

How to lodge an appeal against a decision by the State Secretariat for Migration (SEM) regarding temporary protection (Status S)?

Have you received a negative decision from the State Secretariat for Migration (SEM) regarding temporary protection (Status S)?

Contact lawyers or legal advice centres in your area immediately if you wish to seek advice or lodge an appeal. The primary point of contact is the [Bern Legal Advice Centre for People in Need](#); you can find other advice centres depending on your canton [here](#). If you are unable to arrange legal advice and need to act immediately, these guidelines will help you. They have been produced by the Swiss Refugee Council (SFH) (www.fluechtlingshilfe.ch), a non-governmental organisation that campaigns for the rights of asylum seekers and refugees. Read the guide carefully and follow the instructions.

1. What you need to know

→ **You can only lodge an appeal once**

The Federal Administrative Court (FAC) has jurisdiction. It is the highest court in asylum proceedings and 'Status S' proceedings and its decisions are final. The address is:

→ **Federal Administrative Court**
P.O. Box, CH-9023 St. Gallen
Telephone +41 (0)58 465 26 26

→ **Do not miss the deadline**

Please note the information **on the deadline** under the heading '**Information on legal remedies**' **at the end of the decision! In proceedings concerning temporary protection (status), the deadline is 30 days** (Art. 108(6) of the Asylum Act). This means you must lodge your appeal within 30 days of receiving the decision

It is best to send your appeal by registered post (for tracking purposes and as proof that the appeal was sent in time). You can find more information on registered letters at the post office counter or online at [Registered Letter | Switzerland](#).

2. Requesting the case file (Form A)

It will be easier for you to substantiate your appeal if you have all the documents on which the SEM's decision is based. You should therefore request the case file relating to your asylum application from the SEM as soon as possible, if you have not already received it automatically.

Use Template **A** for your **request to inspect the files**.

Write directly into the template where you see the symbol **6** .

→ **Complete Template A:**

- 1** Personal details and current address (surname, first name, date of birth of all persons affected by the SEM's decision, street, postcode/town)
- 2** Place, date
- 3** N number (the six-digit number is located in the top left-hand corner of the SEM decision)
- 4** Date of the SEM's decision (shown in the top left-hand corner of the SEM's decision)
- 5** Sign the application to inspect the file.
- 6** Send the form requesting access to the file by registered post to the State Secretariat for Migration, Quellenweg 6, 3003 Bern-Wabern.

You will receive the copies within a few days. You do not normally have to pay anything for this.

3. Preparing your appeal

→ **Do you receive social assistance?**

If so, ask the social assistance office for confirmation. The relevant social assistance office is often the cantonal social welfare office. If you are still living in a federal or cantonal asylum centre, you can ask the centre management or support staff for information about the social assistance office (address, opening hours, etc.).

→ **You must enclose the confirmation of your reliance on social assistance with your appeal. If you only receive the confirmation after the appeal deadline has passed, send it in as soon as possible. Have the SEM's decision translated.**

Make a note of the SEM's arguments that led to the rejection of your application for temporary protection. You should address these in your appeal.

→ **Obtain supporting evidence.**

You must **send**, together with the appeal, **all evidence that is relevant to your case** and which you have not yet submitted to the Swiss authorities (e.g. medical reports, court judgements, etc.). Make sure you organise all the documents in good time.

4. Writing the appeal (Template B)

An appeal may be submitted in **German, French or Italian**. Perhaps you know someone who can help you write it? You can also use appeal template **B**. The most important requests are pre-printed. **You must complete and add to the form in accordance with your personal circumstances**. Write directly into the template where you see these symbols ✎. Use additional sheets if there is not enough space.

→ **Complete the Appeal Template B point by point:**

- 7** Place, date

8 Personal details and home address (surname, first name, date of birth, street, postcode/town. List all persons mentioned in the SEM's decision.)

9 Date of the SEM's decision (shown in the top left-hand corner of the SEM's decision)

10 N number (the six-digit number is shown in the top left-hand corner of the SEM decision)

11 This is the **most important part of the appeal**. Here, explain in detail why you disagree with the SEM's decision and why you wish to remain in Switzerland. Add additional pages if the space provided is insufficient. Please note:

- Address all of the SEM's arguments.
- Does the SEM's decision assume that your explanations cannot be believed? If so, list all your counter-arguments and try to explain any contradictions or misunderstandings.
- What would happen to you if you were now forced to return to Ukraine or your home country, or to a European country where you had been staying in the meantime? Explain in detail why you cannot go there (e.g. danger due to Russian attacks, persecution, lack of means of support, relatives/acquaintances or a job in Switzerland, your children's integration).
- Please enclose any supporting documents that you have not already submitted (e.g. court judgements, medical reports, newspaper articles, etc.) and explain their significance.

12 If you are not granted temporary protection (Status S), you may **be granted provisional admission** to Switzerland (**F permit**) **if your removal is not feasible**. Removal is not feasible if it would be inhumane to send you back to Ukraine or to the other country. This would be the case, for example, if you were **at specific risk** there for reasons other than those already mentioned.

Please describe here any further reasons, in addition to those already mentioned, which, in your case, argue against your return to Ukraine or to the other country. Explain what the consequences of a return would be for you.

Some examples:

- Enforcement of the removal order is unreasonable on **medical grounds** if treatment for a serious illness can only be carried out in Switzerland. Explain what the consequences of removal would be for you and enclose up-to-date medical reports. Request that the Federal Administrative Court obtain an expert opinion.
- You are unable to return due to **your age, dependence on carers, childcare responsibilities**, etc.
- **No means of subsistence** (no accommodation, lack of income, no support from family or acquaintances, etc.).
- There is a situation of **war or widespread violence** in Ukraine or the other country.
- Contrary to the SEM's assessment, the **region is not safe** due to Russian attacks, etc., and a return is not reasonable.
- They would be required to **perform military service** but are unable or unwilling to do so for specific reasons.

13 The SEM has **failed to clarify one or more points** (e.g. health issues, the welfare of the children, your integration in Switzerland).

Please explain here what the SEM should have investigated in more detail and why the SEM should review your case more closely and reassess it.

- 14** If you have put forward **grounds for asylum** during the proceedings to date, state here which grounds the SEM should examine in an **asylum procedure** (persecution on grounds of race, religion, nationality, membership of a particular social group or political opinion, and consequently serious harm or a well-founded fear of being subjected to such harm; see Article 3 of the Asylum Act).
- 15** On the last page, list all the supporting documents you are enclosing. Send the originals. Keep copies for yourself. You must enclose a copy of the SEM's decision. Also enclose confirmation from your **social welfare office** if you are receiving social assistance. **Now make two copies of the entire appeal.**
- 16** Sign all three copies. **Send two copies of the appeal**, together with all supporting documents (copy of the SEM decision, confirmation from the social welfare office and your other evidence), by **registered post** to the Federal Administrative Court, PO Box, 9023 St. Gallen. **Please note the deadline!**

5. What happens next?

You will receive post from the Federal Administrative Court. Have the contents translated and respond if necessary. There are various options. Only the most important ones are listed below:

- You will receive an **acknowledgement of receipt** from the Federal Administrative Court. You may remain in Switzerland legally until the judgement is handed down. However, the judgement may arrive within a few days.
- The Federal Administrative Court will decide whether the appeal is '**manifestly unfounded**'. In such a case, it will require an **advance payment of costs** and set a deadline for you to pay. If you do not pay, your appeal will not be considered. If you do pay, the appeal will be considered, but the chances of success are very slim.
- The Federal Administrative Court will set you a short deadline to rectify any errors in the appeal. It is essential that you respond, otherwise your appeal will not be considered.
- The Federal Administrative Court will give you the opportunity to comment on a new statement from the SEM. Respond to this if necessary and appropriate.

The Federal Administrative Court's ruling may vary. If it is negative, you must leave Switzerland. The Federal Administrative Court may refer the entire case back to the SEM for further investigation. The ruling may be favourable, in which case you will be granted temporary protection (S status) in Switzerland or be provisionally admitted. If grounds for asylum are asserted, the SEM may (only after the S procedure has been concluded) conduct an asylum procedure and, if appropriate, grant you asylum.

A decision by the Federal Administrative Court on the appeal is usually final; it is not possible to appeal to the Federal Supreme Court. Only in very specific cases is it possible to submit a request for reconsideration or a review. Please enquire at a [legal advice centre](#).