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EUROPEAN COMMISSION

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[redacted]
Tervuren
Belgium

DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) NO 1049/2001[1]

Subject: **Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2018/2686**

Dear [redacted]

I refer to your letter of 21 June 2018, registered on the same day, in which you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents[2] (hereafter 'Regulation (EC) No 1049/2001').

1. SCOPE OF YOUR REQUEST

In your initial application of 3 May 2018, addressed to the Directorate-General for Health and Food Safety, you requested access to the data matching tables by Finchimica, ADAMA and Sharda concerning *pendimethalin.* You specified that you would like to receive the data matching tables of all requests of all *pendimethalin* applicants submitted in the context of Article 43 of Regulation (EC) No 1107/2009[3]. You indicated that you based your request on Regulation (EC) No 1049/2001 and on Regulation (EC) No 1367/2006[4].

1 Official Journal L 345 of 29.12.2001, p. 94.
2 Official Journal L 145 of 31.5.2001, p. 43.
3 Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, Official Journal L 309 of 24.11.2009, p. 1–50.
4 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, Official Journal L 264 of 25.9.2006, p. 13–19.

At the initial stage, the Directorate-General for Health and Food Safety identified the following documents as falling within the scope of your request:

- Data matching table *Pendimentalin* by Finchimica (hereafter 'document 1');
- Data matching table *Pendimentalin* by Life Scientific (hereafter 'document 2');
- Data matching table *Pendimentalin* by Sharda (hereafter 'document 3').

In accordance with Article 4(4) and (5) of Regulation (EC) No 1049/2001, the Directorate-General for Health and Food Safety consulted the authorities of the Netherlands, which had submitted these studies to the European Commission, with a view to assessing whether an exception in paragraphs 1 to 3 could be applicable. The authorities of the Netherlands, in turn, consulted the companies that had submitted the studies to them. These companies communicated their opposition to the disclosure of the requested documents to the European Commission. In its initial reply of 6 June 2018, the Directorate-General for Health and Food Safety took into account the result of the third party consultations and refused access to these documents, based on the exception of Article 4(2), first indent (protection of commercial interests, including intellectual property) of Regulation (EC) No 1049/2001.

In your confirmatory application, you requested a review of this position. You supported your request with detailed arguments, which I address in the corresponding sections below.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the relevant Directorate-General at the initial stage.

a. Consultation of the Dutch authorities

In the context of its confirmatory review, the Secretariat-General re-consulted the authorities of the Netherlands in accordance with Article 4(4) and (5) of Regulation (EC) No 1049/2001, as the requested documents originated from them and had been submitted to the European Commission by the latter.

While agreeing to the public disclosure of the data included in the national introductory remarks, the authorities of the Netherlands opposed the disclosure of any other data that the companies seeking data matching had filled in. In addition, they opposed the disclosure of the names of persons involved in testing on vertebrate animals. They based their opposition on Article 4(2), first indent (protection of the commercial interests) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

The European Commission informed you about the result of the consultation of the authorities of the Netherlands and asked whether you would like receive those parts of the documents that the authorities of the Netherlands had agreed to disclose. In response to this consultation, you indicated that you withdrew your request regarding Finchimica-linked *pendimethalin* materials.

Consequently, document 1 no longer falls within the scope of your request.

You also specified that you did not request access to 'the names of the persons engaged in vertebrate testing that may be present in the requested documents'. For the remainder, you indicated that you maintained the scope of your request as regards Life Scientific and Sharda-linked *pendimethalin* materials. You underlined that your request was based on both Regulation (EC) No 1049/2001 and Regulation (EC) No 1367/2001.

Following your reply to its consultation, the European Commission conducted a dialogue with the authorities of the Netherlands, who finally agreed to the public disclosure of the requested tables, subject to the redaction of:

- the personal data contained therein, in accordance with Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001; and

- the columns under the chapters entitled 'title of alternative study or case referenced/submitted by the applicant' and 'reason for equivalence/justification for non-provision', based on the protection of the commercial interests, including intellectual property of the firms which had submitted this information to the authorities of the Netherlands (Article 4(2), first indent of Regulation (EC) No 1049/2001).

b. *'At first sight'* assessment by the European Commission

Following the consultation of the authorities of the Netherlands on the possible disclosure of the requested documents, the European Commission has carried out an *at first sight'* assessment of the arguments put forward by the authorities of the Netherlands, based on Article 4(4) and (5) of Regulation (EC) No 1049/2001.

In your confirmatory application, you referred to other requests that you have filed in the past for similar data matching tables and to the fact that these were disclosed. In this context, you request whether the policy of the European Commission has changed in this respect. You also argue that the European Commission 'had no need to ask the Competent Authority [of the Netherlands] for permission.'

Please note in this respect that the European Commission consults the Member State from which a document originates whenever it is not clear whether access shall or shall not be granted to the document, as it did in the case at hand. This administrative practice flows from Article 4(4) and (5) of Regulation (EC) No 1049/2001, as further set out in Article 5(4) of the European Commission's Detailed Rules for the Application of Regulation (EC) No 1049/2001[5].

Therefore, the European Commission was entitled to request the opinion of the authorities of the Netherlands on the possible disclosure of documents originating from them. Consequently, it was also entitled to take into consideration their views on the possible disclosure of these documents.

In its judgment of 8 February 2018 in Case T-74/16 (*Pagkyprios Organismos Ageladotrofon)*, the General Court clarified that 'before refusing access to a document originating from a Member State, the institution concerned must examine whether that Member State has based its objection on the substantive exceptions in Article 4(1) to (3) of Regulation No 1049/2001 and has given proper reasons for its position. Consequently, when taking a decision to refuse access, the institution must make sure that those reasons exist and refer to them in the decision it makes at the end of the procedure'.[6]

The General Court clarified in this judgment that the institution 'must, in its decision, not merely record the fact that the Member State concerned has objected to disclosure of the document applied for, but also set out the reasons relied on by that Member State to show that one of the exceptions to the right of access provided for in Article 4(1) to (3) of the regulation applies'[7].

The General Court also clarified that 'the institution to which a request for access to a document has been made does not have to carry out an exhaustive assessment of the Member State's decision to object by conducting a review going beyond the verification of the mere existence of reasons referring to the exceptions in Article 4(1) to (3) of Regulation No 1049/2001.[…] The institution must, however, check whether the explanations given by the Member State appear to it, prima facie, to be well founded'[8].

Following this assessment, I have come to the conclusion that the authorities of the Netherlands based their objection to the disclosure of parts of the requested documents on Article 4(2), first indent (protection of commercial interests, including intellectual property) and on Article 4(1)(b) of Regulation (EC) No 1049/2001 and Article 63 of Regulation (EC) No 1107/2009 and have given proper reasons for their position.

These arguments justify *at first sight* the application of the exceptions of Article 4(1)(b) (protection of privacy and the integrity of the individual) and of Article 4(2), first indent (protection of commercial interests, including intellectual property).

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5 Commission Decision of 5 December 2001 amending its rules of procedure (notified under document number C(2001) 3714), Official Journal L 345 of 29.12.2001, p. 94–98.

6 Judgment of the General Court of 8 February 2018, *Pagkyprios Organismos Ageladotrofon v Commission*, Case T-74/16, EU:T:2018:75, paragraph 55.

7 Idem, paragraph 56.

8 Idem, paragraph 57.

Therefore, I can inform you that partial access is granted to documents 2 and 3. The partial refusal is based on the exceptions of Article 4(1)(b) (protection of privacy and the integrity of the individual) and Article 4(2), first indent (protection of commercial interests, including intellectual property) of Regulation (EC) No 1049/2001, for the reasons set out below.

3. PROTECTION OF PRIVACY AND THE INTEGRITY OF THE INDIVIDUAL

Article 4(1)(b) of Regulation (EC) No 1049/2001 provides that 'access to a document is refused where disclosure would undermine the protection of […] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data'.

In its judgment in Case C-28/08 P *(Bavarian Lager)*[9], the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[10] (hereafter 'Regulation (EC) No 45/2001') becomes fully applicable.

Please note that Regulation (EC) No 45/2001, as from 11 December 2018, was repealed by Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC[11] (hereafter 'Regulation 2018/1725').

However, the case law issued with regard to Regulation (EC) No 45/2001 remains relevant for the interpretation of Regulation 2018/1725.

In the above-mentioned judgment, the Court of Justice stated that Article 4(1)(b) of Regulation (EC) No 1049/2001 'requires that any undermining of privacy and the integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with […] [the Data Protection] Regulation'[12].

Article 3(1) of Regulation (EC) 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person […]'.

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9 Judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd*, Case C-28/08 P, EU:C:2010:378 (hereinafter referred to as the 'judgment in Case C-28/08 P'), paragraph 59.

10 Official Journal L 8 of 12.1.2001, page 1.

11 Official Journal L 205 of 21.11.2018, p. 39.

12 Judgment in Case C-28/08 P, cited above, paragraph 59.

As the Court of Justice confirmed in Case C-465/00 (*Rechnungshof*), 'there is no reason of principle to justify excluding activities of a professional […] nature from the notion of private life'.[13]

The requested documents include the names of natural persons, for example the names of the authors of (unpublished) studies.

As you do not request access to the names of persons involved in testing on vertebrate animals, those names fall outside the scope of your request.

In any case, I consider that the disclosure of the names and addresses of persons involved in testing on vertebrate animals is deemed to undermine the protection of privacy and the integrity of the individuals concerned, according to Article 63(2)(g) of Regulation (EC) No 1107/2009.

This information clearly constitutes personal data in the sense of Article 3(1) of Regulation 2018/1725.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

In Case C-615/13 P *(ClientEarth*), the Court of Justice ruled that the institution does not have to examine of its own motion the existence of a need for transferring personal data.[14] This is also clear from Article 9(1)(b) of Regulation 2018/1725, which requires that the necessity to have the personal data transmitted must be established by the recipient.

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13 Judgment of the Court of Justice of 20 May 2003, preliminary rulings in proceedings between *Rechnungshof and Österreichischer Rundfunk*, Joined Cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

14 Judgment of the Court of Justice of 16 July 2015, *ClientEarth v European Food Safety Agency*, Case C-615/13 P, EU:C:2015:489, paragraph 47.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for the lawful processing of personal data only if the first condition is fulfilled, namely if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

Notwithstanding the above, there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by the disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

3.1. Protection of commercial interests

Article 4(2), first indent of Regulation (EC) No 1049/2001 stipulates that '[t]he institutions shall refuse access to a document where disclosure would undermine the protection of […] commercial interests of a natural or legal person, including intellectual property, […] unless there is an overriding public interest in disclosure'.

In your confirmatory application, you state that 'the know-how claimed by parties objecting to [your] request for access to the Data Matching tables are seeking to protect knowledge that should not be required of them if the responsible public body had undertaken its duty as called upon the regulation'. In this statement, you implicitly acknowledge that the requested documents contain information that is based on the specific knowledge of these companies[15].

Certain parts of the requested documents are withheld in application of Article 4(2), first indent of Regulation (EC) No 1049/2001 (protection of commercial interests, including intellectual property), as their disclosure would undermine the commercial interests, including the intellectual property, of the companies seeking to authorise a plant protection product. The withheld parts are the columns under the chapters 'title of alternative study or case referenced/submitted by the applicant' and 'reason for equivalence/justification for non-provision'.

These parts have commercial value, as the applicants have to suggest alternative studies and explain the reasons why they consider them equivalent or justify the reasons why they do not provide any alternative study. This information is the result of a legal,

[15] Please note that this confirmatory decision is limited to your request for access to documents and cannot address other concerns you express regarding national public bodies.

regulatory, technical or scientific analysis, which reflects the specific know-how of the companies. The withheld parts contain a selection of studies based on the special skills and knowledge of the companies concerned and a specific reasoning in which considerable intellectual expertise was invested. The disclosure of these parts, at this stage, would seriously undermine the commercial interests of the companies concerned, including their intellectual property, as it would negatively affect their commercial activity, in particular in the competitive context.

Therefore, there is a real and non-hypothetical risk that the disclosure of this information would adversely affect the commercial interests and activities of the concerned companies.

I conclude that the disclosure of the withheld parts of the requested document would undermine the protection of the commercial interests of concerned companies within the meaning of Article 4(2), first indent, of Regulation (EC) No 1049/2001.

In your confirmatory application, you claimed that the requested documents contain information that relates to emissions into the environment and should be disclosed in accordance with Regulation (EC) No 1367/2006[16]. I examine the existence of an overriding public interest in disclosure under point 4.

4. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exception laid down in Article 4(2), first indent of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

In your confirmatory application, you claimed that 'not only do Regulations 1049/2001 and 1367/2006 override the desire of the [Rapporteur Member State] to keep the data owner's Data Matching lists and methodology secret, but Regulation 1107/2009/EU mandates that such information be disclosed'. You also indicated that you consider that you are entitled to have this information, based on Articles 61 and 63 of Regulation (EC) No 1107/2009 'in order to understand precisely which studies or waivers any applicant has put forward to use for the purposes of his product authorisation or reauthorisation applications'. You also claimed that this 'knowledge is intended to be a matter of public record and the process entirely non-discriminatory and fair and thereby transparent'.

You also referred to Article 63(2) of Regulation (EC) No 1107/2009, indicating that 'it provides for a clear definition as to which information may not be disclosed in avoidance of undermining commercial interests or the privacy of individuals by means of requests for public access to information'. In your view, such information is not included normally in data matching tables.

[16] This Convention was approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005, Official Journal L 124 of 17.5.2005, p. 1. It is applicable in EU law through Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006, cited in footnote 4.

I do not agree with your arguments. Firstly, the application of both Regulations (EC) No 1049/2001 and (EC) No 1367/2006 do not result in an automatic disclosure of the requested information. Secondly, Article 63(2) of Regulation (EC) No 1107/2009 does not contain a closed list of exceptions. It merely lists information, the disclosure of which shall normally be deemed to undermine the protection of the commercial interests or of privacy and the integrity of the individuals concerned. This means that Article 4(2), first indent of Regulation (EC) No 1049/2001 continues to apply. Thirdly, I do not share the view that the withheld parts of the documents are information relating to emissions into the environment.

I would like to refer in this respect to the judgment of the Court of Justice in Case C-673/13 P (*Stichting Greenpeace Nederland and PAN Europe*)[17]. That judgment interprets the concept of information relating to emissions into the environment, for which Article 6(1) of Regulation (EC) No 1367/2006 stipulates that an overriding public interest is deemed to exist as regards the exceptions of Article 4(2), first and third indents, of Regulation (EC) No 1049/2001.

The interpretation is as follows:

'In the light of the objective set out in the first sentence of Article 6(1) of Regulation No 1367/2006 of ensuring a general principle of access to "information […] [which] relates to emissions into the environment", that concept must be understood to include, inter alia, data that will allow the public to know what is actually released into the environment or what, it may be foreseen, will be released into the environment under normal or realistic conditions of use of the product or substance in question, namely those under which the authorisation to place that product or substance on the market was granted and which prevail in the area where that product or substance is intended to be used. Consequently, that concept must be interpreted as covering, inter alia, information concerning the nature, composition, quantity, date and place of the actual or foreseeable emissions, under such conditions, from that product or substance.'[18]

In this context, it is important to underline that the Court of Justice acknowledges that 'the purpose of access to environmental information provided by […] [Regulation 1367/2006] is, inter alia, to promote more effective public participation in the decision-making process, thereby increasing, on the part of the competent bodies, the accountability of decision-making and contributing to public awareness and support for the decisions taken. In order to be able to ensure that the decisions taken by the competent authorities in environmental matters are justified and to participate effectively in decision-making in environmental matters, the public must have access to information enabling it to ascertain whether the emissions were correctly assessed and must be given

[17] Judgment of the Court of Justice of 23 November 2016, *Commission v Stichting Greenpeace Nederland and PAN Europe*, Case C-673/13 P, EU:C:2016:889.

[18] Ibid, paragraph 79.

the opportunity reasonably to understand how the environment could be affected by those emissions'[19] (emphasis added).

In the present case, however, there are several reasons why the withheld information in the documents requested does not fall under the above-mentioned definition of 'emissions into the environment'. Firstly, the decision has not yet been taken by the competent authorities, who are in the process of assessing the information provided by the applicants. Although the purpose of Regulation (EC) No 1307/2006, as explained by the Court of Justice, is to increase, on the part of the competent bodies, the accountability of decision-making contributing to public awareness and support for the decisions taken, it is not to substitute the decision-making process of the competent institutions through a public review.

The Court of Justice has specified that 'the interpretation of "information on emissions into the environment" […] does not in any way mean that all data contained in files for authorisation to place plant protection products or biocides on the market, in particular, all data from studies carried out in order to obtain that authorisation, are covered by that concept and must always be disclosed. Only data relating to "emissions into the environment" are covered by that concept, which excludes, inter alia, not only information which does not concern emissions from the product in question into the environment, but also […] information which relates to hypothetical emissions, that is to say emissions which are not actual or foreseeable from the product or substance in question under representative circumstances of normal or realistic conditions of use'[20].

The withheld information relates to the alternative studies submitted or cases referred to by the applicant and to the reasons provided when claiming equivalence to the study used to approve an active substance. This information is clearly not related to emissions into the environment, as it is information supporting the claim of the applicant that its active substance data package is equivalent to the one used to approve (or renew the approval of) an active substance. In addition, information on an active substance that is not released as such into the environment does not fulfil the criteria developed by the Court of Justice.

The Court of Justice has explicitly underlined the need not to render void any legitimate protection of commercial interests:

'(…) while […] it is not necessary to apply a restrictive interpretation of the concept of "information [which] relates to emissions into the environment", that concept may not, in any event, include information containing **any kind of link**, even direct, to emissions into the environment. If that concept were interpreted as covering such information, it would to a large extent deprive the concept of "environmental information" as defined in Article 2(1)(d) of Regulation (EC) No 1367/2006 of any meaning. Such an interpretation would deprive of any practical effect the possibility, laid down in the first indent of

[19] Judgment of the Court of Justice of 23 November 2016, *Bayer CropScience SA-NV and Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden*, Case C-442/14, EU:C:2016:890, paragraph 100.

[20] Ibid.

Article 4(2) of Regulation (EC) No 1049/2001, for the institutions to refuse to disclose environmental information on the ground, inter alia, that such disclosure would have an adverse effect on the protection of the commercial interests of a particular natural or legal person and. It would **would jeopardise the balance which the EU legislature intended to maintain between the objective of transparency and the protection of those interests** also constitute a disproportionate interference with the protection of business secrecy ensured by Article 339 [of the Treaty on the Functioning of the European Union]' (emphasis added).

This conclusion is reinforced by a judgment of the General Court, which states that it is 'only at the stage of the national authorisation procedure to place **a specific plant protection product** on the market that the Member State assesses any emissions into the environment and that specific information emerges concerning the nature, composition, quantity, date and place of the actual or foreseeable emissions, under such conditions, from the active substance and the specific plant protection product containing it'.[21]

The full disclosure of the requested documents at this stage would indeed lead to a disproportionate undermining of the protection of the rights ensured by Articles 16 and 17 of the Charter of Fundamental Rights of the European Union and by Article 39(3) of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

I therefore conclude that there is no public interest capable of overriding the public and private interests protected by Article 4(2), third indent of Regulation (EC) No 1049/2001 for the withheld (parts of) the requested documents.

The fact that the documents relate to an administrative procedure and not to any legislative act, for which the Court of Justice has acknowledged the existence of wider openness,[22] provides further support to this conclusion.

Please also note that Article 4(1)(b) of Regulation (EC) No 1049/2001 does not include the possibility for the exceptions defined therein to be set aside by an overriding public interest.

The fact that the requested documents are now partially released only reinforces this conclusion.

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21 Judgment of the General Court of 21 November 2018, *Stichting Greenpeace Nederland and Pesticide Action Network Europe (PAN Europe) v Commission*, Case T-545/11 RENV, EU:T:2018:817, paragraph 88.

22 Judgment of the Court of Justice of 29 June 2010, *Commission v Technische Glaswerke Ilmenau Gmbh*, Case C-139/07 P EU:C:2010:376, paragraphs 53-55 and 60 and judgment in Case C-28/08 P, cited above, paragraphs 56-57 and 63.

5. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

For the Commission
Martin SELMAYR
Secretary-General

Enclosures: (2)