

**DECISION OF THE BOARD OF APPEAL
OF THE EUROPEAN CHEMICALS AGENCY**

29 September 2015

Application to intervene

(Admissibility – Time limits - Article 8(2) of the Rules of Procedure)

Case number	A-018-2014
Language of the case	English
Applicant	European Coalition to End Animal Experiments, United Kingdom
Contested Decision	SEV-D-2114285478-33-01/F of 19 September 2014 adopted by the European Chemicals Agency pursuant to Article 46(1) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3; hereinafter the 'REACH Regulation')
Appellant	BASF Grenzach GmbH, Germany

THE BOARD OF APPEAL

composed of Mercedes Ortuño (Chairman), Andrew Fasey (Technically Qualified Member and Rapporteur) and Rafael López Parada (Legally Qualified Member)

Registrar: Sari Haukka

gives the following

Decision

Summary of the facts

1. On 17 December 2014, the Appellant filed an appeal at the Registry of the Board of Appeal against the Contested Decision.
2. On 3 March 2015, an announcement of the appeal was published on the website of the European Chemicals Agency (hereinafter the 'Agency') in accordance with Article 6(6) of Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (OJ L 206, 2.8.2008, p. 5; hereinafter the 'Rules of Procedure').
3. By application received by email on 18 March 2015, the Applicant applied to intervene in case A-018-2014 in support of the Appellant.

Reasons

4. In accordance with Article 8(1) of the Rules of Procedure, any person establishing an interest in the result of a case submitted to the Board of Appeal may be granted leave to intervene in that case.
5. Article 8(2) of the Rules of Procedure provides further that an application to intervene shall be submitted within two weeks of publication of the announcement of the notice of appeal on the website of the Agency. That period is mandatory and observance thereof, as in the case of procedural time limits in general, is a matter of public policy which the Board of Appeal must ascertain of its own motion whether that time-limit was observed.
6. In the present case, the Board of Appeal notes that the announcement of the appeal was published on 3 March 2015.
7. Article 23 of the Rules of Procedure provides that any period prescribed by or set under the Rules of Procedure for the purposes of appeal proceedings shall be calculated in accordance with paragraphs 2 to 6 of this Article. Concerning the day from which the time period starts, Article 23(2) of the Rules of Procedure provides that *'where a period expressed in [...] weeks [...] is to be calculated from a day on which an event occurs or an action takes place, that day shall not fall within that period'*. In the present case, the starting date for the two week period to submit an application to intervene was therefore 4 March 2015. Concerning the day on which a time limit expires, Article 23(3) of the Rules of Procedure explains that *'a period expressed in weeks [...] shall end with the expiry of whichever day in the last week [...] is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place'*.
8. It follows that, in the present case, the time-limit to submit an application to intervene, expired on 17 March 2015. Since the application was submitted by email on 18 March 2015 and received by the Registry of the Board of Appeal Registry on the same date, the application to intervene is out of time.
9. In addition, the Applicant has not established or submitted any reasons to justify the delay in lodging its application.
10. It follows from all of the above considerations that the present application to intervene must be dismissed as manifestly inadmissible.

ORDER

On those grounds,

THE BOARD OF APPEAL

hereby:

Dismisses the application to intervene.

Mercedes Ortuño
Chairman of the Board of Appeal

Sari Haukka
Registrar of the Board of Appeal