

Complaints under Article 90(2)

Officials and, by analogy other Commission staff, may lodge a complaint against a decision which they consider prejudicial.

Who may lodge a complaint?

Any person subject to:

- the Staff Regulations of officials of the European Union;
- the Conditions of employment of other servants (CEOS): temporary staff, contract staff and special advisers.

The persons concerned are not only the serving staff listed above but also other categories such as:

- probationers awaiting establishment;
- former staff or those entitled under them in the event of death;
- candidates in a competition - if your complaint concerns an EPSO competition, you have to address your complaint to the Director of EPSO acting as the appointing authority (https://epso.europa.eu/help_en).

Furthermore, a Seconded National Expert (SNE) may also submit a complaint about an act adopted by the Commission services which adversely affects them, with the exception of decisions which are direct consequences of decisions taken by their employer.

Where the rules governing their conditions of employment so provide, local staff may lodge complaints to the appropriate authority in the same way as officials. However, disputes between local staff and an institution cannot be brought before the General Court of the European Union (General Court) or the Court of Justice: they must be referred to an arbitration board on the conditions defined in the arbitration clause contained in their contract.

What is the purpose of a complaint?

By lodging a complaint, you contest a decision by the appropriate authority which, in your view, affects your statutory rights and is prejudicial :

- the authority has either taken an explicit or implicit rejection decision;
- or it has failed to take a measure required by the Staff Regulations.

Thus, a complaint presupposes the prior existence of an administrative act taken by the appropriate authority. This act may be challenged if it is:

- **final**, as preparatory acts may not be challenged;

- **personally and individually prejudicial** (the person concerned must have a personal, legitimate, direct, substantive and current interest in having the decision cancelled or amended).

Any request for review or reconsideration of a decision is therefore to be regarded as a complaint for the purposes of compliance with the deadlines listed below.

It should also be noted that decisions taken by a selection board for a competition may be challenged directly before the General Court.

Deadline and method of submission

Deadline

A complaint must be lodged **within three months**. This period starts:

- on the date of publication of the act if it is a measure of a general nature;
- on the date of notification of the decision to the person concerned and in any event no later than the day when they become aware of it if it is a measure of an individual nature; however, if an act of an individual nature is such as to be prejudicial to a person other than the person directly concerned, that period shall begin to run with regard to that person from the day when he or she becomes aware of it and in any event no later than the date of publication;
- on the date of expiry of the period prescribed for the reply where the complaint is against an implied decision rejecting a request.

In the case of SNEs, the complaint must be lodged within two months. The period starts to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification (Article 23 of Commission Decision [C\(2008\)6866](#) laying down rules on the secondment to the Commission of national experts).

Complaints lodged out of time are inadmissible.

Acts which contain no points not already made in a previous decision are purely confirmatory and do not have the effect of providing the member of staff with additional time.

Form and content

A complaint is defined by its nature and content, not by its form.

The complaint, to be submitted together with the [cover form](#), must state:

- the identity of the complainant;
- its purpose and the grounds and arguments on which it is based;
- the disputed act;
- the place, date and signature.

Any relevant document should be attached. **In case of multiple annexes, please submit them in a single PDF document.**

How to submit a complaint

One single copy of the complaint should be sent to the "Appeals and Case Monitoring" Unit (HR.F.6) by e-mail, preferably in pdf format, to the functional mailbox [HR MAIL F6](#) (this mailbox accepts Secem encrypted emails). It is not necessary to submit a paper version in parallel but if you do not wish to use e-mail, you can send your complaint to the office address L107/19.

Treatment of the complaint

Date of registration

The registration stamp of the "Appeals and Case Monitoring" Unit will be taken as proof of the date the complaint was submitted.

No account will be taken of the time taken for transmission by either the public or internal post. In the case of complaints submitted by e-mail, the date of registration will be the date on which it is sent or the first working day following that date if it is a Saturday, Sunday or a holiday.

In the case of complaints which are not sent directly to the "Appeals and Case Monitoring" Unit, the date of registration will be the date on which the administration was able to be apprised of the complaint.

Opening of the file

Complaints are processed by the "Appeals and Case Monitoring" Unit, so that the appointing authority may adopt a reply.

The "Appeals and Case Monitoring" Unit sends the complainant an acknowledgement of receipt, normally by e-mail. The acknowledgement of receipt contains information such as the reference number of the complaint, the date of registration and the name of the member of the unit responsible for handling the file.

A simplified acknowledgement may be sent in case of complaints with the same subject submitted by a large number of complainants and treated jointly by the "Appeals and Case Monitoring" Unit.

At the same time, the "Appeals and Case Monitoring" Unit will collect any information relevant to treating the matter from the departments which took or are affected by the decision being challenged.

Complaints about the Joint Sickness Insurance Scheme are also sent to the Sickness Insurance Management Committee for its opinion.

The interdepartmental meeting

If it considers it useful, the "Appeals and Case Monitoring" Unit may organise an interdepartmental meeting to which are invited:

- the complainant,
- the departments responsible for the decision being challenged,
- the Commission Mediation Service,
- the staff representatives appointed by the Central Staff Committee.

The complainant may be accompanied by a person of their choice or an adviser. The meeting is not an arbitration or decision-making body; it simply enables all the parties concerned to express their views. No minutes are taken of these meetings.

Complaints on certain sensitive issues or challenging decisions taken by other authorities are not discussed in interdepartmental meetings (for example, decisions of a competition selection board, appraisal and/or promotion, medical issues, harassment).

The staff representatives designated to attend interdepartmental meetings and the Mediation Service will be informed of the action (positive or negative) taken on complaints.

Decision and deadlines

After the Legal Service has given its opinion, a draft reply is sent to the appointing authority or the authority responsible for concluding contracts of employment, as appropriate, for a decision.

The appropriate authority has a period of four months from submission of a complaint to reply to it. The reply to the complaint is sent directly to the complainant.

The "Appeals and Case Monitoring" is currently not in a position to reply to all complaints. In that case, once the four-month deadline provided for in Article 90(2) of the Staff Regulations has lapsed, the complaint is implicitly rejected. According to Article 91 of the Staff Regulations, the complainant then has the possibility to bring their case before the General Court. Despite this unfortunate situation, please be assured that for all complaints, the necessary information is requested from the service that took the contested decision, that the case has been analysed from a legal point of view and that no error was detected that would warrant annulling the contested decision.

Appeals

If the complaint is rejected, whether expressly or implicitly, you have two possibilities of appeal, **which cannot be pursued at the same time**.

The General Court of the European Union (General Court)

Your appeal to the General Court must be lodged:

- **by a lawyer** of your choice;
- **within three months** from the date of notification of the reply or the implied rejection. According to Article 60 of the Rules of Procedure of the General Court, time-limits are extended on account of distance by a single period of 10 days. If the

period ends on a Saturday, Sunday or official holiday, it shall be extended until the end of the first subsequent working day.

When an express decision rejecting a complaint is taken after an implied rejection but within the period of three months allowed for lodging an appeal (but no appeal has been lodged), it reopens the three-month period for making an appeal to the General Court.

Under the terms of Article 134 of the Rules of Procedure of the General Court, without prejudice to the other provisions of the Chapter "Costs", the unsuccessful party shall bear their own costs and shall be ordered to pay the costs incurred by the other party if they have been applied for in the other party's pleadings. Under Article 135 of the Rules of Procedure, the General Court may, if equity so requires, decide that an unsuccessful party is to bear their own costs, but is to pay only part of the costs incurred by the other party, or even that they are not to be ordered to pay any costs.

For further information on the procedure before the General Court please consult the [Curia website](#).

The European Ombudsman

As an alternative remedy to that of an action before the General Court, you can submit a complaint to the European Ombudsman under Article 228(1) of the Treaty on the Functioning of the European Union. Please note that:

- the complaint must be made within two years of the date when you became aware of the facts on which your complaint is based;
- referring a complaint to the Ombudsman **does not suspend** the three-month time limit laid down in Article 91 of the Staff Regulations for lodging an appeal to the General Court;
- under Article 2(3) of the Decision on the regulations and general conditions governing the performance of the Ombudsman's duties, no complaint may be lodged with the Ombudsman that concerns work relationships between the European Union institutions and bodies and their officials and other servants **unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90(1) and (2) of the Staff Regulations, have been exhausted by the person concerned and the time limits for replies by the authority thus petitioned have expired.**

To find out more, visit the [European Ombudsman website](#).

The Privacy statement

The [privacy statement](#) explains the reason for the processing, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you may exercise in relation to your data (the right to access, rectification, erasure, etc.).

The European institutions are committed to protecting and respecting your privacy. As this service collects and further processes personal data, Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, applies.

This statement concerns the handling of requests submitted under Article 24 of the Staff Regulations ("SR") and Article 90(1) SR and of complaints submitted under Article 90(2) SR, as well as complaints and requests submitted under Article 22c SR.