

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



1. OBJECTIVE

Describe the procedure that shall be followed for receiving and handling motions for reversal and appeals filed for ICONTEC because of its decisions as conformity assessment body.

2. SCOPE

This procedure is applicable for ICONTEC Conformity Assessment, Management System Certification, Product Certification, Inspection, Validation and Verification of Climate Change Statement services.

This procedure does not apply for receipt, analysis and handling of claims and complaints due to the customers' dissatisfaction at the conformity assessment services provided by ICONTEC.

3. DEFINITIONS

For the purposes of this procedure, definitions stated in ISO/IEC 17000 standard and CDM accreditation standard of the United Nations apply, particularly the following:

3.1 Designated Operational Entity (DOE): an entity appointed by the Conference of the Parties (CMP), based on the Board's recommendation and qualified to perform validation and/or verification/certification functions.

3.2 Motion for reversal: Request from the conformity assessment customer before the same ICONTEC's instance in order that it will reconsider the decision that the assigned professional team made regarding the performed assessment.

Note:

1. The motion for reversal is considered as the first instance.
2. In some service Rules, the word "Dispute" may still be found, which is the equivalent for Motion for Reversal.
3. For Climate Change services that are accredited under the United Nations standard, the Motion for Reversal is the equivalent for dispute. It appears in the standard as follows: Disagreement between the DOE and the Project Participant (PP) related to the recommendation and/or opinions/decisions made by the DOE at different stages during the validation and/or verification/certification functions.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



3.3 Appeal: A request by the conformity assessment service customer to ICONTEC for reconsideration of a decision it has made relating to his/her motion for reversal request, by an independent instance (adapted from ISO/IEC 17000).

According to ISO/PAS 17003:2004 document, the term "Appeal" shall not be confused with the use of it in a legal sense. The appeals and the appeals process, in the conformity assessment context, are deliberately an internal process of the body whose conformity assessment output is being appealed. The appeal resolution is responsibility of the Body to which an appeal is filed and it does not require an audience or a decision made by any external agent or court.

4. PROCEDURE

4.1. MOTION FOR REVERSAL

A customer may file a motion for reversal because of the following:

- Non acceptance of nonconformities or findings communicated in the corresponding assessment, inspection or audit closing meeting.
- Non acceptance of decisions against the certification holder organization (granting, maintenance, recertification, reactivation, restoration), outcomes of validation and/or verification/certification.
- Non acceptance of scope changes by the audit team.
- Non acceptance of sanctions imposed by ICONTEC.

Any customer of the conformity assessment services who wants to file a motion for reversal shall submit a request in writing before ICONTEC with the evidence that support it, within the established terms and conditions indicated in the corresponding service rules. This request is filed before the instance that is responsible for the process, i.e., the corresponding Head of the conformity assessment service and shall be forwarded by a means that ensures ICONTEC will receive it at its address.

Note:

1. The terms for filing the motion for reversal shall be communicated to the auditee during the opening and closing meetings.
2. For the Climate Change service, the motion for reversal shall be filed by the Organization, within the ten (10) working days following the event that caused the motion for reversal.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



This request shall be submitted by the Organization, with the evidences that support it, within the terms and conditions set in the service's Rules. If the Organization does not file the motion for reversal, in written, within these terms, then it is understood that it accepts said decisions and may not set further judicial or extrajudicial claims.

The information or documents the requester has provided to ICONTEC for the effects of his/her motion for reversal shall be kept under confidentiality.

All the requests for motion for reversal that are submitted to ICONTEC shall have an acknowledgment of receipt, which may be the ICONTEC Correspondence seal, by e-mail when the request is submitted by this means, or by the ES-P-CE-01-F-006 Form and they shall be recorded, for control, in the Motions for Reversal and Appeals Control Chart, ES-P-CE-01-F-005. In case that a request is received by e-mail, the person who receives it shall confirm, also by e-mail, its receipt by ICONTEC and submit a copy of this message to the corresponding Head of the service.

The Head of the service shall communicate to the interested parties that a motion for reversal has been received.

The Head of the corresponding service may directly investigate the case or delegate its investigation to a technical expert; this last one shall be a professional different from the one who was involved in the assessment process (audit, inspection, validation or verification), in order to ensure impartiality and absence of conflict of interest.

In order to investigate the Motion for reversal, the Head of the service or the assigned technical expert shall meet and verify the necessary information that allows to determine the cause that generated the motion for reversal and, if necessary, contact the involved auditor/inspector/assessor and the requester with the purpose of knowing their position. When relevant, the requester shall be informed about the investigation progress for his/her motion for reversal.

The Head of the service shall provide an answer to the motion for reversal by the ES-P-CE-01-F-003 form and shall include:

- The reasons why the organization does not accept the decisions made by ICONTEC.
- The analysis of the information provided by the involved parties.
- The decisions that are made by the Head of service according to the analysis performed by the assessor team.

Once the investigation is done, the Head of the service will determine whether the filed motion for reversal request has a technical founding and whether the following procedures apply:

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



- If the motion for reversal is settled to the order of the requester, the involved persons will be informed during the assessment process in order to comply the decisions thereby stated and to report the outcomes to the Head of the service. In this case, the Head of the service shall determine whether to implement the correction and the corrective action or not. The corrective actions that are taken as a result of a motion for reversal shall be established according to the provided in the ES-P-CG-003 procedure.
- When the motion for reversal does not proceed, the decision on which the motion is filed shall be ratified, and the requester and the persons involved on the assessment process shall be notified. In all the cases, the requester has the right to file an appeal.

ICONTEC shall provide an answer to the motions for reversal filed in the required maximum term as per each service's rules.

Note:

1. According to the terms and conditions specified in each service's rules, when a requester files a motion for reversal, the decision terms are suspended until the corresponding instance will make a decision on the request after doing the corresponding inquiry.
2. For the Climate Change service, ICONTEC shall provide an answer for the motions for reversal filed in a maximum term of forty five (45) calendar days after the acknowledgment of receipt of the motion for reversal.

The decision on the motion for reversal shall be communicated to the requester and the interested parties inside ICONTEC by the ES-P-CE-01-F-003 form and the corresponding letter to reply to the motion for reversal shall follow the ES-P-CE-01-F-004 provisions.

The Head of the Analysis and Surveillance Unit, shall quarterly analyze the received motions for reversal in order to identify trends and opportunities for improvement in the conformity assessment services. The received motions for reversal shall be assessed by the ICONTEC Customer Service Assistant to identify whether the received communication also refers to a complaint because of the provided service, in order to provide the corresponding handling.

4.1.1 MONITORING TO MADE DECISIONS

The Head of each service or the person appointed by him/her and the Head of the Analysis and Surveillance Unit shall monitor the compliance with the decisions and times provided in the settlement of the motion for reversal and shall ask the involved persons for the evidence of these actions' compliance.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



4.2 APPEALS:

The appeal is a resource that the requester may file when he/she is not in agreement with the decision made by ICONTEC before a motion for reversal.

The appeal resource shall be directly filed by the organization with the evidences that support it, within the terms and conditions set in each service's Rules.

Note:

1. For the Climate Change service, the appeal request shall be filed by the Organization, within the ten (10) working days following the notification on the decision that is being appealed (motion for reversal settlement).

This request shall be submitted by the Organization, with the evidences that support it, within the terms and conditions set in the service's Rules. If the Organization does not file the appeal, in written, within these terms, then it is understood that it accepts said decisions and may not set further judicial or extrajudicial claims.

The information or documents the requester has provided to ICONTEC for his/her appeal's effects shall be kept under confidentiality.

All the appeal requests that are submitted to ICONTEC shall have an acknowledgment of receipt, which may be by the ICONTEC Correspondence seal, by e-mail when the request is submitted by this means or by ES-P-CE-01-F-006 Form and they shall be recorded, for control, in the Motions for Reversal and Appeals Control Chart, ES-P-CE-01-F-006. In case that a request is received by e-mail, the person who receives it shall confirm, also by e-mail, its receipt by ICONTEC and submit a copy of this message to the corresponding Head of the service.

The service Chief shall report about the appeal to the interested parties and convene the Appeals Committee to investigate the case. Having done this, he/she ensures there is not discriminatory behavior against the appellant.

Note:

1. The filing of an appeal by the requester suspends the decision terms until the corresponding instance will decide on the request, after having performed the corresponding inquiry, according to the terms and conditions specified in each service's rules.

Together with the summons for the Appeals Committee, the appeal communication submitted by the organization with the corresponding supporting documents and a copy of the motion for reversal settlement (not accepted by the organization) shall be sent by e-mail to the Committee members for their analysis.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



The Appeals Committee shall analyze the information and if they consider it relevant, they may ask for additional information to the involved parties in such a way that a complete analysis of said information is ensured and allow making decisions in an independent way.

The Head of the service shall provide an answer to the motion for reversal by the ES-P-CE-001-F-001 form and shall include:

- The registered list of facts why the appellant (the organization) does not accept the Motion for Reversal Settlement issued by ICONTEC.
- The analysis of the information provided by the involved parties.
- The decisions that are made by the Appeals Committee.

When relevant, the requester shall be informed about the investigation progress for his/her appeal. This Appeals Committee is the responsible for making decisions on the appeals received in the conformity assessment services, based on the supplied information. Once the investigation is done, the Appeals Committee shall decide on the appeal in the established term for each service's rules after the acknowledgment of receipt of the appeal. The decision on the appeal shall be formally communicated to the requester and in written by the ES-P-CE-01-F-001 form and the corresponding letter to reply to the appeal, ES-P-CE-01-F-002..

Note:

1. For the Climate Change service, ICONTEC shall provide an answer for the appeal filed in a maximum term of forty five (45) calendar days after the acknowledgment of receipt of the motion for reversal.

If the appeal is settled to the order of the requester, he/she and the involved persons will be informed during the assessment process in order to comply the decisions thereby stated and to report the outcomes to the Head of the service. In this case, the Head of the service shall determine and implement the corresponding correction and corrective action. The corrective actions that are taken as a result of an appeal shall be established according to the provided in the ES-P-CG-003 procedure.

If the appeal is settled to the order of ICONTEC, the requester and the persons involved in the assessment shall be informed through the ES-P-CE-01-F-001 Settlement of Appeals form, in order to comply the decisions thereby defined and the case is closed.

The Head of the Analysis and Surveillance Unit shall quarterly analyze the received appeals, in order to identify trends and opportunities for improvement in the conformity assessment services and monitor the implementation of corrections and corrective actions due to the appeals treatment.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



The received appeals shall be assessed by the ICONTEC Customer Service Assistant to identify whether the received communication also refers to a complaint because of the provided service, in order to provide the corresponding handling.

4.2.1 MONITORING TO MADE DECISIONS

The Head of each service or the person appointed by him/her and the Head of the Analysis and Surveillance Unit shall monitor the compliance with the decisions and times provided in the settlement of the appeal and shall ask the involved persons for the evidence of these actions' compliance.

The whole monitoring and control of the motions for reversal and appeals shall be recorded from their receipt until their closing in the control chart of disputes and appeals ES-P-CE-01-F-005 form.

4.3 APPEALS COMMITTEE FUNCTIONING RULES

4.3.1 The Appeals Committee members

The Appeals Committee shall be formed by the Conformity Assessment Director or her delegate, the Legal Chief or his delegate and the Standardization Director or his delegate. The Head of the corresponding service will become a member of the Appeals Committee with voice but without right to vote and shall provide technical support to the committee, whenever necessary, and will be in charge to provide the secretary.

If the committee considers necessary to have technical support for a specific subject to be analyzed in the dispute resource, may ask for the involvement of a technical expert.

4.3.2 Functions of the Appeals Committee members

- To attend the committee sessions that will be convened and take part in discussions and decisions making.
- To analyze the information submitted by the appellant and request for additional information, as necessary.
- Keep records of their performance and concepts.
- Abstain from taking part in the committee when there may be conflict of interest because of the dealt subjects.
- Meet this procedure.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



4.3.3 Appeals Committee Secretary.

The Appeals Committee Secretary will be provided by the corresponding Conformity Assessment Service Chief. The Appeals Committee secretary will exert the following functions:

- Convene the committee sessions;
- Check the necessary quorum for each committee meeting
- Lead the committee meetings by looking for a possible consensus when adopting any decision.
- Prepare and present to the committee the documents that support their decisions;
- Ensure that their members will handle all the information with the due confidentiality by stating impediments when conflicts of interest will arise.
- Elaborate the settlements of appeal
- Record and file the correspondence of the committee and be responsible for its preservation;
- Process the matters that are the committee's competence;
- Project the concepts and decisions that shall be issued or adopted by the committee;
- Meet and enforce this regulations.

4.3.4 Quorum

The Appeals Committee may hold sessions and deliberate with the whole of its members. The decisions shall be adopted by the majority of the committee members with right to vote.

4.3.5 Meeting Room and Sessions

The Appeals Committee members will be held at the ICONTEC facilities. The meeting room may be changed when the circumstances require so, given the due notice to all the members. The committee shall meet each time an appeal is received by request of the corresponding Head of the Conformity Assessment Service. The Appeals Committee shall decide on each received appeal in the term defined in the Certification Rules of each service.

4.3.6 Committee Minutes

The decisions made in the committee sessions shall be recorded in ES-P-CE-01-F-001 Settlement of Appeal, which also will record the committee members who participated in the decision. This record will be a part of the corresponding appeal file. The dissenting opinions, if there are, will be stated in the settlement of appeal.

HANDLING OF MOTIONS FOR REVERSAL AND APPEALS



5. CONTROL DE REGISTROS

All the records generated for applying this procedure shall be controlled according to the established in the ES-P-GB-004 Documents Management procedures. The Assistant of the corresponding Head will keep a physical and/or electronic file of the motions for reversal and appeals, as well as of all the communications between ICONTEC and the requester.

6. REFERENCE DOCUMENTS

ES-R-SG-001 Regulations certification of product certification with Conformity Mark granted by ICONTEC – Rules

ES-R-PD-006 Processes and Services Certification Rules

IN-R-CC-001 Climate Change Assessment Services Rules

SI-R-SI-001 Industrial Facilities and Assemblies Certification Rules.

7. LIST OF ANNEXES AND FORMS

ES-P-CE-01-F-001 Resolución de Apelación

ES-P-CE-01-F-002 Carta de Respuesta Apelación

ES-P-CE-01-F-003 Resolución de Recurso de Reposición.

ES-P-CE-01-F-004 Carta de Respuesta Recurso de Reposición

ES-P-CE-01-F-005 Cuadro de Control de Reposiciones y Apelaciones

ES-P-CE-01-F-006 Carta de Acuse de recibo de recursos de Reposiciones y/o Apelaciones