

REACH

CJEU

Case C-472/14 *Canadian Oil Company Sweden AB and Anders Rantén v Riksåklagaren* [2016]

17 March 2016

Registration of chemical substances with the European Chemicals Agency before placing them on the market — Extent of harmonised field — No complete harmonization — Notification requirement for registration purposes — Obligation essentially complementary to those provided for under REACH — Article 5 not precluding national legislation which requires an importer of chemical products to register those products with the competent national authority — Notification requirement for registration purposes — Conditions : (i) no pre-condition to the placing of those products on the market, (ii) different information than the one required by REACH, (iii) achievement of the objectives pursued by that regulation.

Free movement of chemicals — National notification and registration requirement having a limited effect on the free movement of those products given that the registration is not a condition for the placing on the market of such products coming from other Member States — No violation of Articles 34 TFEU and 36 TFEU.

Case C-106/14 *Fédération des entreprises du commerce et de la distribution (FCD) and Fédération des magasins de bricolage et de l'aménagement de la maison (FMB) v Ministre de l'Écologie, du Développement durable et de l'Énergie* [2015] EU:C:2015:576

10 September 2015

Articles 7(2) and 33 – Substances of very high concern present in articles – Complex products made up of a number of manufactured objects that are qualified as articles - Articles used in a production process do not cease to be articles - Duties to notify and provide information regarding the substances contained in complex products - Legal status of ECHA Guidance documents- Lack of legally binding nature – Calculation of threshold of 0.1% weight by weight – Obligation for the producer to determine whether a substance of very high concern is present in a concentration above 0.1% weight by weight of any article it produces – Obligation for the supplier of a complex product made up of articles which containing substances of very high concern in a concentration above 0.1% weight by weight of that article, to inform the recipient and, on request, the consumer, of the presence of that substance.

Case C-288/13 P (order) *Rütgers Germany GmbH and Others v ECHA* [2014] nyr.

Case C-289/13 P (order) *Cindu Chemicals and Others v ECHA* [2014] nyr.

Case C-290/13 P (order) *Rütgers Germany GmbH and Others v ECHA* [2014] nyr.

4 September 2014

Appeals - Article 181 of the Rules of Procedure of the Court - Article 59 and Annex XIII REACH - Identification of anthracene oil as a substance of very high concern, to be made subject to the authorisation procedure - Equal treatment.

Case C-287/13 P *Bilbaína de Alquitranes SA and Others v ECHA* [2014] nyr.

22 May 2014

Appeal - REACH Regulation - Article 59 and Annex XIII - Identification of pitch, coal tar, high temperature (CTPHT) as a substance of very high concern, to be made subject to the authorisation procedure – Judicial review of the broad discretion of EU authorities as to the assessment of highly complex scientific and technical

facts – Legality of the approach followed by the ECHA in identifying CTPHT as having PBT and vPvB properties – CTPHT may be identified as a substance meeting the criteria set out in Article 57(a), (d) and (e) of the REACH Regulation, under Annex XIII, by taking into account the PBT or vPvB properties of its relevant constituents - Objective of the REACH Regulation is to ensure a high level of protection of human health and the environment - Equal treatment

Case C-199/13 P *Polyelectrolyte Producers Group* [2014] nyr.

27 March 2014

Appeal – Article 181 of the Rules of Procedure – REACH regulation – Restrictions on the placing on the market and use of acrylamide – Regulation (EU) No 366/2011 amending Annex XVII of Regulation (EC) No 1907/2006 - Judicial review of the broad discretion of EU authorities as to the assessment of highly complex scientific and technical facts – Risk assessment founded on US data – Exposure scenarios relating to accidents linked to the use of acrylamide during the construction of tunnels in Sweden and Norway

Case C-626/11P *Polyelectrolyte Producers* [2013] nyr.

26 September 2013

Articles 57 and 59 of REACH- Substances subject to authorisation - Identification of acrylamide as a substance of very high concern - Inclusion on the candidate list of substances - Publication of the list on the ECHA website - Action for annulment brought prior to that publication - Admissibility.

Case C-625/11P *Polyelectrolyte Producers* [2013] nyr.

26 September 2013

Identification of acrylamide as a substance of very high concern - Inclusion by ECHA on the candidate list of substances - Publication on Internet- Time-limit for instituting proceedings - Article 102(1) of the Rules of Procedure of the General Court - Date from which that time-limit must be calculated in the case of an action brought against a decision published only on the internet - Legal certainty - Effective judicial protection.

Case C-358/11 *Lapin luonnonsuojelupiiri* [2013] nyr.

7 March 2013

Waste - Hazardous waste - Directive 2008/98/EC - Old telecommunications poles treated with CCA (copper-chromium-arsenic) solutions - REACH Regulation - List of uses for treated wood in Annex XVII to the REACH Regulation - Old telecommunications poles used as underlay for duckboards

Case C-15/10 *Etimine SA* [2011] ECR I-6681

21 July 2011

Directive 67/548/EEC -Regulation (EC) No 1272/2008 - Borate substances - Classification as reprotoxic substances in category 2 - Directive 2008/58/EC and Regulation (EC) No 790/2009 - Adaptation of the classifications to technical and scientific progress - Validity - Methods of assessing the intrinsic properties of those substances - Manifest error of assessment - Legal basis - Obligation to state reasons - Principle of proportionality.

Case C-14/10 *Nickel Institute* [2011] ECR I-6609

21 July 2011

Directive 67/548/EEC - Regulation (EC) No 1272/2008 - Classification of nickel carbonates, nickel hydroxides and a number of grouped nickel substances as dangerous substances - Validity of Directives 2008/58/EC and 2009/2/EC and of Regulation (EC) No 790/2009 - Adaptation of the classifications to technical and scientific

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progress - Validity - Methods of assessing the intrinsic properties of those substances - Manifest error of assessment - Legal basis - Obligation to state reasons.

Case C-265/10 *Commission v Belgium* [2011] ECR I-68

5 May 2011

Failure of a Member State to fulfil obligations - Regulation (EC) No 1907/2006 - REACH Regulation - Article 126 - System of penalties in the event of infringement of the provisions of the REACH Regulation - Lack of implementation within the period prescribed.

Case C-558/07 *Lake Chemicals & al.* [2009] ECR I-5783

7 July 2009

REACH - Concept of 'monomer substances' - Validity - Proportionality - Equal treatment.

General Court

Case T-360/13 *VECCO* [2015] T:2015:695

25 September 2015

Inclusion of chromium trioxide in the list of substances subject to authorisation - Uses or categories of uses exempted from the authorisation requirement - Concept of 'existing specific Community legislation imposing minimum requirements relating to the protection of human health or the environment for the use of the substance' – Directive 2004/37, 2010/75 and Directive 2004/37/EC relating to worker protection do not constitute specific legislations laying down minimum requirements within the meaning of Article 58(2) of Regulation No 1907/2006 - Manifest error of assessment - Proportionality - Rights of the defence - Principle of sound administration.

Case T-245/11, *ClientEarth and The International Chemical Secretariat v European Chemicals Agency (ECHA)* T:2015:675

23 September 2015

Access to documents - Regulation (EC) No 1049/2001 - Documents held by ECHA – Documents deriving from a third party

Time-limit for response to an application for access - Refusal of access

Exception relating to protection of the commercial interests of a third party – Exceptions must be interpreted and applied strictly so as not to frustrate application of the general principle that the public should be given the widest possible access to documents held by the institutions – Names and contact details of the manufacturer or importer of the registered substances constitute information are covered by Article 119(2)(d) REACH

Article 118(2)(c) REACH – General presumption that information on the precise tonnage undermines the protection of the commercial interests of the concerned person – Risk that information would reveal the market share of the companies compared with their competitors – No evidence to rebut that legal presumption and that disclosure would harm the commercial interests of the registrants.

Exception relating to protection of the decision-making process - Overriding public interest –

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Article 6(1) of Regulation No 1367/2006 – Legal presumption that an overriding public interest in disclosure exists where the information requested relates to emissions into the environment – Definition of emissions into the environment – Exclusion of the manufacture and the placing on the market of a substance

Principle of proportionality – Case-by-case assessment unnecessary

Case T-135/13 *Hitachi Chemical Europe v ECHA* [2015] T:2015:253.

30 April 2015

Identification of certain respiratory sensitisers as substances of very high concern - Article 59 of REACH - Equivalent level of concern - Action for annulment - Article 263 TFEU - Whether directly concerned – Obligation to update the safety data sheet for MHPA - Admissibility - Rights of the defence – Limited judicial review - irreversible nature of the effects on health - Absence of consumer or worker exposure - Old and outdated data - Proportionality

Case T-177/12 *Sparylat v ECHA* [2014].

2 October 2014

Fee for registration of a substance – Article 11 REACH - Error in declaration relating to the size of the enterprise - Decision imposing a dissuasive administrative charge – Violation of the proportionality principle – Dissuasive charge 17 times higher than the normal charge

Case T-1/10 *RENV Polyelectrolyte Producers Group GEIE v ECHA* [2014] nyr.

24 June 2014

Identification of acrylamide as a substance of very high concern as a result of the procedure set out in Article 59 – The procedure provides any new information on the intrinsic dangerous properties of acrylamide, but merely categorises that substance for the purposes of the authorisation procedure under Title VII of REACH - Article 34(a) concerns the duty to provide information to the actors or distributors directly upstream in the supply chain Regulation— Lack of direct concern of the applicants – Inadmissibility of their action for annulment

Case T-456/11 *International Cadmium Association (ICdA) and Others v European Commission* [2013] nyr.

14 November 2013

Annex XVII REACH – Article 68(1) – Unacceptable risk to human health or to the environment on a EU-wide basis - Restrictions on the use of cadmium pigments in plastic materials – Judicial review – Assessment of highly complex scientific and technical facts - Manifest error of assessment - Risk analysis – No genuine evaluation of the risk flowing from the use of cadmium pigments - Annulment.

Case T-343/10 *Etimine and Etiproducs v ECHA* [2011] ECR II-6611

21 September 2011

Identification of boric acid and disodium tetraborate, anhydrous as substances of very high concern as a result of the procedure referred to in Article 59 of REACH Regulation – The identification of the borates as substances of very high concern did not contain new information on the hazardous properties of those substances but represented the outcome of the identification procedure referred to in Article 59 - No direct concern - Inadmissibility

Case T-96/10 *Rütgers Germany GmbH and Others v ECHA* [2013] nyr.

7 March 2013

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REACH - Identification of anthracene oil (anthracene paste) as a substance of very high concern - Actions for annulment - Actionable measure - Regulatory act not entailing implementing measures - Direct concern - Admissibility - Equal treatment - Proportionality.

Case T-95/10 *Cindu Chemicals BV and Others v ECHA* [2013] nyr.

7 March 2013

REACH - Identification of anthracene oil, anthracene low as a substance of very high concern - Actions for annulment - Actionable measure - Regulatory act not entailing implementing measures - Direct concern - Admissibility - Equal treatment - Proportionality.

Case T-94/10 *Rütgers Germany GmbH and Others v ECHA* [2013] nyr.

7 March 2013

REACH - Identification of anthracene oil as a substance of very high concern - Actions for annulment - Actionable measure - Regulatory act not entailing implementing measures - Direct concern - Admissibility - Equal treatment - Proportionality.

Case T-93/10 *Bilbaína de Alquitranes, SA and Others v ECHA* [2013] nyr.

7 March 2013

REACH - Identification of pitch, coal tar, high temperature as a substance of very high concern - Actions for annulment - Actionable measure - Regulatory act not entailing implementing measures - Direct concern - Admissibility - Equal treatment - Proportionality.

Case T-368/11 *Polyelectrolyte Producers Group and Others v Commission* [2013] nyr.

1 February 2013

Annex XVII REACH - Transitional measures concerning the restrictions on the placing on the market and use of acrylamide - Restrictions - Manifest error of appraisal - Obligation to state reasons - Proportionality - Obligation to state reasons - High level of environmental and health protection