

**Action brought on 30 June 2011 — Ecologistas en Acción-CODA v Commission**

(Case T-341/11)

(2011/C 252/89)

*Language of the case: Spanish*

**Parties**

*Applicant:* Ecologistas en Acción-CODA (Madrid, Spain) (represented by: J Doreste Hernández, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- annul, for failure to reply within the time limit prescribed, the rejection decision of the Secretary General of the European Commission refusing the applicant access to the requested documents in proceedings GESTDEM 2011/6;
- recognise the right of ECOLOGISTAS EN ACCION to receive the requested documents which they were unduly refused by the Commission, that is to say:
  - (a) the summary by the Spanish Ministry of Environment of the information submitted to the European Commission concerning the environmental assessment of the construction of the Grandilla Port, transmitted to the permanent Representation of Spain to the European Union on 4 November 2005,
  - (b) the explanatory note, complementary information by Gobierno de Canarias, November 2005,
  - (c) the alternative analysis concerning the location of the Grandilla Port by Gobierno de Canarias, July 2005; and
- order the defendant to pay the costs.

**Pleas in law and main arguments**

At the origin of this action is a request for information of an environmental nature which was implicitly rejected by the European Commission.

The information which was refused consists of 3 documents submitted to the European Commission by the Spanish authorities for the Commission to give an opinion, pursuant to Article 6(4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7), on the construction of a port in Granadilla (Tenerife, Spain).

In support of its action, the applicant raises two pleas in law.

1. Its first plea in law is based on an infringement of 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).

— The applicant claims in that respect that the defendant failed to inform EOLOGISTAS EN ACCIÓN in writing of its grounds for refusing access to the 3 requested documents and left the decision on whether to grant the applicant access to that information to the Spanish State, even though none of those documents falls within the exceptions referred to in Article 4(1),(2) and (3) of Regulation No 1049/2001.

2. Its second plea in law is based on an infringement of 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).

— In the applicant's view, since the 3 requested documents concern 'environmental information', the implied rejection of its request constitutes an infringement of the letter and spirit of Regulation No 1367/2006 and of the Aarhus Convention.

**Action brought on 30 June 2011 — CEEES y Asociación de Gestores de Estaciones de Servicio v Commission**

(Case T-342/11)

(2011/C 252/90)

*Language of the case: Spanish*

**Parties**

*Applicants:* Confederación Española de Empresarios de Estaciones de Servicio (CEEES) (Spain) y Asociación de Gestores de Estaciones de Servicio (Madrid, Spain) (represented by: A Hernández Pardo and B Marín Corral, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the General Court should:

- annul the contested decision;
- as a consequence of the annulment, order the Commission to impose a fine or periodic penalty payments on REPSOL for having failed to comply with Article 9 of Regulation No 1/2003.

**Pleas in law and main arguments**

The present action has been brought against the decision of the European Commission of 28 April 2011, adopted in Case COMP/39461/CEEES AOP-REPSOL, the purpose of which was to determine whether the complaint lodged by the applicants on 30 May 2007 was admissible. That complaint was based on three main claims: