Policy Briefing

Residues of EU-banned pesticides in EU food

What the law really says about double standards

Policy briefing
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The EU Pesticide Regulation (1107/2009) is, in theory, one of the strictest regulations in the world. To guarantee a high level of protection, it requires that pesticides and their residues have no harmful effects on human health and animal health and no unacceptable effects on the environment. While many potentially harmful pesticides are still on the EU market, others got banned from the EU food production thanks to this strict regulation's requirement. This includes almost all substances that are known or presumed to be toxic for reproduction as they damage the unborn child or/and fertility.

Yet, European consumers are not as protected from these reprotoxic pesticides as they might assume. While the EU forbids their use and the presence of their residues in EU-grown products, it allows third countries to import products containing residues of such substances. This situation is unacceptable and contradicts EU law in many ways. Namely, this exposes EU consumers to EU-banned and hazardous pesticides through imported food and creates a 'double standard' that puts the health of local communities and biodiversity at risk in third countries. Moreover, it puts EU farmers into an unfair market competition.

PAN Europe is calling upon the European Commission to put an end to this practice and to guarantee to European citizens that no residues of EU-banned substances are permitted in food.

Banned pesticides still on our plates: the European paradox

To ensure a high level of protection of human health, animal health and the environment, the Pesticide Regulation introduced **'cut-off' criteria** for active substances that are: mutagenic, carcinogenic, toxic for reproduction (CMRs), have endocrine disrupting properties, are persistent organic pollutants (POPs), are persistent, bioaccumulative and toxic (PBT) or are considered to be very persistent and very bioaccumulative (vPvB). The hazardous intrinsic properties of these substances are so severe that **any exposure to them poses an unacceptable level of risk** following the hazard-based approach of the Pesticide Regulation. Therefore, when a substance meets one of the cut-off criteria (such as toxicity for reproduction), its risk assessment must be stopped and it cannot be approved in the EU. The Pesticide Regulation provides a theoretical possibility, in that never applied, for approving substances that are carcinogenic; toxic for reproduction or have endocrine disrupting properties only if human exposure is negligible (Article 4, Annex II, 3.6.3 to 3.6.5). This means that the substance is used in closed systems resulting in no contact with humans and non-detectable residues in food i.e. below the default value of 0.01 mg/kg or the relevant Level of Quantification (LOQ). Therefore, **European consumers, and especially most vulnerable groups, should not be exposed to these substances through their food above negligible level of exposure**.

Yet, the Commission allows European consumers to continue to be exposed to harmful substances when eating products imported from third countries. A striking example of this is the case of thiacloprid. This neonicotinoid, known [1]to be toxic for reproduction and toxic to bees, was rightfully banned in 2020 as it was found to meet one of the cut-off approval criteria of the Pesticide Regulation. Following the ban decision, the Commission presented a proposal to delete its existing Maximum Residue Limits ('MRLs') in food but to maintain those above the negligible exposure level[2], based on uses in non-EU countries. This double standard in the regulation of hazardous pesticides between EU and third countries led to an objection from the European Parliament in January 2024[3]. The latter obliges the Commission to reconsider its proposal on thiacloprid to

[1] Should we allow residues of EU-banned Thiacloprid in imported food? | PAN Europe (pan-europe.info)
[2] I.e above the default value of 0.01 mg/kg or the relevant Level of Quantification (LOQ).
[3] https://www.europarl.europa.eu/doceo/document/TA-9-2024-0016_EN.html

ensure that human health protection prevails over any other consideration. PAN Europe supported the European Parliament's veto. In a letter[4], we also asked the Commission to delete the MRLs of this reprotoxic and bee-toxic substance in all food products to prevent any consumer exposure.

Worryingly, thiacloprid is not an isolated case. There are seven other active substances that are toxic to reproduction for which MRLs in some products are set above the default value of 0.01mg/kg or the relevant LOQ. This means that detectable residues in food products are allowed. Five of these substances are no longer approved in the EU for several years, while the two others are still on the EU market. Including thiacloprid, out of the six banned substances, for five of them the Commission has presented proposals to maintain in some food products MRLs higher than 0.01mg/kg or the relevant LOQ. For the remaining substance, the dithiocarbamate mancozeb, no proposal to adapt or even lower MRLs was issued following its ban in 2021.

Table: Reprotoxic active substances with detectable residues in food products (MRLs above 0.01mg/kg or the relevant LOQ)

Substance name	CLP classification (date)	Status	Expiration of approval
Dimethomorph	Repr. 1B (2019)	Approved	15/02/2025
Flurochloridone	Repr. 1B (2018)	Approved	15/03/2026
Isopyrazam	Repr. 1B (2020)	Not approved	08/06/2022
Mancozeb	Repr. 1B (2019)	Not approved	04/01/2021
Cyproconazole	Repr. 1B (2015)	Not approved	31/05/2021
Thiacloprid	Repr. 1B (2015)	Not approved	03/02/2020
Glufosinate	Repr. 1B	Not approved	31/07/2018
Carbendazim	Repr. 1B, Mut. 1B (2019)	Not approved	30/11/2014

Ensuring a high level of consumer protection comes first, says the law

The Commission's practice of setting high MRLs for 'cut off' substances happens where specific MRLs were/or to be set for imported products *"to meet the needs of international trades"*[5] (import tolerances). This can also happen where MRLs were established by the Codex Alimentarius Commission (CXLs)[6]. When doing so, the Commission disregards whether this goes above the negligible exposure requirement foreseen by the Pesticide Regulation (no detectable residues in food products) but it also contradicts Regulation 396/2005 ('MRLs Regulation').

The MRLs Regulation obliges the European Commission to delete MRLs of 'cut-off' substances banned for health concerns to protect consumers. While it provides the possibility to adopt import tolerances or CXLs, this needs to be interpreted in light of the objective set out in its Article 1 to ensure a **high level of consumer protection from pesticides and their residues** in food products and its Article 3(2)(g). The latter makes clear that import tolerances are *"MRL(s) set for imported products (...) where the use of the active substance in a plant protection product on a given product is not authorised in the Community for reasons other than public health reasons"*. It follows that **import tolerances cannot be set when a substance was banned in the EU because it is harmful to human health**. This is particularly univocal for substances that meet one of the health-related cut-off criteria such as those that were banned because they are toxic for human reproduction.

[4] Letter to Commission_Unsafe MRLs set for reprotoxic substances_ALSR.pdf (pan-europe.info)
[5] Article 3(2) of Regulation (EC) No 396/2005.
[6] MRLs set at the international level by the Codex Alimentarius Commission.

For those substances, recital 5 of the MRL Regulation makes clear that *"to ensure that such residues should not be present at levels presenting an unacceptable risk to humans (...). MRLs should be set at the lowest achievable level consistent with good agricultural practice for each pesticide with a view to protecting vulnerable groups such as children and the unborn"*.

The requirements of Articles 1 and 3(2)(g) cannot be bypassed -as the Commission does- by claiming safety of import tolerance and CXLs according to a reasoned opinion of the European Food Safety Authority (EFSA). This current practice is all the more unacceptable that, when reviewing MRLs, EFSA does not take into account cumulative and synergistic effects, although this is required by both Article 14 of the MRLs Regulation and Article 4(3)(b) of the Pesticide Regulation. In PAN Europe's view, the Commission's stance shows a profound disregard for the protection of human health, as well as sustainable and healthy food production in, and outside the EU. This leads to prioritising internal trade interests over consumer safety and safeguarding EU standards.

With Article 17 of the MRLs Regulation, the Commission is to delete MRLs that are set out in Annexes II and III to the default value of 0.01mg/kg or to the relevant LOQ without seeking the opinion of EFSA if their authorisation has been revoked. Contrary to what the Commission Technical Guideline SANTE/2015/10595[7] suggests, this should also apply to MRLs corresponding to CXLs or MRLs that have been specifically set as import tolerances. Furthermore, this should apply equally to 'cut-off' substances which are no longer approved as a result of a non-renewal decision and to those for which no application for renewal was submitted. For the above reasons, we therefore call on the Commission to lower all MRLs of thiacloprid and of all other cut-off substances to the default value 0.01mg/kg or the relevant LOQ.

EU commitment to end double standards and support the global transition towards more sustainable agricultural practices

In its Farm to Fork Strategy[8], the Commission pledged to eliminate double standards and drive the global transition towards a sustainable food system. In particular, it committed to *"support the global transition to sustainable agri-food systems, in line with the objectives of this strategy and the SDG" and that "imported food must continue to comply with relevant EU regulations and standards"*. Therefore, it specified that *"the EU will consider [...] to review import tolerances for substances meeting the "cut-off criteria" and presenting a high level of risk for human health".* These commitments echo the recommendations of the REFIT report[9] published in 2020. However, the Commission's statements stand in stark contrast with its *de facto* practice with regard to reprotoxic substances. This undermines the Commission's credibility and reflects poorly on the EU's trade partners.

Unfair competition for European farmers

Maintaining high MRLs of pesticides banned in the EU in certain food products that are imported puts European farmers in a particularly unfair position. European farmers are moving or being asked to move towards a much-needed transition to more sustainable farming practices, in particular agro-ecological methods, and toxic pesticides are gradually being banned in the EU. It is unacceptable that the same standards are not imposed upon importers. It leads to a situation of distortion of competition that urgently needs to be addressed.

Are all reproductive pesticides truly banned in the EU?

Worryingly, while most substances that are toxic for reproduction have been banned in the EU, others continue to be on the EU market exposing citizens above negligible level. This is a clear breach of the Pesticide Regulation. This is the case for flurochloridone and dimethomorph, which were classified as toxic for reproduction category in 2018 and in 2019, respectively. More recently, in 2023, dimethomorph was also identified by EFSA as an endocrine disruptor for humans and non-target organisms. The approval period for both substances expired several years ago but continues to be prolonged by the Commission, instead of removing them from the market[10], as the EU Pesticide Regulation foresees. In March 2024, the Member States finally adopted a Commission decision banning dimethomorph. However, this substance will not be fully banned until autumn 2025 due to the adoption of longer transitional and grace periods than those foreseen for such toxic pesticides in the Pesticide Regulation (Articles 20 and 46). In the meantime, farm workers, residents

[7] 1cc434e7-4945-4388-98d9-c804b102d16b_en (europa.eu)
[8] EUR-Lex - 52020DC0381 - EN - EUR-Lex (europa.eu)
[9] EUR-Lex - 52020DC0208 - EN - EUR-Lex (europa.eu)
[10] Dimethomorph; 01/10/2007-15/02/2025 (initially 09/2017); Flurochloridone: 01/06/2011-15/03/2026 (initially 05/2020)

of agricultural zones but also European consumers keep being exposed to these dangerous substances. The European Commission must proceed with the non-renewal of flurochloridone without further delay and make its ban immediately effective.

In light of both the EU framework and the political commitments, we urge the European Commission stop maintaining or setting MRLs in food of harmful substances. The Commission's approach should be aligned with the "negligible exposure" requirement of the Pesticide Regulation applicable to substances which are toxic for reproduction, carcinogenic or have endocrine disrupting properties. In other words, **there should be no detectable residues of pesticides that are toxic for reproduction, carcinogenic or have endocrine disrupting properties in food, including imported products. This is crucial to protect the health of European consumers and that of local communities in third countries, and to ensure a fair playing field to EU farmers.**

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