



Press Release

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Illegal use of neonicotinoid-treated seeds: Belgian Court overturns Belgium's pesticide derogations

In a judgment published on 18 October, the Belgian Council of State overturned Belgium's derogations for the use of neonicotinoid-treated seeds in 4 legal procedures initiated by PAN Europe and its Belgian member, Nature et Progrès Belgique. The judgment follows a ruling from the Court of Justice of the EU that clarified that Member States are not allowed to provide a derogation for the use of a pesticide that has been banned in the EU to protect health or the environment.

Following the ban on neonicotinoids in the EU in 2018, a series of Member States, including Belgium, provided derogations to their farmers for the use of neonicotinoid-treated seeds, including sugar beet in 2019. In 2019, 2020 and 2021, PAN Europe and Nature et Progrès Belgique immediately sued the Belgian state before a Belgian administrative court, suggesting to the Court to send prejudicial questions to the Court of Justice of the EU, in order to better clarify the legal limits for the provision of derogations¹ regarding pesticides that are banned in the EU.

Martin Dermine, PAN Europe's executive director said: "*PAN Europe has been arguing for years with the European Commission on the fact that EU law does not allow Member States to provide a derogation to an EU-banned pesticide. The Commission disagreed and considered that intensive farming should be given priority to citizens' health and the environment*".

In 2021, the Belgian Council of State sent 5 prejudicial questions to the Court of Justice of the EU, asking to clarify the boundaries of the EU legislation on pesticide derogations².

Martin Dermine added: "*During the procedure, the European Commission, as well as France, Hungary, Greece and Finland shamelessly supported Belgium's view to allow to use pesticides that were banned in the EU as they were shown to be carcinogenic, toxic to reproduction, endocrine disruptors, or toxic to bees. While citizens demand more protection, their ministries of agriculture advocate for the exact opposite*".

Following the ruling from the Court of Justice of the EU in January 2023, the European Commission is supposed to revise its Guidance Document on derogations³. This still has not happened.

Martin Dermine concluded: "*In 2021, the European Commission outrageously tried to legitimise such derogations by explicitly adding to its Guidance Document on derogations the possibility for Member States to grant derogations to EU-banned pesticides. First, they promote and defend a toxic and illegal system, and even when the EU Court clarifies the boundaries of the law, the Commission drags its feet to adapt its toxic Guidance Document. This is in sharp contrast with its speed and efforts to get glyphosate re-approved. During the whole procedure, it has been evident that the European*

¹ Article 53 from regulation (EU) 1107/2009

² <https://www.pan-europe.info/blog/pan-europe-takes-issue-pesticide-derogations-court-justice-european-union>

³ https://food.ec.europa.eu/system/files/2023-01/pesticides_aas_guidance_wd_emergency_authorisations_article53_post-210301.pdf

Commission stood on the side of chemical agriculture. It is more than time for EU public servants to start respecting EU law and listen to citizens!"

Since the EU ruling on derogations, dozens of derogations for EU-banned pesticides have been provided by Member States, including for the use of neonicotinoid-treated seeds⁴. The Belgian Court confirmed that the ruling also means that the use of neonicotinoids to treat seeds meant to be exported to third countries is not allowed. As a Guardian of the Treaties, PAN Europe considers that the European Commission should launch infringement procedures to protect its citizens' health and the environment, as well as that from third countries.

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⁴ <https://www.pan-europe.info/blog/29-illegal-new-pesticide-derogations-eu-commission-closes-eyes>
Romania granted [3 derogations](#) for the use of neonicotinoid-treated seeds last August