



EUROPEAN COMMISSION  
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Director-General

SANCO

01. 07. 2008

Brussels,  
SANCO/E3/FA/bp(2008) D/530586

Dear [REDACTED],

**Subject: Request for an internal review of Commission Regulation 149/2008.**

Thank you for your letter dated 2 April 2008 addressed to the Health Commissioner whereby, on behalf of the Netherlands Society for Nature and Environment, you requested the Commission to carry out an internal review of Regulation (EC) No 149/2008<sup>1</sup>.

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 bodies<sup>2</sup>. Regulation (EC) No 1367/2006 provides that a request for internal review shall comply with certain conditions, including the nature of the administrative act, which has to fall under the definition given in Art. 2(1)(g) of the same Regulation. This article restricts the scope of administrative acts to "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 Regulation (EC) No 149/2008 is an administrative act subject to internal review.

The Commission however cannot follow this interpretation.

Commission Regulation (EC) No 149/2008 is based on articles 5(1), 21(1) and 22(1) of Regulation (EC) No 396/2005<sup>3</sup> and determines EU maximum residue levels for pesticides applicable to all food business operators. Therefore, Regulation (EC) No 149/2008 cannot be considered an act of individual scope nor, as it is claimed in your letter, a bundle of

<sup>1</sup> OJ L 58, 1.3.2008, p 1-398.

<sup>2</sup> OJ L 264, 25.9.2006, p. 13.

<sup>3</sup> OJ L 70, 16.3.2005, p. 1-16

Ms [REDACTED]  
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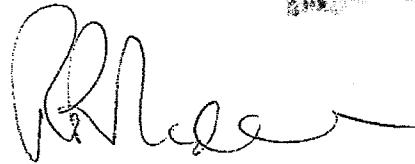
P:\New Pesticide\Residues - R1\E3.R1.01 Basic Legislation\Aarhus convention\Reply to PAN letter-Natuur en Milieu\Natuur en Milieu\530586 Madelin to Natuur en milieu- Aarhus convention.doc

*See  
also*

decisions. The Commission therefore considers your request for internal review of Regulation (EC) No 149/2008 to be inadmissible.

Should you not agree with the present reply, you may bring the matter before the Ombudsman or before the Court of First Instance if you have a complaint which falls within 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', with a long horizontal flourish extending to the right.

Robert Madelin