to areas outside the target surface of the crop, cannot seriously be considered as realistic conditions of use and have not been validated by EFSA.

A second concern with regard to captan is that EFSA's new statement highlights a **genuine risk to consumers *via* drinking water consumption**. This results from the recommendation by the European Chemical Agency (ECHA) to classify captan as toxic for reproduction (category 2). The latter comes on top of its existing classification as carcinogenic (category 2), leading some metabolites to become toxicologically relevant considering their predicted concentration level in groundwaters. Therefore, captan not only poses a risk to non-target organisms but also to humans. This makes the Commission proposal contrary to the Pesticide Regulation whose primary objective is to ensure a high level of protection. This objective must prevail over yields consideration as reminded by the European Court in its case law[3].

[1] Parliamentary question | Answer for question E-000758/24 | E-000758/2024(ASW) | European Parliament (europa.eu)

[2] Judgement of the General Court of 21 February 2024, *Pesticide Action Network Europe (PAN Europe) v European Commission*, T-536/22, §104.

[3] Judgement of the Court of 19 January 2023, *Pesticide Action Network Europe ASBL and Others v État belge*, C-162/21, §48.

We urge you to **reject the Commission's proposal to renew the approval of captan for outdoor uses** and support instead its non-renewal.

2. Proposal for renewal of the approval of metrafenone

PAN Europe deplores that the European Commission maintains its proposal of January 2024 to renew the approval of metrafenone despite the concerns identified, as we highlighted previously. This is contrary to Regulation (EC) 1107/2009 and the underpinning precautionary principle, which requires that it *"has been established with respect to one or more representative uses of at least one plant protection product containing that active substance"* has no unacceptable effects on the environment, namely no endocrine-disrupting (ED) effects on non-target organisms. In 2023, EFSA published the conclusions on its endocrine disrupting assessment of metrafenone in line with the criteria established in Regulation (EU) 2018/605. While it concluded that the criteria according to point 3.6.5 of Annex II of Regulation (EC) No 1107/2009 were not met for the EAS- and T-modalities for humans, EFSA highlighted that further data were required to investigate the endocrine activity through the T-modality for non-target organisms. Hence, no conclusion could be drawn concerning the endocrine-disrupting properties of metrafenone on non-target organisms, contrary to point 3.8.2 of Annex II of Regulation (EC) 1107/2009. Indeed, according to all peer review experts and in line with OECD TG 248, the results from the *Xenopus* eleuthero embryonic thyroid signalling assay (XETA) provided by the applicant to investigate the T-modality of metrafenone for non-target organisms, was equivocal and additional information was needed to conclude on the ED potential of the substance.

The results of the XETA test showed positive and statistically significant effects at the lowest tested concentration using ANOVA but discrepancies in results were obtained when applying other statistical methods recommended in the OECD TG 248. Experts highlighted that it should not be concluded that the XETA is negative (shows no effect) based on the other statistical methods. Furthermore, the experts considered that individual runs should be further investigated for reproducibility of the dose-response curve and examine whether the test has to be repeated. In its conclusions, EFSA points to the need for "*Additional information to fully investigate the endocrine activity through the T-modality for non-target organisms (i.e. a valid and reliable XETA). If the XETA is positive, a mode of action (MoA) should be postulated and further data would be needed to further investigate adversity (i.e. a Larval Amphibian Growth and Development Assay (LAGDA))*". Given this consensus and because endocrine disruption posed by active substances for non-target organisms stands as one of the cut-off criteria laid down in Regulation (EC) No 1107/2009, it is unacceptable that the Commission is proposing to renew the approval of the substance metrafenone. A similar level of protection against endocrine disruptors is required for non-target species as for humans.

We call on Member States to **reject this Commission's proposal in line with the provisions of Regulation (EC) 1107/2009 and the precautionary principle.**

3. Proposal for renewal of the approval of folpet

PAN Europe is also highly concerned to observe that the Commission is moving forward with a proposal to renew the approval of folpet. While EFSA did not list any critical area of concern and unfinalised issues, the neurotoxic potential of flopet as well as its carcinogenicity were insufficiently investigated and its toxicity is therefore underestimated. In a recent study by Paul, K.C. et al, folpet was classified as a Parkinson-relevant pesticide. This finding echoes those of previous research (Fitzmaurice AG et al, 2014). Pesticide-related neurological diseases are rising in the EU and specialists have called policymakers to action to address what they describe as an upcoming "Parkinson's epidemic". Moreover, folpet is classified as suspected of causing cancer (carcinogen category 2) because although intestinal tumours were observed in mice, it was assumed that a safe dose can be established. However, there is no scientific consensus that a safe dose for carcinogens can be established. Moreover, according to an independent analysis of the industry studies submitted in the course of the carcinogenicity assessment, folpet's cancer action is not limited to the intestine of mice. Exposure to folpet-induced tumour incidences also in rats and therefore it should have been classified as a presumed to be carcinogen (category 1B) according to Regulation (EC) No 1272/2008. According to Regulation (EC) 1107/2009, substances falling under this category shall not be approved. Last but not least, folpet has also been classified as very toxic to aquatic life.

To ensure the protection of human health, primarily that of the most vulnerable groups of our population and agricultural workers, and the environment and in accordance with the precautionary principle and the requirement to take account of the most recent scientific evidence and ECHA/OECD guidelines, **we call on you to reject the Commission proposal for renewal of approval of folpet.**

4. Proposal for extension of the approval period of captan, metrafenone, pendimethalin

PAN Europe deplores the Commission's proposal to extend the approval of three active substances three for which we are presently calling for an immediate ban because they do not meet the approval criteria of the Regulation (EC) 1107/2009.
The three substances are the following:

- Captan: posing an unacceptable risk to a series of non-target organisms (wild mammals, fish and aquatic invertebrates, non-target arthropods);
- Metrafenone: no conclusions could be drawn concerning the endocrine disrupting properties for non-target organisms in accordance with the scientific criteria set our in Regulation 2018/605;
- Pendimethalin: meeting the PBT criteria based on confirmatory data about its bioaccumulative potential.

Given the above, we call on you to **reject the Commission's proposal** to ensure that no active substances failing to comply with the approval requirements of Regulation (EC) 1107/2009, remain on the EU market.

5. Proposal for non-renewal of the approval of metribuzin

PAN Europe welcomes the Commission's proposal for non renewal of metribuzin despite recent delays resulting from exchanges with the "Metribuzin Task Force". In August 2023, EFSA published its conclusion of the peer review of the pesticide risk assessment of metribuzin. It listed three critical areas of concern, which in line with Article 4(1) to (3), preclude the reapproval of metribuzin:

- Metribuzin meets the endocrine disruption criteria for humans for the T-modality according to point 3.6.5 of Annex II of Regulation (EC) 1107/2009 and Commission Regulation (EU) 2018/605. No information was submitted by the applicant to demonstrate that dietary and non-dietary exposure to metribuzin is negligible or to demonstrate that the conditions for derogation under Article 4(7) of Regulation 1107/2009 are met during the eligible period for submission set out in Article 14(1)(a) of Commission Implementing Regulation 844/2012.
- Bystander and resident exposure estimates exceed the AOEL value.
- A high risk to bees could not be excluded based on the available studies.

Moreover, metribuzin is classified as acutely toxic when ingested (category 4, H302) and particularly toxic for aquatic organisms with long term effects (Aquatic acute category 1; Aquatic chronic category 1) under Regulation (EC) 1272/2008. To ensure a high level of protection of human health, animal health and the environment, and in line with the approval criteria set out in Article 4(1) to (3), metribuzin must not be renewed. Considering its approval period was initially due to expire in September 2017 and has been continuously extended (now until February 2025), a non-renewal decision should occur as soon as possible

We call on you **to support the Commission proposal for non-renewal of the approval of metribuzin.**

6. Proposal for non-renewal of tritosulfuron

PAN Europe welcomes the Commission's proposal for non-renewal of tritosulfuron. We nevertheless regret that this decision is based on the applicant's withdrawal of its renewal applicable, and not on a Commission's commitment to ban pesticide active substances meeting the OECD definition of PFAS. In recent years, the persistence of PFAS has led to dangerous levels of pollution of our environment and living organisms, which the EU has recognised as an unacceptable risk and has taken action to address this under the proposal for a REACH restriction. Yet, an exception stands for now for pesticides although they constitute a deliberate and direct source of PFAS pollution of our environment and the food chain.

Our concerns regarding PFAS pesticides are confirmed in EFSA's conclusions on tritosulfuron published in August 2023. EFSA highlights that tritosulfuron is persistent as well as particularly toxic for aquatic organisms with long-term effects (Aquatic acute category 1; Aquatic chronic category 1) according to Regulation (EC) 1272/2008. Moreover, tritosulfuron is metabolised in soil to Trifluoraceticacid (TFA), now proposed for classification as toxic for reproduction 1B and as very bioaccumulative and very mobile (vBvM), while being likely to contaminate groundwater above the limit value of 1 ng/L according to EFSA.

We call on you to **support the Commission proposal for non-renewal of the approval of tritosulfuron.**

7. EFSA conclusions: mecoprop-P

In October 2023, EFSA published its updated peer review on mecoprop-p following its endocrine disruption assessment. Overall, EFSA concluded that the endocrine disrupting criteria of points 3.6.5 and 3.8.2 of Annex II of Regulation (EC) 1107/2009 were not met for the EATS-modalities for humans and non-target organisms. Regardless of these conclusions, mecoprop-p cannot be considered to meet the approval criteria of Regulation (EC) 1107/2009 with regard to the critical area of concern identified by EFSA in 2023. The predicted exposure to residents is above the AOEL for children entering treated areas (75th percentile), even by applying a buffer strip of 10 m and a drift reduction during application. This critical area of concern, which indicates that the conditions set out in Article 4 of Regulation (EC) 1107/2009 are not met, particularly regarding the provisions of the Regulation aiming to ensure that products placed on the market and their residues *"shall not have any harmful effects on human health, including that of vulnerable groups*" (Recital 24; Article 4(2) & (3)). Moreover, mecoprop-p is classified as very toxic to aquatic life with acute and long lasting effects (Aquatic Acute 1 and Aquatic Chronic 1) as well as harmful if swallowed and causing serious eye damage under Regulation (EC) 1272/2007. Therefore, it cannot be concluded that the use of the substance does not cause any harm to human health or does not have any unacceptable effects on the environment. Nevertheless, the approval of mecoprop-p has been repeatedly extended for a total of 9 years and a half. It is high time that citizens, including agricultural workers, and the environment stop being exposed to this hazardous substance.

We call on you to invite the Commission to **propose the non-renewal of mecoprop-p** to ensure a high level of protection for children.

8. Drat review/renewal reports: 8-hydroxyquinoline, pydiflumetofen, flutolanil

a) 8-hydroxyquinoline

8-hydroxyquinoline has been classified as presumed to "damage the unborn child" since September 2019 (i.e. toxic for reproduction 1B). It is classified as being very toxic to aquatic life with long-lasting effects (Aquatic Acute 1/Aquatic Chronic 1), leading to high risk for some non-target species. The Pesticide Regulation clearly establishes that reprotoxic substances cannot be approved in the EU unless negligible exposure to humans can be demonstrated in certain conditions of use (Article 4(1), point 3.6.4 of Annex II). In March 2024[4], EFSA clarified that negligible exposure to humans cannot be demonstrated for 8-hydroxyquinoline in the case of automated drip irrigation in a permanent greenhouse contrary to what the Commission claims. Namely, EFSA pointed out: that for residents and bystanders, the exposure of children to vapour of 8-hydroxyquinoline is predicted to exceed the threshold for negligible exposure. Indeed, (120% of Acceptable Observed Effect Level). As a result, negligible exposure could not be demonstrated for these particularly vulnerable groups of the population.

More generally, EFSA pointed to the clear weakness of its own risk assessment, which results in a need to cautiously interpret its conclusions for operators and workers:

- The representative use of drip irrigation in permanent greenhouses was not fully represented in the EU-validated models when used to assess negligible exposure to 8-hydroxyquinoline;
- The submitted field study had several limitations and it could only be considered as supportive evidence for negligible exposure and non-reliable for quantitative risk assessment.

Considering the above, we urge you to oppose the renewal of 8-hydroxyquinoline no matter what restrictions on use the European Commission proposes.

We call on you to request from the Commission to **propose a regulation on the non-renewal of 8-hydroxyquinoline and require an immediate withdrawal from the EU market of products containing this substance, in accordance with Article 20(2,3) of Regulation (EC) 1107/2009.**

b) pydiflumetofen

PAN Europe is calling upon the Commission and Member States to ban the approval of this pydiflumetofen, a succinate dehydrogenase inhibitor fungicide, by considering its very high persistence as an unacceptable effect. This demand is in line with the scientific recommendation that chemicals should be regulated based on their persistence alone to prevent irreversible impacts on human health and the environment. Moreover, pydiflumetofen has a difluoromethyl group and therefore is a PFAS according to the OECD 2021 definition of PFAS (contains at least one saturated CF2 or CF3 part).

[4] Peer review of the pesticide risk assessment of the active substance quinolin-8-ol - - 2024 - EFSA Journal - Wiley Online Library

The history of chemical regulation has indeed demonstrated that a number of chemical pollution problems we are facing nowadays result from the release of highly persistent chemicals, such as dichlorodiphenyltrichloroethane (DDT), chlordane and PFAS, due to an underestimation of their impacts during their risk assessment. The use of highly persistent substances leads to the risk of reaching particularly high concentrations when released in the environment, increasing thereby the risk of causing adverse effects on human health and the environment. In the case of pydiflumetofen, some toxicity concerns already exist. Namely, concerns remain regarding the genotoxic potential of its metabolite 2,4,6-TCP and the toxicity of three of its impurities. Moreover, while EFSA concluded that pydiflumetofen does not meet the criteria for endocrine disruption, some adverse effects were observed in fish (decreased VTG at all concentrations, decreased fecundity, change in female gonad histopathology, i.e. increased oocyte atresia), raising some clear "uncertainties" for its impact on non-target organisms other than mammals. These uncertainties and remaining unaddressed issues should have been addressed very carefully by risk managers for such a persistent substance to which concentration levels might be high for humans and the environment. Moreover, chronic toxicity of persistent substances is insufficiently addressed in the context of pesticide risk assessment as such chronic studies are not designed to particularly consider persistence and exposure to increasing background levels of the tested substance.

Finally, pydiflumetofen is a succinate dehydrogenase inhibitor (SDHI) fungicide. The potential adversity relative to a SDHI fungicide mode of action in humans was found inconclusive by EFSA, raising valid concerns. The latter is supported by the results of peer-reviewed studies published in independent scientific journals. Namely, pydiflumetofen was found to interact with drug transporters, notably by strongly reducing the activity of the renal organic anion transporter (OAT) 3, in a concentration-dependent manner (Kerhoas *et al*, 2024). It was also found to enhance CYP3A4 mRNA expression in human hepatic HepaRG cells and primary human hepatocytes (Kerhoas *et al*, 2024). Lastly, a study has pointed out the acute and developmental toxicity of pydiflumetofen toward embryos, larvae, and adult zebrafish (Wang *et al*, 2022).

Another concern with persistent substances is that it takes a lot of time to reverse contamination when these are found to be way more toxic than originally concluded upon in chemical assessment. For this reason and given the already high background exposure levels of chemicals for humans and the environment, a more precautionary approach from regulators is crucial to protect our health and that of the next generations. It would also be consistent with the current work on the proposal for a universal restriction of PFAS based on the persistence properties of this class of chemicals.

We call on you to invite the Commission to **propose the non-approval of pydiflumetofen** to prevent poorly reversible future impacts on human health and the environment.

c) flutolanil

According to the proposal for a REACH restriction, aiming at phasing out PFAS in the EU and the list of PFAS pesticides it provides, flutolanil belongs to the group of PFAS. This is confirmed by EFSA in its conclusions published in June 2023. According to EFSA, flutolanil is persistent (P) to very persistent (vP) and forms the very persistent and very mobile metabolite trifluoroacetic acid (TFA). Moreover, the potential for immunotoxicity of flutolanil could not be excluded based on existing data and should be further investigated according to EFSA. Another significant concern about flutolanil is that the consumer risk assessment could not be finalised because of lacking data on the presence and toxicity of relevant metabolites (including TFA) for the residue definition in plants and animals. The concerns for consumers apply equally to the consumption of drinking water due to missing information on the effect of water treatment processes on the nature of the residues of flutolanil and metabolite M-11. The latter might be present in surface water when surface water is abstracted for the production of drinking water.

We call on you to invite the Commission to **propose the non-renewal of flutolanil** to protect European citizens from a direct and deliberate exposure to this PFAS substance.

9. Confirmatory information: pendimethalin

PAN Europe is very disappointed that the Commission requests EFSA to organise a peer review on the B potential of pendimethalin, instead of proposing a withdrawal of the approval of this PBT substance. As expressed in our letter and in a previous SCoPAFF position, the Commission should have used the highest bioconcentration factor (BCF) for regulatory purposes to ensure the swift ban of this PBT substance, in line with point 3.7.2 of Annex II of Regulation (EC) 1107/2009 and to make the best use of EFSA's limited resources.

10. Trifluoroacetic Acid (TFA)

PAN Europe would like to draw your attention to the concerning findings from our EU-wide survey on water contamination by trifluoroacetic acid (TFA), a common metabolite to PFAS pesticides. Our report, published on May 27, 2024, highlights alarming levels of this highly persistent and widely unregulated compound in both surface and groundwater samples.
Our key findings are as follows:

1. Widespread contamination beyond industrial hotspots: all water samples analysed contained TFA.
2. High concentration levels: detected TFA levels ranged from 370 ng/l to 3,300 ng/l, with an average of 1,180 ng/l.
3. Exceedance of limits: 79% of the samples had TFA levels exceeding the EU Drinking Water Directive limit of 500 ng/l for total PFAS.
4. Of particular note is that groundwater appears to be polluted to a similar extent as surface waters, which raises concerns about the protection of European drinking water resources for future generations.

5. A series of samples containing high TFA concentrations were taken in water courses running exclusively through agricultural areas.

In rural areas, PFAS pesticides appear to be the primary source of TFA contamination[5]. Thus, this extensive environmental pollution can, at least in part, be attributed to the lack of regulation of TFA and PFAS pesticides under the Pesticide Regulation.

The Commission and Member States have been aware of TFA as a pesticide breakdown product of PFAS pesticides for a while but have not stopped the authorisation of PFAS pesticides. In 2014, EFSA published a list of active substances degrading into TFA according to their molecular structure[6]. With a few exceptions[7], this list corresponds to the one included in the PFAS restriction proposal from February 2023. Despite this long-decade knowledge of the probability of C-CF3 pesticide conversion into TFA, to our understanding neither EFSA nor the Commission or Member States have asked for applicants to provide metabolism and degradation studies confirming or invalidating this TFA-conversion assumption. Furthermore, the toxicological profile of TFA has been under-investigated by the producers, EFSA and Rapporteur Member States notwithstanding its completely stable property. In the very few cases[8] where the toxicity of TFA was assessed, it has repeatedly been considered of no concern despite significant data gaps. The only exception to this is the active substance flurtamone. In 2017, in the course of flurtamone's risk assessment, EFSA identified TFA as a relevant metabolite[9] and the potential of groundwater contamination above 100 ng/L as a critical area of concern. This played a key role in the non-approval of the substance. Logically, this should have triggered the review and consequently the withdrawal of approval of all PFAS pesticides that have the potential to contaminate groundwater with TFA above the accepted threshold value. Not only did this not happen, but furthermore, still in 2023, EFSA could not conclude on the TFA aneugenicity (genotoxicity) potential or the risks for birds, mammals, bees and aquatic organisms as a result of missing data[10]. This situation is now even more concerning as TFA has been proposed to be classified as 'toxic for reproduction' category' 1B[11], which makes the substance a relevant metabolite and the groundwater threshold of 100 ng/L applicable. The levels of TFA we found in all groundwater samples exceed this safety threshold limit.

Therefore, all the authorisations of PFAS pesticides that break down to TFA do not comply anymore with the EU law. We urge you to **ban all PFAS pesticides**.

[5] Trifluoroacetate (TFA): Laying the foundations for effective minimization - Spatial analysis of the entry pathways into the water cycle | Federal Environment Agency (umweltbundesamt.de)

[6] Reasoned opinion on the setting of MRLs for saflufenacil in various crops, considering the risk related to the metabolite trifluoroacetic acid (TFA) (wiley.com) - Appendix C.

[7] Mefentrifluconazole, Tetraconazole, Triflumuron (no longer approved, 2020).

[8] Fluazinam (EFSA, 2008), saflufenacil (EFSA, 2014), flurtamone (2017, EFSA).

[9] TFA was considered a relevant metabolite due to the proposed classification of its parent compound (flurtamone) as carcinogenic category 2.

[10] Peer review of the pesticide risk assessment of the active substance tritosulfuron - - 2023 - EFSA Journal - Wiley Online Library

[11] Registry of CLH intentions until outcome - ECHA (europa.eu)

11. Acetamiprid

PAN Europe has raised concerns on several occasions in the past about the potential of **neonicotinoid pesticides to interact with the human nervous system**[12]. These substances are neurotoxic not only to insects but also to humans and other species. More specifically, it has been shown that human exposure to neonicotinoids at early life stages alters the correct neurological development and induces neuroinflammation, whereas in adults interactions with neuronal nicotinic acetylcholine receptors has been shown to induce neurochemicals alterations leading to neurobehavioural toxicity[13]. Therefore, all neonicotinoid substances should be banned in accordance with the general provisions of Regulation (EC) 1107/2009, as stated in Article 1, which require that active substances placed on the market do not adversely affect human or animal health or the environment. **For acetamiprid specifically, it has been demonstrated that it can affect the function of human neuronal cells at low concentrations[14], its residues are detected in children's cerebrospinal fluid[15], and in mice, prenatal exposure induces neurodevelopmental toxicity and increases microglial activation in the developing brain**[16]. Moreover, acetamiprid exposure has been shown to cause adverse effects other than neurotoxicity, such as breast cancer, via an estrogenic mode of action and reproductive toxicity. Therefore, we welcome the Commission's mandate to EFSA, following our letter, requesting the agency to examine the new scientific evidence. As expected, EFSA's statement, which was published in May 2024, clearly highlights the potential of acetamiprid to cause developmental neurotoxicity (DNT) as well as several regulatory data gaps in the renewal assessment report. EFSA proposes to lower the toxicological reference values and therefore the Maximum Residue Limits for several commodities. PAN Europe finds it unacceptable that the application dossier of a pesticide with neurotoxic mode of action is still missing key studies and endpoints to adequately assess developmental neurotoxicity. Due to the DNT uncertainties, the Commission already suggested in the PAFF Standing Committee of June 2024 to initiate Article 21 procedure under Regulation (EC) 1107/2009, to also cover the assessment of endocrine disruption under the new ED criteria adopted in 2018. The Commission's suggestion to review and withdraw the approval of acetamiprid is important, and we ask for your support. Based on EFSA's statement and the public scientific literature it is evident that acetamiprid may cause developmental neurotoxicity and therefore does not fulfil the approval criteria of Article 4(1) of the Pesticide Regulation (EC)

[12] https://www.pan-europe.info/blog/eu-commission-refuses-protect-children-and-unborn-against-neurotoxic-pesticides

[13] Costas-Ferreira C, Faro LRF. Neurotoxic Effects of Neonicotinoids on Mammals: What Is There beyond the Activation of Nicotinic Acetylcholine Receptors?-A Systematic Review. Int J Mol Sci. 2021 Aug 5;22(16):8413. doi: 10.3390/ijms22168413

[14] Loser, D., Hinojosa, M.G., Blum, J. et al. Functional alterations by a subgroup of neonicotinoid pesticides in human dopaminergic neurons. Arch Toxicol 95, 2081–2107 (2021). https://doi.org/10.1007/s00204-021-03031-1

[15] Li AJ, Si M, et al. Detection of Neonicotinoid Insecticides and Their Metabolites in Human Cerebrospinal Fluid. Environ Health Perspect. 2022 Dec;130(12):127702. doi: 10.1289/EHP11374.

[16] Kagawa N, Nagao T. Neurodevelopmental toxicity in the mouse neocortex following prenatal exposure to acetamiprid. J Appl Toxicol. 2018 Dec;38(12):1521-1528. doi: 10.1002/jat.3692.

1107/2009. To ensure the protection of the most vulnerable population of our society, pregnant women and children, acetamiprid's approval should be immediately withdrawn.

We call on you **to support** the Commission in initiating **an Article 21 review of the approval of acetamiprid** in light of new scientific evidence showing that it can cause developmental neurotoxicity. **This action is crucial to protect the most vulnerable groups of our population, particularly pregnant women, babies and young children**.

12. Guidance Documents: emergency authorisations, negligible exposure

Emergency authorisations - Article 53

PAN Europe considers that the Court ruling C-162/21 of the European Court of Justice should be fully implemented. Substances that have been banned, not renewed, or not approved (such as 1,3-dichloropropene) because of health and environmental concerns, should not be given derogations to be used in emergency situations under Article 53. **The new guidance document should mention 'non-approved substances' and not only 'non-approved uses'**. In the same vein, substances for which no renewal was requested by the industry, or for which the renewal request was withdrawn during the reapproval procedure, should also not be given a derogation. Indeed, providing derogations to substances that are harmful to human health and/or the environment, is not in line with the precautionary principle. In certain cases, the withdrawal has taken place after a negative opinion has been concluded from EFSA, identifying numerous data gaps or critical areas of concern. Providing derogations to such substances would be in opposition to the Court ruling. **This is particularly unacceptable in cases such as 1,3-dichloropropene: this substance is highly toxic to humans and the environment, and its application dossier was rejected twice. Nevertheless, Member States, such as Spain, provide yearly derogations to a pesticide that is easily replaced by simple alternatives such as crop rotation.**

Furthermore, PAN Europe recommends taking into account the opinion of the Advocate General. Only complete and detailed dossiers should be accepted, enabling national competent authorities to carry out an in-depth evaluation of the real needs of a derogation. The dossiers should provide information on the economic threshold that justifies the need for the specific derogation as well as details on the available alternatives, whether used alone or in combination. Those must be thoroughly assessed by staff that are knowledgeable on alternatives to synthetic pesticides.

PAN Europe would also like to take the opportunity of the revision of the guidance document to ask for clarification about the meaning of the "Authorisation holder". Indeed, it appears that some Member States indicate the name of the pesticide company that produces and sells the pesticide, while others put the entity applying for the derogation. An emergency authorisation to sell a pesticide is evidently given to the pesticide industry, but this doesn't provide information about the end-user, which it should. PAN Europe would suggest renaming this category to "Applicant for emergency authorisation".

More specifically, PAN Europe asks to make it clear that derogations should be asked for by end-users only, e.g. by farmers or farmers associations or eventually by public authorities (in case of use of non-authorised biocontrol in public areas) but in no case by the pesticide industry itself, that has a strong conflict of interest.

Finally, PAN Europe has identified that a series of Member States submit the information to the E-Submission Food Chain (ESFC) platform sometimes months after the derogation period is over. To improve transparency on this important environmental information, PAN Europe asks to add a deadline to submit the information, e.g. maximum of 2 weeks after the decision to grant the derogation is taken.

Negligible exposure

PAN Europe welcomes the ongoing work on negligible exposure to ensure such assessment is soon carried out based on agreed guidelines by risk managers that establish a high level of protection from harmful pesticides as foreseen in Regulation (EC) 1107/2009. However, PAN Europe is concerned about the lack of transparency and inclusiveness surrounding the ongoing work, and the risk of lowering the level of protection. In this respect, it's important to take into consideration the following:

- In accordance with points 3.6.3. to 3.6.5. of Annex II, all the conditions of use that fail to qualify as a closed system (preventing any release), or to exclude contacts with humans, cannot be regarded as negligible. Residues in food must not exceed the default value (of 0.01mg/kg or below). This means that all **situations which fail to prevent any release of a substance to the environment or/and that result in direct or indirect human exposure to that substance** should lead to the conclusion that the substance does not meet the requirement of negligible exposure and therefore should be banned.
- **Safeners and synergists**: the negligible exposure requirements also apply to safeners and synergists found to be toxic for reproduction 1A/B, carcinogen 1A/1B or having endocrine disrupting properties. This means that food residues of these substances shall not be found above 0.01mg/kg of the relevant Level of Quantification. While the EU recently adopted an implementing regulation to approve safeners and synergists in the EU, this text does not foresee the setting of MRLs for those substances. Likewise, the concentration of safeners and synergists and their relevant metabolites in groundwater and drinking water shall not exceed the limit value of 0.1 µg/L in line with the rules applicable to active substances. In the absence of such regulatory values in food and water, PAN Europe considers that negligible exposure of humans to safeners and synergists cannot be demonstrated.
- Margin of Exposure: assuming that the use of reference/safety values will achieve a negligible exposure in certain conditions of use is an inaccurate understanding of the role of reference values in risk assessment. These are intended to establish an acceptable level of potential exposure of humans and wildlife for substances that do not fall under the hazard class criteria of Article 4(1). Their use can reduce exposure but should not be assumed that these will result in no contacts with humans and/or non-target species.

- Risk mitigation measures are meant to minimise contact, and should not be assumed that their application will result in “no contact” as required by Regulation EC 1107/2009. Furthermore, they are adopted at the national level at the Member State’s discretion without any EU monitoring scheme to ensure their effectiveness.
- **Non-target organisms**: Clear conditions should be established of what negligible exposure to an endocrine-disrupting substance would mean both for humans and non-target organisms to ensure a harmonised approach complying with the requirements of point 3.8.2 of Regulation 1107/2009. A guidance that does not address both requirements should be considered incomplete and should not be adopted.

From beforehand, thank you for your consideration.

Sincerely yours,

On behalf of PAN Europe

Angeliki Lysimachou
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