



Practice directions to parties to appeal proceedings before the Board of Appeal of EASA

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DOCUMENT CONTROL SHEET

Reference documents

a) Procedures

N/A

b) Internal documents

WI.IMS.00122 – Rules of Procedure of the Board of Appeal of EASA
FO.IMS.00112 – Appeal Form

Abbreviations/Definitions

BoA – Board of Appeal
EASA – European Union Aviation Safety Agency
RoP – Rules of Procedure





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1. Introduction

1. The following practice directions to parties to appeal proceedings before the Board of Appeal of the European Union Aviation Safety Agency (hereinafter “**the Practice Directions**”) replace the previous version of the Practice Directions adopted by the Board of Appeal of the European Union Aviation Safety Agency (hereinafter “**the BoA**”).
2. The Practice Directions are non-binding and designed to assist parties in their appeal proceedings. The Practice Directions complement the BoA’s Rules of Procedure (hereinafter “**the RoP**”) and are not intended to substitute them. The Practice Directions follow broadly the structure of the RoP and make reference to the respective articles in the RoP. In addition, the Practice Directions may contain complementary practical information.
3. In order to ensure the smooth, reliable and cost effective running of proceedings, parties are requested to follow these Practice Directions carefully. The latest version of the Practice Directions is available on the BoA’s section of the website¹ of the European Union Aviation Safety Agency (hereinafter “**the Agency**”).

2. Procedure

2.1. BoA’s jurisdiction

4. With regard to Article 15(1) RoP, an appeal may be brought only against decisions the Agency has adopted pursuant to Articles 64, 65, 76(6), 77 to 83, 85 or 126 of the Basic Regulation.
5. The BoA is not empowered to undo the legality of the regulatory provisions on which basis these decisions have been adopted.² The BoA shall apply Regulations, validly adopted by the Union legislator, until they are abrogated or the Union judicature establishes their invalidity or inapplicability. If the appellant wants to question the legality of applicable provisions it shall take the matter to the Union judicature.

2.2. Lodging appeals and other documents

6. All procedural documents, such as the appeal, the defence, as well as any other correspondence sent to the BoA, shall be lodged at the Registry of the BoA. In this way, a smooth and efficient conduct of the proceedings can be assured.

2.3. Appeal Form

7. To facilitate the lodging of appeals, the Agency provides an Appeal Form (hereinafter “**the AF**”) on its website. The correct completion of the AF ensures that the appeal meets the formal requirements. Therefore, the use of the AF is strongly recommended. The AF should be submitted in original duly signed including the supporting documentation as complete as possible, in particular the [*] fields, at the time of filing. This will facilitate and expedite the handling of the appeal. Failure to send the complete form might render the appeal inadmissible or delay its handling.
8. In order to ensure the completeness of the form received by the Agency, the appellant is advised to page number all supporting documentation attached to the AF. This includes the contested decision, the statement of grounds, the

¹ <http://www.easa.europa.eu/the-agency/other-easa-boards/easa-board-of-appeal>

² BoA decision of 17 January 2014 in Case AP/04/2013, paragraph 106; BoA decision of 21 November 2014 in Case AP/06/2013, paragraph 48; and BoA decision of 19 April 2018 in Case AP/10/2017, paragraphs 73 and 74. The cases are available on the Agency’s website.





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certificate of financial turnover (for legal persons only) and the power of attorney/representation. All of these documents shall be submitted to the Registry within the deadline in Article 17 RoP. The appellant is advised to indicate the total number of pages sent.

9. If the appellant has previously been allocated an ID number by the Agency (“EASA customer number”), it is sufficient to indicate the EASA customer number and the name. Otherwise, the appellant has to be identified by indicating its name together with its address and nationality and/or state of incorporation.

10. The contested decision shall be identified and be attached to the AF.

11. The appellant shall indicate to what extent amendment or cancellation of the contested decision is requested. In particular, the appellant shall specify by ticking the proper box on the AF whether the decision is contested in its entirety or only partially. In the latter case, the contested part shall be specified.

12. The AF shall be signed and the name of the undersigning person shall be indicated together with the date.

2.4. Communication by electronic mail

13. The BoA is open to the use of electronic mail (hereinafter “email”). The appellant shall indicate on the AF its consent for communication by email and specify the email address that the Registry may use for that purpose.

14. However, for the sake of a proper conduct of the proceedings, which are adversarial by nature, the BoA invites the parties to take account of the following: (a) after accepting communication by email, the Registrar will acknowledge receipt of the communication in the same way; (b) parties are reminded that they bear the risk that their communication arrives at the BoA in due time.

15. When sending procedural documents by email the following additional requirements shall be taken into account: In order to ensure the integrity of the document, only a copy of the signed original will be accepted. In some cases the BoA might request a paper copy to be submitted. Documents sent by email shall be sent in a PDF format (images and text) using Adobe Acrobat Reader software. Please note that email communications from the Registry will be transmitted in PDF format. The recipient’s device shall therefore be equipped with software that is able to read that format. Where the Registry sends documents by email, recipients are requested to promptly acknowledge receipt of those documents.

2.5. Power of Attorney/Representation

16. In relation to Article 18 RoP, parties are reminded to ensure that the power of attorney/representation is signed by a person entitled to act on behalf of the party and that the original power of attorney/representation shall be submitted to the Registry within the deadline in Article 17 RoP.





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2.6. Payment of appeal charges

17. Concerning Articles 19 and 20 RoP, payment of the appeal charges is mandatory within 60 calendar days from the date on which the appeal was filed at the Agency including the statement of grounds.³ The invoice for the appeal charges will be sent by the Agency in coordination with the Registrar. If the appeal charges have not been timely paid, the appeal is considered inadmissible.

18. Where the appellant is a legal person, it shall submit to the Agency a certificate signed by an authorised officer of that legal person concerned specifying the financial turnover of the appellant. The certificate shall be submitted together with the AF to the Registry within the deadline in Article 17 RoP.

2.7. Inadmissibility of appeals

19. With regard to Article 22(2) RoP, appeals are, for example, manifestly inadmissible on formal grounds:

(a) if they are not submitted within the deadline of two months (Article 17(1) RoP);

(b) if they are submitted within the deadline of two months, but are incomplete, for example only the AF was submitted, but without submitting the “statement of grounds” (Article 17(1) RoP); or

(c) if appeal charges are not paid within 60 calendar days from the date on which the appeal was filed at the Agency (Article 20(1) RoP).⁴

20. Appeals shall comply with all mandatory requirements set out in Article 25 RoP.

2.8. Written submissions

21. Concerning Article 24 RoP, parties to the appeal are strongly invited not to lodge further submissions until the BoA has decided whether the proper assessment of the appeal requires further submissions. The BoA is aware that parties may perceive a need to lodge further submissions without awaiting the BoA’s decision to that effect. However, the allowance of ad hoc submissions may considerably delay and prolong the procedure, and it is therefore at odds with the interest of a smooth and efficient procedure. The BoA will not therefore guarantee that such ad hoc submissions will be considered admissible. It will take its decision on a case-by-case basis.

22. On the writ of appeal, the party concerned is invited to take into account that vague or general appeals may render it difficult to the BoA to perform properly its functions, in the worst case, the BoA may consider the appeal inadmissible or manifestly unfounded. Appellants are therefore invited to submit clearly drafted, concise and preferably brief appeals.

23. It is for the appellant to carry the burden of proof for any contentions it makes.⁵

³ Except in situations where the Agency specifies in the invoice a later deadline for the payment of the appeal charges and when the appeal charges are paid within that deadline.

⁴ See above footnote 3.

⁵ BoA decision of 17 December 2012 in Case AP/01/2012, paragraph 61.





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2.9. Oral presentations

24. In relation to Article 26 RoP, if the BoA does not deem an oral procedure necessary, it will expect the party requesting one, to have good reasons to do so.

25. The purpose of the oral procedure is not to repeat arguments set out in the written pleadings.

26. In case that a party is aware that there will be numerous attendances from its side to the oral procedure, it is invited to inform the Registry in due time so that the adequate logistical measures may be taken.

2.10. Decisions of the BoA

27. Article 33 RoP provides that where the BoA finds that the appeal is admissible and that the grounds for appeal are founded, it shall remit the case to the Agency. The Agency shall take a new reasoned decision taking into account the decision by the Board of Appeal. That provision shall be interpreted as envisaging decisions on substance and does not apply to procedural issues that arise during the appeal proceedings.⁶

28. In relation to Article 34 RoP, there is no provision enabling the BoA to decide on costs related to the appeal proceedings. Thus, the BoA does not intend to allocate costs.

3. Miscellaneous Provisions

3.1. Languages

29. Concerning Article 40 RoP, the working language of the BoA is English. For the sake of efficient and expeditious appeal proceedings, parties are strongly invited to conduct appeal proceedings in English.

⁶ BoA decision of 14 January 2014 in Case AP/04/2013, paragraph 100.

