Dispute resolution

This procedure enables stakeholders to raise concerns about the conduct and integrity of an NVAO-led assessment procedure in Luxembourg, where such concerns could affect the independence, impartiality, proper conduct, or outcomes of the assessment procedure. Such a dispute can be submitted to the NVAO.

GENERAL INFO

Regulatory context

1. In Luxembourg, accreditation decisions for BTS programmes and for specialised higher education institutions and their Bachelor's and Master's programmes are taken by the Minister of Research and Higher Education, based on NVAO's advice, comprising of its assessment conclusion and the underlying assessment report.
2. The Luxembourg higher education system is primarily governed by:
    - the amended Law of 27 June 2018 on the organisation of the University of Luxembourg;
    - the Law of 21 July 2023 on the organisation of higher education.
3. Standard 2.7. Complaints and appeals in: Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG). (2015). Brussels, Belgium.

General provisions

Everyone has the right to submit a dispute, free of charge, to NVAO.

The dispute must be submitted in writing to luxembourg@nvao.org.

As a rule, submitting a dispute does not suspend the assessment procedure.

Procedure

This procedure covers disputes related to matters occurring during the assessment procedure, including (non-exhaustive):

- (perceived) conflicts of interest or risks to independence;
- procedural irregularities;
- inappropriate behaviour by persons acting under NVAO responsibility (including panel members, process coordinators, secretaries, and staff);
- insufficient substantiation of (procedural) outcomes.

This procedure does not cover:

- matters that should be resolved through an institution's internal procedures (e.g. student grievances, exam matters), unless they relate directly to conduct within the NVAO-led assessment procedure;
- issues already pending in an external legal procedure where the same subject matter is under judicial review;
- disagreement with the ministerial accreditation decision as such (which should be handled through the formal decision and appeal routes in Luxembourg).

Admissibility

A dispute is admissible when:

- the contact details of the person(s) or entity submitting the dispute, hereafter the claimant, are known; and
- the dispute contains a written description of the facts against which it is directed; and
- the dispute identifies or makes it possible to identify the person(s) against whom the dispute is directed, hereafter the respondent. In case the NVAO as such is addressed, the Executive Board of the NVAO is the respondent.

The NVAO is not obliged to treat the dispute when:

1. the claimant cannot demonstrate an interest;
2. the dispute is manifestly unfounded;
3. the dispute is manifestly unreasonable;
4. the dispute relates to facts:
    - already handled in a previous dispute under the applicable rules;
    - that occurred more than one year before the date of submission;
    - that are the subject of pending judicial or administrative appeal proceedings.

If the dispute is not dealt with, the NVAO will inform the claimant within ten calendar days after receiving the dispute. The decision not to deal with a dispute will be motivated.

The submission of the dispute is considered as permission for the NVAO to process the data within the framework of the dispute handling and in accordance with applicable data protection requirements. Where necessary to ensure a fair handling of the dispute, relevant information, including where appropriate the identity of the claimant and the subject matter of the dispute, may be disclosed to the respondent.

The NVAO acknowledges receipt of the admissible dispute in writing within ten calendar days of receiving the dispute, if it has not dealt with the dispute within that period.

Dispute handler

The dispute is handled by the Managing Director responsible for Luxembourg assessment procedures, acting as dispute handler and observing strict neutrality. In case the Managing Director is identified as the respondent, the Executive Board of the NVAO acts as the dispute handler.

The dispute handler treats all information confidentially and does not disclose information except insofar as necessary for the fair handling of the dispute or as required by law. Personal data and other confidential information are protected throughout the procedure.

Mediation

The dispute handler assesses whether it is appropriate to organise mediation between the claimant and the respondent, with the dispute handler acting as mediator.

The claimant must reply within ten calendar days whether they will use the mediation opportunity offered. If no reply is received in time, it is assumed the claimant renounces mediation.

In case of mediation, a mediation session will be organised within ten calendar days. The dispute handler communicates the practical arrangements to both the claimant and the respondent. Both parties are invited to submit brief position statements at least three calendar days before the mediation session.

If mediation leads to a joint conclusion satisfying the dispute, the dispute is considered resolved.

Dispute resolution

The dispute handler starts the procedure by sharing the claim with the respondent. The respondent then has a period of ten calendar days to submit a written response to the dispute handler.

The dispute handler can then decide:

- to resolve the dispute in case the written documentation is sufficient to do so;
- to hear the parties individually in case the written documentation lacks clarity; or
- to bring the parties together in a joint session.

In case the parties are heard individually, the dispute handler communicates the practical arrangements separately to the claimant and to the respondent. The dispute handler invites both parties to submit brief position statements at least three calendar days before the hearing.

In case of a joint session, the dispute handler communicates the practical arrangements to both the claimant and the respondent. Both parties are invited to submit brief position statements at least three calendar days before the joint session.

Handling period

The dispute handler deals with the dispute within forty-five calendar days of receiving it.

In exceptional circumstances, this period may be extended once up to a maximum of ninety calendar days; parties are informed in writing of the extension and its reasons before the original period expires.

Result

The dispute handler informs the parties in writing of:

- the findings of the investigation,
- the dispute handler's assessment, opinion and conclusions, and
- any measures taken or recommendations made.

Resolution

Where the dispute concerns independence or a serious procedural irregularity, the dispute handler has the authority to take proportionate measures to safeguard the integrity of the procedure, such as procedural correction, replacement of a panel member, instruction to the assessment panel, or a motion to the Executive Board. These measures ought to be consistent with the relevant assessment framework.

Where the dispute concerns a (procedural) outcome and the dispute handler rules in favour of the claimant, the dispute handler informs NVAO's Executive Board of the dispute, of the findings of the investigation, of its opinion, and of its conclusion. The dispute handler presents NVAO's Executive Board with a revised substantiation of a (procedural) outcome or with a revised outcome.

Public information

The NVAO reports about the number of submitted disputes and the corresponding results in its annual report.

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