

Extraordinary Appeal for Review

Procedure for appealing binding acts administratively, provided that certain circumstances apply.

Purpose Binding administrative acts may be subject to extraordinary appeal for review by the administrative body that issued them, which shall also have the authority to rule on them when any of the circumstances set out in Article 125 of Law 39/2015 apply, as detailed below:

- a) a) That, when they were issued, an error of fact occurred resulting from the documents included in the file.
- b) That essential documents for resolving the issue exist that, even if after the fact, demonstrate the error of the resolution under appeal.
- c) That the resolution was fundamentally affected by documents or testimonies declared false by a final court ruling, prior to or after said resolution.
- d) That the resolution was issued as a result of prevarication, coercion, violence, fraudulent machinations or other punishable conduct, as determined by a final court decision

Regulations

- Law 39/2015 of 1 October, on the Common Administrative Procedure of Government Agencies (Arts. 123 and 124)
- Art. 82 of Law 4/1990 of 29 June, on General State Budgets for 1990.

Who can request it

This appeal may be filed by the interested parties in the administrative act, as per Article 4 of Law 39/2015 of 1 October, on the Common Administrative Procedure of Government Agencies, which specifies the following:

1. The following are regarded as interested parties in the administrative procedure:
 - Those who are engaged in it as holders of individual or collective legitimate rights or interests.
 - Those who, without initiating the procedure, have rights that may be affected by the decision made in the procedure.
 - Those whose legitimate individual or collective interests may be affected by the resolution and who are party to the proceedings until a final resolution is issued.

2. Associations and organisations representing economic and social interests shall be holders of collective legitimate interests under the terms recognised by law.
3. When the status of interested party stems from any transferable legal relationship, the assignee shall take over in such capacity, regardless of the status of the proceedings.

When the appellant acts on behalf of a natural or legal person, the documentation certifying the appellant's representative status must be provided (Art. 5 of Law 39/2015).

Initiation method

At the request of the interested party.

Body that decides the appeal

The same Body that issued the contested act

Maximum time limit for resolving and notifying

3 months.

Effects of failing to rule in time Rejected Appeals

If three months elapse following the lodging of the extraordinary appeal for review and no decision is made or reported, the decision shall be deemed to be rejected, which shall pave the way for administrative proceedings.

The closing of the procedure ends the administrative process.

Requirements for filing the appeal The extraordinary review appeal shall be lodged in the event of case a) (acts issued that incur in factual errors) of Article 125 of Law 39/2015, within **four years** following the notification date of the contested resolution. In all other cases, the deadline shall be **three months** from the discovery date of the documents or from the time the court ruling was finalised.

It is important that the document be properly completed, which must satisfy the requirements of Article 115 of Law 39/2015, namely:

- Appellant's identifying information.
- Identification of the act being appealed and the reason.
- Specification of the electronic method of contact or, failing that, of the physical location where notifications are to be sent.
- Place, date, signature of the appellant.
- The administrative body, centre or unit to which it is directed and its corresponding identification code.

- Any other information that is required, where applicable, by specific provisions.

If the appellant makes a mistake in identifying the type of appeal, or does not identify it, this shall not impede its processing, provided that its true nature can be deduced.

Any defects that render an act voidable cannot be invoked by those who caused them.

Filing the request

Electronic filing (individuals and those who are required to interact electronically with the Government (art. 14 Law 39/2015)), through this e-Office:

- Access via cl@ve

In person (only for individuals)

By presenting the application and associated documentation at ENAIRe's Registration Department, located in Avda. de Aragón, 330 - Building B - 28022 Madrid

At any of the other offices specified in Law 39/2015 of 1 October, on the Common Administrative Procedure of Government Agencies:

- At the electronic registers and offices for assisting with records of any administrative body that is part of Spain's national government, the regional governments, the entities that comprise the local government or the public institutional sector.
- Post offices, as established in regulations.
- Spanish diplomatic or consular offices abroad.
- Any other place specified in the applicable laws

Data Protection

Controller: ENAIRe.

Purpose: To process the optional appeal for reconsideration.

Legal basis: The data processing is based on the regulation on administrative procedures.

Recipients: The data will not be transferred to third parties, unless required by law.

Rights: To access, rectify and delete data, as well as other rights, before the ENAIRe Central Data Protection Unit (UCPD), Avda. de Aragón 330 Edificio B - 28022 MADRID (Madrid) or via the ENAIRe e-Office (sede.enaire.gob.es).

Additional information: Podrá consultar la información adicional en el Anexo I – Información Adicional – Protección de Datos.

Annex I - Additional Information - Data Protection.

Controller

Identity: ENAIRE – ID number: Q2822001J

Postal address: Avda. de Aragón, 330 - Edificio B - 28022 Madrid

Telephone: 913 21 02 11

Email: informacion@enaire.es

Data Protection Officer (DPO): ucpd@enaire.es

Purpose of the processing

Purpose: The personal data collected by this form will be processed in order to handle and manage the enquiry, complaint or suggestion submitted involving ENAIRE.

Storage periods: As specified in the applicable law regarding liability limitation.

Legal basis

The data processing is based on Article 6.1.c of the GDPR: law on administrative procedures (Law 39/2015 of 1 October, on the Common Administrative Procedure for Government Agencies).

Recipients

The data will not be transferred to third parties, unless required by law. The data is not expected to be transferred to third countries or international organisations.

Rights

Data subjects have a right to:

- Obtain confirmation of whether ENAIRE is processing their personal data.
- Access their personal data, as well as request the rectification of inaccurate data or, where applicable to request the deletion when, among others reasons, the data is no longer needed for the purposes it was collected for.
- Request under certain circumstances:
 - To limit the processing of their data, in which case it will only be stored by ENAIRE for the exercise or defence of claims.
 - To object to the processing of their data (including the processing of their data for automated individual decision-making), in which case ENAIRE will stop processing the data, except for compelling legitimate grounds, or for the exercise or defence of potential claims.

Rights may be exercised by way of ENAIRE's Central Data Protection Unit (UCPD) - Avda. de Aragón 330, Edificio B, 28022 Madrid or via the e-Office (enaire.sede.gob.es).

If your rights have not been duly observed, you may lodge a complaint with the Spanish Data Protection Agency - Address: C/Jorge Juan, 6 - 28001 MADRID (Madrid) – e-Office: sedeagpd.gob.es.