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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION ON THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115 - comments on "sensitive areas" from Austria

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Delegations will find in annex comments from Austria on the above subject.

### **Comments from Austria**

Austria would like to thank the Presidency for acknowledging the various concerns and questions raised by a number of Member States regarding the ban of plant protection products in sensitive areas. The possibility to further assess the European Commission's draft in order to submit additional comments is of great importance.

Firstly, it is necessary to highlight the discrepancies regarding the interpretation of the definitions on sensitive areas. In the Council working group on the 03rd of November, it became obvious that there is still ambiguity regarding the definition of sensitive areas. Following up on previous comments from Austria, we would like to reiterate the importance of a clear definition. The main issues concern the definition of "areas used by the general public", as well as the not yet finalised areas for the protection of pollinator species. Especially in the case of legally binding requirements laid down in a regulation, a clear definition and legal certainty must be guaranteed.

Regarding the submitted Excel sheet, Austria would highly appreciate the opportunity to further scrutinize the core elements. However, we would like to underline that a comprehensive assessment of possible restrictions in the relevant sensitive areas is hardly possible in such a short time. In particular, due to ambiguities in the definition of the sensitive areas, an internal assessment of the affected areas has already taken up an extensive amount of time, only to be prolonged by the additional assessments to be made. The assessment of consequences of possible partial bans and exemptions can only proceed with an intensive exchange with the Austrian regions, national experts and other relevant stakeholders. Therefore, an in-depth analysis seems hardly possible.

Generally, Austria is committed to a high level of protection for humans and the environment in connection with the use of plant protection products. In particular, with regard to the achievement of the objectives under of the Water Framework Directive for example, the protection of surface waters and groundwater is emphasized.

Moreover, it is necessary to point out the lack of proportionality. The measures in the draft regulations concern a large number of different, largely heterogeneous protected areas with different protective purposes. Additionally to the effects on agricultural areas, this would equally impose extensive and disproportionate restrictions on forestry areas. Following a risk-based and practical approach, a flat out total ban is deemed inappropriate.

Furthermore, Austria wants to highlight the fact that according to the Regulation 1107/2009, a strict and in depth evaluation and authorisation process has already been established for the authorisation of active substances and plant protection products. The authorised product shall thus be deemed safe under the established authorisation conditions. Therefore, the necessity for a total ban of plant protection products in such areas does not appear to be given.

According to Article 12 of Directive 2009/128/EC, restrictions for the use of plant protections have already been adopted. Where necessary, restrictions or bans on the use of plant protection products are thus already established. However, the necessary leeway to be able to react to national conditions in a purpose-oriented manner would largely be lost due to the overreaching legal provisions measures.

Lastly, it is hardly comprehensible why the Excel sheet foresees derogations for the use of plant protection products authorised for organic farming. The goal of necessary restrictions shall be to ensure the protection of humans and the environment. The properties of an active substance and the imposed risks are important, no matter whether an active substance is authorised for biological production or not.

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