



## PRESS RELEASE No 30/24

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Judgment of the General Court in Case T-536/22 | PAN Europe v Commission

### **Plant protection products: the identification of certain risks associated with the use of insecticides does not preclude the renewal of the approval of an active substance**

*The Commission, in its capacity as risk manager, may impose risk mitigation measures in order bring such risks down to an acceptable level*

Cypermethrin is a pyrethroid insecticide widely used within the European Union in order to combat crop pests. Since 2006 <sup>1</sup>, cypermethrin has been deemed to be approved as an active substance placed on the market for plant protection products.

In 2022, the non-governmental organisation Pesticide Action Network European (PAN Europe) requested that European Commission review its implementing regulation <sup>2</sup> renewing the approval of the insecticide at issue up until 31 January 2029. In PAN Europe's view, that approval disregards the findings of the European Food Safety Agency (EFSA), which identified risks associated with pesticides containing cypermethrin and affecting aquatic organisms and honeybees, among others.

Given that the renewal of the approval had been accompanied by risk mitigation measures, the Commission refused that request. PAN Europe brought an action before the General Court of the European Union seeking annulment of that refusal. According to that organisation, the fact that the Commission failed to review its regulation is a breach of the precautionary principle and of the European Union's obligation to ensure a high level of protection for human health and the environment.

#### **By its judgment, the General Court dismisses that action.**

The General Court recalls that the precautionary principle requires that the EU institutions take appropriate measures to prevent certain potential risks to public health, security and the environment. In order to proceed with a risk assessment, it is important to have a scientific evaluation of those potential risks and to determine what level of risk is deemed unacceptable to society. The assessment of those risks is a scientific process to be entrusted to experts. Nevertheless, the determination of the level of risk deemed acceptable to society falls to the EU institutions.

**While, in the context of the renewal procedure for active substances, the Commission must take EFSA's scientific conclusions into consideration, it is not bound by the latter's findings.**

In its capacity as risk manager, the Commission has broad discretion which is, however, regulated by the EU legislator <sup>3</sup> and the precautionary principle. In the present case, the General Court rules that the identification by EFSA of critical areas of concern does not preclude the Commission renewing the approval for cypermethrin while imposing risk mitigation measures. In that connection, the General Court points out that **it is incumbent on the Commission to ensure that such measures serve, actually and not theoretically, to bring the risk identified down to an acceptable level.**

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> [Commission Directive 2005/53/EC](#) of 16 September 2005 amending Council Directive 91/414/EEC to include chlorothalonil, chlorotoluron, cypermethrin, daminozide and thiophanate-methyl as active substances.

<sup>2</sup> [Commission Implementing Regulation \(EU\) 2021/2049](#) of 24 November 2021 renewing the approval of the active substance cypermethrin as a candidate for substitution in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

<sup>3</sup> [Regulation \(EC\) 1107/2009](#) of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market.