



Managing Authority

Ministry of Finance of the Republic of Estonia

Estonia – Russia

Cross Border Cooperation Programme

2014 – 2020

GENERAL RULES OF PROCEDURE FOR COMPLAINTS

Approved by the JMC on 4-5 October, 2017

Following the decision by the Joint Monitoring Committee (JMC) or EC, the Managing Authority (MA) shall issue letters to applicants notifying them of the said decision and informing them of the reasons for project approval or rejection. If the project proposal is rejected, the applicant will receive an administrative decision on rejection that includes also instructions for the appeal procedure. The procedures for complaints are described below.

Administrative decisions can be appealed within the framework of a pre-trial procedure. A person who finds that his or her rights are violated or his or her freedoms are restricted by an administrative act or in the course of administrative proceedings may file a complaint.

If in Estonia supervisory control is exercised over an administrative authority by a minister, a complaint shall be adjudicated by the administrative authority which issued the administrative act or took the measure, unless otherwise provided by law. As the Minister of Public Administration exercises supervisory control over the MA (the administrative authority), the complaints shall be also handled and adjudicated by the MA. In order to handle and deal with the complaints, the MA will set up a complaint panel which will function as the body which will review the complaints and issue recommendations regarding the submitted complaints. The complaint panel provides its opinion and recommendations but they are not binding to the administrative authority (MA) which will make the final and official decision.

The complaint panel comprises of representatives of the national authorities (NAs), lawyer(s) and representatives of the MA the Joint Technical Secretariat (JTS). The complaint panel can invite external experts in order to have their opinion regarding the discussed issue. Within seven (7) calendar days after the receipt of the complaint the MA confirms to the person filing the complaint having received the complaint and notifies the JMC. The JTS acts also as the secretariat for the complaint panel for the examination of complaints and provides any assistance necessary for the review of the complaint.

The size of the complaint panel, its members and deputy members will be agreed by the MA, NAs and the JTS at the latest before the examination of the complaint. The JTS/MA shall provide the members of the complaint panel with the submitted complaint together with any other necessary documents and information, as needed. Meeting (including online meetings) of the complaint panel are assembled by the MA, who chairs the complaint panel. In addition, written procedures of the complaint panel could be organized in order to issue its opinions and recommendations.

Submitted complaints shall be handled in accordance with the general rules of procedure for complaints of the Programme and the Estonian Administrative Procedure Act¹ in matters not regulated by the Programme level general rules of procedure for complaints.

The following may be applied for by way of complaint proceedings:

- 1) repeal of an administrative act;
- 2) repeal of a part of an administrative act unless partial challenge of the administrative act is restricted by law;
- 3) issue of a precept for the issue of an administrative act, new resolution of a matter or taking a measure.

Complaint proceedings commence when a person files a complaint with an administrative authority. Unless otherwise provided by law, a complaint concerning an administrative act or measure shall be filed within thirty days as of the day when a person becomes or should become aware of the challenged administrative act or measure.

A complaint shall be filed in writing to the administrative authority (MA) and it shall set out:

¹ Administrative Procedure Act, <https://www.riigiteataja.ee/en/eli/530102013037/consolide>

- 1) the name of the Programme authority with which the complaint is filed;
- 2) the name, postal address and telecommunications numbers of the person filing the complaint;
- 3) the content of the challenged administrative act or measure;
- 4) the reasons why the person filing the complaint finds that the administrative act or measure violates the rights of the person;
- 5) the clearly expressed claim of the person filing the complaint;
- 6) certification by the person filing the complaint that no judgment has entered into force and no court proceedings are being conducted concerning the matter subject to the complaint;
- 7) a list of documents annexed to the complaint.

A complaint shall be signed by the person filing the complaint or by the representative of such person. The representative of the person filing a complaint shall append the authorisation document or any other document certifying authorisation unless such document has been submitted before.

If a complaint does not comply with the requirements which have to be met when submitting a complaint, an administrative authority shall assist the person filing the complaint in eliminating the deficiencies or grant a term of ten days to such person for elimination of the deficiencies.

A complaint shall be returned by the administrative authority (MA) if:

- 1) the person does not have the right to file the complaint;
- 2) the person filing the complaint has failed to eliminate the deficiencies in the complaint within the designated term;
- 3) the term for filing the complaint has expired and is not restored;
- 4) a court judgment has entered into force concerning the same matter;
- 5) judicial proceedings are being conducted concerning the same matter.

A person shall be notified by the administrative authority (MA) of the return of a complaint by post within seven days after the complaint is filed. The notice shall reason the return of the complaint and explain the procedure for appeal.

An administrative authority (if needed in consultations with the complaint panel) which reviews a complaint shall:

- 1) request the corresponding administrative authority to submit documents concerning the administrative act, if necessary;
- 2) conduct on-the-spot visit of inspection, if necessary;
- 3) use an expert, if necessary;
- 4) require written explanations from the administrative authority which issued the challenged administrative act, if necessary;
- 5) hear the explanations of interested persons;
- 6) resolve issues concerning suspension of execution of the administrative act;
- 7) notify a person filing a complaint and other interested persons of the time and place of the hearing of the matter;
- 8) perform other acts provided by law.

Unless otherwise provided by law, a complaint shall be adjudicated within twenty (20) working days after the complaint is delivered to the administrative authority which reviews the complaint. If a complaint needs to be further examined, an administrative authority which reviews the complaint may extend a term for review of the complaint by up to thirty (30) working days. A notice concerning extension of the term shall be sent to the person who filed the complaint.

Administrative authority upon review of the complaint and after getting the recommendation from the complaint panel, has the right, by its decision, to:

- 1) satisfy the complaint and repeal an administrative act either wholly or partially and eliminate the factual consequences of the administrative act;
- 2) issue a precept for issue of an administrative act, for taking a measure or for new resolution of a matter;
- 3) issue a precept for reversal of a measure;
- 4) dismiss the challenge.

If the complaint panel is not able to create the recommendation to the administrative authority (MA) by consensus, additional procedures (e.g voting) may be decided in order to formulate its position. The final decision regarding the complaint will be taken by the administrative authority (MA).

A decision regarding the complaint shall be prepared in writing and shall indicate the resolution concerning adjudication of the complaint. A decision on a complaint shall be delivered to the person who filed the complaint. A person whose complaint is dismissed or whose rights are violated in complaint proceedings has the right to file an appeal to the administrative court of Estonia.