



# **EurEau Position on the Simplification and Strengthening of Food and Feed Safety Requirements**

## **Strengthening instead of weakening the Pesticides Regulation is essential to protecting human health and the environment**

### **Summary**

The Commission proposal for the 'Simplification and strengthening of food and feed safety requirements' modifies the conditions for placing pesticides and biocides on the market. It contains welcome measures to accelerate access to the market for new biocontrol substances and products.

However, several proposals will negatively affect compliance with article 7.3 of the Water Framework Directive (2000/60/EC, WFD) and the requirements of the Drinking Water Directive (2020/2184, DWD). The EU principles of precaution and prevention in terms of protecting human health and the environment, as enshrined in Article 191 Treaty on the Functioning of the European Union (TFEU), must apply.

We cannot support the unlimited approval period of most active substances, the Commission's new extensive scope for periodic reviews, the extended grace periods for substances for which the approval is not renewed, the abolition of the obligation for Member States to use the latest scientific evidence when assessing an active substance, the insufficient application of the review of approval criteria, the absence of the new hazard classes PMT and vPvM as cut-off criteria for the derogation clause, and possible derogations from the ban on aerial spraying.

Furthermore, it must be possible to ban pesticide uses easily and promptly as soon as monitoring data show that the environmental quality objectives of the Water Framework Directive are at risk from these substances.

We call on the co-legislators to ensure the full protection of drinking water resources and avoid legal uncertainty between Regulation 1107/2009 and the DWD.



## 1. Introduction

Several parts of the Commission proposal contradict the 2025 European Water Resilience Strategy. Pesticides often remain in the environment, especially in aquatic environments, for many years and decades after their use. This is why pesticides and their metabolites are still found in drinking water resources across the EU, sometimes in concentrations above 100ng/L and thus exceeding the DWD parametric value with significant consequences for drinking water operators in terms of water resources management and end-of-pipe treatment.

## 2. Article 5 - First approval

According to the current Regulation 1107/2009, first approvals of active substances are limited to a period of 10 years. The approval can be renewed according to article 14 (Renewal of approval) as long as its approval criteria are satisfied. The Commission published a regulation in 2012, updated by Implementing Regulation 2020/1740<sup>1</sup>, and setting out the detailed and up-to-date toxicological, eco-toxicological and environmental information pesticide producers must provide when applying for renewal.

Now, the Commission plans to approve active substances – as a rule – for an unlimited period. According to article 27a (NEW), this unlimited approval would apply to all active substances that are approved at the time the amendments enter into force. It would not apply to active substances for which a submission for renewal was required or the procedure is already ongoing (article 27a (c, d)).

This approach would seriously undermine the protection of the environment and human health. According to recital 15 of the current Regulation 1107/2009, the EU sees the need to limit the approval period for active substances, the risks inherent in the use of such substances, the experience gained and the developments in scientific evidence. This recital is still valid and should be maintained as common ground in EU chemicals authorization, in line with the principles of EU primary law (article 191 (2) TFEU) as well as the requirements of secondary legislation like the WFD<sup>2</sup> and the DWD<sup>3</sup>.

**EurEau proposal: Keep article 5 as in the current version of 1107/2009.**

## 3. Article 18 - Working programme for the renewal of approval of active substances with unlimited approval periods and Article 21 - Review of approval

The new mechanism set out in article 18 of the Commission proposal substantially changes the present mandatory periodic review.

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<sup>1</sup> Article 6 Commission Implementing Regulation 2020/1740 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation 1107/2009.

<sup>2</sup> 2000/60/EC - Directive establishing a framework for Community action in the field of water policy.

<sup>3</sup> 2020/2184 - Directive on the quality of water intended for human consumption (recast).



Given the intrinsic properties of active substances and the evidence of their impacts on the environment, the proposal is far too vague and, hence, unacceptable in relation to the protection of water resources and human health. The timeframe to react is left completely to the Commission's discretion and manufacturers are fully exempt from their regular information obligations.

The Commission seems to assume that retaining Article 21 is sufficient for the prompt review of approvals. From a purely technical point of view, the current article 21 offers the possibility to review the approval of an active substance at any time.

However, there is little evidence that the Commission applied this provision ambitiously, especially in cases where the requirements of articles 7.2 and 7.3 (Water used for the abstraction of drinking water) of the WFD are compromised.

The EU platform "EU-Lex" contains only a few implementing acts relating to article 21:

- ~ One case in 2018 on Clothianidin, Thiamethoxam and Imidacloprid
- ~ One case in 2018 on Fipronil
- ~ One case in 2019 on Diflubenzuron.

These findings demonstrate that the Commission hardly ever invokes article 21.

**EurEau proposal: Keep article 18 as in the version of 1107/2009 and reinforce article 21 to increase its use in practice.**

## 4. Article 4 (7) - Approval criteria for active substances

According to article 4 (7), active substances may, by way of derogation, be approved on a temporary basis for a maximum of five years. Active substances classified as mutagenic, carcinogenic (Cat. 1A/B), toxic to reproduction (Cat 1A) and POP, PBT or vPvB do not fall within the derogation of article 4 (7).

However, this means that endocrine-disrupting substances (Annex II, 3.6.5), reproductive toxic substances of category 1B (Annex II, 3.6.4), substances that do not meet the eco-toxicological data (Annex II, 3.8) or the criterion to protect groundwater (Annex II, 3.10) could be temporarily approved. Since the application of these hazard classes is crucial for the protection of the environment and public health, this should not be possible. The same applies to the hazard classes PMT and/or vPvM as defined in the revised Classification, Labelling and Packaging Regulation<sup>4</sup>.

Besides this, the Commission proposal intends to delete the last subparagraph of article 4 (7) of Regulation 1107/2009, which requires Member States to draw up phase-out plans concerning the control of serious danger by other means, including non-chemical methods in case a derogation is provided for an active substance.

This deletion is not acceptable since it compromises the precautionary principle of the EU environmental and health policy as enshrined in the TFEU.

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<sup>4</sup> Regulation 2023/707



**EurEau proposal: Include all relevant hazard phrases of active substances as cut-off criteria for the derogation clause, as well as the behaviour in groundwater criterion.**

## 5. Article 20 (2) – Renewal, Article 46 - Grace period

In case there are no other available reasonable alternatives to the pesticides, which have been withdrawn, the Commission proposal foresees maximum grace periods of one year for sale and distribution and in addition a maximum of two years for the disposal, storage and use of existing stocks of the pesticides concerned.

This means in practice to double the maximum length of grace periods up to three years opposite to the recent provisions in regulation 1107/2009 with a maximum of 1.5 years in total for pesticides not renewed.

This extension would allow banned hazardous pesticides to remain in use for years after their withdrawal. This provision seriously undermines the EU's commitment to maintaining high protection standards to human health and the environment and is therefore not acceptable.

**EurEau proposal: Keep article 20 and article 46 as in the current version of Regulation 1107/2009.**

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### About EurEau

EurEau represents Europe's water sector, bringing together 70,000 public and private drinking water and wastewater service providers across 33 countries.

We work with EU institutions and international organisations to ensure legislation supports resilient, sustainable and affordable water services by protecting water quality, promoting resource efficiency and safeguarding access to water.



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