

**Action brought on 25 September 2019 – Sasol Germany and Others v ECHA****(Case T-640/19)**

(2019/C 406/45)

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

*Applicants:* Sasol Germany GmbH (Hamburg, Germany), SI Group - Béthune (Béthune, France), BASF SE (Ludwigshafen am Rhein, Germany) (represented by: C. Mereu, P. Sellar and S. Saez Moreno, lawyers)

*Defendant:* European Chemicals Agency (ECHA)

**Form of order sought**

The applicants claim that the Court should:

- declare the application admissible and well-founded;
- annul partially the contested act in so far it includes 4-tert-butylphenol (PTBP) as a substance of very high concern (SVHC) in the candidate list for eventual inclusion in Annex XIV of Regulation (EC) No 1907/2006 of the European Parliament and of the Council (1);
- order the defendant to pay the costs of these proceedings

**Pleas in law and main arguments**

In support of the action, the applicants rely on five pleas in law.

1. First plea in law, alleging a violation of criteria for endocrine disruption and the weight of evidence approach, since the defendant failed to demonstrate that there is scientific evidence of probable serious effects on human health or the environment.
2. Second plea in law, alleging a violation of Article 57(f) of Regulation (EC) No 1907/2006 concerning the 'equivalent level of concern', since
  - first, the 'equivalent level of concern' assessment required under Regulation (EC) No 1907/2006 did not take into account factors other than those relating to the hazards arising from the intrinsic properties of the substance and disregarded factors such as the biodegradability of PTBP that were necessary for the assessment (or were based on mere conjectures);
  - second, the proposing Member State, Germany, relied on unreliable data and unsubstantiated read-across to another substance's properties;
  - third, the contested decision holds out that PTBP was equivalent to a CMR substance for which there is no scientific assessment to provide justification.

3. Third plea in law, alleging a manifest error of assessment/failure to consider carefully all relevant information and in particular exposure data.
4. Fourth plea in law, alleging a violation of the principle of proportionality/failure to choose the least onerous options.
5. Fifth plea in law, alleging a violation of the principle of proportionality/failure to conduct a proper Risk Management Options analysis taking into account risk management measures already in place.

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(<sup>1</sup>) 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 (OJ L 396, 30.12.2006, p. 1).

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### Action brought on 27 September 2019 – Sasol Germany and Others v Commission

(Case T-661/19)

(2019/C 406/46)

*Language of the case: English*

#### Parties

*Applicants:* Sasol Germany GmbH (Hamburg, Germany), SI Group - Béthune (Béthune, France), BASF SE (Ludwigshafen am Rhein, Germany) (represented by: C. Mereu, P. Sellar and S. Saez Moreno, lawyers)

*Defendant:* European Commission

#### Form of order sought

The applicants claim that the Court should:

- declare the application admissible and well-founded;
- annul the Commission Implementing Decision (EU) 2019/1194 of 5 July 2019 on the identification of 4-tert-butylphenol (PTBP) as a substance of very high concern pursuant to Article 57(f) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council (OJ 2019, L 187, p. 41);
- order the defendant to pay the costs of these proceedings.

#### Pleas in law and main arguments

In support of the action, the applicants rely on five pleas in law which are essentially identical or similar to those raised in Case T-640/19, Sasol Germany and Others v ECHA.

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