



Republic of Kosovo

Republika e Kosovës - Republika Kosova

Kosovo Accreditation Agency

Agjencia e Kosovës për Akreditim

Agencija Kosova za Akreditaciju



Regulation on the work of the Appeals Committee

REGULATION NO. 2/2019 ON THE PROCEDURE OF APPEALS AT THE APPEALS COMMITTEE OF THE KOSOVO ACCREDITATION AGENCY

Based on Article 3, point 1.16, Article 7, point 4 and Article 15 of the Law on Higher Education of the Republic of Kosovo (Law no. 04/L-037, approved on 29.08.2011), the Law on General Administrative Procedure (Law no.05/L-031, approved on 25.05.2016), Article 22 of the Administrative Instruction for Accreditation of Higher Education Institutions in the Republic of Kosovo (No. 15/2018, approved on 28.09.2018), the State Council of Quality (SCQ) of the Kosovo Accreditation Agency (KAA) at the meeting held on 31 May 2019, approves:

THE REGULATION ON THE PROCEDURE OF APPEALS AT THE APPEALS COMMITTEE OF THE KOSOVO ACCREDITATION AGENCY

Article 1

Purpose

This regulation establishes the rules and procedures for reviewing appeals and establishes the work, organisation, and competences of the Appeals Committee and of the SCQ.

Article 2

Scope of work

This regulation regulates the filing, review and decision-making related to all appeals presented to the Appeals Committee of the Kosovo Accreditation Agency.

Article 3

Definitions

1. In this regulation, the expressions and terms used below have these meanings:
 - 1.1. KAA – Kosovo Accreditation Agency
 - 1.2. SCQ – State Council of Quality
 - 1.3. HEI – Higher Education Institution
 - 1.4. AC – Appeals Committee
 - 1.5. LHE – Law on Higher Education
 - 1.6. AI for Accreditation – Administrative Instruction for Accreditation of Higher Education Institutions in the Republic of Kosovo (no. 15/2018, approved on 28.09.2018)
 - 1.7. LGAP – Law on General Administrative Procedure (Law no. 05/L-031, approved on 25.05.2016).

Article 4

The right to appeal

1. All the parties dissatisfied with the decisions of SCQ and KAA, may file appeals within 30 calendar days of receiving the official decision, in accordance with the provisions of the Law on General Administrative Procedure (Law no.05/L-031, approved on 25.05.2016).
2. The aggrieved parties may file an appeal citing one or more of the following:
 - 2.1 Violation of provisions related to the procedure of decision-making of SCQ;
 - 2.2 Wrongful implementation of the material law or relevant material rules;
 - 2.3 The decision is not based on the presented facts and evidence.

These are the only grounds on which an institution may appeal against a decision of the SCQ.

The appeal must specify clearly the decision against which the institution is appealing, citing which of 2.1, 2.2 and 2.3 above is/are the basis for the appeal. This information should be presented on the appropriate KAA summary form which must accompany every appeal. Without this form, completed appropriately, the appeal will not be considered. In the case of multiple appeals, each appeal must be submitted separately, accompanied by the summary form completed accordingly.

In filing the appeal, no additional information that was not available at the time of the SCQ decision. may be presented by the institution

Article 5

Procedures and review of appeals

Appeals sent to KAA will be recorded by the relevant KAA office and an official acknowledgment of the receipt of the appeal will be sent to the institution. within 5 (five) calendar days.

1. If the KAA decides that the complaint does not fulfil the criteria set out in Article 4 of this Regulation and/or lacks facts/evidence to support the appeal, it will notify the HEI in writing within a further 15 (fifteen) calendar days that the appeal will not be reviewed, providing the reason(s) for this decision.
2. If the KAA decides that the appeal fulfils the criteria set out in Article 4 of this Regulation and is suitably evidenced, it will notify the HEI in writing within a further 15 (fifteen) calendar days that the appeal will be forwarded to the Appeals Committee for its consideration. The KAA will forward the appeal to the Appeals Committee within the following 10 (ten) calendar days. Consequently, the Appeals Committee will receive the appeal no later than 30 (thirty) calendar days after its receipt by KAA.
3. The Appeals Committee will reach a decision within 30 (thirty) calendar days of its receipt of the appeal and supporting documentation. The Appeals Committee may consider only whether correct procedures have been followed and not make judgments or reach decisions on academic matters.
4. The Appeals Committee will inform the SCQ of its decision within 10 (ten) calendar days of making it.
5. The Appeals Committee may reject the appeal, giving reason(s) for its decision.
6. If the Appeals Committee confirms that the appeal has a valid basis, it will instruct the SCQ to revoke its original decision.
7. The KAA will inform the institution of the Appeals Committee's decision within 15 (fifteen) calendar days of receiving the decision and recommendations of the Appeals Committee. This decision is final in the administrative procedure but may be challenged by the dissatisfied party through an administrative conflict lawsuit according to the Law on Administrative. (Law No. 03/L-202, 16.09.2010).
8. Notification of the KAA's decision must be accompanied by:
 - 8.1. An outline of the appealing party's submission;
 - 8.2. An explanation of the facts upon which the decision was taken;
 - 8.3. The reasons that were decisive during the evidence review;
 - 8.4. The legal basis for the decision

Article 6

Appointment, composition and the mandate of the members of the Appeals Committee

1. The appointment, composition and the mandate of the members of the Appeals Committee is established according to Article 22 of the Administrative Instruction for Accreditation of the Higher Education Institutions in the Republic of Kosovo (no. 15/2018, approved on 28.09.2018).
2. In the event of a member's mandate ending, or a member of the Committee leaving, they will be replaced in accordance with the procedures described in point 1 of this Article.

Article 7

Head of Appeals Committee election

1. The Head of the Committee is elected by its members. The Head must be a university professor. Each member of the Appeals Committee can propose one of the permanent members of the Committee as Head. All members of the Committee (permanent and alternate/reserve members) participate in the voting.
2. The Head of the Committee is elected on the majority of votes. If the first proposal does not receive the required votes, then the members vote on the second proposal, and so on, until the Head is elected.
3. If the Head is not elected in the repeated voting, then the Committee is dismissed, and a new Committee is elected, according to the procedures in power.
4. The Head of the Appeals Committee has a two-year mandate.

Article 8

Dismissal of the Head

1. The Head of the Committee may be dismissed, upon proposal by at least two Committee members and if this proposal is subsequently approved by the majority of all members of the Committee.
2. The proposal for dismissal must be justified by the proposers, and then put to the vote. If the Head is dismissed, the meeting is led by the eldest member, until a new Head is elected.

Article 9

The remit of the Appeals Committee

In accordance with the Law on Higher Education in the Republic of Kosovo (Law No.04/L-037, approved on 29.08.2011), the Law on General Administrative Procedure (Law No.05/L-031, approved on 25.05.2016), and Article 22 of the AI for Accreditation, the Appeals Committee is empowered to decide whether an appeal is justified on the grounds of procedural deficiencies as set out in Article 4 of this document:

1. Violation of provisions related to the procedure of decision-making of SCQ;
2. Wrongful implementation of the material law or relevant material rules;
3. The decision is not based on the presented facts and evidence.

Article 10

Appeals Committee meetings

1. The meetings of the Appeals Committee are convened and chaired by the Head of the Committee. In the absence of the Head, the meeting will be chaired by the eldest member, who will sign the decisions of that meeting on behalf of the Committee.
2. The Appeals Committee will hold up to four regular meetings during a year

3. Further meetings may be convened where this is deemed necessary. These additional meetings must be notified to Committee members at least 72 hours before they are held.
4. The invitations for regular meetings must be sent to Committee members at least one (1) week before the scheduled date of the meeting. The Agenda and all relevant documentation to be considered during the meeting, must be sent to all members of the Committee at least five (5) working days before the meeting.
5. The permanent members of the Committee are obligated to participate in the Committee's meetings. The inability to participate in a meeting must be notified immediately, so that the member can be replaced with the first alternate member. Unjustifiable absence for three or more meetings in a year results in the loss of the mandate for membership of the Committee.
6. During meetings, members must vote personally. Delegation of the vote is not allowed.
7. The Committee is serviced by KAA. KAA is responsible for ensuring the availability of all necessary documentation, for minuting the meetings and for ensuring that a member of KAA is present to support the Appeals Committee with relevant advice and information.

Article 11

Commencement of the meeting and approval of the agenda

1. The Director and the administrative staff of KAA prepare the materials for the meeting.
2. The agenda comprises the cases of appeals provided by the KAA.
3. The Head of the Appeals Committee opens, chairs, adjourns and concludes the meeting.
4. At the beginning of the meeting, the Head determines whether there is a quorum, introduces the agenda, opens the discussion about the agenda, and announces the approval of the agenda.
5. All three members must be present during the meeting.
6. The Head gives the floor to a speaker, ascertains the closure of discussion of a certain topic, puts the proposed or discussed matter to the vote, ascertains the approval or rejection of the proposal, undertakes measures to ensure the compliance of the work of the meeting, determines the conclusion of the meeting, and undertakes other necessary actions for leading and directing the meeting according to this Regulation.

Article 12

Role and function of the alternate/reserve members of the Appeals Committee

1. Based on Article 22, point 6 of the AI for Accreditation (No. 15/2018, approved on 28.09.2018) it is stipulated that the Appeals Committee shall have, in addition to its permanent members, two (2) alternate/reserve members.
2. If for any reason, including a conflict of interest, one or two permanent members cannot participate in a meeting, or in discussion of a particular agenda item, these members are replaced with the first and second alternate/reserve member, in line with the agreed order of precedence.
3. Each member is obligated to declare cases of conflict of interest, and to ask the Head of the Committee to be replaced for any discussions relating to the issue. A member has a conflict of interest if his/her membership of the Committee is in conflict with his/her private, family, professional or business interests, based on the Law on prevention of conflict of interest in discharge of a public function (Law no.06-L-011, approved on 30.03.2018).
4. Any member with a confirmed conflict of interest, may not participate in the discussion or decision-making in relation to that specific case.
5. If one or more members have a conflict of interest but do not declare it, then the case must be treated in accordance with Article 424 on Conflict of Interest of the Penal Code of the Republic of Kosovo.

6. If a conflict of interest of one or more members is identified on the day of the meeting, and it is not possible to arrange a substitute, consideration of that agenda item will be postponed to a later meeting. In such a case, the appealing institution will be advised of the reasons for any delay.

Article 13

Participation in meetings

1. Before the start of the meeting members will sign the participation list which is an integral part of the minutes. Where a member has reasonable grounds for being unable to participate in a meeting the member must notify the Head in good time to allow for his/her replacement with one of the alternate/reserve members.
2. A member absent, unjustifiably, for three meetings in a year, loses his/her mandate as a member of the Committee. In such a situation, the Director of the KAA commences procedures for the appointment of a replacement member.

Article 14

Progress of a meeting

1. After the approval of the agenda, the process moves to review and decide on the agreed agenda items.
2. Each agenda item is introduced by the Head, or person designated by the Head, after which the Head opens the discussion.
3. All members present can participate in the discussion and present their opinions and proposals regarding each agenda item.
4. The Head or the Chairperson will give the floor in the order of the members' requests. Nobody can speak in meetings if the floor has not been given to him/her by the Head or other Chairperson of the meeting.
5. The Head is responsible for respecting this regulation.
6. The Head has the right to ask the speakers to adhere to the item under consideration.
7. The Head has the right to temporarily adjourn the meeting, for no more than 30 minutes.
8. The Head has the right to conclude the meeting if/when he/she considers it appropriate.

Article 15

Decision-making

1. For decision-making, the three permanent members must be present (physically or online). If one or two permanent members cannot participate in the meeting, or in discussions of a specific agenda item, they will be replaced with the alternate/reserve members (according to Article 12, point 2).
2. Decisions are reached by a majority vote, requiring that at least two of the three members present must be in favour of the decision.
3. Before voting, the Head formulates the proposal
4. After reviewing and concluding the discussions, a vote is taken
5. Voting is by a show of hands.
6. In cases of inability to participate in the meeting in person, a member may vote online. However, this member must confirm his/her vote by email. This email must be sent to all other Committee members and must be included in the minutes of the meeting.

Article 16

Maintaining order in meetings

1. The Head is responsible for maintaining order in the meeting.

2. The Head and other participants of the meeting are obligated to abide by this Regulation.
3. The following measures are taken for violation of order at the meeting:
 - Oral warning;
 - Revoking the right to speak; and
 - Dismissal from the meeting.
4. Oral warnings may be issued to participants if his/her behaviour disturbs and hinders the normal work in a meeting.
5. Revoking the right to speak may be issued if, after being issued with an oral warning, the participant(s) continue(s) to disturb and hinder the work of the meeting
6. Oral warnings and revoking the right to speak are issued by the Head, or the Chairperson, of the meeting.
7. Participants who continue to hinder the normal work of a meeting, after their right to speak has been revoked, will be dismissed from the meeting.
8. Dismissal from the meeting is enacted upon the majority of the votes being in favour of this action. The participant who is the subject of this measure is forced to leave the meeting immediately. The dismissal is valid for that meeting only.

Article 17

Keeping the minutes

1. At every meeting, minutes must be taken. Minuting is the responsibility of KAA. The minutes are signed by the Head and the recorder of the minutes.
2. The minutes must contain the following elements:
 - Place, date and time of the start and end of meeting;
 - The agenda;
 - List of participants and those who are absent;
 - All proposals and results of the respective voting; and
 - Any other relevant issues or materials reviewed during the meeting.
3. Any additional documents must be attached to the minutes as an annex.
4. The minutes must be prepared and approved by members within 7 (seven) calendar days after the meeting
5. When the minutes have been approved they must be sent to KAA within 3 (three) calendar days.
6. The minutes are kept in the KAA's archive with the reviewing materials according to the points of the agenda, as a long-term document.

Article 18

Revocation of mandate of Appeals Committee member

The mandate of a member of the Committee can be revoked, in cases of:

1. Resignation;
2. Dismissal;
3. Health reasons;
4. Penal sentence;
5. Unjustifiable absence in three meetings in a year;
6. Retirement;
7. Death.

Article 19

Dismissal from the Committee

1. The dismissal of a member of the Committee can be initiated by a minimum of two members. It must be justified, presented as a proposal and then voted upon. The decision to propose the dismissal a member is taken by a majority of the votes of the members (permanent and alternate) with at least three votes in favour.
2. The dismissal can be initiated for these reasons:
 - 2.1 When a member of the Appeals Committee has not declared a conflict of interest in a specific case;
 - 2.2 When the member does not participate in three meetings in one year;
 - 2.3 When a member, by behaviour or attitude, makes the normal functioning of two meetings impossible;
 - 2.4 When a member has an indictment for abuse of official duty.
3. If the voting is in favour of dismissal the proposal is forwarded to the KAA Director who in accordance with Article 22 of the AI for Accreditation invites the selection panel to make the final decision.

Article 20

Final provisions

1. For all issues not included in this Regulation, the provisions of the Law on Higher Education (Law no.04/L-037, approved on 29.08.2011), Law on General Administrative Procedure (Law no.05/L-031, approved on 25.05.2016), and the Administrative Instruction for Accreditation of Higher Education Institutions in the Republic of Kosovo (no.15/2018, approved on 28.09.2018) and that are not in violation of the independence of KAA, will be implemented.
2. The authoritative interpretation of this regulation resides with the SCQ.
3. The Head of the Appeals Committee is responsible for the rightful implementation of this regulation.
4. The provisions of this regulation apply to all members of the Appeals Committee and to the Director of the KAA.
5. Amendments to this regulation may be made through the same procedures that were used to issue it.
6. This regulation enters into force when it is signed.

Prishtina, 31 May 2019

Prof. Dr. Gazmend Luboteni
President, State Council of Quality

