



European Ombudsman

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European Ombudsman

Dr Bernhard Url
Executive Director
European Food Safety Authority
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Strasbourg, **03-09-2014**

Re: The adoption of a Transparency Policy

Dear Dr Url,

Given the direct impact of the work of the European Food Safety Authority (EFSA) 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 was, in this regard, encouraged to note that EFSA recently launched a public consultation in the form of a discussion paper entitled "Transformation to an 'Open EFSA'". According to your website, the discussion paper sets forth a conceptual framework, a step-by-step methodology and a plan for the transformation of EFSA into an Open Science organisation over the next five years. While I have not had an opportunity to examine the paper in great detail, I note that it contains an 'Open EFSA Options Table' that pinpoints the various stages of the scientific decision-making workflow, the critical success factors of each of those stages, and the options for 'Open EFSA's' policy in these areas. My initial view is that this approach should be particularly helpful for stakeholders and the public seeking to respond to the consultation.

I note that the discussion paper currently exists only in English. Furthermore, despite the fact that "*[i]nterested parties and the public at large are invited to submit written comments (...)*", there is no indication on your website that comments can be submitted in any of the 24 official EU languages¹. I understand, however, from the contacts between our services that EFSA would be willing to make the document available in other languages, upon request,

¹ Please see, in this regard, the Ombudsman's decision in case 640/2011/AN, available at: <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/12008/html.bookmark>



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and that you are ready to accept comments in any of the 24 official EU languages.²

I am told that EFSA will collect and analyse the feedback from the public consultation in autumn 2014, with a view to submitting the discussion paper to EFSA's Management Board for approval by the end of 2014. Finally, I understand that EFSA will, in 2015, carry out separate feasibility studies, including cost-benefit analyses, about whether and how to integrate the different issues into its transparency policy.

As EFSA is in the process of developing its policy in this area, I wanted to take this opportunity to draw your attention to two important initiatives that my Office has been involved in.

Earlier this year, I spoke at the European meeting of the Open Government Partnership (OGP)³. 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 EFSA, 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.

I would encourage EFSA to examine the aforementioned material with a view to determining how it could be relevant to its efforts to become an 'Open Science' organisation. The material could also be relevant as EFSA embarks on its review of its Policy on Independence and Scientific Decision-Making Processes, which will begin in 2015.

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.⁴ I am, in this regard, also writing today to the European Aviation Safety Agency and to the European Chemicals Agency to ask them about their plans to adopt a Transparency Policy. All three letters will

² The Ombudsman recently opened an inquiry in relation to the mandatory use of an electronic template, which was allegedly particularly complex and not user-friendly, in the context of a public consultation conducted by EFSA. Please see case 952/2014/OV, available at:

<http://www.ombudsman.europa.eu/en/cases/caseopened.faces/en/54561/html.bookmark>

³ See: <http://www.opengovpartnership.org>

⁴ Further information about these visits is available on the Ombudsman's website at: <http://www.ombudsman.europa.eu/en/activities/visits.faces>



be published on my website, along with your reply that I look forward to receiving by 31 October 2014, if possible.

Should your services require any further information or clarifications concerning this issue, please do not hesitate to contact Mr Antonios Antoniadis [REDACTED], Legal Officer.

Yours sincerely,

Emily O'Reilly

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