

According to the Italian Government, the Commission distorts the facts in so far as it applies a financial adjustment on the mistaken premise, proposed by DG AGRI, to the effect that there was no AGEA monitoring of 'sugar in' and 'sugar out', and that 'approximately 127 000 tons of sugar were moved (without the weight being officially checked)'. The Italian Government also submits that insufficient evidence has been produced to substantiate the allegation 'of not undertaking the annual inventory inspection ... when the warehousing operations were carried out' or the allegation that 'approximately 127 000 tons of sugar were moved (without being officially checked or weighed) between 30 September 2006 (the date by which the inventory should have been made) and February 2007'. Given the documentary evidence offered by the AGEA, that is to say, the accounting records — handed over to Commission staff — showing the figures relating to the movement and stocking of the sugar, for each single consignment placed in storage, the Commission services cannot maintain the contrary without proving it.

7. Seventh plea in law, alleging breach of essential procedural requirements: specifically, failure to state reasons and failure to produce sufficient evidence (Article 2[96] T[F]EU, formerly Article 253 TEC), in relation to the alleged risk that the Fund would sustain damage

According to the Italian Government, the decision is flawed by failure to state adequate reasons for not appraising the useful effect of the inspections and controls which the AGEA nevertheless undertakes of 'sugar in' to storage and 'sugar out' of storage, and of their monthly stocks.

Action brought on 7 July 2011 — Stichting Greenpeace Nederland and PAN Europe v Commission

(Case T-362/11)

(2011/C 252/97)

Language of the case: English

Parties

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

Defendant: European Commission

Form of order sought

- Declare that the Commission's decision of 6 May 2011 is in violation of Regulation (EC) No 1049/2001 ⁽¹⁾;
- Declare that the Commission's decision of 6 May 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 and Regulation (EC) No 1367/2006 ⁽²⁾;
- Annul the Commission's decision of 6 May 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 two pleas in law.

1. First plea in law, alleging that the contested decision violates Article 8(1) and (2) of Regulation (EC) No 1049/2001 for not deciding within the prescribed time-limits on the applicants' confirmatory application and not providing detailed reasons for doing so.
2. Second plea in law, alleging that the contested decision violates Article 4 of the Aarhus Convention, Article 4(2) and (5) of Regulation (EC) No 1049/2001 and Article 6(1) of Regulation (EC) No 1367/2006 for failure to assess, as:
 - the ground for refusal is not compliant with the Aarhus Convention;
 - the information requested qualifies as information relating to emissions into the environment; and
 - there is an overriding public interest in disclosure of the information requested by the applicants.

⁽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)