



Seminar on 10 years of REACH Litigation  
Helsinki, May 24th, 2017

**Impact of Court and Board of Appeal decisions on  
REACH and ECHA's processes –  
a Member State's perspective**

Christian Meineke

Federal Ministry for the Environment, Nature Conservation,  
Building and Nuclear Safety, Germany



## **Congratulations!**

Congratulations to ECHA for 10 years of dedicated and successful work.

ECHA as such, its expertise, service orientation and transparency rank among the main achievements delivered by REACH.



## ECHA and Member States

ECHA leads **European** procedures, it is the focal point of a **joint effort** involving all Member States:

- Member State experts, supported by their national Competent Authorities, form ECHA's Committees,
- ECHA's decision making power in the field of evaluation is bound to the existence and content of a consensus among all Member States in the specific case (Article 51 paras. 3, 6, 7 and Article 52 para. 2 REACH),
- Member States – through MB, MSC, Forum, CARACAL, REACH Committee and Council of Ministers – participate in the processes of optimizing ECHA's work.



## Impact of Court and BoA decisions

**Courts:** of prime importance, but by now only a limited number of aspects addressed. Clear reminders of the importance of REACH's health and environment protection aims.

**BoA:** in practice great relevance for all those involved in ECHA-procedures. Number of decisions rapidly growing. Many aspects of practical work already addressed. If BoA decides in favor of the appellant, the aspect decided on will normally not reach the courts. Willingness to accept BoA-decisions as precedent is high, but some decisions in the field of evaluation are subject to ongoing discussions.



## **ECHA's procedures as a learning system**

ECHA is constantly reviewing and improving its procedures and approaches in order to best serve the aims of REACH. Member States are intensely involved in these processes.

Examples:

- enhanced completeness check for registrations,
- „super-endpoint approach“ in dossier evaluation.

Reasons for changes: experiences from earlier practice, new technical or scientific developments, changes in the legal framework, new ideas for improvement that come up from ECHA, Member States or Commission.



## Maintaining flexibility matters a lot

**Problem:** the more BoA-decisions exist and are taken as precedents the more there is a risk of losing flexibility for improvements and adaptations. Changes then would require involving outside actors (e.g.: Commission/REACH-Committee, courts, legislator).

First signs of that in the field of evaluation.

**Wishes** for situations where discussions deliver convincing reasons for a change:

- an ECHA secretariat, that is open for deviations from an existing BoA line, so that the aspect can be brought before BoA again,
- a BoA that defines itself as part of ECHA's overall performance and is open to enable change in case of convincing arguments.



Bundesministerium  
für Umwelt, Naturschutz,  
Bau und Reaktorsicherheit

**Thank you for your attention!**