



**Pesticide
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Brussels 24 January 2022

First EU anti-pesticides legal challenges: PAN Europe takes advantage of the recently revised Aarhus regulation

Since the EU finally opened its Courts for environmental challenges to NGOs and individuals to question any EU decision concerning environmental law, PAN Europe has just launched two legal actions: one on the illegal presence on the market of non-evaluated pesticides and the other on the reapproval of highly problematic Cypermethrin.

Hans Muilerman, chemical officer at PAN Europe said: “The European Commission and Member States are supposed to re-evaluate the approval of pesticides every 10 years, to account for new scientific knowledge on their toxicity. Instead, they illegally maintain them on the market for many extra years.”

Pesticide companies submit their reapproval dossiers 3 years ahead of the end of the approval of their pesticide. A "Rapporteur Member State" is then designated to carry out a first evaluation in 1 year. Then, the EFSA carries out a peer review based on which the Commission and the Member States take a decision to reapprove, restrict or not reapprove the substance.

Salomé Roynel, a campaigner at PAN Europe added: “We observe that at all steps of the process, nothing is done to respect the deadline and toxic substances are constantly given automatic 1-year prolongations, often several times. This is systematic procedure! In the meantime, citizens and the environment remain unprotected.”

The pesticide regulation 1107/2009 gives the possibility to the European Commission to prolong approval periods in case of unexpected delays but PAN Europe has identified that regulatory agencies do not respect the legal timelines, which causes delays. Another delay is caused by the fact that Member States take sometimes more than 1 year to make a decision once EFSA has published its peer review. PAN Europe considers these systematic delays are illegal.

Concerning the second case on Cypermethrin, supported by the NGO Sum Of Us, Martin Dermine, Health and Environment Policy Officer explained: “Cypermethrin is an endocrine disrupting chemical that is also highly toxic to bees and aquatic organisms. The EFSA clearly concluded this substance should be banned for its excessive intrinsic toxicity.”

Cypermethrin is a powerful pyrethroid insecticide. Its reapproval should have been discussed in 2016 but delays at Member State and EFSA-levels delayed the process by more than 5 years and the substance was prolonged, despite evidence it is an endocrine disruptor and should thus be banned.

Martin Dermine, added: “The EFSA identified more than 20 data gaps, meaning data the industry is supposed to provide on the safety of its pesticide but they do not. It is common practice that the Commission and Member States reapprove substances for which we do not have the full picture on their health or

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environmental toxicity. This is illegal and we will ask the Court to force the Commission and Member States to respect the law.”

EFSA identified 24 data gaps. Among them, EFSA is missing the full composition of the tested pesticides and acknowledged they could not assess the genotoxicity potential of the pesticide.

Salomé Roynel concluded: “Independent science shows that on top of being an endocrine disruptor, cypermethrin is neurotoxic and can cause harm to the unborn. This Highly Hazardous Pesticide should have been banned in 2016 already and the Commission and Member States decided to reapprove it until 2029. This is a scandal and we expect the Court to fix this!”

For both legal actions, PAN Europe has sent a letter to Commissioner Kyriakides, asking for an internal review of the decisions taken. The European Commission has 12 weeks to provide an answer. If the answer is not satisfactory, PAN Europe will bring the case to the Court of Justice of the EU. The case on prolongations concerns regulation 2021/2068/EC while the case on cypermethrin concerns regulation 2021/2049/EC.

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