



Ms. Elżbieta Bieńkowska, Commissioner for Internal Market, Industry, Entrepreneurship and SMEs
Mr. Karmenu Vella, Commissioner for Environment, Maritime Affairs and Fisheries

European Commission
Rue de la Loi 200
B- 1049 Brussels

Brussels 15 April 2019

Re: Judgment of the General Court¹ (Kingdom of Sweden v European Commission) annulling the Commission's decision to authorise certain uses of substances of very high concern (lead chromate pigments²).

Dear Commissioner,

We are writing to you to ask the European Commission not to appeal the Judgment of the General Court³ (Kingdom of Sweden v European Commission) annulling the Commission's decision to authorise certain uses of substances of very high concern (lead chromate pigments⁴).

In this judgment, the General Court deems illegal and consequently annuls the Commission's Implementing Decision C(2016)5644 granting an authorisation for some uses of lead sulfochromate yellow and of lead chromate molybdate sulphate red under Regulation (EC) No 1907/2006 (REACH). This sets a strong precedent to interpret REACH consistently with its main objective to ensure a high level of protection of human health and the environment.

The General Court annulled the Commission's decision which allowed a non-EU headquartered corporation to supply, in the EU, and via one of its EU-based representatives, pigments for paints containing highly dangerous chemicals.

¹ (Fifth Chamber) of 7 March 2019. Case T-837/16)

² lead sulfochromate yellow and chromate molybdate lead sulfate red

³ (Fifth Chamber) of 7 March 2019. Case T-837/16)

⁴ lead sulfochromate yellow and chromate molybdate lead sulfate red

This judgment puts an end to the procedure before the General Court. Nevertheless, as you will be aware, an appeal against this judgment may be brought before the European Court of Justice within two months of its notification.

In our view, the Commission should not spend public resources to oppose this judgment. Indeed, as ruled, the case supports an overriding public interest, not only by preventing exposure to substances of very high concern that cause cancer and reproductive impairments, but also by protecting the current EU businesses that have successfully invested in safer alternatives. The judgment therefore contributes to the protection of human health and the environment, as well as the fair competitiveness of more responsible EU businesses.

If the Commission were to appeal this judgment, this would put the EU institutions at a reputational risk as it would clearly show the Commission to be prioritising the interests of a non-EU headquartered corporation supplying substances of very high concern in the EU over the need to protect public health, the environment and the interests of responsible businesses.

Such an appeal would be even more detrimental to the standing of the Commission at a time when Europeans are heading to the polls in an election where the credibility of the EU itself is at stake.

We therefore call on the Commission to accept the EU General Court's ruling in order to ensure the protection of its citizens, its environment and the competitiveness of frontrunner EU businesses.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Wates', written in a cursive style.

Jeremy Wates,
Secretary General

In view of the public interest in this matter, we intend to make this letter publicly available.