



COMPLAINTS AND CLAIMS PROCEDURE

[Approved by the Governing Board on 4 May 2015]
Revised by the Warranties Committee on 16 July 2020

1. Introduction

The European criteria and guidelines for external quality assurance in the European Higher Education Area (EHEA) aim to a large extent to ensure that the evaluation activities carried out by agencies are carried out with the best possible guarantees for those being evaluated. The recent revision of these criteria that has taken place within the European Union and which has been formally approved at the next meeting of the EHEA Education Ministers (Yerevan, May 2015) insists on this idea, to the extent that a new standard (2.7. *Complaints and Appeals*) has been introduced with the following content:

Complaints and appeals processes should be clearly defined as part of the design of external quality assurance processes and communicated to the institutions.

In this regard, the Governing Board of the Agency, meeting in an extraordinary session on 22 September 2014, requested the Government of Aragon to amend Law 5/2005, on the Organisation of the University System of Aragon, in order, among other things, to increase the guarantees, accountability mechanisms and transparency in the activity of the ACPUA. This amendment, explicitly supported by the Agency's Committee of Experts (Recommendation of 23 October 2014), was approved by both the Government and the Cortes de Aragón, and was embodied in Law 14/2014, on Fiscal and Administrative Measures of the Autonomous Community of Aragon, article 33 of which states the following:

"Article 85a. Accountability and transparency of activity.

- 1. The Agency will adopt strategic plans for a four-year period.*
- 2. The activity of the Agency shall be governed by annual business plans.*
- 3. The Agency shall draw up annual reports on its activities.*
- 4. The evaluation criteria and procedures, as well as the composition of the corresponding commissions, shall be established and duly communicated to the interested parties before the start of the evaluation processes.*
- 5. The Agency shall have an internal quality assurance system in place.*
- 6. The Agency's complaints and grievance processes should be clearly defined, form part of all its external quality assurance and evaluation protocols and be adequately communicated to stakeholders.*
- 7. The Agency's staff and evaluators, as well as the persons providing services to the Agency, are subject to a Code of Ethics based on standards established at national and European level.*
- 8. The Evaluation Commissions shall act in complete independence and the results of their proceedings may not be modified by any other body of the Agency.*
- 9. The Agency will regularly launch internal meta-evaluation processes, leading to the adoption of improvement actions. These meta-evaluations will include consultation with the different stakeholders involved depending on the nature of the process.*
- 10. Periodically, and at least once every five years, the Agency's activity shall be subject to external evaluation by an international committee of experts.*
- 11. All the above-mentioned instruments of accountability, as well as the Agency's evaluation reports, shall be published on the Agency's website".*

In order to comply specifically with the provisions of the sixth paragraph of this new article 85 bis of the LOSUA, it is necessary to clearly define, order and systematise (in a single procedure that will be published on the website) the processes for handling complaints and claims that may be filed against actions of all kinds (evaluation, but also management) of the ACPUA.

This objective is embodied in the present Procedure for handling appeals, complaints and claims, approved by the Governing Board on 4 May 2015 and revised by the ACPUA Guarantees Committee on 16 June 2020.

1.1. Legal framework

- Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.
- Law 5/2013, of 20 June, on the quality of the Public Services of the Administration of the Autonomous Community of Aragon.
- Decree 91/2001, of 8 May, which regulates the processing of suggestions and complaints about the operation of public services managed by the Diputación General de Aragón.
- Order of 7 October 2010, of the Regional Minister of the Presidency, regulating the telematic procedure for the submission of complaints and suggestions on public services managed by the Government of Aragon.
- Law 5/2005, of 14 June, on the Organisation of the University System of Aragon.
- Decree 239/2006, of 4 December, of the Government of Aragon, approving the Statutes of the University Quality and Prospective Studies Agency of Aragon.

2. Administrative appeals

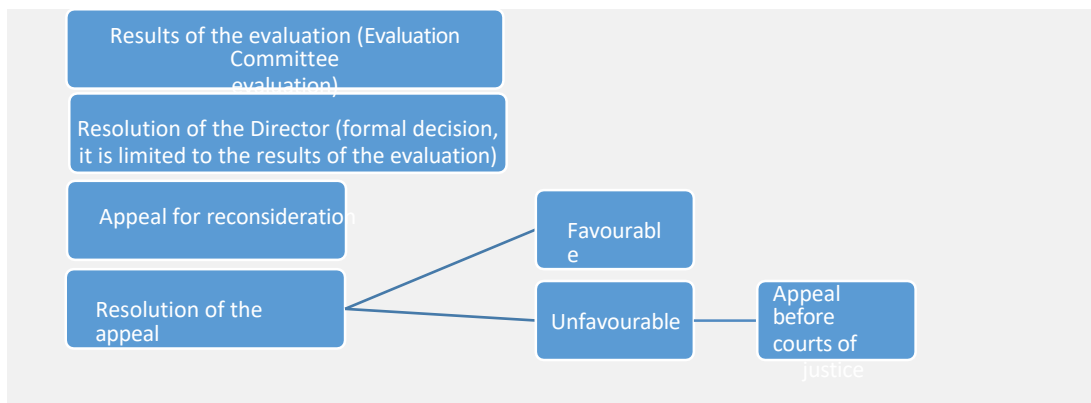
The ACPUA is a public agency and therefore regulated by public law (state and regional). This means that, like any other Spanish public body, its actions are subject to the principles and rules of Administrative Law, which safeguards the guarantees and rights of those who are administered (i.e. those who are assessed).

The existence of this regulatory framework means that the actions of the ACPUA will be null and void if, among other cases, they infringe constitutional rights and freedoms; if they are contrary to the Spanish legal system or if they totally and utterly disregard the legally established procedure or the rules governing the formation of the will of the collegiate bodies (in our case, the Governing Council). In addition, an action by the ACPUA that does not fall under these circumstances but infringes the applicable regulations (for example, a formal defect that produces some kind of defencelessness in the person being assessed) may also be subject to annulment.

In these cases, the Spanish legal system provides the interested parties with a series of well-defined and standardised defence mechanisms. The most important of these is the possibility of challenging the actions of public administrations through administrative appeals.

2.a) When the final decision is ACPUA's

In the specific case of ACPUA, the law establishes (LOSUA, art. 94) that its **final decisions on evaluation, certification and accreditation** are decisions of the Directorate, to which an administrative appeal for reconsideration can always be lodged within one month. If the agency rejects the appeal, the law empowers the appellant to sue the agency before the contentious-administrative courts.



In order to provide further reassurance to those evaluated, this legal route can be taken not only when evaluation processes lead to a formal decision. Indeed, it is the Agency's policy to give the most significant procedural acts or intermediate steps in an evaluation process (such as publishing a **protocol or a call for evaluation, rejecting the objection of an evaluator, publishing the list of those admitted to the evaluation, appointing the members of an evaluation committee or panel, etc.**) the form of Management Resolutions in order to allow those evaluated to appeal through administrative channels as explained above.

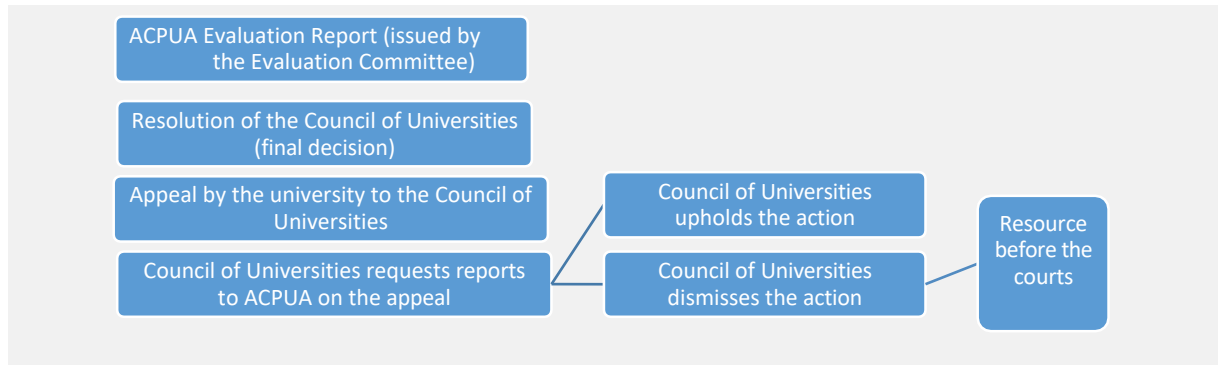
2.b) When the final decision is not ACPUA's

In cases where evaluation processes do not end in a formal ACPUA decision (evaluation report) but in a report to another decision-making body, a dissatisfied evaluatee may challenge the decision of the authority concerned by lodging an appeal, and naturally express in his appeal his disagreement with the evaluation carried out by the Agency.

If the body that has to resolve these appeals (e.g. University Council (for accreditation of degrees), Government of Aragon (evaluation of University Institutes)

The appeal (after consulting ACPUA's opinion on the appeal) is upheld by the Ministry of Education, Culture and Sport (for the evaluation of arts education) and is normally sent to the Agency with instructions for a new evaluation (e.g. in the evaluation procedures for national degrees, which have a national scope).

How to challenge the result of a degree accreditation?



In a nutshell:

RESOURCES

- ✓ The assessed person or user has one month to appeal against the decision of the Agency or public body in charge of the final decision.
- ✓ If the appeal is not met, the appraiser or user has the option to bring proceedings against the Agency before the administrative courts.

	ACPUA evaluation activities	The final decision (Resolution) is from:	Does the Committee on Guarantees intervene in the ACPUA?
PROGRAMMES	Initial Accreditation (ex ante)	Council of Universities	YES
	Renewal of accreditation	Council of Universities	YES
	Follow-up	ACPUA	YES
CENTRES AND DEGREES	PACE-SGIC	ACPUA	YES
	Institutional accreditation	Council of Universities	YES
	Institutional accreditation monitoring	ACPUA	YES
	ALCAEUS (Agenda 2030)	ACPUA	YES
	Creation of centres	Government of Aragon	YES

	Viability of affiliated centres	Government of Aragon	YES
	Certification of training centres	ACPUA	YES
	DOCENTIA	ACPUA	YES
	Certification of teacher evaluation processes	ACPUA	YES
RESEARCH	Evaluation of six-year research periods for doctoral contract teaching staff (UZ and CUD) e CITA researchers	ACPUA	YES
	Accreditation of contracted teaching staff holding doctoral degrees with clinical linkage	ACPUA	YES
	University Research Institutes	Government of Aragon	YES

3. Complaints

A complaint is made when a user addresses ACPUA pointing out delays, inattention or other anomalies in the day-to-day running of the Agency. The attention given to these complaints is linked to the improvement of the quality of the service. As this service is legally considered a public service, the processing of these complaints is regulated by two regional regulations (D. 91/2001, of 8 May, which regulates the processing of suggestions and complaints about the operation of public services, and the Order of 7 October 2010, which regulates the telematic procedure for the submission of complaints and suggestions). With these rules in hand, the Agency implements its own procedure within its internal quality assurance system.

COMPLAINTS

Any citizen may lodge a complaint, as specified in the ACPUA Service Charter, through the complaints and suggestions book of the Government of Aragon, available:

- ✓ through the ACPUA website
- ✓ on the premises of ACPUA
- ✓ in all the information offices, delegate offices and territorial delegations of the Government of Aragon.
- ✓ on the website of the Government of Aragon <http://www.aragon.es>

The ACPUA Directorate will reply to the user within 20 days.

4. Complaints

This is a complaint when an appraiser, who cannot legally file an administrative appeal, addresses the agency expressing his or her disagreement with the performance of appraisers or with the development of an appraisal process. In these residual cases (which technically are neither complaints nor appeals) the procedure

provides that the complaint shall be dealt with by the Agency's management, which shall forward it to the ACPUA Guarantees Committee.

If the content of a complaint or a grievance could lead to the formulation of an action to improve an evaluation activity, the Agency's management shall inform the ACPUA Committee in charge of designing and meta-evaluating evaluation procedures (the ECSC) of the content of the complaint or grievance.

COMPLAINTS

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The ACPUA Management will reply to the user within a maximum period of 1 month.

GLOSSARY

Complaint:

Complaints are intended to highlight delays, inattention or other anomalies in the operation of services provided by the Government of Aragon and public bodies dependent on it, such as the ACPUA. Attention to the complaint allows the quality of the service to be improved.

Complaints made by citizens about possible irregularities or breaches of the law will not be considered as complaints.

In any case, the legal nature of the content of citizens' submissions shall prevail, regardless of the qualification given by those who formulate them.

Complaints shall not be considered as administrative appeals, nor as claims, whether they are prior to civil or labour, economic-administrative or patrimonial liability proceedings of the Administration of the Autonomous Community of Aragon and its public bodies.

The presentation of the complaints made shall not paralyse the deadlines established for the filing of an administrative appeal, without prejudice to the provisions of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.

The formulation of complaints shall not impede or condition the exercise of the actions or rights of citizens that, where appropriate, may be applicable.

COMPLAINTS AND CLAIMS PROCEDURE

Suggestion

Proposals made by citizens with the aim of improving the organisation or quality of services shall be considered as suggestions.

Claim:

It is a request or demand for a right allegedly violated as a consequence of an irregular action by the Agency. Complaints are therefore linked to the evaluation processes and are dealt with through the channels established therein and described in this document.