

## Appeal Proceedings<sup>1</sup> before the ETH Appeals Commission

### Deadline for filing the appeal

The appeal must be filed within 30 days. If this deadline is not met, the Appeals Commission will not hear the appeal.

### Requirements for an appeal

The appeal must be written in one of Switzerland's national languages<sup>2</sup> and submitted to the Appeals Commission by post (or electronically – see next section). It must contain an application and a statement of grounds. The appeal must be accompanied by the contested ruling. The notice of appeal and all exhibits must be submitted in duplicate.

The notice of appeal must be signed directly by the appellant or their legal representative. If two or more appellants submit a joint appeal, they must appoint a representative and give the latter a power of attorney.

The appeal must include the postal address(es) of the appellant(s). Appellants residing abroad must designate an address for service in Switzerland<sup>3</sup>. Communication with the parties in the course of the proceedings will take place exclusively by post.

### Electronic submissions

The parties may make their submissions to the Appeals Commission electronically. The precondition for this is that the submissions bear a qualified electronic signature as laid down in Art. 21a para. 2 APA and that they are sent via one of the two recognised platforms (PrivaSphere or IncaMail) to the e-mail address [info@ethbk.ch](mailto:info@ethbk.ch). The Appeals Commission for its part shall not communicate with the parties electronically but shall have its decisions and any other correspondence delivered by post.

### Advance payment of costs

Appeal proceedings are normally subject to a charge<sup>4</sup>. Upon receipt of the appeal, the appellant is requested to pay an advance on costs in the amount of CHF 500.00<sup>5</sup>. If the advance is not paid within the set deadline, the appeal will not be heard and procedural costs of CHF 100 will be charged. If the appellant withdraws their appeal within the deadline set, the Commission will – in keeping with past practice – not charge any procedural costs.

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<sup>1</sup> Proceedings before the Appeals Commission are governed by the Federal Act of 20 December 1968 on Administrative Procedure (Administrative Procedure Act, APA; SR 172.021).

<sup>2</sup> German, French, Italian and Romansh.

<sup>3</sup> If international law or the competent foreign body permits the Appeals Commission to serve documents directly in the State concerned, a domicile for service need not be designated.

<sup>4</sup> Exceptions: Appeals in matters of human resources law and the law on disability discrimination are free of charge.

<sup>5</sup> Appellants who lack the necessary resources have the option of lodging an application for legal aid pursuant to Art. 65 APA.

### Exchange of written submissions

Once the advance on costs has been received, the appeal is served on the authority that issued the ruling. The authority is invited to submit a written statement concerning the appeal along with the prior files. In general, each of the parties may comment on the opposing party's arguments in a second exchange of written submissions.

### Withdrawal of the appeal

The appeal may be withdrawn at any time prior to the date of the decision and without stating reasons. The withdrawal must be made in writing and by post. If the appeal is withdrawn, the Appeals Commission normally charges no (or reduced) procedural costs.

### Decision

Experience has shown that the proceedings usually last six to nine months or longer if necessary. The Appeals Commission will decide on the appeal at a meeting or, by way of exception, by circular letter. The decision will be announced by post.

If the appellant succeeds in full, no procedural costs will generally be imposed on them, and the advance on costs will be reimbursed.

If the appellant is unsuccessful in whole or in part, they will be ordered to pay the procedural costs to the extent that the appeal is unsuccessful<sup>6</sup>. If the appellant is represented by counsel, the appellant must also cover the attorney's fees to the extent that the appeal is unsuccessful. If an application for free legal aid has been approved, the ETH Board will provisionally cover<sup>7</sup> the costs imposed.

### Appeals against the decision

An appeal against a decision of the Appeals Commission may be lodged with the Federal Administrative Court within 30 days.

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<sup>6</sup> The procedural costs normally amount to CHF 500.00 and are offset against the advance on costs paid.

<sup>7</sup> If the appellant subsequently obtains sufficient funds, they must repay to the ETH Board any amounts it has provisionally covered.