

## COMMISSION IMPLEMENTING DECISION

of 17 December 2013

establishing the Consumers, Health and Food Executive Agency and repealing Decision 2004/858/EC

(2013/770/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes<sup>(1)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Regulation (EC) No 58/2003 empowers the Commission to delegate powers to the executive agencies to implement all or part of a Union programme or project, on its behalf and under its responsibility.
- (2) The purpose of entrusting the executive agencies with programme implementation tasks is to enable the Commission to focus on its core activities and functions which cannot be outsourced, without relinquishing control over, and ultimate responsibility for, activities managed by those executive agencies.
- (3) The delegation of tasks related to programme implementation to an executive agency requires a clear separation between the programming stages involving a large measure of discretion in making choices driven by policy considerations, this being carried out by the Commission, and programme implementation, which should be entrusted to the executive agency.
- (4) By Decision 2004/858/EC<sup>(2)</sup>, the Commission created the Executive Agency for the Public Health Programme

(hereinafter referred to as the Agency) and entrusted it with the management of the programme of Community action in the field of public health for the period from 1 January 2003 until 31 December 2008, adopted by Decision No 1786/2002/EC of the European Parliament and of the Council<sup>(3)</sup>.

- (5) Subsequently, the Commission amended the Agency's mandate on several occasions, extending it to cover the management of new projects and programmes. Commission Decision 2008/544/EC<sup>(4)</sup> transformed the 'Executive Agency for the Public Health Programme' into the 'Executive Agency for Health and Consumers', extended its mandate until 31 December 2015 and included in it the implementation of the Public Health Programme 2008-2013 adopted by Decision No 1350/2007/EC of the European Parliament and of the Council<sup>(5)</sup>, the Consumer Programme for 2007-2013 as adopted by Decision No 1926/2006/EC of the European Parliament and of the Council<sup>(6)</sup> and the food safety training measures covered by Council Directive 2000/29/EC<sup>(7)</sup> and Regulation (EC) No 882/2004 of the European Parliament and of the Council<sup>(8)</sup>. Commission Implementing Decision 2012/740/EU<sup>(9)</sup> extended the scope of the Agency's activities to training measures outside the Member States and entrusted it with managing the food safety training measures covered by Commission Decision

<sup>(3)</sup> Decision No 1786/2002/EC of the European Parliament and of the Council of 23 September 2002 adopting a programme of Community action in the field of public health (2003-2008) (OJ L 271, 9.10.2002, p. 1).

<sup>(4)</sup> Commission Decision 2008/544/EC of 20 June 2008 amending Decision 2004/858/EC in order to transform the 'Executive Agency for the Public Health Programme' into the 'Executive Agency for Health and Consumers' (OJ L 173, 3.7.2008, p. 27).

<sup>(5)</sup> Decision No 1350/2007/EC of the European Parliament and of the Council of 23 October 2007 establishing a second programme of Community action in the field of health (2008-13) (OJ L 301, 20.11.2007, p. 3).

<sup>(6)</sup> Decision No 1926/2006/EC of the European Parliament and of the Council of 18 December 2006 establishing a programme of Community action in the field of consumer policy (2007-2013) (OJ L 404, 30.12.2006, p. 39).

<sup>(7)</sup> Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

<sup>(8)</sup> Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

<sup>(9)</sup> Commission Implementing Decision 2012/740/EU of 29 November 2012 amending Decision 2004/858/EC, as amended by Decision 2008/544/EC, establishing the Executive Agency for Health and Consumers in application of Council Regulation (EC) No 58/2003 (OJ L 331, 1.12.2012, p. 50).

<sup>(1)</sup> OJ L 11, 16.1.2003, p. 1.

<sup>(2)</sup> Commission Decision 2004/858/EC of 15 December 2004 setting up an executive agency, the 'Executive Agency for the Public Health Programme', for the management of Community action in the field of public health – pursuant to Council Regulation (EC) No 58/2003 (OJ L 369, 16.12.2004, p. 73).

C(2012) 1548 <sup>(1)</sup>, and by Article 22(1) and (3) of Regulation (EC) No 1905/2006 of the European Parliament and of the Council <sup>(2)</sup>. It also entrusted the Agency with managing the agreement with ANEC, the European consumer voice in standardisation, which is governed by Regulation (EU) No 1025/2012 of the European Parliament and of the Council <sup>(3)</sup>.

(6) The Agency set up by Decision 2004/858/EC has demonstrated its effectiveness and efficiency. An interim evaluation of the Public Health Executive Agency (known as the Executive Agency for Health and Consumers since July 2008) has been carried out by external consultants. The final report of December 2010 has shown that public health programme implementation tasks could be performed more efficiently by the Agency, whilst ensuring the overall management by the Commission of those Community programmes and measures.

(7) In its Communication of 29 June 2011 'A budget for Europe 2020' <sup>(4)</sup>, the Commission proposed to use the option of more extensive recourse to existing executive agencies for the implementation of Union programmes in the next multiannual financial framework.

(8) The cost-benefit analysis <sup>(5)</sup> carried out in accordance with Article 3(1) of Regulation (EC) No 58/2003 has shown that entrusting the Agency with programme implementation tasks related to the Consumer Programme, the Public Health Programme and the food safety training measures would entail significant

qualitative and quantitative benefits compared with the in-house scenario under which all aspects of the new programmes would be managed internally within the Commission. The three successor programmes are in line with the mandate and mission of the Agency and represent a continuation of the Agency's activities. The Agency has built up competence, skills and capacity in the management of those programmes over several years. The Commission as well as the programme beneficiaries would therefore benefit from the Agency's accumulated experience and expertise and resultant productivity gains, in particular a high quality programme management, a simplification of procedures and a better service delivery in terms of faster contracting and quicker payments. Overtime the Agency has developed effective channels for ensuring beneficiary proximity and a high level of visibility of the Union as the promoter of the programmes concerned. The delegation of programme management to the Agency would ensure business continuity for the currently delegated programmes' beneficiaries and all stakeholders. A shift to an in-house arrangement would thus be disruptive. Delegation of programme management to the Agency is estimated to deliver efficiency gains of EUR 14 million over the period of years 2014 to 2024 as compared to the in-house scenario.

(9) In order to give executive agencies a coherent identity, the Commission has, as far as possible, grouped work by thematic policy area in establishing their new mandates.

(10) Management of the Public Health Programme for the years 2008 to 2013 adopted by Decision No 1350/2007/EC, the Consumer Programme for the years 2007 to 2013 adopted by Decision 1926/2006/EC, the food safety training measures covered by Directive 2000/29/EC, Regulation (EC) No 882/2004, Regulation (EC) No 1905/2006 and Decision C(2012) 1548 and the management of the agreement with ANEC governed by Regulation (EU) No 1025/2012, all of which are currently implemented by the agency, as well as the management of the Consumer Programme for the years 2014 to 2020 <sup>(6)</sup>, the Public Health Programme for the years 2014 to 2020 <sup>(7)</sup> and the food safety training measures covered by Regulation (EC) No 882/2004 and Directive 2000/29/EC involve implementation of technical projects which do not entail political decision-making and require a high level of technical and financial expertise throughout the project cycle.

<sup>(1)</sup> Commission Decision C(2012) 1548 of 15 March 2012 adopting the 2012 work programme serving as a financing decision for the funding of projects in the area of external trade relations, including access to the markets of non-European Union countries and initiatives in the field of trade related assistance.

<sup>(2)</sup> Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

<sup>(3)</sup> Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

<sup>(4)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Budget for Europe 2020, COM(2011) 500 final.

<sup>(5)</sup> Cost Benefit Analysis for the delegation of certain tasks regarding the implementation of Union Programmes 2014-2020 to the Executive Agencies (Final Report 19 August 2013).

<sup>(6)</sup> Commission Proposal COM(2011) 707 of 9 November 2011 for a Regulation of the European Parliament and of the Council on a consumer programme 2014-2020.

<sup>(7)</sup> Commission Proposal COM(2011) 709 of 9 November 2011 for a Regulation of the European Parliament and of the Council on establishing a Health for Growth Programme, the third multi-annual programme of EU action in the field of health for the period 2014-2020.

- (11) The Agency should be responsible for the provision of administrative and logistical support services in particular where centralisation of those support services would result in additional cost-efficiency gains and economies of scale.
- (12) In order to ensure a consistent implementation in time of this Decision and of the programmes concerned, it is necessary to ensure that the Agency shall exercise its tasks linked to the implementation of those programmes subject to and from the date on which those programmes enter into force.
- (13) The Consumers, Health and Food Executive Agency should be established. It should replace and succeed the executive agency established by Decision 2004/858/EC. It should operate in accordance with the general statute laid down by Regulation (EC) No 58/2003.
- (14) Decision 2004/858/EC should therefore be repealed and transitional provisions should be set out.
- (15) The measures provided for by this Decision are in accordance with the opinion of the Committee for Executive Agencies,

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### **Establishment**

The Consumers, Health and Food Executive Agency (hereinafter referred to as the Agency) is hereby established and shall replace and succeed the executive agency set up by Decision 2004/858/EC from 1 January 2014 until 31 December 2024, its statute being governed by Regulation (EC) No 58/2003.

#### *Article 2*

##### **Location**

The Agency shall be located in Luxembourg.

#### *Article 3*

##### **Objectives and tasks**

1. The Agency is hereby entrusted with the implementation of parts of the following Union programmes and actions:

- (a) the Consumer Programme 2014-2020;
- (b) the Public Health Programme 2014-2020;

- (c) the food safety training measures covered by Directive 2000/29/EC and Regulation (EC) No 882/2004.

The first subparagraph shall apply subject to and as from the date of the entry into force of each of these programmes.

2. The Agency is hereby entrusted with the implementation of the legacy of the following programmes and actions:

- (a) the Consumer Programme 2007-2013;
- (b) the Public Health Programme 2008-2013;
- (c) the food safety training measures covered by Directive 2000/29/EC, Regulation (EC) No 882/2004, Regulation (EC) No 1905/2006 and Decision C(2012) 1548;
- (d) the management of the agreement with ANEC, the European consumer voice in standardisation, governed by Regulation (EU) No 1025/2012.

3. The Agency shall be responsible for the following tasks related to the implementation of the parts of the Union programmes and actions referred to in paragraphs 1 and 2:

- (a) managing all or part of the stages of programme implementation and all or part of the phases in the lifetime of specific projects on the basis of the relevant work programmes adopted by the Commission, where the Commission has empowered it to do so in the instrument of delegation;
- (b) adopting the instruments of budget execution for revenue and expenditure and carrying out all the operations necessary for the management of the programme where the Commission has empowered it to do so in the instrument of delegation;
- (c) providing support in programme implementation where the Commission has empowered it to do so in the instrument of delegation.

4. The Agency may be responsible for the provision of administrative and logistical support services if provided for in the instrument of delegation, for the benefit of the programme-implementing bodies and within the scope of the programmes referred to therein.

*Article 4***Duration of the appointments**

1. The members of the Steering Committee shall be appointed for two years.
2. The Director shall be appointed for four years.

*Article 5***Supervision and reporting requirement**

The Agency shall be subject to supervision by the Commission and shall report regularly on progress in implementing the Union programmes or parts thereof for which it is responsible in accordance with the arrangements and at the intervals stipulated in the instrument of delegation.

*Article 6***Implementation of the operating budget**

The Agency shall implement its operating budget in accordance with the provisions of Commission Regulation (EC) No 1653/2004 <sup>(1)</sup>.

*Article 7***Repeal and transitional provisions**

1. Decision 2004/858/EC is repealed with effect from 1 January 2014. References to the repealed Decision shall be construed as references to this Decision.

2. The Agency shall be considered the legal successor of the executive agency established by Decision 2004/858/EC.

3. Without prejudice to the revision of the grading of seconded officials foreseen by the instrument of delegation, this Decision shall not affect the rights and obligations of staff employed by the Agency, including its Director.

*Article 8***Entry into force**

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

Done at Brussels, 17 December 2013.

*For the Commission*

*The President*

José Manuel BARROSO

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<sup>(1)</sup> Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 297, 22.9.2004, p. 6).