



Judgment of the Court (Third Chamber) of 25 April 2024 (request for a preliminary ruling from the College van Beroep voor het bedrijfsleven – Netherlands) – Pesticide Action Network Europe (PAN Europe) v College voor de toelating van gewasbeschermingsmiddelen en biociden

(Case C-308/22, PAN Europe (Closer)) ⁽¹⁾

(Reference for a preliminary ruling – Approximation of laws – Regulation (EC) No 1107/2009 – Authorisation for placing plant protection products on the market – Examination for authorisation – Article 36 – Discretion of the Member State concerned, for the purposes of Article 36(2), with regard to the scientific risk assessment carried out by the Member State examining the application for authorisation under Article 36(1) – Article 44 – Withdrawal or amendment of an authorisation – Precautionary principle – Effective judicial remedy – Current scientific and technical knowledge)

(C/2024/3567)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicant: Pesticide Action Network Europe (PAN Europe)

Defendant: College voor de toelating van gewasbeschermingsmiddelen en biociden

Intervening party: Corteva Agriscience Netherlands BV, formerly Dow AgroScience BV (Dow)

Operative part of the judgment

1. Article 36 of Regulation (EC) No 1107/2009 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

must be interpreted as meaning that the Member State that takes a decision concerning the authorisation for placing a plant protection product on the market, under Article 36(2) of that regulation, may depart from the scientific risk assessment of that product carried out by the Member State examining the application for such an authorisation, under Article 36(1) of that regulation, in the situations referred to in the second subparagraph of Article 36(3) of that regulation, in particular where it has available the most reliable scientific and technical data – which the latter Member State did not take into account when preparing its assessment – which identifies an unacceptable risk to human or animal health or to the environment.

2. Article 36 of Regulation No 1107/2009, read in the light of the principle of effective judicial protection,

must be interpreted as meaning that the conclusions of the assessment carried out by the competent Member State, pursuant to Article 36(1) of that regulation, may be taken into consideration by the court of the Member State concerned, within the meaning of Article 36(2) of that regulation, called upon to rule on the lawfulness of a decision adopted under Article 36(2) or (3) of that regulation, in the light of the substantive and procedural conditions laid down in those provisions, it being understood that that court cannot substitute its assessment of the scientific and technical facts for that of the competent national authorities.

3. Article 36(2) and (3) of Regulation No 1107/2009

must be interpreted as meaning that where the Member State taking a decision as to the authorisation for placing a plant protection product on the market under those provisions takes the view that the scientific risk assessment carried out by the Member State examining the application under Article 36(1) of that regulation is insufficiently reasoned in the light of the concerns of the Member State concerned relating to human or animal health or the environment, in connection with the environmental or agricultural circumstances specific to its territory, the former Member State is not required to involve the latter Member State in carrying out a fresh assessment on the basis of which the authorisation for placing a plant protection product on the market may be granted.

⁽¹⁾ OJ C 359, 19.9.2022.

4. Article 29(1)(e) and Article 36(2) of Regulation No 1107/2009

must be interpreted as meaning that in order to challenge the authorisation for placing a plant protection product on the market in the territory of the Member State taking a decision concerning such authorisation under the latter provision, the most reliable scientific and technical data available may be raised before the authorities or the courts of that Member State with a view to demonstrating that the scientific risk assessment of that plant protection product, carried out by the Member State examining the application under Article 36(1) of that regulation, is insufficiently reasoned.
