

Adopt the European Chemicals Strategy without compromises!

New publication criticizes attack on EU Commission draft

In October 2020, the EU Commission published a draft Chemicals Strategy for Sustainability (CSS), which aspires to achieving a toxic-free environment and better to protect the "environment and human health, in particular that of vulnerable groups." The CSS proposed also an export ban on chemicals banned in the EU and improved protection against endocrine disrupting compounds, but it has not yet been incorporated into EU legislation.

Instead, attacks are mounting on the draft CSS, for example, because it included a proposal to strengthen the "hazard-based" approach, i.e. judging substances based on their intrinsic properties, without first needing to demonstrate high levels of exposure for a ban. A hazard-based approach is already part of the EU Pesticide Authorization Regulation (EC 1107/2009),¹ but it has only been partially implemented.² Nonetheless the CSS has been attacked by some incumbent authorities.

One of the attacks on CSS came from the German Federal Institute for Risk Assessment (BfR).³ The BfR claimed that the CSS is not science-based and that the prevailing regulatory regime is already optimal. The BfR team claimed that the "scientific discussion process cannot work on the basis of claims alone" and accused the EU Commission of promoting unjustified beliefs and anxieties, which would "foster the erosion of the authorities' scientific credibility". In doing so, the BfR is studiously ignoring its own contribution to the erosion of the scientific credibility of the authorities in the form of the dissemination of false arguments, which were all too transparent.⁴ In that context, it is important to remember that criminal charges of scientific fraud were filed against the BfR in the course of the re-approval process for glyphosate in March 2016.⁵

In an analysis published in January 2023, Prof. Erik Millstone (University of Sussex, UK) and Dr. Peter Clausing (PAN Germany) subjected the BfR team's arguments to a critical analysis.⁶ Their analysis concludes that the BfR purports to invoke a science-based approach while its own arguments are rooted in unacknowledged value judgements that favour industrial interests over the protection of public and environmental health. Millstone & Clausing showed that the BfR's authors presented value-based judgments as if they were objective scientific "truths" rather than acknowledging their evaluative character. This kind of obfuscation by the BfR is not new. For example, in 2016, in the course of its glyphosate assessment, the BfR failed to acknowledge its value judgements and confused risks with

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1107&from=en>

² <https://pan-germany.org/download/chronically-underrated-a-review-of-the-european-carcinogenic-hazard-assessment-of-10-pesticides/>

³ <https://doi.org/10.1007/s00204-021-03091-3>

⁴ https://archiv.pan-germany.org/pan-germany.org_180405/www.pan-germany.org/download/The_Carcinogenic_Hazard_of_Glyphosate.pdf

⁵ <https://www.global2000.at/news/glyphosat-zulassungsbeh%C3%B6rde-informierte-falsch>

⁶ <https://doi.org/10.1017/err.2022.41>

hazards. Moreover, the BfR did not accept the invitation to engage in the "factual, science-based discussion" of the sort that it had itself called for on several occasions.⁷

The analysis by Millstone & Clausning also critically examines the claims made by BfR that everything is already optimal in the regulatory assessments of chemicals regarding endocrine disruption, reproductive toxicity and the toxicity of chemical mixtures. For example, EU statistics on the incidence of organ malformations in newborns demonstrates that the BfR authors' claim that the incidence of such cases over the past 40 years has remained more or less constant is false.⁸ In fact, such malformations have become increasingly frequent. The BfR remains mute concerning the question of whether a better chemical or pesticide management would have reduced those numbers over the course of four decades. If it is true that "... institutions, like the German Federal Institute for Risk Assessment (BfR), have a decade-long record of both practically applying and further developing the principles and methods of the science of regulatory risk assessment for consumer health protection in the EU",⁹ then one should expect to have seen the incidence decrease rather than increase.

The attack by the BfR is not the only one against the CSS. The chemical industry is also mobilizing, as a webinar held a few weeks ago entitled "Two Years Later: How Has the Chemicals Strategy for Sustainability Changed REACH and CLP Regulations?" indicates.¹⁰ Therefore, there are good reasons to keep a careful watch on further developments and to work to ensure that the CSS draft is not watered down, on the one hand, and that it is incorporated into EU law and fully implemented as soon as possible.

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⁷ https://archiv.pan-germany.org/pan-germany.org_180405/www.pan-germany.org/download/The_Carcinogenic_Hazard_of_Glyphosate.pdf

⁸ https://eu-rd-platform.jrc.ec.europa.eu/eurocat/eurocat-data/prevalence_en, summarized in Table 1 of <https://doi.org/10.1017/err.2022.41>

⁹ <https://doi.org/10.1007/s00204-021-03091-3>

¹⁰ <https://www.reachblog.com/2022/12/register-now-webinar-two-years-later-how-has-the-chemicals-strategy-for-sustainability-changed-reach-and-clp-regulations/>