



Court of Justice of the European Union

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Judgment in Case C-514/19

Union des industries de la protection des plantes v Premier ministre,
Ministre de la Transition écologique et solidaire, Ministre des
Solidarités et de la Santé, Ministre de l'Agriculture et de
l'Alimentation, Agence nationale de sécurité sanitaire de
l'alimentation, de l'environnement et du travail

Press and Information

France validly informed the Commission of the need to take measures intended, in particular, to protect bees

France had prohibited the use of active substances of the neonicotinoid family authorised by the Commission

Regulation (EC) No 1107/2009¹ harmonises the authorisation of active substances and plant protection products in the European Union ('the harmonisation regulation'). Nevertheless, Member States may take unilateral protective measures if they have previously raised concerns about an active substance with the Commission and the Commission does not adopt protective measures.

France sent a communication to the Commission in accordance with Directive (EU) 2015/1535² ('the notification directive'), but did not expressly invoke the safeguard clause of the regulation relating to plant protection products.

The Commission replied that it shared the concerns expressed by France, in that communication, regarding certain substances of the neonicotinoid family and stated that the European Food Safety Authority (EFSA) had published conclusions regarding three of the substances covered by the notified draft decree, which encouraged the Commission to consider the need to implement further restrictions. Due to risks to bees, the Commission had already, in Implementing Regulation (EU) No 485/2013³ of 24 May 2013, restricted the use of clothianidin, thiamethoxam and imidacloprid, although certain outdoor uses remained possible.

On 29 May 2018, three Commission implementing regulations prohibited the use of imidacloprid, clothianidin and thiamethoxam from 19 December 2018, with the exception of treatments for crops staying within permanent greenhouses during their entire life-cycle.

On 30 July 2018, the French Prime Minister adopted a decree which prohibits acetamiprid, clothianidin, imidacloprid, thiacloprid and thiamethoxam.

The Union des industries de la protection des plantes (Crop Protection Association) brought an action before the Conseil d'État (Council of State, France) seeking the annulment of that decree in so far as it is incompatible with the harmonisation regulation.

The Conseil d'État takes the view that the lawfulness of the decree depends on whether, under the

¹ Regulation of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009, L 309, p. 1).

² Directive of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ 2015, L 241, p. 1).

³ Commission Implementing Regulation amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances (OJ 2013 L 139, p. 12).

harmonisation regulation, France was entitled to adopt that decree as an emergency measure after issuing a communication based on the notification directive, even though the Commission had adopted a series of measures relating to the use of some neonicotinoids.

The Conseil d'État therefore asked the Court of Justice whether the notification directive and the harmonisation regulation must be interpreted as meaning that the communication of a national measure prohibiting the use of certain active substances covered by that regulation can be regarded as the official provision of information on the need to take emergency measures within the meaning of the harmonisation regulation.

In today's judgment, the Court notes that, although it follows from its case-law that a Member State's power, provided by an EU act, to adopt emergency measures requires compliance with both the substantive conditions and procedural conditions laid down by that act, a notification sent to the Commission under the harmonisation regulation requires only that the Member State concerned 'officially informs' that institution, without having to do so in a particular manner.

Furthermore, the Court states that the Commission must observe the principles of sincere co-operation and sound administration.

The Court concluded that the communication of a national measure prohibiting the use of certain active substances falling within the scope of the harmonisation regulation must be regarded as **the official provision of information on the need to take emergency measures where that communication contains a clear presentation of the evidence showing, first, that those active substances are likely to constitute a serious risk to human or animal health or to the environment and, second, that that risk cannot be controlled without the adoption, as a matter of urgency, of the measures taken by the Member State concerned, and where the Commission failed to ask that Member State whether that communication must be treated as the official provision of information under the regulation.**

The Court states, however, that the fact that the official provision of information by a Member State to the Commission already includes a draft measure does not release that Member State from the obligation to inform the other Member States and the Commission immediately of the final adoption of that measure, in accordance with the harmonisation regulation.

As regards whether the **implementing regulations** can be regarded as measures taken by the Commission in response to France's communication, the Court notes that EU legislature thus established a specific emergency procedure that is closely linked to the emergency procedures laid down in the harmonisation regulation. The implementing regulations were not adopted on the basis of the emergency procedures of the harmonisation regulation, but on the basis of other provisions of that regulation. The Court therefore takes the view that **those implementing regulations cannot be regarded as measures taken by the Commission in response to France's communication.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website of the day of delivery.

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