

Regulations for Objections and Appeals

Considerations

Under Article 30 of the Regulations and Appendices for CBF Recognition for Charitable Organizations, the addressee of a decision open to appeal has the opportunity to file an objection against that decision. The one that has filed an objection subsequently has the opportunity to file an appeal against the decision on objection. These Regulations for Objections and Appeals explain that provision in greater detail.

Under Article 1 of the Regulations and Appendices for CBF Recognition for Charitable Organizations, a ‘decision open to appeal’ is defined as: Decision against which an objection and an appeal can be filed under Article 30. This concerns: decision on a CBF Recognition Application; decision on a request for exemption; classification of a Charitable Organization in a category within the meaning of Article 10; decision to revoke a CBF Recognition; decision to intensify CBF oversight, and a decision on publication on the basis of Article 26, 28, or 29. A decision open to appeal also includes failure to issue a decision within the decision period.

Under Article 7 of the Regulations and Appendices for CBF Recognition for Charitable Organizations, it must be stated with each such decision that it is open to objection and appeal, respectively.

Chapter 1 General provisions

Article 1

Objections Committee

1. The Objections Committee gives advice to the CBF with regard to the decision it needs to take on an objection under Article 30 of the Regulations and Appendices for CBF Recognition for Charitable Organizations.
 2. The Objections Committee is independent and impartial.
 3. The Objections Committee consists of one permanent chair and two members that are added on an ad-hoc basis.
 4. The chair is independent, and fits the following profile:
 - i. is a lawyer;
 - ii. is knowledgeable about the charity sector, or is willing to become knowledgeable about it;
 - iii. is willing to stay abreast of trends and developments within the CBF Recognition scheme;
 - iv. does not hold any executive or high-profile position at a charitable organization.
1. The ad-hoc members work as auditors at the CBF. At least one of them is a senior auditor.

2. The ad-hoc members have not been involved in the drawing up or in the taking of the contested decision.
3. If the independence of a member of the committee cannot be guaranteed or if there may be a semblance thereof, that member will then step down.

Article 2

Appeals Tribunal

1. The Appeals Tribunal gives the CBF binding advice with regard to the decision on appeal filed against a decision on objection within the meaning of Article 30 of the Regulations and Appendices for CBF Recognition for Charitable Organizations.
2. The Appeal Tribunal consists of up to six individuals including the chair. The members of the Appeals Tribunal are appointed by the CBF's supervisory board for a four-year term. When their first term expires, members can be re-appointed up to two consecutive times, and, each time, for another 4-year term. In exceptional circumstances, for example in order to maintain continuity, the supervisory board may decide to re-appoint a member one last time. Members have, at all times, the opportunity to step down.
3. At least a third of the members are practicing lawyers, are part of the judiciary system, or hold a comparable position deemed as such by the supervisory board.
4. The other members are appointed on the basis of their expertise in a domain that is relevant to the CBF and the sector. The supervisory board ensures a balanced composition of the Appeals Tribunal.
5. Individual cases are handled by the chair and two members.
6. The Appeals Tribunal decides by majority.
7. The CBF takes care of the administrative and all other supporting activities for the benefit for the Appeals Tribunal, including making available an independent note-taker that takes minutes of the sessions of the Appeals Tribunal.
8. The members of the Appeals Tribunal are required to maintain confidentiality with regard to everything they are informed about in connection with the performance of their duties.
9. The members of the Appeals Tribunal cannot be held personally liable for acting on or for any failure to act on advice on the basis of these Regulations for Objections and Appeals.
10. In all cases that are not covered by these regulations, the Appeals Tribunal will decide in accordance with the spirit of these regulations.

Chapter 2 Objection procedure

Article 3

Objection

1. The addressee of a decision open to appeal within the meaning of Article 1 of the Regulations and Appendices for CBF Recognition for Charitable Organizations has the opportunity to file an objection against that decision.
2. The objection is made by filing a notice of objection with the CBF.
3. If the notice of objection is considered to be admissible, a complete review of the decision open to appeal will take place on the basis thereof.
4. The review may also lead to an outcome that is less favorable to the objector.
5. A notice of objection can be withdrawn until a decision on objection has been published. Withdrawal results in the termination of the procedure. Any withdrawal will be confirmed to the objector.

Article 4

Objection deadline

1. The deadline for filing an objection is six weeks.
2. That six-week period will start on the day of the decision's publication.
3. A notice of objection that is filed after the deadline can be accepted for processing if, as a result of special circumstances, the objector cannot be reasonably considered to be in default or if the processing of the notice of objection serves a special interest of the CBF.

Article 5

Contents of the notice of objection

1. The notice of objection contains at least the following:
 - a. The name, address, and email address of the objector;
 - b. The date;
 - c. A description of the decision against which the objection is made. A copy of that decision is preferably enclosed;
 - d. The grounds on which the objection rests.
2. Insofar a notice of objection that has been filed on time does not meet all requirements as referred to in paragraph 1, the objector will be given a reasonable deadline to supplement the notice of objection.

Article 6

Admissibility

1. The objector can be deemed to be inadmissible if, even after the reasonable deadline as referred to in Article 5, paragraph 2, not all requirements in Articles 3, 4, and 5 have been met.
2. The objector can be considered to be inadmissible if the objector's interest in a decision on objection is insufficient.

Article 7

Informing the objector

1. The CBF confirms, in writing, the receipt of the notice of objection, preferably by email.
2. The CBF will contact the objector by telephone within 1 week after receipt of the notice of objection. In that call, the procedure will be explained, and information may be exchanged.

Article 8

Hearing both sides

Unless the notice of objection has been deemed inadmissible, the objector will be given the opportunity to give an oral explanation of the objection. To that end, a meeting will be organized at the offices of the CBF.

Article 9

Advice of the Objections Committee

On the basis of the documentation and the oral proceedings, the Objections Committee will give advice regarding the decision on the notice of objection.

Article 10

Decision on objection

1. Within six months after all requirements of Article 5 have been met, the CBF will take a decision on objection.
2. If the advice has not been followed or not in full, the reasons as to why not will be given.
3. With regard to decisions on objection, the result may be:
 - a. The objection is declared inadmissible;
 - b. The objection is disallowed;
 - c. The objection is allowed.
4. If the objection has been disallowed, the contested decision remains in force.
5. If the objection has been allowed, the CBF repeals the contested decision, and, if necessary, will issue a new decision instead.

Chapter 3 Appeal procedure

Article 11

Right to appeal

1. If the objection is disallowed, the objector has the opportunity to file an appeal against the decision on objection.
2. The appeal is made by filing a notice of appeal with the CBF on its website.

Article 12

Appeal deadline

The deadline for filing an appeal is six weeks after the publication of the decision on objection.

Article 13

Fee

1. The appellant will be charged a fee of €450 to cover part of the costs.
2. Payment of this fee must be made within eight calendar days after filing the appeal.
3. The CBF will send the appellant an invoice, if desired.
4. If the appeal is allowed in full or partially, the appellant will get a refund of this fee.
5. If the appeal is declared inadmissible for failing to pay the fee on time, any payment received after the fee deadline will be returned to the appellant.

Article 14

Contents of the notice of appeal

1. The notice of appeal contains at least the following:
 - a. The name, address, and email address of the appellant;
 - b. The date;

- c. A description of the decision against which the appeal is made. A copy of that decision is preferably enclosed;
 - d. The grounds on which the appeal rests.
2. Insofar a notice of appeal that has been filed on time does not meet all requirements as referred to in paragraph 1, the appellant will be given a reasonable deadline to supplement the notice of appeal.

Article 15

Statement of defense

The CBF will be given the opportunity to file a statement of defense.

Article 16

Case-related documents

1. The CBF ensures that the Appeal Tribunal and all parties involved in the procedure receive all documents related to the case or that are submitted during the procedure.
2. The CBF does not hand over any information that is considered to be confidential under Article 29 of the Regulations and Appendices for CBF Recognition for Charitable Organizations and under the data protocol that is based on those Regulations, unless the party that is protected by that confidentiality is the opposing party in the procedure.
3. The CBF may ask for permission to have the Appeals Tribunal merely take note of any information that is considered to be confidential under Article 29 of the Regulations and Appendices for CBF Recognition for Charitable Organizations and under the data protocol that is based on those Regulation, if the party that is protected by that confidentiality is not the opposing party in the procedure.
4. If the appellant refuses to give permission within the meaning of the previous paragraph, the confidential information will not be added to the file.
5. If the appellant does give permission within the meaning of paragraph 3, the Appeals Tribunal will assess whether the claim to confidentiality was just. If that is not the case, the information will be given to all parties involved in the procedure.

Article 17

Course of the procedure

1. The Appeals Tribunal may ask the parties involved written questions.
2. Without prejudice to the provisions of Article 16, all parties involved are required to answer all questions of the Appeals Tribunal.
3. The Appeals Tribunal may ask witnesses or experts written questions.

Article 18

Hearing

1. Parties will be given the opportunity to explain (orally) their positions at a hearing.
2. The Appeals Tribunal will decide on whether or not to hear witnesses and/or to consult experts, whether or not proposed by parties.

Article 19

Binding advice

1. The Appeals Tribunal will give the CBF executive director binding advice within six weeks after the hearing as referred to under Article 18 has taken place. This period can be repeatedly extended by two weeks.
2. The CBF will get binding advice to:
 - a. Declare the appeal inadmissible;
 - b. Disallow the appeal;
 - c. Allow the appeal.
3. If the Appeals Tribunal advises to allow the appeal, it gives the CBF binding advice to repeal the decision on objection, and to replace it with a new decision. The Appeals Tribunal can formulate the replacement decision in full, but it can also leave it up to the CBF to flesh out specific parts thereof.
4. The Appeals Tribunal may decide that the costs of hearing witnesses or of consulting with experts will be borne by one of both parties or that these costs will be divided between the parties in a manner that is to be determined by the Appeals Tribunal.
5. The binding advice is signed by the chair. It contains at least the following:
 - the names of the members of the Appeals Tribunal;
 - the names of the individuals and organizations involved in the procedure;
 - a brief overview of the course of the procedure;
 - a summary of the positions of the parties;
 - the grounds for the decision;
 - the advice;
 - a recommendation regarding a refund of the fee;
 - location and date of the ruling.
6. The advice will be communicated to each of the parties.
7. The advice is public, taking into consideration Article 29 of the Regulations and Appendices for CBF Recognition for Charitable Organizations.

Article 20 Decision

The CBF will implement the binding advice as soon as possible insofar allowed by the measures to be taken.