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Press and Information

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Judgment of the Court of First Instance in Case T-229/04

Kingdom of Sweden v Commission of the European Communities

THE COURT OF FIRST INSTANCE ANNULS THE DIRECTIVE AUTHORIZING PARAQUAT AS AN ACTIVE PLANT PROTECTION SUBSTANCE

*The Commission's handling of the file does not satisfy the applicable procedural requirements
and the directive fails to satisfy the requirement of protection of human and animal health*

Paraquat is an active substance which is a component of one of the three most widely-used weed-killers in the world. It acts as a non-selective, broad-spectrum herbicide particularly active against weeds. It destroys the green tissue of the plant by drying the leaves. It does not attack the radicular system. The abortive and destructive action is localised at the place of application of the product. It has been used on more than 50 varieties of crops in more than 120 countries and marketed in the form of a herbicide for some 60 years.

This active substance has been banned in 13 countries, including Sweden, Denmark, Austria and Finland.

The Community provisions governing authorisations for plant protection products must ensure a high level of protection, which must avoid in particular situations where risks to health, ground water and the environment have not been properly researched. Annex I to the directive in question¹ contains the list of authorised active substances.

In 1993, a number of paraquat producers, including Zeneca as the notifier, notified the Commission of their wish to have paraquat included in Annex I to Directive 94/414. After issuing an assessment report on paraquat, on 1 December 2003 the Commission adopted Directive 2003/112² including paraquat in Annex I as an authorised substance, subject to certain conditions.

Sweden, supported by Denmark, Austria and Finland, brought an action for annulment of Directive 2003/112 before the Court of First Instance. Sweden put forward a number of pleas,

¹ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1).

² Commission Directive 2003/112/EC of 1 December 2003 amending Directive 91/414 (OJ 2003 L 321 p. 32).

some of which relate to procedure, whilst others allege failure to protect the environment and human and animal health.

Handling of the file

The Court notes that **although there are studies on the link between paraquat and Parkinson's disease, that issue was never referred to** by the notifier. Moreover, the Commission's reports did not contain any assessment of the literature relating to possible links between paraquat and Parkinson's disease.

The statement contained in the Commission's assessment report to the effect that there are no indications of neurotoxicity associated with paraquat therefore follows from a **handling of the file which does not satisfy the procedural requirements** laid down by the Community rules.

The Court further finds that a French study on paraquat operators' level of exposure, which was of some importance in the assessment of the substance, was not put through an assessment procedure and that that omission constitutes **a disregard of the applicable procedural provisions**.

Protection of human health

The Court notes that in a Guatemalan study one of the participating operators underwent exposure to paraquat equivalent to 118% of the acceptable operator exposure level fixed for that substance, despite use under the proposed conditions. Accordingly, the Community requirements, which prohibit any exposure higher than the acceptable operator exposure level, have not been satisfied. Consequently, Directive 2003/112 **fails to satisfy the requirement of protection of human health**.

Moreover, given that the abovementioned French study had played an important role in the Commission's decision to include paraquat in Annex I to Directive 91/414, that study's conclusion advising against uses requiring the use of treatment with a knapsack crop duster is **a serious indication which reasonably supports doubts as to the innocuousness of paraquat** during such use.

Protection of animal health

The Court notes that the Commission alleges that it based its assessment that paraquat did not have harmful effects on animal health on the assessment of 14 types of use envisaged by the notifier. However, **in order to assess the effects of paraquat on the health of hares and bird embryos, only two areas of use were assessed**, namely the use of paraquat in stubble fields in respect of hares and the use of paraquat in alfalfa fields in the autumn and winter in respect of birds. The Commission did not state any reason why it was not necessary to assess the 12 other types of use. The Court accordingly finds that the Commission did not conduct a sufficient assessment of the file on this point.

The Court also finds that the Commission relied on a file which did **not make it possible to establish to the requisite legal standard that the measures identified by it as likely to reduce the risks for hares were effective or appropriate** for reducing those risks.

The Court dismisses the other pleas in law put forward in the case.

The Court accepts in part in the applicants' pleas and **annuls Directive 2003/112**.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: BG, ES, CS, DA, DE; EL, EN, FR, IT, HU, PT, RO, SK, FI, SV

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-229/04>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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