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TAKING AIM WITH A BLINDFOLD ON

The Council's Attempt to Undermine
the Green Deal's Pesticides Promise

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SUMMARY

Halving the use and risk of pesticides by 2030 is one of the key measures under the European Green Deal to halt biodiversity loss and promote healthy ecosystems. But currently, no meaningful data are available to show which pesticides are used where, when, and in what quantities for food production and other purposes.

The European Commission responded to this shortcoming in February 2021 with a legislative proposal: the Regulation on Statistics on Agricultural Input and Output (the SAIO Proposal). This proposal would require Member States to submit annual statistics on pesticide use to the Commission (Eurostat). These data are to be based on farmers' existing records of their pesticide use. These records have been mandatory for all farms since 2011. If the SAIO Proposal becomes law, they will have to be registered and sent in electronic form.

While the European Parliament's Agriculture Committee preserved and improved the key elements of the SAIO Proposal relating to pesticide data, Member States in the Council's closed sessions diluted the proposal in many far-reaching ways. Thus, we invoked the right of access to European Union documents to get information about

what has happened there. In this report we use those documents to show how the Council – and in particular a group of ten Member States – watered down the SAIO Proposal in a way that makes the 50% pesticide-reduction target impossible to measure and therefore pointless.

The biodiversity and climate crisis calls for targeted implementation and monitoring of European climate, environmental and human health protection policies based on robust data. Ensuring that we finally know what pesticides are being used, where, when and in what quantities is essential to this. Without ensuring this data is available in 2030, the 50% reduction target of the Farm to Fork Strategy amounts to taking aim with a blindfold on.

In view of the start of the trilogue on February 3, 2022, we ask the Parliament, Council and Commission to take into account the importance of accurate and comparable annual data on pesticide use and to work constructively to achieve an effective SAIO Regulation which is fully integrated into other EU policies.

BACKGROUND

More than 400 different active pesticide substances are currently approved in the European Union. Around 350,000 tonnes of these active substances are used per year. Residues of these pesticides are detected in soil, water, food, and in the human body.

The legal framework for the sustainable use of pesticides (Directive [\(EC\) No 128/2009](#)) and the regulation on the marketing of "Plant protection products" ([Regulation \(EC\) No 1107/2009](#)) jointly adopted by the EU Member States and the European Parliament, are designed to manage the associated risks to human health and the environment. Directive 128/2009 requires Member States to set up national action plans to establish quantitative targets, time-lines and measures to reduce risk from and dependency

on pesticides. This includes monitoring the effectiveness of these measures against quantitative targets. According to Article 67 of Regulation 1107/2009, farmers, as professional users of pesticides, must register the type and quantity of pesticides they apply and keep records for three years (covering at a minimum the product, time, quantity, area and crop). These data must be kept and made available to the competent authorities upon request. Third parties, such as water suppliers, can ask the relevant public authorities for these records. In turn, Regulation (EC) No 1185/2009 on statistics on pesticides requires Member States to report pesticide sales data to the Commission annually, while data on pesticide use must be submitted to the Commission only every five years and only for crops deemed relevant by each Member State.

Evaluations by the Commission and the European Court of Auditors have shown that the implementation of this legislation by Member States has been deficient. According to the Commission, Member States [have failed](#) to set clearly defined and results-oriented targets to reduce the risks of pesticides on human health and the environment. As a result, progress towards measuring and reducing risks from pesticide use in the EU “[has been limited](#)”, decline of biodiversity on farmland “[has not been halted](#)”, and the decline of wild pollinators [has barely slowed down](#), according to the Court of Auditors. In addition, the auditors emphasised that statistics published by the Commission (Eurostat) on active ingredients in pesticides and on their use are [not detailed enough to be useful](#), as the data on pesticide use provided by the Member States are neither sufficiently harmonised nor up-to-date.

Given the legal framework’s poor performance so far, the Commission now wants to focus on binding targets and quantitative objectives as part of the Green Deal. The Farm to Fork and Biodiversity Strategies presented in May 2020 envisage a 50% reduction in the Europe-wide use and risk of pesticides by 2030 as a key measure to protect biodiversity.

A fundamental prerequisite for achieving the pesticide-reduction target is to be able to measure progress. This requires the regular collection of precise, reliable and up-to-date data on the use of pesticides in the Member States. However, as of 2022, meaningful data on pesticide use are still not available.

Against this background, on 2 February 2021 the Commission submitted a proposal to its co-legislators for a Regulation of the European Parliament and of the Council on statistics on agricultural input and output (the [SAIO Proposal](#)). The SAIO Proposal (and its [Annex](#)) includes, among other things, a reorganisation of the reporting requirements on the use of pesticides so that they meet the requirements of the European Green Deal. Instead of every five years, Member States would have to collect and submit data on the use of pesticides to Eurostat on an annual basis. In order to do so, they would have access – electronically – to the operational records of pesticide users.

In the European Parliament, the SAIO Proposal was assigned to the Committee on Agriculture and Rural Development (AGRI), where it was [adopted with amendments](#)

in October 2021 after negotiations between the political groups. The AGRI Committee supported key points of the legislative proposal, such as the documentation of use data in electronic form and annual reporting to the Commission. The European Parliament also added important transparency safeguards to ensure Eurostat would publish pesticide use data at a meaningful level of detail.

In the Council, however, the SAIO Proposal was substantially watered down ([mandate for negotiation with annex](#)).

On 3 February 2022, the first official talks between the Parliament and the Council will begin as part of the trilogue. Their positions differ widely on many points. Whether the important environmental and health objectives of the SAIO Regulation can ultimately be achieved will depend on the outcome of these negotiations.

ClientEarth, the non-profit environmental law organisation, identified those proposed amendments in the Council mandate which are particularly problematic.¹ Based on this [analysis](#), we examine below how some of the amendments which best illustrate the Council’s attempt to water down the SAIO Proposal found their way into the Council’s position. We also examine the contribution of individual Member States. Council papers which the Pesticide Action Network (PAN Europe) and GLOBAL 2000 (Friends of the Earth Austria) obtained by invoking the right of access to EU documents served as the basis for this investigation.

¹ ClientEarth: Time to fill the data gap on the use of pesticides - Analysis of the Council position on the reform of pesticides statistics (January 2022): <https://www.clientearth.org/latest/documents/time-to-fill-the-data-gap-on-the-use-of-pesticides/>

THE COUNCIL DOCUMENTS

PAN Europe and GLOBAL 2000 requested access to documents on the SAIO Regulation from the General Secretariat of the Council on 21 October 2021. We received 49 documents on 12 November 2021. It is on the basis of these documents that we have established what written exchanges took place behind closed doors within the Council. The most relevant documents are available via links below.

On 19 February 2021, the Council's Working Party on Statistics (a preparatory body within the Council) had a first exchange of views on the proposal as part of its first videoconference under the Portuguese Presidency. The Portuguese Presidency began the discussions on SAIO with a presentation by the Commission ([WK 02449](#)) which explained that they were proposing to enlarge data collection to include annual data for pesticide use, organic farming and grassland and grazing modules, so as to monitor the achievement of the targets linked to the European Green Deal and the Farm to Fork and Biodiversity Strategies.

As part of the meeting, delegations were asked to send their initial written comments and proposals. Twenty-four Member States sent one or more written comments. Contributions from Belgium ([01580-add4](#)), Bulgaria ([01580-add16](#)), Czech Republic ([01580-add10](#)), Denmark ([01580-add9](#) and [01580-add9_COR1²](#)), Germany ([01580-add11](#)), Estonia ([01580-add 12](#)), Ireland ([01580-add 6](#)), Greece ([01580-add15](#)), Spain ([01580-add13](#)), France ([01580-add23](#)), Croatia ([01580-add20](#)), Italy ([01580-add8](#)), Cyprus ([01580-add 7](#)), Latvia ([01580-add24](#)), Lithuania ([01580-add5](#)), Hungary ([01580-add17](#)), Malta ([01580-add18](#)), the Netherlands ([01580-add14](#)), Austria ([01580-add3](#)), Poland ([01580-add22](#)), Slovenia ([01580-add19](#)) Slovakia ([01580-add2](#)), Finland ([01580-add1](#)) and Sweden ([01580-add21](#)) are included into the Portuguese Presidency compilation document ([WK 3137/2021 REV 2](#)). Romania, Luxembourg and Portugal did not contribute to the exchange.

On 17 March 2021, Articles 1 to 5 and Articles 11, 13 and 14 were discussed, and document [WK 3545/2021 INIT](#), with technical clarifications from the Commission, was circulated. The Portuguese Presidency circulated their working document, called the presidency non-paper ([WK 03712/2021 INIT](#)).

On 21 April 2021, Articles 6 to 10, 12, 15 to 18 and the Annex were discussed. The discussion was focused on the compilation document [WK 3137/2021 REV 2](#). A presidency non-paper ([WK 5226/2021 INIT](#)) was circulated.

On 26 May 2021, the Annex to the SAIO Proposal was discussed. The Commission provided technical clarifications ([WK 6769/21](#)); Finland contributed, asking for more clarity in the Annex ([WK 6909/2021 INIT](#)); Germany ([WK 6480/2001 + ADD1](#)) sent contributions regarding Articles 2 and 7.

On 18 June 2021, the recitals were discussed. The Presidency's drafting suggestions ([WK 7972/2021 INIT](#)) were circulated, containing suggestions for Articles 1-4, 6-11, and 13-14. The Portuguese Presidency prepared a [progress report](#).

On 1 July 2021, Slovenia took over the presidency of the Council of the EU, with the objective to reach a compromise between the Member States on the Commission's proposal.

On 16 July 2021, the Slovenian Presidency organised its first informal videoconference discussing Article 6 and Articles 5, 2 and 11 and circulating document [WK 09294/2021](#). Documents [ST 5865/21+ADD1](#) (Commission proposal), [WK 3137/2021 REV 2](#) (compilation document) and [WK 3545/2021 INIT](#) (technical clarifications from the Commission) were also used as working documents at the meeting. Austria sent its contribution to the meeting regarding Article 2 ([WK 09494/2021](#)).

² Denmark amended parts of its original position in a second opinion submitted later.

On 23 September 2021, Article 5 and the Annex were discussed. No document was obtained regarding this meeting but the agenda is available [here](#).

On 6 October 2021, the Council discussed Articles 2, 4, 7, 8 (with regard to the “plant protection products” issue) and the Annex. According to the online agenda available [here](#), documents [ST 5865/21+ADD1](#) were discussed, and no new documents were obtained.

On 10 November 2021, a first presidency compromise text ([WK 13154/2021 INIT](#)) was presented and discussed. The Slovenian Presidency sent a reminder about the agreed decision-making procedure for the file ([WK 12954 INIT](#)). Our access to document request ended at this point. No comments from delegations and/or the Commission on the compromise text were received.

On 1 December the Slovenian Presidency organised its fifth informal videoconference to discuss the second presidency text, with a transfer to the French presidency planned for 15 December 2021. No documents were obtained but the agenda is available [here](#). At this meeting, the Working Group on Statistics agreed on a final version of the Council position, for which it received a mandate ([mandate for negotiation](#) with [annex](#)) for the trilogue negotiations at the meeting of the Special Committee on Agriculture on 10 December 2021. Two Member States, Germany and Austria, voted against.

We understand that the trilogue – the negotiation between the European Parliament, Council and Commission – will start on 3 February 2022.

RESULTS

Although Member States consistently emphasised that they would support the key objectives of the SAIO Regulation, on 10 December 2021 they adopted a negotiating mandate for the trilogue that would undermine the objective to secure meaningful data on pesticide use.

For example, all Member States supported the SAIO Regulation's sub-objective in Recital 2 to underpin the decision-making process with updated data so as to support the European Green Deal (including the Farm to Fork and Biodiversity strategies) and future CAP reforms. However, according to [ClientEarth's analysis](#), the changes to the legislative text proposed by the Council have the opposite effect: it will still not be possible in 2030 – or beyond – to measure in a meaningful way whether the EU is achieving the 50% pesticide-use reduction target that is at the core of the Farm to Fork Strategy. If the changes proposed in the Council mandate regarding pesticide data become law, in 2030 there will still be no reliable or precise annual data on pesticide use for the

2022-2030 period. ClientEarth also criticises new hurdles the Council has created that would make it impossible for the Commission to fill data gaps through non-legislative acts in the future. The Council's mandate also attempts to limit public access to data on pesticide use, with total disregard for the public's existing right to receive information about emissions of pollutants into the environment.

Among the particularly problematic amendments proposed by the Council are the following (this list being by no means exhaustive³):

1. Instead of annual data on the use of pesticides, the Member States still want to collect and submit these data only every five years (Council mandate, last line of the Annex).
2. The Member States reject the Commission's proposal for the uniform and mandatory use of existing farm records on pesticide use (Council mandate, Article 8 (3)).

³ This list is limited to the amendments that were considered the most illustrative of the Council's attempt to water down the SAIO Proposal. It is also limited to those amendments where it was possible to identify the Member State(s) who proposed them. For a more comprehensive description of the problematic amendments in the Council mandate, see ClientEarth's analysis: <https://www.clientearth.org/latest/documents/time-to-fill-the-data-gap-on-the-use-of-pesticides/>

3. The Member States reject the requirement for farmers' records be kept and sent in electronic form (Council mandate, Article 8 (4)).
4. The Council requires the Commission to ensure, through pilot and feasibility studies, that Member States do not incur significant additional burdens or costs if the Commission wishes to close data gaps in the future (Council mandate, new Article 10a together with amendments to Article 5).
5. The Council proposes to delete text clarifying that the SAIO Regulation does not affect the existing rights of EU citizens to access environmental information, a right which implicitly includes data on the use of pesticides (Council mandate, Recital no. 31 deleted). The Council is therefore discreetly attempting to limit the public's right to know about emissions into the environment.

in the table above. No objections to the Commission's proposal were expressed by **Luxembourg, Romania or Portugal**. The remaining fourteen Member States provided comments that were partly supportive and partly critical of various aspects of the legislative proposal.

We identified whether a Member State explicitly supported a particular proposal from the Commission (DARK GREEN); silently supported it (LIGHT GREEN); expressed moderate criticism or proposed moderate changes (YELLOW); called for a comparably restrictive change compared to the problematic amendment (ORANGE); or introduced the problematic amendment itself (RED). The result of this analysis is shown in the table below:

The aim of the present analysis was to find out which Member States contributed to or master-minded these amendments diluting the Commission's proposal and to what extent. To this end, we examined the comments that the Member States submitted to the Council Presidency following the Council meeting of 19 February 2021 (presentation of the Commission proposal) and which were compiled by the latter in the 159-page [compilation document](#)⁴. We paid particular attention to those amendments and comments that related to the collection of pesticide data and specifically to items 1-5 above. This allowed us to trace, at least in part, Member States' contributions to the problematic amendments in the Council mandate.

The documents reveal that a group of ten Member States repeatedly submitted amendments and comments with identical wording, most of which were aimed at weakening the legislative proposal. The members of this group (hereinafter referred to as the "Group of Ten") also explicitly referred to their concerted behaviour in their comments⁵. This group includes **Czech Republic (CZ), Denmark (DK), Germany (DE), Spain (ES), Hungary (HU), Ireland (IE), the Netherlands (NL), Poland (PL), Slovenia (SI) and Austria (AT)**, with Austria and Denmark submitting divergent opinions on individual points, as illustrated

⁴ Documents from later Council meetings only provide information on the respective subject of the discussion, but not on the positions of the individual member states, and were therefore of secondary importance for the present analysis.

⁵ All members of the Group of Ten, with the exception of Austria, have stated in their initial comments on the Commission proposal, more or less word for word: "Please be informed that the detailed comments provided in this document have been coordinated with a group of countries (CZ, DE, DK, ES, HU, IE, NL, PL, SI and AT¹) which share major concerns and have common positions on many important provisions of the Commission proposal", with the footnote: "1) AT supports the proposal with some exemptions."

Table: Member States' positions on five selected problematic amendments⁶ in the Council at start of the negotiations

Use of plant protection products in agriculture: Annually Every 5 years																				(Annex (last line))							
CZ	DK	DE	IE	ES	HU	NL	PL	SI	AT	BG	HR	LT	FI	EL	EE	LV	IT	CY	FR	SE	SK	MT	BE	PT	RO	LU	
Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Orange	Yellow	Green	Orange	Yellow	Light Green	Light Green	Yellow	Yellow	Light Green	Light Green	Light Green	Light Green

The statistics on plant protection products as referred to in Article 5(1), point (d)(iii) shall may be provided using the records kept and made available in accordance with Article 67(1) of Regulation (EC) No 1107/2009 and made available for statistical purposes as administrative records to the national statistical authorities on their request																				(Article 8 (3))						
CZ	DK	DE	IE	ES	HU	NL	PL	SI	AT	BG	HR	LT	FI	EL	EE	LV	IT	CY	FR	SE	SK	MT	BE	PT	RO	LU
Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Light Green	Light Green	Red	Light Green	Light Green	Yellow	Light Green	Light Green	Yellow	Orange	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green

For that purpose, the Member States shall request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area and the crop where the plant protection product was used in accordance with this Regulation.																				(Article 8 (4))						
CZ	DK	DE	IE	ES	HU	NL	PL	SI	AT	BG	HR	LT	FI	EL	EE	LV	IT	CY	FR	SE	SK	MT	BE	PT	RO	LU
Orange	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Light Green	Light Green	Red	Yellow	Light Green	Yellow	Light Green	Light Green	Light Green	Yellow	Orange	Light Green	Light Green	Yellow	Light Green	Light Green	Light Green

In accordance with the objectives of this Regulation and where new regular data requirements or the need for significant improvement of regular data requirements are identified, the Commission (Eurostat) shall launch feasibility studies, in order to: [...] c) estimate the financial impact and burden on respondents																				(new Article 10a)						
CZ	DK	DE	IE	ES	HU	NL	PL	SI	AT	BG	HR	LT	FI	EL	EE	LV	IT	CY	FR	SE	SK	MT	BE	PT	RO	LU
Red	Red	Red	Red	Red	Red	Red	Red	Red	Light Green	Light Green	Light Green	Red	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Yellow	Light Green	Light Green

This Regulation should apply without prejudice to both Directive 2003/4/EC (16) and Regulation (EC) No 1367/2006 (17)																				(Recital 31)						
CZ	DK	DE	IE	ES	HU	NL	PL	SI	AT	BG	HR	LT	FI	EL	EE	LV	IT	CY	FR	SE	SK	MT	BE	PT	RO	LU
Light Green	Light Green	Light Green	Light Green	Red	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Light Green	Green	Light Green	Light Green	Light Green

- explicit support for the Commission's text
- no amendment / no comment
- a similar but less restrictive amendment was supported
- the amendment in question (or a similar one) was supported in spirit in a commentary
- the amendment in question (or a similar one) was proposed by this MS

⁶ In the amendments to the Commission proposal, added text parts are shown in **bold**. Deletions are indicated in **bold & strikethrough**.

As our analysis shows, the **Group of Ten** opposed the Commission's proposals on four of the five points selected as examples above (points 1 – 4), with **Denmark** and **Austria**, although belonging to the Group of Ten, partly deviating from the common position.

Denmark, deviating from the Group of Ten, advocated in favour of annual collection and transmission of data on the use of pesticides and also explicitly supported the proposal for electronically collecting and sending farm pesticide records. Denmark clarified its position, which differed from the Group of Ten, in a [second opinion](#) submitted subsequently, thereby supporting at least one key pillar of the SAIO Proposal. In other important areas, however, Denmark remained in line with the Group of Ten. Denmark also voted YES at the Special Agriculture Committee on 10 December 2021, thus accepting a Council mandate that allows the collection of pesticides via voluntary surveys (as opposed to relying on existing records), rejects the electronic collection and transmission of farm data and limits the frequency of the data on pesticide use to every five years.

Austria, on the other hand, surprisingly voted NO in the vote on 10 December 2021 – as did Germany. The motives for this, however, are not clearly discernible from the Council documents available to us. The only thing that is clear is that in its statement in March 2021, Austria – unlike the other members of the Group of Ten – did not support the proposal for a new Article 10a, which would require the Commission to initiate and finance costly pilot and feasibility studies.

Germany also surprisingly voted against the Council mandate. One day before the vote, German Agriculture Minister Cem Özdemir, who had been sworn in just the day before, [announced on Twitter](#) that Germany would vote against the current draft, stating that the fulfilment of the Farm to Fork strategy must be systematically verifiable and measurable. Transmission of data on the use of plant protection products no more than every five years was "not acceptable" for the Minister. Under Özdemir's predecessor, Julia Klöckner, Germany had consistently supported amendments that helped water down the Commission's proposal, as far as we can tell from the Council documents we have.

Spain also supported all the moves to water down the SAIO Proposal on pesticide-use data. In addition, Spain was the only representative of the Group of Ten to propose deleting the reference to the public right to access to environmental information in the recitals (Recital 31), without leaving any safeguards in the text to ensure public access to the data on pesticides use at a meaningful level of detail. Although no other Member State initially supported this idea, this important recital in the SAIO

Proposal was removed from the text in the Council's negotiating mandate.

Lithuania also stood out with particularly destructive amendments. Although not a member of the Group of Ten, Lithuania opposed annual submission of application data from the outset and made a push to delete the requirement to collect and transmit farmers' records in electronic form altogether (Article 8 (4)). This proposal was also included in the Council's negotiating mandate. Lithuania took an even clearer position than the Group of Ten with regard to mandatory use of existing farm records. Indeed, Lithuania requested the deletion of Article 8 (3) altogether, while at the same time accepting the proposal to repeal the current pesticide statistics regulation (Regulation (EC) No 1185/2009).

Bulgaria, Croatia, Finland and **Greece** were not members of the Group of Ten; however, they joined in the clear rejection of a requirement for annual transmission of application data.

Italy, Slovakia, Romania and **Luxembourg** expressed the fewest objections to the Commission proposal. **Italy** was even explicitly in favour of the introduction of annual data transmission. **Malta** explicitly welcomed Recital 31 on the protection of the rights of EU citizens to access environmental information.

Portugal held the presidency of the Council of the EU in the first part of 2021 and drew up the first compromise proposal. Portugal's opinion on the Commission proposal contained comparatively little criticism. At the end of June, Portugal handed over its presidency to Slovenia, a member of the Group of Ten.

The remaining Member States, **Estonia, Latvia, Cyprus, France, Sweden, Malta** and **Belgium**, only expressed moderate or ambiguous criticism of various aspects of the Commission proposal. To our knowledge, however, they all voted in favour of the final Council mandate on 10 December 2021.

A detailed compilation of the amendments and comments submitted by the 27 Member States on the five legislative provisions described above can be found in the Annex to this paper. For a more extensive assessment of the Council mandate with respect to pesticide data, see ClientEarth's analysis.

DISCUSSION

All Member States agree that the availability of precise and reliable pesticide data is essential for the design, implementation, monitoring, evaluation and review of climate, environmental and health policies, as well as for the Common Agricultural Policy (Recital 1). Yet the Member States eventually adopted a watered-down version of the Commission's proposal as a negotiating mandate that cannot achieve these goals.

Ten countries that submitted coordinated amendment proposals to the Council in the spring of 2021 are largely responsible. In effect, these amendments amount to systematic sabotage of the Commission proposal. We can only speculate as to whether this was actually the intention of the Member States, or whether good-faith legal concerns (ultimately unfounded, as explained by ClientEarth⁷) or worries about overstressing their resources were responsible for this restrictive approach. To justify their opposition to mandatory use of existing farm records, the Group of Ten argued, among other things, that statistics on pesticide use are “new statistics” as they relate to the European Green Deal. Therefore, pilot and feasibility studies would have to be conducted before significant changes in the quality and scope of the data could be introduced.

The need for data regarding pesticide use is far from new. It can be traced back to 1993, when the Fifth Environmental Action Programme defined the “reduction of chemical inputs” in agriculture as a target, specifically setting as an objective “the significant reduction in pesticides use per unit of land under production” by 2000 and foreseeing the “registration of sales and use of pesticides”.⁸ In 1998 Member States at the Cardiff Agricultural Council decided to reduce the environmental risks of pesticide use (water contamination, deterioration of biodiversity) and as part of that developed indicators to measure pesticide use.

In addition, keeping records of pesticide use has been mandatory for all professional users since 2011 under Regulation 1107/2009. The Group of Ten makes the outlandish point that since the initial main purpose of these records was not to produce statistics, they should not be used for that purpose⁹. The European Commission [responded](#) that the national statistical offices of the Member States already use the administrative registers established under these regulations as sources for agricultural statistics.

Many member states, in particular the representatives of the Group of Ten, also argued that collecting statistics on pesticides use on an annual basis from farmers' records, with collection and transmission taking place electronically, would increase the administrative burden for both farmers and the public administration¹⁰. However, farmers are already obliged to register and keep pesticide-use data in accordance with Regulation 1107/2009. Now the European Commission is proposing that reporting can happen through the Integrated Administrative and Control System (IACS) that farmers are already using.

We live in a digital age, where virtually everyone has a smartphone, and digitalisation is at the top of the EU's agenda,¹¹ including under the French Presidency¹². So from a farmer's perspective it seems obvious to collect pesticide-use data electronically.

From the public administration's point of view it seems equally obvious to use these records to compile statistics, rather than establishing costly and unreliable parallel systems of voluntary surveys. The SAIO Proposal also provides for financial support through possible grants towards the additional costs of implementing the methodology for aggregating administrative records. Resource scarcity and costs are not convincing arguments.

7 see ClientEarth's analysis; Appendix 1 and 2: page 8-14: <https://www.clientearth.org/latest/documents/time-to-fill-the-data-gap-on-the-use-of-pesticides/>

8 Available at: [„Towards sustainability“ the European Community Programme of policy and \ action in relation to the environment and sustainable development aka „T\ he Fifth EC Environmental Action Programme“ \(europa.eu\)](#)

9 In their comments on Article 8 (3), the member states CZ/ DK / DE/ IE/ HU/ NL/ PL/ SI/ ES / AT stated: "The purpose is not to produce statistics. So why this reference?" (see Annex below)

10 See below Member States' comments on the Annex, the new Article 10a, and Article 8 (3).

11 See https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age_en

12 See [en_programme-pfue-v1-2.pdf \(europa.eu\)](#)

Another highly problematic aspect of the Council's mandate is the deletion of references to the EU legislation implementing the Aarhus Convention. This is an attack on the right of the public to access environmental information, as guaranteed by the Aarhus Convention.¹³ This attempt is highly counterproductive and will only further dent public trust in the willingness of governments to protect us against pollutants such as pesticides. But again, the motive remains unclear. Spain argued that acknowledging citizens' rights to environmental information could have an impact on the "non-response rate". Considering that data on pesticides use is meant to come from mandatory records, the "response rate" is a matter of law enforcement.

Overall, the impression is that Member States found themselves in a "race to the bottom". Such a dynamic is fostered by a voting system that automatically interprets silence as approval¹⁴, and by decision-making processes in the Council that [remain opaque](#). In other words, it is possible Member States assumed no one would look or hold them accountable for pulling the rug from under the Farm to Fork Strategy.

In any case, one thing is certain: reducing pesticide use and risk is central to protecting biodiversity, water and soil, and is therefore a key objective of the European Green Deal. Measuring that requires data.

The proper functioning of other laws¹⁵ meant to protect people and the environment, such as water laws or laws on protected species and the sustainable use of pesticides, also requires data.¹⁶ Member States' opposition to making use of existing records raises the question of how they are managing to implement water laws and other EU environment laws without collecting these records.

PAN Europe and GLOBAL 2000 denounce refusal to recognise the urgent need to reduce the negative effects of pesticides. There is no need to set out the damage pesticides cause insects, invertebrates, birds and other mammals. Our biodiversity is dying, and the response of Member States is this: "Let's sit tight and assess before we bother to measure the actual use of pesticides". This is unacceptable.

We therefore call on the Council to ensure in the upcoming trilogue negotiations that the reduction in pesticide use is measured every year, that these data are collected from farmers' records and submitted in electronic form, and that they are then published at a meaningful level of detail in line with the public's existing right to receive information on emissions.

13 See ClientEarth's analysis; Appendix 2 – A reminder of the public's right to access records on pesticide use: page 12-14: <https://www.clientearth.org/latest/documents/time-to-fill-the-data-gap-on-the-use-of-pesticides/>

14 Internal documents obtained from Member States reveal that it was common practice for the Presidency to ask delegations to speak if they wished to amend or reject proposals, as "silence would imply agreement".

15 Under Directive 2000/60 Member States are required to "collect and maintain information on the type and magnitude of the significant anthropogenic pressures to which the surface water bodies in each river basin district are liable to be subject" (Annex II section 1.4 of Directive 2000/60). To that end, they need to collect data on the use of pesticides in the area connected to the river basin.

16 Member States have the obligation under the Sustainable Use Directive (Directive 2009/128, SUD) to take "appropriate risk management measures" in particular in protected areas defined under the Habitats and Bird directives (Article 12(b) of 2009/128). To that end, they need to collect data on the use of pesticides in the relevant areas.

ANNEX

Annex: Compilation of the respective amendments (2nd column) and comments (3rd column) of the Member States on the five problematic amendments described in the chapter "Results" that were ultimately included in the Council mandate¹⁷:

Council Position (as agreed on 10 December 2021)	First amendments from Member States (as submitted in March 2021)	Member States' comments (submitted in March 2021)
<p>(31) This Regulation should apply without prejudice to both Directive 2003/4/EC (16) and Regulation (EC) No 1367/2006 (17).</p>	<p>ES Proposed Amendment: (31) This Regulation should apply without prejudice to both Directive 2003/4/EC (16) and Regulation (EC) No 1367/2006 (17).</p>	<p>ES The mention of these two legal acts may have an impact in the no-response rate. We would prefer not to include this recital.</p> <p>MT We agree with this proposal</p>
<p>Article 8 Data sources and methods</p> <p>3. The statistics on plant protection products as referred to in Article 5(1), point (d)(iii) shall may be provided using the records kept and made available in accordance with Article 67(1) of Regulation (EC) No 1107/2009 and made available for statistical purposes as administrative records to the national statistical authorities on their request.</p>	<p>CZ/ DK/ DE/ IE/ HU/ NL/ PL/ SI; AT Proposed Amendment (submitted separately by MS who have not expressed a coordinated position): 3. The statistics on plant protection products as referred to in Article 5(1), point (d)(iii) shall may be provided using the records kept and made available in accordance with Article 67 of Regulation (EC) No 1107/2009.</p>	<p>CZ/ DK / DE/ IE/ HU/ NL/ PL/ SI Scrutiny reservation: The purpose of Regulation 1107/2009 is to ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products, while improving agricultural production". The purpose is not to produce statistics. So why this reference? Art. 67 of Reg. 1107/2009 does not prescribe a certain format for the records to be kept by users of PPP while the proposal for Art. 8(4) of SAIO foresees to oblige users to deliver electronic records. - If the Commission sees a necessity to use electronic records, would it not be a nearby way to change the specialised law? - The obligation to deliver electronic records would create a big burden for many users of PPP. Why should this be done for statistical purposes when it is not necessary in specialised law? It is not a purpose of European statistics to control the behaviour of farmers, but such an image would be created if the proposal would be realised. This would have negative consequences on the willingness of farmers to provide information and thus on the quality of results. Art. 67 of Reg. 1107/2009 creates an obligation to keep records for all users named there. What is the idea of the COM concerning the number of users (sample size) which would be obliged</p>

¹⁷ This overview is based on the Council's Spring 2021 compilation document [WK 3137/2021 REV 2](#) des Rates vom Frühjahr 2021.

		<p>to deliver electronic records following Art. 8(4) of SAIO?</p> <p>Besides these points, Art. 8(3), 8(4) mean an input harmonisation which is unusual for European Statistics. In addition, since Art. 8(3) stipulates (by reference to Article 5(1), point (d)(iii)) that both detailed topics of the topic „PPP“, thus including the statistics on PPP placed on the market, shall be provided using the records kept and made available in accordance with Article 67 of Regulation (EC) No 1107/2009. This would mean a big complication of the latter statistics which is right now created from data collected by companies which produce or import PPP.</p> <p>AT While we welcome attempts to give NSI's access to existing (administrative) data, the current wording would leave us on unstable legal ground. Our specific concerns are:</p> <ol style="list-style-type: none"> 1. Article 8(3) refers to Article 67 of Reg. 1107/2009. The purpose of Regulation 1107/2009 is „to ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products, while improving agricultural production“. The purpose is not to produce statistics. So why this reference? 2. Article 67 of Reg. 1107/2009 does not prescribe a certain format for the records to be kept by users of PPP while the proposal for Article 8(4) of SAIO foresees to oblige users to deliver electronic records. <ul style="list-style-type: none"> • If the Commission sees a necessity to use electronic records, would it not be a nearby way to change the specialised law? • The obligation to deliver electronic records would create a big burden for many users of PPP. Why should this be done for statistical purposes when it is not necessary in specialised law? • It is not a purpose of European statistics to control the behaviour of farmers, but such an image would be created if the proposal would be realised. 3. Article 67 of Reg. 1107/2009 creates an obligation to keep records for all users named there. What is the idea of the COM concerning the number of users (sample size) which would be obliged to deliver electronic records following Article 8(4) of SAIO? 4. Besides these points, the draft Article 8(3), 8(4) mean an input harmonisation which is unusual for European Statistics. In addition, since Article 8(3) stipulates (by reference to Article 5(1), point (d)(iii)) that both detailed topics of the topic „PPP“, thus including the statistics on PPP placed on the market, shall be provided using the records kept and made available in accordance with Article 67 of Regulation (EC) No 1107/2009. This would mean a big complication of the latter statistics which is right now created from data collected by companies which produce or import PPP.
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	<p>ES Proposed Amendment:</p> <p>3. The statistics on plant protection products as referred to in Article 5(1), point (d)(iii) shall might be provided using the records kept and made available in accordance with Article 67 of Regulation (EC) No 1107/2009.</p> <p>LT Proposed Amendment:</p> <p>3. The statistics on plant protection products as referred to in Article 5(1), point (d)(iii) shall be provided using the records kept and made available in accordance with Article 67 of Regulation (EC) No 1107/2009.</p>	<p>ES The purpose of Regulation 1107/2009 is to ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products, while improving agricultural production". The purpose is not to produce statistics. So why this reference? Art. 67 of Reg. 1107/2009 does not prescribe a certain format for the records to be kept by users of PPP while the proposal for Art. 8(4) of SAIO foresees to oblige users to deliver electronic records.</p> <p>LT There is no obligation for Member States and their professional users of plant protection products to keep records in electronic format in the existing EU legal acts. Therefore, professional users may keep records in paper format and collection of these records for statistical needs annually will increase burden on NSIs and will require significant additional funds for the Member States. We are of the opinion, that the issue of annual delivery of data on use of plant protection products cannot be discussed in the frame of the SAIO Regulation until the revision of Regulation (EC) No 1107/2009 or Directive 2009/128/EC is done and the obligation for professional users to keep electronic records appears in these or in other EU legal acts. Our main idea is that first of all NSIs should be ensured that data appears in administrative data sources and only after that they could use these data. Therefore, we think that recitals, articles and paragraphs related to this issue should be discussed and reworded after these discussions.</p> <p>FR Article 67 refers to the registration of pesticide uses and the availability of such registrations to the competent authorities, but not their transmission. With a view to an annual collection of these data and in particular the use of pesticides, should transmission not be made compulsory? This would imply adding legal provisions in the legislative act or in the implementing act.</p> <p>LV Article 67 of Regulation (EC) No 1107/2009 refers to the registration of pesticide uses and the availability of such registrations to the competent authorities, but not their transmission, therefore this provision is vague. These data are administrative data and so to ensure that these records can be used for statistical purposes to fulfil requirements of this proposal, specific changes must be made in the initial legislation.</p> <p>SE The wording of the collection method regarding plant protection products is a late addition that was sent to MS in February. It</p>
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		has therefore not been discussed in DGAS and ESSC. The consequences for farmers and the national administration need further analyses. It should be noted that Regulation (EC) No 1107/2009 is a policy regulation, not a regulation within ESS. At the moment it is unclear what changes might be needed in regulation (EC) No 1107/2009 and/or in national applications of the regulation in order to use the administrative records for the statistical purpose set out in this regulation. It is foreseen that the administrative burden and costs will increase.
<p>4. For that purpose, the Member States shall request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area and the crop where the plant protection product was used in accordance with this Regulation.</p>	<p>DK Proposed Amendment:</p> <p>4. For that purpose, the Member States shall request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area size and the crop where the plant protection product was used in accordance with this Regulation.</p> <p>LT Proposed Amendment:</p> <p>4. For that purpose, the Member States shall request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area and the crop where the plant protection product was used in accordance with this Regulation.</p> <p>AT Proposed Amendment:</p> <p>4. For that purpose, the Member States shall may request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area and the crop where the plant protection product was used in accordance with this Regulation.</p> <p>FI Proposed Amendment:</p> <p>4. For that purpose, the Member States shall request from professional users of plant protection products, in electronic format, records covering at least the name of the plant protection product, the dose of application, the main area and the crop where the plant protection product was used in accordance with this Regulation.</p>	<p>LT The same comment as in paragraph 3 of this article.</p> <p>AT See point 3 above</p> <p>FI The information may not be available in electronic form. It can be on farms in different planning software or on paper. In addition, Member States should be able to choose the method of data collection as long as the output is harmonized (so called input harmonization should be avoided).</p>
<p>new Article 10a Feasibility and pilot studies</p> <p>1. In accordance with the objectives of this Regulation and where new regular data requirements or the need for significant improvement of regular data requirements are identified, the Commission (Eurostat) shall launch feasibility studies, in order to:</p> <p>a) evaluate the availability of appropriate new data sources and production techniques in Member States,</p>	<p>CZ/ DK / DE/ IE/ ES/ HU/ NL/ PL/ SI</p> <p>Paragraph proposal:</p> <p>1) In accordance with the objectives of this Regulation and where the new data requirements or improvement needs are identified, the Commission (Eurostat) shall, where necessary, launch feasibility and pilot studies, to be carried out on a voluntary basis by the Member States, in order to:</p> <p>a) test the feasibility of new data collections, including the availability of appropriate data</p>	<p>CZ/ DK / DE/ IE/ ES/ HU/ NL/ PL/ SI</p> <p>We recognise the need for future developments with regard to the production of high quality and comparable European statistics in order to support the Union policies, such as the European Green Deal with the underlying farm to fork and biodiversity strategies. However, we have concerns regarding the implications of introducing future new data collections pursuant to article 5(8) point (e) and article 6. These concerns are e.g. linked to developing and producing new statistics underpinning the European Green Deal with</p>

<p>b) assess the feasibility of new regular data requirements and production techniques in data collection,</p> <p>c) estimate the financial impact and burden on respondents.</p> <p>2. In accordance with the objectives of this Regulation and where ad hoc data requirements are identified, the Commission (Eurostat) shall launch feasibility studies, in order to evaluate the feasibility of ad hoc data requirements and to estimate their financial impact and burden on respondents.</p> <p>3. Within each particular feasibility study, the Commission (Eurostat) shall assess whether the new statistics can be produced by using the information available in the relevant administrative sources at Union level in order to minimise additional burdens on national statistical institutes and other national authorities and enhance the use of existing data in accordance with Article 17a of Regulation (EC) No 223/2009.</p> <p>4. Within a particular feasibility study on new regular and ad hoc data requirements and production techniques the Commission (Eurostat) may, where necessary, launch pilot studies, to be carried out on a voluntary basis by the Member States, in order to test the implementation of new requirements in different organisational environments by conducting that implementation on a smaller scale.</p> <p>5. The results of the feasibility and pilot studies accompanied, where appropriate, by proposals for introducing new regular and ad hoc data requirements referred to in paragraph 1 and 2 shall be evaluated by the Commission (Eurostat) in cooperation with Member States and the main users of the data sets. Following the evaluation, the Commission shall prepare a report on the findings of the feasibility and pilot studies. Those reports shall be made public.</p> <p>6. While preparing a delegated act referred to Article 5(8), Article 6(1) and Article 7(1a), the Commission shall duly take into account the results of the feasibility and pilot studies, in particular on the feasibility of implementation of new or ad hoc data requirements in all Member States.</p>	<p>sources and production techniques, statistical quality and comparability and the costs and burdens involved,</p> <p>b) develop and implement new detailed topics for the collection of data in accordance with Article 5 (9) point (d).</p> <p>c) develop and implement ad hoc data requirements in accordance with Article 6</p> <p>2) Before launching each particular feasibility and pilot study, the Commission (Eurostat) shall assess whether the new statistics can be based on the information available in the relevant administrative sources at Union level in order to harmonise the concepts used, where possible, and in order to minimise additional burdens on national statistical institutes and other national authorities and enhance the use of existing data in accordance with Article 17a of Regulation (EC) No 223/2009.</p> <p>3) The Commission (Eurostat) shall provide to the Member States that carry out feasibility or pilot studies appropriate financing in accordance with Article 12.</p> <p>4) The results of the feasibility and pilot studies referred to in paragraph 1 shall be evaluated by the Commission (Eurostat) in cooperation with Member States and the main users of the data sets.</p> <p>FI New Article proposal:</p> <p>1. Where the Commission (Eurostat) identifies a need for significant new data requirements or improvements to the data sets covered by this Regulation, it may launch pilot studies to be carried out by the Member States on a voluntary basis before any new data collection.</p> <p>2. Such pilot studies shall be carried out in order to assess the relevance and feasibility of obtaining data. The results of those studies shall be evaluated by the Commission (Eurostat) in cooperation with Member States and the main stakeholders. The evaluation of the results shall take into account the benefits and the additional costs and burden of having the improvements.</p> <p>3. Following the evaluation referred to in paragraph 2, the Commission shall prepare in cooperation with the Member States a report on the findings of the studies referred to in paragraph 1. That report shall be made public.</p> <p>4. The Commission shall report by [tbd] and every [tbd] years thereafter on the overall progress made regarding the pilot studies referred to in paragraph 1. Those reports shall be made public. The Commission shall, if appropriate and taking into account the evaluation of the results referred to in paragraph 2, accompany those reports by proposals for introducing new data requirements.</p>	<p>the underlying farm to fork and biodiversity strategies,</p> <p>In addition, the future development, production and dissemination of new data collections intended under Article 5(8) point (e) and Article 6 might impose additional production costs on Member States authorities and response burden on the agricultural sector.</p> <p>In addition, the availability of reliable data sources and production techniques, for collecting and producing data on the abovementioned strategies should be taken into account. Therefore, we propose that pilot studies should be carried out, exploring the feasibility of producing new statistics.</p> <p>Finally, we are of the opinion that introducing pilot studies is entirely in accordance with the Annex II on European statistics of the Single Market programme. See under chapter sustainable development, natural resources and environment. It includes the following.</p> <p>„Where the development of new statistics and indicators for the topics mentioned in the intend above is necessary, the data availability and the feasibility for producing statistics and indicators shall be further examined within the European Statistical System“.</p> <p>(Council document 14258/20 dated 18 December 2020)</p> <p>FI Proposal to add a new Article 11a. on Pilot studies along the lines of the EBS and the IESS regulations.</p>
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<p>ANNEX</p> <p>Use of plant protection products in agriculture</p> <p>Annually Every 5 years</p>	<p>CZ/ DE/ IE/ ES/ HU/ NL/ PL/ SI; BG EL HR LT AT FI</p> <p>Proposed Amendment (submitted separately by MS who have not expressed a coordinated position): Annually Every five years</p>	<p>CZ/ DE/ IE/ ES/ HU/ NL/ PL/ SI</p> <p>This is a huge burden for Member States, and we take a general reservation on plant protection products, and we propose the frequency to be extended.</p> <p>IT Annually</p> <p>MT The annual transmission frequency will impose an additional burden on NSO and the respondents.</p>
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