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TRIS Notification 2021/42/D (Germany)

Statement Ordinance on the reorganisation of secondary national legislation on biocidal products

28 April 2021

Pesticide Action Network (PAN) Germany strongly supports the intended German ordinance as stipulated in TRIS notification 2021/42/D.

We welcome that the Ordinance aims at ensuring a high level of protection of human and animal health as well as of the environment from the effects of biocidal products by improving the practical application of Regulation (EU) No 528/2012 in Germany through accompanying provisions.

The intended ordinance on the notification and supply of biocidal products supports the purpose and ensures compliance with the substantive requirements of Regulation (EU) No 528/2012 (BPR).

The intended ordinance specifies at national level what is not regulated in sufficient detail in the BPR. The BPR already set the scope of these provisions in Art. 17 (5) (Making available on the market and use of biocidal products), in Art. 18 (Measures geared to the sustainable use of biocidal products), and in Art. 65 (Compliance with requirements): The BPR aims at the sustainable use of biocides and seeks to establish a report and surveillance system in the Member States. The Federal Environment Agency has already provided a "Proposal for a concerted European approach towards a sustainable use" in 2014. As long as there are no harmonised rules for the sustainable use of biocidal products in the EU, it is necessary to establish such rules on the national level.

The ordinance will improve the proper use of biocidal products

According to BPR Art. 17 (5), proper use shall involve "the rational application of a combination of physical, biological, chemical or other measures as appropriate, whereby the use of biocidal products is limited to the minimum necessary and appropriate precautionary steps are taken".

This definition of proper use goes far beyond a correct application of a biocidal product. It rather implies knowledge and expertise of integrated management measures for hygiene, material protection and pest management in terms of IPM standards and the prioritisation of preventive measures. This requires education and training, especially in preventive measures and alternative non-chemical methods. It also requires appropriate training and application guidelines for professional users and – as minimum - competent advice for non-professional costumers before making a decision how to solve or avoid a pest problem and before purchase a product.

Eine gesunde Welt für alle. Mensch und Umwelt vor Pestiziden schützen. Alternativen fördern.

The intended ordinance concretises precisely this objective of the BPR with the ban on self-service for specific product types, the mandatory certification of expertise of (online-)traders and retailers as well as the obligation to provide advice for the customers.

The ordinance will ensure coherence to provisions already laid down for other pesticides in Germany - for plant protection products (PPPs).

All proposed provisions in the intended ordinance are since more than 30 years' standard for plant protection products (PPPs) in Germany. This means that years of experience are available and structures are long established in wide areas of trade like in online trade, in specialised trade, and in DIY stores. Implementing the ordinance would represent a step for harmonisation of standards, ensuring consistency in the dealing with pesticides (on the both subgroups biocidal products and plant protection products). For large areas of trade, it will not be a major change, but an extension of already existing regulations. Since many prerequisites are already in place, we expressly regret the very long transitional period until 2025 for the implementation of the provisions under §§ 10 and the following.

The currently clearly different regulations of pesticides and biocides, for example with regard to selfservice, cause considerable irritation among customers and provoke incorrect applications (e.g. the use of PT 18 or PT 14 biocidal products for plant protection purposes). The ban on self-service and the compulsory qualified advice will help to avoid incorrect and unnecessary use of biocidal products in future.

The ordinance will establish knowledge on market data – a prerequisite for surveillance, monitoring and evaluation.

Compared to other substance regulations, there are large gaps in knowledge about the market for biocidal products in Germany. The obligation to notify biocidal products which are made available on the market creates a basis of data for the targeted design of measures to reduce risks and for the development of tailor-made monitoring programmes.

Germany has long experience with this procedure. Sales data of PPPs have to be reported for many years in accordance with the Plant Protection Act (§ 64). The sales figures are published annually (see <u>report</u> from 2019). Such a reporting obligation is missing for the biocide market so far. The indented ordinance will close this gap. Building on the experience of the reporting for PPPs, the aim should be to avoid shortcomings and e.g. report on the exact amounts of domestic sales and exports.

This provision in the ordinance also establishes an indicator to assess the developments towards sustainable consumption of biocidal products. It is foreseeable that better knowledge of market and use data improve the governmental tasks of product surveillance, environmental/health monitoring and the monitoring of risk reduction measures, as risk reduction measures can be much more targeted and efficient. This will help save a lot of expenditure on these tasks.

Finally, the ordinance is an essential step forward in successful implementation of the BPR. It will save external costs and supports the objectives of the European Green Deal and the Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment.