

ATCO Appeal Process (Persons & Organisations) CIVIL AVIATION DIRECTORATE

Transport Malta, Malta Transport Centre, Pantar Road, Lija LJA 2021 Malta. Tel:+356 2555 5000 cadpel.tm@transport.gov.mt www.transport.gov.mt

1.0 Scope

Air traffic control services within the scope of Regulation (EU) 2018/1139 shall only be provided by air traffic controllers licenced in accordance with Regulation (EU) 2015/340.

Legal and/or licensing action may be taken by the Director General Civil Aviation against an ATC licence holder or organisation when there is a breach of legal requirements (Reference to PEL 19 and PEL 20)

This document is to serve as guidance to persons and organisations on the process to follow for an appeal.

2.0 Appeal Process – Student/ ATC Licence Holders (or applicants)

An Air Traffic Controller may appeal from the decision of the DGCA to suspend or revoke his/her licence, ratings or certificates in accordance with Article 92 of the ANO, as amended:

“An appeal shall lie to the Minister from any decision of the Director that a person is not a fit person to hold a licence to act as air aircraft maintenance engineer, member of the flight crew of an aircraft, Air Traffic Controller or student air traffic controller, and if the Minister is satisfied on the evidence submitted, that the decision should be reversed, the Minister may reverse such decision:

Provided that an appeal shall not lie from a decision of the Director that a person is not qualified to hold the licence by reason of a deficiency in his/her knowledge, experience, competence, skill, physical or mental fitness.”

Article 92 of the Air Navigation Order 1990, as amended

2.1 How to request an appeal

1. A request for an appeal from a decision taken by the Personnel Licencing Unit in its capacity representing the Direction General for Civil Aviation, is to be made in writing. This request must reach the office of the Director General for Civil Aviation within 14 days after receiving the written notification of the outcome of application.
2. The notification issued by TM-CAD will normally provide details on whom the applicant is to contact to request an appeal.

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2.2 Appeal course of events

The following timeframe of events will be followed:

Applicant requests appeal	The applicant may request an appeal from a decision or proposal not later than 14 days from date of notification.
The applicant is notified of the timetable for the appeal process	A Review Panel Lawyer is appointed to manage the request of appeal and will write to the applicant with details of the process to follow including the timetable for submissions to Minister.
Applicant sends to TM-CAD representations	Applicant sets out the grounds on which it is being considered the test, exam, application or certificate was not properly executed. These must be sent within 21 days from notification of failure, suspension or revocation.
Brief prepared by TM-CAD Technical Review Board	TM-CAD Technical Review Board will produce a brief responding to the applicant's case.
The applicant may submit a response to the TM-CAD Technical Review Board Brief	The applicant may respond to TM-CAD Technical Review Board's Brief.
Bundle of documents circulated	The Review Panel Lawyer circulates the bundle of documents before onward submission to the Minister's office. Documents will consist of the applicant's representations, TM-CAD Technical Review Board Brief and the applicant's response (if any). Circulation of documents will include, the Director General for Civil Aviation, the Head of Personnel Licencing and any other technical senior official that may be nominated by the Directorate General to advice on the case.
Date of hearing	Following submission of dossier of documentation to the office of the Minister, a date of hearing will be set by same office.

1. If any new information or arguments, which were not contained within the documents presented, are introduced, either by the applicant or TM-CAD Technical Review Board members, a request to the Minister's office may be submitted for the hearing to be adjourned to allow time for all parties to consider the new issues.
2. If the applicant decides not to attend or be represented at the hearing, the appeal will be undertaken by the DGCA together with TM-CAD Technical Review Board, based on the documentation made available for the case.

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2.3 Decision

1. The Minister will decide whether the decision was properly conducted. In the case of checks, tests, assessments (including medical assessments) and theoretical knowledge examination, the decision will not be based on whether the applicant should have passed or failed but if the process was well conducted.
2. If the Minister is satisfied with the evidence submitted, that the decision should be reversed, the Minister may reverse the decision of the Director General.
3. The final report issued by TM-CAD will relay the decision reached by the Minister following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.

3.0 Appeal Process – Training Organisations

In the event that the application for an organisation certificate is refused, the applicant will be informed in writing by the Head of Personnel Licencing. The organisation will have the right to present its case appealing from the decision taken. The notification issued by the Head of Personnel Licencing will normally provide details on whom the applicant is to contact to request an appeal.

A request for an appeal from the decision taken by the Personnel Licencing Unit, is to be made in writing. This request must reach the office of the Director General for Civil Aviation within 14 days after receiving the written notification of the outcome of application.

In its representation of the case, the organisation sets out the grounds on which it is being considered that the evaluation of the application for a Training Organisation was not properly executed.

The applicant is then notified by the office of the Director General Civil Aviation, acknowledging receipt and indicating timeframes required to manage the request of appeal taking into consideration the representation of the case by the Head of Personnel Licencing. The timeframe of the process shall be concluded within 21 days from the

receipt by TM CAD of the letter of appeal together with all the documents submitted by the organisation.

If the Director General Civil Aviation is satisfied with the evidence submitted, that the decision should be reversed, the Head of Personnel Licencing is advised accordingly to proceed and finalise the process.

In the event that the Director General Civil Aviation is not satisfied that the evidence and case presented by the organisation merits a change from the decision reached by the Head of Personnel Licencing, then the application process will be terminated accordingly.

The final report issued by TM-CAD will relay the decision reached by the Director General Personnel Licencing following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.

Personnel Licencing Section

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