



BEE LIFE FLASH NEWS October - December 2016

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EUROPEAN NEWS

NEONICOTINOIDS AND FIPRONIL

Court Cases

Imidacloprid, thiamethoxam and clothianidin

The public hearing for the court cases of Bayer and Syngenta against the Commission, in which Bee Life and other organisations take part as interveners should be taking place on 13th February 2017. In October, the Commission and the companies received complementary questions to clarify for the Court before November 11th, most questions were addressed to the Commission and seemed very critical. To see how the Commission will defend itself but I fear that industry lawyers really well played their part. We'll see !

Interveners are not allowed to provide answers for the Court to these questions but we could answer them during the court audience, when a question seems crucial to us.

Sulfoxaflor

On 28th of September we received the Judgement of the Court concerning the sulfoxaflor case against the Commission. In the judgement, the Court declared that NGOs did not have the right to access justice in this matter and so closed the case.

It is important to note that an appeal of this Judgement could have been submitted to the Court of justice of the European Union before the 8th of December (within 2 months and 10 days from the Judgement). However we did not appeal because we were not convinced that it would lead to something. I included the reasons and arguments why hereunder for your information even if juridical analyses can be hard to follow.

There is one specific aspect of the case that weakens our arguments to take us further in the discussion on the right of environmental NGOs to access to justice. The General Court has discussed all the grounds we have submitted in this case, even though the Court could have decided to reject the case on one major issue and not discuss the remaining grounds of appeal.

The major ground to reject PAN's Bee Life's and UNAAPI's appeal is the fact that the approval of sulfoxaflor by Commission Regulation needs to be implemented by Member States through the granting of an authorisation before sulfoxaflor can actually be put on the market or be used in Member States. We had some interesting arguments to say that the approval of sulfoxaflor has immediate effect, as Member States can 1) decide to 'automatically' authorise the substance in the formulation that was assessed for the approval 2) lack a margin of appreciation in every authorisation procedure where it comes to the core question whether sulfoxaflor can at the minimum under certain conditions or in certain formulations be applied safely as the Commission decided that there is at least one safe application of sulfoxaflor possible. Based on these grounds it can be argued that the sulfoxaflor-regulation can have a direct impact and thus does not need implementation.

The General Court ruled in the sulfoxaflor Judgement that the Commission Regulation on sulfoxaflor needs implementation by Member States. For that reason PAN's, Bee Life's and UNAAPI's appeal does in the Court's view not meet the requirements of Article 263(4) TFEU requiring for the right of access to justice with regard to a regulatory act that it doesn't need implementation.

Further the General Court has also rejected our grounds of appeal stating that the sulfoxaflor-Regulation directly affects the statutory goals and campaigns of PAN and Bee Life. The General Court further ruled that in case UNAAPI should be considered as an organisations representing the collective

interests of its members (Italian beekeepers), this would not lead to an admissible appeal either, as 1) the sulfoxaflor-Regulation needs implementation through authorisation by the Member State (here: Italy) and 2) if it would not need implementation it could only impact the factual not the legal situation of Italian bee keepers. In fact the latter aspect would be worth an appeal before the Court of Justice as it has for example in State aid cases been accepted by the Court that an impact on the factual situation of competitors is to be considered a direct effect under Article 263(4) of the TFEU or its predecessor. So exactly on that point there would be room for legal discussion in case we would have wished to give the case another try in appeal. But because of the 'implementation issue' we have very little chances to make a better case for environmental NGOs in appeal.

Conclusion: the risk is high that we will not get anywhere in appeal because it seems difficult to convince the Court of justice that the sulfoxaflor-Regulation doesn't need implementation, even though - in theory - we have some interesting arguments to address this issue. So we drop it.

On the Political Side

Meeting with Michael Flüh, Head of Pesticides Unit, DG Sante, 1st December 2016

- Reasons behind the extension to renew the authorization of a package of active substances including thiacloprid and acetamiprid. Regulation 2016/2016 establishes a time waiver for the re-authorization of active ingredients including these two neonicotinoids. This period and extension of the current authorization is due to delays accumulated in the re-evaluation processes in the different phases of the process.
- REFIT of the pesticide authorization regulation. Regulation 1107/2009 responsible for the authorization of pesticides will be re-evaluated in 2017 for its importance, efficiency, functionality, etc. A road map has been published and is currently in public consultation. In the future, in 2017 there will be further consultations that will go deeper in relation to the specific measures / proposals to be included / removed.
- Guidelines for the evaluation of pesticides on bees. Almost 4 years after the proposal for EFSA guidelines there is still no official approval from the member states. The Commission is urging a package to the member states during the advisory committee meeting on December 7th. This package includes: guidelines, uniform principles to be taken into account in harmonizing guidelines (based on science) and regulations (based on historical values) and the list of studies included in the guidelines Industry must be submitted when authorizing pesticides.
- Neonicotinoids: following the publication by EFSA of their conclusions on the risk of neonicotinoids for bees for all uses except seed and granule treatment (high risk identified and risk can not be excluded when not identified on other uses), deferrals on additional data submitted by industry (also high risk identified + deficiencies in file for IMI and CLO + Syngenta did not send these data for TMX), the Commission should also propose at the meeting of the advisory committee:
 - a total ban on TMX pesticides
 - increased restrictions on the use of IMI and CLO
 - for the FIP, BASF submitted additional data later, so EFSA is in the process of reviewing them. But BASF did not ask for re-authorization of the FIP, therefore the authorization of products based on this active substance will expire in 2017.
- The total ban proposed for France from 2018 (or 2020) will apply on French territory. For seed treatments, normally the French ban could have a European impact only if France when notifying the Commission presents data that supports its position. If France does not have this data, it could pass that the Commission returns to it to impose the European law. If France presents data and EFSA following its assessment agrees that the risks are too high, there will be even more restrictions of use at the European level.

- The implementation of derogations from the suspensions in a few countries, normally have been verified by the Food Veterinary Office (FVO), official service of control of the implementation of European health law. Following the checks carried out in Romania, the FVO technicians denounced Romania's bad practice in granting emergency authorizations. In principle, but not sure, an official letter from the Commission will have been sent to the Ministry of Agriculture of Romania to inform them of the non-compliance of these authorizations.
- Glyphosate: Following the publication of the contamination of glyphosate on German honey, the Commission was informed of the field data on the contamination of honeydew honeys with this active substance. The problem of non-compliance of honeys with respect to MRLs was raised and one of the commission's lady proposed to request an increase in glyphosate MRLs in honey. Naturally we said that the logic of polluter-pays should apply and beekeepers should be compensated for the impossibility of marketing these honeys. Unfortunately, this measure is not yet recognized by legislation.
- Directive on the sustainable use of pesticides. Since November 2016, the implementation of this directive is the responsibility of the FVO. I think that's a good thing, and we'll just have to be careful to ask for enforcement reports on a country-by-country basis.

Letter to the Commission

In December Bee Life, in collaboration with PAN-Europe and Greenpeace, sent a letter to the European Health and Food Safety commissioner, Vytenis Andriukaitis, to ask for a total ban of imidacloprid, clothianidin, thiamethoxam and fipronil, considering the latest publications from EFSA on these substances or the incapacity for industry to provide complementary data on these substances. This letter is an initiative to promote a total ban from Member States. It would seem that the Commission would need help to support its position.

On January 13th we received a very nice answer from the Commissioner, where he advises us not to worry as he shares the same concerns and that the Commission is doing all it can to protect bees.

PESTICIDE AUTHORISATIONS

Derogations to suspensions of neonicotinoids

Following problems suffered by Romanian beekeepers because of derogations applied to restrictions on neonicotinoids (see previous flashnews), Bee Life made an access to document request and so had access to all data concerning derogations requested by Member States. During the months of November and December PAN-Europe, Client Earth and Bee Life have analysed each of these requests and discovered irregularities when granted. A report summing up all of these irregularities is in preparation. It will be published in the beginning of 2017 and will be used to lobby at the European and national level. This initiative has been useful in convincing some beekeeping associations, not yet represented by Bee Life, to become members, especially the Romanians with whom the collaboration was very easy.

Bee Life also obtained from the Commission, through an access to document request, a letter sent in November by Health Commissioner Vytenis Andriukaitis to the Romanian ministry of agriculture to remind Romania of the rules on asking for derogations. There are good chances that this letter has been written after we complained to the Commission of the use made by some Member States, and in particular Romania, of these derogations.

BEE HEALTH

European Pilot Project – European Parliament

The budget for the pilot project to organise the monitoring of hive contaminants at the European level was approved at the end of 2016. Now it's the Commission's turn, which is now checking for the possibilities of action with the budget granted and the terms of reference, in order to launch call for proposals. We might know more by March 2017.

AGRICULTURE AND POLLINATORS

Meetings of the CAPNGO platform (see [agenda](#) and [minutes](#) of the meetings). Regular discussions: running of the CDGs, CAP fitness check, strategic discussions on the future of the CAP, future events.

New CAP reform : Phil Hogan is planning on launching a public consultation as soon as January 2017 on the future CAP post-2020. This public consultation will probably present five policy options, from the status quo to a radical reform.

NEW PLANT BREEDING TECHNIQUES AND GMOs

No activities linked to this subject.

CLIMATE CHANGE

No activities linked to this subject.

RAISE AWARENESS ON BEES: LIFESTYLE, ROLE FOR NATURE AND HUMANITY

Conference: Bee Week 2017

The 2017 Bee Week edition seems to be taking interesting directions. EFSA is adding a scientific conference in which they plan on bringing together the different stakeholders that can contribute to bee health. Meetings were organised in-between the EPBA, the COPA honey group, Bee Life and EFSA to start organising this initiative.

During a day and a half, multi-disciplinary groups will be organised to discuss how to best share/collect/benefit from these field data, not only towards health of colonies, but also for cartographic data, use of pesticides, land use, etc. The final goal would be to integrate all of this data together to try to understand better the state of the melliferous bee in Europe. Therefore, EFSA wants different stakeholders to use this database/tool for their interest.

Apart from this conference, which will take place in Brussels on 26-27 of June 2017 (add to your agenda to be able to participate), the Bee Week will have, as always, a beekeeper-farmer forum and a high level conference at the European Parliament. The agenda of the day is not yet determined. If you have suggestions, please share them in the Coeur list.

TRANSPARENCY, ENVIRONMENTAL RESPONSABILITY AND CONFLICTS OF INTEREST

In October, Bee Life published the report: "[Tactics used by Agro-chemical industries to impose and maintain harmful pesticides on the market](#)". This report, which is available in English only, analyses the different tactics and tools that industry make use of, even in legal arguments presented to the European Court of justice, to maintain the use of neonicotinoids on the European and international territory. Don't hesitate to translate it if you want to and to send us the translation and to use/disseminate it through your networks.

ADMINISTRATIVE ACTIVITIES AND PROMOTION OF BEE LIFE

Fundraising

Humus foundation: application proposed on the project of extending the French ban on neonicotinoids to the European Union and the promotion of alternatives to pesticides and ecological intensification through pollinators. The project was sent at the beginning of December.

Letters to ask for support were sent to four organisations: SumofUs, Avaaz, Lush and Exki.

NATIONAL / INTERNATIONAL NEWS

PORTUGUESE BEEKEEPING CONGRESS

14-16 of October

NS made a presentation during the national Portuguese beekeeping congress on the work of Bee Life concerning the agricultural model, compatibility with the beekeeping activity and eco-toxicology. The association was also presented.

FRENCH BEEKEEPING CONGRESS

27-30 of October

NS made a presentation during the French beekeeping congress on UE policies concerning neonicotinoids. The dossier on derogations to European suspensions on neonicotinoids was presented as well.

TFSP WORKSHOP

7-9 of November

NS participated to the meeting of the Task Force on Systemic Pesticides, the task force that published in 2015 the WIA: Worldwide Integrated Assessment on the impact of neonicotinoids on biodiversity and ecosystemic service. In this meeting, perspectives for future actions were discussed.

EFSA CONFERENCE

14-17 of November

20 years of risk assessments

In November, EFSA brought together in Parma, Italy, around a hundred eco-toxicologists from different countries, organisations and interests in a conference where they studied the evolution of environmental risk assessments of pesticides in the last twenty years. They started with the Directive 91/414/EEC, from which EFSA started to have a role in risk assessments, to finish with the current Regulation (1107/2009). Representatives of NGOs, pesticide industries and scientists had the opportunity to present their perspectives towards this evolution and to propose priorities for the future. The conference did not concern bees directly but the whole “environmental” side included in the approval process. Discussions were very general. However, one thing is clear: for EFSA, the future of risk assessments, the bee chapter included, will go through modelisation. It is therefore important that beekeepers realise the importance to provide field data.

SELECTION OF SOME STUDIES / BOOKS

Every time studies or interesting publications are published, they are posted on the Facebook page of Bee Life: <https://www.facebook.com/Bee-Life-European-Beekeeping-Coordination-228160887382539/>

I invite you to "like" the page, and you will have the information of what is posted above.

AGENDA

MEETINGS AND CONFERENCES DURING THESE MONTHS

Every meetings / activities of Bee Life or linked to subjects that Bee Life follows can be found in the shared calendar to which you have access:

<https://calendar.google.com/calendar/render#mainz>

If you don't have access to it, please contact: info@bee-life.eu

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