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Judgments of the General Court in Cases T-412/22 | PAN Europe v Commission, T-94/23 | Pollinis France v Commission and T-565/23 | Aurelia Stiftung v Commission

Plant protection products: the temporary extension of the approval of active substances may not be applied on an automatic or systematic basis

Under EU law, ¹ the placing of plant protection products on the market requires, among other things, that the active substance which they contain be approved by the European Commission. That approval is granted in principle for a period not exceeding 10 years and it may be renewed for a maximum period of 15 years. The Commission may also extend the approval of active substances on a temporary basis when it appears that the approval is likely to expire before a decision has been taken on renewal.

After the Commission adopted implementing regulations which once again extended the period of approval of three active substances used in plant protection products, namely boscalid, ² dimoxystrobin ³ and glyphosate, ⁴ three not-for-profit environmental associations made separate requests to the Commission to carry out an internal review of those regulations. ⁵ In so doing, they challenged the compliance of the extensions of the approval periods with EU law. ⁶

On being refused by the Commission, the associations brought proceedings before the General Court of the European for annulment of the decisions to reject their requests for internal review.

In the judgments delivered today, **the General Court upholds those actions and annuls the abovementioned rejection decisions.**

The General Court observes that **an extension of the approval of an active substance is of a temporary and exceptional nature.** It must be adopted in the light of the specific circumstances of the case and may not, therefore, be applied automatically, still less systematically.

The length of the extension must be assessed by the Commission on a case-by-case basis and be sufficient to examine the application for renewal of each active substance. **That period must last only for the time needed to complete the renewal procedure, neither more nor less.** Consequently, the General Court finds the approach adopted by the Commission, which opted for shorter extensions, repeated as necessary, rather than for a one-off longer period, calculated by taking account of the circumstances of the case, to be contrary to EU law.

The Court observes that the extension of an approval is subject to the condition that the delay in the renewal procedure be beyond the control of the applicant for renewal. In that regard, **the Commission is required to assess, objectively and concretely, the role of the applicant for renewal in the delays occurring in that procedure** and to satisfy itself that the applicant did not act in such a way as to cause or contribute to delays. In particular, even if that delay is, at least in part, attributable to the other authorities involved in the procedure in question, that does not suffice to rule out the possibility that the applicant for renewal played a role. It might itself contribute to the delay, in particular if the **quality of the data provided proves to be inadequate.**

According to the General Court, **the Commission erred** in law by not interpreting EU law in such a manner, which justifies the annulment of its decisions to reject the requests for internal review of regulations extending the period of approval of boscalid, dimoxystrobin and glyphosate.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The full text, and, as the case may be, an abstract, of the judgments ([T-412/22](#), [T-94/23](#) and [T-565/23](#)) are published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Regulation \(EC\) No 1107/2009](#) of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market.

² [Commission Implementing Regulation \(EU\) 2022/708](#) of 5 May 2022 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances [boscalid]. That act was the fifth extension of the approval period of boscalid.

³ [Commission Implementing Regulation \(EU\) 2021/2068](#) of 25 November 2021 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances [dimoxystrobin]. That regulation provided for a sixth extension of the approval period of dimoxystrobin.

⁴ [Commission Implementing Regulation \(EU\) 2022/2364](#) of 2 December 2022 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance glyphosate. That was the fourth time that the approval of glyphosate had been extended.

⁵ The request submitted by Pollinis France concerned the extension of the approval period of boscalid, PAN Europe's request related to dimoxystrobin, while that of Aurelia Stiftung concerned glyphosate. The requests for internal review were made under Article 10 of [Regulation \(EC\) No 1367/2006](#) of the European Parliament and of the Council 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.

⁶ Article 17 of Regulation No 1107/2009.