

Media alert

14 September 2021: NGOs in EU court battle against “forever chemicals”.

The environmental law charity ClientEarth and the charity CHEM Trust will appear in the Court of Justice of the European Union on 14th September to battle the chemicals giant Chemours over its attempt to prevent action on harmful chemicals.

Chemours – a spin-off of DuPont, created in 2015 and housing brands such as Teflon™ – is challenging the inclusion of GenX chemicals in the EU list of Substances of Very High Concern (SVHC) [1], which requires manufacturers to share information on the dangerous properties of the substances in their supply chain.

ClientEarth and CHEM Trust are joining the European Chemicals Agency (ECHA) and the Government of the Netherlands in the case to defend the listing of these chemicals as substances of very high concern.

GenX chemicals [2] were introduced by DuPont in 2009 as a substitute to the now banned chemical PFOA [3]. PFOA, was used in the production of Teflon™ pans among other products but was ultimately banned in 2019 due to its capacity to resist degradation and its link to cancer and other illnesses. The landmark legal fight against PFOA in the US was made famous by the film [Dark Waters](#) featuring Mark Ruffalo.

GenX chemicals are used for their non-stick properties to manufacture [cookware, paint, apparel and more](#). They are part of a family of over 4,700 chemicals known as “forever chemicals”, due to their extreme persistence. They are also very mobile – travelling through water – to the extent that they have even been detected in [Arctic seawater](#).

ClientEarth and CHEM Trust will argue in court that it is vital that GenX chemicals – which are very persistent and mobile in the environment and thus present a threat to drinking water resources – are, at the very least, flagged as being of very high concern.

ClientEarth in-house lawyer Alice Bernard said: “Chemours is substituting a known harmful chemical with equally concerning twins. This is a nonsensical and short-sighted substitution.

“The EU is trying to stop irreversible contamination by putting GenX chemicals on its ‘substances of very high concern’ list. This decision is not only scientifically and legally grounded, it’s common sense.”

There are also concerns with GenX chemicals regarding toxicity, in particular for the liver, the kidney, the blood, and the immune system, as summarized in the [evidence](#) given to support the SVHC identification. Other concerns include the capability for GenX to cross the placenta and reduce foetus weight. The potential of GenX chemicals to cause cancer is also currently under further investigation.

Ninja Reineke, Head of Science at CHEM Trust, said: “The high persistence of GenX chemicals, combined with their high mobility and concerns about toxic effects means that potential impacts can linger even after emissions have stopped, thus presenting a threat to future generations. If these chemicals continue spreading around the globe, there will be no turning back.”

After this month's hearing, the Court of Justice is expected to hand down its judgment in early 2022.

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Notes to editors

The hearing is open to the public. It will take place on the morning of Tuesday 14 September at the Court of Justice of the European Union (Palais de la Cour de Justice, Boulevard Konrad Adenauer, Kirchberg, L-2925 Luxembourg). The Court of Justice remains accessible to journalists despite Covid-19 (see the usual [Guide](#) for journalists). The sanitary measures are available [here](#).

[1] Chemours is taking ECHA to court over the inclusion of GenX chemicals in the SVHC list under REACH – the EU system to control chemicals. The list means manufacturers have a duty to communicate information on the substance's concerning properties in their supply chain but it is also a signal to the market to invest in alternatives (alternative chemicals or alternative technologies).

[2] GenX chemicals are part of a larger family of chemicals known as PFAS or “forever chemicals” because they do not degrade in the environment. The GenX technology was introduced by DuPont in 2009 as a replacement for another “forever chemical” called PFOA. [A large epidemiological study in the US on the dangers of PFOA](#) – which was undertaken following a massive lawsuit – found that it was linked to six major health issues: kidney cancer, testicular cancer, thyroid disease, high cholesterol, ulcerative colitis, and pregnancy-induced hypertension. More information on GenX chemicals can be found at <https://chemtrust.org/genx/>.

[3] PFOA was banned globally in 2019 after decades of delay, despite compelling evidence to support a ban having been in the public domain for years. Studies have shown that almost everyone has chemicals from the PFAS family in their bodies,, including children as [recent human biomonitoring](#) from Germany show. GenX chemicals were presented as a safer alternative to PFOA. But they have been found to be similarly problematic.

Chemours was founded in 2015 as a spin-off of DuPont. The new entity contains DuPont's legacy chemicals businesses, including Teflon™. Some commentators argued that by creating Chemours and other companies, DuPont had [“unloaded its PFAS obligations to smaller](#)

companies that do not have the money to pay for [compensation for health problems linked to PFAS]”.

DuPont and Chemours have had to settle several lawsuits related to chemical exposure, including in 2017 when the two companies agreed to pay \$671 million to settle 3,550 personal injury claims arising from a PFOA leak from a plant in West Virginia.

In a complaint filed in 2019 against DuPont, Chemours contended that DuPont massively downplayed the cost of environmental liabilities imposed on Chemours when the spinoff happened in 2015.

In 2021, DuPont, Chemours and Corteva – another spin-off – announced a cost-sharing agreement worth \$4 billion to settle lawsuits involving the historic use of PFAS.

But in February 2021, Chemours’ directors were accused in a lawsuit of duping shareholders about its financial health and the extent of its legal liability at the time it was created.

About ClientEarth

ClientEarth is a non-profit organisation that uses the law to create systemic change that protects the Earth for – and with – its inhabitants. We are tackling climate change, protecting nature and stopping pollution, with partners and citizens around the globe. We hold industry and governments to account, and defend everyone’s right to a healthy world. From our offices in Europe, Asia and the USA we shape, implement and enforce the law, to build a future for our planet in which people and nature can thrive together.

About CHEM Trust

CHEM Trust is a collaboration between CHEM Trust, a UK registered Charity and CHEM Trust Europe eV, which is a charity based in Germany. Both legal entities work closely together on projects under the name CHEM Trust. Our overarching aim is to prevent synthetic chemicals from causing long term damage to wildlife or humans, by ensuring that chemicals which cause such harm are substituted with safer alternatives.