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WORKING DOCUMENT

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 - Follow up to the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 27 January 2023 – comments from Poland on IPM

Delegations will find in annex comments from Poland on articles 15-17.

Member State:	Poland
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Bearing in mind that the discussion have not been concluded so far on any of SUR articles, the comments and proposals presented below cannot be treated as a final binding position.

Commission proposal (SUR)	Drafting Suggestions	Comments
<i>Article 15</i> Implementation of integrated pest management using crop-specific rules		
1. Member States shall adopt agronomic requirements based on integrated pest management controls that must be adhered to when growing or storing a particular crop and are designed to ensure that chemical crop protection is only used after all other non-chemical methods have been exhausted and when a threshold for intervention is reached ('crop-specific rules'). The crop-specific rules shall implement the principles of integrated pest management, set out in Article 13, for the relevant	1. Member States shall adopt agronomic requirements based on integrated pest management controls that must be adhered to followed when growing or storing a particular crop and are designed to ensure that chemical crop protection is only used after all other non-chemical methods have been exhausted considered and when a threshold for intervention is reached – in case such threshold has been established ('crop-specific rules'). The crop-specific rules shall implement the principles of	1. Definition of IPM ('integrated pest management' means <u>careful consideration</u> of all available means that discourage the development of populations of harmful organisms, while keeping the use of chemical plant protection products to levels that are economically and ecologically justified and minimise risks to human health and the environment) emphasises the role of decision making process. IPM principles should be flexible enough for the farmer to make the best choice in a

<p>crop and be set out in a binding legal act.</p>	<p>integrated pest management, set out in Article 13, for the relevant crop and be set out in a binding legal act.</p>	<p>given situation and cannot be changed into a list of legally binding obligations and restrictions.</p> <p>2. According to the IPM definition use of non-chemical control measures should be analysed before the application of chemical plant protection products. We cannot make the use of chemical plant protection products conditional on the prior use of non-chemical methods (sometime such methods are not available, are not efficient enough...). The phrase “all other non-chemical methods have been exhausted” should be changed in the whole draft.</p> <p>3. Thresholds have not been prepared for many pest/host plant combinations. Even existing ones should be updated due to climate changes.</p>
<p>2. Each Member State shall designate a competent authority responsible for ensuring that the crop-specific rules are scientifically robust and comply with this Article.</p>		
<p>3. By ... [<i>OP: please insert the date = the first day in the month following 24 months after the date of entry into force of this Regulation</i>] each Member State shall have in place effective and enforceable</p>	<p>3. By ... [<i>OP: please insert the date = the first day in the month following 24 months 5 years after the date of entry into force of this Regulation</i>] each Member State shall have in place effective and</p>	<p>Timetables should be realistic and take into account available resources.</p> <p>About 80 IPM crop specific guidelines has been prepared up to now in Poland.</p>

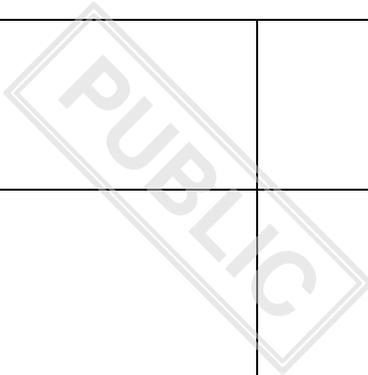
<p>crop-specific rules, for crops covering an area that accounts for at least 90 % of its utilised agricultural area (excluding kitchen gardens). Member States shall determine the geographic scope of those rules taking account of relevant agronomic conditions, including, the type of soil and crops and the prevailing climatic conditions.</p>	<p>enforceable crop-specific rules, for crops covering an area that accounts for at least 90 % of its utilised agricultural area (excluding kitchen gardens). Member States shall determine the geographic scope of those rules taking account of relevant agronomic conditions, including, the type of soil and crops and the prevailing climatic conditions.</p>	<p>Revision of all of IPM crop specific guidelines in the context of the new regulation during 5 years (as proposed in column II) means that every year 16 guidelines should be analysed. It would be very significant burden. Shorter period would be completely non-realistic.</p> <p>This provision should be covered by additional study supplementing impact assessment, as creating administrative burden.</p>
<p>4. At least 9 months prior to the point in time when a crop-specific rule becomes applicable under national law, the Member State shall perform all of the following actions:</p> <p>(a) publish a draft for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p> <p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>	<p>4. At least 9 months prior to the point in time when a crop-specific rule becomes applicable under national law, the Member State shall perform all of the following actions:</p> <p>(a) publish a draft for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p> <p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>	<p>To be repealed.</p> <p>IPM guidelines should be based on scientific knowledge. The role of public consultation is not clear.</p>

<p>5. Where the Commission is notified of a draft in accordance with paragraph 4, point (c), it may within 6 months of receipt of the draft object to its adoption by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from adopting the draft until it has amended the text so as to remedy the shortcomings identified in the Commission's objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.</p>	<p>5. Where the Commission is notified of a draft in accordance with paragraph 4, point (c), it may within 6 months of receipt of the draft object to its adoption by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from adopting the draft until it has amended the text so as to remedy the shortcomings identified in the Commission's objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.</p>	<p>To be repealed.</p> <p>How the Commission can question scientific knowledge?</p> <p>The proposed procedure does not enable MS to discuss with the Commission.</p>
<p>6. The crop-specific rules shall convert the requirements of integrated pest management laid down in Article 13 into verifiable criteria by, among others, specifying the following:</p> <p>(a) the most economically significant harmful organisms affecting the crop;</p> <p>(b) the non-chemical interventions involving cultural, physical and biological control which are effective against the harmful organisms referred to</p>	<p>6. The crop-specific rules shall convert the requirements of integrated pest management laid down in Article 13 into verifiable criteria by, among others, specifying the following:</p> <p>(a) the most economically significant harmful organisms affecting the crop;</p> <p>(b) the non-chemical interventions involving cultural, physical and biological control which are effective against the harmful organisms referred to</p>	<p>To be repealed.</p> <p>1. Due to the frequent changes in the authorization of plant protection products, guidelines developed according to the proposed procedure would be useless or even misleading.</p> <p>2. The qualitative criteria/conditions for many of the options proposed in paragraph 6 do not exist.</p>

<p>in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(c) the low-risk plant protection products or alternatives to chemical plant protection products which are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(d) chemical plant protection products that are not low-risk plant protection products and that are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(e) the quantitative criteria or conditions under which chemical plant protection products may be used after all other means of control that do not require the use of chemical plant protection products have been exhausted;</p> <p>(f) the measurable criteria or conditions under which more hazardous plant protection products may be used after all other means of control that do not require the use of chemical plant protection products</p>	<p>in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(c) the low-risk plant protection products or alternatives to chemical plant protection products which are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(d) chemical plant protection products that are not low-risk plant protection products and that are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(e) the quantitative criteria or conditions under which chemical plant protection products may be used after all other means of control that do not require the use of chemical plant protection products have been exhausted;</p> <p>(f) the measurable criteria or conditions under which more hazardous plant protection products may be used after all other means of control that do not require the use of chemical plant protection products</p>	
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<p>have been exhausted.</p> <p>(g) the obligation to record observations demonstrating that the relevant threshold value has been reached.</p>	<p>have been exhausted.</p> <p>(g) the obligation to record observations demonstrating that the relevant threshold value has been reached.</p>	
<p>7. Each Member State shall review its crop-specific rules annually and update them where necessary, including when it is needed to reflect changes in the availability of harmful organism control tools.</p>	<p>7. Each Member State shall review its crop-specific rules annually regularly and update them where necessary, including when it is needed to reflect changes in the availability of harmful organism control tools.</p>	<p>Revision of all IPM guidelines (80 in Poland) would be unjustified administrative burden. Provisions proposed by the Commission would need an increase of employment in administration without added value.</p> <p>This provision should be covered by additional study supplementing impact assessment, as creating administrative burden.</p>
<p>8. A Member State that is planning to update a crop-specific rule shall, at least 6 months before the update becomes applicable under national law:</p> <p>(a) publish a draft of the updated rules for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p>	<p>8. A Member State that is planning to update a crop-specific rule shall, at least 6 months before the update becomes applicable under national law:</p> <p>(a) publish a draft of the updated rules for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p>	

<p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>	<p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>	
<p>9. Where the Commission is notified of a draft under paragraph 8, it may within 3 months of receipt of the draft object to the updating of the crop-specific rule by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from updating the crop-specific rule until it has amended the text so as to remedy the shortcomings identified in the Commission's objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.</p>	<p>9. Where the Commission is notified of a draft under paragraph 8, it may within 3 months of receipt of the draft object to the updating of the crop-specific rule by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from updating the crop-specific rule until it has amended the text so as to remedy the shortcomings identified in the Commission's objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.</p>	
<p>10. A Member State with significant climatic or agronomic differences between regions, shall adopt crop-specific rules for each of those regions.</p>		
<p>11. Each Member State shall publish all of its crop-specific rules on a single website.</p>		

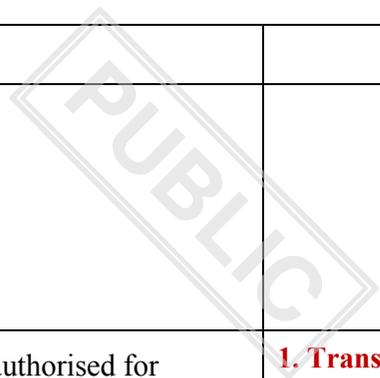


<p>12. The Commission shall publish on a website links to the websites referred to in paragraph 11 of the Member States.</p>		
<p>13. By ... [<i>OP: please insert the date = the first day of the month following 7 years after the date of entry into force of this Regulation</i>], the Commission shall submit a report to the European Parliament and the Council on the adoption and enforcement of crop-specific rules in the Member States and the compliance of those rules with Article 15.</p>		
<p>Article 16</p> <p>Electronic integrated pest management and plant protection product use register</p>		
<p>1. Each Member State shall designate a competent authority or competent authorities to establish and maintain an electronic integrated pest management and plant protection product use register or registers.</p> <p>The electronic integrated pest management and</p>	<p>1. Each Member State shall designate a competent authority or competent authorities to establish and maintain an electronic integrated pest management and plant protection product use register or registers.</p> <p>The electronic integrated pest management and</p>	<p>1. The obligations concerning gathering/registration of data on the use of plant protection products should be regulated in one legal act. The relation between Regulation 1107/2009, SUR and SAIO was difficult to understand during meeting of working group – how to explain it to farmers? Regulation 1107/2009 should be amended.</p>

<p>plant protection product use register or registers shall contain all of the following information for a period of at least 3 years from date of entry:</p> <p>(a) any preventative measure or intervention and the reasons for that preventative measure or intervention entered in accordance with Article 14(1);</p> <p>(b) the name of the advisor and dates and content of advice entered in accordance with Article 14(2);</p> <p>(c) an electronic record of each application of a plant protection product under Article 67 of Regulation (EC) No 1107/2009 and a report on any aerial application carried out under Article 20, as required by Article 14(3).</p>	<p>plant protection product use register or registers shall contain all of the following information for a period of at least 3 years from date of entry:</p> <p>(a) any preventative measure or intervention use of plant protection product and the reasons for that preventative measure or intervention use of plant protection product [entered in accordance with Article 14(1)];</p> <p>(b) the name of the advisor and dates and content of advice entered in accordance with Article 14(2);</p> <p>(c) an electronic record of each application of a plant protection product under Article 67 of Regulation (EC) No 1107/2009 and a report on any aerial application carried out under Article 20, as required by Article 14(3).</p>	<p>2. Recording of all preventive measures, also other than the use of plant protection products, would be an enormous burden for farmers. All farmer activities (tillage practices, use of fertilisers, irrigation) affect the plant protection.</p> <p>3. Poland cannot accept obligatory advisory service – see justification below.</p> <p>4. Due to the fact that the discussion on art. 14 has not been concluded, we cannot make any binding position on this article. We still have scrutiny reservations on that.</p> <p>This provision should be covered by additional study supplementing impact assessment, as creating administrative burden.</p> <p>We propose to consider preparation of the IPM register by the Commission.</p>
<p>2. The register(s) referred to in paragraph 1 shall be accessible to professional users so that they are able to enter the electronic records in accordance with</p>		<p>Due to the fact that the discussion on art. 14 has not been concluded, we cannot make any binding position on the reference to this article. We still have</p>

Article 14.		scrutiny reservations on that. This provision should be covered by additional study supplementing impact assessment, as creating administrative burden.
3. Competent authorities referred to in paragraph 1 shall verify compliance of professional users with Article 14.	3. Competent authorities referred to in paragraph 1 shall verify compliance of professional users with Article 14.	To be repealed. This area is covered by the scope of the regulation 2017/625.
4. Competent authorities referred to in paragraph 1 shall, once a year submit to the Commission a summary and analysis of the information collected under Article 14 and of any additional data on use of plant protection products gathered in accordance with Article 67 of Regulation (EC) No 1107/2009.	4. Competent authorities referred to in paragraph 1 shall, once a year submit to the Commission a summary and analysis of the information collected under Article 14 and of any additional data on use of plant protection products gathered in accordance with Article 67 of Regulation (EC) No 1107/2009.	To be repealed. The proposal constitutes unjustified administrative burden, as register contains information in descriptive form. It is not possible to read and analysed every year records entered by more than 1.3 millions of users. This provision should be covered by additional study supplementing impact assessment, as creating administrative burden.
5. Competent authorities referred to in paragraph 1 shall share the data gathered under paragraph 1, points (a) and (c), of this Article with the national	5. Competent authorities referred to in paragraph 1 shall ensure access to the data share the data gathered under paragraph 1, points (a) and (c) , of	Access to the data stored in the IPM register should be open to other authorities. There should be no obligation to share such information when it is not

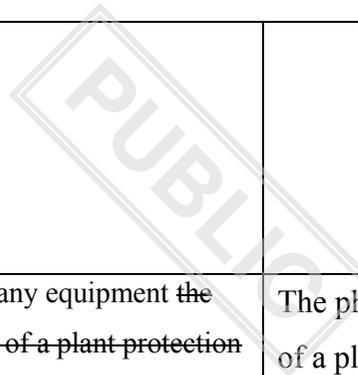
<p>competent authorities in charge of the implementation of Directives 2000/60/EC and (EU) 2020/2184 for cross-linking that data, in anonymised form, with environmental, groundwater and water quality monitoring data, to enhance the identification, measuring and reduction of risks from the use of plant protection products.</p>	<p>this Article to the national competent authorities in charge of the implementation of Directives 2000/60/EC and (EU) 2020/2184 for cross-linking that data, in anonymised form, with environmental, groundwater and water quality monitoring data, to enhance the identification, measuring and reduction of risks from the use of plant protection products.</p>	<p>necessary.</p>
<p>6. Competent authorities referred to in paragraph 1 shall ensure access to the register(s) referred to in paragraph 1 to national statistical authorities for the development, production and dissemination of official statistics.</p>	<p>5. Competent authorities referred to in paragraph 1 shall ensure access to the data recorded in the register(s) referred to in paragraph 1 to national statistical authorities in the scope that is necessary for the development, production and dissemination of official statistics..</p>	<p>Statistical authorities should have access to the register limited to the necessary data.</p>
<p>7. In order to ensure a uniform structure of the summary and analysis referred to in paragraph 4, the Commission may, by means of implementing acts, adopt a standard template for such summary and analysis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 41(2).</p>	<p>7. In order to ensure a uniform structure of the summary and analysis referred to in paragraph 4, the Commission may, by means of implementing acts, adopt a standard template for such summary and analysis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 41(2).</p>	
<p>CHAPTER V USE, STORAGE AND DISPOSAL OF PLANT</p>		



PROTECTION PRODUCTS		
<i>Article 17</i> General requirements for the use of plant protection products for professional use and of application equipment in professional use		
1. A plant protection product authorised for professional use may only be used by a professional user who: (a) has been issued with a training certificate for following courses for professional users in accordance with Article 25, or has a proof of entry in a central electronic register for following such courses in accordance with Article 25(5), and (b) uses the services of an independent advisor in accordance with Article 26(3).	1. A plant protection product authorised for professional use may only be used by a professional user who ÷ (a) has been issued with a training certificate for following courses for professional users in accordance with Article 25, or has a proof of entry in a central electronic register for following such courses in accordance with Article 25(5), and (b) uses the services of an independent advisor in accordance with Article 26(3).	1. Transitional provisions are necessary to keep valid certificates issued based on directive 2009/128/EC. 2. Poland cannot accept obligatory advisory service – see justification below. 3. Art. 25 hasn't been discussed yet. We cannot present any binding position concerning the reference to this art. We still have scrutiny reservations on that.
2. More hazardous plant protection products may only be used and purchased by professional users.	2. More hazardous plant protection products may only be used and purchased by professional users.	To be repealed. 1. If the intention of the Commission is to ban the authorisation of more hazardous plant protection products for non-professional users, it should be laid down in a direct way. It would require amendment

		of the regulation 1107/2009.
3. Application equipment in professional use may only be used by professional users that hold a training certificate issued to them for following courses for professional users in accordance with Article 25 or have a proof of entry in a central electronic register for following such courses in accordance with Article 25(5).		<p>1. Transitional provisions are necessary to keep valid inspections of PAE carried out based on directive 2009/128/EC</p> <p>2. Art. 25 hasn't been discussed yet. We cannot present any binding position concerning the reference to this art. We still have scrutiny reservations on that.</p>
4. Within 3 years starting from date of first purchase, and every 3 years thereafter, a professional user shall submit his or her application equipment in professional use for inspection pursuant to Article 31. Where 3 years have passed from the date of first purchase of application equipment in professional use, a professional user may only use it for the application of plant protection products, if that equipment meets any of the following conditions: (a) the equipment has successfully passed inspection and the results have been recorded in	4. Within 3 years starting from date of first purchase, and every 3 years thereafter, a professional user shall submit his or her application equipment in professional use for inspection pursuant to Article 31. Where 3 years have passed from the date of first purchase of application equipment in professional use, a professional user may only use it for the application of plant protection products, if that equipment meets any of the following conditions: (a) the equipment has successfully passed inspection and the results have been recorded in	To be moved to chapter VIII

<p>the electronic register of application equipment in professional use in accordance with Article 31(6);</p> <p>(b) a derogation under Article 32(1), or Article 32(3) applies to that equipment.</p> <p>At the time of submitting the equipment for inspection, the owner of the equipment or his or her representative shall provide to the competent authority or body carrying out the inspection, the information necessary for the competent authority to comply with its record-keeping obligations pursuant to Article 30(1), point (b).</p>	<p>the electronic register of application equipment in professional use in accordance with Article 31(6);</p> <p>(b) a derogation under Article 32(1), or Article 32(3) applies to that equipment.</p> <p>At the time of submitting the equipment for inspection, the owner of the equipment or his or her representative shall provide to the competent authority or body carrying out the inspection, the information necessary for the competent authority to comply with its record-keeping obligations pursuant to Article 30(1), point (b).</p>	
<p>5. A professional user shall inspect and operate application equipment in accordance with the manufacturer's manual of instructions.</p>		
<p>Article 3</p> <p>Definitions</p>		
<p><i>Relevant definitions</i></p> <p><i>Please comment on definitions linked to Article 15-</i></p>		



<p>17 and 20-23</p> <p><i>Please insert rows below for the relevant definitions you want to comment on, and indicate clearly in this column which definition you are commenting on</i></p>		
<p>‘application equipment’ means any equipment the use of which for the application of a plant protection product is reasonably foreseeable at the time of manufacture and accessories that are essential for the effective operation of such equipment, with the exception of equipment designed for the sowing or planting of propagating material treated with plant protection products;</p>	<p>‘application equipment’ means any equipment the use of which for the application of a plant protection product is reasonably foreseeable at the time of manufacture which according to manufacturer's manual is intended for the application of plant protection product and accessories that are essential for the effective operation of such equipment, with the exception of equipment designed for the sowing or planting of propagating material treated with plant protection products;</p>	<p>The phrase “the use of which for the application of a plant protection product is reasonably foreseeable at the time of manufacture” is unclear from the legal point of view. Who will be in charge to decide what is “reasonably foreseeable”? Provisions should be clear for plant protection products users – it should be clear for them what is required by the law.</p>

Justification concerning obligatory advisory service:

Decision concerning farms, having legal or financial consequences, must not depend on third parties.

The proposal raised following questions:

- who will be responsible in case of a wrong decision of the advisor, leading to loses of yields?
- who will be responsible in case of too late decision of advisor and the development of pest population (when additional chemical treatment will be required)?
- who will be responsible if the advisor won't be available on time?
- who will be responsible in case of MRL exceedance?
- **who will actually run the farm – the farmer (owner) or the advisor?**

It should also be emphasized, that in Poland's opinion we should focus on spread of knowledge – obligatory trainings and promotion of technical and higher agricultural education among farmers. The Commission's proposal would discourage farmers from learning in agricultural schools - even technical or higher agricultural education would not allow them to make independent decisions.

It should be noted that in the case of quality schemes (e.g. "0 residue"), plant protection programs should be treated as intellectual property that should not be accessed by third parties. Such programs cannot be changed by external advisors. Farmers pay for preparations of such programs to researchers.