

Revision of the ECHA conflict of interest policy

Action requested of the Management Board	
Take note of this cover document:	MB/19/2023
Adopt	Policy for Prevention and Management of potential Conflicts of Interest
Adopt	Procedure for Prevention and Management of potential Conflicts of Interest for members of ECHA bodies
Endorse	Draft Implementing Rules for the Prevention and Management of potential Conflicts of Interest for ECHA staff (for consultation with the Staff Committee and submission for approval of the European Commission)
Adopt	Guidelines for Member State Competent Authorities to ensure the independence of Member State services to be provided to ECHA
Adopt	Amended Code of Conduct for the members of the Management Board
Adopt	Amended Management Board Operating Framework

Matters for consideration

At MB-69 in March 2023, a proposal for changes to the ECHA conflict of interest policy were discussed and supported. No further contributions were received in writing after the meeting.

Therefore, the policy documents and rules implementing these changes are now put forward for adoption. The main changes concern the following:

- **Strengthen the monitoring of compliance with post-employment duties** by former ECHA staff members.

These measures follow recommendations issued by the European Parliament as discharge authority, the European Ombudsman and the European Court of Auditors¹, which are relevant for ECHA and could be incorporated into the policy. While it is recognised by the Court of Auditors that the current legal framework is insufficient and unclear and it advises the Commission to strengthen it (i.e. EU Staff Regulations), the Court highlights a best practices which they invite Agencies to follow. In this context, it is proposed to strengthen the measures related to the monitoring of the post-employment duties:

- o Establish the possibility to impose a requirement of periodical reporting on the compliance with restrictions on future employment, as well as to request (former) staff members to share, where necessary, imposed restrictions with their new employer and/or clients and request evidence of this.
- o Extend ECHA's duty to make public the outcome of post-employment decisions from senior management staff to also include former full-time members of the Board of Appeal (BoA). This change has been proposed by the MB Subgroup BoA.
- o Introduce a new procedure to actively monitor the compliance by the senior management staff and former full-time BoA members with conditions imposed, including a reminder on the duties under the Staff Regulations to report any new occupational activity at 6-month intervals during a period of two years after leaving the Agency.
- o Establish a possibility to undertake sample checks on former staff members' compliance with their obligations under Article 16 of the Staff Regulations, with a focus on senior staff members and those who were either forbidden to engage in

¹ See e.g. European Court of Auditors annual report on EU agencies 2021: ['Revolving doors': lax rules for EU agencies \(europa.eu\)](#)

a certain occupational activity or were granted permission subject to certain limitations.

- Emphasise, for members of ECHA bodies (e.g. MB, committee members), the applicability of the existing generic exclusion criteria not only before appointment, but also during the mandate. In other words, when a member wishes to take up incompatible activities during the mandate, he/she will be excluded from further participation in the ECHA body. For this reason the MB Code of Conduct (Annex 5) and Operating Framework (Annex 6) are proposed for revision to include this aspect explicitly.

- **Convert the existing individual Memoranda of Understanding between ECHA and Member State Competent Authorities** (for ensuring the independence of Member State services to be provided to ECHA) into the format of a single document with guidelines for Member States in order to streamline the process. The content is not altered. The document will be published on ECHA's website (Annex 4).
- **Separate the duties applicable to ECHA staff** from those applicable to members of ECHA bodies (e.g. MB, Committee members) into two self-standing documents (Annexes 2 and 3) under an overarching CoI policy document (Annex 1).

The rules applicable to ECHA staff (Annex 3) are adopted according to Article 110 of the EU Staff Regulation and require the agreement of the European Commission. The MB is first asked to endorse the draft rules, which has been submitted for consultation with ECHA's Staff Committee. The secretariat will also request the formal agreement of the Commission, and subject to this, the MB will be invited to adopt the final Implementing Rules as soon as possible. In the meantime, for the ECHA staff, the current CoI policy will remain in force (MB/06/2021 final).

Attachments

- Annex 1: Draft Policy for the Prevention and Management of potential Conflicts of Interest
- Annex 2: Draft Procedure for the Prevention and Management of potential Conflicts of Interest for members of ECHA bodies
- Annex 3: Draft Implementing Rules for the Prevention and Management of potential Conflicts of Interest for ECHA staff
- Annex 4: Draft Guidelines for Member State Competent Authorities to ensure the independence of Member State services to be provided to ECHA
- Annex 5: Draft revised MB Code of Conduct
- Annex 6: Draft revised MB Operating Framework