

Making your voice heard in the new EU pesticides policy

The Thematic Strategy for the Sustainable Use of Pesticides will determine pesticide policies in the EU for over a decade. It provides a unique opportunity to raise the standards of human health and environmental protection. Sofia Parente of PAN Europe describes the decision-making processes in the EU and outlines current proposals for the Thematic Strategy. Now is the time for EU citizens to express their concerns to their elected MEPs.

Fifty years ago at the height of the cold war, six western European states (Belgium, France, Germany, Italy, Luxembourg, Netherlands) signed the Treaty of Rome in March 1957 founding what is now known as the European Union (EU). In the intervening years the EU has expanded considerably – with the accession of Bulgaria and Romania on 1 January 2007, the EU now has 27 members. Originally, EU cooperation was limited to the common policies established in the Treaty of Rome: agriculture, trade and transport. However, the EU evolved to incorporate common policies that affect everyday life such as environment, food, education and regional policy*. Limits to integration are set by Member States (MS), and there are a number of areas, such as security and foreign affairs, where integration is still limited.

Pesticides and environment are regulated by common policies of the EU and there are numerous opportunities to influence EU decision making. This article is a guide to the institutions and policies of the EU

and shows how EU citizens can participate in the pesticides decision-making process.

The institutional triangle

The main institutions of the EU are the European Commission, the Council and the European Parliament. Together these form the so-called institutional triangle.

- the **European Commission (EC)** proposes policies and legislation. It is organised into 25 departments called Directorate Generals (DGs) with staff similar to civil servants. Each DG is headed by a Commissioner, one from each Member State. Commissioners serve a four-year term and are appointed by national Governments. The number of DGs (and Commissioners) has expanded, as the number of Member States increased to ensure that each Member State was represented in the Commission. However, the number is now frozen at 25. With the accession of Bulgaria and Romania in 2007 (the 26th and 27th Member States) Member State representation in the Commission will be rotated.

Presidency of the Commission is also rotated on a four-year basis. The current President is José Manuel Barroso from Portugal, the Commissioner for Environment is Stavros Dimas (Greek) and the Commissioner for Health is Markos Kyprianou (Cypriot).

- the **Council of the European Union (Council)** is the main decision-making body. It is composed of the Ministers of the 27 Member States. For example, the Agriculture Council is composed of the 27 Ministers of Agriculture and the Environment Council is composed of the 27 Ministers of Environment. The Presidency is held by Member States on a six-month rotational basis and decisions mainly taken by qualified majority. To achieve a qualified majority in the Council, a proposal has to win at least 255 out of 345 votes, representing 62% of the EU population or a majority of Member States.

UK, Germany, Italy and France have the largest populations and hence the largest number of votes (29), followed by Spain and Poland (27).

- the **European Parliament (EP)** is composed of 785 elected Members (MEPs) organised into eight political parties and 20 Committees. MEPs divide their time between Brussels, Strasbourg (for plenary meetings) and their constituencies. Germany has the largest number of MEPs (99), followed by the UK, Italy and France (78). For a proposal to be accepted it must receive a majority of votes (i.e. at least 393). A typical month of the EP includes a Plenary week; a Committee week, when the different Committees meet in Brussels; a Group week, when the different political groups meet in Brussels; and a Constituency week, when MEPs return to their Constituencies.

How new policies are made

To influence an EU policy at an early stage, it is important to make the relevant contacts with the European Commission and with officers in the appropriate DG, the equivalent to civil servants in a Ministry preparing proposals for new legislation. All citizens of EU countries and organisations have the right to express their views to the European Commission. They can contact their MEP to find out what proposals are being drawn up. The person to contact in the European Commission can then be found in the Commission Directory which is available on the internet¹.

Before any legislative proposal is presented, the European Commission has to undertake several consultation meetings and exercises involving relevant stakeholders and the general public. It also carries out an impact assessment to identify the social, economic and environmental impacts of a given proposal. The consultation and impact assessment are vital stages for anyone wanting to influence the measures in a proposal.

But it is not too late to contact the European Commission after new legislation is implemented. The European Commission is the guardian of the Treaty of Rome, and so, if there are complaints about the implementation of, or compliance with, a given EU policy, a formal complaint can be presented. If, for example, a local government is using a pesticide for amenity use not authorised by the EU, a citizen can write directly to the Commissioner for Health (Markos Kyprianou) explaining the situation and requesting immediate action.

Decision-making

After a legislative proposal for one of the common policies of the EU is presented by the European Commission, it has to be approved or altered by the decision-making bodies. There are four types of decision-

Common policies of the EU

- Common Agricultural Policy (CAP)
- Forestry
- Common Fisheries Policy
- Regional Policy
- Transport Policy
- Trans-European Networks
- Industrial Policy
- Social and Employment Policy
- Environment Policy
- Consumer Protection and Public Health
- Cooperation in Justice and Home Affairs
- Energy Policy
- Policy for Research and Technological Development
- Small and Medium-Sized Enterprises
- Tourism
- Culture and Education
- Taxation

* In areas governed by common policies integration is complete. No Member State can act against such policies.

Box 1. The institutional triangle of the EU and its decision-making processes

European Commission (EC)

Proposes policies and legislation. Organised in 25 Directorate Generals headed by Commissioners (one from each country).

Council of the European Union

Main decision body. Composed by the Ministers of the 27 Member States organised by the issue on the agenda. Presidency is held by Member States on a 6-month rotational basis. Decides mostly by qualified majority (255 out of 354 votes).

European Parliament (EP)

Composed of 785 elected Members (MEPs) and organised in 8 political parties and 24 Committees. Divide time between Brussels, Strasbourg and Constituencies. UK has 78 MEPs, same as Italy and France. Decides mostly by simple majority.

CO-DECISION PROCEDURE (for most environment policies including pesticides)

1. European Commission makes a proposal after extensive consultation with stakeholders
2. Opinion of the Economic and Social Committee and Committee of Regions
3. First reading by the European Parliament – opinion (can adopt or propose amendments)
4. First reading by the Council and common position
5. Communication from the Commission on the common position
6. Second reading by the European Parliament (can adopt or propose amendments)
7. Second reading by the Council (can adopt amended common position or not approve)
8. Conciliation procedure (Council + European Parliament + European Commission)

COMITOLGY (CONSULTATION) PROCEDURE (for approval of pesticides)

1. European Commission makes a proposal after consultation with stakeholders
2. European Commission transmits the proposal to the Regulatory Committee
3. Regulatory Committee analyses the proposal and votes
4. If Regulatory Committee fails to achieve qualified majority of votes, decision passed to Council
5. Council has 3 months to take decision. Otherwise, Commission adopts the act

making mechanisms in total; co-decision, consultation (or comitology), cooperation and assent. The EC Treaty has articles on each of the common policies and these specify which decision-making process is used in each area.

In the *co-decision* procedure, European Parliament and Council have similar powers. This procedure is used for all policies requiring a qualified majority in the Council (two thirds of all European laws). These include environment, transport and consumer protection, but not the common agricultural policy or commercial policy.

In the *consultation* procedure (also known as comitology), the Council must take note of the opinion of Parliament before taking a decision. Although Parliament has no power of veto, the consultation is obligatory. If Parliament is not consulted the act is illegal and could be annulled by the Court of Justice. This consultation procedure is used in several important areas that require unanimity in the Council, for example fiscal policy; and for the common agricultural policy and commercial policy which require a qualified majority. And so, all agricultural policies are governed by this consultation procedure. This means that the EP has very limited powers.

The *cooperation* and *assent* procedures are only used for decision-making regard-

ing the economic and monetary union and Structural Funds respectively.

In addition to the common policies of the EU, there are areas such as the common foreign and security policy, and police and judicial cooperation in criminal matters where a special form of intergovernmental

Pesticides in the EU market

Within the Commission the marketing of pesticides was initially dealt with by DG Agriculture. However, over the past decade or so, concern about the health impacts of agricultural products has grown within the EU, in particular since the outbreak of bovine spongiform encephalitis (BSE; mad cow disease) in the late 1980s. A new DG was created, Health and Consumer Protection (DG SANCO) which incorporates all the health aspects of food production and manufacturing, including pesticides.

In 1991 legislation regulating which pesticides could be marketed in the EU was introduced. This required all pesticides marketed in Europe to be reviewed. Pesticides were divided into four groups which are being reviewed in four stages, one group at a time. Stages one and two are almost complete and stage three substances are currently being reviewed. Decisions on whether to approve or reject a pesticide are published in the Official Journal (the official publication of the EU) and subsequently placed online².

Decisions are made through the consultation procedure. A proposal to approve or reject a given pesticide is prepared by the European Commission based on the conclusions of the risk assessment prepared for that substance. At this level of detail, the discussion and voting is not carried out by the Agriculture Council and the Agriculture Ministers themselves but delegated to Member States representatives with the relevant technical background. These are usually civil servants from the Ministries of Agriculture or Environment, organised in a Committee (the Standing Committee on

Box 2. The three components of the Thematic Strategy for the Sustainable Use of Pesticides

Directive for the Sustainable Use of Pesticides

Addresses the use of pesticides (from sale and distribution, to storage and mixing, to application in the field and degradation in the environment) and includes measures such as training and information for farmers, a ban on aerial spray, restrictions in sensitive areas and establishment of National Action Plans for the Sustainable Use of Pesticides. Once approved, a Directive has to be transposed into national law in Member States usually within two years.

Regulation for placing pesticides on the EU market

Addresses the authorisation process for pesticides in the EU market by introducing measures such as: criteria for the approval of substances, creation of three European zones where the same pesticide products can be found or substitution of dangerous pesticides by safer alternatives. Once approved, the Regulation is immediately applicable in the national legislation. This is a revised version of the 1991 authorisation directive (91/414/EEC).

Communication

Unlike the Directive and Regulation, the Communication is not a legal text. It explains the rationale behind the proposed measures and describes the measures in the Thematic Strategy.

the Food Chain and Animal Health). This Committee is facilitated by the European Commission and decides by qualified majority. If Member States representatives fail to achieve a qualified majority, the decision is passed to the Agriculture Council.

To influence the approval of a particular pesticide in Europe citizens should contact their national representatives in this Committee. Contacts, agendas and summaries of the meetings are publicly available³.

Before the creation of the EU agency, the European Food Safety Authority (EFSA), the Commission itself prepared the risk assessment for each pesticide. It was virtually impossible to have access to these risk assessments and to the agendas and reasons behind the approval or rejection of a pesticide. But since 2004 EFSA has been in charge of preparing the risk assessments, and assessment documents for individual pesticides have been made available to the public on the internet. After the risk assessment is placed on the internet a period of 40 days is allowed for the public or other stakeholders to make comments or to submit additional information. However, the whole consultation procedure lacks transparency. Not only are the agendas and summaries of the meetings vague and lacking in technical content, but they are only made available to the public months after the decisions are made.

Pesticide regulation in the EU

Despite the introduction of legislation in 1991 regulating which pesticides can be marketed (Directive 91/414/EEC), environmental problems associated with pesticides are still widespread in all countries of the EU. The 6th Environmental Action Programme of the EU (2002-2012) decided that legislation governing how pesticides are used, not just legislation governing which pesticides are authorised, was needed. In 2002 they decided to address this important issue via a *Thematic Strategy for the Sustainable Use of Pesticides* to be prepared by the DG Environment. DG Sanco and DG Environment work closely with DG Agriculture.

Thematic Strategy for the Sustainable Use of Pesticides

The new *Thematic Strategy for the Sustainable Use of Pesticides* has three components; a Framework Directive, a revised Regulation for placing pesticides on the market and a Communication which explains and summarises the measures. These are being decided by co-decision with a final vote expected during 2008. Compared to the consultation process, the co-decision process offers more opportunities for citizens and organisations to influence decision-making. The meetings of the EP are public, documents are available and decisions are communicated fast to the

public via the internet. However, there are some drawbacks with the process. On average, for each MEP there are nine lobbyists. And some lobbies, such as the agrochemical industry, have relatively large budgets dedicated to influencing the EP and the other European institutions. Another disadvantage of co-decision is that it can take from three months to three years, depending on the issue and the willingness of the EP and Council to reach a decision. It is often challenging for individual campaigners and organisations to find the resources to follow such lengthy discussions.

Timeline for co-decision

First reading in EP

There are several EP Committees involved in discussions on the Thematic Strategy on the Sustainable Use of Pesticides: Environment is the leading Committee but it has to cooperate closely with the Agriculture, the Internal Market and the Industry Committees. For each Committee a rapporteur and shadow rapporteur MEPs are appointed. The rapporteur is responsible for drafting a report containing amendment proposals and a justification for those amendments. Amendments are voted on by the Committee before being addressed in the Plenary by all MEPs. The first reading is complete if the Plenary achieves a simple majority of votes. It is estimated the first reading of the three proposals in the Thematic Strategy will be voted on in the plenary in July and September 2007.

First reading in Council

The first reading in the Council is estimated to be completed during the second half of 2007. The discussion is carried out at the level of Working Groups composed of Member States' representatives in Brussels and national experts. The formal discussion and voting is carried out by the Ministers of Agriculture and Environment in the respective Council formations. The Council achieves a 'common position' if a decision is reached by a qualified majority.

Second reading in EP

The EP receives the Council common position and has three months to make a decision. If it approves the common position or takes no decision in the three months, the act is adopted. It can reject the position and approve amendments by absolute majority. Or it can reject the position by absolute majority and the procedure ends.

Second reading in Council

The Council can approve the EP amendments within three months by qualified majority or convene the Conciliation Committee within six weeks.

Conciliation Committee

This is composed of equal numbers of EP and Council representatives assisted by the

PAN Europe proposed amendments to the Directive:

- Set targets for use reduction in the National Action Plans
- Set targets for increase of land under organic farming and Integrated Pest Management as a minimum for the remaining farmland
- Ban of aerial spraying for the protection of farmers, residents and bystanders
- Levy on pesticides to finance measures under the National Action Plans
- A strong public participation component in the National Action Plans

PAN Europe proposed amendments to the Regulation:

- Hazard based criteria for the exclusion of unacceptable pesticides
- Comparative assessment and substitution of hazardous pesticides by safer alternatives including non-chemical methods of crop protection
- Protection of vulnerable groups such as children and against combination effects of pesticides
- No to the division of Europe into three zones for approval of products
- Regular evaluation and monitoring programme for pesticides and inclusion of newly identified effects
- More transparency and participation in the pesticide authorisation process

European Commission. It has six weeks to draft a joint text. If rejected by the Committee, the procedure stops and the act is not approved. If approved by the Committee, it is passed on to the EP and Council for voting. The EP and Council have a further six weeks to approve it. The EP must achieve an absolute majority and the Council a qualified majority of the votes.

The *Thematic Strategy for the Sustainable Use of Pesticides* will determine pesticide policies in the EU for over a decade and is a unique opportunity to raise the standards of human health and environmental protection. Whether you are an individual from Kent (United Kingdom), Bavaria (Germany) or Andalucía (Spain) you should address the MEPs elected in your constituency NOW. Explain your concerns about pesticide use in your area and call for particular amendments (see box) in the legislation. Information is available about the MEPs in each constituency on the EP's website⁴.

1. Commission Directory http://ec.europa.eu/staffdir/plsql/gsys_page.display_index?pLang=EN
 2. The Official Journal, <http://europa.eu.int/eurlex/en/oj/>
 3. http://ec.europa.eu/food/committees/regulatory/scfcah/phytopharmaceuticals/index_en.htm
 4. <http://www.europarl.europa.eu/members/public.do?language=en>

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