

Options for improved implementation, enforcement, and modernization of REACH

Civil Society recommendations

In February, around 40 European NGOs issued a [joint statement](#) calling on EU leaders for the urgent implementation, enforcement, and modernisation of the EU chemicals framework to ensure a high level of protection for human health and the environment.

Despite the introduction of REACH 20 years ago, Europeans remain insufficiently protected from chemical risks. The widespread use of harmful chemicals in society – such as in consumer products, industrial processes and workplaces – leads to exposure through food, water and air, causing serious diseases and costing billions each year. Notably, **the current system fails to ensure that before companies place their substances on the market, they provide the necessary information on hazardous properties and risks of their chemicals.** This shortcoming, in turn, puts a disproportionate **burden on authorities to prioritise substances and uses for risk management.**

Commissioner Roswall and VP Commissioner [Séjourné](#) recently [told](#) members of the European Parliament that the Commission does not intend to table a legislative proposal to amend REACH. Rather, they announced the Commission would be exploring alternative options that would include improved implementation and enforcement of REACH and may involve elements of legislative changes via comitology.

In what follows, we present recommendations to better implement, enforce, and modernise REACH without having to rely on a Commission proposal for ordinary legislative procedure.

Recommendations for improved implementation to simplify REACH

REACH's risk management has fallen far short of expectations. Despite aiming for 11 [restrictions](#) per year and 1,400 [Annex XIV entries](#), the reality is just 2.5 restrictions annually and a mere 59 listed substances. Authorities, drowning in industry authorisation requests, rely on socio-economic assessments that consistently favour business-as-usual and lead to authorisations quasi-automatically being granted, and even renewed. Moreover, the usual case-by-case approach fuels 'regrettable substitution', where regulated chemicals are simply swapped for structurally similar - and equally hazardous - alternatives, resulting in risks persisting rather than being properly addressed. The recent "[Restrictions Roadblock](#)" report provides a stark overview of current delays and their negative impacts on society.

The recommendations below seek to address those shortcomings. As regards the authorisation regime, they build on clarifications provided by the Court of Justice of the EU, as well as [recommendations](#) issued by the European Ombudsman following the finding of maladministration by the Commission.

Recommendations for simplification through improved implementation	
Make restriction work as intended	Make authorisation work as intended
Respect the Article 68(1) obligation to mitigate unacceptable risk	Reject authorisation applications if they are not in conformity with the requirements of Article 62
Ensure the Commission complies with legal timelines (e.g. Article 73)	Ensure meaningful grouping of applications to lower application numbers
Clarify conditions and information that should be available to authorities for granting derogations	Clarify that alternatives do not need to be available “for the applicant” and do not need to have the same performance level
Accelerate the implementation of the Restrictions Roadmap; increase transparency on its implementation, with justifications for any delays/changes in framing the restrictions	Ensure that review reports are only exceptionally granted, if the company shows that its huge efforts to substitute could not succeed
Prefer more effective group restrictions to avoid regrettable substitution	Ensure that the authorisation is only for uses where it has been demonstrated that no alternatives are available
Clarify how uncertainties should be addressed to reduce burden of proof of authorities	After Annex XIV inclusion ECHA should immediately make a restriction proposal to ensure SVHCs in imported products are addressed, where relevant (Article 69(2))
Derogations to restrictions should only be possible when it is demonstrated that no alternatives exist for the specific use	Commission to withdraw authorisations for non-compliant holders / national enforcement to take measures with equivalent effect (e.g. suspension of operation)

Recommendations to improve enforcement and incentivise compliance

High levels of non-compliance with EU environmental laws are causing significant harm to society, including high health costs. Strengthening the implementation and enforcement of these laws could save the EU economy approximately [€180 billion](#) annually in health and environmental costs.

Compliance with the REACH Regulation remains persistently low. [Over 50%](#) of registration dossiers have not been updated over the past five years, 35% of companies do not meet supply chain communication requirements and [40%](#) don't adhere to authorisation obligations. The latter includes violations such as failing to monitor worker exposure to substances of very high concern.

Recommendations to improve enforcement and incentivise compliance:

- Clarify Article 22(1) by defining a 2-year interval for the duty to update the registration.
- Transparency about names of companies found non-compliant.
- Enforce sanctions at Member State level with equivalent effect to revocation of non-compliant registration (e.g. suspension of operation).

Comitology measures that could be envisaged to modernize REACH

The Commission has the mandate to adopt acts under the comitology procedure clarifying and supplementing the REACH regulatory framework. Comitology creates a chance to modernize REACH in the light of scientific progress, thereby reinforcing the high level of protection while future-proofing chemical products. In doing so, the Commission has to consider the concerns of Member States – who in comitology are co-decisionmakers – and stakeholder views.

The [Chemicals Strategy for Sustainability](#) (CSS) paved the way for transforming how chemicals are manufactured and used in our society, “*boosting the investment and innovative capacity for production and use of chemicals that are safe and sustainable by design, and throughout their life cycle*”. This long-term strategy includes a wide range of measures, including commitments by the Commission to amend REACH through comitology to improve hazard information on endocrine disrupting chemicals (EDCs), carcinogens, persistent and mobile chemicals. We strongly support these measures, should the Commission decide to take the comitology route.

Options for modernisation through comitology (taken from the CSS)

- Amend information requirements to allow the identification of critical hazard properties of chemicals.
- Amend information requirements to enable identification of all carcinogenic substances manufactured or imported in the EU, irrespective of the volume.
- Introduce (a) mixture assessment factor(s) for the chemical safety assessment of substances.

There are also clear boundaries to the Commission’s mandate to adopt acts in comitology. Notably the latter may not divert from the aims or the content of REACH. Ensuring a high level of protection and phasing-out SVHC are the primary objectives of REACH and in the Chemicals Strategy for Sustainability the Commission found that existing EU chemicals policy, including REACH, “*must evolve and respond more rapidly and effectively to the challenges posed by hazardous chemicals*”. In other words, stronger protection is needed to fulfill the desired high protection level.

Conversely, REACH does not mandate the Commission to directly or indirectly lower the level of protection.

