



European Maritime Safety Agency

**DECISION OF THE ADMINISTRATIVE BOARD**

**of 20th of November 2009**

**on the implementation of the certification procedure**

The Administrative Board of the European Maritime Safety Agency,

Having regard to the Staff Regulations of officials of the European Communities (hereafter SR) and the Conditions of employment of other servants of those Communities (hereafter CEOS) as laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, , and in particular Article 45a,

Having regard to the Council Regulation (EC) n° No 1406/2002<sup>1</sup> of 27 June 2002 establishing the European maritime Safety Agency, and in particular article 6 thereof.

After consultation of the Staff Committee and in agreement with the European Commission pursuant to Article 110 of the SR,

Whereas:

(1) The Staff Regulations, as amended on 1 May 2004, provide for two function groups: the assistants' function group (hereafter function group AST) and the administrators' function group (hereafter function group AD).

(2) Under article 45a of the Staff Regulations a certification procedure must be established whereby officials in grade 5 upwards of function group AST can be selected as being suitable for appointment to a job in function group AD.

(3) Under article 45a(5) each institution is to adopt general provisions for implementing the certification procedure.

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<sup>1</sup> OJ L 208, 5.8.2002, p.1, as amended by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 10) and Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004 (OJ L 129, 29.4.2004, p. 1).

HAS ADOPTED THIS DECISION:

*Article 1: Purpose*

1. The purpose of the certification procedure is to select officials in grade 5 upwards of function group AST as being suitable for appointment to a job in function group AD.

*Article 2: Frequency and stages of the certification procedure*

1. The certification procedure shall be organised annually as from 2010, unless there are not eligible officials. Should this be the case, the Head of Unit for Human Resources will inform in advance the Appointing Authority.
2. It shall comprise six stages: (a) publication of a call for applications and determination of the number of officials authorised to follow the training programme; (b) establishment by the Appointing Authority of the list of officials authorised to take part in the training programme; (c) participation in the training programme; (d) organisation of written and oral tests and establishment by the appointing authority of the list of applicants who have passed the tests demonstrating that they have successfully completed the training programme; (e) publication by the appointing authority of the list of EMSA officials who have passed the tests, (f) appointment to jobs in function group AD.

*Article 3: Call for applications*

1. Every year that there are eligible staff, in consultation with the joint committee provided for in Article 9, the Appointing Authority shall determine the number of officials to be authorised to take part in the training programme referred to in Article 45a(1) of the Staff Regulations. Following that decision, the appointing authority shall publish a call for applications.
2. Officials in grades 5 upwards of function group AST who have been appointed to a permanent post in EMSA in accordance with article 1a of the Staff Regulations and who, on the date of publication of the call for applications, are seconded in the service or whose administrative status as referred to in Article 35 of the Staff Regulations is one of the following: active employment, parental leave or family leave, may apply for certification.

However, the following officials may not apply:

- a. those who, during the year in question or the following year, are to be automatically retired under Article 52 of the Staff Regulations;
- b. those in respect of whom EMSA has adopted a decision resulting in the definitive termination of their service within the meaning of Article 47 of the Staff Regulations;

- c. those to whom ESMA has granted an invalidity allowance under Article 78 of the Staff Regulations.

*Article 4: Establishment of the list of officials selected to follow the training programme*

1. The officials referred to in Article 3(2) shall be pre-selected provided they meet both of the following conditions:
  - a. One of their five most recent annual career development reports as referred to in Article 1 of the general provisions for implementing Article 43 of the Staff Regulations must state that they have the potential required to take on the functions of an administrator.
  - b. The official concerned must be in grade 5 or above .
2. During each certification exercise, the appointing authority shall publish a draft list of officials who have been admitted to the certification procedure on the basis of the two above-mentioned criteria.
3. The appointing authority shall rank the admitted applicants on the basis of the following criteria:
  - merit as indicated in their annual career development reports;
  - their level of education as demonstrated by officially recognised qualifications/diplomas;
  - their recent professional experience acquired in the institutions in those fields where the Commission has identified particular needs.

The appointing authority shall establish two lists on the basis of the above-mentioned criteria: one list shall combine merit and level of education; a second list shall combine merit and recent professional experience. The highest-ranked applicants on the two lists, down to a ranking decided according to the number of posts determined in accordance with Article 3, shall be pre-selected. These officials are referred to as the pre-selected applicants.

The definition of the number of candidates to pre-select on each list and the detailed rules for applying the ranking criteria and for pre-selecting the candidates shall be decided by the appointing authority after consulting the committee provided for in Article 10. They may be adjusted each year by decision of the appointing authority.

4. The appointing authority shall publish the draft list of admitted applicants referred to in paragraph 2 and the draft list with the names of applicants pre-selected on the basis of the two rankings determined in accordance with paragraph 3.

All admitted applicants shall be notified of the number of points obtained and of their position in the two rankings established by the appointing authority on the basis of the criteria referred to in paragraph 3.

5. Officials who have applied and believe that they meet the criteria set out in paragraph 1 but who are not included on the list referred to in paragraph 2 and officials who contest the number of points obtained on the basis of the criteria

referred to in paragraph 3 may appeal to the committee provided for in Article 10 within ten working days of the publication of the list.

They must state the reasons for their appeal and supply the committee referred to in Article 10 with all the relevant supporting documents and information.

The committee shall deliver an opinion and notify the appointing authority thereof. On the basis of this opinion, the appointing authority shall decide on the action to be taken.

6. The appointing authority shall adopt and publish the final lists of admitted and preselected applicants.

***Article 5: Establishment of the list of officials authorised to take part in the training programme***

1. The appointing authority shall identify those amongst the pre-selected applicants who will be allowed to follow the training programme, adhering to the number determined in accordance with Article 3. The points and ranking obtained during the pre-selection phase shall no longer be taken into account.
2. Each Unit shall provide an opinion on each of the preselected officials and communicate it to the Human Resources Unit.

This opinion shall be motivated and take the form of points allocated to the preselected applicants, taking into account the needs of the services and in particular:

- the responsibilities and duties currently performed by the pre-selected applicants as mentioned in their job description or other relevant documents, and how these responsibilities and duties are carried out by the applicants;
- their versatility on the basis of the various functions performed and responsibilities held within the European Institutions;
- the relevant training courses followed as mentioned in their training passport<sup>2</sup>; the ability to work in Community languages as required by the service; the ability to follow a training programme in French or English (given that the candidates may not follow the training referred to in Article 6 in their principal language).

The Unit responsible shall be that to which the pre-selected applicant is assigned on the date of signature of his/her application for the certification procedure.

The common evaluation grids and guidelines for allocating the points and establishing the ranking, established by the appointing authority after consulting the committee provided for in Article 10, shall be communicated to the Units. They may be adjusted each year.

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<sup>2</sup> validation of the training map by the reporting officer means that the latter will allow the jobholder to follow the course(s) mentioned while taking into account the needs of the service.

3. The threshold is the minimum number of points required in order to be allowed to take part in the training programme. The threshold is equal to the number of points obtained by the official ranked at a place corresponding to the number determined in accordance with Article 3.

The points allocated by the Unit shall be submitted to the Human Resources Unit, which shall publish the list of the applicants having reached or passed the threshold.

All pre-selected applicants shall be notified of the number of points obtained and of their ranking.

4. Pre-selected applicants who contest the number of points obtained on the basis of the criteria referred to in paragraph 2 may appeal to the committee provided for in Article 10 within ten working days of publication of the list.

They must state the reasons for their appeal and supply the committee referred to in Article 10 with all the relevant supporting documents and information.

5. The committee shall deliver an opinion and notify the appointing authority thereof. The committee shall, where necessary, propose modifying the ranking and the number of points granted even to pre-selected applicants who did not lodge an appeal.
6. Where the number of officials having reached or passed the threshold exceeds the number determined in accordance with Article 3, the committee shall adopt a substantiated proposal aimed at deciding between officials whose number of points coincides exactly with the threshold (the *ex-aequo* group). To that end, the committee shall take account of subsidiary factors such as the length in service as official or temporary member of staff in grade 5 or above — excluding the *ex-C/C\** or *ex-D/D\** career paths — and, where the length of service is the same, the principle of equal opportunities.
7. On the basis of the proposal of the committee, the appointing authority shall adopt the list of officials authorised to take part in the training programme. This list shall be published by the Human Resources Unit.

#### *Article 6: Participation in the training programme*

Pursuant to Article 2(2) of the Staff Regulations, EMSA shall delegate authority for drawing up and organising the training programme to the European Administrative School (hereafter "the School"), in accordance with the Decision of the Secretaries-General of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions and the representative of the European Ombudsman on the organisation and running of the European Administrative School.

EMSA has to conclude a Service Level Agreement with the School.

An official who is included on the list referred to in the last subparagraph of Article 4(4) and who qualifies for parental leave under Article 42a, family leave under Article 42b or maternity leave under Article 58 of the Staff Regulations before or

during the period of the training programme shall be authorised to take part in the training programme the following year without having to submit a new application.

EMSA shall ascertain from the School that the way in which the training programme is organised enables officials in post at places of employment other than Brussels or Luxembourg, and officials authorised to work part time under Article 55a(2) of the Staff Regulations to participate.

*Article 7: Organisation of written and oral tests and establishment of the list of officials who have passed the tests demonstrating that they have successfully completed the training programme*

1. The content of the written and oral tests shall be determined by the European Personnel Selection Office, hereinafter 'EPSO' and the "School". Pursuant to Article 2(2) of the Staff Regulations, EMSA shall delegate the organisation of written and oral tests and the establishment of the list of officials who have passed the tests to EPSO and to the School.
2. Only officials whom the School certifies as having followed the programme shall be authorised to sit the tests.
3. Officials certified by the School as having followed the training programme but not included on the list referred to in paragraph 1 shall be allowed to re-sit twice the tests referred to in paragraph 1 that they have failed, provided they still fulfil the conditions referred to in Article 3(2).

*Article 8: Publication of the list of officials who have passed the tests demonstrating that they have successfully completed the training programme*

The appointing authority shall publish the list established by EPSO of officials who have passed the written and oral tests in question.

*Article 8: Applications for vacant posts in the function group AD*

1. Officials included in the list referred to in Article 8 may apply, with no time limit, for vacant posts in the function group AD corresponding to their grade in accordance with the conditions laid down in Article 29(a)(ii) and (b) of the Staff Regulations.
2. The Head of Unit for Human Resources shall make every effort to ensure that the number of officials having successfully completed the certification procedure and been appointed to jobs in function group AD is no more than 20% of the total number of appointments in that function group. It shall check this every five years, for the first time, in 2010.

*Article 10: Joint certification Committee*

1. A joint certification committee shall be established.
2. The committee shall comprise the following: a chairperson and alternate who both perform the function of deputy director/head of unit, appointed by the Executive Director; one member and one alternate member belonging to the function group AD, appointed by the Executive Director and one member and one alternate members belonging to the function group AD, appointed by the Staff Committee.
3. In the absence of the chairperson, the alternate shall preside. Alternate members may attend meetings even when full members are present; however, in that case they shall not be entitled to vote. Alternate members shall automatically be entitled to vote if the full member they represent is absent.

In case the chairperson is absent, the Committee cannot meet.

The chairperson or any committee member having an interest likely to compromise their independence when discussing a dossier must stand down in favour of their alternate or cease participation in the work of the committee.

4. The committee shall be convened by its chairperson. Its decisions shall be valid provided that the three members entitled to vote are present. Opinions shall be adopted by simple majority of the members entitled to vote who are present. The chairperson shall vote only in the case of a tied vote.
5. At its first meeting the committee shall adopt its rules of procedure by a majority of two thirds of its members; the chairperson shall be entitled to vote.
6. At the beginning of each year the committee shall adopt an opinion on the results of the previous year's certification exercise. The opinion may be accompanied by recommendations. The committee shall notify the appointing authority of its opinion.

*Article 11: Final provisions*

This Decision shall enter into force on the day following that of its adoption.

Done at Lisbon 20.11.2009

For the AGENCY:



Jørgen Hämmer Hansen

*Chairman of the Administrative Board*

