



Pesticide national litigation: the example of Captan and Difenoconazole

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Registratie van gewasbeschermingsmiddelen en biociden

Ingevolge de geldende regelgeving omtrent gewasbeschermingsmiddelen en biociden zijn onderstaande middelen **toegelaten** onder het vermelde toelatingsnummer en tot het erachter vermelde tijdstip:

toelating	middel	werkzamestof	middeotype	toelatinghouder	geldig tot	link
16763 N	Actizone F5 CONC	Alkyl (C12-16) dimethylbenzylammoniumchloride, didecyldimethylammoniumchloride (DDAC)	Biocide	Specialty Operations France	01-12-2034	https://toelatingen.ctgb.nl/nl/authorisations/30073
16779 N	CHR-Spray tegen mieren	pyrethrinen	Biocide	W. Neudorff GmbH KG	01-04-2032	https://toelatingen.ctgb.nl/nl/authorisations/30464
16777 N	CHR-Mieren Poeder	pyrethrinen	Biocide	W. Neudorff GmbH KG	01-08-2026	https://toelatingen.ctgb.nl/nl/authorisations/30466
16781 N	RTU-Spray tegen mieren RTU	pyrethrinen	Biocide	W. Neudorff GmbH KG	01-04-2032	https://toelatingen.ctgb.nl/nl/authorisations/30465
16775 N	Loxiran Mierenspray	pyrethrinen	Biocide	W. Neudorff GmbH KG	01-04-2032	https://toelatingen.ctgb.nl/nl/authorisations/30468
16776 N	Loxiran Mierenstrooi-middel	pyrethrinen	Biocide	W. Neudorff GmbH KG	01-08-2026	https://toelatingen.ctgb.nl/nl/authorisations/30467
16752 N	Tork Extra Hand Sanitizing Alcohol Liquid	ethanol	Biocide	Saraya Europe SAS	01-12-2034	https://toelatingen.ctgb.nl/nl/authorisations/26584
16770 N	Xenial	mefentrifluconazool, metrafenon, pyraclostrobine	Gewasbescherming	BASF Nederland B.V.	31-10-2025	https://toelatingen.ctgb.nl/nl/authorisations/30241
16750 N	Mavrik	tau-fluvalinaat	Gewasbescherming	ADAMA Registrations B.V.	31-01-2028	https://toelatingen.ctgb.nl/nl/authorisations/25868
16778 N	OBELISK	joodsulfuronmethylnatrium, mesosulfuron-methyl	Gewasbescherming	Ascenza Agro S.A.	31-03-2033	https://toelatingen.ctgb.nl/nl/authorisations/30517

Standard procedure

- Check 'Staatscourant'
- Chose authorisation (full, or parallel authorisation, or mutual recognition, or prolongation, or minor use)
- Objections send to authorities (Dutch CTGB = authorisation board) - 6 weeks deadline
- Mention ALL evidence, no option to add new evidence later
- CTGB will refer to 'hearing committee' & present a written defence itself to the committee (takes several months)
- After advice of hearing committee, CTGB takes decision on our objections
- If rejected, we can go to administrative court (CBB, court for company issues) – no lawyer required (in NL) – fee 500 Euro
- CBB may ask questions to EU Court ('question for preliminary ruling')
- Finally CBB verdict – no costs conviction

Special cases on Captan and Difenconazole

- No need to wait for ‘Staatscourant’
- Art.44 of Reg 1107/2009 provides for withdrawal/amendment of the national authorisation in case rules in Art.4 (harmful effects on humans or unacceptable effects on non-target organisms) are not met
- Helped by EU Court (‘question for preliminary ruling’ 2024) saying that any decision needs to be done based on recent scientific insights (big blow for national authorities, they only look at (old and biased) EU protocols and disregard independent science)
- Need to present strong evidence; not enough to cast doubt
- PAN asks for withdrawal and CTGB will refuse.
- At that stage the normal procedure from ‘objection’ (see above) will be followed

Withdrawal difenoconazole.

- May 2024 PAN request for withdrawal (Art.44) of all difenoconazole-containing ppp's (follow up EU Court ruling)
- We presented 20+ independent studies showing difeno is an endocrine disruptor (ED)
- Difeno was not assessed in the past 17 years & certainly not on ED
- Difeno converts to a classified (R1B) metabolite
- Difeno use leads to resistant fungi species that cause problems (including mortality) in hospitals
- No cumulative effects assessed, even not for the Difeno-group of azoles
- August 2024 request rejected by CTGB, referring to ongoing assessment at EU level
- August 2024 PAN objection, referring to EU Court stressing need to decide based on recent scientific insights
- Next step hearing of the (advisory) committee of CTGB

Withdrawal Captan

- August 2024, request withdrawal all captan-containing ppp's
- Evidence from EFSA peer review that was disregarded in Commission decision of SEP 24 (No safe use outside greenhouses: the high risk to wild mammals, fish and aquatic invertebrates and non-target arthropods, so-called 'Critical Area of Concern')
- PAN (also) submitted a 'request for internal review' to EU Commission to revise its September 24 approval-decision (pending)
- October 2024, request rejected by CTGB because in future they will revise the current captan authorisations
- November 2024 PAN objection on CTGB decision (follow standard procedure now, hearing etc.)

Do's and don'ts

- Make a choice for a case on a topic that has relevance for many/most authorisations (fi. pesticide drift to surface water)
- Try to involve an expert with legal knowledge (e.g. a retired lawyer)
- Make it very legal; court is not the place of technical debates
- List violations of legal articles in the Regulation or legal principles
- Present strong evidence; court might limit its views to (manifest) errors only
- Try to persuade national court to ask for preliminary ruling (in case of doubts)
- Be ready for a lengthy process of years
- NL NGOs have a long tradition of involving court; this might be different in other countries



Thank you!



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