



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 15 April 2014**

**9030/14**

**JUR 250**

**ENV 396**

**INFORMATION NOTE**

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from : Legal Service

to : Permanent Representatives Committee (part I)

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Subject : **Case C-612/13 P before the Court of Justice - Appeal brought by ClientEarth against the judgment of the General Court of 13 September 2013 in Case T-111/11**

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1. By application lodged with the Court of Justice on 26 November 2013, the Appellant has brought an appeal against the judgment of the General Court in Case T-111/11 of 13 September 2013 by which the General Court dismissed the application for annulment of the Commission's implied decision refusing to grant the applicant access to certain documents on the conformity of the Member States' legislation with European Union environmental law and then for annulment of the Commission's subsequent express decision of 30 May 2011 refusing in part access to some of those documents. A notice of this appeal was published in the Official Journal of the European Union on 8 March 2014 (C 71, p. 5).

2. In its appeal, the Appellant submits that the General Court's findings are vitiated by several errors of law. In the context of the second ground of appeal, the Appellant claims that the General Court erred in law through a violation of Articles 4(1), 4(2) and 4(4) of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters, done at Aarhus, Denmark, on 25 June 1998 and approved by Council Decision 2005/370/EC of 17 February 2005<sup>1</sup>.

This ground of appeal puts into question the points 84 to 100 of the General Court's ruling in Case T-111/11, which confirmed the conformity of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, with the Aarhus Convention. The appeal is therefore likely to challenge the legality of that Regulation and possibly of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the Aarhus Convention<sup>2</sup>.

3. The Council has asked for leave to intervene to defend the legality of Regulation No 1049/2001 and of Regulation No 1367/2006.. In line with its usual practice, the intervention of the Council will be limited to the defence of the legality of these acts and will not intervene on other points.
4. The Director General of the Legal Service of the Council has appointed Mr. Matthew MOORE, Mrs. Marion SIMM and Mrs. Anne Funch JENSEN, legal advisers in the Legal Service, as the Council's agents in this case C-612/13 P.

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<sup>1</sup> OJ L 124, 17.5.2005, p. 1.

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