

**Supplementary answer
given by Mr Bolkestein on behalf of the Commission**

(7 April 2004)

In 1997 and in 2001, the Commission received two complaints concerning the legislative privileges benefiting the Agricultural Bank of Greece. The complainants criticized these privileges considering that they amount to the grant of illegal State aids.

According to a constant case-law, 'only advantages granted directly or indirectly through State resources are aids within the meaning of the Treaty' (see case C-379/98, Preussenelektra, ECR (2001) p. I-2099, §58). To the extent that the legislative privileges benefiting to the Agricultural Bank of Greece do not affect public resources, the Commission considered that they are not State aids within the meaning of the EC treaty. Nevertheless, the Commission considered that Article 87 §1 of the EC Treaty could apply to fiscal advantages in favour of the Bank. Accordingly, it opened an enquiry which revealed several tax advantages.

The discussions between the Commission and the Greek authorities lead to the abolition of these advantages, as confirmed by letter dated 24 February 2004, referring to the adoption of the requested amendments (Greek Official Journal of the 10th February 2004, Law 3229 – FEK 38/A/10.2.2004).

The information provided by the Honourable Member and received through the complaint of 2003 refers to further privileges, but does not point to a clear infringement of the banking Directive (Directive 2000/12/EC of the Parliament and of the Council of 20 March 2000, on the taking up and pursuit of the activity of credit institutions⁽¹⁾) or of the EC Treaty.

However, the Commission services instructing the file will ask for clarifications from the Greek authorities on the national provisions stipulating privileges of the Agricultural Bank of Greece.

⁽¹⁾ OJ L 126, 26.5.2000.

(2004/C 84 E/0590)

**WRITTEN QUESTION E-3955/03
by Heide Rühle (Verts/ALE) to the Commission**

(5 January 2004)

Subject: Interpretation of environmental information directives

The concept 'internal communications' used in Article 3(4) and Article 4(1)(e) respectively of Directives 90/313/EEC⁽¹⁾ and 2003/4/EC⁽²⁾ concerning public access to environmental information causes serious interpretation problems when the attempt is made to apply it in practice.

1. Does the Commission consider that any simple process by which data and factual information are exchanged between or within authorities constitutes 'internal communications' for the purposes of the directives?
2. If not, in the light of what substantive or formal criteria ought information processes which constitute 'internal communications' as referred to in the above directives to be distinguished from those which are not excepted on the grounds of constituting 'internal communications'?

⁽¹⁾ OJ L 158, 23.6.1990, p. 56.

⁽²⁾ OJ L 41, 14.2.2003, p. 26.

Answer given by Mrs Wallström on behalf of the Commission

(4 March 2004)

The Commission would like to remind the Honourable Member that Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment and Directive 2003/4/EC of the Parliament and of the Council of 28 January 2003 on public access to environmental information and

repealing Council Directive 90/313/EEC are addressed to the Member States and that requests for access to environmental information are handled according to the applicable national laws. These two Directives allow the Member States to apply some restrictions to the right of access to information. However, the Commission is of the opinion that their purpose is to give free access to information on the environment that is held by public authorities and that, therefore, any exception must be interpreted narrowly.

Both Article 3(3) of Directive 90/313/EEC⁽¹⁾ and Article 4(1)(e) of Directive 2003/4/EC⁽²⁾, provide that requests for information may be refused if these concern internal communications. The Commission is of the opinion that internal communications are indeed the processes by which data and factual information are exchanged within public authorities. Internal communications prepare an administrative decision; it must be possible for an administration to lay down in writing the different arguments in favour of or against a decision on a specific problem, without these internal deliberations being made public. The essential element is, after all, the administrative decision and its possible justification, not the way in which this decision was reached. However, this does not mean that Article 4(1)(e) of Directive 2003/4/EC allows or even obliges access to be refused to every internal communication. Indeed, Article 4(1)(e) of Directive 2003/4/EC explicitly states that access to internal communications may only be refused taking into account the public interest served by disclosure.

The interpretation of both Directives lies, in the last resort, with the Court of Justice.

⁽¹⁾ Article 3(3): A request for information may be refused where it would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.

⁽²⁾ Article 4(1)(e): Member States may provide for a request for environmental information to be refused if the request concerns internal communications, taking into account the public interest served by disclosure.

(2004/C 84 E/0591)

WRITTEN QUESTION E-3964/03

by Hiltrud Breyer (Verts/ALE) to the Commission

(5 January 2004)

Subject: Endocrine disruptors in drinking water — reaction to the Commission's answer to Written Question E-2565/03

In a number of Länder of the Federal Republic of Germany, research has been carried out into endocrine-disrupting compounds (EDCs). The Commission, too, has had similar studies drawn up. It is, therefore, widely known that phthalic acid esters (plasticisers) are passed into drinking water from the pipe system. Deep-well readings confirm the ubiquitous presence of plasticisers. Various plasticisers are not classified as genetically harmful, but they do damage testes, kidneys and liver. In animal experiments, they have been shown to damage reproductive capacity and interfere in genital development. A new study carried out by the University of Erlangen shows that the absorption of DEHP (a plasticiser) is significantly higher than had been assumed hitherto. The Federal German Risk-Assessment Institute has drawn the findings of that study to the attention of the European Chemicals Bureau.

1. How is the Commission intending to protect European consumers, both male and female, in application of the precautionary principle?
2. Is the Commission planning to introduce limit values?