

2015-10-26

## ***Case Summary posted by the Task Force on Access to Justice***

***EUROPEAN UNION, Request for preliminary ruling, Federation of businesses in the trade and distribution sector (“the FCD”) and Federation of DIY and home improvement shops (“the FMB”) v Ministry of Ecology, Sustainable Development and Energy of France, Case C-106/14***

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| <b><i>1. Key issue</i></b>                         | Access to product information: Interpretation of the obligation under the REACH Regulation to provide information on the presence of a substance of very high concern in an article. The main question was whether this obligation only covered products as a whole, or also products with individual components crossing the threshold.  |
| <b><i>2. Country/Region</i></b>                    | European Union  |
| <b><i>3. Court/body</i></b>                        | Court of Justice of the European Union (CJEU)   |
| <b><i>4. Date of judgment /decision</i></b>        | 2015-09-10  |
| <b><i>5. Internal reference</i></b>                | <i>CJEU – Third Chamber, C-106/14</i>   |
| <b><i>6. Articles of the Aarhus Convention</i></b> | Art. 5, paras. 1, 6, 8 and 9  |
| <b><i>7. Key words</i></b>                         | Access to product information, Environment and protection of human health, duties to notify and provide information, Regulation 1907/2006, REACH Regulation   |
| <b><i>8. Case summary</i></b>                      | <p>This request for a preliminary ruling by the Conseil d’État (France) concerned the interpretation of article 7(2) and 33 of Regulation 1907/2006 (REACH). Those provisions make it obligatory to provide information on the presence of a substance of very high concern in a concentration above a 0.1% threshold in articles. The main question was whether this obligation only covered products as a whole, or also products with individual components crossing the threshold. The CJEU held that the definition of an ‘article’ is applicable to any object meeting the criteria in article 3(3) REACH, and that there is no need to draw a distinction between articles incorporated as a component of a complex product and articles present in an isolated manner. In relation to article 7(2) REACH, the CJEU clarified that producers of articles have a duty to notify substances of very high concern that are present in concentrations above 0.1% of the weight in articles that they make or assemble but they are not required to notify the presence of such substances in articles produced by a third party that they use. Importers of products made up of more than one article, on the other hand, must determine for each article, whether a substance of very high concern is present in a concentration over 0.1%. Finally, in relation to the information duty under article 33 REACH, the CJEU held that the supplier of a product, of which one or more constituent articles contains a substance of very high concern in a concentration above 0.1%, must inform the recipient and, on request, the consumer, of the presence of that substance by providing them, at a minimum, with the name of the substance in question.</p> |
| <b><i>9. Link to judgement/ decision</i></b>       | <p><a href="http://curia.europa.eu/juris/liste.jsf?&amp;num=C-106/14">http://curia.europa.eu/juris/liste.jsf?&amp;num=C-106/14</a></p> <p><a href="http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/EUROPEAN_UNION/CJEU_C106_14_FCD_FMB/CJEU_C106-14_Judgement.pdf">http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/EUROPEAN_UNION/CJEU_C106_14_FCD_FMB/CJEU_C106-14_Judgement.pdf</a></p>   |