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Procedure for the investigation and resolution of Complaints and Appeals

PURPOSE

This document has been produced by EA and describes the procedure for the investigation and Resolution of Complaints and Appeals.

Authorship

The publication has been prepared by the Executive Board.

Official language

The text may be translated into other languages as required. The English language version remains the definitive version.

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Further information

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1 PREAMBLE

1.1 General

- 1.1.1** This procedure describes the responsibilities and actions of EA Boards, Committees, EA Multilateral Agreement Council (MAC), the Secretariat, the EA Advisory Board (EAAB), and EA Members in relation to the investigation and resolution of complaints and appeals.
- 1.1.2** Complaints and appeals received may concern decisions and activities of EA or EA Members, or conformity assessment bodies accredited by EA members.
- 1.1.3** This procedure shall be publicly available on the EA website and provided on request to enquirers by the Secretariat.
- 1.1.4** EA considers all complaints and appeals as a possible opportunity to improve its services and implement corrective and preventive action measures. EA is committed to monitoring and achieving continual improvement in all areas of its activities.

1.2 Definitions

The terms and definitions used in this procedure are based on ISO/IEC 17011:2017 and ISO/IEC 17000:2020, except as noted below.

1.2.1 Complaint

Expression of dissatisfaction, other than appeal, by any person or organization to EA, relating to the activities of EA, EA Members, or Conformity Assessment Bodies accredited by EA Members, where a response is expected.

Note: It includes expression of dissatisfaction by EA relating to the activities of EA members.

1.2.2 Appeal

Request by a national accreditation body for reconsideration of any decision made by EA related to its membership (or Cooperation Agreement (COA)) status in EA, or a request for reconsideration of any adverse decision made by the MAC related to its future or present MLA signatory status, or a request by an EA Member for reconsideration of decisions taken by the General Assembly or Executive Board if the appellant considers such decisions have been taken in breach of the EA procedures and general ethics.

Note: Adverse decisions may include, but are not limited to:

- Refusal to accept an application for membership
- Denial of membership
- Refusal to accept an application for evaluation
- Corrective action requests
- Changes in scope
- Decisions to deny, suspend, or withdraw signatory or membership status

- Any other action that otherwise impedes the attainment or maintenance of signatory status desired by a National Accreditation Body.

1.2.3 EA Member

EA membership is defined in Article 5 of the EA Articles of Association.

Note: National Accreditation Bodies that have signed a Cooperation Agreement (COA) or Cooperation Agreement for Mutual Recognition (COAMR) with EA are considered, for the application of this procedure, as an EA Member, except where they are a member of another regional cooperation of accreditation bodies. In such cases, the complainant should be referred to the other regional cooperation of accreditation bodies, unless the complaint is specifically related to the NAB's activities covered by the MLA or COA/COAMR only.

1.2.4 Appeal Review Panel

An Appeal Review Panel (ARP) shall consist of a Convenor and two members nominated by the Executive Board. ARP members shall be 2 members from senior management of EA Members and one member nominated, in consultation with the Chair of the EAAB, from the EAAB. The Convenor can be any one of the three members. The ARP members shall be impartial and the ARP as a whole shall possess appropriate knowledge of EA's rules and procedures.

2 COMPLAINTS SUBMITTED TO EA

2.1 EA Responsibility for Complaints

2.1.1 Complaints submitted to EA shall be limited to concerns or issues regarding EA, EA Members and/or their accredited bodies, including accreditation process, with respect to compliance with the requirements of EA documents, EA Members documents, the relevant standards and the requirements in the European Regulation No 765/2008 applicable to National Accreditation Bodies, taking into account the guidance given in relevant EA, ILAC, IAF and/or other applicable EU/EFTA documents.

2.1.2 If a complaint is made about the activities of an EA Member, whether by a third party, an accredited body or another EA Member, the immediate role of EA in relation to the issue is an indirect one of ensuring that the EA Member complained about has itself first had the opportunity to resolve the particular matter through its own complaints/appeal handling procedure and through direct discussions with the complainant.

Note: Complaints from the European Commission or EFTA shall be submitted to the EA Secretariat directly, who will contact the relevant National Accreditation Body.

- 2.1.3** Complaints submitted regarding a specific accredited body must be referred to the relevant National Accreditation Body (or bodies) for resolution through the National Accreditation Body's own complaints handling procedure and/or the accredited body's complaints handling procedure, as appropriate.
- 2.1.4** It is the responsibility of the complainant to provide in English relevant documentation to EA to demonstrate that the complaint has already been submitted for investigation through the EA Member's own complaint/appeal handling procedure.
- 2.1.5** If the EA Member has not been able to make satisfactory progress in the resolution of a complaint within a reasonable length of time, the complainant has the right to refer the matter to EA for resolution using this procedure. The EA Member should keep the complainant informed of progress being made in dealing with the complaint.
- 2.1.6** Regardless of the outcome of any complaint, the complainant and EA will each meet its own costs.

2.2 Complaint Processing

- 2.2.1** All complaints must be addressed in writing in English to the Secretariat. The Secretariat shall within 10 working days acknowledge to the complainant (in writing):
- Receipt and subject of the complaint, or,
 - Rejection of the complaint (with written justification) if it is not, or has not been dealt with, in accordance with the requirements stipulated in this document.

Note: The complainant shall identify itself properly. Anonymous complaints are not processed.

- 2.2.2** The Executive Secretary or her/his delegate is responsible for the processing of complaints submitted to EA.

- 2.2.3** The Secretariat shall provide the complainant with details of this Complaints and Appeals Procedure, ensure that the substance of the complaint is clearly understood and documented, and that all relevant claims or statements made by the complainant or other interested parties can be properly authenticated in writing when relevant and appropriate. Such authentication and provision of information is usually essential before the complaint can be considered as a formal complaint and any investigation initiated.

Note: Authentication means that all information can be verified as accurate and correct through an independent source, other than the complainant. It is the responsibility of the complainant to submit information that can be authenticated.

2.2.4 The Executive Secretary or her/his delegate can at his/her discretion authenticate any or all information, as he/she deems appropriate, at any time during the investigation process.

If additional information is needed during this investigation, it is the responsibility of the Secretariat or the designated investigator(s) to obtain such information.

2.3 Complaint Investigation Process

2.3.1 Complaints against an EA Member or an accredited Conformity Assessment Body

2.3.1.1 Upon receipt of a complaint, if the complaint relates to the activity of an EA Member or an accredited Conformity Assessment Body, the Secretariat shall formally bring the issue of the complaint and any relevant facts to the notice of the EA Member (even where these have already been made known to the EA Member by the complainant), and ask the member to provide within 30 days, a report as to how the subject of the complaint has been dealt with and the outcome.

2.3.1.2 If it is found by the Secretariat that it has not been possible to resolve the matter satisfactorily, or a report is not received from the EA Member, or the matter relates to EA itself, the Executive Secretary or her/his delegate may, in conjunction with the Executive Board, assign an ad-hoc Task Force Group (TFG), comprising one or more investigators from EA Members, to investigate the complaint. One of the investigators shall be nominated as the TFG convenor. If possible, at least one of the investigators should understand the complainant's mother language.

2.3.1.3 The Secretariat or the TFG (if established) shall proceed with a thorough investigation of the complaint, not limited only to procedural aspects, and seek a resolution of the issue(s) involved. It is the responsibility of the Secretariat or the TFG to ensure that the investigation is performed in a timely manner. Direct communication between the Secretariat or the TFG, the Complainant, the involved EA Member and any other relevant body shall be made, whenever possible and needed during the investigation process. It is the responsibility of all involved parties to provide information that can be authenticated.

2.3.1.4 The designated TFG (if established) shall keep the Secretariat informed of progress being made in dealing with the complaint.

2.3.1.5 After the issue has been investigated, the Secretariat or the TFG Convenor shall prepare a written report (summary) on the complaint, including a statement indicating whether the complaint has been found to have been substantiated or not, and the closure of the complaint, to the Secretariat.

2.3.1.6 The Executive Secretary or her/his delegate, shall decide if the report is likely to be satisfactory in terms of resolving the matter. The Executive Secretary or her/his delegate may request any amendment to the report or recommendation considered necessary. The final outcome shall include a recommendation on any action to be taken in relation to the complaint (if relevant).

If grounds have been found for the Executive Secretary or her/his delegate to consider taking remedial action, the report shall recommend the specific action to be taken and a time limit for its implementation, which have to be approved by the Executive Board. The Secretariat will follow up the implementation of the action in close cooperation with the Executive Board or the Multilateral Agreement Council (if applicable).

- 2.3.1.7 In case that the National Accreditation Body fails to demonstrate the implementation of the required action, the Executive Secretary shall inform the Executive Board or the Multilateral Agreement Council (if the MLA signatory status is concerned) for decision on any further action, which may include an ad-hoc evaluation of the National Accreditation Body or the suspension of its MLA signatory status.
- 2.3.1.8 The Secretariat shall notify the complainant, with copy to the involved EA member (if any), of the final outcome of the complaint investigation, consistent with valid confidentiality requirements.
- 2.3.1.9 The Secretariat shall maintain detailed and complete records of the receipt, handling and outcome of every complaint. The Secretariat shall submit a summary of all complaints handled since the previous meetings to each meeting of the Executive Board and of the EAAB.
- 2.3.1.10 The Executive Secretary or her/his delegate shall report on complaints at each meeting of the EA General Assembly.

2.3.2 Complaints against EA's activities

- 2.3.2.1 All complaints must be submitted in writing to the Secretariat.
- 2.3.2.2 The Secretariat shall within 10 working days acknowledge to the complainant in writing the receipt of the complaint.
- 2.3.2.3 For matters where the Executive Secretary or her/his delegate may not be impartial, the EA President or an impartial member of the Executive Board will be in charge of processing the complaint.
- 2.3.2.4 The process shall follow 2.3.1.2 – 2.3.1.9 accordingly.

2.4 Further petition by Complainant

- 2.4.1 A complainant may submit a petition against the outcome of a complaint investigation to the Secretariat, within 30 days of receiving the final outcome on the complaint.
- 2.4.2 A petition will be accepted by the Secretariat, if the complainant may provide new information or may have good reasons to challenge that the investigation was not performed in compliance with the EA complaints procedure.

- 2.4.3 A petition to a final outcome shall be heard by the MAC Management Group and shall be conducted to ensure that the investigation was performed in full conformance with this complaint's procedure.
- 2.4.4 The MAC Management Group may request the Secretariat or the TFG or the relevant EA Committee/Council Chair to reopen or reconsider any aspect of the investigation, with a maximum period for resolution of 30 days.
- 2.4.5 The decision made by the MAC Management Group, shall be final and the complaint closed. This shall be conveyed to the complainant by the Secretariat.

2.5 Timing of Complaints Process

- 2.5.1 If the complainant is unable and/or unwilling to submit all additional information as requested within 30 days of the date of delivery of the letter (or email) of the Secretariat to the complainant requesting amendments to enable the Secretariat to authenticate the complaint, and acceptable justification for extension of this period was not received from complainant, the Executive Secretary or her/his substitute shall close the complaint and inform the complainant of the closure.
- 2.5.2 The Secretariat shall inform the relevant EA Member(s) of an authenticated complaint within 10 working days.
- 2.5.3 The designated TFG (if established) shall complete the investigation and provide a written report to the Secretariat as soon as possible.

Note: It is expected that authenticated complaints not requiring an on-site investigation would normally be resolved within 3 months.

- 2.5.4 The Secretariat shall forward the final outcome of a complaint investigation to the complainant within 10 working days of closure of the complaint.

3 APPEALS

3.1 Responsibility for Appeals

- 3.1.1 Considering the nature of an appeal, appeals are handled directly by the EA President in consultation with the Executive Board and in conjunction with an Appeal Review Panel. The President may delegate his/her responsibility to the Vice-President.
- 3.1.2 Appeals shall be considered to ascertain that, taking account the particular circumstances of the case, EA's decisions were ethically, appropriately and competently made in line with EA's policies and processes. Information regarding the actions, responses and behaviours of both the appellant and EA shall be considered during the investigation.
- 3.1.3 If EA is approached about an accreditation decision of an EA Member, whether by a third party, an accredited body or another EA Member, the role of EA in relation to the

issue is only an indirect one of ensuring that the EA Member concerned has itself first had the opportunity to resolve the particular matter through its own appeal handling procedure and through direct discussions with the appellant. EA shall handle this through the Complaints Handling process described above.

Note: It is expected that appeals to National Accreditation Bodies not requiring an on-site investigation would normally be resolved within 2 months.

- 3.1.4** Prior to taking further action on the decision to suspend or to withdraw the membership status and/or the MLA signatory status, the Secretariat shall notify the National Accreditation Body of their right to Appeal the decision.

All decisions regarding the National Accreditation Body's membership status stand throughout the investigation of an appeal.

During the course of the National Accreditation Body's appeal against suspension or withdrawal of its MLA signatory status, the signatory status shall remain in effect, unless the suspension/withdrawal is caused due to the suspension/withdrawal of the membership status.

- 3.1.5** If for any reason an appeal is withdrawn, a future appeal on the same grounds will not be considered.
- 3.1.6** Regardless of the outcome of any appeal the appellant body and EA will each meet its own costs.

3.2 Appeal Process

- 3.2.1** All appeals must be addressed in writing to the Secretariat. The Secretariat shall within 10 working days acknowledge receipt of the appeal to the appellant (in writing).
- 3.2.2** Upon receipt of an appeal, the Secretariat shall inform the President or his/her delegate and on his/her behalf the Chair of the EAAB and the Executive Board.
- 3.2.3** The Secretariat shall provide the appellant with details of this EA Complaints and Appeals Procedure, ensure that the substance of the appeal is clearly understood and documented, and that all relevant claims or statements made by the appellant or other interested parties can be properly authenticated in writing when relevant and appropriate. Such authentication and provision of information is usually essential before the appeal can be considered as a formal appeal and any investigation initiated. The Secretariat may require additional documents and information.

Note: Authentication means that all information can be verified as accurate and correct through an independent source, other than the appellant. It is the responsibility of the appellant to submit information that can be authenticated.

- 3.2.4** The President or his/her delegate can at his/her discretion authenticate any or all information, as he/she deems appropriate, at any time during the investigation

process. If additional information is needed during this investigation, it is the responsibility of the designated investigator(s) to obtain such information. It is the responsibility of all involved parties to provide information that can be authenticated.

3.2.5 EA first considers appeals internally (Stage 1). Any unresolved appeals are referred to an Appeal Review Panel (ARP) (Stage 2) on request by the appellant or EA.

3.2.6 At any time during the process, the appellant may withdraw the appeal.

Stage 1

3.2.7 In case of an appeal against a MAC decision, the MAC is first given the opportunity to reconsider the decision.

3.2.8 In other cases, the President or his/her delegate shall appoint an Investigating Officer from the members of the Executive Board to ascertain that, taking account the particular circumstances of the case, EA's decisions were appropriately and competently made in line with EA's policies and processes. The findings of the Investigating Officer shall be reported in writing to the President or his/her delegate and Executive Board.

3.2.9 The Investigating Officer shall not have been directly involved in the decision-making process for the appellant organisation.

3.2.10 The Executive Board will consider the findings of the Investigating Officer and any other relevant information in deciding the outcome of the investigation. The President or his/her delegate shall inform through the Secretariat the appellant of the outcome of the internal investigation of the appeal and seek confirmation whether the appellant accepts this outcome or wishes to proceed to the second Stage.

Stage 2

3.2.11 The President or his/her delegate, in consultation with the Executive Board and Chair of the EAAB, shall appoint an Appeal Review Panel (ARP) to consider the appeal.

3.2.12 The appellant may object once to the membership of the ARP, after which the EA President or his/her delegate will select a replacement member(s).

3.2.13 EA will, on request from the ARP, make available the findings of the internal investigation.

3.2.14 The Convenor of the ARP may convene a hearing or may conduct the review by email as appropriate. In either case, the appellant shall be given the opportunity to present its case with any supporting documentary evidence. Supporting documentation must be provided at least 5 working days ahead of the hearing/review and shall also be made available to EA. EA shall also be invited to make comments concerning the appeal with any relevant documentation, which shall also be made available to the appellant.

- 3.2.15** The ARP may call on witnesses or on experts to provide advice.
- 3.2.16** After considering the evidence, the ARP shall arrive at a recommendation with supporting reasons.
- 3.2.17** The Convenor of the ARP shall inform the Executive Board of its findings and recommendations, through the Secretariat.
- 3.2.18** Following the review of the findings and recommendations of the ARP, the Executive Board shall take the final decision. The President or his/her delegate shall inform through the Secretariat the appellant of its decision. As MAC decisions on MLA signatory status can only be changed by the MAC, if applicable, the Executive Board will ask the MAC to reconsider its earlier decision. However, recommendations may be made to the MAC with regards to reinforcing its competence and consistency of operation. A copy of the conclusions and recommendations of the ARP will be provided to the appellant.

3.3 Timing of Appeal Process

- 3.3.1** Appeals must be made in writing, within 10 working days of the date of receipt of the related adverse decision.
- 3.3.2** The Secretariat shall acknowledge appeals within 10 working days of receipt.
- 3.3.3** The outcome of Stage 1 of an appeal shall be communicated to the appellant within 1 month of acknowledgement of appeal.
- 3.3.4** In case that the appellant wishes to proceed to the second Stage, the appellant must make a request for an ARP within 10 working days of the notification of the outcome of Stage 1, after which the appeal will be considered to be closed. In such a case, an ARP shall be convened within 1 month of the receipt of the appellants request for the second Stage.
- 3.3.5** Any supporting documentation from the appellant must be submitted to the Convenor of the ARP at least 5 working days ahead of any hearing.
- 3.3.6** The decision of the ARP shall be made within 3 months of their nomination.

4 EA COMPLAINTS

Complaints may be lodged by EA against an EA member if reliable, substantiate information creates a reasonable doubt about fulfilment of membership obligations by an EA Member or if it is demonstrated that an EA Member, by acts or omission, undermines credibility of EA and the European accreditation infrastructure.

4.1 Process

- 4.1.1** An EA complaint to be lodged against one of its Members shall formally be approved by the Executive Board. The Secretariat shall inform the EA Member about the complaint lodged by EA.
- 4.1.2** EA complaints are handled directly by the President in consultation with the Executive Board. The President may delegate his/her responsibility to the Vice-President.
- 4.1.3** The Executive Board shall ensure that the substance of the complaint is clearly understood and documented.
- 4.1.4** The Secretariat shall formally bring the issue of the complaint and any relevant facts to the notice of the EA Member and ask the member to provide within 30 days, a full report as to how the subject of the complaint has been dealt with and the outcome.
- 4.1.5** The report shall be reviewed by the Executive Board.
- 4.1.6** If it is found that it has not been possible to resolve the matter satisfactorily, the President or his/her delegate shall assign an ad-hoc Task Force Group (TFG), comprising one or more investigators, to investigate the complaint. The TFG membership shall be acceptable for both sides. One of the investigators shall be nominated as the TFG convenor. If possible, at least one of the investigators should understand EA Member's mother language (if needed).
- 4.1.7** The TFG shall proceed with a thorough investigation of the complaint, not limited only to procedural aspects, and seek a resolution of the issue(s) involved. It is the responsibility of the TFG to ensure that the investigation is performed in a timely manner. Direct communication between the TFG, the Executive Board, represented by the President, the involved EA Member and any other relevant body shall be made, whenever possible and needed during the investigation process. It is the responsibility of all involved parties to provide information that can be authenticated.
- 4.1.8** The designated TFG shall keep the Secretariat informed of progress being made in dealing with the complaint.
- 4.1.9** After the issue has been investigated, the TFG Convenor shall submit a detailed written report on the complaint, including a statement indicating whether the complaint has been found to have been substantiated or not, and recommendations on resolving the complaint, to the President or his/her delegate and the Secretariat, who will distribute it to the Executive Board.
- 4.1.10** The President or his/her delegate, in consultation with the Executive Board, shall decide if the report/recommendations are likely to be satisfactory in terms of resolving the matter. The President or his/her delegate, in consultation with the Executive Board, may request any amendment to the report or recommendation considered necessary and when satisfied, shall forward a summary of the final outcome to the Secretariat. The final outcome shall include a recommendation on any action to be

taken in relation to the complaint. If grounds have been found for the President or his/her delegate to consider taking remedial action, the report shall recommend the specific action to be taken and a time limit for its implementation. If the final outcome includes a request to the MAC to take any action in relation to the EA Member, the MAC shall report to the Executive Board within 2 months on the action taken and the response from the EA Member.

The Secretariat will follow up the implementation of the action in close cooperation with the President or the Multilateral Agreement Council Chair (if applicable).

- 4.1.11** In case that the EA Member fails to demonstrate the implementation of the required action, the Secretariat shall inform the Executive Board or the Multilateral Agreement Council (if the MLA signatory status is concerned) for decision on any further action, which may include an ad-hoc evaluation of the EA Member or the suspension of its MLA signatory status.
- 4.1.12** The Secretariat shall notify the EA Member of the final outcome of the complaint investigation, consistent with valid confidentiality requirements, through the provision of a summary copy of the conclusions and recommendations of the report.
- 4.1.13** The Secretariat shall maintain a detailed and complete record of the handling and outcome of every complaint. The Secretariat shall submit a summary of all complaints handled since the previous meetings to each meeting of the Executive Board and of the EAAB.
- 4.1.14** The President or his/her delegate shall report on complaints at each meeting of the General Assembly.

4.2 Further petition by the EA member

- 4.2.1** The EA Member may submit a petition against the outcome of a complaint investigation to the Secretariat, within 30 days of receiving the final outcome on the complaint.
- 4.2.2** A petition will be accepted by the President or his/her delegate, if the EA member can provide new information or may have good reasons to challenge that the investigation was not performed in compliance with the EA complaints procedure.
- 4.2.3** A petition to a final outcome shall be heard by the President or his/her delegate and shall be conducted to ensure that the investigation was performed in full conformance with this complaint's procedure.
- 4.2.4** The President or his/her delegate may request the TFG or the relevant EA Committee/Council Chair to reopen or reconsider any aspect of the investigation, with a maximum period for resolution of 30 days.
- 4.2.5** The outcome of the petition will be presented to the General Assembly for final decision.

- 4.2.6** The final decision made by the General Assembly shall be conveyed to the EA Member by the Secretariat.

4.3 Timing of Complaints Process

- 4.3.1** The EA Secretariat shall inform the relevant EA Member(s) of a complaint lodged by EA within 10 working days.

- 4.3.2** The designated TFG shall complete the investigation and provide a written report to the Secretariat and the President or his/her delegate as soon as possible.

Note: It is expected that authenticated complaints not requiring an on-site investigation would normally be resolved within 3 months.

- 4.3.3** The Secretariat shall forward the final outcome of a complaint investigation to the EA Member within 10 working days of receipt from the President or his/her delegate.

5 CONFIDENTIALITY AND CONFLICTS OF INTEREST

- 5.1** Any individuals nominated as members of a TFG or an ARP, or otherwise involved in the complaints and appeals process, that have a real or perceived conflict of interest or confidentiality issue with the situation presented shall excuse themselves immediately from any discussions or potential receipt of information regarding the specific complaint/appeal. ARP members shall have no commercial or other interest in the appeal being considered and shall not have been personally involved in any matters relating to the appeal.

- 5.2** When an appeal or a complaint concerns an EA Member that provides a person with responsibilities within this procedure, the Executive Board shall nominate someone else from a different National Accreditation Body to carry out those responsibilities.

- 5.3** All persons involved shall take necessary measures to preserve the confidentiality of information obtained during the investigation. A complainant or appellant may request to remain anonymous to other parties involved in the investigation and the designated investigator shall take adequate steps to preserve confidentiality.

6 INFORMATION FOR PEER EVALUATORS

The Secretariat shall make available to the relevant EA Peer Evaluation Team Leader in advance of an evaluation, details and general conclusions of all complaints and appeals processed by EA in relation to an EA Member, including any communication from the EA Member in response to the outcome of the complaints and appeals.