

Processing of third party consultations addressed to ECHA

1. Purpose

This work instruction describes how a third party consultation addressed to ECHA according to Regulation (EC) No 1049/2001 regarding public access to documents (i.e. the "ATD Regulation") or under national law is handled by the Legal Affairs Unit (LAU) in collaboration with the competent Directorate(s).

2. Scope

This WIN starts with receiving a consultation on access to documents and ends with sending a reply.

This WIN mainly applies to staff members of LAU that are in charge of coordinating ATD; Contact Persons nominated by each Directorate; members of the ATD Network nominated by each Directorate and/or Unit. It may also concern staff members who were the addressee of a consultation or have been assigned the task of handling the consultation.

Referral and consultation based on the Management Board decision MB/32/2010 (i.e. access request to documents/information contained in REACH-IT received by a MSCA, Commission) are not falling within the scope of this WIN. ATD requests for REACH-IT data referred to ECHA are handled according to WIN-0011 Processing of initial applications for access to documents. ATD requests regarding REACH-IT data on which ECHA is consulted are handled according to MB/32/2010.

3. Description

1. Filtering

1.1 Reception and registration of a third party consultation	Responsibility/Role
Forward received consultation to the ATD functional mailbox (access-to-documents@echa.europa.eu) and in any case, when there is doubt whether it is a third party consultation addressed to ECHA.	ECHA staff member
Provided the received communication constitutes a third party consultation addressed to ECHA under the ATD Regulation or national law, register it in the ATD SP.	ATD Coordinator

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1.2 Checking the scope of the consultation and the deadline for replying	Responsibility/Role
<p>Is the scope of the consultation clear and the deadline for replying sufficient taking into account possible third party consultations ECHA might have to lodge itself?</p> <p>Consult an ATD Contact Person from the competent Directorate.</p> <p>If No, go to 1.3.</p> <p>If Yes, go to 2.1.</p>	ATD Coordinator
1.3 Clarification of the scope of the consultation and negotiation of the deadline	Responsibility/Role
<p>Ask the Requestor by e-mail to clarify the consultation and/or negotiate the deadline. Provide information to identify the document requested and/or on the reasons for an extended deadline.</p>	ATD Coordinator

2. Internal processing of the third party consultation

2.1 Assignment of the third party consultation	Responsibility/Role
<p>Assign the third party consultation by email to the competent Directorate according to the rules below:</p> <ul style="list-style-type: none"> - When a reply needs to be coordinated among several Directorates assign to the volunteering "lead" Directorate (Directorate which holds most of the documents in the scope); - In all other cases, assign the consultation to the ATD contact person(s) of the competent Directorate. <p>Indicate the legal deadline to the Directorate for replying to the third party consultation.</p>	ATD Coordinator
2.2 Assessment of the need of a further consultation	Responsibility/Role
<p>If (the) document(s) contain(s) information originating from a further party (e.g. company, MSCA) and a further consultation is needed, go to 3.1.</p> <p>If no third party consultation needs to be lodged by ECHA, go to 4.1.</p> <p>Consult the ATD Coordinator in case of doubt.</p>	ATD Contact Person

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3. Further consultation

3.1 ECHA's document(s) containing information originating from a further party	Responsibility/Role
<p>For document(s) containing information originating from a Member State, follow step 5.2 of WIN-0011 / Processing initial applications for ATD.</p> <p>For document(s) containing information originating from a third party which is not a Member State, follow step 5.3 of WIN-0011 / Processing initial applications for ATD.</p> <p>Inform the ATD Coordinator by email and confirm with him/her by email that a further consultation is going to be launched by the competent Directorate.</p>	<p>ATD Contact Person</p>
3.2 Deadline and further consultation	Responsibility/Role
<p>If an extended deadline has not already been negotiated under step 1.3 contact the Requestor by email and verify if it already lodged itself third party consultations which would make it redundant for ECHA to do so.</p> <p>If the Requestor's reply demonstrates that this is not the case explain that ECHA is going to launch a further consultation and thus an extension of deadline for consultation is needed. If possible, propose a new timeframe. Adjust the deadline accordingly.</p>	<p>ATD Coordinator</p>

4. Drafting and sending the reply

4.1 Reminding the deadline	Responsibility/Role
<p>If one day before the expiry of the deadline no draft reply is received for legal review, contact the ATD Contact Person concerned to remind the Directorate of the legal deadline.</p>	<p>ATD Coordinator</p>
4.2 Drafting the reply	Responsibility/Role
<p>Draft the reply.</p> <p>Submit the draft reply for legal review to the ATD Coordinator.</p> <p>In order to ensure a fast and smooth handling of the consultation, it is up to each Directorate to decide how the reply should be concretely sent to the Requestor (i.e. formal ECHA letter v/ simple email).</p>	<p>ATD Contact Person</p> <p>The Competent Director or HoU</p>

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<p>Prior to any sending, the competent HoU or Director needs to approve the reply.</p> <p>It is up to each Directorate to choose how to implement this obligation.</p>	
<p>4.3 Sending the reply</p>	<p>Responsibility/Role</p>
<p>Send the final reply to the Requestor at the latest on the day of the expiry of the deadline. Attach (if relevant) supporting documents.</p> <p>When sending the reply put in cc) the ECHA ATD functional mailbox (access-to-documents@echa.europa.eu).</p> <p>Upload the reply to the ATD SP.</p>	<p>ATD Contact Person</p>

4. Flowchart

N/A.

5. Definitions

Term or abbreviation	Definition
Applicant	The natural or legal person (i.e. the first party) requesting access to a document in the possession of an European institution/agency/body or national entity (i.e. the second party).
ATD	Access to documents
ATD Contact Person	Contact persons nominated by Directorates for ATD coordination purposes. The contact persons are nominated for a period of two years.
ATD Coordinator	Staff member of the LAU coordinating the processing of initial applications for ATD.
ATD Network	Group of expert staff nominated by Directorates. It functions on an <i>ad hoc</i> basis and can be consulted on specific questions related to applications for access to documents. The opinion of the Network is not binding and a reply by members of the network not a requirement for allowing the Directorate in charge to continue processing a request. The sharing of information and opinions within the network however facilitates an efficient information flow as well

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Term or abbreviation	Definition
	as the early identification of complex questions and contributes to an efficient and consistent decision-making.
Competent Director	ECHA Director who can approve ECHA's reply to the requestor.
Competent HoU	ECHA Head of Unit who can approve ECHA's reply to the requestor.
LAU	Legal Affairs Unit
MSCA	Member State Competent Authority
Requestor	European institution/agency/body or national entity (i.e. the second party) in possession of an ECHA document from whom originates the third party consultation addressed to ECHA.
ATD SP	ATD SharePoint, storage place for records, maintained by LAU.

6. Records

Record name	Security level	Comments
Third party consultation	Restricted	Storage location: ATD SP
Reply	Restricted	Storage location: ATD SP
Other relevant external correspondence sent by ECHA and/or received from external (if any)	Restricted	Storage location: ATD SP

7. References

Associated document code	Document name
(EC) No 1049/2001	Regulation of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents
(EC) No 1367/2006	Regulation of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters to Community institutions and bodies
ECHA/MB/32/2010	Referral and consultation procedure for requests for access to environmental information or access to documents or other information contained in REACH-IT received by a Member State

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Associated document code	Document name
	Competent Authority/ Mandated National Institution or the Commission of 23 June 2010
ECHA/MB/12/2008	Decision on the implementation of Regulation (EC) N) 1049/2001 on public access to ECHA documents as amended by decision ED/04/2009 of 25 March 2009
ECHA/MB/11/2008	Code of good administrative behaviour for the staff of the ECHA in their relations with the public
I(2013)0149	Decision by the Director of Regulatory Affairs – Handling of the consultations on the disclosure of documents submitted for the purposes of the meetings of the Competent Authorities for REACH and CLP (CARACAL) of 30 April 2013

8. Annexes

N/A