

Case law on pesticides and phyto-pharmaceutical products

Court of Justice

Case C-404/12R and C-405/12 R *Pesticide Action Network Europe (PAN Europe)* [2015] nyr.

13 January 2015

Regulation (EC) No 1367/2006 of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies - — Request for internal review — Compliance of Article 10(1) of Regulation No 1367/2006 with Article 9(3) of the Aarhus Convention – Effects, within the EU legal order, of Article 9(3) of the Aarhus Convention – Any unconditional and sufficiently precise obligation capable of directly regulating the legal position of individuals – Inapplicability of *Nakajima* case law – Article 10(1) of Regulation No 1367/2006, is not implementing Article 9(3) of the Aarhus Convention – broad margin of discretion when defining the rules for the implementation of Article 9(3)

Case C-108/13 *Mac GmbH v Ministère de l'Agriculture, de l'Agroalimentaire et de la Forêt* [2014] nyr

6 November 2014

Marketing authorisation – Prohibition of a parallel import of a plant protection product covered by an authorisation in the UK – Parallel import authorised inasmuch as the product has in the exporting State a marketing authorisation granted in accordance with Directive 91/414/EEC – Inconsistency with Articles 34 TFEU and 36 TFEU

Case C-11/13 *Bayer Cropscience* [2013] nyr

19 June 2014

Patent law - Plant protection products - Supplementary protection certificate - Regulation (EC) No 1610/96 - Articles 1 and 3 - Terms 'product' and 'active substances' - Safener.

Case C-210/12 *Sumitomo Chemical* [2013] nyr

17 October 2013

Patent law - Plant protection products - Supplementary protection certificate - Regulation (EC) No 1610/96 - Directive 91/414/EEC - Emergency marketing authorisation under Article 8(4) of that directive.

Case C-584/11 P *Dow AgroSciences e.a v Commission* [2013] nyr

7 May 2013

Appeal - Plant protection products - Active substance trifluralin - Non-inclusion in Annex I to Directive 91/414/EEC - Decision 1999/468/EC - Article 5.

Case C-406/09 *Realchemie Nederland* [2011] ECR I-9773

18 October 2011

Regulation (EC) No 44/2001 - Jurisdiction and recognition and enforcement of judgments - Definition of 'civil and commercial matters' - Recognition and enforcement of an order imposing a fine - Directive 2004/48/EC - Intellectual property rights - Infringement of those rights - Measures, procedures and remedies - Sentence - Exequatur procedure - Related legal costs.

Case C-77/09 *Gowan Comércio Internacional e Serviços* [2010] ECR I-13533

22 December 2010

Plant protection products - Directive 2006/134/EC - Validity - Restrictions on the use of fenarimol as an active substance.

Case C-266/09 *Stichting Natuur en Milieu e.a.* [2010] ECR I-13119

16 December 2010

Environment - Plant protection products - Directive 91/414/EEC - Public access to information - Directives 90/313/EEC and 2003/4/EC - Temporal application - Concept of environmental information - Confidentiality of commercial and industrial information.

Case C-229/09 *Hogan Lovells International* [2010] ECR I-11335

11 November 2010

Patent law - Plant-protection products - Regulation (EC) No 1610/96 - Directive 91/414/EEC - Supplementary protection certificate for plant protection products - Grant of a certificate for a product which had obtained a provisional marketing authorisation.

Case C-363/09 *Commission v Spain* [2010] ECR I-90

1 July 2010

Failure of a Member State to fulfil obligations - Directive 91/444/EEC - Plant protection products - Application for authorisation to place on the market - Data protection.

Case C-361/06 *Feinchemie Schwebda and Bayer CropScience* [2008] ECR I-3865

22 May 2008

Plant protection products - Authorisation to place on the market - Ethofumesate - Directives 91/414/EEC and 2002/37/EC - Regulation (EEC) No 3600/92 - Application for reopening of the oral procedure.

Case C-201/06 *Commission v France* [2008] ECR I-735

21 February 2008

Failure of a Member State to fulfil obligations - Plant protection products - Parallel imports - Marketing authorisation procedure - Conditions - Common origin of a plant protection product imported in parallel and the reference product.

Case C-147/07 *Commission v France* [2008] ECR I-20

31 January 2008

Failure of a Member State to fulfil obligations - Directives 80/778/EEC and 98/83/EC - Quality of water intended for human consumption - Maximum concentrations of nitrates and pesticides - Incorrect application.

Joined cases C-260/06 and C-261/06 *Escalier and Bonnarel* [2007] ECR I-9717

8 November 2007

Plant protection products - Parallel imports - Marketing authorisation procedure - Whether permissible - Conditions - Observance of the principle of proportionality.

Case C-138/05 *Stichting Zuid-Hollandse Milieufederatie* [2006] ECR I-8339

14 September 2006

Authorisation for the placing of plant protection and biocidal products on the market - Directive 91/414/CEE - Article 8 - Directive 98/8/EC - Article 16 - Power of Member States during the transitional period.

Case C-431/04 *Massachusetts Institute of Technology* [2006] ECR I-4089

4 May 2006

Patent law - Medicinal products - Regulation (EEC) No 1768/92 - Supplementary protection certificate for medicinal products - Concept of 'combination of active ingredients'.

Case C-174/05 *Zuid-Hollandse Milieufederatie et Natuur and Milieu* [2006] ECR I-2443

9 March 2006

Authorisation to place plant protection products on the market - Directive 91/414/EEC - Article 8 - Active substance named 'aldicarb' - Validity of Article 2(3) of Decision 2003/199/EC.

Case C-178/03 *Commission v Parliament and Council* [2006] ECR I-107

10 January 2006

Action for annulment - Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals - Choice of legal basis - Articles 133 EC and 175 EC.

Case C-94/03 *Commission v Council* [2006] ECR I-1

10 January 2006

Action for annulment - Council Decision 2003/106/EC concerning the approval of the Rotterdam Convention - Prior Informed Consent Procedure - Hazardous chemicals and pesticides in international trade - Choice of legal basis - Articles 133 EC and 175 EC.

Case C-316/04 *Stichting Zuid-Hollandse Milieufederatie* [2005] ECR I-9759

10 November 2005

Authorisation for the placing of plant protection and biocidal products on the market - Directive 91/414/EEC - Article 8 - Directive 98/8/EC - Article 16 - Power of Member States during the transitional period.

Joined cases C-281/03 and C-282/03 *Cindu Chemicals* [2005] ECR I-8069

15 September 2005

Directive 76/769/EEC - Dangerous substances - Ability of the Member States to lay down additional conditions for the placing on the market and use of a biocidal product the use of whose active substance is restricted by the directive - Wood preservatives containing coal-tar distillates (carbolineum and creosote) - Wood preservatives containing copper, chrome and arsenic.

Case C-398/03 *Gavrielides* [2004] ECR I-11463

2 December 2004

Directive 90/642/EEC - Maximum levels for pesticide residues - Vine leaves

Case C-443/02 *Schreiber* [2004] ECR I-7275

15 July 2004

Article 28 EC - Directive 98/8/EC - Placing of biocidal products on the market - National measure requiring authorisation for the placing on the market of blocks of red cedar wood having natural anti-moth properties.

Case C-258/99 *BASF* [2001] ECR I-3643

10 May 2001

Regulation (EC) No 1610/96 - Plant protection products - Supplementary protection certificate.

Case C-306/98 *Monsanto* [2001] ECR I-3279

3 May 2001

Directive 91/414/EEC - Plant protection products - Authorisation for placing on the market - Assessment of an application for authorisation - Transitional period

Case C-465/98 *Darbo* [2000] ECR I-2297

4 April 2000

Labelling and presentation of foodstuffs - Directive 79/112/EEC - Strawberry jam - Risk of deception

Case C-100/96 *British Agrochemicals Association* [1999] ECR I-1499

11 March 1999

Marketing authorisation - Plant protection product imported from an EEA State or a third country - Identical to a plant protection product already authorised by the Member State of importation - Assessment of identical nature - Member States' power of assessment.

Case C-400/96 *Harpegnies* [1998] ECR I-5121

17 September 1998

Plant protection products - National legislation requiring approval by the competent authorities - Article 30 of the EC Treaty

Case C-137/96 *Commission v Germany* [1997] ECR I-6749

27 November 1997

Failure of a Member State to fulfil its obligations - Non-transposition of Directive 91/414/EEC.

Case C-293/94 *Brandsma* [1996] ECR I-3159

27 June 1996

Free movement of goods - Derogations - Protection of public health - Powers of the Member States - Biocides.

Case C-303/94 *Parliament v Council* [1996] ECR I-2943

18 June 1996

Directive concerning the marketing of plant protection products - Prerogatives of the Parliament.

Joined cases C-54/94 and C-74/94 *Cacchiarelli* [1995] ECR I-391

23 February 1995

Council Directives 76/895/EEC and 90/642/EEC - Maximum permissible levels of pesticide residues on or in potatoes

Case C-61/93 *Commission v Netherlands* [1994] ECR I-3607

14 July 1994

Failure of a Member State to fulfil its obligations - Obligation to give prior notification under Directive 83/189/EEC.

Case 125/88 *Nijman* [1989] ECR 3533

7 November 1989

National legislation prohibiting the use of a plant-protection product - Measures having equivalent effect.

Case 54/85 *Mirepoix* [1986] ECR 1067

13 March 1986

National legislation prohibiting the use of a pesticide - Article 30 and 36 of the Treaty.

Case 94/83 *Heijn* [1984] ECR 3263

19 September 1984

Prohibition of pesticides for apples - Measures having equivalent effect.

Case 155/82 *Commission v Belgium* [1983] ECR 531

2 March 1983

Phyto-pharmaceutical products - Conditions for approval.

General Court

Case T-192/12 *Pesticide Action Network Europe (PAN Europe)* [2014] nyr.

12 March 2014

Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market - Implementing Regulation (EU) No 1143/2011 approving the active substance prochloraz – Request for internal review - Regulation (EC) No 1367/2006 of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies - Refusal – Conditions to be satisfied by an organisation in order to be entitled to make a request for internal review – Two years existence of the organisation making a request for internal review - Action in part manifestly inadmissible and in part manifestly lacking any foundation in law

Case T-545/11 *Stichting Greenpeace Nederland and PAN Europe v Commission* [2013] nyr

8 October 2013

Access to documents - Regulation (EC) No 1049/2001 - Documents relating to the first authorisation of the placing on the market of the active substance 'glyphosate' - Partial refusal of access - Risk of an adverse effect on the commercial interests of a natural or legal person - Article 4(5) of Regulation No 1049/2001 - Overriding public interest - Regulation (EC) No 1367/2006 - Article 6(1) of Regulation No 1367/2006 - Directive 91/414/EEC.

Case T-214/11 *ClientEarth and PAN Europe v EFSA* [2013] nyr

13 September 2013

Access to documents - Regulation (EC) No 1049/2001 - Names of experts who submitted comments on a guidance document relating to the scientific documents to be included in applications for authorisation to place plant protection products and the active substances contained in those products on the market - Refusal of access - Exception concerning protection of privacy and the integrity of the individual - Protection of personal data - Regulation (EC) No 45/2001 - Obligation to state reasons.

Case T-483/11 *Sepra Europe v Commission* [2013] nyr

6 September 2013

Plant-protection products - Active substance flurprimidol - Non-inclusion of flurprimidol in Annex I to Directive 91/414/EEC - Regulation (EC) No 33/2008 - Accelerated assessment procedure - Manifest error of assessment - Rights of the defence - Proportionality - Obligation to state reasons.

Case T-31/07 *Du Pont de Nemours (France) e.a. v Commission* [2013] nyr

12 April 2013

Plant protection products - Active substance flusilazole - Inclusion of flusilazole in Annex I to Directive 91/414/EEC - Actions for annulment - Partial annulment - Non-severability - Inadmissibility - Non-contractual liability - Limiting the inclusion for a period of 18 months and for four crops - Precautionary principle - Principle of proportionality - Right to be heard - Equal treatment - Statement

of reasons - Misuse of powers - Sufficiently serious breach of a rule of law conferring rights on individuals.

Case T-338/08 *Stichting Natuur en Milieu et Pesticide Action Network Europe v Commission* [2012] nyr

14 June 2012

Environment - Regulation (EC) No 1367/2006 - Maximum residue levels for pesticides - Request for internal review - Refusal - Measure of individual scope - Validity - Aarhus Convention.

Case T-71/10 *Xeda International SA and Pace International v Commission* [2012] nyr

19 January 2012

Plant protection products - Active substance diphenylamine - Non-inclusion in Annex I to Directive 91/414/EEC - Withdrawal of authorisations of plant protection products containing that substance - Action for annulment - Locus standi - Admissibility - Proportionality - Article 6(1) of Directive 91/414 - Rights of the defence - Article 3(2) of Regulation (EC) No 1095/2007.

Case T-269/11 R *Xeda International v Commission* [2011] ECR II-389

15 November 2011

Application for interim measures - Plant protection products - Active substance ethoxyquin - Non-inclusion of ethoxyquin in Annex I to Directive 91/414/EEC - Withdrawal of authorisations for plant protection products containing ethoxyquin - Application to suspend the operation of a measure - Lack of urgency.

Case T-475/07 *Dow AgroSciences e.a. v Commission* [2011] ECR II-5937

9 September 2011

Plant-protection products - Active substance trifluralin - Non-inclusion in Annex I to Directive 91/414/EEC - Action for annulment - Evaluation procedure - New study and additional study - Time-limits - Concepts of 'risk' and 'hazard' - Manifest error of assessment - Draft review report - Draft directive or decision - Time-limits - Consequences of possible non-compliance - Legitimate expectations - Principle of proportionality - Decision 1999/468/EC ('the comitology decision') - Regulation (EC) No 850/2004 - Article 3(3) - Plea of illegality.

Case T-334/07 *Denka International v Commission* [2009] ECR II-4205

19 November 2009

Plant-protection products - Active substance dichlorvos - Non-inclusion in Annex I to Directive 91/414/EEC - Evaluation procedure - Opinion of an EFSA Scientific Panel - Plea of illegality - Article 20 of Regulation (EC) No 1490/2002 - Submission of new studies and data during the evaluation procedure - Article 8 of Regulation (EC) No 451/2000 - Article 28(1) of Regulation (EC) No 178/2002 - Legitimate expectations - Proportionality - Equal treatment - Principle of sound administration - Rights of the defence - Principle of subsidiarity - Article 95(3) EC and Articles 4(1) and 5(1) of Directive 91/414.

Case T-420/05 *Vischim v Commission* [2009] ECR II-3841

7 October 2009

Plant protection products - Active substance chlorothalonil - Inclusion in Annex I to Directive 91/414/EEC - Assessment procedure - Directive 2005/53/EC - Application for annulment - Application for a declaration of failure to act - Application for damages.

Case T-380/06 *Vischim v Commission* [2009] ECR II-3911

7 October 2009

Plant protection products - Active substance chlorothalonil - Amendment of the entry in Annex I to Directive 91/414/EEC - Directive 2006/76/EC - Retroactivity - No transitional period - Legal certainty - Legitimate expectations - Principle of equal treatment.

Case T-326/07 *Cheminova e.a. v Commission* [2009] ECR II-2685

3 September 2009

Plant-protection products - Active substance 'malathion' - Non-inclusion in Annex I to Directive 91/414/EEC - Action for annulment - Locus standi - Admissibility - Evaluation procedure - Assessment by EFSA - Plea of illegality - Article 20 of Regulation (EC) No 1490/2002 - Submission of new studies - Article 8(2) and (5) of Regulation (EC) No 451/2000 - Legitimate expectation - Proportionality - Equal treatment - Principle of sound administration - Rights of the defence - Principle of subsidiarity - Article 95(3) EC, Articles 4(1) and 5(1) of Directive 91/414.

Case T-75/06 *Bayer CropScience e.a. v Commission* [2008] ECR II-2081

9 September 2008

Directive 91/414/EEC - Plant protection products - Endosulfan as an active substance - Withdrawal of marketing authorisations - Evaluation procedure - Time-limits - Rights of the defence - Principle of proportionality.

Case T-229/04 *Sweden v Commission* [2007] ECR II-2437

11 July 2007

Directive 91/414/EEC - Plant protection products - Paraquat as an active substance - Marketing authorisation - Authorisation procedure - Protection of human and animal health.

Case T-158/03 *Industrias Químicas del Vallés v Commission* [2005] ECR II-2425

28 June 2005

Directive 91/414/EEC - Plant protection products - Active substances - Metalaxyl - Authorisation procedure - Summary dossier and complete dossier - Time-limits - Principle of proportionality - Misuse of powers.

Case T-177/02 *Malagutti-Vezinhet v Commission* [2004] ECR II-827

10 March 2004

General safety of goods - Community rapid alert system for food and feed - Claim for compensation.