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## **Legal changes in the European Union to increase the safety of plant protection products use**

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**Abstract:** At present, the main legal act concerning placing plant protection products on the market and ensuring the safety of plant protection products use is the Directive 91/414. It will soon be replaced.

The following legal acts aiming to increase safety of the use of plant protection products have already been adopted or will be adopted in future in the European Union:

- The Thematic Strategy on the Sustainable Use of Pesticides;
- Directive of the European Parliament and the Council establishing a framework for Community action to achieve a sustainable use of pesticides;
- The Regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;
- Directive of the European Parliament and the Council laying down essential environmental protection requirements for the placing on the market of new pesticide application equipment and accessories.

The provisions of new legal documents are presented in the paper and the possibility of their implementation in Poland is discussed briefly.

**Keywords:** plant protection products, legal changes in European Union, sustainable use of pesticides

The important legal changes regarding plant protection products will soon be implemented in all member states of the European Union. Naturally, this also means in Poland. The changes will include, among others, the registration of plant protection products, the methods of their application, the monitoring of the

plant protection products use, and their influence on the environment.

The law regarding plant protection products has already been harmonized in Member States (the most important current law regulations of pesticides are presented in Table 1), but in spite of common rules given in the Directive 91/414 [5], some differences among the Member States do occur. Public opinion has a reluctant attitude towards plant protection products and demands higher standards of protection for humans, as well as for the environment. The new law aims to advance harmonization rules regarding plant protection products in Member States, providing improved protection of humans and the environment against the negative influence of plant protection products. It is worth emphasizing that in the new law (as well as in the Directive 91/414), the objective of protecting human or animal health and the environment has a priority over the objective of improving plant production.

The following legal acts aiming to increase safety of the use of plant protection products have already been adopted or will be adopted in future in the European Union:

- The Thematic Strategy on the Sustainable Use of Pesticides [1];
- Directive of the European Parliament and the Council establishing a framework for Community action to achieve sustainable use of pesticides [2];
- The Regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC[3];
- Directive of the European Parliament and the Council laying down essential environmental protection requirements for the placing on the market of new pesticide application equipment and accessories.

The pesticides can be divided into two groups:

- plant protection products – used in agriculture,
- biocidal products – used to control harmful organisms outside agriculture (for example woodworms in furniture, ants or mice in houses or hospitals).

It should be mentioned that in spite of the word “pesticides” used in the titles of legal acts mentioned in this paper, they concern only plant protection products.

### **The Thematic Strategy on the Sustainable Use of Pesticides**

This was adopted by the European Commission on 12.07.2006. The Strategy aims to reduce the risks from pesticides to humans and the environment as far as possible by minimizing or eliminating exposure where possible, and by encouraging the research and development of less harmful alternatives, including

non-chemical substitutes. The other legal acts mentioned in this paper are introduced to realize the objectives of the Thematic Strategy.

The specific objectives of the Thematic Strategy are [1]:

- (a) to minimise the hazards and risks to health and the environment from the use of pesticides;
- (b) to improve controls on the use and distribution of pesticides;
- (c) to reduce the levels of harmful active substances, including substituting the most dangerous ones with safer (including non-chemical) alternatives;
- (d) to encourage low-input or pesticide-free cultivation, by raising users' awareness, promoting the use of codes of good practices, and promoting the consideration of the possible application of financial instruments, to name but a few;
- (e) to establish a transparent system for reporting and monitoring progress made in the fulfilling of the objectives of the strategy, including the development of suitable indicators.

To obtain this objectives three groups of measures are given by the Strategy:

- measures that can best be integrated into existing instruments,
- new measures that cannot be integrated into existing instruments,
- actions that are currently not proposed to be part of the Thematic Strategy, but could be examined again at a later stage.

The following measures of the Thematic Strategy are to be integrated into existing instruments:

- *Improved systems for monitoring of the distribution and use of plant protection products.* Member States will also be required to report on poisoning incidents involving pesticides for operators, bystanders, residents, consumers and wildlife;
- Integration of *comparative assessment and the substitution principle* in the assessment of active substances and in the authorisation of plant protection products at Member State level;
- *Reinforcement of annual monitoring programmes on residues* of pesticides in food and feed;
- Environmental monitoring for *determination of pesticide concentrations*;
- *Continue research* with the objective of improving the health and well-being of European citizens through higher quality food and improved control of food production and related environmental factors, as well as facilitating risk assessment at farm level;
- Invitation to Member States to *apply normal VAT rates* to pesticides in order to reduce the incentive for illegal cross-border exchange of non-authorised

products due to price differentials;

- In the *international arena*, financial and technical assistance will be provided in numerous bilateral and multilateral programmes, which contribute to the safe handling and disposal of pesticides.

New measures that cannot be integrated into existing instruments are to be included in a new Framework Directive of the European Parliament and the Council, establishing a framework for Community action to achieve a sustainable use of pesticides and will be presented further in the paper.

The following actions will not be proposed as part of the Thematic Strategy at this stage. However, they could be considered later in light of the results of the Strategy.

- *Definition of quantitative use reduction targets.* There is no systematic and direct link between the overall reduction of the quantities of pesticides used, and the risks involved. In addition, there is no adequate information about baseline consumption, which could be used as a point of reference, and there are a number of legal questions concerning both enforcement and liability. The Strategy will, therefore, not propose legally binding reduction targets, thus being in line with Member States policy.
- Setting-up of a *system of taxes/levies to influence pesticide use qualitatively.* Member States could introduce systems adapted to their specific situations, and the protection objectives they wish to pursue.

#### **Directive of the European Parliament and the Council laying down essential environmental protection requirements for the placing on the market of new pesticide application equipment and accessories**

The project of this directive is to be published, according to plan, in 2008. Its content was, however, not published in the first half of year 2008, making it impossible to present it in this paper. The method used to apply plant protection products can strongly influence the efficacy of plant protection products, as well as their influence on environment.

#### **Directive of the European Parliament and the Council establishing a framework for Community action to achieve a sustainable use of pesticides**

The work on the Directive is highly advanced and it should be accepted in the near future. The Directive will put into force most measures of the Thematic Strategy on the Sustainable Use of Pesticides that cannot be integrated into existing instruments. The following measures of the Thematic Strategy will be included in the Directive [2]:

- Establishment of *National Action Plans* by the Member States which will have to set individual objectives to reduce hazards, risks and dependence on

- chemical control for plant protection;
- *Involvement of stakeholders* in the setting up, implementation and adaptation of the National Action Plans;
  - Creation of a system of *training* of professional pesticide users in order to ensure that those who regularly use pesticides are fully aware of the risks linked to this use and take all appropriate measures to find the least harmful means for solving a plant protection problem. This system will include guidance for users on the best choices to make among different products available for the same treatment;
  - *Awareness raising* of the general public (with particular attention to non-professional users of pesticides) through awareness raising campaigns and information passed on by retailers;
  - *Regular and compulsory inspection of application equipment* in order to reduce adverse impacts of pesticides on human health (in particular as regards operator exposure) and the environment during application, and to ensure the most efficient use of plant protection products;
  - *Prohibition of aerial spraying*. Aerial spraying should only be used by way of derogation where it offers clear advantages and also environmental benefits compared to other spraying methods, or where there are no viable alternatives;
  - *Enhanced protection of the aquatic environment* from pollution by pesticides to contribute to the achievement of the objectives of the Water Framework Directive;
  - *Defining areas of significantly reduced or zero pesticides*;
  - *Handling and storage of packaging and remnants of pesticides* and other measures connected to the handling of products in order to avoid that they are stored or handled carelessly and possibly pollute the environment;
  - Development of Community-wide standards on Integrated Pest Management, and establishment of necessary conditions for implementation of Integrated Pest Management.
  - Measuring progress in risk reduction through appropriate harmonised indicators;
  - Establishment of a system of information exchange for continuous development and improvement of appropriate guidance, best practices, and recommendations.

**The Regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC.** The Regulation will soon be accepted. It is even possible that this will be done in 2008. The

Regulation lays down harmonised rules for the approval of active substances and the placing on the market of plant protection products, including rules on the mutual recognition of authorizations, and on parallel trade. The Regulation aims to ensure that the industry demonstrates that substances or products produced or placed on the market do not have any harmful effect on human or animal health, or any unacceptable effects on the environment.

The purpose of the Regulation is [3]:

- to remove as far as possible obstacles to trade in plant protection products existing among the Member States, and to ensure sufficient availability of plant protection products,
- to ensure a high level of protection of both human and animal health, and the environment, while simultaneously safeguarding the competitiveness of Community agriculture.

The Regulation will introduce a number of changes. The following rules given by the regulation in particular aim to increase the safe application of the plant protection products:

- the review of safeners and synergists used in plant protection products to ensure that they are safe for humans and the environment. The result of the review will be a list of safeners and synergists which can be used in plant protection products. At present, such a positive list exists only for active substances;
- providing a list of co-formulants which should not be included in plant protection products;
- transparent statement that proper use of plant protection products shall include integrated pest management;
- establishing provisions on record-keeping and information about the use of plant protection products in order to raise the level of protection of human and animal health, and the environment by ensuring the traceability of potential exposure;
- establish procedures for the adoption of emergency measures in situations where an approved active substance, a safener, a synergist or a plant protection product is likely to constitute a serious risk to human or animal health, or the environment.

Moreover, the Regulation stipulates the role of the European Food Safety Authority in the procedure of placing the plant protection products on the market.

The most important expected outcome of the implementation of the Thematic Strategy and the other above mentioned legal acts, is a reduction of the overall risks and negative impacts on human health and the environment, from the use

of pesticides. Such a reduction can be achieved by reducing unwanted exposure (direct and indirect), and by reducing the intrinsic hazards of the substances used by replacing the more dangerous ones with less harmful ones or alternative protection measures.

The legal changes will be introduced to practice gradually. Acceptance of the mentioned directives and regulations will not mean immediate implementation of their rules into practice. Some changes will be introduced in two years time, while others will be introduced within several years after acceptance of the legal acts by the European Community. Therefore, farmers should not be concerned that the new rules will bring any immediate difficulties to their daily routine.

Undoubtedly, strong support for application of the Integrated Pest Management will influence the farmers. We can expect that in future, financial support will be granted only for those farmers using the integrated programmes of pest control. As Integrated Pest Management combines the numerous methods of pests control such as agrotechnical, biological and chemical [4], its implementation will require additional training and advisory support for farmers. The national integrated programmes of pest control for different crops must be worked out by Polish scientific units. At present, such programmes are available only for selected crops. There is still time for working out the plans, and how to train farmers and advisors, given that the new rules regarding Integrated Pest Management will probably apply from 2014.

However, the majority of provisions of new legal acts requires activities not from the farmers, but from the governmental authorities responsible for the placing of plant protection products on the market and the supervision of their use. Activities such as monitoring of the residues of plant protection products, working out harmonized indicators regarding plant protection products use, or establishing a system of information exchange among the Member States will not concern farmers at all. Moreover, some of the rules given by the new regulations have already been implemented in Poland. For example, the monitoring of the residues of plant protection products in food has been performed in Poland at a very high standard for many years. The trainings for farmers and other professional plant protection products users as well as the regular controls of the spraying equipment are already obligatory. Farmers are also obliged to keep records regarding the use of plant protection products. The records are periodically checked by Plant Protection Inspection. The possible changes in the present activities, such as changing the programmes of the farmers' trainings or widening the existing food residues monitoring to monitoring of the residues of plant protection products in waters and soil, will of course require some effort but do not appear to be overly problematic.

**Table 1.** The most important current law regulations regarding plant protection products

| No. | Level  | Title  |
|-----|--------|--|
| 1   | EU     | Council Directive of 15 July 1991 concerning the placing of plant protection products on the market (91/414/EEC)   |
| 2   | EU     | Regulation (EC) No. 396/2005 of the European Parliament and of the Council on maximum residue levels (MRLs) of pesticides in products of plant and animal origin and amending Council Directive 91/414/EEC                             |
| 3   | Poland | Act of 18 December 2003 on the protection of plants (Dz. U. z 2008 r. Nr 133, poz. 849 )   |
| 4   | Poland | Regulation of the Minister of Agriculture and Rural Development of March 5, 2002 on the detailed rules for granting authorization for the placing on the market and use of plant protection products (Dz. U. z 2002r. Nr 24, poz. 250) |
| 5   | Poland | Regulation of the Minister of Agriculture and Rural Development of June 8 2004 on the requirements regarding the content of the label – instruction of use of plant protection product (Dz. U. z 2004 r. Nr 141, poz. 1498)            |
| 6   | Poland | Regulation of the Minister of Agriculture and Rural Development of 4 August 2004 on efficacy evaluation of plant protection products (Dz. U. z 2004 r. Nr 183, poz. 1890)  |

Source: Personal elaboration

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