

ATCO Guidance on requesting a review or appeal (Persons & Organisations)
CIVIL AVIATION DIRECTORATE

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1.0 Scope

This document serves as guidance to persons or organisations on the process to follow for an appeal of an examination, test or assessment or the right for a review of a test.

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 Review

2.1 How do I request a review of a language test assessment?

An applicant may request a review of a language test examination whereby TMCAD will provide information on the weak or failed testing criteria established as per ICAO language proficiency requirements. The request for review must be done within 20 days from the receipt of the language assessment result notification and is to reach the Head of Personnel Licensing in writing. The fee for a review of language assessment is €100 per assessment.

A candidate that has failed the test (Level 3 or lower), may exercise his/her privilege of requesting a review of the assessment conducted and request that Transport Malta Civil Aviation Directorate determines whether the test was properly conducted. Mere dissatisfaction with the result is not sufficient reason for requesting a review. The Chief Language Examiner or an assessor assigned by the Head of Personnel Licensing will listen to the audio tape recording and see whether the candidate had reason to lodge his/her request to review. The result of the review will be communicated in writing to the candidate. If the candidate is still unhappy with the outcome of the review conducted, also known as the internal appeal process, he/she may apply the appeal process as stated in the Air Navigation Act (Cap 641), together with its associated regulatory instruments issued pursuant to Article 5, as per section 3 below.

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

An ATCO may appeal from the decision of the DGCA to suspend or revoke his/her licence, ratings or certificates in accordance with Article 91 of the Air Navigation Act (Cap641), together with its associated Regulatory Instruments issued pursuant to Article 5 and Commission Regulation (EU) 2015/340 as amended:

3.1 Appeal of a refusal, suspension or revocation of a licence, certificate or rating

An appeal, under legislation and regulation above-mentioned, may be applied for in the following circumstances:

1. Any ATCO who has failed any check, test or assessment which must be passed before being granted a licence, rating or certificate or which are required to exercise the privileges of the latter may request that TMCAD reviews the conduct of the test to ascertain whether this was properly conducted.
2. Suspension or revocation of a licence, rating or certificate of an ATCO

In these cases, the appeals are undertaken by the Director General for Civil Aviation.

3.2 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 in the capacity representing the Director General for Civil Aviation. 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 and the Aviation Appeals Board within 20 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 final report issued will relay the decision reached by the Aviation Appeals Board following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.

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4.0 Grievance on Appeal Decision

An appeal from the decision of the Director General for Civil Aviation can be put forward to the Aviation Appeals Board, provided that the basis of the decision that a person is not fit to hold a licence, was not based on the deficiency in the appellant's knowledge, experience, competence, skill, physical or mental illness.

Air Navigation Act Article 91

4.1 How do I request an appeal from a Decision?

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 20 days after receiving the written notification of the outcome of application made in any of the circumstances mentioned in section 3 above.

The notification issued by TMCAD will normally provide details on whom the applicant is to contact to request an appeal.

4.2 What happens next?

The following time frame of events will be followed:

Applicant requests appeal	The applicant may request an appeal from a decision or proposal not later than 20 days from date of notification. (Ref: 4.1 above).
The applicant is notified of the timetable for the appeal process	This is handled by the Aviation Appeals Board established in terms of article 89 in the Air Navigation Act.

4.3 The decision

The Aviation Appeals Board 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.

If the Aviation Appeals Board is satisfied with the evidence submitted, that the decision should be reversed, the Aviation Appeals Board may reverse the decision of the Director General.

The final report issued by TMCAD will relay the decision reached by the Aviation Appeals Board following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.