

JUDGMENT OF THE COURT (Fourth Chamber)

16 December 2010 *

In Case C-266/09,

REFERENCE for a preliminary ruling under Article 234 EC from the College van Beroep voor het bedrijfsleven (Netherlands), made by decision of 29 May 2009, received at the Court on 10 June 2009, in the proceedings

Stichting Natuur en Milieu,

Vereniging Milieudefensie,

Vereniging Goede Waar & Co.

v

College voor de toelating van gewasbeschermingsmiddelen en biociden, formerly College voor de toelating van bestrijdingsmiddelen,

* Language of the case: Dutch.

other parties:

Bayer CropScience BV,

Nederlandse Stichting voor Fytofarmacie,

THE COURT (Fourth Chamber),

composed of J.-C. Bonichot (Rapporteur), President of the Chamber, K. Schiemann,
L. Bay Larsen, C. Toader and A. Prechal, Judges,

Advocate General: J. Kokott,
Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 9 September
2010,

after considering the observations submitted on behalf of:

- Stichting Natuur en Milieu, by J. Rutteman and B.N. Kloostra, advocaat,
- Vereniging Milieudefensie, by B.N. Kloostra, advocaat,
- Vereniging Goede Waar & Co., by B.N. Kloostra, advocaat,
- the College voor de toelating van gewasbeschermingsmiddelen en biociden, formerly College voor de toelating van bestrijdingsmiddelen, by I.L. Rol, and by R. van den Tweel, advocaat,
- Bayer CropScience BV, by D. Waelbroeck, E. Antypas and E. Broeren, advocaten,
- the Netherlands Government, by C. Wissels and Y. de Vries, acting as Agents,

— the Greek Government, by S. Papaioannou and I. Chalkias, acting as Agents,

— the European Commission, by P. Oliver and B. Burggraaf, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 23 September 2010,

gives the following

Judgment

- ¹ This reference for a preliminary ruling concerns the interpretation of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1) and Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ 2003 L 41, p. 26).
- ² The reference has been made in proceedings brought by Stichting Natuur en Milieu, Vereniging Milieudefensie and Vereniging Goede Waar & Co. for annulment of the

decision of the College voor de toelating van gewasbeschermingsmiddelen en biociden, formerly College voor de toelating van bestrijdingsmiddelen, ('the CTB') refusing to disclose to them certain studies and reports on field trials concerning residues and effectiveness of the active substance propamocarb on or in lettuce ('the contested decision').

Legal context

European Union law

Directive 90/313/EEC

- ³ Under Article 3 of Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment (OJ 1990 L 158, p. 56):

'1. Save as provided in this Article, Member States shall ensure that public authorities are required to make available information relating to the environment to any natural or legal person at his request and without his having to prove an interest.

Member States shall define the practical arrangements under which such information is effectively made available.

2. Member States may provide for a request for such information to be refused where it affects:

...

— commercial and industrial confidentiality, including intellectual property,

— the confidentiality of personal data and/or files,

— material supplied by a third party without that party being under a legal obligation to do so,

...

Information held by public authorities shall be supplied in part where it is possible to separate out information on items concerning the interests referred to above.

...'

Directive 90/642/EEC

- 4 Under Article 5b(2) of Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables (OJ 1990 L 350, p. 71), as amended by Council Directive 97/41/EC of 25 June 1997 (OJ 1997 L 184, p. 33):

‘Member States shall introduce arrangements for establishing maximum residue levels, whether permanent or temporary, for products referred to in Article 1(1), brought into their territories from a Member State of origin, taking into account good agricultural practice in the Member State of origin, and without prejudice to conditions necessary to protect the health of consumers, in cases where no maximum residue levels have been established for these products in accordance with the provisions of Articles 3(1) or 5a.’

Directive 91/414

- 5 In accordance with Article 5(1) of Directive 91/414:

‘In the light of current scientific and technical knowledge, an active substance shall be included in Annex I for an initial period not exceeding 10 years, if it may be expected that plant protection products containing the active substance will fulfil the following conditions:

- (a) their residues, consequent on application consistent with good plant protection practice, do not have any harmful effects on human or animal health or on

groundwater or any unacceptable influence on the environment, and the said residues, in so far as they are of toxicological or environmental significance, can be measured by methods in general use;

- (b) their use, consequent on application consistent with good plant protection practice, does not have any harmful effects on human or animal health or any unacceptable influence on the environment as provided for in Article 4(1)(b)(iv) and (v).'

6 Article 14 of Directive 91/414 provides:

'Member States and the Commission shall, without prejudice to Council Directive 90/313 ..., ensure that information submitted by applicants involving industrial and commercial secrets is treated as confidential if the applicant wishing to have an active substance included in Annex I or the applicant for authorisation of a plant protection product so requests, and if the Member State or the Commission accepts that the applicant's request is warranted.

Confidentiality shall not apply to:

...

- a summary of the results of the tests to establish the substance's or product's efficacy and harmlessness to humans, animals, plants and the environment,

...

Directive 2003/4

- 7 Recital 5 in the preamble to Directive 2003/4 states:

‘On 25 June 1998 the European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (“the Aarhus Convention”). Provisions of Community law must be consistent with that Convention with a view to its conclusion by the European Community.’

- 8 Under Article 2 of Directive 2003/4:

‘For the purposes of this Directive:

1. “Environmental information” shall mean any information in written, visual, aural, electronic or any other material form on:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, ... emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

...

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

...'

9 Article 4 of Directive 2003/4, 'Exceptions,' provides in paragraph 2:

'Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect:

...

- (d) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;

...

The grounds for refusal mentioned in paragraphs 1 and 2 shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by disclosure. In every particular case, the public interest served by disclosure shall be weighed against the interest served by the refusal. Member States may not, by virtue of paragraph 2(a), (d), (f), (g) and (h), provide for a request to be refused where the request relates to information on emissions into the environment.

...'

10 Article 11 of Directive 2003/4 provides:

‘Directive 90/313/EEC is hereby repealed with effect from 14 February 2005.

References to the repealed Directive shall be construed as referring to this Directive and shall be read in accordance with the correlation table in the Annex.’

Decision 2005/370/EC

11 By Decision 2005/370/EC of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1), the Council of the European Union approved that convention.

National legislation

12 In accordance with Article 22 of the Law on pesticides of 1962 (Bestrijdingsmiddelenwet 1962):

‘1. The obligation of confidentiality on the basis of Article 2:5 of the General Law on administrative law (Algemene wet bestuursrecht) shall not apply to components of a pesticide which are injurious to humans or to animals or plants whose conservation is desired.

2. If a document submitted, in accordance with provisions of this law or provisions enacted under this law, to Our Minister concerned or to the college or to another person or institution contains information, or if information can be deduced from such a document, whose confidentiality is justified from the point of view of commercial secrets, Our Minister concerned or the college shall decide, on written request to that end from the person who submitted the document, that the information shall be treated confidentially. Such a request must be provided with reasons.

3. Our Minister concerned shall lay down rules on the information to which the obligation of confidentiality does not apply.’

- ¹³ By ministerial regulation of 19 October 1999, the Minister for Health, Welfare and Sport, acting by agreement with the Secretary of State for Agriculture, Nature Protection and Fisheries, amended the regulation on residues of pesticides. That amendment inter alia set the maximum permitted residue level (MRL) for the pesticide propamocarb on or in lettuce at 15 mg/kg.

The dispute in the main proceedings and the questions referred for a preliminary ruling

- ¹⁴ The amendment to the MRL for propamocarb on or in lettuce took place at the request of the holder of the product ‘Previcur N’. Bayer CropScience BV (‘Bayer’) is the successor of that holder.
- ¹⁵ By letter of 31 January 2005, the applicants in the main proceedings inter alia asked the CTB to provide them with all the information which was the basis for the above mentioned decision fixing the MRL.

- 16 By decision of 8 March 2005, the CTB rejected the request of the applicants in the main proceedings, on the basis of Article 22 of the Bestrijdingsmiddelenwet 1962. They lodged an objection against that decision by letter of 14 April 2005.
- 17 On 31 May 2005 the CTB informed Bayer of the request for information made by the applicants in the main proceedings. It gave Bayer an opportunity to submit a request for confidential treatment of certain information in the documents concerned.
- 18 By letter of 13 July 2005, Bayer *inter alia* identified the documents which in its opinion contained commercial secrets. These were principally studies on residues and reports of field trials. Bayer asked for those documents to be treated confidentially.
- 19 On 22 June 2007 the CTB refused to disclose the residue studies and field trial reports, in order to protect industrial secrets. It provided a list of documents copies of which could be supplied. The list was supplemented by a correcting decision of 17 July 2007.
- 20 The application made to the referring court by the applicants in the main proceedings is directed against the decision of 22 June 2007 and the correcting decision of 17 July 2007. Those two acts together constitute the contested decision.
- 21 The referring court is uncertain essentially whether the national law on the basis of which disclosure of certain information was refused and its application in the present case are compatible with the obligations under Directive 2003/4.

- 22 More precisely, its uncertainty concerns, in addition to the application *ratione temporis* of Directive 2003/4 to the facts of the present case, the very concept of environmental information regulated by that directive. It asks, first, whether the information which is the basis of the definition of an MRL of a plant protection product constitutes such environmental information and therefore falls within the material scope of that directive.
- 23 Next, noting that Article 14 of Directive 91/414 provides for the unconditional confidentiality of industrial and commercial information, the referring court raises the question of the scope of that article, given that it is stated to apply ‘without prejudice to Council Directive [2003/4]’. Article 4 of the latter directive gives information precedence over confidentiality in connection with industrial secrets, or at least requires the national authorities to balance the interests involved.
- 24 Finally, the national court questions whether that balancing of interests can be done generally, once for all, in the provisions adopted by the legislature or the competent administrative authorities, or whether it has to be done on a case by case basis.
- 25 In those circumstances the College van Beroep voor het bedrijfsleven decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

1. Must the term “environmental information” in Article 2 of Directive 2003/4 ... be interpreted as meaning that it includes information submitted within the framework of a national procedure for the authorisation, or the extension of the authorisation, of a plant protection product with a view to setting the maximum

quantity of a pesticide, a component thereof or reaction products which may be present in food or beverages?

2. If Question 1 is answered in the affirmative, what is the relationship between Article 14 of Directive 91/414 ... and Directive 2003/4 ... in so far as it is relevant to application to information as defined in the previous question, and specifically, is that relationship such that Article 14 of Directive 91/414 ... may be applied only if that does not detract from the obligations laid down in Article 4(2) of Directive 2003/4 ...?
3. If it follows from the answers to Questions 1 and 2 above that the defendant in the present case is bound to apply Article 4 of Directive 2003/4 ..., does Article 4 of that directive mean that the weighing prescribed in that provision of the general interest served by disclosure against the specific interest served by the refusal to disclose should take place at application level or that it may be effected in national legislation?

The application to reopen the oral procedure

- ²⁶ By letter of 7 October 2010, Bayer and the Nederlandse Stichting voor Fytofarmacie applied for the oral procedure to be reopened, submitting essentially that the parties should present argument on the question whether the information at issue in the main proceedings concerns emissions within the meaning of Article 4(2) of Directive 2003/4. In their view, that concept of emissions was analysed by the Advocate General in her Opinion even though, first, the referring court did not ask any question in

this respect and, secondly, some parties did not make any submissions relating to that concept and those that did address it in their observations interpreted it in an entirely different way from that adopted in the Opinion.

²⁷ It should be recalled that the Court may of its own motion, or on a proposal from the Advocate General, or at the request of the parties, order the reopening of the oral procedure in accordance with Article 61 of the Rules of Procedure if it considers that it lacks sufficient information, or that the case must be dealt with on the basis of an argument which has not been debated between the parties (see, *inter alia*, Case C-42/07 *Liga Portuguesa de Futebol Profissional and Bwin International* [2009] ECR I-7633, paragraph 31 and the case-law cited).

²⁸ On the other hand, neither the Statute of the Court of Justice of the European Union nor its Rules of Procedure make provision for the parties to submit observations in response to the Advocate General's Opinion (see *Liga Portuguesa de Futebol Profissional and Bwin International*, paragraph 32).

²⁹ The Court, having heard the Advocate General, takes the view that in the present case it has all the material necessary to answer the questions referred by the referring court, and that there is no need to consider the case by reference to an argument which was not the subject of debate before it.

³⁰ The request to reopen the oral procedure must therefore be rejected.

Consideration of the questions referred

Preliminary observations

- ³¹ The referring court considers that the facts of the main proceedings should be assessed from the point of view of the law applicable on the date of the contested decision. It therefore asks the Court for an interpretation of Directive 2003/4, which applied at that time. However, the Netherlands Government and the Commission submit that the interpretation should relate to the provisions of Directive 90/313, which, since it was repealed by Directive 2003/4 only from 14 February 2005, was in force both on the date on which the information whose disclosure is sought was submitted to the competent authorities and on the date on which a request for disclosure of information was first made to those authorities.
- ³² As a matter of principle, a new rule of law applies from the entry into force of the act of which it forms part. While it does not apply to legal situations which have arisen and become definitive under the old law, it applies to their future effects, as well as to new legal situations (see, to that effect, Case C-428/08 *Monsanto Technology* [2010] ECR I-6765, paragraph 66). It is otherwise — subject to the principle of the non-retroactivity of legal acts — only if the new rule is accompanied by special provisions which specifically lay down its conditions of temporal application.
- ³³ It must be observed, in the present case, that Directive 2003/4, which repeals Directive 90/313, does not contain any special provisions in this respect.

- 34 Moreover, the right of access to environmental information can crystallise only on the date on which the competent authorities have to take a decision on the request which has been made to them. Only then, as the Advocate General observes in point 28 of her Opinion, do those authorities have to assess, in the light of all the factual and legal circumstances of the case, whether or not the information requested should be supplied.
- 35 In the present case, since the contested decision was taken after the period for the transposition of Directive 2003/4 had expired, it is in any event by reference to the right of access to environmental information as defined by that directive that the facts at issue in the main proceedings must be assessed, in the absence of any provision to the contrary in that directive, Article 3 of which moreover draws no distinction as regards the kind of information whose disclosure it governs between information which may have been in the possession of the competent authorities before 14 February 2005 or in their possession only after that date.
- 36 Consequently, the Court must answer the questions referred in the light of Directive 2003/4, as the referring court requests.

Question 1

- 37 Article 2 of Directive 2003/4 lists the various categories of information that fall within the concept of environmental information which European Union law subjects to the disclosure rules laid down by that directive. The referring court's first question is

consequently aimed at determining essentially whether information such as that at issue in the main proceedings falls within one of those categories.

³⁸ The contested decision is a refusal to disclose studies of residues and reports of field trials submitted in connection with a procedure for extending the authorisation of a product within the scope of Directive 91/414. In adopting that directive, the European Union legislature noted *inter alia*, as stated in the fourth recital in its preamble, that plant protection products can have non-beneficial effects upon plant production, and their use may involve risks and hazards for humans, animals and the environment, especially if they are placed on the market without having been officially tested and authorised and if they are incorrectly used.

³⁹ It is therefore undeniable that the information concerned by the contested decision, relating to residues of a plant protection product on food, forms part of an authorisation procedure whose purpose is precisely to prevent risks and hazards for humans, animals and the environment. On that basis, the information is in itself such as to concern the state of human health and safety, including where relevant the contamination of the food chain, as set out in Article 2(1)(f) of Directive 2003/4.

⁴⁰ However, in accordance with Article 2(1)(f), information of that kind falls within the scope of Directive 2003/4 only in so far as the state of human health and safety and the contamination of the food chain to which it relates are or may be affected by the state of the elements of the environment referred to in Article 2(1)(a) or, through those elements, by any of the matters referred to in Article 2(1)(b) and (c) of that directive.

41 Article 2(1)(a) of Directive 2003/4 refers to elements of the environment such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements. Article 2(1)(b) refers to factors such as, *inter alia*, substances, waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in Article 2(1)(a).

42 In the present case, the provision of information on the presence of residues of plant protection products in or on plants such as lettuce, as in the main proceedings, thus aims, by making it possible to verify the level at which the MRL was set, to limit the risk that a component of biological diversity will be affected and the risk that those residues will be dispersed in particular in soil or groundwater. Although such information does not directly involve an assessment of the consequences of those residues for human health, it concerns elements of the environment which may affect human health if excess levels of those residues are present, which is precisely what that information is intended to ascertain.

43 In those circumstances, the answer to Question 1 is that the term ‘environmental information’ in Article 2 of Directive 2003/4 must be interpreted as including information submitted within the framework of a national procedure for the authorisation or the extension of the authorisation of a plant protection product with a view to setting the maximum quantity of a pesticide, a component thereof or reaction products which may be present in food or beverages.

Question 2

- ⁴⁴ By its second question, the referring court asks essentially whether Article 14 of Directive 91/414 must be interpreted as being capable of application only in so far as the obligations under Article 4(2) of Directive 2003/4 are not affected.
- ⁴⁵ It should be noted, as a preliminary point, that the second paragraph of Article 14 of Directive 91/414 contains a list of documents and information which cannot be treated as confidential. These include, in the fifth indent, ‘summar[ies] of the results of the tests to establish the substance’s or product’s efficacy and harmlessness to humans, animals, plants and the environment’. Consequently, in a situation such as that at issue in the main proceedings, before determining the scope of the protection of confidentiality sought by Bayer under the first paragraph of Article 14 of Directive 91/414, the competent national authorities must ascertain whether the information and documents concerned are among those listed in the second paragraph of Article 14.
- ⁴⁶ To answer the referring court’s question, it must be recalled that the conditions of access to environmental information were originally laid down by Directive 90/313, which was repealed by Directive 2003/4 as from 14 February 2005.
- ⁴⁷ Article 14 of Directive 91/414 established the principle that applicants for marketing authorisations may request that information submitted by them involving industrial or commercial secrets be treated as confidential, but ‘without prejudice to Council Directive 90/313’. Article 3 of the latter directive provided that Member States could

refuse access to information relating to the environment if it affected commercial and industrial confidentiality.

- 48 Directive 90/313 was replaced by Directive 2003/4, Article 4 of which provides for protection of industrial and commercial secrets that is less strict than the protection deriving from Directive 91/414 in conjunction with Directive 90/313, in that it requires that, for a decision to be taken on whether or not to refuse disclosure of environmental information, the interest served by the refusal to disclose must be balanced against the public interest served by disclosure.
- 49 In this context, it should be noted that with effect from 14 February 2005, by virtue of the express provisions of Article 11 of Directive 2003/4, Article 14 of Directive 91/414 must be read as referring no longer to Directive 90/313 but to Directive 2003/4. In the absence of any contrary provision on the point in Directive 2003/4, full effect must be given to the reference which is now thus made by Article 14 of Directive 91/414 to Directive 2003/4.
- 50 Article 14 must therefore be read as meaning that it is without prejudice to Directive 2003/4 that the Member States and the Commission must ensure that information supplied by applicants for authorisations to place plant protection products on the market which involves industrial or commercial secrets is treated confidentially if the applicants so request and the Member State or the Commission accepts that their request is warranted.
- 51 Consequently, in a situation such as that at issue in the main proceedings, it is for the competent authorities of the Member State concerned, when a request has been made to them for confidential treatment of information supplied, to process it in compliance with the conditions laid down in Article 14, provided that that processing does not lead those authorities, where a request for access to that information

has also been made to them, to disregarding the obligations which now rest on them pursuant to Directive 2003/4.

- 52 Those obligations are set out in Article 4 of Directive 2003/4. That article allows Member States to provide that a request for environmental information may, except where the information relates to emissions into the environment, be refused if disclosure of the information would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided for by national or European Union law. However, the article also requires that such a ground for refusal must be interpreted in a restrictive way, taking into account the public interest served by disclosure, and that in every particular case the public interest served by disclosure must be weighed against the interest served by the refusal.
- 53 In those circumstances, where a request is made to the competent authorities for access to environmental information that has been supplied by an applicant for an authorisation to place plant protection products on the market, and the request for protection of that information as industrial or commercial secrets within the meaning of Article 14 of Directive 91/414 appears to them to be justified, those authorities are nevertheless obliged to allow the request for access to that information if it relates to emissions into the environment or if, in other cases, the public interest served by disclosure appears to outweigh the interest served by the refusal to disclose.
- 54 In the light of the above considerations, the answer to Question 2 is that, provided that a situation such as that at issue in the main proceedings is not one of those listed in the second paragraph of Article 14 of Directive 91/414, the first paragraph of

Article 14 of that directive must be interpreted as being capable of application only in so far as the obligations under Article 4(2) of Directive 2003/4 are not affected.

Question 3

- 55 By its third question the referring court asks essentially whether Article 4 of Directive 2003/4 must be interpreted as meaning that the balancing exercise it prescribes between the public interest served by the disclosure of environmental information and the specific interest served by a refusal to disclose must be carried out in each individual case submitted to the competent authorities, or that it can be defined in a general measure adopted by the national legislature.
- 56 It is apparent from the very wording of Article 4 of Directive 2003/4 that the European Union legislature prescribed that the balancing of the interests involved was to be carried out in every particular case.
- 57 Neither Article 14 of Directive 91/414 nor any other provision of Directive 2003/4 suggests that the balancing of the interests involved, as prescribed in Article 4 of Directive 2003/4, could be substituted by a measure other than an examination of those interests in each individual case.
- 58 That does not, however, prevent the national legislature from determining, by a general provision, criteria to facilitate that comparative assessment of the interests involved, provided only that that provision does not dispense the competent authorities from actually carrying out a specific examination of each situation submitted to them

in connection with a request for access to environmental information made on the basis of Directive 2003/4.

59 It follows from the above considerations that the answer to Question 3 is that Article 4 of Directive 2003/4 must be interpreted as meaning that the balancing exercise it prescribes between the public interest served by the disclosure of environmental information and the specific interest served by a refusal to disclose must be carried out in each individual case submitted to the competent authorities, even if the national legislature were by a general provision to determine criteria to facilitate that comparative assessment of the interests involved.

Costs

60 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

- 1. The term ‘environmental information’ in Article 2 of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC must be interpreted as including information submitted within**

the framework of a national procedure for the authorisation or the extension of the authorisation of a plant protection product with a view to setting the maximum quantity of a pesticide, a component thereof or reaction products which may be present in food or beverages.

- 2. Provided that a situation such as that at issue in the main proceedings is not one of those listed in the second paragraph of Article 14 of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market, the first paragraph of Article 14 of that directive must be interpreted as being capable of application only in so far as the obligations under Article 4(2) of Directive 2003/4 are not affected.**

- 3. Article 4 of Directive 2003/4 must be interpreted as meaning that the balancing exercise it prescribes between the public interest served by the disclosure of environmental information and the specific interest served by a refusal to disclose must be carried out in each individual case submitted to the competent authorities, even if the national legislature were by a general provision to determine criteria to facilitate that comparative assessment of the interests involved.**

[Signatures]