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## **Federal Act on Administrative Procedure (Administrative Procedure Act, APA)<sup>1</sup>**

of 20 December 1968 (Status as of 1 January 2021)

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*The Federal Assembly of the Swiss Confederation,*  
on the basis of Article 103 of the Federal Constitution<sup>2,3</sup>  
and having considered the Dispatch of the Federal Council dated  
24 September 1965<sup>4</sup>,

*decrees:*

### **Section 1    Scope of Application and Definitions**

#### **Art. 1**

A. Scope of application  
I. Principle

<sup>1</sup> This Act applies to the procedure in administrative matters that are to be dealt with by rulings of federal administrative authorities of first instance or on appeal.

<sup>2</sup> Authorities in terms of paragraph 1 are:

- a.<sup>5</sup> the Federal Council, its departments, the Federal Chancellery and the services subordinate to it, and businesses, institutions and other public offices of the Federal Administration;

AS **1969** 737

- <sup>1</sup> Abbreviation added by Annex No II 3 of the Law Enforcement Authorities Act of 19 March 2010, in force since 1 Jan. 2011 (AS **2010** 3267; BBl **2008** 8125).
- <sup>2</sup> [BS **1** 3]. This provision corresponds to Art. 177 para. 3 and 187 para. 1 let. d of the Federal Constitution of 18 April 1999 (SR **101**).
- <sup>3</sup> Amended by Annex No 2 of the FA of 6 Oct. 2000 on the General Provisions of Social Insurance Law, in force since 1 Jan. 2003 (AS **2002** 3371; BBl **1991** II 185 910, **1994** V 921, **1999** 4523).
- <sup>4</sup> BBl **1965** II 1348
- <sup>5</sup> Amended by No II of the FA of 28 June 1972 on the Amendment of the Federal Constitution relating to the Terms of Employment of Federal Personnel, in force since 1 Jan. 1973 (AS **1972** 2435; BBl **1971** II 1914).

- b.<sup>6</sup> organs of the Federal Assembly and of the federal courts responsible for rulings in the first instance and appeal decisions in accordance with the Public Officials Act of 30 June 1927<sup>7</sup>;
- c. autonomous federal institutions or businesses;
- c<sup>bis</sup>.<sup>8</sup> the Federal Administrative Court;
- d. the federal committees;
- e. other authorities or organisations outside the Federal Administration, provided they are issuing an ruling in fulfilment of the federal public law duties assigned to them.

<sup>3</sup> Only Articles 34–38 and 61 paragraphs 2 and 3 on the notification of rulings and Article 55 paragraphs 2 and 4 on the withdrawal of suspensive effect apply to the procedure of the cantonal authorities of final instance that issue rulings based on federal public law that are not final rulings. Article 97 of the Federal Act of 20 December 1946<sup>9</sup> on the Old-Age and Survivor’s Insurance relating to the withdrawal of the suspensive effect of appeals against rulings issued by the compensation funds is reserved.<sup>10 11</sup>

## Art. 2

### II. Exceptions 1. Partial application

<sup>1</sup> Articles 12–19 and 30–33 do not apply to tax proceedings.

<sup>2</sup> Articles 4–6, 10, 34, 35, 37 and 38 apply to the testing procedure in professional education and training examinations.

<sup>3</sup> Compulsory purchase procedures are governed by this Act unless the Federal Act of 20 June 1930<sup>12</sup> on Compulsory Purchase provides otherwise.<sup>13</sup>

<sup>6</sup> Amended by Annex No 4 of the FA of 8 Oct. 1999, in force since 1 Jan. 2000 (AS **2000** 273; BBl **1999** 4809 5979).

<sup>7</sup> [BS **1** 489; AS **1958** 1413 Art. 27 let. c, **1997** 2465 Annex No 4, **2000** 411 No II 1853, **2001** 894 Art. 39 para. 1 2197 Art. 2 3292 Art. 2. AS **2008** 3437 No I 1]. See now the Federal Personnel Act of 24 March 2000 (SR **172.220.1**).

<sup>8</sup> Inserted by Annex No 10 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

<sup>9</sup> SR **831.10**

<sup>10</sup> Wording of sentence according to Annex No 2 of the FA of 6 Oct. 2000 on the General Provisions of Social Insurance Law, in force since 1 Jan. 2003 (AS **2002** 3371; BBl **1991** II 185 910, **1994** V 921, **1999** 4523).

<sup>11</sup> Amended by No II 7 of the FA of 24 June 1977 (9 OASI Review), in force since 1 Jan. 1979 (AS **1978** 391; BBl **1976** III 1).

<sup>12</sup> SR **711**

<sup>13</sup> Amended by Annex No 2 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS **2020** 4085; BBl **2018** 4713).

<sup>4</sup> The procedure before the Federal Administrative Court is governed by this Act, unless the Federal Administrative Court Act of 17 June 2005<sup>14</sup> provides otherwise.<sup>15</sup>

### Art. 3

This Act does not apply to:

2. Non-  
applicability

- a. the procedures of authorities in terms of Article 1 paragraph 2 letter *e* if a direct appeal to a federal authority against their rulings is inadmissible;
- b. in relation to federal personnel, the procedure in the first instance relating to the establishment of an employment relationship, to the promotion of federal personnel, and to employment related directives to federal personnel<sup>16</sup> and the procedure for the authorisation of the prosecution of federal personnel;
- c. administrative criminal proceedings and related criminal investigation proceedings;
- d.<sup>17</sup> the procedure for the administration of military justice including the administration of military discipline, the procedure in military command matters in terms of Article 37 as well as the procedure in terms of Articles 38 and 39 of the Armed Forces Act of 3 February 1995<sup>18, 19 ...20</sup>;
- d<sup>bis</sup>.<sup>21</sup> the procedure in social insurance matters, provided the Federal Act of 6 October 2000<sup>22</sup> on the General Provisions of Social Insurance law is applicable;
- e.<sup>23</sup> the procedure for customs clearance;

<sup>14</sup> SR 173.32

<sup>15</sup> Inserted by Annex No 10 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS 2006 2197 1069; BBl 2001 4202).

<sup>16</sup> Part of sentence according to No 2 of the Annex to the FA of 19 Dec. 1986, in force since 1 July 1987 (AS 1987 932; BBl 1986 II 313).

<sup>17</sup> Amended by No 1 of the Annex to the FA of 22 June 1990, in force since 1 Jan. 1991 (AS 1990 1882; BBl 1989 II 1194).

<sup>18</sup> SR 510.10

<sup>19</sup> Amended by Annex No 1 of the Armed Forces Act of 3 Feb. 1995, in force since 1 Jan. 1996 (AS 1995 4093; BBl 1993 IV 1).

<sup>20</sup> Third lemma repealed by Annex No 1 of the FA of 4 Oct. 2002, with effect from 1 Jan. 2004 (AS 2003 3957; BBl 2002 858).

<sup>21</sup> Inserted by Annex No 2 of the FA of 6 Oct. 2000 on the General Provisions of Social Security Law, in force since 1 Jan. 2003 (AS 2002 3371; BBl 1991 II 185 910, 1994 V 921, 1999 4523).

<sup>22</sup> SR 830.1

<sup>23</sup> Amended by Annex No 1 of the Customs Act of 18 March 2005, in force since 1 May 2007 (AS 2007 1411; BBl 2004 567).

e<sup>bis</sup>.<sup>24</sup> ...

- f. proceedings in the first instance in other administrative matters, if due to their nature they must be dealt with by an immediately enforceable ruling.

#### Art. 4

III. Additional provisions

Provisions of federal law that regulate a procedure in more detail apply provided that they are not contradictory to the provisions of this Act.

#### Art. 5

B. Definitions  
I. Rulings

<sup>1</sup> Rulings are decisions of the authorities in individual cases that are based on the public law of the Confederation and have as their subject matter the following:

- a. the establishment, amendment or withdrawal of rights or obligations;
- b. a finding of the existence, non-existence or extent of rights or obligations;
- c. the rejection of applications for the establishment, amendment, withdrawal or finding of rights or obligations, or the dismissal of such applications without entering into the substance of the case.

<sup>2</sup> Rulings are also enforcement measures (Art. 41 para. 1 let. *a* and *b*), interim orders (Art. 45), decisions on objections (Art. 30 para. 2 let. *b*, 46 let. *b*, and 74 let. *b*), appeal decisions (Art. 61 and 70), decisions in a review (Art. 68) and on explanatory statements (Art. 69).<sup>25</sup>

<sup>3</sup> Declarations made by authorities on the rejection or raising of claims that must be pursued by taking legal proceedings do not constitute rulings.

#### Art. 6

II. Parties

Parties are persons whose rights or obligations are intended to be affected by the ruling and other persons, organisations or authorities who have a legal remedy against the ruling.

<sup>24</sup> Inserted by Art. 26 of the FD of 7 Oct. 1983 on the Independent Complaints Authority for Radio and Television (AS 1984 153; BBl 1981 III 105). Repealed by Annex No II 1 of the FA of 24 March 2006 on Radio and Television, with effect from 1 April 2007 (AS 2007 737; BBl 2003 1569).

<sup>25</sup> Amended by Annex No 10 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS 2006 2197 1069; BBl 2001 4202).

## Section 2 General Procedural Principles

### Art. 7

A. Jurisdiction  
I. Assessment

- 1 The authority shall assess its jurisdiction *ex officio*.
- 2 The establishment of jurisdiction by agreement between the authority and the party is not permitted.

### Art. 8

II. Referral and  
exchange of  
views

- 1 An authority that regards itself as not having jurisdiction shall refer the matter without delay to the competent authority.
- 2 If an authority regards its jurisdiction as doubtful, it shall immediately enter into an exchange of views with the authority which it considers to have jurisdiction.

### Art. 9

III. Disputes

- 1 An authority that regards itself as having jurisdiction shall confirm this in a ruling if a party contests its jurisdiction.
- 2 An authority that regards itself as not having jurisdiction shall issue a ruling that the matter is inadmissible if a party claims that it has jurisdiction.
- 3 Jurisdictional conflicts between authorities, with the exception of jurisdictional conflicts with the Federal Supreme Court, the Federal Administrative Court or with cantonal authorities, shall be decided by the joint supervisory authority, or in the absence of such, the Federal Council.<sup>26</sup>

### Art. 10

B. Recusal

- 1 Persons who are responsible for preparing or issuing a ruling shall recuse themselves from the case, if they:
  - a. have a personal interest in the matter;
  - b.<sup>27</sup> are related to a party either by marriage or registered partnership or by being the cohabitee of that party;
  - b<sup>bis</sup>.<sup>28</sup> are related to a party by blood or by marriage in a direct line or collaterally to the third degree;

<sup>26</sup> Amended by Annex No 10 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

<sup>27</sup> Amended by Annex No 5 of the Same-Sex Partnerships Act of 18 June 2004, in force since 1 Jan. 2007 (AS **2005** 5685; BBl **2003** 1288).

<sup>28</sup> Inserted by Annex No 5 of the Same-Sex Partnerships Act of 18 June 2004, in force since 1 Jan. 2007 (AS **2005** 5685; BBl **2003** 1288).