

Action brought on 14 October 2011 — Stichting Greenpeace Nederland and PAN Europe v Commission

(Case T-545/11)

(2011/C 355/50)

Language of the case: English

Parties

Applicants: Stichting Greenpeace Nederland (Amsterdam, Netherlands) and Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: B. Klooststra, lawyer)

Defendant: European Commission

Form of order sought

— Declare that the Commission's decision of 10 August 2011 is in violation of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Regulation (EC) No 1049/2001 ⁽¹⁾ and Regulation (EC) No 1367/2006 ⁽²⁾;

— Annul the Commission's decision of 10 August 2011; and

— Order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging that Article 4(5) of Regulation (EC) No 1049/2001 does not give Member States a right of veto and that, consequently, the defendant may not rely on a Member State's opinion that the exception of Article 4(2) of the said regulation is applicable or not to the request for information lodged by the applicants.
2. Second plea in law, alleging that the exception to disclosure laid down in Article 4(2), first indent, of Regulation (EC) No 1049/2001 must be waived due to an overriding public interest in disclosing the information requested, as the conditions laid down in Article 6(1) of Regulation (EC) No 1367/2006 are met in the present case.
3. Third plea in law, alleging that the contested decision is not in accordance with Article 4(2) of Regulation (EC) No 1049/2001 and Article 4 of the Aarhus Convention as:

— The defendant failed to evaluate the concrete risk of damage by the disclosure of the information requested to the commercial interests invoked; and

— The defendant failed to balance the commercial interests concerned against the general interest of disclosure of environmental information as described in Article 4(4), second paragraph, of the Aarhus Convention.

The applicants further allege that should the Aarhus Convention not be directly applicable, Article 4(2) of Regulation (EC) No 1049/2001 should be applied as convention-complaint as possible.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43)

⁽²⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13)

Action brought on 11 October 2011 — Technion — Israel Institute of Technology and Technion Research & Development v Commission

(Case T-546/11)

(2011/C 355/51)

Language of the case: French

Parties

Applicants: Technion — Israel Institute of Technology (Haifa, Israel) and Technion Research & Development Foundation Ltd (Haifa) (represented by: D. Grisay and D. Piccininno, lawyers)

Defendant: European Commission

Form of order sought

— Accept the present application for annulment based on Article 263 of the Treaty on the Functioning of the European Union;

— Declare it admissible;

— Declare the action to be well-founded and annul the decision of 2 August 2011 of the Information Society and Media Directorate-General of the European Commission;

— Order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging breach of essential procedural requirements, is in two parts based on:

— first, the lack and insufficiency of the statement of reasons, on the ground that the Commission does not state, for two of the four contracts concerned, the justification and evidence on which the contested decision is based for the conclusion that the eligible costs be adjusted;