



Pesticide newsletter

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Jurisdictional news



CJEU rejects Bayer's request to lift bans on its neonicotinoids

On May 06, 2021, the Court of Justice of the European Union (CJEU) rejected Bayer's [appeal](#) to cancel EU Regulation No. 540/2011 with regard to the conditions for approval of three neonicotinoid active substances: clothianidin, thiamethoxam and imidacloprid, and banning the use and sale of seeds treated with pesticides containing these active substances. According to the Court there is sufficient evidence regarding the harmful effects of these chemicals on pollinators to apply [the precautionary principle](#). The [CJEU ruling](#) supports the European Commission's 2013 decision to restrict neonicotinoids. In case of uncertainty and doubt about the toxicity of a pesticide, the Commission is entitled to impose its ban.

Several NGOs, including our partners PAN Europe and *Générations Futures*, intervened in the lawsuit launched in 2013 by Bayer. A first judgment of the EU Court had rejected Bayer and Syngenta's complaint in [2018](#). The CJEU decision confirms this decision and notes that the European Commission had based its decision on the conclusions of the European Food Safety Authority (EFSA), which show the harmfulness of these products.

According to Martin Dermine of PAN Europe: "*Industry and several pro-pesticide member states continue to lobby to delay decisions to restrict toxic pesticides in Europe on the grounds that EU member states have not agreed on new guidelines. The Court here confirms that any new scientific work can be used to ban a pesticide. This is good because it can take 10 to 15 years for member states to agree to tighten the rules for evaluating pesticides. This will certainly give EFSA and the European Commission more leeway to speed up the banning of the most toxic pesticides, using the latest scientific knowledge.*"

However, this excellent jurisdictional news is at odds with the fact that at least ten Member States, including France, are circumventing the 2013 ban on neonicotinoids by systematically granting temporary derogations renewed every year. For example, a French decree, enacted early February 2021, authorized the use of neonicotinoids in beet fields for a period of 120 days. The decree has been [challenged](#) in numerous courts by NGOs, without success. This is all the more incomprehensible since there are alternative means to maintain the health of farms without harming pollinators, as the CJEU reminds in its ruling. It [states](#) that "*in some Member States, agriculture has been able to function satisfactorily without the use of plant protection products containing the substances in question*" and that "*the Commission was aware of the active substances that could replace*" neonicotinoids.

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