

Helsinki

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Ms Emily O'Reilly
European Ombudsman
1 Avenue du Président Robert Schuman
CS 30403
F- 67001 Strasbourg

Subject: ECHA's Approach to Transparency

Your ref: OUT2014-003926

Dear Ms. O'Reilly,

In reply to your letter of 3 September 2014 on the topic of the adoption of a Transparency Policy in ECHA, I would like to give you some more insight into the work that is ongoing with regard to openness and transparency in the European Chemicals Agency.

First of all, it is worth noting that ECHA has adopted Transparency as one of its five core values, alongside Independency, Trustworthiness, Efficiency and Commitment to well-being. From the start in 2007 and during all subsequent years ECHA has strived to be a transparent organisation, towards the industries that it regulates, the interest groups with which it collaborates and towards the public at large.

Transparency and support

For the regulated industries ECHA has set up an extensive support scheme to assist them in complying with their obligations under the REACH, CLP, Biocides and PIC Regulations. Most notably, ECHA has put in place a fully automated submission pipeline for registration dossiers, issued guidance documents on all important regulated topics (developed with the input from ECHA's stakeholders), designed training materials and webinars and set up a helpdesk for all technical inquiries. Annual Stakeholder Days are organised, with the option to request direct support through one-to-one sessions.

For the public at large, ECHA has adopted a proactive dissemination policy. ECHA has the largest regulatory database on chemicals in the world. The information contained there is extremely valuable in the context of improving chemical safety. Most of the data from the submitted dossiers that is of value to the public is made available on line in a searchable and downloadable form. This includes information on hazardous properties, their classification and labelling and how to use the substances safely. In doing this, ECHA has to strike a balance between transparency and the rights of the data owners as to their intellectual property and to protect certain information as confidential through specific claims¹. However, ECHA examines these claims and where appropriate rejects them.

¹ See Article 119(2) of REACH.

Minutes, key documents, opinions and decisions of ECHA's governing body and scientific committees are published on the ECHA website. In general ECHA operates under the assumption that all documents it produces are in essence available to the public, unless an exception foreseen in EU legislation prevents the Agency from disclosing such information.²

ECHA's main communication channel is its multilingual website. Most of its content is published in all EU languages so as to be accessible to citizens in all Member States. The Agency strives to communicate in easy to understand language. On the website, users will find descriptions of all the Agency's activities and processes. The material is often available in multiple layers, so that users requiring more than a simple explanation can find more detail.

Open decision making

ECHA practises open decision making. First of all, information on ECHA's and the Member States' intentions – for example to look into substances or create dossiers which can lead to regulation – is available online, so that companies can take informed business decisions.

The Agency ensures that the actors involved in decision making declare any private interests they hold and that measures are in place to avoid conflicting interests affecting decisions. The declarations of the key actors are available online.

Accredited Stakeholder Organisations can apply to participate in scientific meetings as observers, except where business confidentiality requires closed sessions. The selected observers can in most instances intervene, distribute documents and have key points recorded in the minutes.

In many operational processes public consultations take place and the comments received are addressed. The reflections, minority opinions and conclusions of the scientific committees of the Agency are reflected in public opinions and/or minutes. In some of the processes case owners are consulted during the decision making. Companies affected by ECHA's decisions are informed of the outcome, the reasons for it, the next steps that will be taken and the rights that they have in this respect. Conclusions on a substance level are also widely communicated towards the public at large, except those elements covered by business confidentiality.

Transparency Policy

In the autumn of 2013, ECHA dedicated a specific session of its annual Accredited Stakeholder Organisation's workshop to the topic of Transparency. The main conclusions shared by all participants were that ECHA is doing well in this field (although there is always room for improvement), but that the Agency would benefit from bringing together all the initiatives it has taken over the years in a Transparency Policy. A similar message was voiced by some Management Board members of the Agency.

As a follow-up to these requests, ECHA started drafting such policy document in the first half of 2014 and held numerous senior management discussions to identify the elements that are working well for the Agency and those areas where ECHA can still improve. A benchmarking exercise was undertaken to detect best practices and direct contact was taken with several sister-agencies. It was also decided to involve the Accredited Stakeholder Organisations of the Agency (incl. trade unions, environmental NGOs and industry associations) in this exercise.

² Regulation (EC) No 1049/2001 on public access to documents.

All this resulted in a working paper in which the current initiatives of the Agency to foster transparency were brought together. Such paper was then sent for consultation to the Accredited Stakeholders of the Agency and discussed in a plenary session dedicated to transparency at the annual Accredited Stakeholder Organisations' workshop of 9 October 2014.

At the same workshop ECHA also invited the stakeholder organisations to indicate the areas in which they believe the Agency can still improve and ECHA committed to take up the main ideas that were prioritised by all stakeholders. The Agency will now further develop these proposals, analyse the resource implications and establish a reasonable timeline for their implementation.

Next, ECHA intends to consult the members of CARACAL, a Commission expert group bringing together the competent authorities for REACH and CLP in the Member States, including also observers from a variety of stakeholder organisations (meeting of 10-11 November 2014).

It has been planned to submit the final paper on ECHA's Approach to Transparency, including a roadmap for the implementation of the new proposals to ECHA's Management Board for agreement before the end of the year (16-17 December 2014).

Enhanced dissemination portal

Finally, I think it is worth mentioning that ECHA has already a project underway to enhance its dissemination website. The goal is to improve the usability and user friendliness of the vast quantity of data on chemical substances that it is already available in order to provide a truly integrated access to information from all regulatory processes implemented by ECHA.

The main objective of this enhancement is to promote the safe use of chemicals and increase the transparency and trustworthiness on ECHA's activities. The first outcome will be the publication next year of tailored substance information summaries (InfoCards and Brief Profiles), presented in a tiered approach and in downloadable format which will include both scientific information and regulatory information (e.g. link to ECHA's decisions). These developments are made in close dialogue with ECHA's Accredited Stakeholder Organisations through workshops and written consultations in order to address their main concerns and requirements.

Yours sincerely,

Signed

Geert Dancet
Executive Director