Questions to: A. de Vries, a.devries@natuurenmilieu.nl

18 September 2022, Utrecht

1. Response by Dutch environmental and health NGO's to the SUR Proposal

On 22 June 2022, the European Commission published its proposal for a Regulation on Sustainable Use of Plant Protection Products (SUR) and repeal the current EU Directive on Sustainable Use of Pesticides. In this letter we would like to use the opportunity to respond to this proposal on behalf of EIS Kenniscentrum Insecten en andere ongewervelden, FLORON, LandschappenNL, Natuurmonumenten, Natuur & Milieu, Natuur en Milieufederatie Zuid-Holland, Parkinsonvereniging (representing 63.500 Parkinson patients), Ravon, SoortenNL, Vlinderstichting & Vogelbescherming Nederland. These Dutch organizations together have more than 1,2 million members and sponsors.

2. Urgent need for reduction in pesticide use

The proposal for a Regulation on Sustainable Use of Plant Protection Products is a necessary and welcome instrument to counter the harmful effects of chemical pesticides on human health and the environment.[1] Although the EU has aimed, for decades, to reduce and limit the environmental and health impact of pesticides, the current Directive on Sustainable Use of Pesticides has not achieved its goals and overall pesticide use in the EU has not been reduced.[2] We therefore welcome the SUR and in particular the 2030 reduction targets therein.

3. The name of the SUR should be changed

While the Directive on Sustainable Use of Pesticides uses the term 'pesticides', the SUR refers to 'plant protection products'. Since the SUR deals with the reduction of *chemical* pesticides, we feel the term 'plant protection product' is misleading. The term should be pesticides. Furthermore the Regulation is not only on sustainable use, but also on reduction. Thus we ask the co-legislators of the EU to **change the SUR's name to 'Regulation on the Sustainable Use and Reduction of Pesticides'.**

4. 2030 reduction goal: interim and future goals

We welcome the reduction target of 50% of the use and risk of pesticides by 2030. A transition to a less pesticide dependent agriculture is possible and necessary. The current state of the environment does not allow us to wait any longer.[3] We also welcome the fact that the national goals in Article 5 are dependent on the weighted past intensity of use and risk in a Member State. This ensures that the reduction burden is more fairly shared between Member States and the biggest polluters bear the biggest responsibility.

---

[1] Such as the worrying decline in insects: www.stowa.nl/sites/default/files/assets/PUBLICATIES/Publicaties%202021/STOWA%202021-39%20insectenonderzoek.pdf

[2] https://www.foodwatch.org/fileadmin/-INT/pesticides/2022-06-30_Pesticides_Report_foodwatch.pdf

[3] Hier verwijzing naar insectensterfte.

In order to guarantee that the reduction goals are reached, **an interim-target should be adopted**. For example, **a reduction of 20% in 2028**. This helps Member States to stay on track with the required transition. This also provides for a smoother transition for farmers.

Although we are positive about the ambitions for the year 2030, the SUR is remarkably silent on the ambitions thereafter. The transition to a sustainable and resilient food production system should not end in 2030. Therefore we urgently ask the co-legislators of the EU to introduce reduction targets beyond 2030. **We propose a 60% reduction target in 2035, 70% in 2040, 80% in 2045 en 90% in 2050.**

A point of great concern is that the current proposal provides for a combined reduction target for category 1 substances (low risk) and category 2 (conventional pesticides). This means that a Member State may comply with the reduction target by reducing the use of low risk substances by 80% whilst aiming for a reduction target below 50% for conventional chemical substances. This is a very real risk, because the harmonized risk indicator (HRI) as defined in Annex 1 places more weight on use in kilograms than toxicity (more about the HRI under 7). Therefore it is essential to also **adopt a separate reduction target of 50% for category 2 substances.**

We applaud that there is a separate reduction target for category 3 substances (candidates for substitution). However, this reduction target of 50% in 2030 is not nearly ambitious enough. These candidates for substitution are listed – some already since 2011 - because they should be replaced. They are extremely toxic, with high risks for the environment and human health. Thus **we call for a complete ban on all candidates for substitution by 2030.**

5. Reintroduction of the precautionary principle

Article 2(3) of the Directive on Sustainable Use of Pesticides clarifies that it does not prevent Member States '*from applying the precautionary principle in restricting or prohibiting the use of pesticides in specific circumstances or areas.*' However, a similar provision is lacking in the SUR. This is worrying, since Member States are already reluctant to limit the use of pesticides out of fear for industry claims and court cases. If there are concerns about the safety of pesticides Member States should be allowed to take precautionary measures even if a pesticide is approved on the EU level.

Therefore we urge the EU co-legislators to reintroduce a provision on the precautionary principle, which explicitly provides for national precautionary measures also in relation to EU-approved substances. For example: *'The provisions of this Regulation shall not prevent Member States from applying the precautionary principle in restricting or prohibiting the use of pesticides or substances that are allowed on the market under Regulation 1107/2009.'*

6. Definition of IPM

From the preamble (point 31) it follows that **pesticides should only be used as a last resort**. This idea is also at the heart of integrated pest management (IPM). However, the definition of

IPM in the SUR does not take sufficient account of this. Rather, it states that pesticide use should 'be limited to levels that are economically and ecologically justified'. This places too much importance on financial considerations, thereby severely weakening the definition of IPM. An additional sentence should be added: *"When necessary, cultural practices and physical pest treatment is favoured, before using biocontrol and, as a last resort, chemical pesticides can be used."* This will also help in the fight against the increase in pesticide-resistant diseases, which pose a threat also to humans.[4]

Moreover, considering that the Directive on sustainable use has not led to the desired transition amongst farmers, **the SUR should more clearly define which IPM practices are mandatory for farmers**. At the very least it should be made clear which practices go contrary to IPM and should therefore no longer be employed by farmers (see next point).

7. Ban on harmful agricultural practices

The SUR should clarify that certain practices that go contrary to IPM can no longer be used. Agricultural practices should be banned if they go against the very idea that chemical pesticides are used only as a last resort. This entails at least the following practices:

a) Chemically treated seeds and chemical pesticide granules used when sowing;
b) Use of soil fumigant and other broad-spectrum soil treatments;
c) Calendar-based pesticide spraying;
d) Use of chemical pesticides on grassland;
e) Use of pesticide-resistant crops (GMOs).

8. Improvement of Harmonised Risk Indicator

Whether the 2030 reduction targets are met, will be measured according to the calculation method as described in Annex 1 of the SUR. This Harmonised Risk Indicator (HRI) gives too much weight to use in kilogram and too little to toxicity. The toxicity of low risk (category 1) substances, such as organic pesticides, is weighted as 1 (meaning: use in kilogram equals risk). Regular chemical substances (category 2) are deemed 8 times more risky in comparison. The, highly toxic, candidates for substitution are deemed 16 times more risky than the low risk category 1 substances. This does not at all align with reality, where even regular category 2 chemical substances can be extremely toxic in only small amounts.

In a report by Global 2000 it is clearly demonstrated how the proposed HRI largely underestimates the risk of more toxic substances.[5] If the HRI is applied to sulfur and the highly toxic synthetic substance Penconazole – both category 2 substances – sulfur has a 200 times larger calculated risk than Penconazole when used under similar conditions against mildew in viticulture. If the HRI is applied to the low risk, organic substance Potassium

[4] Such as the resistance to Azoles by Aspergillus fumigatus (www.rivm.nl/bibliotheek/rapporten/2018-0131.pdf).
[5] https://www.organicseurope.bio/content/uploads/2022/06/GLOBAL2000_HRI-1_final_28022022.pdf?dd

Hydrogen Carbonate (baking powder), the calculated risk is more than 8 times that of difenoconazole, which is a candidate for substitution (!).[6]

In sum, the unrealistically low weight factors for toxicity of chemical substances in the SUR, which has nothing to do with the actual toxicity of substances, means that the 2030 target could be reached by reducing the use of low risk substances rather than the use of more harmful chemical substances. This would have the avers effect of promoting the use of more toxic substances over these low risk substances. Therefore, w**e urgently call for a revision of the HRI in Annex 1 of the SUR so that fair weight is given to toxicity** when calculating the risk. Information on how to improve the HRI by Pesticide Action Network (PAN) can be found here.

9. Protection of sensitive areas

We welcome the fact that the ban on pesticide use in sensitive areas, that can also be found in Articles 11(c) and 12 of the directive, is maintained and strengthened. Such a ban is needed to protect Europe's Natura 2000 area's, water courses, drinking water and the public. We feel that **the possibility for derogation should be limited to nature conservation purposes or protection of public health only**. Other professional users in sensitive areas should not be allowed to derogate, but should be fairly compensated for a potential crop loss stemming from the fact that the use of chemical pesticides is prohibited. The SUR should provide for a fair compensation mechanism in such cases, rather than providing for an exception to the rule.

Although we are happy that buffer zones to sensitive areas are introduced, 3 meters is not nearly enough. Pesticides are known to drift over large areas and much is still unknown about the risks of constant exposure to (cocktails of) pesticides by local residents in agricultural areas. For example, in a circle of 250 meters around flower bulb fields, the concentration of pesticides in the air is 10 times higher and in house dust 5 times higher than concentrations found at residences further away.[7] This is all the more worrying, because the risk of developing neurological diseases such as Parkinson is not sufficiently assessed during the approval of pesticides.[8] Moreover, pesticides have been found deep in nature conservation areas.[9] Therefore we propose **buffer zones around urban areas and local residents of at least 150 meters, and more in case of uncertain health risks. Around Nature 2000 areas we propose a buffer zone of at least 50 meters, but bigger if this is required to prevent a significant effect on the Nature 2000 area.** This is for example the case if the hydrological system of the nature side is connected to the farmland. A reference to Article 6 of the Habitat Directive should be included in Article 18(1) and (2) of the SUR in order to clarify that the requirements contained in the Habitat Directive are not affected by the SUR.

[6] https://www.organicseurope.bio/content/uploads/2022/06/GLOBAL2000_HRI-1_final_28022022.pdf?dd
[7] https://www.rivm.nl/sites/default/files/2019-04/Onderzoeksrapport%20OBO.pdf
[8] https://open.overheid.nl/repository/ronl-9a58be0f-2fc0-40e6-a23f-73c5e3a5b335/1/pdf/21237408.Bijlage%201.pdf
[9] https://www.metenweten.nl/files/2022-Onderzoek-verspreiding-bestrijdingsmiddelen.pdf

10. Ban on non-professional use

In order to truly stop the use of chemical pesticides in urban areas – as aimed for by Article 18 of the proposal - there should be a ban on the use of pesticides by non-professionals. Whereas farmers are trained to use pesticides, have to apply IPM and have an obligation to register their pesticide use, no such obligations exist for private individuals. It cannot be justified that, without proper training or knowledge, non-professionals can still use, often highly toxic, pesticides. This use cannot be monitored and often takes place close to other citizens. Therefore **we call on the co-legislators to introduce a ban on the private use of pesticides.**

11. Protection of water and aquatic life

Article 19 of the SUR contains extra measures to protect water quality and aquatic life. We welcome extra measures in this field, but feel that the current Article 19 does not suffice to protect water quality. First of all, similar to the Directive in Article 11(c), **the SUR should make very clear that the use and storage of pesticides in safeguard zones for surface and groundwater used for the extraction of drinking water is prohibited.**

Moreover, the proposed buffer zone of 3 meter is far too small to effectively combat the runoff of pesticides from treated areas. According to EFSA, in order to reduce runoff by 80%, a buffer zone of 20 meters to surface water is required.[10] Considering that European waters are highly contaminated by pesticides[11], a **minimum buffer zone of 20 meters should be mandatory.**

Finally, according to Article 11(d) of the Directive on sustainable use, Member States should reduce as much as possible or eliminate the use of pesticides on or along roads, railway lines, very permeable surfaces or other infrastructure close to surface water or groundwater or on sealed surfaces with a high risk of run-off into surface water or sewage systems. In the SUR this obligation is lacking. This cannot be justified, looking at the current poor state of many European Waters.[12] Therefore, we call for the (re)introduction of the **ban on the use of pesticides on or along roads, railway lines, very permeable surfaces or other infrastructure close to surface water or groundwater or on sealed surfaces with a high risk of run-off into surface water or sewage systems.**

12. Conclusion

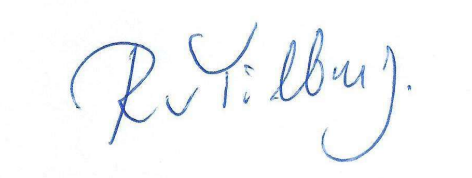
We welcome the SUR and the reduction target of 50% reduction of use and risk by 2030. However, we feel the SUR needs improvement on the following points:

1. We call for a change in the SUR's name to 'Regulation on the Sustainable Use and Reduction of Pesticides'.
2. We call for a reduction target of 20% in 2028 and reduction targets beyond 2030.
3. We call for a separate reduction target of 50% for category 2 substances.
4. We call for a complete ban on the candidates for substitution by 2030.

[10] https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2013.3290, p. 70.
[11] https://www.eea.europa.eu/ims/pesticides-in-rivers-lakes-and.
[12] https://www.eea.europa.eu/ims/pesticides-in-rivers-lakes-and.

5. We urge the EU co-legislators to reintroduce the precautionary principle into the SUR.
6. The definition of IPM should clarify that pesticides should only be used as a last resort.
7. Certain practices that go contrary to IPM, such as seed coating and calendar spraying, should be banned completely.
8. We urgently call for a revision of the risk calculation method in Annex 1 of the SUR so that fair weight is given to toxicity.
9. We welcome the ban on pesticides in sensitive areas, and urge the co-legislator to only allow for exceptions for reasons of nature conservation or public health.
10. We call for adequate buffer zones to sensitive areas and surface water. These buffer zones should be far bigger than the currently proposed 3 meters.
11. We call for a complete ban on the use of chemical pesticides by non-professionals.
12. The SUR should make clearer that the use and storage of pesticides in safeguard zones for surface and groundwater used for the extraction of drinking water is prohibited.
13. We call for a ban on the use of pesticides on or along roads, railway lines, very permeable surfaces or other surfaces with a high risk of run-off into surface water.

Kind regards,



Rob van Tilburg
Program Director at Natuur & Milieu

Also on behalf of EIS Kenniscentrum Insecten en andere ongewervelden, FLORON, LandschappenNL, Natuurmonumenten, Natuur en Milieufederatie Zuid-Holland, Parkinsonvereniging, Ravon, SoortenNL, Vlinderstichting & Vogelbescherming Nederland