

THE OFFICE FOR HUMAN AND MINORITY RIGHTS
Department for the improvement and protection of human rights
B e l g r a d e, 8.12.2016

Response to the Questionnaire of the Special Rapporteur on the right to food

1. Please list any laws (both domestic and international) that are being enforced by your Government to regulate the use of pesticides.

In addition to the key international treaties in the field of the protection of human rights, in 2009 the Republic of Serbia also ratified:

- The Stockholm Convention ("Official Gazette of the Republic of Serbia - International treaties", no. 42/09)
- the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade ("Official Gazette of the RS - International treaties" no. 38/09)

The Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", no. 98/2006) particularly imposes that every person has the right to healthy environment and to timely and complete communication on its condition. Each entity, particularly the Republic of Serbia and the autonomous province, bears the responsibility for environmental protection. The Republic of Serbia has regulated the use of pesticides also by the adoption of a number of laws and by-laws:

- The Law on the protection of plants("OG FRY", no. 24/98, 26/98, 101/05);
- The Law on Plant Protection Products ("OFFICIAL Gazette OF THE RS", no. 41/2009);
- The Law on Chemicals ("Official Gazette of the RS", no. 36/09, 88/10, 92/11, 93/12 and 25/15).
- The Law on biocidal products ("Official Gazette of the RS", no. 36/09,36/09, 88/10, 92/11 and 25/15).
 - The Rulebook on the export and import of certain hazardous chemicals ("Official Gazette of the RS", no. 89/10, 15/13 and 114/14);
 - The Rulebook on the limitations of and prohibition of production, placing on the market and using chemicals ("Official Gazette of the RS", no. 90/13, 25/15 and 2/16)
 - The Rulebook on classification, packaging, labelling and advertising of the chemical and certain article in accordance with Globally Harmonised System for Classification and Labelling of the UN ("Official Gazette of the RS", no. 105/13)

- The Rulebook on the List of classified substances (“Official Gazette of the RS“, no. 48/14).
- The Rulebook on the contents of the safety data sheet (“Official Gazette of the RS“, no. 100/11).

2. The use of pesticides has had detrimental effects not only on the environment but also on human health, both from direct and indirect exposure. What are the successful and unsuccessful measures taken by your Government to prohibit, ban, restrict and phase out pesticides that are harmful to human health?

The majority of POPs pesticides were prohibited more than 20 years ago in the Republic of Serbia, and in the Table below you can find a preview of the schedule of the prohibition of production, placing on the market and using these pesticides.

Table: Period in which POPs pesticides were allowed for circulation and application in Serbia

Active substance (general name)	Period of circulation and application (year)	Year of prohibition, ban, restriction or phase out of the circulation (year)
aldrin	1957-1972	06.09.1976
dieldrin	1957-1972	1972
endrin	1957-1989	29.05.1989
DDT	1944-1989	28.12.1989
HCB	1962-1980	11.07.1980
heptachlor	1956-1973	1973
chlordan	1955-1971	1971
toxaphene (camphechlor)	1957-1982	27.04.1989
lindane	1962-2007 In the period 2001-2007 with a limited application as a wood preservative	31.12.2007
endosulfan	1970-2007	31.12.2007

Source: Administration for the protection of plants, NIP draft (2015)

According to the Law on Biocide Products, a biocide product being placed on the market shall contain active substance which has been approved in the EU or is in the process of assessment in the EU. Also, in case of justified suspicions that a biocide product makes an unacceptable risk to

human and animal health and environment, the law provides for the basis to prescribe prohibitions or limitations regarding placing on the market, i.e. using the biocide product, in accordance with regulations regulating chemicals.

With a view of prohibition, limitation or termination of the use of specific pesticides, not only harmful for human health but also having adverse effects on environment, a List of active substances has been adopted which has been approved for use in the Republic of Serbia, and which is harmonized with the List of approved active substances on the EU level. In accordance with the aforementioned, products for the protection of plants containing active substances which are not in the List have been repealed and, in some cases, insofar as a need arose, the application of certain products for the protection of plants has been harmonized with the information from the List.

The Law on Chemicals and the Rulebook on the export and import of certain hazardous chemicals regulate the implementation of provisions of the Rotterdam Convention and national provisions relating to the prohibition of the import and export of POPs pesticides in the Republic of Serbia (in compliance with the provisions of the EU Regulation 649/2012). The procedure of prior notification is implemented for the import and export of hazardous pesticides for which there is a limitation to production, placing on the market and usage, as well as for specific mixtures and products containing them, i.e. the procedure of giving an assent on the basis of prior notification (PIC procedure).

The Republic of Serbia has established a legal and institutional framework for the operation of the system of safe management of persistent organic pollutants (POPs), including prohibited POPs pesticides. The current system for the management of POPs pesticides is in compliance with the Regulation EC no. 850/2004. The Government of the Republic of Serbia also adopted the National implementation plan for the implementation of the Stockholm Convention on persistent organic pollutants (NIP) in the framework of which a Preliminary inventory of POPs pesticides has been created. Moreover, the process of updating NIP was finished in 2015 and implied the update of POPs pesticides Inventory and the establishment of the Action plan for the elimination of POPs pesticides within which activities to safely dispose of the rest of the stock of prohibited POPs pesticides have been planned (in total: 1.35 tons of lindane). The draft version of the updated NIP was sent to the procedure for obtaining opinion and it is expected that the Government of the Republic of Serbia will soon adopt it.

- 3. Some particularly exposed or vulnerable groups such as children, pregnant women, farmers, farm workers, indigenous peoples and migrant workers, are at greater risk to the effects of pesticides due to higher exposure or increased sensitivity. Please explain the efforts undertaken by your Government to prevent and mitigate detrimental impacts of pesticides on the health of these vulnerable groups.**

The use of pesticides in the work place is regulated by the Rulebook on preventive measures for safe and healthy work when exposed to chemical matters ("Official Gazette of the RS", no.

106/09). Measures for safe and healthy work when using chemical matters are imposed by the stated Rulebook, including pesticides. Products and equipment for personal protection in the work place of employees using hazardous chemical substances in the work place are laid down in the Rulebook on preventive measures for safe and healthy work when using products and equipment for personal protection in the work place ("Official Gazette of the RS", no. 921/08). The employer shall be obliged to adopt an Act on risk assessment (Article 13 of The Law on Occupational Safety and Health Protection ("Official Gazette of the RS", no. 101/05 and 91/15) laying down measures for offsetting or reducing risks of pesticides, as well as products and equipment for personal protection (the answer to the first and the second question). The Rulebook on measures for safe and healthy work of an employed woman during pregnancy, woman who has just given birth and a woman breastfeeding is being drafted as well as the Rulebook on preventive measures for safe and healthy work of youth, in which processes, working conditions and harmfulness will be set and by which the exposure of the stated vulnerable groups to these processes and harmful influences will be prohibited.

The Republic of Serbia has transposed the EU provision into its national legislation regarding the maximum allowed levels of pesticide residues in/on food and feed of plant and animal origin and/or the Regulation of the European Parliament and Council (EC) no. 396/2005 of 23.02.2005 on maximum levels of pesticide residues on or in food and feed of plant and animal origin amending the Council Directive 91/414 (Rulebook on maximum allowed quantities of residues of products for plant protection in food and feed ("Official Gazette of the RS", no. 25/10 and no. 28/11). In accordance with this, an annual Scheme of post-registration control of products for plant protection is implemented, i.e. monitoring activities for residues of products for plant protection in food of plant and animal origin. The Scheme includes sampling, type and number of samples, method of collecting and testing samples, schedule of collecting samples as well as measures taken to determine non-compliance. In the framework of this monitoring, collecting samples of food of local production and imported food is performed, and in addition to samples of fruit and vegetables, cow milk, pork meat, samples of baby food are also examined (fruit puree and juice).

4. Have any studies been conducted, with the support of your Government, using disaggregated data to differentiate and detect impacts on above-mentioned vulnerable groups?

So far there have not been any special studies of the Ministry responsible for issues in the field of products for plant protection, in order to determine the effect of pesticides on certain vulnerable groups, such as children, pregnant women, farmers, agricultural workers, seasonal workers who are more exposed to the risk of being affected by pesticides.

5. Considering that States have an obligation to implement the right to information on hazardous substances, please give examples of how your Government has ensured that pesticide users and consumers are informed of the hazards and risks of pesticides used in food production?

The Law on Products for Plant Protection stipulates that the packaging of products for plant protection shall have a declaration and instructions for use with information contained in the Decision on the registration of the product, written in Serbian, clearly, unambiguously and legibly, so that it cannot be erased and removed, as well as that instructions for using the plant protection product shall contain specific requirements and risk phrases and warnings regarding human health and environment, including information on handling emptied packaging.

Since the label on the packaging of pesticides and safety data sheets are the channel to transmit information on hazards and risks when using pesticides, the Law on Plant Protection Products regulates the classification, packaging and labeling of pesticides ("Official Gazette of the Republic of Serbia", no. 41/2009).

The Ministry responsible for agricultural affairs regularly informs wider public on hazards and risks to which one is exposed when applying plant protection products (through information media, brochures, leaflets, education, as well as through lectures organized by agricultural professional services within the territory of the Republic of Serbia).

Also, "Implementation of sustainable use of plant protection products and the establishment of the system of regular technical inspection of devices for applying pesticides" Project is being implemented which, among other things, aims to provide advice on the effect of using pesticides.

6. Please provide any good practices that your Government has initiated to assess, monitor, prevent and mitigate the risks of exposure to hazardous pesticides, and what further efforts could be undertaken.

The Law on Food Safety ("Official Gazette of the RS", no. 41&2009) regulates the control of sanitary inspections at the Ministry of Health regarding new food, dietary products, infant food - breastfeeding supplementing formulas, dietary supplements and salts for human consumption and the production of additives, flavouring, enzyme preparations of non-animal origin and auxiliaries of non-animal origin, as well as drinking water in original packaging (table water, mineral water and spring water) and water in the system of the public supply of drinking water in all production stages, stages of processing and circulation on the market (wholesale, retail, import at the place of customs clearance and export). Within their responsibilities regarding the control of the aforementioned types of food, the accredited laboratories of the Public Health Institute and of other authorized persons, perform testing of pesticide contents, in addition to a number of microbiological and physico-chemical parameters. Based on the results of testing and expertise considerations an assessment of health safety of the examined samples is given. With a view to reduce the risk to human health, particularly of the most vulnerable social groups, strict criteria have been adopted regarding the maximum concentration of pesticide residues in processed food.

The Ministry responsible for agricultural affairs has started activities with the technical and scientific support of the Ministry of Agriculture of the United States (USDA) in the period 2005-2008, in the field of educating and training trainers in agricultural professional services, who

later on trained end beneficiaries (farmers). At the end of 2011 there were approximately 3.000 educated end beneficiaries (initial training), which is the starting critical mass for the establishment of the system of safe application of plant protection products. Within the framework of these activities a Guide for end beneficiaries has been published "Agricultural producers training for the application of pesticides" based on a study manual for private pesticide applicators of the Professional Service of the State University in Iowa from 2002, with reasonable adaptations in line with the conditions in our country regarding the current activity of certain harmful organisms, existing legal and by-law activities. The Guide has been distributed to all agricultural professional services and training participants. Education and training were aimed at general information on plant protection products and their effects on human health, use of personal protection equipment when using plant protection products as well as at the appropriate handling, disposal, storage and management of waste from plant protection products and the importance of proper functioning and control of devices for the application of plant protection products.

Appreciable contribution for the improvement in this field would be provided by the establishment of mechanisms for the cross-sectoral exchange of information on the use of pesticides as well as on the existence of common monitoring in the field of food safety.

7. Gaps and weaknesses in international and national regulatory systems allow the use of pesticides that are unsafe, even when used legally and per instruction, on the market. Please provide examples of good practices initiated by your Government in building effective protection frameworks governing the production and use of pesticides.

The Ministry responsible for agricultural issues within the framework of Twinning Project "Harmonizing national regulations in the field of registration, placing on the market and control of plant protection products with EU regulations and their implementation" (from October 2010 to June 2013) drafted a plan of revision regarding the registration of all plant protection products, which is one segment of the standard for the assessment of plant protection products on the EU level. This activity will be continued through the implementation of Twinning Project "Further enhancement of capacities in the field of plant protection products and pesticide residues in the Republic of Serbia" from October 2016. Such projects are one of the main instruments of assistance in the development of administrative capacities and external institutions providing technical support.

8. Please provide examples of efforts supported by your Government to reduce the use of pesticides in agricultural food production, including by incentivising ecological methods of pest control and agro-ecology (including training programmes, provision of financial support, etc). Please indicate how successful and how widely implemented such efforts have been to date

With a view to the reduction of the use of pesticides in agricultural food production, including incentives for ecological methods of pest control and agroecology, the responsible Ministry of

agriculture is implementing a Programme for monitoring and predicting harmful organisms in the territory of the Republic of Serbia, which includes monitoring the development of cultivated plants (phenological observations), collecting meteorologic data, monitoring the development and dynamics of the population of harmful and beneficial organisms on cultivated plants, predicting and determining optimal periods for combating harmful organisms, as well as giving recommendations and public information for plant holders. Within the framework of this Programme, 29 agricultural professional services have been involved in the territory of the Republic of Serbia.

Twinning project "Implementation of sustainable use of plant protection products and the establishment of the system of regular technical inspection of devices for applying pesticides" is being implemented which aims at the improvement of human protection and environmental protection in the Republic of Serbia from potential risks related to the application of pesticides through efficient regulations on plant protection products. Also, important aims of this project are the promotion of development and introduction of integrated harmful organisms management and the system of regular technical inspection of devices for the application of plant protection products, assistance for drafting national Action plan by which quantitative objectives will be established as well as measures and timeframes for the reduction of the effect of pesticides on human health and environment.

9. Please share any information regarding court decisions or on-going litigation in relation to the detrimental effects of pesticides, in particular in relation to the right to food.

By insight into the penalty system in which final convictions were given for the criminal offences for Serious offences against human health (Article 259 Criminal Procedure Code) it can be established that judgements in 2014 and 2015 were not in relation to the criminal offences Production and placing on the market of harmful products (Article 256 CPC), Performing inspection of food staples in bad faith (Article 257 CPC) and Pollution of drinking water and food staples (Article 258 CPC). Before the basic Court in Negotin criminal proceedings are under way due to the criminal offence against human health in relation to the criminal offence of Performing inspection of food staples in bad faith, but this is not the case of the application of pesticides.

10. Please provide any additional information you believe would be useful to understand the challenges confronting your Government in its efforts to prevent and mitigate adverse impacts of pesticides on human health, the right to food, and the environment.

The prescribed criteria for the maximum concentration of residual pesticides in processed food are usually incompatible with the allowed concentrations in raw materials used for food production, which represents one of the challenges which entities in food business face. Public health sector is facing, in this field of work, an increased need to improve laboratory capacities and an increased need for more accredited methods of testing the content of the residual part of different types of pesticides.

