TO BEE OR NOT TO BE! DEFINE AND DEFEND IN CJEU ENVIRONMENTAL CASE-LAW

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Abstract

The present paper aims to draw attention to the vital role the bees are playing. In a way, the bees are keeping the world together, in an enormous well-built and well-adjusted hive. The bees are everywhere. Even in the law, even in the CJEU case-law. These cases offer the court the opportunity to define some relevant legal concepts on apiculture and environmental law and to defend the equilibrium between the markets and the protection of the environment. Besides, one of the key principles in EU environmental law is the precautionary principle, which is regarded as a complex and flexible principle, that operates in a networked rather than hierarchical manner. The Court has had the chance to expand on the concept of the precautionary principle in a few cases relating to bees. First, the paper will outline the cases in which the CJEU defined the legal concepts of honey, pollen, raw wax, and emissions in the environment. Second, the paper will examine cases in which the Court defended biodiversity by utilizing internal market tools or the precautionary principle. In a threaten ecosystem it seems like the European court is bee-friendly.

Keywords: *bees, CJEU case-law, environment, precautionary principle, pesticides, honey*

1. Introduction

We all have two things firmly ingrained in our minds when it comes to bees: first, they sting, and second, they make honey. The bee responsible for these firm ideas is, of course, *Apis mellifera*, the hive- or honey-bee[1].

But there is something more out there.

The majority of cultivated and wild plants depend on animals, known as pollinators, to transfer pollen. Animal pollination plays a vital role as a regulating ecosystem service in nature. Globally, nearly 90 per cent of wild flowering plant species depend, at least in part, on the transfer of pollen by animals. Many animals are considered important pollinators: bats, butterflies, moths, birds, flies, ants, non-flying mammals and beetles. Bees are the most important. There are approximately 20,000 identified bee species worldwide. A few species of bees are widely managed by humans, including the western honey bee (*Apis mellifera*), the eastern honey bee (*Apis cerana*), some bumble bees, some stingless bees and a few solitary bees[2].

Land-use change, intensive agricultural management and pesticide use, environmental pollution, invasive alien species, pathogens and climate change pose significant threats to the abundance, diversity, and health of pollinators. These threats put societies and ecosystems at risk.

The bees were taken several times to the CJEU.

These cases offer the court the opportunity *to define* some relevant legal concepts on apiculture and environmental law and *to defend* the equilibrium between the markets and the protection of the environment.

2. To define

2.1. Honey, pollen and genetically modified organisms (GMO)

Honey is, according to Honey Directive[3], „the natural sweet substance produced by *Apis mellifera* bees from the nectar of plants or from secretions of living parts of plants or excretions of plant-sucking insects on the living parts of plants, which the bees collect, transform by combining with specific substances of their own, deposit, dehydrate, store and leave in honeycombs to ripen and mature".

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[1] Nixon, G. E. J. The world of bees. London: Hutchinson, 1954.

[2] IPBES (2016). The assessment report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services on pollinators, pollination and food production. S.G. Potts, V. L. Imperatriz-Fonseca, and H. T. Ngo (eds). Secretariat of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, Bonn, Germany. 552 pages.

[3] Council Directive 2001/110/EC of 20.12.2001 relating to honey, OJ L 10, 12.1.2002, p. 47-52.

In the case ***Bablok***[4] the Court had to decide whether the presence of pollen from a genetically modified maize in the beekeepers' apicultural products, such as honey and pollen, makes those products no longer marketable or fit for consumption.

In 1998, Monsanto Europe obtained authorization to place genetically modified MON 810 maize on the market, which contains a gene from the soil bacterium Bacillus thuringiensis (Bt) that excretes Bt toxins in maize plants. These toxins help to combat corn borer caterpillars, a variety of butterfly that is a harmful maize parasite and the larvae of which, in the event of infestation, weaken the growth of maize plants.

However, in 2009, the cultivation of MON 810 maize was prohibited in Germany due to safety concerns by the German Federal Office for Consumer Protection and Food Safety, which ordered the provisional suspension of the marketing authorization. Freistaat Bayern owns various plots of land on which MON 810 maize has been cultivated for research purposes, and it does not rule out the possibility of resuming cultivation of that crop once the prohibition in force throughout Germany expires.

Mr. Bablok was an amateur beekeeper who produced honey both for sale and for his own personal consumption in the vicinity of the plots of land owned by Freistaat Bayern. In 2005, MON 810 maize DNA and transgenic proteins were detected in the maize pollen harvested by Mr Bablok in beehives. Additionally, very small amounts of MON 810 maize DNA were detected in a number of samples of Mr Bablok's honey. As a result, an application was made for a declaration that the apicultural products are no longer marketable or fit for consumption.

The national court upheld the application[5], stating that the honey and pollen-based food supplements were foods which required authorisation, and therefore could not be placed on the market without such authorisation under relevant EU regulations. Monsanto Technology, Monsanto Agrar Deutschland, and Freistaat Bayern appealed against this decision, arguing that Regulation no. 1829/2003 was not applicable to pollen from the MON 810 strain of maize found in honey or used as a food supplement.

The case was referred to the CJEU, which was asked to interpret relevant EU regulations and determine whether pollen from MON 810 maize found in honey or used as a food supplement constitutes a GMO.

In answer to this question, the Court, sitting as the Grand Chamber, clarifies first the notions of *honey and of GMO.*

As regards the question whether the pollen is a genetically modified organism, the Court will clarify the concept of GMO. The Court consider that the concept of a GMO is to be read as „meaning that a substance such as pollen derived from a variety of genetically modified maize, which *has lost its ability to reproduce and is totally incapable of transferring the genetic material* which it contains, no longer comes within the scope of the concept"[6] of organism and, accordingly to the concept of „organism".

The Court consider that `pollens are solid particles actually derived from honey collection, partly due to bees but mainly due to the centrifugation carried out by the beekeeper`. Therefore, `*pollen is not a foreign substance or impurity in honey, but rather a normal component of honey*`. According to the intention of the Union legislature, the pollen `cannot in principle be removed from it, even if the frequency with which it is incorporated and the quantities in which it is present in honey are attributable to certain random factors arising during production`.

The Court concludes that the pollen must be regarded as a substance which is used in the manufacture or preparation of a foodstuff and still present in the finished product and must therefore also be classified as an 'ingredient'[7] within the meaning of art. 2.13 of Regulation no. 1829/2003[8] and art. 6(4)(a) of Directive 2000/13[9].

Consequently, products such as honey containing such a pollen constitute 'food … containing ingredients produced from genetically modified organisms'[10].

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[4] CJEU, Grand Chamber, Judgment of 06.09.2011, *Karl Heinz Bablok and Others v. Freistaat Bayern*, Case C-442/09, ECLI:EU:C:2011:541.

[5] On the procedure in front of CJEU, see: A. Fuerea, *Dreptul Uniunii Europene. Principii, actiuni,* libertăți, Universul Juridic Publishing House, Bucharest, 2016, pp. 95-111.

[6] CJEU, Grand Chamber, Judgment of 06.09.2011, *Bablok v. Freistaat Bayern*, Case C-442/09, para. 62.

[7] *Idem*, para. 77-79, 92, operative part 2.

[8] Regulation (EC) no. 1829/2003 of the European Parliament and of the Council of 22.09.2003 on genetically modified food and feed (text with EEA relevance), OJ L 268, 18.10.2003, p. 1-23.

[9] Directive 2000/13/EC of the European Parliament and of the Council of 20.03.2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs implicitly repealed by Regulation (EU) no. 1169/2011.

[10] CJEU, Grand Chamber, Judgment of 06.09.2011, *Bablok v. Freistaat Bayern*, Case C-442/09, operative part 2.

2.2. Raw beewax

According to *International Convention on the Harmonized Commodity Description and Coding System* [11] '*Beeswax* is the substance with which bees build the hexagonal cells of the combs in their hives. In the natural state it has a granular structure and is light yellow, orange or sometimes brown, with a particularly agreeable smell; when bleached and purified, it is white or faintly yellow with a very slight smell. It is used, inter alia, for the manufacture of candles, waxed cloth or paper, mastics, polishes, etc. (…) Beeswax and other insect waxes are classified in this heading whether in the raw state (including in natural combs), or pressed or refined, whether or not bleached or coloured.'

The Court was called to interpret the meaning of *raw beewax*. The case ***KAHL***[12]questioned whether the Combined Nomenclature (CN) must be interpreted as meaning that beeswax which has been melted down, and from which foreign bodies have been mechanically removed in part during the melting process, then solidified to form blocks or slabs, falls under subheading 15219091 of the CN, which covers *'raw' beeswax*, or under subheading 15219099 thereof, which covers *'other' beeswax.*

The case KAHL concerns the tariff classification of *beeswax* imported into the European Union. KAHL sought to classify the wax as `*raw*` under subheading 15219091of the Combined Nomenclature (CN)[13], which provides for exemption from customs duties. The Principal Customs Office, Hanover, classify the goods under subheading `other` of the CN, which attracts a customs duty of 2.5%. KAHL appealed the decision, claiming that the classification of beeswax under the former subheading should not depend on the level of impurities it contains. The referring court describes the goods at issue as beeswax which has been melted down and coarsely filtered in the exporting State then solidified before being exported, and which consists of melted pieces of approximately 15 × 5 centimetres (cm) and fragments of approximately 7 × 4 cm, which are easy to cut, honey yellow in colour and smell like beeswax, with cracks and structures that are created when melted wax solidifies, and contain a number of dark impurities which adhere to the exterior. The referring court sought a preliminary ruling from the Court of Justice of the European Union on whether must be applied in the language version in which the word "melted" appears and whether "raw" beeswax from which some foreign bodies have been mechanically separated during the process of melting it down should be classified under subheading 15219091 (Raw -This subheading includes waxes in natural combs).

The case ***Roeper***, involves a company that imports beeswax into the European Union for resale to undertakings in the cosmetic, pharmaceutical, and food industries. The Principal Customs Office in Hamburg charged Roeper a customs duty of EUR 2614 for 800 bags of beeswax that were classified as "other" beeswax under subheading 15219099 of the Combined Nomenclature (CN) by the customs office. Roeper argued that the goods should be classified as „raw" beeswax under subheading 15219091 of the CN, as the term "melted" in the Explanatory Notes to subheading 15219099 also includes subsequent processing involving the purification and separation of wax components. The Principal Customs Office, Hamburg, disagreed and maintained its position that the goods fell under subheading 15219099 of the CN. The Finanzgericht Hamburg stayed the proceedings and referred questions to the Court of Justice for a preliminary ruling. The statement of reasons for the request for a preliminary ruling in Case C-216/20 matched that of Case C-197/20. The two cases were joined.

The Court notes, first of all, that, „the provisions of the CN do not contain any indication as to the level of processing up to which beeswax or other insect wax remains 'raw', for the purposes of classification under subheading 15219091 of the CN, and the level of processing beyond which that wax must be classified under subheading 15219099 of the CN as 'other' wax`[14].

Consequently, the court states that `in the absence of such clarification in the CN, it is necessary to refer to the usual meaning of the word 'raw' in everyday language, which designates that which is in its natural state,

[11] Harmonised Commodity Description and Coding System ('the HS') was established by the International Convention on the Harmonized Commodity Description and Coding System, concluded in Brussels on 14.06.1983 within the framework of the World Customs Organization (WCO) and approved, together with its Protocol of Amendment of 24.06.1986, on behalf of the European Economic Community by Council Decision 87/369/EEC of 7 April 1987 (OJ 1987 L 198, p. 1).

[12] CJEU, 9th Chamber, Judgment of 28.10.2021, *KAHL GmbH & Co. K.G. v. Hauptzollamt Hannover and C.E. Roeper GmbH v. Hauptzollamt Hamburg*, Joined Cases C-197/20 and C-216/20, ECLI:EU:C:2021:892.

[13] The Combined Nomenclature (CN) is a tool for classifying goods, set up to meet the requirements both of the Common Customs Tariff and of the EU's external trade statistics. The CN is also used in intra-EU trade statistics.

[14] CJEU, 9th Chamber, Judgment of 28.10.2021, *KAHL GmbH & Co. K.G. v. Hauptzollamt Hannover and C.E. Roeper GmbH v. Hauptzollamt Hamburg*, Joined Cases C-197/20 and C-216/20, para. 35.

which has not yet been treated or processed`[15]. The narrow definition offered by court implies that only waxes 'in the form of natural combs' are raw beewax.

2.3. Emissions into the environment

„Emission" means, according to EU legislation, `the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into air, water or land`[16]. The definition remained unchanged, regardless the successive legislative act regulating the field[17]

The case ***Bijenstichting***[18] outlines a legal dispute between Dutch association for bee protection, Bijenstichting, and company Bayer over access to 84 documents related to the authorisation of plant protection products and one biocide containing the active ingredient imidacloprid, which, inter alia, has an insecticide effect. The Bijenstichting had requested access to the documents under Directive 2003/4[19], but Bayer objected, citing concerns over confidentiality, copyright infringement, and data protection.

The competent Dutch authority for the granting and amending of authorisations to place plant protection products and biocides on the market (CTB) initially refused Bijenstichting's request, but following an appeal, partially granted it, ordering disclosure of 35 documents containing factual information relating to actual emissions of plant protection products or biocides into the environment. The remaining 49 documents were not deemed to relate to „information on emissions into the environment" and access was refused. Both Bijenstichting and Bayer challenged the decision of the CTB before the referring court, which raises questions regarding the relationship between the rules on confidentiality laid down by the specific legislation concerning the placing of plant protection products and biocides on the market and the general rules on access to information in environmental matters governed by Directive 2003/4.

The Court notes, first of all, that the referring court is essentially asking whether the releases of plant protection products or biocides into the environment should be considered as „emissions into the environment". The Court take note that the directive defines neither 'emissions into the environment' nor 'information relating to emissions into the environment'[20].

The Court considers that a clarification is needed on whether „emissions into the environment" *includes* releases of plant protection products or biocides. This involves determining whether there is a distinction between „emissions" and „discharges" or „releases" and whether this concept is *limited to emissions from industrial installations*.

Applying the *ubi lex non distinguit…,* the court notes that `nothing in the Aarhus Convention or in Directive 2003/4 permits the view that the concept of 'emissions into the environment' should be restricted to emissions emanating from certain industrial installations`. The Courts stated that it is not necessary to make a distinction between the concept of 'emissions into the environment' and those of 'discharges' and 'releases' or to confine that concept to the emissions covered by Directive 2010/75, excluding the release of products or substances into the environment emanating from sources other than industrial installations[21].

As for the concept of '*information on emissions into the environment'*, the Court finds that the confidentiality of commercial or industrial information may not be invoked against the disclosure of 'information relating to emissions into the environment'. Consequently, the Court acknowledge `the principle of the widest possible access to the environmental information held by or for public authorities`[22]. In that regard the concept 'information on emissions into the environment' within the meaning of that provision covers information concerning the nature, composition, quantity, date and place of the 'emissions into the environment' of those products or substances, and data concerning the medium to long-term consequences of those emissions on the environment, in particular information relating to residues in the environment following application of the

[15] *Ibidem*.

[16] Council Directive 96/61/EC of 24.09.1996 concerning integrated pollution prevention and control, OJ L 257, 10.10.1996, p. 26-40.

[17] Directive 2010/75/EU of the European Parliament and of the Council of 24.11.2010 on industrial emissions (integrated pollution prevention and control) (recast) (text with EEA relevance), OJ L 334, 17.12.2010, p. 17-119.

[18] CJEU, 5th Chamber, Judgment of 23.11.2016, *Bayer CropScience SA-NV and Stichting De Bijenstichting v. College voor de toelating van gewasbeschermingsmiddelen en biociden*, Case C-442/14, ECLI:EU:C:2016:890.

[19] Directive 2003/4/EC of the European Parliament and of the Council of 28.01.2003 on public access to environmental information and repealing Council Directive 90/313/EEC, OJ L 41, 14.2.2003, p. 26-32.

[20] CJEU, 5th Chamber, Judgment of 23.11.2016, *Bijenstichting*, Case C-442/14, para. 60.

[21] *Idem*, para 75.

[22] *Idem*, para. 57.

product in question and studies on the measurement of the substance's drift during that application, whether the data come from studies performed entirely or in part in the field, or from laboratory or translocation studies[23].

3. To defend

3.1. Protection of life of animals. Biodiversity. Læso brown bee

The ***Bluhme***[24] case concerns restrictions on the keeping of bees other than brown bees (*Apis mellifera mellifera -Læsø brown bee*) on the small and remote Danish Island of Læsø, situated 22 km from the mainland. It raises, in particular, the questions whether such restrictions come within the scope of application of art. 30 of the Treaty regarding measures equivalent to a quantitative restriction on imports, and, if so, whether they are justified.

The Court holds, in the first place, that `a legislative measure prohibiting the keeping on an island such as Læsø of any species of bee other than the subspecies *Apis mellifera mellifera (Læsø brown bee)* constitutes a measure having an effect equivalent to a quantitative restriction within the meaning of art. 30 of the Treaty`[25].

The Court considers that measures to preserve an indigenous animal population with distinct characteristics contribute to the maintenance of biodiversity by ensuring the survival of the population concerned. The Court takes into account the Rio Convention[26].

The Court states that `from the point of view of such conservation of biodiversity, it is immaterial whether the object of protection is a separate subspecies, a distinct strain within any given species or merely a local colony, so long as the populations in question have characteristics distinguishing them from others and are therefore judged worthy of protection either to shelter them from a risk of extinction that is more or less imminent, or, even in the absence of such risk, on account of a scientific or other interest in preserving the pure population at the location concerned`[27].

The conclusion of the court is that `a national legislative measure prohibiting the keeping on an island such as Læsø of any species of bee other than the subspecies *Apis mellifera mellifera (Læsø brown bee)* must be regarded as justified, under art. 36 of the Treaty, on the ground of the protection of the health and life of animals`[28].

3.2. The precautionary principle

One of the key principles in EU environmental law is the precautionary principle, which is regarded as a complex and flexible[29] principle. It can be viewed as an embodiment of post-modern law that operates in a networked rather than hierarchical manner[30]. The Court has had the chance to expand[31] on the concept of the precautionary principle in two cases relating to bees.

One of these cases is ***Bayer CropScience***[32]. The European Commission asked the European Food Safety Authority (EFSA) to assess the risk of plant protection products containing neonicotinoids, which were causing losses of honeybee colonies. After several studies were published, EFSA concluded that further research was necessary, but also identified high acute risks to honeybees from exposure to dust drift and residues in nectar and pollen. In response to the risks, the European Commission introduced a Regulation in May 2013 (based on

[23] *Idem*, para. 103.

[24] CJEU, 5th Chamber, Judgment of 03.12.1998, Criminal proceedings against *Ditlev Bluhme*, Case C-67/97, ECLI:EU:C:1998:584.

[25] *Idem*, para. 23.

[26] See about the competence of the EU to conclude international agreements: R.-M. Popescu, *Competenţa Uniunii Europene de a încheia acorduri internaţionale*, in Dreptul no. 7/2016, pp. 142-155.

[27] CJEU, 5th Chamber, Judgment of 03.12.1998, *Bluhme*, Case C-67/97, para. 34.

[28] *Idem*, para. 38.

[29] From the environment field the principle was extended to other fields like health, agri-food or consumer protection, as seen in D. Saluzzo, *Risk Management in the Wine Supply Chain*, in Wine Law and Policy, 710-48, Brill Nijhoff, 2020, pp. 727-728.

[30] A. Donati, *The Precautionary Principle Under EU Law: The Knots and the Links of its Network* (2022), EUI Department of Law Research Paper no. 2022/01, available at SSRN: *https://ssrn.com/abstract=4026140*.

[31] E. Anghel, *Judicial Precedent, a Law Source*, LESIJ- Lex ET Scientia International Journal XXIV, no. 2 (2017), p. 68-76.

[32] CJEU, 1st Chamber, Judgment of 06.05.2021, *Bayer CropScience AG and Bayer AG v. European Commission*, Case C-499/18 P, ECLI:EU:C:2021:367.

Regulation no. 1107/2009[33]) that prohibited non-professional use of neonicotinoids and restricted their use for seed and soil treatment on certain crops. Bayer CropScience and Syngenta Crop Protection, supported by various agricultural associations and industry groups, brought an action, in front of the General Court, seeking the annulment of that regulation. However, the General Court dismissed the action.

In its judgment, the Court confirms, while also providing detail as to its scope, its case-law: `The precautionary principle means that where there is uncertainty as to the existence or extent of risks, including risks to the environment, protective measures may be taken without having to wait until the reality and seriousness of those risks become fully apparent. Where it proves to be impossible to determine with certainty the existence or extent of the alleged risk, because the results of studies conducted are inconclusive, but the likelihood of real harm to the environment persists should the risk materialise, the precautionary principle justifies the adoption of restrictive measures`[34] Furthermore, the precautionary principle does not require that the adoption of measures under art. 21(3) of Regulation no. 1107/2009 be deferred solely on the grounds that studies are underway which may call into question the available scientific and technical data.

In the other case, ***Pesticide Action Network***[35], the Court was asked if a Member State can authorize, on the bases of art. 53(1) of Regulation no. 1107/2009[36], the sale and use of plant protection products for seed treatment and treated seeds, even if an implementing regulation expressly prohibits it.

The active substances clothianidin and thiamethoxam, which belong to the neonicotinoid family of insecticides, have been subject to restrictions since 2013 due to risks to bees. Their approval expired in 2019, and their use is now prohibited in the EU.

However, temporary authorizations have been granted by diverse member states for the placing on the market of plant protection products containing those active substances. The Belgian authorities granted temporary authorizations for the treatment of sugar beet seeds. The applicants in the main proceedings argue that the derogation provided for in art. 53(1) of Regulation no. 1107/2009 is being wrongfully used, and they express concerns about the toxic effects of clothianidin and thiamethoxam on bees. The referring court expresses doubts as to the scope of art. 53 of Regulation no. 1107/2009 and the scope of the derogation for which it provides.

The court begins by recalling that `those provisions are based on the *precautionary principle*, which is one of the bases of the policy of a high level of protection pursued by the EU in the field of the environment, in accordance with the first subparagraph of art. 191(2) TFEU`[37]. The reason is to prevent active substances or products placed on the market from harming human or animal health or the environment.

The interpretation of art. 53(1) of Regulation no. 1107/2009 is that it does not allow a Member State[38] to authorize the sale of plant protection products for seed treatment or the sale and use of seeds treated with such products if their use has been expressly prohibited by implementing regulation. The near future will reveal how member states will behave towards this unequivocal ban. The principle of sincere cooperation will be put to the test[39].

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[33] Regulation (EC) no. 1107/2009 of the European Parliament and of the Council of 21.10.2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, 24.11.2009, p. 1-50.

[34] CJEU, 1st Chamber, Judgment of 06.05.2021, *Bayer CropScience AG and Bayer AG v. European Commission*, Case C-499/18 P, ECLI:EU:C:2021:367, para. 80.

[35] CJEU, 1st Chamber, Judgment of 19.01.2023, *Pesticide Action Network Europe ASBL and Others v. État belge*, Case C-162/21, ECLI:EU:C:2023:30.

[36] Regulation (EC) no. 1107/2009 of the European Parliament and of the Council of 21.10.2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, 24.11.2009, p. 1-50.

[37] CJEU, 1st Chamber, Judgment of 19.01.2023, *Pesticide Action Network Europe ASBL and Others v. État belge*, Case C-162/21, ECLI:EU:C:2023:30, para.47.

[38] For a focus on the legal liability in administrative law, see: E.E: Ștefan, *Răspunderea juridică. Privire specială asupra răspunderii juridice în dreptul administrativ*, Pro Universitaria Publishing House, Bucharest, 2013.

[39] M.-A. Dumitrașcu, O.-M. Salomia, *Principiul cooperării loiale–principiu constituțional în dreptul Uniunii Europene, In Honorem Ioan Muraru. Despre Constituție în mileniul III*, 2019.

3.3. Money versus honey

The complex issue of balancing commercial interests and environmental protection has been a central point in several cases, as both features are enshrined in the EU Charter. In the bee cases, the choice between these fundamental rights[40] made by the CJEU seems consistently tilted in favor of the environment.

In the *Bijenstichting* case, the protection of industrial and commercial interests was explicitly raised as an issue, as it concerned the balancing of the rights guaranteed by art. 16 and 17 of the Charter and art. 39(3) of the TRIPS with the need to achieve the objectives of environmental protection and maximum disclosure of environmental information. The court`s conclusion was that in order to achieve these goals, it was necessary to grant access to „information on emissions into the environment" *even if such disclosure* could potentially compromise the confidentiality of commercial or industrial information.[41]

Furthermore, the Court recognized in *Læsø brown bee case* that preserving the indigenous animal population with distinct characteristics contributes to maintaining biodiversity and ensures the survival of the bee population. Therefore, the national legislative measure prohibiting the keeping of any other bee species on the island was justified under art. 36 TFEU, on the grounds of protecting the health and life of animals.

The recent case of *Pesticide Action Network* led the Court to conclude that `when granting authorisations of plant protection products, the objective of protecting human and animal health and the environment should '*take priority' over* the objective of improving plant production`[42]

4. Conclusions

The paper outlined the cases in which the CJEU *defined* the legal concepts of honey, pollen, raw wax, and emissions in the environment. These cases helped to clarify the legal framework for apiculture and environmental law. The second part examined cases in which the Court *defended* biodiversity by utilizing internal market tools or the precautionary principle. These cases demonstrate the Court's commitment to protecting the environment while maintaining a balance with market interests. The Court's recent statement in the Pesticide Action Network case emphasized that the protection of human and animal (bees) health and the environment should be given priority over the objective of improving plant production.

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[40] M.-C. Cliza, C. Nivard, L.-C. Spătaru-Negură, *The European Social Charter and the Theory of Human Rights Law*, in The European Social Charter: A Commentary, 211-35. Brill Nijhoff, 2022, p. 212.

[41] CJEU, 5th Chamber, Judgment of 23.11.2016, *Bijenstichting*, Case C-442/14, para. 99.

[42] CJEU, 1st Chamber, Judgment of 19.01.2023, *Pesticide Action Network Europe ASBL and Others v. État belge*, Case C-162/21, ECLI:EU:C:2023:30, para. 48.

Legal framework

- Regulation (EC) no. 1107/2009 of the European Parliament and of the Council of 21.10.2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, 24.11.2009;
- Directive 2003/4/EC of the European Parliament and of the Council of 28.01.2003 on public access to environmental information and repealing Council Directive 90/313/EEC, OJ L 41, 14.02.2003;
- Directive 2010/75/EU of the European Parliament and of the Council of 24.11.2010 on industrial emissions (integrated pollution prevention and control) (recast) (text with EEA relevance), OJ L 334, 17.12.2010;
- Council Directive 96/61/EC of 24.09.1996 concerning integrated pollution prevention and control, OJ L 257, 10.10.1996;
- Council Directive 2001/110/EC of 20.12.2001 relating to honey, OJ L 10, 12.01.2002;
- Regulation (EC) no. 1829/2003 of the European Parliament and of the Council of 22.09.2003 on genetically modified food and feed (text with EEA relevance), OJ L 268, 18.10.2003;
- Directive 2000/13/EC of the European Parliament and of the Council of 20.03.2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs implicitly repealed by Regulation (EU) no. 1169/2011;
- Harmonised Commodity Description and Coding System ('the HS') was established by the International Convention on the Harmonized Commodity Description and Coding System, concluded in Brussels on 14.06.1983 within the framework of the World Customs Organization (WCO) and approved, together with its Protocol of Amendment of 24.06.1986, on behalf of the European Economic Community by Council Decision 87/369/EEC of 07.04.1987 (OJ 1987 L 198, p. 1). OJ L 109, 06.05.2000, p. 29-42 (ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV);
- Treaty on European Union;
- Treaty on the Functioning of the European Union.

Jurisprudence of CJEU

- CJEU, 1st Chamber, Judgment of 06.05.2021, *Bayer CropScience AG and Bayer AG v. European Commission*, Case C-499/18 P, ECLI:EU:C:2021:367;
- CJEU, 1st Chamber, Judgment of 19.01.2023, *Pesticide Action Network Europe ASBL and Others v. État belge*, Case C-162/21, ECLI:EU:C:2023:30;
- CJEU, 5th Chamber, Judgment of 03.12.1998, *Criminal proceedings against Ditlev Bluhme*, Case C-67/97, ECLI:EU:C:1998:584;
- CJEU, Grand Chamber, Judgment of 06.09.2011, *Karl Heinz Bablok and Others v. Freistaat Bayern*, Case C-442/09, ECLI:EU:C:2011:541;
- CJEU, 9th Chamber, Judgment of 28.10.2021, *KAHL G.m.b.H. & Co. K.G. v. Hauptzollamt Hannover and C.E. Roeper GmbH v. Hauptzollamt Hamburg*, Joined Cases C-197/20 and C-216/20, ECLI:EU:C:2021:892;
- CJEU, 5th Chamber, Judgment of 23.11.2016, *Bayer CropScience SA-NV and Stichting De Bijenstichting v. College voor de toelating van gewasbeschermingsmiddelen en biociden*, Case C-442/14, ECLI:EU:C:2016:890.