Annual Report from the Chairman of the Board of Appeal

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Key messages

This is the fourteenth Annual Report from the Chairman of the Board of Appeal.

The Board of Appeal continues to function effectively, with a full composition. In the current reporting period (1 June 2022 – 31 May 2023), 16 new appeals were received, and 12 appeals were closed. The Board of Appeal has continued to improve the efficiency of its procedures, with the result that the duration of appeal proceedings has been further reduced and currently averages 13 months.

The cases in the reporting period concerned mainly compliance checks and substance evaluation under the REACH Regulation. Those processes constitute the bulk of the workload of the Board of Appeal. The legal and technical complexity of the cases remains high, and the Board of Appeal has been called upon to take a position on the interpretation of a number of provisions of the REACH Regulation.

Decisions of the Board of Appeal are occasionally challenged before the General Court. There are currently 3 cases of this kind pending before the General Court. It is expected that the judgments will be issued later this year.

Attachments:

- Annex I: Remarks of the Chairman of the Board of Appeal
- Annex II: Report on the work of the Board of Appeal during the reporting period
- Annex III: Members of the Board of Appeal and their terms of office
- Annex IV: Appeals in figures

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Annex I Remarks of the Chairman of the Board of Appeal

1. Introduction

This report concerns the period since the last Annual Report from the Chairman, which was presented to the Management Board in June 2022. During that time, the Board of Appeal has continued to function well, with a full and stable composition.

The nature of the cases remains complex in terms both of the legal subject-matter and the scientific content. The bulk of the work of the Board of Appeal continues to arise from compliance check and substance evaluation processes under the REACH Regulation. Specifically, the number of substance evaluation cases has decreased following a decrease in the number of decisions adopted by the Agency under that process, whilst the number of compliance check cases has increased for the same reason.

There has been a noticeable shift in the content of the cases, insofar as they tend to raise more issues concerning the detailed meaning of provisions in the annexes to the REACH Regulation. The meaning of some provisions of the testing methods is also sometimes at issue. Nevertheless, the Board of Appeal occasionally continues to be called upon to take a position on matters of principle.

The independence and impartiality of the Board of Appeal are firmly anchored in its constitution and functioning. At the same time, the Board of Appeal is an integral part of the Agency. In that regard, the Secretariat has provided the Board of Appeal with excellent training on general technical and scientific issues. Furthermore, the Registry of the Board of Appeal has continued to defend the decisions of the Board of Appeal before the EU Courts together with the Agency Secretariat. This has reinforced ownership of the decisions of the Board of Appeal by the whole Agency.

2. The team

For the past 18 months, that is since the completion of the Board of Appeal composition with the three full-time members who are staff members of the Agency, almost all appeal cases are being decided by the Board of Appeal's full-time members: Antoine Buchet as the Chairman of the Board of Appeal, Nikolaos Georgiadis as Technically Qualified and Marijke Schurmans as Legally Qualified Members of the Board of Appeal.

During the reporting period, only one alternate member participated in one appeal case. Nevertheless, the alternate members remain an essential part of the Board of Appeal and of the Agency. On 2 and 3 June 2022, an annual meeting with the alternate members took place at the Agency premises in Helsinki. It was the first in-person meeting of all members of the Board of Appeal since November 2019. Due to the Covid-19 pandemic, the previous meetings with alternates were held remotely. The annual meeting covered various aspects relating to the internal functioning of the Board of Appeal, its practice, and the future of the REACH Regulation. This year's annual Board of Appeal members meeting is planned in early November. Alternate members of the Board of Appeal are also regularly invited to attend different information sessions organised by the Board of Appeal, and they receive regular information on the outcome of the appeal cases.

Following a request from the Commission[1], the Board of Appeal has adopted a Code of Conduct for the members of the Board of Appeal who are staff members of the Agency.[2] The code of conduct regroups and clarifies all the ethical rules relating to the activities of the Board of Appeal, for example on the secrecy of deliberations and post-employment activities. The Code of Conduct has been adopted as an implementing measure under Article 27(1) of the Rules of Procedure of the Board of Appeal.

3. Procedures and Efficiency

During the reporting period, the Board of Appeal concluded appeal cases within the average duration of 13,2 months. Thereby continuing the trend that started during the previous two years. The scientific and legal complexity of the cases remains high.

The appeal procedure has adapted well to digitalisation, that was hastened by the pandemic. For example, each time a hearing is foreseen, the parties can choose whether to attend in person or by videoconference. Parties are encouraged to submit procedural documents related to appeals digitally, using a web-form.

The section dedicated to the Board of Appeal on ECHA website, in particular the database of decisions, continued to be affected by technical issues that made it impossible to search through the decisions of the Board of Appeal, as intended. The extent of the problem has been reduced by the Registry, thanks to the creation and updating of a structured collection (digest) of all findings of the Board of Appeal in its decisions since 2009. This digest is publicly available. In addition, the Agency's efforts will hopefully soon bring the intended functionality to the database on the Board's section of the website.

The Board of Appeal also reviewed its practice directions to parties involved in appeal proceedings. Certain changes to the existing Practice directions, adopted in 2017, were necessary to take into account experience gained in processing appeals and aimed to streamline the procedure before the Board of Appeal.

Finally, the Board of Appeal has continued to hold the chairmanship of the Inter Agency Appeal Proceedings Network (IAAPN) that brings together boards of appeals of all EU agencies and is a subnetwork of the European Agencies Network. Members of the IAAPN met in Helsinki on 17 November 2022 to discuss issues of common interest.

4. Pending Cases

This section briefly presents some of the key aspects of the **cases that are pending** at the end of this reporting period. The findings in the closed cases are presented in Annex II.

[1] Commission Opinion of 27.7.2021 on the draft Single Programming Document 2022-2024 of the European Chemicals Agency, page 3, paragraph 13.
[2] Board of Appeal's alternate members who are not staff members of the Agency, are subject to a Code of Conduct, which was adopted by the Board of Appeal on 1 February 2018.

4.1. Dossier Evaluation under REACH

There are currently 10 ongoing cases under dossier evaluation. Five concern appeals against initial compliance check decisions, two concern follow-up decisions to compliance check decisions, and three concern testing proposals.

Case A-001-2022, *Cytec Engineered Materials*, concerns a compliance check decision requesting information on environmental degradation, aquatic toxicity, cytogenicity and gene mutation. The appellant argues that the conditions for requiring this information are not fulfilled.

Case A-004-2022, *Symrise*, concerns a compliance check decision requesting information on a prenatal developmental toxicity (PNDT) study and an extended one-generation reproductive toxicity study (EOGRTS) by oral gavage. The appellant argues that the Agency exceeded its powers and committed errors of assessment in imposing the mode of administration of the substance to be tested and the dose-level specifications.

Case A-006-2022, *Symrise and Others*, concerns a compliance check decision requesting information on an EOGRTS. The appellants contest the modalities prescribed for the conduct of the study, claiming that it is necessary to conduct a stepwise testing approach before the EOGRTS, and that the dose-levels required by the Agency are incorrect.

Case A-009-2022, *Nouryon Functional Chemicals and Others*, concerns a compliance check decision requesting an EOGRTS including cohorts 2A and 2B and additional investigations on learning and memory functions. The appellants argue that the conditions for requesting an EOGRTS with those cohorts are not fulfilled, and that under a compliance check the Agency does not have the power to require investigations on learning and memory functions as additional elements of the cohorts 2A and 2B.

Case A-001-2023, *BASF*, concerns a compliance check decision requesting information required at the tonnage band of 100 to 1000 tonnes per year (Annex IX). The appellant argues that, as it downgraded its tonnage band to 10 to 100 tonnes per year (Annex VIII) before the adoption of the contested decision, those information requirements do not apply to it.

Case A-003-2023, *Jungbunzlauer Ladenburg*, concerns a follow-up decision to a compliance check decision. In response to a request for a PNDT study, the appellant submitted a weight of evidence adaptation, which was rejected by the Agency. The appellant argues that the Agency should have addressed the contested follow-up decision also to other registrants of the substance, affected by the requirements contained in the contested decision.

Case A-004-2023, *Evonik Operations*, concerns a follow-up decision to a compliance check decision. The appellant had carried out an EOGRTS following a previous compliance check decision, but the Agency concluded that the study was not carried out to the required specifications and concluded that the appellant's registration remains incompliant. The appellant argues that the Agency's assessment is erroneous.

Cases A-006-2023, A-007-2023 and A-008-2023, *BASF and Others*, concern a decision by which the Agency rejected a testing strategy proposed by the appellants for the three substances at issue, and required an EOGRTS for each substance. The appellants argue that the Agency committed errors in its assessment of the cases.

Overall, the appeal cases concerning dossier evaluation continue to raise complex legal and scientific questions. In the reporting period, those questions concern mainly the requirements for EOGRT studies, the powers of the Agency in the compliance check procedure and the follow-up procedure, and tonnage downgrades.

4.2. Substance evaluation under REACH

There are two ongoing cases under substance evaluation.

Case A-008-2022, *Dragon Chemical Europe*, concerns a request for further information on an in vivo mammalian alkaline comet assay test. The appellant argues that the Agency's request is disproportionate, breaches its legitimate expectations and is insufficiently reasoned.

Case A-010-2022, *BASF*, concerns a request for further information on an amphibian metamorphosis assay. The appellant argues that the request is disproportionate and that the prescribed test method does not comply with the relevant test method and is not certain to lead to useful results.

The number of substance evaluation decisions taken by the Agency, and therefore the number of appeals against those decisions, has decreased over the last years. The legal conditions for substance evaluation have been clarified, both by the Board of Appeal and the EU Courts. The pending cases raise complex scientific issues.

4.3. Data-sharing and registration under REACH

During the reporting period there were no cases concerning data-sharing or registration under the REACH Regulation.

4.4. Cases under the Biocidal Products Regulation

Case A-011-2022, *Biofa*, concerns a decision of the Agency granting permission to refer to a producer of a biocidal active substance (data-sharing). The appellant, who is the data owner, argues that the Agency's decision contains errors of assessment.

Case A-005-2023, *SwissInno Solutions*, concerns the amount of the fee required for an application for approval of an active substance. The appellant argues that it is entitled to pay a reduced fee as a small or medium enterprise.

There are no pending cases on technical equivalence under the Biocidal Products Regulation.

4.5. Looking forward

Dossier and substance evaluation

As regards dossier evaluation, with an aim to speed up the identification of chemicals needing regulatory action, the Agency has continued to focus on carrying out the compliance check of registration dossiers. As a consequence, it is expected that dossier evaluation will continue to constitute the biggest bulk of the work of the Board of Appeal.

Substance evaluation is a slower and more complex process, where the burden of proof and the allocation of tasks are different than in dossier evaluation. Given the complexity and importance of these cases, the Board of Appeal continues to dedicate efforts to this area. However, the number of cases has reduced in consequence of the Agency's focus on compliance checks.

Overall, the Board of Appeal continues to be called upon to examine both scientific and regulatory aspects of evaluation cases, and the functioning of the evaluation procedures.

As regards the scientific aspects of cases, the Board of Appeal continues to process with an in depth review of the contested decisions. At the same time, the Board of Appeal has paid attention to the role and prerogatives of the various actors of the procedure (Agency and Member States). This balance was confirmed by the EU Courts as being constitutionally mandated and correct, and the Board of Appeal will continue to maintain this balance in the future.

As regards the regulatory aspect of cases, the Board of Appeal has addressed the interpretation of numerous information requirements in its decisions in previous years. Many of those interpretations were taken up by the European Commission, which has clarified the Annexes to the REACH Regulation. In consequence, the focus of appeal cases appears to have shifted somewhat from the meaning of the information requirements in the REACH Regulation to the way in which tests are to be conducted. The interpretation and application of the Annexes remains central to the work of the Board of Appeal.

Finally, as regards the functioning of the evaluation procedures, the Board of Appeal has paid particular attention to ensuring that the respective responsibilities of registrants and of the Agency are clearly delineated, and the relevant rules are as clear as possible. In past years, the Board of Appeal has set out the fundamental tenets of its understanding of how those procedures work and interact. Nevertheless, cases continue to raise specific procedural issues. This aspect will also continue to play an important role in future cases.

Efficiency and duration of the appeal procedure

The Board of Appeal has continued to be attentive of the duration of appeal process with a view of making it reasonably fast and effective, without compromising the parties' procedural rights or quality of its decisions. In past years, there have been several changes in composition and alternate members were used extensively. In the reporting period the Board of Appeal achieved a stable composition, with all three of its full-time members contributing to decisions. The duration of appeal proceedings has consequently reduced further.

The Board of Appeal will continue to pay attention to further speeding up its procedures. This is particularly important as the suspensive effect of appeal proceedings is an essential element of the system, particularly as regards testing on vertebrate animals. In that regard, the appeal procedure is and will remain a safety net for the entire Agency. However, the suspensive effect also requires that appeals be decided within a reasonable time so as not to delay testing where necessary, thereby ensuring a high level of protection of human health and the environment.

Review of the REACH Regulation

As an integral part of the Agency, the Board of Appeal has contributed to the preparatory work related to the review of the REACH Regulation.

In addition, the Board of Appeal has made proposals as to how its competences and procedures could be clarified and strengthened in the course of the review. Furthermore, should the Agency be given additional decision-making powers, this should in turn result in further competences for the Board of Appeal.

Annex II Report on the work of the Board of Appeal during the reporting period

1. Court cases pending during the reporting period

Final decisions of the Board of Appeal are decisions of the Agency. They can be challenged before the General Court, and then before the Court of Justice if the strict conditions introduced in 2019 in the Statute of the Court of Justice of the EU are fulfilled. When a decision of the Board of Appeal is challenged before the Courts, the Registry of the Board of Appeal and the Secretariat prepare the Agency's defence jointly.

In the reporting period, four actions for annulment were pending before the General Court concerning decisions of the Board of Appeal.

In cases T-655/20 and T-656/20, *Symrise* v *ECHA*, a registrant challenged the decisions of the Board of Appeal in appeal cases A-009-2018 and A-010-2018. The cases concern the relationship between the Cosmetic Products Regulation and the REACH Regulation as regards testing on vertebrate animals, the information requirements for aquatic toxicity and the choice of the route of administration for a study. The hearing before the General Court was held on 21 November 2022 and judgments are expected fairly soon.

In case T-207/21, *Polynt* v *ECHA*, a registrant challenged the decision of the Board of Appeal in Case A-015-2019, in which the Board of Appeal upheld an ECHA testing proposal decision requiring information on an EOGRTS. The hearing before the General Court was held on 19 January 2023 and the judgment will be made public on 28 June 2023.

In case, T-29/22, *Polynt* v *ECHA*, a registrant challenged the decision of the Board of Appeal in case A-009-2020. The case concerns a cessation of manufacture that occurred after the adoption of a compliance check decision, during the follow-up process. The hearing before the General Court will be held on 27 June 2023.

2. Summary of the activity of the Board of Appeal

During the reporting period, Board of Appeal processed 25 appeals; 12 cases were closed with a final decision. Three cases were closed either by Chairman's decision dismissing the notice of appeal as inadmissible, or after the appellants withdrew their appeals following the withdrawal or rectification of the contested decision by the Executive Director.

The average duration of all appeal proceedings closed during the reporting period (i.e. 1 June 2022 to 31 May 2023) was 13,2 months.

At the moment, there are 14 cases pending before the Board of Appeal.

During the reporting period, the Board of Appeal held eight hearings in 10 appeal cases. Out of these, two hearings were held remotely, and six hearings were held in person at the Agency's premises. In one of the remotely held hearing, in which the language of the case was German, simultaneous interpretation from English to German and vice-versa was provided.

In addition to final decisions, seven intervention decisions and two confidentiality decisions were adopted during the reporting period. The Board of Appeal prescribed around 150 procedural measures (consisting of, for example, questions to the parties and requests for additional submissions). The number of entries, pertaining to parties' submissions in appeal proceedings, different decisions adopted by the Board of Appeal in appeal proceedings and related communications sent out by the Registry and registered (incoming and outgoing) in the Register of appeals during the reporting period was 539.

3. Main findings of the Board of Appeal during the reporting period

This section summarises some of the most relevant findings and conclusions in decisions that the Board of Appeal adopted during the reporting period.[3]

3.1. Dossier evaluation (REACH)

- **Case A-004-2021, *Celanese Production Germany***

(Follow-up to a compliance check decision – Sections 8.7.2. and 8.7.3. of Annex X – Adaptations from standard information requirements – Section 1.5. of Annex XI – Consistency between a compliance check decision and the related follow-up decision – Deadline to provide information after a follow-up decision)

The appeal concerned a follow-up decision to a compliance check decision. The appellant had submitted an improved read-across adaptation in consequence of a compliance check decision, and this improved adaptation was rejected by the Agency. The Board of Appeal examined in detail the requirements for read-across adaptations based on common break-down products and concluded that the Agency had not made an error in rejecting the appellant's adaptation. The Board of Appeal also confirmed its previous finding that a follow-up decision does not need to set a deadline for providing the information at issue, as a follow-up decision is strictly limited to examining whether a registrant has complied with the initial compliance check decision and does not request any new information.

- **Case A-005-2021, *Albemarle Europe***

(Compliance check – Section 9.2. of Annex IX – Identification of degradation products)

The appeal concerned a dossier evaluation decision requiring registrants to identify the degradation products of a substance under Section 9.2.3. of Annex IX, using an appropriate test method. The Board of Appeal found that the degradation simulation studies and the identification of degradation products required under Column 1 of Section 9.2. of Annex IX are standard information requirements. The obligation to fulfil those information requirements does not depend upon an assessment, under Column 2 of Section 9.2. of Annex IX, of whether the chemical safety assessment indicates a need for that information. Column 2 of Section 9.2. of Annex IX allows to go beyond the standard information requirements in Column 1.

However, the Agency cannot request information on the identification of degradation products through any degradation study it considers appropriate. That information requirement is dependent on the testing results on biotic and abiotic degradation under Annexes VII to IX. Consequently, to comply with Column 1 of Section 9.2.3. of Annex IX, a registrant must provide either information on the identification of degradation products resulting from the standard information requirements under Column 1 of Section 9.2.1. of Annex IX and Column 1 of Section 9.2.2.1. of Annex VIII, or an acceptable adaptation.

In this case, the Agency did not examine the appellant's adaptations for the standard degradation studies. Therefore, it could not determine whether there was a data-gap for those requirements or the scope of information to be required on the identification of degradation products. The Board of Appeal therefore annulled the Contested Decision.

[3] This section only includes final decisions of the Board of Appeal, not decisions of the Chairman concerning closure or inadmissibility. All the decisions of the Board of Appeal and the case announcements are available online on ECHA website.

- **Case A-011-2021, *Croda EU***

(Compliance check – Section 8.7.2. of Annex X – PNDT study in a second species – Section 8.7.3. of Annex X – EOGRTS – Section 8.7. of Annex X – Legal certainty – Proportionality)

The appeal concerned a compliance check decision requiring a PNDT study in a second species (rabbits) and an EOGRTS under Annex X. The decision in this case is the only decision, during the reporting period, that was adopted with the participation of an alternate member. The Board of Appeal clarified that the adaptation on the need to perform a PNDT study in a second species at this tonnage level or the next under Column 2 of Section 8.7.2. of Annex IX applies only under Annex IX, and therefore a PNDT study in a second species is also a standard information requirement under Annex X.

The decision was adopted before the Commission clarified the information requirements in that regard and before the judgment of the General Court in case T-868/19 (eight plea) was adopted confirming the Board of Appeal's decision. It also concluded that the Agency's requests were not affected by any other errors.

- **Case A-012-2021, *Covestro***

(Compliance check – Column 2 of Section 9.2. of Annex VIII – PBT/vPvB assessment – Annex XIII)

The appeal concerned a compliance check decision requiring information on degradation simulation testing in water, sediment and soil and the identification of degradation products under Section 9.2. of Annex VIII. That decision also required information on a bioaccumulation study in aquatic species under Sections 0.6.1. and 4. of Annex I and Section 2.1. of Annex XIII.

The Board of Appeal found that, since the Agency had demonstrated a need to further investigate the degradation of the substance in question, it had not committed an error in requesting information on degradation simulation testing and the identification of degradation products under Column 2 of Section 9.2. of Annex VIII to REACH. The Board of Appeal therefore dismissed that part of the appeal.
However, the Board of Appeal annulled the requirement to provide information on bioaccumulation in aquatic species as the version of the REACH Regulation applicable at the time the contested decision was adopted did not allow the Agency to request that information from registrants at the 10 to 100 tonnes per year tonnage band, such as the appellant.

- **Joined cases A-002-2022 and A-003-2022, *BASF Lampertheim and Metall-Chemie***

(Compliance check – Section 8.7.3. of Annex IX – EOGRTS – Additional investigations on learning and memory function)

The appeal concerned a compliance check decision requiring an EOGRTS, including additional investigations of learning and memory function under cohorts 2A/2B. The Board of Appeal held that investigations on learning and memory function are not an information requirement as part of cohorts 2A/2B, so that the Agency could not require those investigations as part of those cohorts in a compliance check.

3.2. Substance evaluation (REACH)

- **Case A-009-2021, *SCAS Europe***

(Substance evaluation – Article 47(1) – Legal certainty – Misuse of powers – Proportionality – Error of assessment)

The appeal concerned the substance evaluation of resorcinol. A first substance evaluation had been concluded by the evaluating member state competent authority without any requests for further information. In a second substance evaluation, a different competent authority proposed to require Larval Amphibian Growth and Development Assay ('LAGDA') to investigate further the potential endocrine disrupting properties of resorcinol for the environment. The Board of Appeal held that as the first substance evaluation process had not led to a decision, the Agency was not required to show there had been '*a change of circumstances or acquired knowledge*' (Article 47) in order to require further information after the first substance evaluation. The Board of Appeal also held that the Agency committed no errors as regards the need for further testing and the appropriateness of the LAGDA test.

3.3. Registration and data-sharing (REACH)

- **Cases A-013-2021 and A-014-2021, *Gruberchem***

(Article 20(2) – Non-payment of a top-up fee within the deadline set – Admissibility – Plea of public policy – Power to abrogate a completeness check decision)

The two cases concerned two decisions by which the Agency revoked previous completeness check decisions because the registrant had failed to pay top-up registration fees following an SME verification. The Board of Appeal held that the Agency has, in principle, the power to abrogate a completeness check decision confirming the payment of the registration fee following a final failure to pay the required registration fee. However, the exercise of that power is subject to a number of strict conditions: there must be a new fact which justifies the abrogation (in that case, the non-payment of the top-up fee), the abrogation must not amount to a sanction, it must be carried out within a reasonable time and the registrant's legitimate expectations must be respected. In the present cases, those conditions were fulfilled.

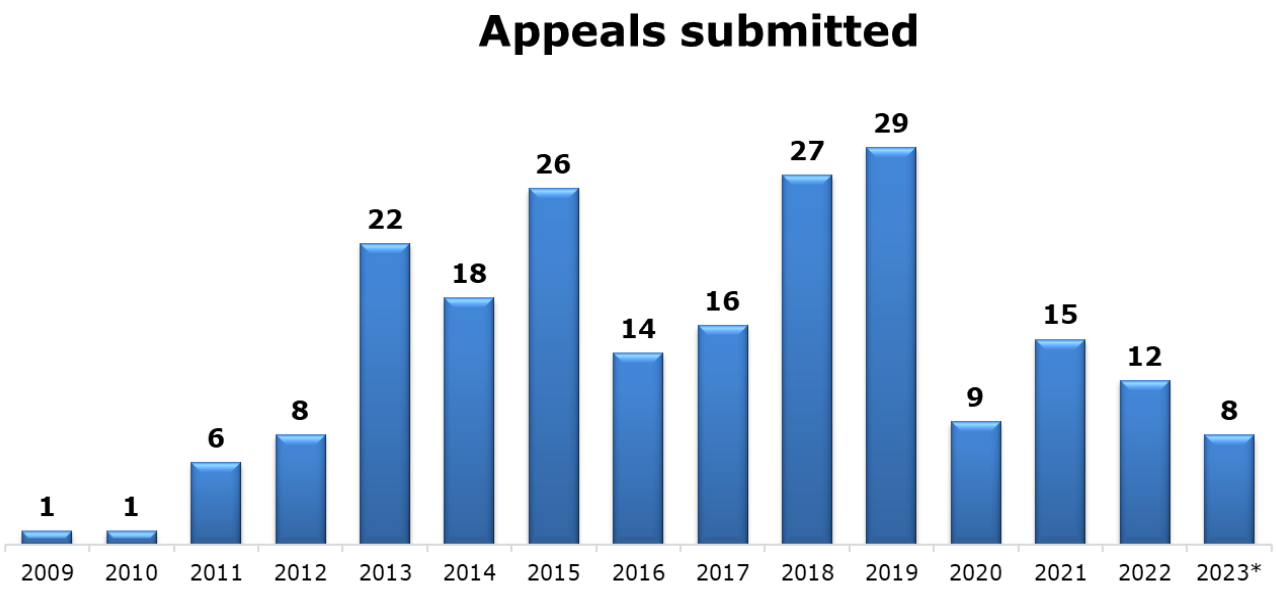
Annex III Members of the Board of Appeal and their terms of office

Name	Role	Term started	Term ends
Antoine **BUCHET**	Chairman	16 August 2019	15 August 2024*
Nikolaos **GEORGIADIS**	TQM[1]	1 March 2021	28 February 2026*
Marijke **SCHURMANS**	LQM[2]	1 December 2021	30 November 2026*
Ekaterina **GEORGIEVA**	Alternate Chair[3]	15 April 2019	14 April 2024*
Uta **JENSEN-KORTE**	TQAAM[3]	14 December 2019	13 December 2024*
Spyridon **MERKOURAKIS**	TQAAM[3]	14 December 2019	13 December 2024*
Katrin **SCHÜTTE**	TQAAM[3]	14 December 2019	13 December 2024*
Laura **DE SANCTIS**	LQAAM[3]	27 May 2021	26 May 2026*
Ángel Manuel **MORENO**	LQAAM[3]	15 December 2014	14 December 2024**
Marcus **NAVIN-JONES**	LQAAM[3]	27 May 2021	26 May 2026*
Christian **SCHULTHEISS**	LQAAM[3]	27 May 2021	26 May 2026*
Sakari **VUORENSOLA**	LQAAM[3]	15 December 2014	14 December 2024**

*- First term of office
**- Second term of office
[1] – Technically Qualified Member
[2] – Legally Qualified Member
[3] – Alternate (Additional) Member

Annex IV Appeals in figures

Figure 1: Appeals submitted per year, since 2009



*Appeals submitted by 31 May 2023

Figure 2: Appeals per result since 2009

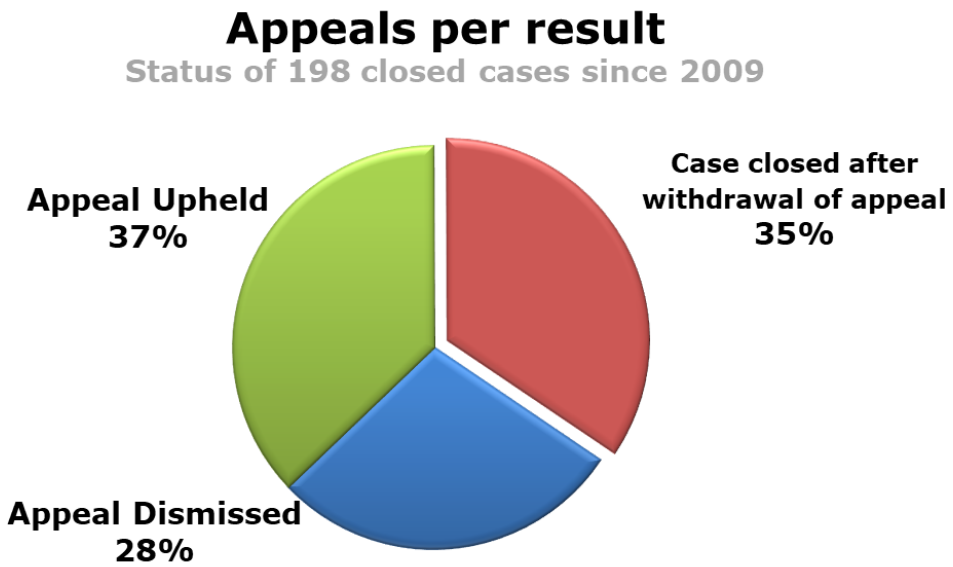


Figure 3: Appeals per process since 2009

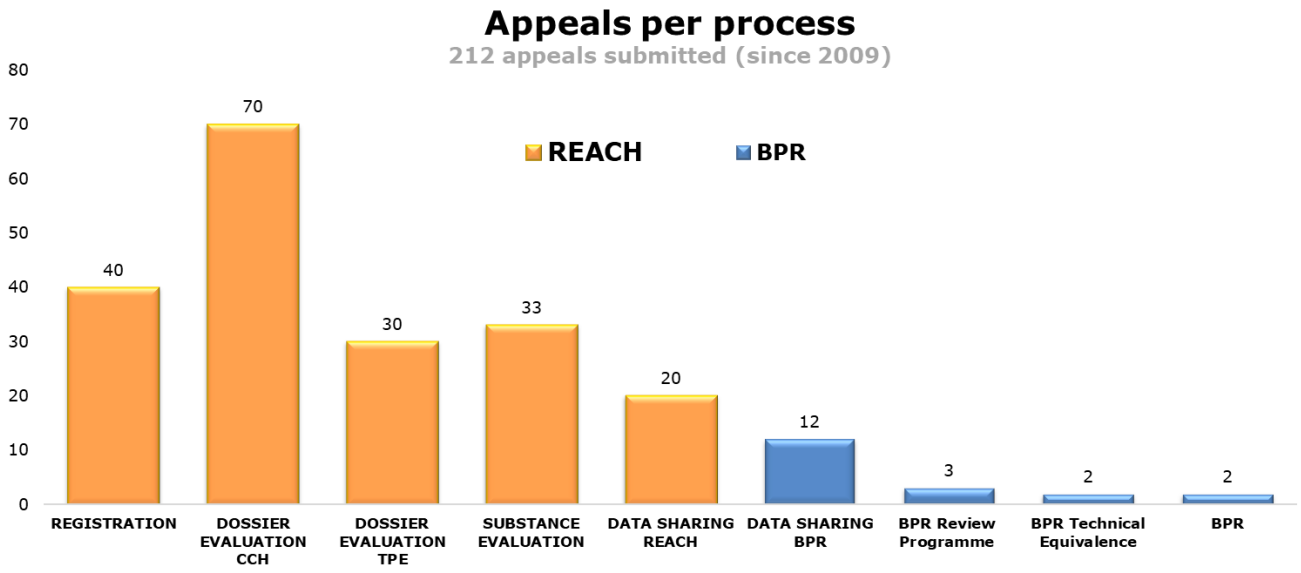


Figure 4: Appeals per legislation since 2009 (REACH and BPR)

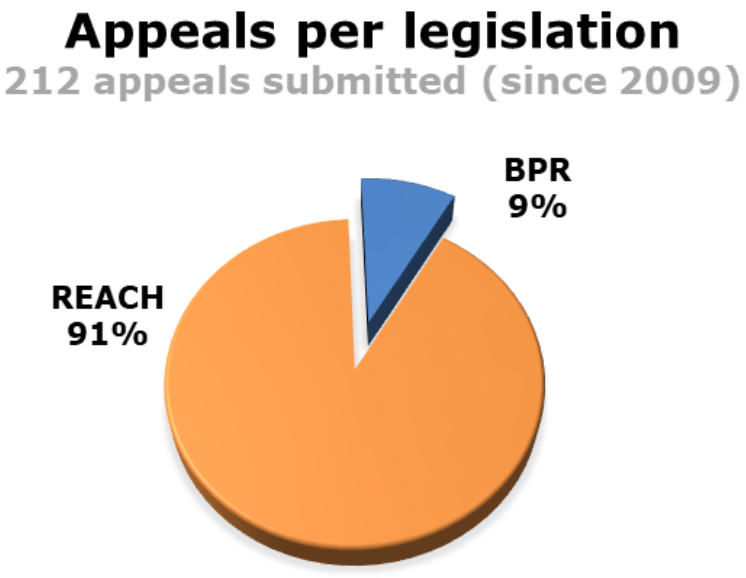


Figure 5: Share of all appeals per subject matter and legislation since 2009

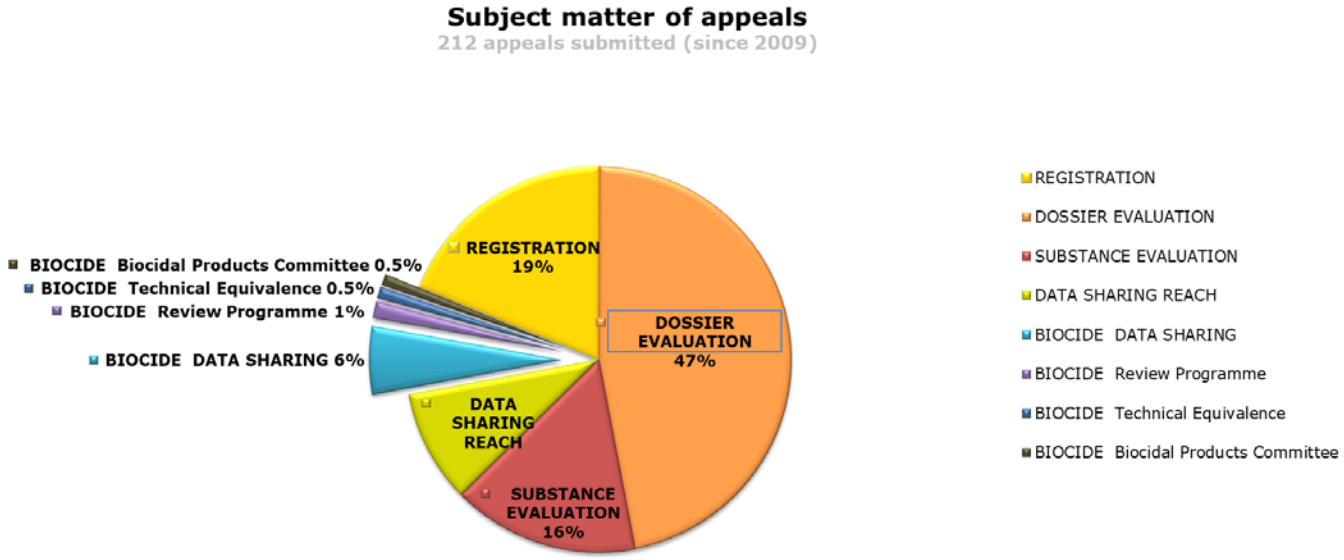


Figure 6: Number of all appeals per subject matter and legislation (REACH or BPR) since 2009 (pending cases in yellow)

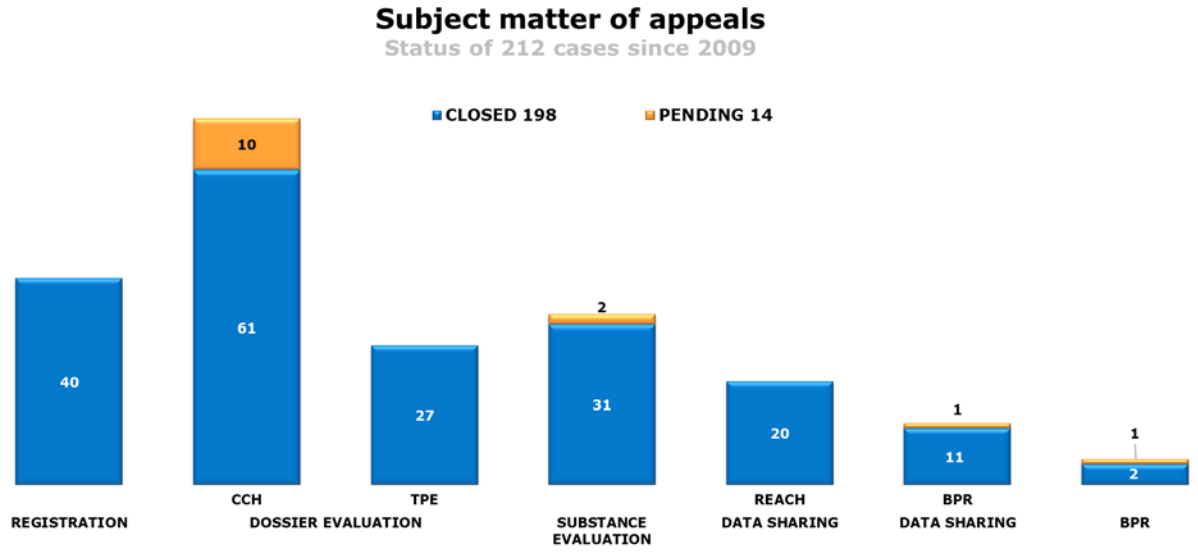


Figure 7: Number of appeals per subject matter (pending cases)

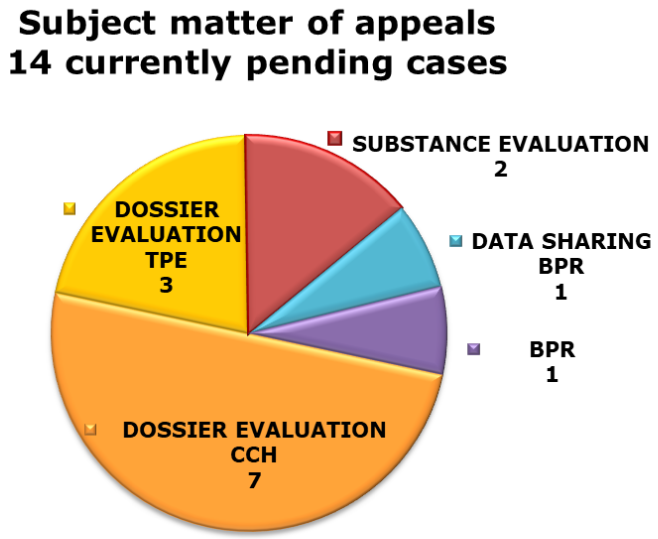
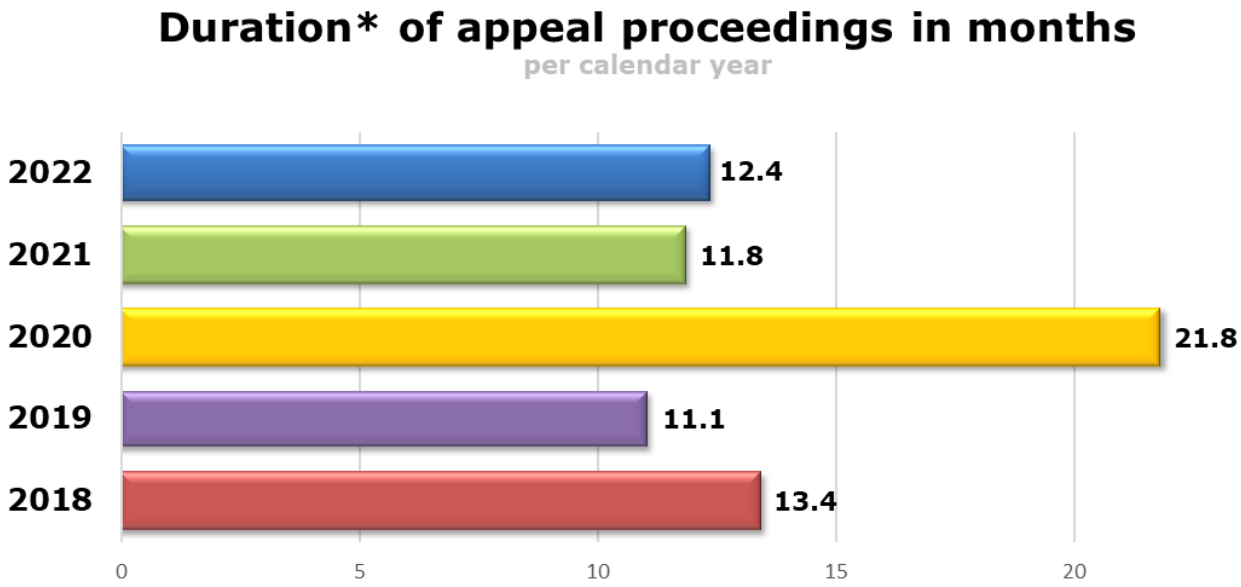


Figure 8: Duration of appeal proceedings



*Regarding the duration of appeal proceedings in 2020, the following should be considered: 16 decisions adopted that year concerned 23 appeals (as some cases were joined); all decisions adopted in 2020 were full decisions taken by all three Board of Appeal members; alternate Board of Appeal members were used in all cases as full-time members were precluded from participating in the proceedings; in some cases, alternate members were designated during the case – rather than at the beginning of a case (this was needed in six cases; in four cases, the alternate member had to be designated after the Board of Appeal in its earlier composition had already held a hearing); hearings were held in all but two cases; furthermore, due to the restrictions resulting from Covid there were some delays in the organisation of hearings.