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**Action brought on 31 October 2012 - Saint-Gobain Glass Deutschland v Commission  
(Case T-476/12)***Language of the case: German***Parties**

*Applicant:* Saint-Gobain Glass Deutschland GmbH (Aachen, Germany) (represented by: S. Altenschmidt and C. Dittrich, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

Annul the implied decision of the Commission of 4 September 2012 (reference No GestDem No 3273/2012), refusing access to the information regarding the applicant's installations with which the Federal Environment Agency of the Federal Republic of Germany provided the European Commission in the context of the list of installations in Germany covered by Directive 2003/87/EC submitted under Article 15(1) of Commission Decision 2011/278/EU of 27 April 2011;

In the alternative, annul the implied decision of the Commission of 25 September 2012 (reference No GestDem No 3273/2012) with which access to the requested information was in any case denied;

Order the Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on the following pleas in law:

Infringement of Article 8(2) of Regulation (EC) No 1049/2001 2

Here the applicant submits that the preconditions for the extension of the period for answering its confirmatory application did not exist and that because of this a negative decision on the part of the Commission already existed on 4 September 2012.

Infringement of the first sentence of Article 3 of Regulation (EC) No 1367/2006 in conjunction with Article 2(1) of Regulation (EC) No 1049/2001

The applicant submits that the implied refusal of its request infringes the first sentence of Article 3 of Regulation (EC) No 1367/2006 in conjunction with Article 2(1) of Regulation (EC) No 1049/2001 as it has a right to have the environmental information sought made accessible on the basis of those provisions and there are no grounds for refusal, which have to be interpreted strictly.

In particular the applicant is of the view that the ground for refusal in the first subparagraph of Article 4(3) of Regulation No 1049/2001 does not apply. The requested documents relate solely to particulars with which the Federal Republic of Germany provided the Commission and not to an ongoing examination of those particulars by the Commission. It is not therefore to be feared that the Commission's decision-making process would be seriously undermined.

Furthermore, the applicant submits that even the opinion of the consulted authorities, which is as yet outstanding, is not a ground for refusing its request. It submits in that regard, that the exception in Article 4(5) of Regulation No 1049/2001 cannot be interpreted so broadly that it gives a Member State a right of veto on the basis of which it could, at its discretion, oppose access to the requested documents. That would be contrary to the Aarhus Convention's objective of establishing and furthering transparency in decision-making in environmental matters.

Infringement of the obligation to state reasons

Lastly, the applicant submits that there is infringement of the obligation to state reasons under the second paragraph of Article 296 TFEU.

<sup>1</sup> - 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 (OJ 2006 L 264, p. 13).

<sup>2</sup> - 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 (OJ 2006 L 264, p. 13).