Press Release

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EU Court: member states do not properly carry out pesticide assessments

In a new groundbreaking ruling, the EU Court of Justice has declared the assessment of pesticides by EU Member States unlawful. The ruling puts an end to the common practice of disregarding recent scientific knowledge and give priority to decades-old industry studies. The Court reminds that safety criteria for pesticide-active substances also apply to commercial pesticide formulations. Finally, the Court clarifies that each Member State is responsible for its national authorisations and cannot blindly rely on the scientific evaluation from other Member States.

In 2019, PAN Europe filed three complaints before a Dutch Court, against the reauthorisation of Closer (sulfoxaflor), Dagonis (difenoconazole) and Pitcher (fludioxonil). For all cases, the Dutch pesticide authorisation agency (CTGB) failed to make use of the most up-to-date scientific knowledge, in the framework of the risk assessment of pesticides. PAN Europe also brought the issue that the most recent guidelines to evaluate endocrine disruption, or the toxicity to bees, were disregarded by CTGB. In 2022, the Dutch court referred questions for a preliminary ruling to the Court of Justice of the EU.

Hans Muilerman Chemicals coordinator at PAN Europe says: "The EU Court made it clear that pesticide formulations need to be tested for their endocrine disrupting properties, not only active substances. Many co-formulants have endocrine-disrupting properties but Member States do not care and leave citizens unprotected. They are now forced by the EU Court to finally do their job and protect citizens' health against endocrine-disrupting pesticides!".

Martin Dermine, PAN Europe executive director adds: "As for the ruling on derogations from 2023, we observed that the European Commission, jointly with Greece and the Netherlands, again played the game of the agrochemicals industry. The Commission was advocating not to test pesticide formulations for their endocrine-disrupting properties; this is a scandal, as the law is very clear on this. The most recent scientific and technical knowledge must be taken into account by Member States, including for endocrine disruption."

Hans Muilerman adds: "The Court also clarified that in the absence of harmonised guidelines, regulatory authorities must use the most recent science. In the 2023 EU glyphosate reapproval, the European Food Safety Authority (EFSA) refused to provide a scientific assessment of the harm of glyphosate on microbiota and biodiversity, because no harmonised guidelines exist. It is about time EU- and national regulatory agencies start applying the law and protect citizens and the environment by using the breadth of the available scientific knowledge on the toxicity of pesticides."

Hans Muilerman concludes: "The EU Court has clarified that Member States cannot blindly use the scientific evaluation carried out by other Member States. In particular, they must ensure that the most up-to-date scientific and technical knowledge is taken into account, which is usually not the case."

The ruling also refers to an important clause in the January 2023 ruling on derogations for banned pesticides. The protection of human and animal health and of the environment "must take precedence" over the improvement of plant cultivation.

“In this regard (...) the Court has already ruled that the authorisation rules for the placing of

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plant protection products on the market must ensure a high level of protection and that when such authorisations are granted, the protection of human and animal health and of the environment "must take precedence" over the improvement of plant cultivation (judgment of 19 January 2023, Pesticide Action Network Europe and Others, C-162/21, EU:C:2023:30, paragraph 48 and case-law cited there). (consideration 90)

The court also reminds the authorities of the important precautionary principle: “It should also be recalled that (....) the provisions of this regulation are based on the precautionary principle, in order to ensure that active substances or products placed on the market do not adversely affect human health.” (consideration 94)

Read the rulings: C-308/22, C-309/22 and C310/22 (in French and Dutch)

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