



## Reports of Cases

### **Judgment of the General Court (Eighth Chamber, Extended Composition) of 30 June 2021 – Global Silicones Council and Others v Commission**

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

(REACH – Updating of Annex XVII to Regulation (EC) No 1907/2006 concerning restrictions on the manufacture, placing on the market and use of certain dangerous substances, mixtures and articles – Restrictions concerning octamethylcyclotetrasiloxane (D4) and decamethylcyclopentasiloxane (D5) – Manifest error of assessment – Annex XIII to Regulation No 1907/2006 – Weight-of-evidence determination – Article 68 of Regulation No 1907/2006 – Unacceptable risk – Proportionality – Essential procedural requirements)

1. *Approximation of laws – Registration, evaluation, authorisation and restriction of chemicals – REACH regulation – Substances of very high concern – Procedure for identification – Discretion of the EU authorities – Scope – Judicial review – Limits – Manifest error, misuse of powers or manifest exceeding of the limits of the discretion*

*(European Parliament and Council Regulation No 1907/2006, Art. 68)*

*(see paras 73-76, 196, 205)*

2. *Approximation of laws – Registration, evaluation, authorisation and restriction of chemicals – REACH regulation – Restrictions applicable to certain substances – Establishment of new restrictions and modification of existing restrictions – Assessment with regard to the principle of proportionality – Discretion of the legislature – Area involving political, economic and social choices – Judicial review – Limits – Lawfulness in the absence of disadvantages disproportionate to the objectives pursued*

*(European Parliament and Council Regulation No 1907/2006, Recitals 87, 89 and 91 and Article 1(1) and Annex XVII)*

*(see paras 223, 224, 226, 227, 230)*

3. *EU law – Principles – Principles of legitimate expectations and of legal certainty – Limits – Adoption of an EU measure likely to affect the interests of an economic operator – Prudent and circumspect operator capable of predicting the adoption of that measure – Clear and precise identification of the legal effects of the REACH regulation – No breach of those principles*

*(see paras 263, 272, 277)*

4. *EU law – Principles – Rights of the defence – Right to be heard – Scope – Whether individually concerned by an act of general scope – Rejection*

*(Charter of Fundamental Rights of the European Union, Art. 41)*

*(see paras 313-316)*

5. *Acts of the institutions – Statement of reasons – Obligation – Scope – Account taken of the context and all the legal rules*

*(Art. 296, second para., TFEU)*

*(see paras 327-331)*

**Re:**

Application under Article 263 TFEU for annulment of Commission Regulation (EU) 2018/35 of 10 January 2018 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards octamethylcyclotetrasiloxane ('D4') and decamethylcyclopentasiloxane ('D5') (OJ 2018 L 6, p. 45).

**Operative part**

The Court:

1. Dismisses the action;
2. Orders Global Silicones Council, Wacker Chemie AG, Momentive Performance Materials GmbH, Shin-Etsu Silicones Europe BV and Elkem Silicones France SAS to bear their own costs and to pay those incurred by the European Commission;
3. Orders the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland, the European Parliament, the Council of the European Union, the European Chemicals Agency (ECHA) and American Chemistry Council, Inc. (ACC) to bear their own costs.