

Refresher on ethics and integrity rules

43rd meeting of the Management Board 28-29 September 2016

Item	15
Action	For information
Status	Final - public

Key messages

The Management Board is invited to take note of the ethics and integrity rules applicable to Board members as set out in ECHA's policy for managing potential conflicts of interest and related documents.

The Court of Auditors recommended in a follow-up audit to its special report on conflicts of interest in EU Agencies¹ that not only ECHA staff and experts would regularly receive training on this topic but that also the Management Board members should appropriately be reminded of their duties. The Secretariat will therefore foresee regular refreshers on these rules.

Background

ECHA's work and decisions are crucial for the protection of human health and the environment and they can also have a significant impact on individual companies. It is essential that, in taking opinions or decisions, ECHA acts transparently, independently and takes impartial and science-based decisions.

According to ECHA's policy², a conflict of interest could arise where the impartiality and objectivity of a decision is compromised (or might be seen to be compromised) by the interest of an individual working in or with the Agency.

Therefore, Management Board members make a declaration of commitment to fulfil their duties and a declaration of interests which could be prejudicial to their independence³. These declarations are made annually in writing and entered in a register held by ECHA. The register is accessible to the public. For transparency reasons, the declarations of interest are also published on ECHA's website. Members of the Management Board provide a curriculum vitae or biographic abstract which is then also published on the website.

The forms for the declarations were adopted by the Board and are included in an annex to the Rules of Procedures. The members' declarations of interest are to be reviewed by the Chair. The declaration of the Chair is reviewed by the Deputy Chair.

No member shall participate at any Management Board meeting without a valid declaration in place. Moreover, at each meeting, members are required by the REACH Regulation to spontaneously declare any interest which could be prejudicial to their independence with respect to any point on the agenda. For this purpose, the Chair asks all members to declare any relevant interests at the beginning of each meeting.

¹ Special Report No 15/2012

² Adopted by the Management Board in March 2014 (MB/07/2014)

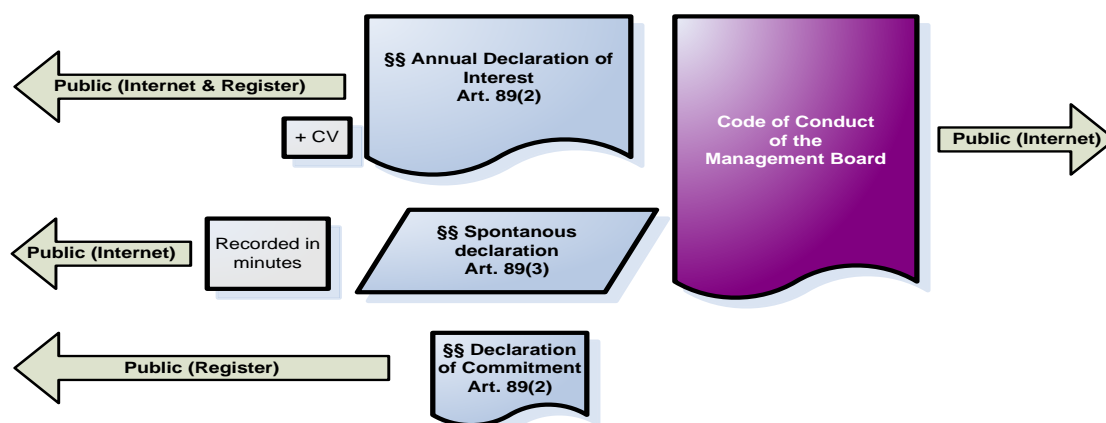
³ See Article 88(2) of the REACH Regulation

The duty to declare any relevant interest extends to the non-voting Board members appointed by the Commission to represent interested parties. This applies, however, without prejudice to their legally foreseen role as representatives of a specific interest⁴.

Observers and persons of trust are equally asked to sign a declaration of interests if no previous valid annual declaration is available in the Agency's files.

Anyone with a declared interest in a specific agenda point will then not participate in decision or opinion making on that matter.

The Management Board also adopted a Code of Conduct which is signed by all members and contains for example provisions on independence, invitations and gifts⁵.



The Agency also has a Conflicts of Interest Advisory Committee to support the Management Board and the Executive Director in ensuring independence of decision making.

Rationale

New Management Board members receive information on ECHA's conflict of interest policy and their respective duties when starting their first term of office. Given the importance of the topic, it is indeed appropriate to follow the Court of Auditor's recommendation and to regularly revisit duties applicable to Board members.

Drawbacks

The Court of Auditors emphasised in its special report and the follow-up audits also the requirement to regulate the post-employment duties of Management Board members. As other EU agencies, the ECHA Secretariat does not see a legal base for restricting the professional freedom of Management members after their duties have ceased (apart from the explicit requirement to maintain professional secrecy⁶). However, it could impact the reputation of ECHA if a Member State or Commission representative on the Board would, for example, move into a high profile position in one of ECHA's Accredited Stakeholder Organisations or a in a company with duties under REACH.

For questions: mb-secretariat@echa.europa.eu

⁴ The Commission appointed Members from interested parties to represent the perspectives of different stakeholders, i.e. from industry, consumers, environmental and health NGOs and trade unions

⁵ Decision of 23 March 2012, Annex to MB/12/2012 final

⁶ See Article 105 of the REACH Regulation.