

Judgment of the General Court of 20 September 2019 –Germany v ECHA(Case T-755/17) ⁽¹⁾

(REACH — Evaluation of substances — Benpat — Persistence — ECHA decision requesting further information — Article 51(6) of Regulation (EC) No 1907/2006 — Action brought before the Board of Appeal — Task of the Board of Appeal — Adversarial procedure — Nature of review — Intensity of review — Powers of the Board of Appeal — Article 93(3) of Regulation No 1907/2006 — Conferral of powers on EU agencies — Principle of conferral — Principle of subsidiarity — Proportionality — Obligation to state reasons)

(2019/C 406/35)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented: initially by T. Henze and D. Klebs, and subsequently by D. Klebs, Agents)

Defendant: European Chemicals Agency (represented: initially by M. Heikkilä, W. Broere and C. Jacquet, and subsequently by W. Broere, C. Jacquet and L. Bolzonello Agents)

Interveners in support of the defendant: European Commission (represented by: M. Konstantinidis, R. Lindenthal and M. Noll-Ehlers, Agents), and by Envigo Consulting Ltd (Huntingdon, United Kingdom) and Djchem Chemicals Poland S.A. (Wolomin, Poland), (represented by: R. Cana, É. Mullier and H. Widemann, lawyers)

Re:

Action under Article 263 TFEU for the partial annulment of Decision A-026-2015 of the Board of Appeal of the ECHA of 8 September 2017, in so far as it partially annulled the decision of the ECHA of 1 October 2015 requiring the conduct of further testing concerning the substance benpat (CAS 68953-84-4).

Operative part of the judgment

The Court:

1. *Annuls Decision A-026-2015 of the Board of Appeal of the European Chemicals Agency (ECHA) of 8 September 2017, in so far as, in point 3 of the operative part of that decision, the Board of Appeal decided that the claim concerning bioaccumulation in the statement of reasons for the ECHA decision of 1 October 2015 requiring additional testing concerning the substance benpat (CAS 68953-84-4) should be deleted;*
2. *Dismisses the action as to the remainder;*
3. *Orders the Federal Republic of Germany to bear its own costs, the costs incurred by the ECHA, and those incurred by Envigo Consulting Ltd and Djchem Chemicals Poland S.A.;*
4. *Orders the European Commission to pay its own costs.*

⁽¹⁾ OJ C 32, 29.1.2018.