



Emily O'Reilly
European Ombudsman

Mr Patrick Ky
Executive Director
European Aviation Safety Agency
PO Box 101253
50452 Köln
ALLEMAGNE

Strasbourg, **03 -09- 2014**

Re: The adoption of a Transparency Policy

Dear Mr Ky,

Given the direct impact of the work of the European Aviation Safety Agency (EASA) on the daily lives of citizens, you are well aware that it is of particular importance that your policies in areas such as ethics, transparency and public participation reflect the Union's values and principles.

I had an opportunity to examine some of these issues in my draft recommendation in case 726/2012/FOR¹ and, as you may recall, made the following comments:

"33. (...) Trust in EASA's work, which is underpinned by ensuring a sufficient degree of transparency as regards its work, is vital to ensuring trust in the overall legislative process leading to new air safety rules.

34. Against this background, the Ombudsman considers that the public interest is best served by making publicly accessible as much information as possible pertaining to EASA's rulemaking processes. She recalls that such openness allows citizens to scrutinise all the relevant information which is used in the formulation of future legislative acts. Citizens are thus given the knowledge and understanding necessary to contribute to informed public debate on the various considerations underpinning new legislation[21]. This leads to better legislative outcomes. It also enhances the democratic legitimacy of the legislation[22].

35. EASA itself has underlined the importance it attaches to transparency and input from civil society stakeholders. Indeed, it sees transparency as a strength[23]. The Ombudsman strongly commends EASA for taking this general approach.

¹ The Ombudsman's draft recommendation, as well as the decision in this case, are available at: http://www.ombudsman.europa.eu/cases/decision_faces/en/54652/html.bookmark





36. The Ombudsman has, moreover, carefully examined the general structure of the EASA rulemaking process. She notes that EASA consults a broad range of stakeholders throughout its rulemaking processes and divulges extensive information to them. In her experience, few public bodies can demonstrate the level of engagement and openness embraced by EASA in conducting its work. As such, as a general observation, the Ombudsman is of the view that EASA merits the highest praise, and she praises it accordingly."

I understand that EASA is in the process of reviewing its approach to transparency, with a view to ensuring more proactive disclosure of documents and more information on EASA's website. You may be aware in this regard of the Transparency Policy currently being drawn up by the European Food Safety Authority. I was encouraged to note that EFSA recently launched a public consultation on this subject in the form of a discussion paper entitled "Transformation to an 'Open EFSA'"². The general idea of proceeding on the basis of such a consultation is a useful approach and I would also mention, in this regard, the public consultation launched recently by the European Investment Bank on its Transparency Policy³.

I have today written to EFSA to draw its attention to two important initiatives that my Office has been involved in and that might be relevant as it develops its Transparency Policy.

Earlier this year, I spoke at the European meeting of the Open Government Partnership (OGP)⁴. The aim of the OGP, in which 19 EU Member States now participate, is to make governments more open, accountable, and responsive to citizens. As European Ombudsman, I intend to do whatever I can to help the EU administration to live up to these expectations, in line with the provisions of the Union Treaties. I encourage you, therefore, to take inspiration from the work done within the OGP's four interlocking themes of accountability, citizen participation, transparency and the facilitating role of new technologies.

My office also organised this year a conference of the Research Network on EU Administrative Law (ReNEUAL), which has drawn up model rules of administrative procedure, including procedures for the adoption of general rules ("rulemaking"). The latter could help EU institutions and agencies, including EASA, to carry out rulemaking in a way that promotes participatory democracy and transparency, in the spirit of Article 11 of the Treaty on European Union. I attach the model rules, as a potential source of inspiration for your Agency, particularly as regards procedures that you might use to promote citizen participation when developing new rules and policies.

Against this background, I would be grateful to obtain information in relation to (i) the plans of your Agency to adopt a Transparency Policy, (ii) the process for drawing up such a policy, in particular, whether stakeholders and the general public will have the opportunity to give their views and, if so, in what way, (iii) the extent to which you intend to rely on the recent experience of other regulatory agencies in this area, and (iv) to what extent the aforementioned OGP and ReNEUAL initiatives could be relevant to EASA's efforts in this area.

² See: <http://www.efsa.europa.eu/en/corporate/pub/openefsadiscussionpaper14.htm>

³ See: <http://www.eib.org/about/partners/cso/consultations/item/public-consultation-on-eibs-transparency-policy-2014.htm>

⁴ See: <http://www.opengovpartnership.org>



Please note that I am also writing today to the European Chemicals Agency. All of these letters will be published on my website, along with your reply that I look forward to receiving by 31 October 2014, if possible.

In the interests of clarity, please note that this correspondence should be seen as a specific follow-up to the Ombudsman's series of visits to EU agencies, whose aim was to identify and spread best practices used by EU agencies in their relations with citizens.⁵

Should your services require any further information or clarifications concerning this issue, please do not hesitate to contact Mr Olivier Verheecke [REDACTED], Principal Legal Advisor.

Yours sincerely,

Emily O'Reilly

Enclosure: Model Rules on EU Administrative Procedures:
Book II – Administrative Rulemaking

⁵ Further information about these visits is available on the Ombudsman's website at: <http://www.ombudsman.europa.eu/en/activities/visits.faces>