



Press and Information

General Court of the European Union

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Luxembourg, 8 May 2018

Judgment in Case T-283/15

Esso Raffinage v European Chemicals Agency (ECHA)

**When assessing whether a registration dossier of a chemical substance complies with the REACH Regulation, the European Chemicals Agency must act in accordance with the procedures laid down by the regulation**

*In particular, it may not send to the competent national authorities 'Statements of Non-Compliance' in the form of a mere letter*

The French company, Esso Raffinage markets a chemical substance used in industrial products, for which it sought registration pursuant to the REACH Regulation<sup>1</sup> with the European Chemicals Agency (ECHA). After assessing the registration dossier submitted by Esso Raffinage, by decision of 6 November 2012, ECHA found that the registration dossier did not comply with the REACH Regulation and required Esso Raffinage to provide information concerning, inter alia, a prenatal developmental toxicity study in rabbits. Esso Raffinage did not challenge the decision of 6 November 2012, which became final. Instead of providing the required study, Esso Raffinage presented documentation seeking to demonstrate that the study on rabbits was neither necessary nor justified.

In those circumstances, ECHA sent to the French authorities, with a copy to Esso Raffinage, a 'Statement of Non-Compliance with the REACH Regulation', drafted in English in the form of a letter. In that statement that ECHA invited, in particular, the French authorities to take the measures necessary to enforce its decision of 6 November 2012 (such measures could lead to the imposition of penalties).

Esso Raffinage brought an action before the General Court seeking the annulment of the letter that ECHA sent to the French authorities.

By today's judgment, the General Court upholds Esso Raffinage's claim and annuls ECHA's letter.

The General Court notes, first of all, that **the effects of the letter sent to the French authorities went beyond the mere communication of information to those authorities**. The letter was more than simply a technical opinion or a detailed factual record of the reasons why Esso Raffinage did not satisfy the obligations under the REACH Regulation: on analysis, it is a definitive assessment of the documentation submitted by Esso Raffinage to explain inter alia its refusal to carry out a second toxicity study. The General Court concludes that, **having regard to its content, the contested act corresponds to a decision that ECHA should have adopted in accordance with Article 42(1) of REACH Regulation**.

The General Court finds that that procedure was not followed in the present case, even though ECHA exercised its responsibilities without complying with the relevant detailed requirements. **The General Court therefore annuls ECHA's letter, for that reason. In the event that ECHA wishes to make a finding that Esso Raffinage's registration dossier does not comply with**

<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 2006 L 396, p. 1; and corrigendum OJ 2007 L 136, p. 3)

**the REACH Regulation, it must take a new decision in accordance with the procedure laid down in that regulation.**

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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