

Komenda Główna Straży Granicznej

<https://strazgraniczna.pl/pl/cudzoziemcy/zobowiazania-do-powrotu/12366,Appeal-procedure.html>
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Appeal procedure

27.09.2023

As of 7 April 2023 the Commander-in-Chief of the Border Guard became a higher level (second instance) authority with respect to commanders of Border Guard Regional Units and commanders of Border Guard Posts in the following administrative cases:

- obligation of a foreigner to return,
- extension of the deadline for voluntary departure (previously the deadline for voluntary return),
- revocation of the re-entry ban,
- granting a residence permit for humanitarian reasons,
- withdrawal of residence permit for humanitarian reasons,
- granting a residence permit for tolerated stay,
- withdrawal of a residence permit for tolerated stay,
- issuing or replacing a residence card to a foreigner who has been granted a residence permit for humanitarian reasons,
- issuing or replacing a "permit for tolerated stay" document,
- transfer of a foreigner to another Member State of the European Union, a Member State of the European Free Trade Association (EFTA) - a party to the Agreement on the European Economic Area or the Swiss Confederation on the basis of an international agreement on transfer and reception of persons in force on 13 January 2009.

An appeal against the decision in the aforementioned cases shall be lodged in writing, through the body which issued the decision, within 7 days from the date of receipt of the decision appealed against.

The Commander-in-Chief of the Border Guard has become the body of second instance in relation to the Commander of the Border Guard Unit or the Commander of the Border Guard Post also in cases:

- expulsion of an EU citizen, i.e. a citizen of a Member State of the European Union, a Member State of the European Free Trade Association (EFTA) - a Party to the Agreement on the European Economic Area, the Swiss Confederation or

the United Kingdom of Great Britain and Northern Ireland, or a family member who is not an EU citizen,

- overturning the decision to expel an EU citizen or a family member, who is not an EU citizen.

Appeals in these matters shall be lodged in writing, through the authority which issued the decision, within 14 days of receipt of the decision appealed against.

The filing of an appeal does not require the party to act in person. The party may act through a proxy. Nor does the filing of an appeal require a personal appearance at the premises of the body which issued the contested decision. The appeal may be lodged through the postal operator.

The appeal has an informal form. The content of the appeal does not have to meet any particular requirements. It is sufficient if it shows that the party is dissatisfied with the decision.

The decision of the Commander-in-Chief of the Border Guard issued after the completion of the appeal proceedings may be appealed against to the Voivodeship Administrative Court in Warsaw within 30 days from the receipt of the decision.

Filing a complaint does not suspend the execution of the decision, however, both the Voivodeship Administrative Court and the body that issued the decision may decide to suspend it.