

Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (Text with EEA relevance)

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PARLIAMENT AND OF THE COUNCIL

of 21 October 2009

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to achieve the sustainable use of pesticides

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) In line with Articles 2 and 7 of Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme⁽⁴⁾, a common legal framework for achieving a sustainable use of pesticides should be established, taking account of precautionary and preventive approaches.
- (2) At present, this Directive should apply to pesticides which are plant protection products. However, it is anticipated that the scope of this Directive will be extended to cover biocidal products.
- (3) The measures provided for in this Directive should be complementary to, and not affect, measures laid down in other related Community legislation, in particular Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds⁽⁵⁾, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁽⁶⁾, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy⁽⁷⁾, Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin⁽⁸⁾ and Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 on the placing of plant protection products on the market⁽⁹⁾. These measures should also not prejudice voluntary measures

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in the context of Regulations for Structural Funds or of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽¹⁰⁾.

- (4) Economic instruments can play a crucial role in the achievement of objectives relating to the sustainable use of pesticides. The use of such instruments at the appropriate level should therefore be encouraged while stressing that individual Member States can decide on their use without prejudice to the applicability of the State aid rules.
- (5) National Action Plans aimed at setting quantitative objectives, targets, measures, timetables and indicators to reduce risks and impacts of pesticide use on human health and the environment and at encouraging the development and introduction of integrated pest management and of alternative approaches or techniques in order to reduce dependency on the use of pesticides should be used by Member States in order to facilitate the implementation of this Directive. Member States should monitor the use of plant protection products containing active substances of particular concern and establish timetables and targets for the reduction of their use, in particular when it is an appropriate means to achieve risk reduction targets. National Action Plans should be coordinated with implementation plans under other relevant Community legislation and could be used for grouping together objectives to be achieved under other Community legislation related to pesticides.
- (6) The exchange of information on the objectives and actions Member States lay down in their National Action Plans is a very important element for achieving the objectives of this Directive. Therefore, it is appropriate to request Member States to report regularly to the Commission and to the other Member States, in particular on the implementation and results of their National Action Plans and on their experiences. On the basis of information transmitted by the Member States, the Commission should submit relevant reports to the European Parliament and to the Council, accompanied, if necessary, by appropriate legislative proposals.
- (7) For the preparation and modification of National Action Plans, it is appropriate to provide for the application of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment⁽¹¹⁾.
- (8) It is essential that Member States set up systems of both initial and additional training for distributors, advisors and professional users of pesticides and certification systems to record such training so that those who use or will use pesticides are fully aware of the potential risks to human health and the environment and of the appropriate measures to reduce those risks as much as possible. Training activities for professional users may be coordinated with those organised in the framework of Regulation (EC) No 1698/2005.
- (9) Sales of pesticides, including Internet sales, are an important element in the distribution chain, where specific advice on safety instructions for human health and the environment should be given to the end user at the time of sale, in particular to professional users. For non-professional users who in general do not have the same level of education and training, recommendations should be given, in particular on safe handling and storage of pesticides as well as on disposal of the packaging.

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- (10) Considering the possible risks from the use of pesticides, the general public should be better informed of the overall impacts of the use of pesticides through awareness-raising campaigns, information passed on through retailers and other appropriate measures.
- (11) Research programmes aimed at determining the impacts of pesticide use on human health and the environment, including studies on high-risk groups, should be promoted at European and national level.
- (12) To the extent that the handling and application of pesticides require the setting of minimum health and safety requirements at the workplace, covering the risks arising from exposure of workers to such products, as well as general and specific preventive measures to reduce those risks, those measures are covered by Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work⁽¹²⁾ and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to their exposure to carcinogens or mutagens at work⁽¹³⁾.
- (13) Since Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery⁽¹⁴⁾ will provide for rules on the placing on the market of pesticide application equipment ensuring that environmental requirements are met, it is appropriate, in order to minimise the adverse impacts of pesticides on human health and the environment caused by such equipment, to provide for systems for regular technical inspection of pesticide application equipment already in use. Member States should describe in their National Action Plans how they will ensure the implementation of those requirements.
- (14) Aerial spraying of pesticides has the potential to cause significant adverse impacts on human health and the environment, in particular from spray drift. Therefore, aerial spraying should generally be prohibited with derogations possible where it represents clear advantages in terms of reduced impacts on human health and the environment in comparison with other spraying methods, or where there are no viable alternatives, provided that the best available technology to reduce drift is used.
- (15) The aquatic environment is especially sensitive to pesticides. It is therefore necessary for particular attention to be paid to avoiding pollution of surface water and groundwater by taking appropriate measures, such as the establishment of buffer and safeguard zones or planting hedges along surface waters to reduce exposure of water bodies to spray drift, drain flow and run-off. The dimensions of buffer zones should depend in particular on soil characteristics and pesticide properties, as well as agricultural characteristics of the areas concerned. Use of pesticides in areas for the abstraction of drinking water, on or along transport routes, such as railway lines, or on sealed or very permeable surfaces can lead to higher risks of pollution of the aquatic environment. In such areas the pesticide use should, therefore, be reduced as far as possible, or eliminated, if appropriate.
- (16) Use of pesticides can be particularly dangerous in very sensitive areas, such as Natura 2000 sites protected in accordance with Directives 79/409/EEC and 92/43/EEC. In other places such as public parks and gardens, sports and recreation grounds, school

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grounds and children's playgrounds, and in the close vicinity of healthcare facilities, the risks from exposure to pesticides are high. In these areas, the use of pesticides should be minimised or prohibited. When pesticides are used, appropriate risk management measures should be established and low-risk pesticides as well as biological control measures should be considered in the first place.

- (17) Handling of pesticides, including storage, diluting and mixing the pesticides and cleaning of pesticide application equipment after use, and recovery and disposal of tank mixtures, empty packaging and remnants of pesticides are particularly prone to unwanted exposure of humans and the environment. Therefore, it is appropriate to provide for specific measures addressing those activities as a complement to the measures provided for under Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste⁽¹⁵⁾, and Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁽¹⁶⁾. Measures should also encompass non-professional users, since inappropriate handling is very likely to occur in this group of users due to their lack of knowledge.
- (18) The application of general principles and crop and sector-specific guidelines with respect to integrated pest management by all farmers would result in a better targeted use of all available pest control measures, including pesticides. Therefore, it would contribute to a further reduction of the risks to human health and the environment and the dependency on the use of pesticides. Member States should promote low pesticide-input pest management, in particular integrated pest management, and establish the necessary conditions and measures for its implementation.
- (19) On the basis of Regulation (EC) No 1107/2009 and of this Directive, implementation of the principles of integrated pest management is obligatory and the subsidiarity principle applies to the way the principles for integrated pest management are implemented. Member States should describe in their National Action Plan how they ensure the implementation of the principles of integrated pest management, with priority given wherever possible to non-chemical methods of plant protection and pest and crop management.
- (20) It is necessary to measure the progress achieved in the reduction of risks and adverse impacts from pesticide use for human health and the environment. Appropriate means are harmonised risk indicators that will be established at Community level. Member States should use those indicators for risk management at national level and for reporting purposes, while the Commission should calculate indicators to evaluate progress at Community level. Statistical data collected in accordance with the Community legislation concerning statistics on plant protection products should be used. Member States should be entitled to use, in addition to harmonised common indicators, their national indicators.
- (21) Member States should determine penalties applicable to infringements of national provisions adopted pursuant to this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.
- (22) Since the objective of this Directive, namely to protect human health and the environment from possible risks associated with the use of pesticides, cannot be

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sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

- (23) This Directive respects the fundamental rights and observes the principles recognised notably by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the integration into Community policies of a high level of environmental protection in accordance with the principle of sustainable development as laid down in Article 37 of that Charter.
- (24) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁷⁾.
- (25) In particular, the Commission should be empowered to establish and update the Annexes to this Directive. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (26) In accordance with point 34 of the Interinstitutional agreement on better law-making⁽¹⁸⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 161, 13.7.2007, p. 48.](#)
- (2) [OJ C 146, 30.6.2007, p. 48.](#)
- (3) Opinion of the European Parliament of 23 October 2007 ([OJ C 263 E, 16.10.2008, p. 158](#)), Council Common Position of 19 May 2008 ([OJ C 254 E, 7.10.2008, p. 1](#)) and Position of the European Parliament of 13 January 2009 (not yet published in the Official Journal). Council Decision of 24 September 2009.
- (4) [OJ L 242, 10.9.2002, p. 1.](#)
- (5) [OJ L 103, 25.4.1979, p. 1.](#)
- (6) [OJ L 206, 22.7.1992, p. 7.](#)
- (7) [OJ L 327, 22.12.2000, p. 1.](#)
- (8) [OJ L 70, 16.3.2005, p. 1.](#)
- (9) See page 1 of this Official Journal.
- (10) [OJ L 277, 21.10.2005, p. 1.](#)
- (11) [OJ L 156, 25.6.2003, p. 17.](#)
- (12) [OJ L 131, 5.5.1998, p. 11.](#)
- (13) [OJ L 158, 30.4.2004, p. 50.](#)
- (14) [OJ L 157, 9.6.2006, p. 24.](#)
- (15) [OJ L 114, 27.4.2006, p. 9.](#)
- (16) [OJ L 377, 31.12.1991, p. 20.](#)
- (17) [OJ L 184, 17.7.1999, p. 23.](#)
- (18) [OJ C 321, 31.12.2003, p. 1.](#)