

Announcement of appeal¹

Case	A-003-2016
Appellant	Solutia Europe SPRL/BVBA, Belgium
Appeal received on	13 April 2016
Subject matter	A decision taken by the European Chemicals Agency (the 'Agency') pursuant to Article 46(1) of the REACH Regulation, in accordance with the procedure laid down in Articles 50 and 52 of the REACH Regulation
Keywords	<i>Substance evaluation – Components of a mixture - Proportionality</i>
Contested Decision	Decision of 1 October 2015 on the substance evaluation of mixture of two components: <ul style="list-style-type: none">i. N-(1,3-dimethylbutyl)-N' -phenyl-p-phenylenediamine (hereinafter the '6PPD')ii. N1-(1,3-dimethylbutyl)-N4-(4-(1-methyl-1-phenylethyl)phenyl)benzene-1,4-diamine
Language of the case	English

Remedy sought by the Appellant

The Appellant, who is not an addressee of the Contested Decision, is the lead registrant of 6PPD, one of the two components of the mixture concerned by the Contested Decision (hereinafter the 'mixture'). The Appellant bases its appeal on the second part of Article 92(1) of the REACH Regulation which allows any natural or legal person to appeal a decision '*which, although addressed to another person, is of direct and individual concern*' to that person.

The Appellant requests that the Board of Appeal should annul the Contested Decision in its entirety and refund the appeal fee.

Pleas in law and main arguments

In support of its appeal, the Appellant submits that, as part of the substance evaluation of the mixture, the Agency reviewed and requested information to be generated specifically on 6PPD, the main component of the mixture. However, as the Appellant is the lead registrant for that component, these information requests directly affect its rights and obligations. The Appellant

¹ Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

claims that the normal course of action should have been for the Agency to either conduct a compliance check of the registration dossier of 6PPD or, as the case may be, initiate a formal substance evaluation of 6PPD. The Appellant submits that, by conducting this de facto evaluation of 6PPD in the course of the substance evaluation of the mixture without providing any particular justification, the Agency breached several procedural requirements of the REACH Regulation, including its Article 47, and the right to be heard of the Appellant.

In addition, the Appellant claims that the Agency has breached Articles 41(1), 42(2) and 47(1) of the REACH Regulation. In support of its claim, the Appellant argues that the Contested Decision requests information to fill alleged gaps in standard information requirements without justifying adequately why the Agency did not, as a first step, conduct a compliance check of the registration dossier of the mixture. The Appellant notes that information on standard information requirements would have been more adequately obtained through a prior compliance check.

The Appellant adds that, by failing to demonstrate the necessity of the information requested in the Contested Decision, and more specifically that there is a potential risk to human health or the environment and that the information requested has a realistic possibility of leading to improved risk management measures, the Agency has breached the principle of proportionality.

Further information

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>