

Subject: How EU institutions, bodies, offices, and agencies record text and instant messages sent/received by staff members in their professional capacity

Replies to the Ombudsman's questions

Annex

1) On the applicable rules:

- Does ECHA's record management decision cover text and instant messages, sent or received through professional and/or personal devices?

Answer:

According to ECHA Records Management policy, which is outlined in the procedural document PRO-0010 Control of documents and Records (Annex I), documents qualify as records when they provide evidence of the performance of ECHA's duties (see page 3 of the PRO-0010). They can be in whatever medium (audio-visual, paper, electronic, digital etc). In summary, the definition of a record is content-based and would apply also to text and instant messaging.

Therefore, "records" are those operational/administrative documents created, received, and maintained as evidence of the actions carried out in the framework of ECHA's tasks. A record should correctly reflect what was communicated or decided or what action was taken. It should be able to support the needs of the activity to which it relates to and enable usage for accountability purposes (e.g. audits) or legal proceedings.

On the other hand, internal communications exchanged between ECHA staff or informal communications exchanged between ECHA staff and external partners which are not directly linked with ECHA's activities or legal obligations, fall into the category of uncontrolled documents and they are therefore not recorded (see page 2 of the PRO-0010).

It needs to be added that ECHA is an IT-based agency and does use multiple IT systems to communicate with external stakeholders. These IT systems, which are listed in Annex I to the PRO 0010 (e.g. Helpdesk, REACH-IT, R4BP3, etc), also register and store such records, in line with the above-mentioned Records Management policy. For this reason, ECHA does not use, nor receive from external partners, text or instant messaging.

- Does ECHA's record management decision set out criteria/principles for the recording of text and instant messages?

Answer:

The criteria set in ECHA's Records Management policy do not differentiate records from their medium. Nevertheless, text and instant messages sent or received through professional and/or personal devices are not used as communication systems (see PRO-0010 Annex 1 for a list of ECHA's document management systems).

- Does ECHA's record management decision set out how text and instant messages should be recorded by staff members? Please provide us with the

relevant provisions of your record management.

Answer:

According to paragraph 3.3.1 of the PRO-0010: "Documents to be registered are all (incoming / outgoing) communications that require an action or follow-up, regardless of their medium (electronic, physical) and format (e-mails, letters, web-forms). As an absolute minimum, all incoming / outgoing communications that are qualified as records in the LIS-0026 ECHA Retention Schedule are to be registered. Documents are registered through the Mail Registry or any other IT system in place that guarantees an equivalent result (see annex 1). Duplication of registration should be avoided".

Overall, as text or instant messaging platforms are not used by ECHA for communicating content that would qualify for recording under ECHA's record management policy. Nor are these used by its stakeholders.

2) On the implementation of the applicable rules:

- How is the record management decision, as regards text and instant messaging, implemented? For example, has ECHA issued relevant guidelines to staff or does it provide training on this matter to staff?

Answer:

No.

ECHA provides regular training to the staff concerning the provisions of its information management policies (PRO-0010 Control of documents and Records, LIS-0026 ECHA Retention Schedule, POL-0007.05 Information Management and Security policy). More information and support on document management is available on the Agency's Intranet.

- In practice, has ECHA recorded text and instant messages? If so, could ECHA please provide examples?

Answer: No.

- Has ECHA already received requests for public access to text and/or instant messages, under Regulation 1049/2001, or has ECHA identified text and/or instant messages as falling within the scope of an access to documents request? If so, could ECHA please give examples?

Answer: No.

- When receiving public access requests which cover, explicitly or implicitly, text and/or instant messages, how does ECHA search for relevant 'documents'? Has ECHA put mechanisms in place (for instance, guidelines or instructions) to assist staff in searching for such 'documents'?

Answer:

'Relevant' documents falling within the scope of a request for access to documents are identified by ECHA's staff members on the basis of the above-mentioned PRO-0010 for the definition of 'record' and via a search in the relevant document management systems (listed in Annex I to the PRO-0010).

ECHA also organizes regular training for all staff members concerning access to documents

and has created an Agency-level Network of Access to documents contact persons.

- [Please provide us with the relevant documents](#)

See Annex I (PRO-0010 Control of documents and Records, LIS-0026 ECHA Retention Schedule, POL-0007.05 Information Management and Security policy)