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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 - Follow up to the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 28 March 2023 – comments from Austria

Delegations will find in the Annex comments from Austria on articles 33, 37 - 45 (except 43) of the SUR proposal discussed at the informal videoconference of the members of the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 28 March 2023.

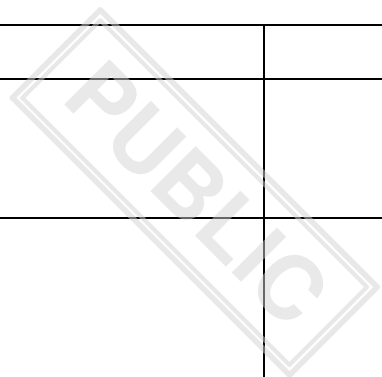
Member State:	Austria
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Commission proposal (SUR)	Drafting Suggestions	Comments
CHAPTER VIII APPLICATION EQUIPMENT		
<i>Article 33</i> Electronic register of application equipment in professional use		We recognise the value in ensuring that application equipment is inspected and used appropriately. However, we are of the opinion that the already established national verification system meets the necessary requirements to ensure a safe use. Accordingly, it is questionable, whether the more stringent requirements of the Article represent a significant added value compared to the expected additional effort. Additional data collection must in any case be justified and

		proportionate to the specific expressed purpose.
<p>1. Each competent authority designated by a Member State pursuant to Article 30 shall establish and maintain a central electronic register to record:</p> <p>(a) information entered by third parties pursuant to Article 20(2), point (b)(i), and Article 29;</p> <p>(b) records of inspections and certificates as set out in Article 31(6) and (7)(b);</p> <p>(c) other information as set out in paragraph 2 on application equipment in professional use in its Member State that has not been exempted from inspection under Article 32(3).</p>	<p>1. Each competent authority designated by a Member State pursuant to Article 30 shall establish and maintain a central electronic register to record:</p> <p>(a) information entered by third parties pursuant to Article 20(2), point (b)(i), and Article 29;</p> <p>(b) records of inspections and certificates as set out in Article 31(6) and (7)(b);</p> <p>(c) other information as set out in paragraph 2 on application equipment in professional use in its Member State that has not been exempted from inspection under Article 32(3).</p>	
<p>2. The competent authorities referred to in Article 30 shall, at the time of inspection, record the following information:</p> <p>(a) the name of the body carrying out the inspections;</p> <p>(b) the unique ID of the application equipment, if</p>	<p>2. The competent authorities referred to in Article 30 shall, at the time of inspection, record the following information:</p> <p>(a) the name of the body carrying out the inspections;</p> <p>(b) the unique ID of the application equipment,</p>	<p>It is questionable whether it is necessary to name the owners of the last 5 years. Naming the previous owner should be sufficient. In any case, the data shall be with the competent authority and should not have to be provided by the owner.</p>

<p>available;</p> <p>(c) the date of manufacture, if available;</p> <p>(d) the name and address of the current owner;</p> <p>(e) where there has been a transfer of ownership, the date of each transfer and the name and address of previous owners within the last five years;</p> <p>(f) the tank size;</p> <p>(g) the width of the horizontal spray boom, if applicable;</p> <p>(h) the nozzle type(s) present on the application equipment at the time of inspection;</p> <p>(i) in the case of boom sprayers, whether section and/or nozzle control through geospatial localisation technology is present or absent on the application equipment;</p> <p>(j) for equipment older than three years, the date of each inspection carried out in accordance with Article 31;</p> <p>(k) whether the application equipment passed or failed each inspection carried out under Article</p>	<p>if available;</p> <p>(c) the date of manufacture, if available;</p> <p>(d) the name and address of the current owner;</p> <p>(e) where there has been a transfer of ownership, the date of each transfer and the name and address of previous owners within the last five years;</p> <p>(f) the tank size;</p> <p>(g) the width of the horizontal spray boom, if applicable;</p> <p>(h) the nozzle type(s) present on the application equipment at the time of inspection;</p> <p>(i) in the case of boom sprayers, whether section and/or nozzle control through geospatial localisation technology is present or absent on the application equipment;</p> <p>(j) for equipment older than three years, the date of each inspection carried out in accordance with Article 31;</p> <p>(k) whether the application equipment passed</p>	
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31; (l) the reasons for any failed inspection.	or failed each inspection carried out under Article 31; (l) the reasons for any failed inspection.	
3. Where application equipment does not bear a unique ID as referred to in paragraph 2, point (b), the competent authorities referred to in Article 30 shall supply a unique ID.	3. Where application equipment does not bear a unique ID as referred to in paragraph 2, point (b), the competent authorities referred to in Article 30 shall supply a unique ID.	
CHAPTER X ADMINISTRATIVE AND FINANCIAL PROVISIONS		
<i>Article 37</i> Information on designated competent authorities		
By ... <i>[OP: please insert the date = the first day of the month following six months after the date of entry into force of this Regulation]</i> , each Member State shall inform the Commission of the competent authorities designated in accordance		In particular, due to the expected adaptations of the national plant protection laws by the regions, a sufficient transitional period must be ensured. The proposed 6 month period is considered too short.

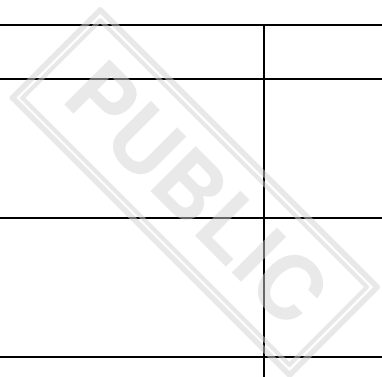


with this Regulation.		
<i>Article 38</i> Penalties		
Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall without delay notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 39</i> Fees and charges		
Member States may recover the costs related to carrying out their obligations under this Regulation by means of fees or charges.	Member States may recover the costs related to carrying out their obligations under this Regulation by means of fees or charges.	Fiscal sovereignty lies with the member states and the necessity of a reference seems questionable.
CHAPTER XI DELEGATED POWERS AND COMMITTEE PROCEDURE		

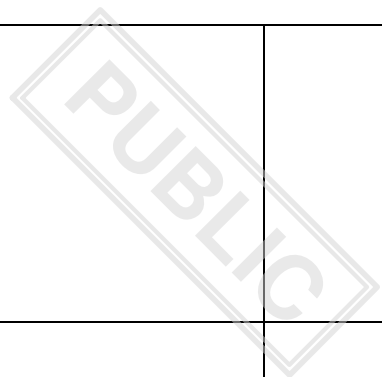
<p><i>Article 40</i></p> <p>Exercise of the delegation</p>		
<p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p>		<p>The empowerment of the commission to adopt delegated acts severely restricts the possible member states input and raises concerns about regulatory content addressed directly to users of plant protection products. This is particularly true in the light of the obligations on IPM, the inspections of application equipment and especially regarding training.</p>
<p>2. The power to adopt delegated acts referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall be conferred on the Commission for an indeterminate period.</p>	<p>2. The power to adopt delegated acts referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall be conferred on the Commission for an indeterminate period.</p>	
<p>3. The delegation of power referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take</p>	<p>3. The delegation of power referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the</p>	

effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry	6. A delegated act adopted pursuant to Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the	

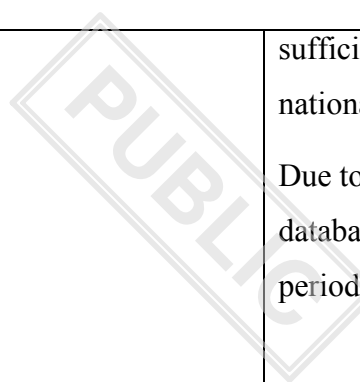
of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	
<i>Article 41</i> Committee procedure		
1. The Commission shall be assisted by the Standing Committee on Plants, Animals, Food and Feed established by Article 58(1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.		
3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011		



shall apply.		
CHAPTER XII		
TRANSITIONAL AND FINAL PROVISIONS		
<i>Article 42</i>		
Commission evaluation		
<p>1. By ... <i>[OP: please insert the date = four years after the date of application of this Regulation]</i>, the Commission shall carry out an evaluation of this Regulation based on the following:</p> <p>(a) the trends in progress and other quantitative data provided in annual progress and implementation reports in accordance with Article 10(2);</p> <p>(b) the analysis of the annual trends and data published by the Commission every two years in accordance with Article 11;</p> <p>(c) the report on annual progress and implementation reports previously submitted by the Commission to the European Parliament and Council in accordance with Article 11(7) ;</p>		



<p>(d) any other information necessary for the preparation of the evaluation.</p> <p>Member States shall provide the Commission with the information necessary for the preparation of that evaluation.</p>		
<p>2. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.</p>		
<p><i>Article 44</i></p> <p>Repeal of Directive 2009/128/EC</p>		
<p>1. Directive 2009/128/EC is repealed.</p>		
<p>2. References to Directive 2009/128/EC shall be construed as references to this Regulation and read in accordance with the correlation table set out in Annex VII.</p>		
<p><i>Article 45</i></p> <p>Entry into force</p>		
<p>This Regulation shall enter into force on the</p>		<p>As highlighted in the comment to Article 37, a</p>



<p>twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>It shall apply from ... [OP: please insert the date = the first day of the month following ... months after the date of entry into force of this Regulation].</p> <p>However, Article 21 shall apply from [OP: please insert the date = 3 years after the date of entry into force of this Regulation].</p>		<p>sufficient timeframe is necessary to adopt national legislation.</p> <p>Due to the considerable effort required to set up databases, there should be a extended transition period for the respective Articles.</p>
Article 3 Definitions		
<p><i>Relevant definitions</i></p> <p><i>Please comment on definitions linked to Article 20-28</i></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>		