

**Form of order sought**

- Annul Commission Implementing Decision C(2016) 5644 of 7 September 2016 granting an authorisation for some uses of lead sulfochromate yellow and of lead chromate molybdate sulphate red under Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (the contested decision), and
- Order the Commission to pay the costs.

**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 that the Commission has exceeded its implementing powers under Article 291(2) TFEU and Regulation (EC) No 1907/2006.
  - The Commission has exceeded its implementing powers by disregarding Articles 55 and 60(4) of Regulation No 1907/2006 and granting the authorisation applied for without the conditions laid down in the regulation for such a grant being satisfied and contrary to the aim of the regulation.
  - The Commission has disregarded Article 60(4) of Regulation No 1907/2006 by granting authorisation without carrying out its own assessment of the conditions for that grant in accordance with that article and without sufficiently investigating whether the conditions for granting the authorisation under that article are satisfied.
  - The Commission has also disregarded Article 55 of Regulation No 1907/2006 by granting the authorisation contrary to the aim of the authorisation system, inter alia, to ensure a well-functioning internal market and gradually replace substances of very high concern with suitable alternative substances or techniques, where that is economically and technically feasible.
2. Second plea in law, alleging that the Commission has made a manifestly incorrect assessment and an incorrect application of the law.
  - The same facts as those stated with regard to the first plea in law are also relied on in respect of this plea in law. The Commission's disregard of Articles 55 and 60(4) of Regulation No 1907/2006, as described above, thus also means that, in the contested decision, the Commission has made a clearly incorrect assessment and incorrect application of the law.
3. Third plea in law, alleging that the Commission failed to have regard to the precautionary principle and the obligation to state reasons.
  - The Commission failed to have regard to the precautionary principle by granting authorisation without carrying out its own assessment of the conditions therefor under Article 60(4) of Regulation No 1907/2006 and without sufficiently investigating whether the conditions for grant of authorisation under that article are satisfied.
  - In any event, the Commission has failed to have regard to its obligation to state reasons which flows from Article 296 TFEU, Article 130 of Regulation No 1907/2006 and the principle of sound administration, since it is not possible to discern from the contested decision how the Commission assessed whether the conditions for the grant of authorisation in accordance with Article 60(4) of the regulation are satisfied.

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**Action brought on 30 November 2016 — BP v FRA**

**(Case T-838/16)**

(2017/C 038/51)

*Language of the case: English*

**Parties**

*Applicant:* BP (Vienna, Austria) (represented by: E. Lazar, lawyer)

*Defendant:* European Union Agency for Fundamental Rights (FRA)

### **Form of order sought**

The applicant claims that the Court should:

- order the defendant to compensate the material and non-material damage suffered by the applicant as a result of mishandling and leakage of his/her personal data and other several irregularities occurred during the defendant's proceedings for dealing with his/her requests to access documents under Regulation no 1049/2001 and his/her requests to access information under article 13 of Regulation 45/2001;
- order the defendant to compensate the material and non-material damage suffered by the applicant as a result of violations of several rules intended to confer rights on individuals;
- order the defendant to compensate the material and non-material damage suffered by the applicant due to the defendant's irregular actions during the execution of the judgment in case T-658/13P;
- order the defendant to compensate the applicant's moral prejudice;
- order the defendant to pay material damages;
- order the defendant to reimburse the legal costs paid by the applicant for seeking legal advice in pre-litigation phase;
- order the defendant to pay default interest on the amount eventually awarded;
- order the defendant to pay the entire costs, even in the case the application is rejected.

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

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

1. First plea in law, alleging breaches of rules intended to confer rights on individuals, including, amongst others, a breach of data protection rules envisaged in article 4(1) (b) of the Regulation no 1049/2001 read in conjunction with article 4 (4) of the same regulation and with implementing rules of Regulation 1049/2001, a violation of Article 8 of the European Convention on Human Rights (ECHR), a breach of data protection rules envisaged in various articles of the Regulation no 45/2001 and in implementing rules of Regulation 45/2001, and a breach of the duty of care.
2. Second plea in law, alleging a breach of the duty of confidentiality which led to the leak of the applicant's personal data to third parties and to the press, and alleging a misuse of powers and manifest and grave lack of due diligence and care during processing operations of applicant's personal data

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### **Action brought on 30 November 2016 — Repower v EUIPO — repowermap (REPOWER)**

(Case T-842/16)

(2017/C 038/52)

*Language in which the application was lodged: German*

### **Parties**

*Applicant:* Repower AG (Brusio, Switzerland) (represented by: R. Kunz-Hallstein and H. Kunz-Hallstein, lawyers)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* repowermap.org (Bern, Switzerland)

### **Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* International registration designating the European Union in respect of the mark 'REPOWER' — International registration designating the European Union No 1 020 351