

Judgment of the General Court of 3 October 2019 – BASF v ECHA(Case T-805/17) ⁽¹⁾

(REACH — Article 11 of Regulation (EC) No 1907/2006 — Article 3(3) of Implementing Regulation (EU) 2016/9 — Requirement for joint submission of data — Joint submission with possibility of a complete opt-out — Administrative practice of ECHA requiring an agreement on the terms for making a joint submission with the lead registrant for a registered substance — Failure to reach an agreement — Dispute resolution mechanism applied by analogy — Decision granting access to a joint submission — Legal basis — Broad discretion of ECHA — Manifest error of assessment — Obligation to state reasons — Legal certainty)

(2019/C 423/40)

Language of the case: English

Parties

Applicant: BASF SE (Ludwigshafen-am-Rhein, Germany) (represented by: R. Cana, D. Abrahams, E. Mullier and H. Widemann, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, C. Jacquet and T. Basmatzi, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Decision DSH-30-3-0122-2017 of ECHA of 2 October 2017 granting Sustainability Support Services (Europe) AB access to the joint submission lodged by BASF, as lead registrant for the substance disodium 4,4'-bis[(4-anilino-6-morpholino-1, 3, 5-triazin-2-yl)amino]stilbene-2,2'-disulphonate, EC No 240-245-2 and CAS No 16090-02-1.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders BASF SE and the European Chemicals Agency (ECHA) to bear their own costs.*

⁽¹⁾ OJ C 52, 12.2.2018.

Judgment of the General Court of 3 October 2019 – BASF and REACH & colours v ECHA(Case T-806/17) ⁽¹⁾

(REACH — Article 11 of Regulation (EC) No 1907/2006 — Article 3(3) of Implementing Regulation (EU) 2016/9 — Requirement for joint submission of data — Joint submission with possibility of a complete opt-out — Administrative practice of ECHA requiring an agreement on the terms for making a joint submission with the lead registrant for a registered substance — Failure to reach an agreement — Dispute resolution mechanism applied by analogy — Decision granting access to a joint submission — Legal basis — Broad discretion of ECHA — Manifest error of assessment — Obligation to state reasons — Legal certainty)

(2019/C 423/41)

Language of the case: English

Parties

Applicants: BASF SE (Ludwigshafen-am-Rhein, Germany) and REACH & colours Kereskedelmi és Szolgáltató Kft. (REACH & colours Kft.) (Budapest, Hungary) (represented by: R. Cana, D. Abrahams, E. Mullier and H. Widemann, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, C. Jacquet, and T. Basmatzi, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Decision DSH-30-3-0123-2017 of ECHA of 2 October 2017 granting Sustainability Support Services (Europe) AB access to the joint submission lodged by REACH & colours, as lead registrant for the substance hexasodium 2,2'-[vinylenebis[(3-sulphonato-4,1-phenylene)imino[6-(diethylamino)-1, 3, 5-triazine-4,2-diyl]imino]]bis(benzene-1,4-disulphonate), EC No 255-217-5 and CAS No 41098-56-0.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders BASF SE, REACH & colours Kereskedelmi és Szolgáltató Kft. (REACH & colours Kft.) and the European Chemicals Agency (ECHA) to bear their own costs.*

⁽¹⁾ OJ C 52, 12.2.2018.

Judgment of the General Court of 24 September 2019 — Pink Lady America v CPVO — WAAA (Cripps Pink)

(Case T-112/18) ⁽¹⁾

(Plant varieties — Nullity proceedings — Cripps Pink apple variety — Articles 10 and 116 of Regulation (EC) No 2100/94 — Novelty — Derogative grace period — Definition of exploitation of the variety — Commercial evaluation — Article 76 of Regulation (EC) No 874/2009 — Late submission of evidence before the Board of Appeal — Evidence submitted for the first time before the General Court)

(2019/C 423/42)

Language of the case: English

Parties

Applicant: Pink Lady America LLC (Yakima, Washington, United States)) (represented by: initially by R. Manno and S. Travaglio, and subsequently by R. Manno, lawyer)

Defendant: Community Plant Variety Office (CPVO) (represented by: M. Ekvad, F. Mattina and M. Garcia Monco-Fuente Agents)

Other party to the proceedings before the Board of Appeal of the CPVO and intervener before the General Court: Western Australian Agriculture Authority (WAAA) (South Perth, Australia) (represented by: T. Bouvet and L. Romestant, lawyers)

Re:

Action brought against the decision of the Board of Appeal of the CPVO of 14 September 2017 (Case A 007/2016), relating to nullity proceedings between the WAAA and Pink Lady America LLC.