

L.N. 401 of 2018

**PUBLIC ADMINISTRATION ACT
(CAP. 497)**

**European Union Programmes Agency
(Establishment) Order, 2018**

IN EXERCISE of the powers conferred by article 36(1) of the Public Administration Act, the Prime Minister has made the following Order:-

Title. 1. The title of this order is the European Union Programmes Agency (Establishment) Order, 2018.

Interpretation. 2. (1) In this order, unless the context otherwise requires -

"actions" means the various initiatives and measures under each programme;

Cap. 460. "European Union" means the European Union as defined in article 2 of the European Union Act;

"Minister" means the Minister responsible for European Funds;

"National Agency" means the European Union Programmes Agency established in article 3(1);

"National Authority" means the office duly designated as such in accordance with EU Regulations to monitor and supervise the management of the National Agency at national level in the implementation of the programme for European Union action in the field of education, training, youth and sport;

"National Co-ordinator" means the officer appointed with the responsibility of managing the European Union Programmes Agency;

"network" means a formal or informal grouping of bodies active in a particular field, discipline or sector of education, training, youth and sport;

"Operational Handbooks" means the guidelines established by the European Commission to manage the programmes.

3. (1) There shall be a National Agency, to be known as the European Union Programmes Agency, which shall serve to promote, implement and manage the Erasmus+ Programme 2014-2020 and any other programmes and initiatives of the European Union as designated by the Minister or the National Authority as the case may be.

(2) The Agency shall assume the responsibilities previously vested in the European Union Programmes Agency, established by means of the European Union Programmes Agency Regulations, which is being reconstituted by virtue of this order.

S.L. 327.316.

(3) All employees previously performing duties with, and any other public officer currently deployed with, the European Union Programmes Agency within the Ministry of Education shall be regarded as employees of the Agency under the same terms and conditions prevailing at the date of coming into force of this order and their employment contracts shall continue in force.

(4) Public officers deployed with the Agency shall be deemed to be detailed with the Agency in accordance with article 43 of the Public Administration Act.

Cap. 497.

(5) The Agency shall, as from the coming into force of this order, assume responsibility for all assets, liabilities and obligations previously entered into by the entity which is being reconstituted.

4. The Minister responsible for the European Union Programmes Agency shall be the Minister responsible for European Funds.

Minister responsible for Agency.

5. (1) The National Agency shall be a body corporate having a distinct legal personality and it shall be capable, subject to the provisions of this order, of entering into contracts, of employing personnel, of acquiring, holding and disposing of funds for the purposes transactions as are incidental or conducive to the exercise or performance of its functions under this order.

Legal personality.

(2) The legal and juridical representation of the National Agency shall vest in the National Co-ordinator of the National Agency, who may appoint in writing one or more officers or employees of the Agency to appear in the name and on behalf of the Agency in any judicial proceedings and in any deed, contract, instrument or other document whatsoever.

(3) The National Agency shall be a non-profit organization.

6. The objective of the National Agency shall be to ensure that in dealing with the programmes as set out in article 3(1):

Objective of the National Agency.

(a) its activities are consistent with the national educational policies and strategies;

(b) its calls, actions, general management and workings are in line with the relevant European Union Regulations and Operational Handbooks issued by the European Commission from time to time;

(c) it manages its finances in a clear, transparent and accurate manner as required in the Regulations of the European Union and the Operational Handbooks and the Laws of Malta.

Powers and
functions of the
National
Agency.

7. (1) The powers and functions of the National Agency shall be to:

(a) give advances to and fund third parties when necessary and in relation to the Agency's activities;

(b) enter into agreement, or make any arrangement in connection with the Agency's business, with any government department or other authority, corporation, company or person;

(c) employ personnel according to need on terms, conditions and remuneration as approved by the Minister and assume responsibility for the employment, deployment, supervision and discipline of public officers assigned to the National Agency by the public authorities responsible for Government employees;

(d) accept and receive funds from Governments, the European Commission, international organizations, foundations, commercial entities, banks, individuals or any other source:

Provided that in the case of national funds co-funding the operations of the National Agency, the Minister responsible for European Funds shall consult in writing with the National Authority before any negotiations on the allocation and inform the National Authority each time tranches are transferred to the National Agency;

(e) do all such other things which are incidental or conducive to the attainment of the above functions or of any of them.

(2) Funding from the European Union for the various educational programmes will be provided under specific financial agreements and may only be used for the specific purpose listed in the various agreements with the European Commission.

(3) The National Agency may carry out projects or activities for the benefit of the network of National Agencies or in support of a Community policy.

(4) The National Agency may be entrusted by the Minister, in consultation with the National Authority, with other European Commission initiatives and measures.

8. (1) The National Agency shall be responsible for the management of the programmes as set out in article 3(1) and must minimally ensure: Management of programmes and projects.

- (a) the provision of information and publicity on the various centralised and decentralised European Union educational, research and cultural programmes and programmes set out in article 3(1) and, where applicable, giving information on the calls for proposals;
- (b) the provision of counselling services and guidance to potential applicants;
- (c) receiving and assessing proposals;
- (d) the setting-up and operation of an evaluation committee for the selection of project proposals as indicated in the Operational Handbooks;
- (e) the provision of counselling and guidance services to rejected applicants;
- (f) the publication of information on selected projects;
- (g) committing funds for projects and signing of contracts with project beneficiaries;
- (h) the pre-financing of payments to beneficiaries;
- (i) the monitoring of projects including visits to projects and thematic monitoring meetings;
- (j) analysing and controlling the final activity and the financial final reports;
- (k) the balancing of payments and the recovery of funds;
- (l) carrying desk checks, systems checks and on-the-spot checks on projects;
- (m) reporting to the European Commission and the

National Authority;

(n) ensure the setting up of an internal audit function to strengthen the management of the Programmes and ensure the smooth running of the Agency, in line with EU and national rules;

(o) ensure full co-operation with the National Authority and, where applicable, its engaged external auditors and implement relevant recommendations as instructed by the National Authority; and

(p) the publication and dissemination of an annual report showcasing annual achievements.

(2) The National Agency shall be also responsible for the management of the life-cycle of the Maltese projects financed under the various actions of the European Union programmes and shall contribute to the monitoring and evaluation of the actions of the programmes as set out in article 3(1).

(3) The National Agency may not delegate any task of budget implementation.

Monitoring of programmes and projects.

9. The National Agency shall also ensure the monitoring and evaluation of the actions of the programmes as set out in article 3(1) in line with the relative European Union Regulations and the Operational Handbooks.

Obligations to abide by the relative European Union Regulations and the Operational Handbook.

10. The National Agency shall carry out its tasks in accordance with the relative European Union Regulations and the Operational Handbooks of the European Commission regarding the minimum requirements for internal control standards applicable to National Agencies and to their management of the projects financed under the various actions. The Operational Handbooks shall be an integral part of the obligations of the National Agency both towards the European Commission and the Minister and the National Authority.

Accountability.

11. (1) The National Agency is accountable to the Minister, the National Authority and to the European Commission.

(2) In carrying out its mission, objectives, functions and powers, the National Agency shall be subject to directions given in writing by the European Commission. The Minister, and where applicable, the National Authority, shall also have the right to issue written directives on any matter, and to assign specific tasks to the

National Agency.

(3) In the exercise of those powers and functions which involve financial considerations and commitments, as specified in article 12, the National Agency shall also be subject to the direction of the Minister responsible for finance.

(4) The National Coordinator shall provide the European Commission, the Minister and the National Authority and, where applicable, its engaged external auditors with all the information and documentation that may be requested in connection with the affairs of the National Agency.

12. (1) Whenever requested, the National Agency shall submit to the European Commission and the National Authority the necessary work plans related to the EU Programmes assigned to it. Without prejudice to articles 7(d) and 11(1), the National Agency shall remain within the parameters of the recurrent expenditure allocated to it by the European Commission and the Minister as authorized by the Minister responsible for finance.

Financial Accountability.

(2) The National Coordinator shall ensure that the Agency has a strong internal audit function. The National Agency shall ensure the proper keeping of management accounts and other records concerning its operation and transactions, and shall ensure that a relative statement of accounts is prepared on an annual basis and submitted to the Minister, the Minister responsible for finance, the National Authority and, where applicable, its engaged external auditors and the European Commission, without delay.

(3) The National Co-ordinator shall be responsible for ensuring that the Agency has a functioning independent internal audit function at all times. The internal auditor will report to the Internal Audit Committee chaired by the Permanent Secretary or his delegate within the Ministry responsible for European Funds.

(4) The operational systems and accounts of the National Agency may also be audited by one or more auditors appointed by the Minister. The financial administration of the Agency shall be subject to the auditing of the Auditor General. The operational audited accounts shall be presented to the European Commission, the Minister, the Minister responsible for finance, the National Authority and, where applicable, its engaged external auditors and the Auditor General.

(5) The systems and financial and operating accounts for the decentralised funds of the Erasmus+ Programme managed by the National Agency shall be audited by one or more auditors appointed

by the National Authority. The audited accounts shall be presented to the European Commission and the Minister.

(6) The National Agency shall send a copy of its audited statement of accounts, a copy of the report made by the auditor or auditors about that statement, together with a report of its activities and outcome during that year, to the Minister, the National Authority and to the European Commission. The Minister shall, within thirty (30) days of their receipt, lay a copy thereof on the Table of the House of Representatives. The audited accounts and the annual report shall also be presented to the Minister responsible for finance and to the Auditor General whenever these are requested.

(7) The National Agency shall, on the request of the Minister or the Minister responsible for finance or the National Authority, submit management reports and accounts as requested.

S.L. 174.04.

(8) The National Agency shall follow procurement procedures as regulated by the Public Procurement Regulations, and any amendments thereto.

(9) Without prejudice to any other action that the National Authority is required to initiate or to take under any other European Union or national law, where the National Authority identifies through its check that serious irregularities or fraud has taken place, it will immediately inform the Minister to withhold or partially withhold any further payments of national funds.

Revokes
S.L. 327.316.

13. The European Union Programmes Agency Regulations are hereby being revoked, without prejudice to anything done or omitted to be done thereunder.

Amends the
Fourth Schedule
of the Public
Administration
Act.
Cap. 497.

14. In the Fourth Schedule to the Public Administration Act, immediately after "Energy and Water Agency" there shall be added the following:

"European Union Programmes Agency	To promote, implement and manage Erasmus+ Programme, and other programmes and initiatives of the European Union".
-----------------------------------	---