

**Action brought on 24 April 2017 — Ecolab Deutschland and Lysoform Dr. Hans Rosemann v ECHA****(Case T-243/17)**

(2017/C 221/44)

*Language of the case: English***Parties**

*Applicants:* Ecolab Deutschland GmbH (Monheim, Germany) and Lysoform Dr. Hans Rosemann GmbH (Berlin, Germany) (represented by: K. Van Maldegem, M. Grunchard and P. Sellar, lawyers)

*Defendant:* European Chemicals Agency

**Form of order sought**

The applicants claim that the Court should:

- declare the application admissible and well-founded;
- annul the decision of the European Chemicals Agency ('ECHA') concerning the inclusion of the company Sasol Chemie GmbH & Co. KG, as active supplier for the substance 1-Propanol on the list provided by Article 95(1) of Regulation (EU) No 528/2012<sup>(1)</sup> (the 'Article 95 List') for product types 1, 2 and 4;
- order ECHA to pay the costs of these proceedings.

**Pleas in law and main arguments**

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

1. First plea in law, alleging an infringement of Article 95(1), second paragraph, of Regulation (EU) No 528/2012

- The applicants put forward that ECHA has failed to follow the legal conditions for the inclusion of a company such as Sasol in the Article 95 List as provided for in Article 95(1) of Regulation (EU) No 528/2012, as it was not possible for Sasol to have submitted a complete dossier to ECHA. According to the applicants, its dossier cannot have included either a copy of the Comet Assay test or a letter of access granting reference rights to that test.

2. Second plea in law, alleging an infringement of the principle of non-discrimination

- The applicants put forward that by accepting the dossier submitted by Sasol for the purpose of Article 95 List inclusion as complete, ECHA has treated companies in a similar situation differently without objective justification in breach of the principle of non-discrimination.

3. Third plea in law, alleging an infringement of the level playing field established by Regulation (EU) No 528/2012 as well as the creation of unfair competition

- The applicants claim that by including Sasol on the Article 95 List, ECHA has failed to apply the rules under Articles 62 and 63 of Regulation (EU) No 528/2012 which are designed to ensure a level playing field between those companies such as the applicants which have taken part in the 1-Propanol review and those, such as Sasol, which have not.

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<sup>(1)</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, p. 1).