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EU Court of Justice Rules on SVHC in Articles Provisions under REACH

On 10 September 2015, the European Court of Justice handed down a long-anticipated judgment requiring industry under the REACH Regulation to notify the European Chemicals Agency (ECHA) of articles incorporated as components of a complex product when they contain a substance of very high concern (SVHC) in a concentration above 0.1 percent. With its ruling, the court has backed the view taken by five member states and Norway that – in direct contradiction to the European Commission's and ECHA's interpretation – the notification and communication obligations under Articles 7(2) and 33 of REACH apply to each individual article that comprises a complex product, and does not apply to the complex article as a whole. In reaching the judgment, the Court of Justice concluded that since REACH contains no provisions specifically governing the situation of a complex product containing several articles, a distinction should not be made between the situation of articles incorporated as a component of a complex product and that of articles present in an isolated manner. The judgment is predicted to profoundly impact the businesses of all article suppliers along the supply chain, who the court clarified are subject to the duty to provide information about relevant articles, and is not limited to producers and importers alone.

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