

2. Second plea in law, alleging that the harassment at the Agency triggered a health disorder. In April 2016 the applicant suffered a sudden and acute health disorder, as confirmed by her medical records and for which she is still undergoing treatment. The doctors established that this health disorder was nervous in origin, caused in particular by harassment at work and burn out. The applicant incurred the medical expenses which are set out in the medical records appended to the application.
3. Third plea in law, alleging a failure to provide assistance in connection with harassment and discrimination at the defendant Agency. The applicant turned to the defendant for assistance, as referred to in the EU Staff Regulations, in connection with harassment and discrimination at the Agency. The applicant submitted a series of suggestions to the defendant as to how the situation might, in her view, be acceptably resolved. The defendant ignored the issue of the applicant's health and remained passive, tolerating a situation that was deleterious to the applicant and allowing that situation to continue.
4. Fourth plea in law, alleging discrimination against the applicant by the defendant on the basis of her gender, nationality and trade union membership. The applicant repeatedly applied for a higher position at the Agency. Notwithstanding her extensive education, command of several foreign languages, excellent annual appraisals and continuing efforts to improve her qualifications, the applicant was never promoted. The reasons for this state of affairs are discriminatory. Following the applicant's repeated contact with the defendant concerning the acts of harassment and discrimination suffered by her, the defendant proposed that the applicant go on a mission, for which she made all the necessary preparations, including learning a foreign language from scratch to the level of being able to communicate in that language, and then the defendant cancelled the mission four days prior to departure. The defendant justified the cancellation of the mission on the grounds of the applicant's contact with a trade union.
5. Fifth plea in law, alleging that the applicant was unjustifiably dismissed. The applicant's dismissal was unfair and unsubstantiated. The termination of the employment contract was the result of the applicant's refusal to accept a situation in which she was subjected to harassment and discrimination at the defendant Agency.

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**Action brought on 2 April 2018 — Global Silicones Council and Others v Commission**

**(Case T-226/18)**

(2018/C 200/57)

*Language of the case: English*

**Parties**

*Applicants:* Global Silicones Council (Washington, United States), Wacker Chemie AG (Munich, Germany), Momentive Performance Materials GmbH (Leverkusen, Germany), Shin-Etsu Silicones Europea BV (Almere, Netherlands), Elkem Silicones France SAS (Lyon, France) (represented by: M. Navin-Jones, Solicitor)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- Annul the Contested Act under Article 263 TFEU;
- Declare that Annex XIII of the REACH Regulation, and/or relevant provisions of this Annex (in particular, Sections 1.1.2 and/or 1.2.2), are illegal and inapplicable in the case at hand, pursuant to Article 277 TFEU, insofar as they prevent or distort a valid assessment and/or conclusion on the properties of D4 and D5;
- In the event that: (a) the European Chemicals Agency ('ECHA') Member State Committee's Opinion of April 2015; (b) the ECHA Committee for Risk Assessment's Opinion of March 2016; (c) the ECHA Socio-Economic Assessment Committee Opinion of June 2016; (d) the ECHA PBT Expert Group conclusions / decisions of November 2012; and/or (e) relevant ECHA Guidance — are not regarded as preparatory acts leading to the adoption of the Contested Act — to declare those acts as illegal and inapplicable pursuant to Article 277 TFEU;

- Order the defendant to pay the costs incurred by the applicants regarding these proceedings; and
- Take any other measure as justice may require.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on eleven pleas in law.

1. First plea in law, alleging illegality, manifest errors of law and fact, manifest errors of assessment, breach of the principle of legal certainty, arbitrary decision-making, and failure to state reasons — regarding the risk assessment.
2. Second plea in law, alleging illegality, manifest errors of law and fact, manifest errors of assessment, breach of the principle of legal certainty, and arbitrary decision-making — regarding the hazard assessment. This includes an Article 277 TFEU plea of illegality regarding the relevant Annex XIII REACH provisions and/or previous acts and measures.
3. Third plea in law, alleging illegality, manifest errors of law and fact, breach of the principle of legal certainty, arbitrary decision-making, and lack of adequate statement of reasons — regarding the hazard assessment, in particular the weight-of-evidence determination. This includes an Article 277 TFEU plea of illegality regarding the relevant Annex XIII REACH provisions and/or previous acts and measures.
4. Fourth plea in law, alleging lack of legal certainty, breach of the principle of good administration, lack of statement of reasons — regarding the hazard and risk assessment, in particular the weight-of-evidence determination.
5. Fifth plea in law, alleging denial of the rights of defence, including the right to be heard; lack of adequate statement of reasons; due process — regarding the hazard and risk assessment, in particular the weight-of-evidence determination.
6. Sixth plea in law, alleging an act manifestly exceeding the limits of discretionary powers; manifest error in the exercise in the exercise of discretionary powers and breach of the institutional balance of powers — regarding the hazard and risk assessment.
7. Seventh plea in law, alleging illegality, manifest errors of law and fact, manifest errors in the exercise of discretionary powers, manifest exceedance of the limits of discretionary powers, breach of the principles of legal certainty and legitimate expectations, lack of statement of reasons — regarding the hazard and risk assessment, and the manifest errors of appreciation of the relevant facts and of the relevant provisions in law.
8. Eighth plea in law, alleging breaches of the principles of legal certainty and legitimate expectation, lack of adequate statement of reasons, manifest errors of fact and law — regarding the adoption, application, meaning, and scope, of the REACH Restriction.
9. Ninth plea in law, alleging breach of the principle of proportionality — regarding the application and scope of the REACH Restriction.
10. Tenth plea in law, alleging breach of essential procedural requirements, illegality, manifest errors in the exercise of discretionary powers, manifest errors in fact and law, breach of the principles of legal certainty and legitimate expectations, breach of the principle of good administration, lack of statement of reasons — before the adoption of the REACH Restriction.
11. Eleventh plea in law, alleging that the relevant provisions of Annex XIII REACH and other relevant previous acts and measures, which prevent and/or distort a valid assessment and/or conclusion of the properties of D4 and D5, are inapplicable according to Article 277 TFEU.