

## Appeals and Complaints Procedure

### – Criteria and process for Appeals –

General Assembly

13 April 2022

On 13 April 2022 the General Assembly adopted the following Appeals and Complaints Procedure pursuant to art. 10 h. and art. 21 (3) of the Statutes:

EQAR distinguishes between:

- An **appeal** (or representation) is a challenge brought forward by an applicant QA agency against a decision made by the EQAR Register Committee, and aims to change the decision.
- A **complaint** is a dissatisfaction expressed by a QA agency with regards to EQAR's processes or those carrying it out, without specifically aiming to change the decision.
- A **third-party complaint** is a way for anyone to raise substantiated concerns about a registered agency's compliance with the ESG; these are regulated in a different document: see EQAR's Third-Party Complaints Policy.

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## Section 1: Appeals

### 1. Grounds of Appeal

1.1. Applicants may, within the scope of appeal outlined in Art 2 below, appeal against a decision of the Register Committee claiming that:

- a. the Register Committee has violated EQAR's statutes or secondary regulations, general legislation or any commonly accepted principles of fair and equal procedures ("procedural grounds" according to art. 21 (1) of the statutes); or
- b. the Register Committee's decision was unreasonable or disproportionate in the light of the available evidence ("perversity of judgement" according to art. 21 (1) of the statutes), for example in that the Register Committee has
  - not considered or misunderstood certain facts and/or evidence duly provided in the proceedings; or
  - based its decision on facts and/or evidence which were not duly provided in the proceedings; or
  - not used or exceeded the scope of discretion at its disposal; or
  - based its decision on considerations which are evidently not substantially related to the issue in question; or

- failed to consider an aspect which is likely to be of substantial relevance for the decision.

1.2. An appeal is only admissible after the possibility to make additional representation on a Register Committee decision has been used, either as part of the regular process or by making use of the option to do so.

## 2. Scope of Appeal

2.1. An appeal seeks to change the decision that is being appealed. If an applicant wishes to raise its dissatisfaction with the process without seeking a change of the decision, they should make a complaint.

2.2. The appeal may only be based on those facts which have been duly introduced into the proceedings of the Register Committee and shall clearly state the grounds for appeal.

2.3. EQAR's statutes and further regulations shall be relevant for appeals as in effect when the decision appealed against was made.

2.4. Except in case of grave and evident fault, the Appeals Committee will only consider those objections which the applicant has put forward in the appeal.

## 3. Appeals Procedures

3.1. An appeal shall be submitted to EQAR within 40 days from receipt of the notification of rejection.

3.2. The agency's registration on EQAR (following a negative decision) will be suspended during the consideration of the appeal.

3.3. The Appeals Committee should normally consider an appeal within 60 days from receipt of the appeal.

3.4. In case of lack of relevant information or need for clarification, the Appeals Committee may request further information from the Register Committee, the review coordinator or the chair of the review panel. The Appeals Committee may, if appropriate, request further information from the applicant; in particular, the request may seek to further substantiate the complaints. An appropriate deadline for responses shall be granted.

## 4. Decisions and Consequences

4.1. The Appeals Committee shall decide to either accept the appeal or reject the appeal, deeming it either inadmissible or unsubstantiated. The applicant and the Register Committee shall be notified of the decision and its grounds.

4.2. If the appeal is accepted, the Register Committee shall reconsider the application, taking due account of the appeal and the decision of the Appeals Committee.

4.3. If the appeal is rejected, the Register Committee's decision is final.

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## 5. No Conflict of Interests Policy

5.1. A member of the Appeals Committee who has a conflict of interest with regard to a particular application may not take part in the consideration of an appeal regarding that application. The EQAR Code of Conduct defines what constitutes a real or apparent conflict of interest.

5.2. A member of the Appeals Committee is expected to declare a possible conflict of interest of his/her own accord or raise any potential conflict of interest related to another member.

5.3. Applicants shall notify the Chair of the Appeals Committee if they consider that a member of the Appeals Committee has a conflict of interest with regard to their application.

5.4. Any disputes shall be settled by the President in consultation with the Chair of the Appeals Committee.

## 6. Further Provisions

6.1. The Appeals Committee may specify the process further in its own Rules of Procedure.

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## Section 2: Complaints

### 1. The Scope, Grounds and Procedures for Complaints

1.1. EQAR is committed to continuously improving the quality of its work and to handle complaints fairly, efficiently and effectively.

1.2. Applicants and registered agencies may raise complaints about the conduct of a process by EQAR concerning their agency or the officials carrying it out.

1.3. Complaints are not intended to change the decision or outcome of a process; when seeking to object the decision or outcome of a process the agency shall make an appeal.

1.4. Complaints can be made in the following cases:

- a. breach of the EQAR Statutes, EQAR Procedures, subsidiary policies, the Code of Conduct or other official EQAR documents;
- b. unprofessional or improper conduct by an EQAR official (here understood as all EQAR staff members, members of the Executive Board, Register Committee and Appeals Committee, as well as of any ad hoc groups or committees, unless otherwise specified);
- c. fraud or corruption committed or tolerated by EQAR officials.

1.5. Complaints should be submitted immediately after the event giving rise to the complaint. Complaints can only be made up to 40 days after the process they concern was concluded with a decision.

1.6. Complaints will be examined by the Director of EQAR. If the complaint relates to the Director themselves, it will be examined by the President.

1.7. If the complaint is found substantiated, action will be taken to redress the situation by the Director, President or competent body appointed to address the situation.

- a. A formal response to the complaint is to be provided within 60 days of its receipt. EQAR reserves the right to ignore submissions that are bogus or obviously unsubstantiated.
- b. Where a complaint is submitted at the same time or after an appeal, the consideration of the complaint is deferred until the completion of the appeal in order that the investigation of the complaint does not prejudice the handling of the appeal.

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