

**REVISED DECISION OF THE MANAGEMENT BOARD ON THE FINANCIAL ARRANGEMENTS FOR THE TRANSFER OF A PROPORTION OF FEES TO THE MEMBER STATES**

THE MANAGEMENT BOARD,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, and in particular Article 74(4) thereof,

Having regard to Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and in particular Article 14(2) thereof,

WHEREAS,

1. A proportion of the fees and charges collected by the European Chemicals Agency (hereinafter referred to as "the Agency") should be transferred to the relevant Member State Competent Authority for work done in the context of a substance evaluation procedure or for rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis (hereinafter referred to as "the Committees") in the context of restrictions proposals or of applications for authorisation pursuant to Regulation (EC) No 1907/2006.
2. It is for the Management Board, following a favourable opinion from the Commission, to establish financial arrangements for such transfers, including the amounts to be transferred.
3. The amounts to be transferred should be fixed in compliance with the principle of economy, efficiency and effectiveness and at a level that ensures that the Agency continues to have available sufficient financial resources to undertake its tasks as defined in Regulation (EC) No 1907/2006, having regard to its existing budgetary appropriations and pluriannual estimates of income, including the planned European Union subsidy as laid down in the Communication from the Commission on the programming of human and financial resources for decentralised agencies for the period 2014-2020 (COM(2013)519).
4. In fixing the amounts to be transferred account should be taken of the workload and related costs of the Competent Authorities of the Member States. The amounts transferred are not in all cases foreseen to compensate for the entire costs occurring to the Member State Competent Authorities.
5. The amounts to be transferred envisaged in this Decision have been calculated on the basis of experience gained and reports on time spent received from the Member State Competent Authorities.
6. Differences in earnings and cost of living of the different Member States should also be taken into account.
7. The average earnings index used for calculating the scale of payments was previously based on the Eurostat table.

8. However, such data was no longer updated and hence not sufficiently accurate to reflect the actual salary levels applicable in Member States, hence rendering necessary the definition of a new method.
9. The country correction coefficients published annually by the European Commission were therefore used to adjust the ECHA man-day costs to the cost levels in the Member States and serve as a baseline coefficient which is adapted for Finland. The country correction coefficients are updated by ECHA Secretariat in line with the European Commission's updates.
10. As foreseen by Regulation (EC) No 340/2008, a maximum proportion of the fees and charges to be transferred to the Competent Authorities should be set on a pluriannual basis.
11. Where the Committees decide to appoint a co-rapporteur, the transfer should be divided between the rapporteur and the co-rapporteur.
12. The provision of services by Committee members should be governed by a written contract between the Agency and the employer of the person concerned.

Following a favourable opinion from the Commission, Commission Decision C(2017)8161 final of 13.12.2017

HAS DECIDED AS FOLLOWS:

*Article 1*  
*Scope of transfer*

A transfer of a proportion of fees and charges received by the Agency shall apply to

- The conclusion of a substance evaluation procedure pursuant to Regulation (EC) No 1907/2006 by a Member State Competent Authority;
- Rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restrictions proposal pursuant to Regulation (EC) No 1907/2006;
- Rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006.

Transfers shall not be paid for such work emanating from tasks related to transitional measures defined in Articles 135-137 of Regulation (EC) No 1907/2006.

*Article 2*  
*Scale of payments*

1. The scale of payments for substance evaluation and rapporteurs work in restriction processes is set in an Annex to this Decision. The payments are calculated on the basis of the maximum workload of
  - (a) Substance evaluation
    - Up to 65 days.

In case of the evaluation of a group of structurally similar substances, a specific agreement can be made between the Agency and the evaluating Member State for a proportional reduction of the payment.

- (b) Restriction
  - Up to 25 days for RAC rapporteur work, per case;
  - Up to 30 days for SEAC rapporteur work, per case,multiplied by the Agency's daily rate, representing the average cost for similar work at the Agency and including overhead cost, and adjusted with a correction coefficient.
- 2. Payments shall be limited to the number of days reported by the evaluating Member State or rapporteurs when lower than the number of reference days mentioned in paragraph 1.
- 3. In case of contracts covering multiple similar substances, the number of reference days is defined by the specific agreement between the Agency and the evaluating Member State as referred to in paragraph 1(a) above.
- 4. The scale of payment for rapporteurs work done in the context of authorisation applications per rapporteur of each Committee will consist of 12.5% of the application specific base fee and, where relevant, additional application specific fees determined as follows:
  - The application specific base fee shall, irrespective of the applicant being a non-SME, medium, small or micro enterprise as defined in Article 2 of Regulation (EC) No 340/2008 consist of 76.6% of the standard base fee as set out in Table 1 of Annex VI to that Regulation.
  - Additional application specific fees shall, irrespective of the applicant being a non-SME, medium, small or micro enterprise as defined in Article 2 of Regulation (EC) No 340/2008, consist of 76.6% of the standard additional fees as set out in Table 1 of Annex VI to that Regulation.

The application specific base and additional fees shall be adjusted as follows:

- 5. ECHA man-day costs are adjusted by the country correction coefficients used by the European Commission to adjust salaries. The coefficients are adapted by 76% in order to reflect the principle that the transfer of fees and charges from ECHA to the Member State Competent Authorities has to be linked to the real salary costs and cost of living in the Member States. The Annex shall be updated annually by ECHA Secretariat when new country coefficient corrections are available at the European Commission. The Management Board is informed accordingly.
- 6. Any review shall be without prejudice to the principles of economy, efficiency, and effectiveness, and the need to ensure that the Agency has sufficient resources available to undertake its tasks as defined in Regulation (EC) No 1907/2006, having regard to its existing budgetary appropriations and pluriannual estimates of income, including a Community subsidy.

*Article 3*  
*Collecting data on actual workload and salary cost*

In carrying out tasks referred to in Article 1(1), the respective rapporteur or the Member State Competent Authority shall fill in time sheets provided by the Agency to establish the actual time spent. These shall be forwarded to the Agency.

*Article 4*  
*Contractual arrangements*

1. Each Member State shall nominate entities, including a Member State Competent Authority, which shall be parties to a Framework Contract with the Agency for the payment of the amounts to be transferred under this Decision.
2. The Executive Director shall put in place the necessary contractual and administrative arrangements in conformity with the financial rules applicable to the Agency.

*Article 5*  
*Payments*

1. A transfer is only payable where a contract for the work to be executed has been signed between the Agency and the parties to the Framework Contract referred to in Article 4(1), and the tasks have been carried out according to the contract.
2. On request by a Competent Authority, an advance payment of a maximum of 30% of a total amount transferable under substance evaluation to a Member State Competent Authority shall be authorised at the time of signing of the Service Agreement for a specific substance to be evaluated between it and the Agency. In the event that a Member State Competent Authority fails to complete the evaluation in accordance with the agreed-upon specifications, the advance payment shall be refunded to the Agency.
3. Payments shall be made in euros within 30 days of the date when the delivery of work was accepted either by the Committee concerned, or in the case of substance evaluation, by the Agency.
4. Where a Committee appoints a co-rapporteur, the transfer shall be divided according to the agreement on the division that the rapporteurs have communicated to the Agency and which has been included in the contract.

*Article 6*  
*The maximum proportion*

1. For the period 2018-2020, the maximum proportion of the fees and charges which can be transferred to Member States is fixed at
  - 25% of the application specific base fees related to authorisation applications and reviews as defined in Article 2(4) of this Decision for rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006, and
  - 5% of the Agency's registration fee income under Regulation (EC) No 1907/2006 for that period for the conclusion of a substance evaluation procedure by a Member State Competent Authority or rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restriction proposal pursuant to Regulation (EC) No 1907/2006.

For the period 2018-2020, the overall ceiling in absolute amount of the fees which can be transferred to Member States is fixed at EUR 6.5 million.

2. The Agency shall continuously monitor the level of payments with a view to adjust the level of payments if there are indications that the limits set in paragraphs 1 and 2 may be exceeded.

*Article 7*  
*Review and reporting*

The Management Board shall review the Decision at the latest in 2020 with a view to have a revised decision, applicable as of 1 January 2021.

*Article 8*  
*Final provisions*

1. This Decision and the estimates of income on which it is based are without prejudice to the Communication from the Commission on the Programming of human and financial resources for decentralised agencies for the period 2014- 2020 (COM(2013)519) and the subsequent updates in the EU's financial programming.
2. This Decision shall apply from 1 January 2018. It shall repeal Decision MB/45/2014 of the Management Board of 12 December 2014.

Brussels, 15 December 2017

For the Management Board

The Chairman

*signed*

Sharon McGuinness

**Annex: Scale of Payments**

	Coefficient (COM)	Coefficient (rounded)	Coefficient ECHA=100	cost per man day	Substance evaluation	RAC rapporteur (EUR)	SEAC rapporteur (EUR)
	current	(rounded)	ECHA=100			days	days
		Finland=100	Finland = 0.76*ECHA		65	25	30
Austria	105	88	67	404 €	26 280 €	10 108 €	12 129 €
Belgium	100	84	64	386 €	25 099 €	9 654 €	11 584 €
Bulgaria	51	43	33	197 €	12 826 €	4 933 €	5 920 €
Croatia	74	63	48	287 €	18 649 €	7 173 €	8 607 €
Cyprus	74	62	47	284 €	18 448 €	7 095 €	8 515 €
Czech Republic	73	62	47	283 €	18 373 €	7 067 €	8 480 €
Denmark	133	112	85	514 €	33 408 €	12 849 €	15 419 €
Estonia	78	65	50	300 €	19 478 €	7 492 €	8 990 €
Finland	119	100	76	458 €	29 769 €	11 449 €	13 739 €
France	114	96	73	439 €	28 564 €	10 986 €	13 183 €
Germany	96	81	62	371 €	24 121 €	9 277 €	11 133 €
Greece	79	67	51	306 €	19 904 €	7 656 €	9 187 €
Hungary	70	59	45	270 €	17 570 €	6 758 €	8 109 €
Ireland	118	100	76	457 €	29 693 €	11 421 €	13 705 €
Italy	98	83	63	378 €	24 573 €	9 451 €	11 342 €
Latvia	73	62	47	282 €	18 323 €	7 047 €	8 457 €
Lithuania	70	59	45	269 €	17 495 €	6 729 €	8 074 €
Luxembourg	100	84	64	386 €	25 099 €	9 654 €	11 584 €
Malta	86	72	55	331 €	21 511 €	8 273 €	9 928 €
Netherlands	108	91	69	417 €	27 108 €	10 426 €	12 511 €
Poland	67	56	43	258 €	16 742 €	6 439 €	7 727 €
Portugal	81	68	52	311 €	20 231 €	7 781 €	9 337 €
Romania	64	54	41	246 €	16 014 €	6 159 €	7 391 €
Slovakia	76	64	49	292 €	19 000 €	7 308 €	8 769 €
Slovenia	81	68	52	312 €	20 256 €	7 791 €	9 349 €
Spain	88	74	56	340 €	22 113 €	8 505 €	10 206 €
Sweden	127	107	82	492 €	31 977 €	12 299 €	14 759 €
United Kingdom	142	120	91	548 €	35 592 €	13 689 €	16 427 €
Norway	136	114	87	524 €	34 036 €	13 091 €	15 709 €
Iceland	134	113	86	519 €	33 709 €	12 965 €	15 558 €