

Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC (Text with EEA relevance)

## *CHAPTER VIII*

### ***Management and audit system***

#### *Article 25*

#### **Complementarity**

The Commission, in cooperation with the Member States, shall ensure the overall consistency and complementarity of the Programme with:

- (a) the relevant policies and programmes, in particular those relating to culture and the media, employment, research and innovation, industry and enterprise, cohesion and development policy, as well as enlargement policy and initiatives, instruments and strategies in the field of regional policy and external relations;
- (b) the other Union relevant sources of funding for education, training, youth and sport, in particular the European Social Fund and the other financial instruments relating to employment and social inclusion, the European Regional Development Fund and 'Horizon 2020' - the Framework Programme for Research and Innovation, as well as the financial instruments relating to justice and citizenship, health, external cooperation programmes and pre-accession assistance.

#### *Article 26*

#### **Implementing bodies**

The Programme shall be implemented in a consistent manner by the following bodies:

- (a) the Commission at Union level;
- (b) the national agencies at national level in the Programme countries.

#### *Article 27*

#### **National authority**

1 The term 'national authority' refers to one or more national authorities in accordance with national law and practice.

2 By 22 January 2014, the Member States shall notify the Commission, by way of a formal notification transmitted by their Permanent Representation, of the person(s) legally authorised to act on their behalf as the national authority for the purposes of this Regulation. In the event of replacement of the national authority during the course of the Programme's lifetime,

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the relevant Member State shall notify the Commission thereof immediately, in accordance with the same procedure.

3 The Member States shall take all appropriate measures to remove legal and administrative obstacles to the proper functioning of the Programme, including, where possible, measures aimed at resolving issues that give rise to difficulties in obtaining visas.

4 By 22 March 2014, the national authority shall designate a national agency or national agencies. In cases where there is more than one national agency, Member States shall establish an appropriate mechanism for the coordinated management of the implementation of the Programme at national level, particularly with a view to ensuring coherent and cost-efficient implementation of the Programme and effective contact with the Commission in this respect, and to facilitating the possible transfer of funds between agencies, thereby allowing for flexibility and better use of funds allocated to Member States. Without prejudice to Article 29(3), each Member State shall determine how it organises the relationship between its national authority and the national agency, including tasks such as the establishment of the national agency's annual work programme.

The national authority shall provide the Commission with an appropriate ex-ante compliance assessment that the national agency complies with points (c)(v) and (vi) of Article 58(1) and Article 60(1), (2) and (3) of Regulation (EU, Euratom) No 966/2012, and Article 38 of Commission Delegated Regulation (EU) No 1268/2012<sup>(1)</sup>, as well as with the Union requirements for internal control standards for national agencies and rules for the management of Programme funds for grant support.

5 The national authority shall designate an independent audit body as referred to in Article 30.

6 The national authority shall base its ex-ante compliance assessment on its own controls and audits, and/or on controls and audits undertaken by the independent audit body referred to in Article 30.

7 Where the national agency designated for the Programme is the same as the national agency designated for the predecessor Lifelong Learning or Youth in Action programmes, the scope of the controls and audits for the ex-ante compliance assessment may be limited to the requirements that are new and specific to the Programme.

8 The national authority shall monitor and supervise the management of the Programme at national level. It shall inform and consult the Commission in due time prior to taking any decision that may have a significant impact on the management of the Programme, in particular regarding its national agency.

9 The national authority shall provide adequate co-financing for the operations of its national agency to ensure that the Programme is managed in compliance with the applicable Union rules.

10 In the event that the Commission rejects the designation of the national agency based on its evaluation of the ex-ante compliance assessment, the national authority shall ensure that the necessary remedial steps are taken to enable the national agency to comply with the minimum requirements set by the Commission, or shall designate another body as national agency.

11 Based on the national agency's yearly management declaration, the independent audit opinion thereon and the Commission's analysis of the national agency's compliance and performance, the national authority shall provide the Commission, by 31 October of each

year, with information concerning its monitoring and supervision activities in relation to the Programme.

12 The national authority shall take responsibility for the proper management of the Union funds transferred by the Commission to the national agency by way of grant support to be awarded under the Programme.

13 In the event of any irregularity, negligence or fraud attributable to the national agency, or any serious shortcomings or underperformance on the part of the national agency, where this gives rise to claims by the Commission against the national agency, the national authority shall be liable to reimburse to the Commission the funds not recovered.

14 In the circumstances described in paragraph 13, the national authority may, on its own initiative or upon request from the Commission, revoke the mandate of the national agency. Should the national authority wish to revoke that mandate for any other justified reason, it shall notify the Commission of the revocation at least six months before the envisaged date of termination of the mandate of the national agency. In such cases, the national authority and the Commission shall formally agree on specific and timed transition measures.

15 In the event of revocation, the national authority shall carry out the necessary controls regarding the Union funds entrusted to the national agency whose mandate has been revoked, and shall ensure an unimpeded transfer to the new national agency of those funds and of all documents and management tools required for the management of the Programme. The national authority shall provide the national agency whose mandate has been revoked with the necessary financial support to continue to meet its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

16 If so requested by the Commission, the national authority shall designate the institutions or organisations, or the types of such institutions and organisations, to be considered eligible to participate in specific Programme actions in their respective territories.

#### *Article 28*

#### **National agency**

1 The term 'national agency' refers to one or more national agencies in accordance with national law and practice.

2 The national agency shall:

- a have legal personality or be part of an entity having legal personality, and be governed by the law of the Member State concerned; a ministry may not be designated as a national agency;
- b have the adequate management capacity, staff and infrastructure to fulfil its tasks satisfactorily, ensuring efficient and effective management of the Programme and sound financial management of Union funds;
- c have the operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;
- d offer adequate financial guarantees, issued preferably by a public authority, corresponding to the level of Union funds it will be called upon to manage;
- e be designated for the duration of the Programme.

3 The national agency shall be responsible for managing all stages of the project lifecycle of the following Programme actions, in conformity with points (c)(v) and (vi) of Article

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58(1) of Regulation (EU, Euratom) No 966/2012 and with Article 44 of Delegated Regulation (EU) No 1268/2012:

- a learning mobility of individuals, with the exception of mobility organised on the basis of joint or double/multiple degrees, large-scale volunteering projects and the Student Loan Guarantee Facility;
- b strategic partnerships within the action 'cooperation for innovation and the exchange of good practices';
- c the management of small-scale activities supporting the structured dialogue in the youth field within the action 'support for policy reform'.

4 By way of derogation from paragraph 3, the selection and award decisions for the strategic partnerships referred to in point (b) of paragraph 3 may be managed at Union level, if a decision to that effect is taken in accordance with the examination procedure referred to in Article 36(3) and only in specific cases where there are clear grounds for such centralisation.

5 The national agency shall issue grant support to beneficiaries either by way of a grant agreement or a grant decision, as specified by the Commission for the Programme action concerned.

6 The national agency shall report each year to the Commission and to its national authority in accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012. The national agency shall be in charge of implementing the observations issued by the Commission following its analysis of the yearly management declaration and of the independent audit opinion thereon.

7 The national agency may not without prior written authorisation from the national authority and the Commission delegate to a third party any task of Programme or budget implementation conferred on it. The national agency shall retain sole responsibility for any tasks delegated to a third party.

8 Where the mandate of a national agency is revoked, that national agency shall remain legally responsible for meeting its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

9 The national agency shall be in charge of managing and winding up the financial agreements relating to the predecessor Lifelong Learning and Youth in Action programmes that are still open at the beginning of the Programme.

#### *Article 29*

### **European Commission**

1 Within two months of receipt from the national authority of the ex-ante compliance assessment referred to in Article 27(4), the Commission shall accept, conditionally accept or reject the designation of the national agency. The Commission shall not enter into a contractual relationship with the national agency until it has accepted the ex-ante compliance assessment. In the event of conditional acceptance, the Commission may apply proportionate precautionary measures to its contractual relationship with the national agency.

2 Upon accepting the ex-ante compliance assessment by the national agency designated for the Programme, the Commission shall formalise the legal responsibilities with regard to the financial agreements relating to the predecessor Lifelong Learning and Youth in Action programmes which are still open at the start of the Programme.

3 In accordance with Article 27(4), the document governing the contractual relationship between the Commission and the national agency shall:

- a stipulate the internal control standards for national agencies and the rules for the management of the Union funds for grant support by the national agencies;
- b include the national agency work programme comprising the management tasks of the national agency to which Union support is provided;
- c specify the reporting requirements for the national agency.

4 The Commission shall each year make the following Programme funds available to the national agency:

- a funds for grant support in the Member State concerned for the actions of the Programme the management of which is entrusted to the national agency;
- b a financial contribution in support of the Programme management tasks of the national agency. This shall be provided in the form of a flat-rate contribution to the operational costs of the national agency and shall be established on the basis of the amount of Union funds for grant support entrusted to the national agency.

5 The Commission shall set the requirements for the national agency work programme. The Commission shall not make Programme funds available to the national agency until the Commission has formally approved the national agency's work programme.

6 On the basis of the compliance requirements for national agencies referred to in Article 27(4), the Commission shall review the national management and control systems, in particular on the basis of the ex-ante compliance assessment provided to it by the national authority, the national agency's yearly management declaration and the opinion of the independent audit body thereon, taking due account of the yearly information provided by the national authority on its monitoring and supervision activities with regard to the Programme.

7 After assessing the yearly management declaration and the opinion of the independent audit body thereon, the Commission shall address its opinion and observations thereon to the national agency and the national authority.

8 In the event that the Commission cannot accept the yearly management declaration or the independent audit opinion thereon, or in the event of unsatisfactory implementation by the national agency of the Commission's observations, the Commission may implement any precautionary and corrective measures necessary to safeguard the Union's financial interests in accordance with Article 60(4) of Regulation (EU, Euratom) No 966/2012.

9 The Commission shall organise regular meetings with the network of national agencies in order to ensure coherent implementation of the Programme across all Programme countries.

### *Article 30*

#### **Independent audit body**

1 The independent audit body shall issue an audit opinion on the yearly management declaration referred to in Article 60(5) of Regulation (EU, Euratom) No 966/2012.

2 The independent audit body shall:

- a have the necessary professional competence to carry out public sector audits;
- b ensure that its audits take account of internationally accepted audit standards;

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- c not be in a position of conflict of interest with regard to the legal entity of which the national agency forms part. In particular, it shall be independent, in terms of its functions, of the legal entity of which the national agency forms part.

3 The independent audit body shall give the Commission and its representatives, as well as the Court of Auditors, full access to all documents and reports in support of the audit opinion that it issues on the national agency's yearly management declaration.

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- (1) Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union ([OJ L 362, 31.12.2012, p. 1](#)).

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