

**To the President and Members of the  
GENERAL COURT OF THE EUROPEAN UNION**

**APPLICATION  
FOR ANNULMENT**  
under Article 263 of the  
Treaty on the Functioning of the European Union

**STICHTING GREENPEACE NEDERLAND**

**PESTICIDE ACTION NETWORK EUROPE**

**Applicants**

**v.**

**EUROPEAN COMMISSION**

**Defendant**

6 July 2011

Addressee:  
Registrar of the Registry  
of the General Court of the European Union  
Rue du Fort Niedergrünwald  
L-2925 Luxembourg

## **Representation**

In accordance with Article 44(3) of the Rules of Procedure of the European Communities the attorney representing Stichting Greenpeace Nederland (Greenpeace Netherlands) and Pesticide Action Network Europe (PAN Europe) is Bondine KLOOSTRA, member of the Amsterdam Bar (**Annex 1**), having her office at Van den Biesen Boesveld Advocaten, Rhijnspoorplein 22 (1018TX) Amsterdam, The Netherlands.

For the purpose of these proceedings, in accordance with Article 44(2) of the Rules of Procedure of the European Communities the Applicants agree to accept service through their designated agent Bondine KLOOSTRA for service of process via electronic mail at [bondinekloostravandenbiesenboesveld.nl](mailto:bondinekloostravandenbiesenboesveld.nl) and via telefax at +31 20 5682925.

## **Information on the Applicants**

Name: Stichting Greenpeace Nederland  
Address: Jollemanhof 15-17, 1019 GW Amsterdam, The Netherlands  
Postal address: Postbus 3946, 1001 AS Amsterdam, The Netherlands

In accordance with Article 44(5) of the Rules of Procedure of the European Communities the required proof of existence in law for Greenpeace as a legal person is included (**Annex 2**). Greenpeace Netherlands gave permission to start this proceeding before the General Court (**Annex 3**).

Name: Pesticide Action Network Europe  
Address: Rue de la Pépinière 1 B-1000, Brussels, Belgium

In accordance with Article 44(5) of the Rules of Procedure of the European Communities the required proof of existence in law for PAN Europe as a legal person is included (**Annex 4**). PAN Europe gave permission to start this proceeding before the General Court (**Annex 5**).

## TABLE OF CONTENTS

LIST OF ANNEXES.....	3
SUMMARY .....	4
I. BACKGROUND .....	6
I.1 Relevant facts.....	6
I.2 Proceedings.....	8
II. LEGAL GROUNDS.....	11
II.1 Introduction .....	11
II.2 First plea in law .....	12
II.3 Second plea in law.....	13
III. ORDER SOUGHT .....	18

## LIST OF ANNEXES

1. Certificate of registration as attorney at law at the Amsterdam Bar of 31 January 2006;
2. The Commission's Decision of 6 May 2011 whereby the Applicants' request for internal review of 20 December 2010 was partly rejected;
3. Bylaws of Greenpeace Netherlands;
4. Authorisation on behalf of Greenpeace Netherlands, dated 28 June 2011;
5. Bylaws of PAN Europe;
6. Authorisation on behalf of PAN Europe, dated 6 July 2011;
7. Request for internal review of 20 December 2010.

## SUMMARY

The Applicants are the non-governmental organisations Stichting Greenpeace Nederland, seated in Amsterdam, The Netherlands and Pesticide Action Network Europe, seated in Brussels, Belgium. The defendant is the European Commission.

The Applicants seek the annulment of the Commission's decision of 6 May 2011. The Applicants requested for access to documents relating to the first authorisation for Glyphosate as an active substance under Directive 91/414. The request was submitted to the Commission by letter of 20 December 2010. When the Commission failed to reply to the request for information and failed to grant access to the documents requested the Applicants have submitted by letter of 7 February 2011 a confirmatory application to the Commission requesting again the access to the information concerned. By letter of 6 May 2011 the Commission disclosed partly the information requested. The information that was not disclosed concerns documents the German authorities have forwarded to the Commission and on the bases of these documents the Commission in 2001 decided to place Glyphosate as an active substance on the list of Annex I to Directive 91/414.

The Applicants respectfully request the General Court to:

- I. declare that the Commission acted in violation of Regulation 1049/2001 concerning the Commission decision of 6 May 2011;
- II. declare that the Commission acted in violation of the Aarhus Convention, Regulation 1049/2001 and Regulation 1367/2006 concerning the Commission decision of 6 May 2011;
- III. annul the Commission decision of 6 May 2011;
- IV. order the Commission to pay the costs of the proceedings.

The Applicants have formulated two plea in law:

First plea in law: alleging that the contested decision violates Article 8(1) and (2) of Regulation 1049/2001 for not deciding within the prescribed time-limits to the Applicants' confirmatory application and not providing detailed reasons for doing so.

Second plea in law: alleging that the contested decision violates Article 4 of the Aarhus Convention, Article 4(2) and (5) of Regulation 1049/2001 and Article 6(1) of Regulation 1367/2006 for failure to assess because the ground for refusal is not compliant with the Aarhus convention and 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.

## I. BACKGROUND

### I.1 Relevant facts

1. Greenpeace Netherlands is since years concerned about the use of Glyphosate in pesticides and when used in combination with Glyphosate resistant genetically modified crops. Recently Greenpeace Netherland published a report on the new scientific proof about the harmfulness of Glyphosate. The objectives of PAN Europe are amongst others to promote the reduction and elimination of the use of pesticides and other chemical elements and the new information about adverse effects on human health and the environment of Glyphosate raises great concern.
2. Directive 91/414/EEC of the Council of 15 July 1991 concerning the placing of plant protection products on the market<sup>1</sup> states that active substances in pesticides are only approved for use if they have undergone a safety assessment. An active substance shall in accordance with Article 5(1) under a and b 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 certain conditions. This means among other criteria that residues of the substance do not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment and that the use of the substance does not have any harmful effects on human or animal health.
3. Therefore for each active substance an application is to be submitted to a Member State in accordance with Article 6(2) of Directive 91/414/EEC and an initial draft risk assessment report (DAR) is to be produced by a Member State. These proceedings will lead to a decision on the application for the inclusion of the substance in in Annex I of Directive 91/414/EEC if all the conditions for the placing on that list are fulfilled.
4. The rapporteur Member State is to state whether the dossier is complete or whether it needs to be completed. If complete the rapporteur Member State will produce the DAR will be forwarded together with the dossier to the Commission and to the other

---

<sup>1</sup> OJ L230, 19.08.91, p. 1

Member States. Based on the dossier and the DAR (since 2005 the EFSA peer-review) the Commission and the other Member States carry out a review that may lead to a Commission decision on the application for the inclusion of the active substance concerned. This determines whether the substance may be used in or as a plant protection product in the European Union. In this respect Article 4(1) of Directive 91/414 provides that chemical elements may only be used in or as plant protection products in the Member States if these elements are admitted as 'active substances' by their inclusion in Annex I of this Directive and only if the conditions in Annex I are fulfilled. In order to be admitted the active substance must fulfil the conditions laid down in the Articles 5 and 6 of Directive 91/414/EEC, concerning amongst others criteria for the safety and the protection of human health and the environment.

5. Article 5(2) of Directive 91/414 provides that the dossier that the notifier needs to submit to the reporting Member State will only be forwarded to the Commission as well as to the other Member States when it is believed to satisfy the requirements of Annex II. The rapporteur Member State therefore needs to assess whether the dossier contains all the data necessary for the Commission and the Member States to review the risks and effects of the chemical element concerned and for the Commission to take a decision about the inclusion requested. In accordance with Article 5(2) of Directive 91/414 the dossier and the DAR needs to contain the information required in Annex II. It should therefore contain all sorts of information on the effects of the substance concerned on human health and the environment such as data on the toxicity of the active substance, reproductive toxicity, neurotoxicity, medical data, the criteria for residue studies and trials, data about fate and behaviour of the active substance in the environment (soil, water, air), ecotoxicological studies, trials and studies on effects on animals (mammals, birds, fish, other aquatic organisms, soil organisms insects, microbes etc.). In the DAR all the relevant information on the chemical element is collected and the DAR provides for an assessment of the risks for human health and the environment. Since 2005 this information of the rapporteur Member State referred to as the DAR is, without any prior request for disclosure, published by the European Food Safety Authority (EFSA) on its website.
6. Glyphosate(-trimesium) – hereafter referred to as Glyphosate – was in 2001 included as an active substance in Annex I of Directive 91/414. For this purpose an application for inclusion was sent by a notifier to the German authorities and Germany, as the rapporteur Member State with respect to this application, carried out an assessment

and produced a DAR. The dossier and the DAR were reviewed by the Commission, the Member States and by the Standing Committee on Plant Health Protection and by the Scientific Committee for Plants. Based on this information Glyphosate was included in Annex I of Directive 91/414 and may since be used in or as a plant protection product in the Member States. The Commission adopted for this purpose the Commission Directive 2001/99/EC of 20 November 2001 amending Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market to include glyphosate and thifensulfuron-methyl as active substances<sup>2</sup>.

7. Since that time many independent studies about the various effects of Glyphosate – e.g. on human health, soils, biodiversity – have been published in scientific journals. Several of these studies have raised concern about the impact of Glyphosate and about the side effects of this substance on human health. For this reason the disclosure of the dossier and the DAR on Glyphosate is of great public interest, permitting third parties to verify whether the assessment of the risks and effects of Glyphosate were carried out correctly and as prescribed. Recently the Commission decided to prolong the inclusion of Glyphosate in Annex I of Directive 91/414 until 31 December 2015<sup>3</sup>. For this reason it is still of great importance to have access to the documents on Glyphosate as described before. The Applicants therefore asked the Commission to disclose the dossier and the DAR on which the decision to place Glyphosate as an active substance on the list of Annex I of Directive 91/414 was based.

## **I.2 Proceedings**

8. By their letter of 20 December 2010 the Applicants requested the Commission to internally review the Commission Directive (EU) No. 2010/77 prolonging the inclusion of Glyphosate and other active substances on the list of Annex I of Directive 91/414. The letter also contained a request for access to documents. The Applicants asked the Commission the following:

“Germany was Rapporteur for Glyphosate, previous to the first inclusion in Annex I of Directive 91/414 in 2001. In the ‘Review Report’ on the SANCO website it is stated

---

<sup>2</sup> OJ L304, 21.11.2001, p. 14

<sup>3</sup> Directive 2010/77/EU of 10 November 2010 amending Council Directive 91/414/EEC as regards the expiry dates for inclusion in Annex I of certain active substances, OJ L293, 11.11.10, p. 48



that Germany made a draft assessment report (DAR) which is discussed with other member states. This DAR however is not made public and we request herewith, based on the EU access to documents Regulations, to get a copy of this DAR as soon as possible.”

“Based on the same EU access to documents Regulations, we request herewith to get a complete list of all tests submitted by the Applicants at the first inclusion of Glyphosate in 2001 (Commission Directive 2001/99/EC).”

“We herewith request to supply the full, complete and original test documents of Glyphosate(-trimesium) supplied by the Applicants for the approval of Glyphosate in 2001 (Commission Directive 2001/99/EC) where it concerns all long-term-toxicity tests, all mutagenicity tests, carcinogenicity tests, neurotoxicity tests and all reproduction studies, again on the basis of the EU access to documents Regulations.”

9. The request for access to documents by letter of 20 December 2010 is attached (**Annex 6**). By letter of 20 January 2011 the Commission invited the Applicants to address the reporting Member State Germany in order to obtain access to the documents requested (**Annex 7**). In accordance to Article 7(1) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 an application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days after the registration of the application, the institution shall grant access to the document requested and provide access.
10. The Commission however did not decide on the request within this time-limit. Following Article 7(4) of Regulation 1049/2001 a failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application. As the Commission largely had overpassed the time-limit the Applicants by letter of 7 February 2011 submitted a confirmatory application to the Commission (**Annex 8**). Following Article 8(1) of Regulation 1049/2001 the institution concerned had to react on the confirmatory application within a time-limit of 15 working days. The Commission also largely exceeded this time-limit. The confirmatory application resulted in a response of the Commission by letter of 6 May 2011 with which the Commission sent a copy of certain documents requested (**Annex 9**). The Commission decided only to give access to certain parts of the DAR. The Commission stated as follows:

“The German authorities informed the Commission in their reply of 22 March 2011 that full access can be granted to the “*Draft Assessment Report (DAR) and its addenda*” (...) with the exception of its Volume 4 which includes the complete list of all tests submitted by the Applicants at the first inclusion of Glyphosate in 2001 (Commission Directive 2001/99/EC).”

Concerning the access requested by the Applicants to the full, complete and original test documents of Glyphosate supplied by the notifiers which documents contain all long term toxicity tests, all mutagenicity tests, carcinogenicity tests and all the reproduction studies the Commission informed the Applicants as follows:

“I must inform you that no such documents are in the Commission’s possession since they were not transmitted to the Commission by the German authorities.”

11. Thus, the Commission refused to provide the Applicants with access to a) the complete list of studies carried out, b) Volume 4 of the DAR and c) the specific tests and studies as mentioned in their request for access to documents. For the information under a) and b) a separate decision was announced. The Commission stated that the discussion between the Commission and the German authorities was ‘still ongoing’. The Applicants however still have not received the documents concerned. For the information mentioned under c) the Commission stated that this information was not been transmitted to the Commission and that it therefore was not in the Commission’s possession.
12. The Applicants hereby contest the refusal of the Commission by decision of 6 May 2011 to grant full access to the documents requested. This decision will be referred to as the contested decision.

## II. LEGAL GROUNDS

### II.1 Introduction

13. The Applicants consider the contested decision to be incompatible with Article 8 of Regulation 1049/2001, with the obligations under Article 4 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus Convention)<sup>4</sup>, Article 4 of Regulation 1049/2001 and Articles 1(1) and 6(1) 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<sup>5</sup>.

14. The Applicants will demonstrate that the contested decision therefore has to be annulled on the basis of the following grounds for annulment:

- First plea in law: alleging that the contested decision violates Article 8(1) and (2) of Regulation 1049/2001 for not deciding within the prescribed time-limits to the Applicants' confirmatory application and not providing detailed reasons for doing so.
- Second plea in law: alleging that the contested decision violates Article 4 of the Aarhus Convention, Article 4(2) and (5) of Regulation 1049/2001 and Article 6(1) of Regulation 1367/2006 for failure to assess because the ground for refusal is not compliant with the Aarhus convention and 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.

---

<sup>4</sup> Council Decision (EC) No 2003/370 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, JO L124, 17.05.2005, p. 1

<sup>5</sup> JO L263, 26.09.2006, p. 13

## **II.2 First plea in law**

### *Violation of Article 8(1) and (2) of Regulation 1049/2001*

15. The Applicants contest the right for the Commission to exceed the time-limit in Article 8(1) of Regulation 1049/2001. The Commission did not mention Article 8(2) of Regulation 1049/2010 but however stated in the last paragraph of the contested decision as follows:

“Due to the complexity of the matter, the number of documents involved, and the fact that the notification of this substance dates from years ago, the Commission has not come to any conclusions in this regard. We are unfortunately not yet able to provide you with a final reply to this part of your confirmatory application.”

16. Article 8(2) of Regulation 1049/2001 provides:

“In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.”

17. The Commission thus referred to certain exceptions that may give the right to exceed the time-limits in accordance Article 8(2) of Regulation. But the Commission has not demonstrated in any way that this case would be exceptional and that the conditions of Article 8(2) of Regulation 1049/2001 would be fulfilled. Nevertheless the Commission still did not disclose the documents requested and therewith exceeded largely the time-limits of Article 8(1) and (2).
18. Nothing in the original request for access to documents nor in the confirmatory application could justify the exceeding of the time-limit and the implicit use of Article 8(2) of Regulation 1049/2001. The list of studies asked for is part of the DAR. The disclosure of the list therefore should not need an exceptional period of time.
19. The DAR furthermore is one set of documents and the Commission did not motivate in any way why the Volumes 1 to 3 of the DAR could be disclosed and still not Volume 4. It however is clear from the contested decision that the complete DAR has been identified. Thus, as the documents requested have been identified the

Commission could not justify the exceeding of the time-limit of Article 8(1) nor the implicit use of Article 8(2) by referring to the number of documents asked for or the fact that these documents date from before 2001.

20. The Applicants thus request the Court to declare that the Commission has acted in violation of Article 8(1) and (2) of Regulation 1049/2001.

### **II.3 Second plea in law**

Violation of Article 4 of the Aarhus Convention, Article 6(1) of Regulation 1367/2006 and Articles 4(3) and 4(5) of Regulation 1049/2001

21. Regulation 1049/2001 grants access to documents held by the Commission. Article 1(1) under a of Regulation 1367/2006 guarantees the right of access to environmental information. Following Article 1049/2001 an exception to this right to access can be made on the basis of Article 4(5). Based on this provision a Member State may request the institution concerned not to disclose a document originating from that Member State without its prior agreement. And based on this provision the institution may decide to first discuss a request for information with the Member State concerned before taking a decision on whether access to documents should be granted.
22. In accordance to Article 4(2) of Regulation 1049/2001 certain grounds for the refusal of disclosure can only be invoked unless there is an overriding public interest in disclosure. It concerns the exceptions to prevent the undermining of commercial interests of a natural or legal person, including intellectual property, of court proceedings and legal advice or of the purpose of inspections, investigations and audits. Article 4(2) states that these reasons for the refusal of disclosure cannot be applied when there is an overriding public interest in disclosure. Article 6(1) of Regulation 1367/2006 provides that grounds for refusal of the disclosure of environmental information shall in any way be interpreted in a restrictive way, while an overriding public interest in disclosure as referred to in Article 4 of Regulation 1049/2001 shall be deemed to exist where the information requested relates to emissions into the environment.

23. Furthermore the Aarhus Convention does not provide any exceptions to the right of access to documents relating to a prior consent of public authorities other than the authorities the request was addressed to.
24. This means that the exception to the disclosure of environmental information laid down in Article 4(5) of Regulation 1049/2001 should not be applied to environmental information by the Commission.
25. Article 2(1) under d, points (i), (ii) and (iv) provides for a definition of environmental information that is very close to the definition of environmental information laid down in Article 2(3) of the Aarhus Convention:
- (d) 'environmental information' means any information in written, visual, aural, electronic or any other material form on:
    - (i) 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;
    - (ii) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in point (i);
    - (...)
    - (iv) 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 in as much as they are or may be affected by the state of the elements of the environment referred to in point (i) or, through those elements, by any of the matters referred to in points (ii) and (iii).
26. The DAR and the lists of studies and reports as well as the studies requested constitute environmental information. It is clear from the Articles 5(1) and (2) and 6(2) of Directive 91/414 that the DAR contains all the information necessary to assess the risks and effects of Glyphosate on the environment and on human and animal health. It therefore derives from the above that Volume 4 of the DAR and the list of studies that were carried out pursuant the provisions of Directive 91/414 qualify as environmental information. This is even clearer for the studies the Applicants requested the disclosure of, which also qualify as environmental information, given the fact that the

purpose of these studies was to gather information about the effects of Glyphosate on the human health.

27. It derives from the forgoing that the Commission should not have used Article 4(5) of Regulation 1049/2001 to justify that the documents requested were not disclosed. In this respect Regulation 1049/2001 should be interpreted in a 'Aarhus Convention Compliant' way. The Court of justice ruled as follows on the interpretation of Community legislation based on the Aarhus Convention:

"In this regard, the Court of Justice recently ruled that, whenever possible, courts should interpret rules on access to justice to the fullest extent possible in accordance with the Aarhus Convention. The Court ruled as follows:

"It is, however, for the referring court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met in order to bring administrative or judicial proceedings, in accordance with the objectives of Article 9(3) of that convention and the objective of effective judicial protection of the rights conferred by European Union law, in order to enable an environmental protection organisation, such as the Lesoochranárske zoskupenie, to challenge before a court a decision taken following administrative proceedings liable to be contrary to European Union environmental law." (Judgment of the Court of Justice of 8 March 2011, C-240/09, Lesoochranárske zoskupenie VLK v. Slovakia).

28. This case-law demonstrates that the legislation of the European Union should be interpreted as 'Aarhus Convention compliant' as possible. In terms of the present case this means that the Commission had to grant access to the documents requested.
29. Furthermore, might the reason of this consultation of the German authorities be that the German authorities want to examine if any of the grounds for refusal laid down Article 4(2) of Regulation 1049/2001 apply, than the refusal to grant access to the documents constitutes also a violation of Article 6(1) of Regulation 1367/2006. This provision guarantees that no grounds for refusal as laid down in Article 4(2) of Regulation 1049/2001 may be invoked concerning information that relates to emissions into the environment. As the DAR contains information derived from studies and reports on the possible risks and effects of the introduction, and given the

fact that the DAR was used to assess the consequences of the first introduction of Glyphosate into the environment as a result of the inclusion of the active substance in Annex I to Directive 91/414 the DAR qualifies as information that relates to emissions into the environment. Following the Advocate-general of the Court of justice of the European Union the consequences for the environment of the release of certain substances are the precise reason why information on emissions into the environment has generally to be disclosed:

However (...) information on emissions does not extend to information on substances which are released at any time. As the Commission rightly argues, any substance is generally released into the environment at some time during its life cycle. What is concerned is, rather, information on the release as such. As far as can be seen, the present case concerns information on the release of substances as such only incidentally. It must be assumed that the field trial reports indicate what quantities of the plant protection product were applied. However, they are primarily of interest because of the information on the residues left on the lettuces, which are specific consequences of the release. Such consequences are the precise reason why information on emissions into the environment is generally disclosed. The public has an increased interest in finding out how they may be affected by an emission. Before the emission, effects on humans and the environment were rather unlikely or at least restricted to the sphere of the possessor of the commercial secrets. Released substances, on the other hand, necessarily interact with the environment and perhaps also with humans. The Implementation Guide for the Aarhus Convention therefore emphasises that the protection of commercial confidentiality should end when the substances to which the confidential information relates are released. Possible environmental effects are not to be construed as commercial secrets. This situation of interests is justification in particular for overriding the fundamental right of protection of commercial secrets in relation to information on emissions without a balancing exercise in the individual case. (...).

(...)

On these grounds, the contested studies and field trial reports are information on emissions into the environment whose disclosure may not be refused on grounds of commercial or industrial confidentiality. (AG of the Court of justice EU C-266/09, 23 September 2010, points 92 – 95, 101).

30. It derives from the above that the Commission also violated the Articles 4 of Regulation 1049/2001 and 6(1) of Regulation 1367/2006. In accordance with these



provisions the Commission should have examined before invoking any eventual ground for refusal whether the information requested qualifies as information relating to emissions into the environment.

31. The contested decision also contained the refusal of the Commission to provide the full, complete and original tests concerning the long term effects of Glyphosate (toxicity, mutagenicity, carcinogenicity and effects on reproduction). The Commission considered that no such documents would be in the Commission's possession since they would not have been transmitted by the German authorities to the Commission. The Applicants however wonder what the reason is for the absence of these documents. In the Applicants view it derives from Article 5(2) of Directive 91/414 that the German authorities were under the obligation to forward the complete DAR and dossier on Glyphosate to the Commission and the other Member States. Might the Commission be mistaken about the absence of this information, than the Applicants argue that they should have been granted the right to have access to these documents, because they also qualify as information on emissions into the environment whose disclosure may not be refused on grounds laid down in Article 4(2) of Regulation 1049/2001. In the same way as for the DAR these tests give insight in the consequences of the release of Glyphosate into the environment. The tests were carried out to study how Glyphosate interacts with the environment and with humans and to ground the release into the environment as authorised active substance.
32. On the before mentioned grounds the Applicants request the Court to declare that the Commission has acted in violation with Article 4 of the Aarhus Convention, Articles 4(2) and (5) and 8 of Regulation 1049/2001 and Article 6(1) of Regulation 1367/2006.

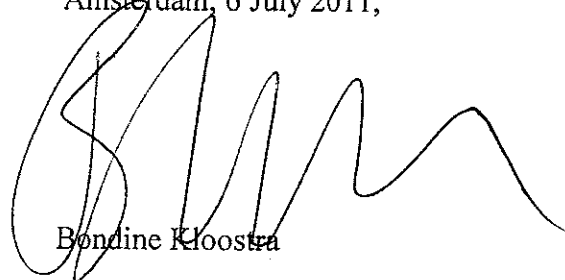
### III. ORDER SOUGHT

For the reasons outlined above the Applicants respectfully request the General Court to:

- I. declare that the Commission acted in violation of Regulation 1049/2001 concerning the Commission decision of 6 May 2011;
- II. declare that the Commission acted in violation of the Aarhus Convention, Regulation 1049/2001 and Regulation 1367/2006 concerning the Commission decision of 6 May 2011;
- III. annul the Commission decision of 6 May 2011;
- IV. order the Commission to pay the costs of the proceedings.

Respectfully submitted for  
Greenpeace Netherlands and PAN Europe

Amsterdam, 6 July 2011,

A handwritten signature in black ink, appearing to be 'Bondine Klooster', written over the printed name.

Bondine Klooster