



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Director General

SANCO

21. 04. 2009

Brussels,
SANCO/E3/FA/bp (2009) D/530234

Dear Ms De Rijk,

Subject: Request for an internal review of Commission Directive 2008/116/EC.

Thank you for your letter dated 21 January 2009 whereby, on behalf of PAN-Europe, Inter Environment Wallonie, Nature and Progres and MDRGF France, you requested the Commission to carry out an internal review of Directive 2008/116/EC¹.

Your request for internal review has been lodged on the basis of Title IV 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 bodies².

Under Regulation (EC) No 1367/2006, a request for internal review is admissible only if it complies with certain conditions. In particular, it follows from Art.10 of the Regulation that only acts which fall within the definition of "administrative act" set out in Art. 2(1)(g) of the Regulation may be the subject of an internal review. Art. 2(1)(g) defines administrative act as "any measure of individual scope under environmental law, taken by a Community institution or body, and having legally binding and external effect".

In your letter, it is argued that Directive 2008/116/EC is an administrative act subject to internal review.

The Commission does not share that interpretation.

¹ OJ L 337, 16.12.2008, p. 86–91. Commission Directive 2008/116/EC of 15 December 2008 amending Council Directive 91/414/EEC to include acetonitrile, imidacloprid and metazachlor as active substances.

² OJ L 264, 25.9.2006, p. 13.

NATUUR EN MILIEU
Ms Mirjam de Rijk
General Director
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Directive 2008/116/EC is based on Council Directive 91/414/EEC concerning the placing of plant protection products on the market³ and is addressed to the Member States. It lays down provisions which must be applied by Member States to all operators in the area of plant protection products wishing to place on the market plant protection products containing imidacloprid. Therefore, Directive 2008/116/EC must be regarded as an act of general scope. It cannot be considered an administrative act within the meaning of Art.2(1)(g) of Regulation (EC) No 1367/2006.

For the above reasons, the Commission considers your request for internal review of Commission Directive 2008/116/EC could not be accepted.

Should you not agree with the present reply, you may bring proceedings before the Court of First Instance of the EC or lodge a complaint with the European Ombudsman under the conditions laid down in Articles 195 and 230 respectively of the Treaty establishing the European Community.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Madelin', written in a cursive style.

Robert Madelin

³ OJ L 230, 19.8.1991