

## COMMISSION IMPLEMENTING DECISION

of 26 November 2012

**implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES***(notified under document C(2012) 8548)***(Text with EEA relevance)**

(2012/733/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union <sup>(1)</sup>, and in particular Article 38 thereof,

Whereas:

(1) Much progress has been made since the initial launch of the EURES network established by Commission Decision 93/569/EEC of 22 October 1993 on the implementing of Council Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community as regards, in particular, a network entitled Eures (European Employment Services) <sup>(2)</sup>, in order to implement Regulation (EEC) No 1612/68 of the Council <sup>(3)</sup>. The network was reformed and re-established in order to consolidate and strengthen it by Commission Decision 2003/8/EC <sup>(4)</sup>.

(2) The European Council of 17 June 2010 endorsed the Europe 2020 Strategy for smart, sustainable and inclusive growth while calling for the full mobilisation of the appropriate EU instruments and policies to support achievement of the common objectives and invited the Member States to step up coordinated action.

(3) The European Council of 28 and 29 June 2012 decided on a 'Compact for Growth and Jobs' and on the basis of the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Towards a job-rich recovery' of 18 April 2012, indicated that the EURES Portal should be developed into a true European placement and recruitment tool.

(4) EURES should promote better functioning of the labour markets and satisfaction of economic needs by facilitating transnational and cross-border geographical mobility of workers, while ensuring mobility under fair conditions and respect of applicable labour standards. It should provide greater transparency on the labour markets, ensuring the exchange and processing of vacancies and applications for employment (i.e. the 'clearance' or 'matching' within the meaning of the Regulation) and supporting activities in the areas of recruitment, advice and guidance at national and cross-border level, thereby contributing to the objectives of the Europe 2020 strategy.

(5) In the light of the experience gained since the initial launch in 1993 and the reform in 2003, and taking into account the needs to further reinforce and extend the network in order for it to fully support the objectives of the Europe 2020 strategy, the current composition of the network, the division of responsibilities and the decision-making procedures, as well as the catalogue of services provided must now be redesigned.

(6) To this end EURES should be given a stronger orientation on management by objectives and results in terms of matching, placement and recruitment. Within this context, placement can be understood as the provision of services by an intermediary between the supply and demand on the labour market with the objective of a recruitment taking place, where recruitment is the filling of a job vacancy.

(7) The abolishment of monopolies together with other developments has led to the emergence of a wide variety of employment service providers on the labour market. To reach its full potential, EURES needs to be opened to the participation of these operators, committed to fully respect applicable labour standards and legal requirements, and other EURES quality standards.

(8) EURES services need to be clearly defined in order to ensure that the obligations put on the Member States by the Regulation, namely to undertake a clearance of vacancies and applications for employment, as well as the exchange and provision of labour market related information, is fulfilled in an efficient and effective manner. This would entail the involvement of various actors, including social partners, where appropriate.

<sup>(1)</sup> OJ L 141, 27.5.2011, p. 1.

<sup>(2)</sup> OJ L 274, 6.11.1993, p. 32.

<sup>(3)</sup> OJ L 257, 19.10.1968, p. 2.

<sup>(4)</sup> OJ L 5, 10.1.2003, p. 16.

- (9) In the 'Compact for Growth and Jobs', the European Council requested to explore the possibility of extending EURES to apprenticeships and traineeships. To ensure synergies and enable EURES to support fully the objectives of the Europe 2020 strategy, in particular to raise the employment rate to 75 % by 2020, whilst respecting the scope of the Regulation, EURES should be able to cover apprenticeships and traineeships in so far as the persons concerned are considered workers within the meaning of the Regulation and are 18 years or older, once a clearance of such information in accordance with the appropriate standards is deemed feasible.
- (10) To deliver the services in the most efficient way EURES should be integrated and mainstreamed into the general service offer of the participating organisations, which may receive funding for national and cross-border activities from the European Social Fund.
- (11) In order to effectively contribute to a better functioning of labour markets towards the development of a European labour market, EURES should also play a more prominent role in filling bottleneck vacancies and help particular groups of workers and employers by extending EURES to support targeted mobility activities at EU level, especially to encourage the exchange of young workers.
- (12) The opportunities afforded by the emerging information and communication technology tools for further enhancing and rationalising the services provided should be fully taken into account.
- (13) Any processing of personal data carried out within the framework of this Decision should be in accordance with EU and national law on the protection of personal data.
- (14) For the sake of clarity, it is advisable to once again re-establish the EURES network whilst defining more precisely its composition, constitution and functions.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Advisory Committee on freedom of movement for workers,

HAS ADOPTED THIS DECISION:

#### Article 1

##### The EURES network

In order to fulfil the obligations laid down in Chapter II of Regulation (EU) No 492/2011 the Commission shall together with the Member States establish and operate a European network of employment services, designated EURES.

#### Article 2

##### Objectives

For the benefit of jobseekers, workers and employers, EURES shall promote, in cooperation as appropriate with other European services or networks:

- (a) the development of the European labour market open and accessible for all, fully respecting applicable labour standards and legal requirements;
- (b) the clearance and placement at the transnational, inter-regional and cross-border level through the exchange of vacancies and applications for employment, and participation in targeted mobility activities at EU level;
- (c) transparency and information exchange on the European labour markets, including on living and working conditions and on the opportunities for acquisition of skills;
- (d) the development of measures to encourage and facilitate mobility of young workers;
- (e) the exchange of information on traineeships and apprenticeships in the sense of Regulation (EU) No 492/2011 and, as appropriate, the placement of trainees and apprentices;
- (f) the development of methodologies and indicators for this purpose.

#### Article 3

##### Composition

EURES shall comprise the following categories:

- (a) the European Coordination Office for Coordinating the Clearance of Vacancies and Applications for Employment, in accordance with Articles 18, 19 and 20 of Regulation (EU) No 492/2011;
- (b) the EURES Members, which shall be the designated specialist services appointed by the Member States in accordance with Article 11(2) of Regulation (EU) No 492/2011 ('National Coordination Offices') as provided for in Article 5;
- (c) the EURES Partners, in accordance with Article 15(1) of Regulation (EU) No 492/2011. EURES Partners are designated by the respective EURES Member and may include public or private service providers active in the relevant field of placement and employment, and trades union and employer organisations. In order to qualify, a EURES Partner must undertake to fulfil the roles and responsibilities laid down in Article 7;

- (d) the Associated EURES Partners, which in accordance with Article 6 provide limited services under the supervision and responsibility of a EURES Partner or the European Coordination Office.

#### Article 4

#### **Roles and responsibilities of the European Coordination Office**

1. The Commission shall be responsible for managing the European Coordination Office.

2. The European Coordination Office shall oversee compliance with the provisions of Chapter II of Regulation (EU) No 492/2011 and shall assist the network in carrying out its activities.

3. It shall, in particular, undertake:

(a) the formulation of a coherent overall approach and the provision of horizontal support for the benefit of the EURES network and its users such as:

(1) operation and development of a European job mobility web portal ('the EURES Portal'), and related IT services, including systems and procedures for the exchange of vacancies, applications for employment in the form of application letters, CVs, skills passports and the like, and other information, in cooperation with other relevant European services or networks;

(2) information and communication activities regarding EURES;

(3) training of staff involved in EURES;

(4) facilitation of networking, exchange of best practice and mutual learning among EURES Members and Partners;

(5) participation of EURES in targeted mobility activities at EU level;

(b) the analysis of geographic and occupational mobility, in the light of the achievement of a balance between supply and demand, and the development of a general approach to mobility in accordance with the European Employment Strategy;

(c) the overall monitoring and evaluation of EURES activity, the definition of performance, placement and other result indicators as well as actions to check that it is carried out in accordance with Regulation (EU) No 492/2011 and with this Decision.

4. It shall adopt its work programmes and the objectives for the EURES network in cooperation with the EURES Coordination Group and after consultation with the EURES Management Board.

#### Article 5

#### **Roles and responsibilities of the National Coordination Offices**

1. Each Member State shall designate a specialist service as provided for in Article 11(2) of Regulation (EU) No 492/2011 that shall be entrusted with organising the work of the EURES network in the respective Member State.

2. The National Coordination office shall ensure that all the obligations on the Member State laid down in Regulation (EU) No 492/2011, in particular those concerning exchange of information as provided for in Articles 12, 13 and 14, are fulfilled, by:

(a) the setting up and maintenance of all technical and functional infrastructure and systems necessary to allow EURES Partners and Associated EURES Partners to participate in the exchange system;

(b) the provision of the required information, by its own or by the EURES Partners under its responsibility.

3. It shall, in close cooperation with the European Coordination Office and the other National Coordination offices, in particular, undertake:

(a) the appointment of one or several EURES Partners, based on the system for selection and accreditation provided for in Article 10(2)(b)(vii), and the supervision of their activities;

(b) the planning and regular reporting on the activities and results of the national EURES network to the European Coordination Office;

(c) the coordination of EURES participation in relevant targeted mobility activities at EU level.

4. When appointing EURES Partners the National Coordination Office shall endeavour to achieve best possible geographical outreach and labour market coverage, and an optimal service offered to jobseekers, workers and employers by ensuring an adequate participation of relevant employment services and labour market actors.

5. Based on commonly agreed operational objectives, the National Coordination office shall draw up work programmes for their national network to be submitted to the European Coordination office. The work programme shall in particular specify:

(a) the main activities to be undertaken by the National Coordination Office, the EURES Partners and the Associated

EURES Partners under its responsibility within the framework of the EURES network, including the transnational, cross-border and sectoral activities provided for in Article 15 of Regulation (EU) No 492/2011;

- (b) the human and financial resources allocated for the implementation of Chapter II of Regulation (EU) No 492/2011;
- (c) the arrangements for monitoring and evaluation of the activities planned.

The work programmes shall also include an assessment of the activities and results achieved during the previous period.

Social partners and other relevant EURES stakeholders shall be consulted on the work programmes at the appropriate level.

6. The National Coordination office may decide to provide EURES services itself directly to jobseekers and employers and shall in that respect be subject to the rules that apply to EURES Partners carrying out the same services. In such case the National Coordination office shall request the accreditation as a EURES Partner from the European Coordination Office.

7. Each Member States shall ensure that the National Coordination Office gets the staff and other resources necessary to carry out its tasks.

8. The National Coordination Office is headed by the National EURES Coordinator as foreseen in Article 10(2)(b)(iii).

#### Article 6

##### **Roles and responsibilities of the EURES Partners**

1. An organisation wishing to become a EURES Partner shall apply to its National Coordination Office, which may designate it in accordance with Article 3(b), provided that it undertakes to, under the supervision of the National Coordination office, cooperate at regional, national and European levels within the EURES network and to provide at least all universal services as referred to in Article 7.

2. A EURES Partner shall, by its own or in cooperation with other EURES Partners, designate one or several contact points, such as placement and recruitment offices, call centres, self-service tools and the like, whereby jobseekers, workers and employers can get access to its services.

3. A EURES Partner shall clearly indicate which services of the EURES Service Catalogue it offers. The level and content of the services may vary from one contact point to another as long as the service package as a whole of a EURES Partner includes all the universal services required.

4. All EURES Partners shall undertake to participate fully in the exchange of vacancies as well as applications for employment by jobseekers interested in working in another Member State, according to Article 13(a) and (b) of Regulation (EU) No 492/2011 and Article 4(a)(i) of this Decision. They shall ensure that all staff participating in the provision of EURES services has full access to the IT and other communication tools provided to the network.

5. A EURES Partner that does not provide a particular complementary service included in the EURES Service Catalogue shall ensure that requests for that service are referred to other EURES Partners that do offer that service.

6. A EURES Partner may entrust the provision of services that are adding value to its own services to another organisation. That organisation shall in this respect be considered an Associated EURES partner working under the full responsibility of the EURES Partner it is associated with.

7. To fulfil its role, a EURES Partner may establish partnerships with one or more EURES Partners in other Member States.

8. A EURES Partner or Associated EURES Partner may be required to contribute to the technical and functional infrastructure and systems referred to in Article 5(2)(a).

9. In order to maintain its accreditation a EURES Partner shall continue to fulfil its obligations and provide the services agreed, and undergo regular reviews as set out in the system for selection and accreditation provided for in Article 10(2)(b)(vii).

#### Article 7

##### **EURES Services**

1. The full range of EURES Services shall comprise recruitment, job matching and placement, covering all phases of placement from pre-recruitment preparation to post-placement assistance, and related information and advice.

2. They shall be further detailed in the EURES service Catalogue that shall be part of the EURES Charter as provided for in Article 10 and shall consist of the universal services provided by all EURES Partners and complementary services.

3. Universal services are those provided for in Chapter II of Regulation (EU) No 492/2011, in particular Article 12(3) and Article 13. Complementary services are not obligatory in the sense of Chapter II of Regulation (EU) No 492/2011, but fulfil important labour market needs.

4. All services to jobseekers and workers shall be free of charge. If EURES Partners charge any fees for services to other users, there shall be no differentiation between the fees levied for EURES services and those applicable to other comparable services provided by that EURES Partner. Any funding received from the European Union to support the provision of EURES services shall be taken into account when fixing charges so as to avoid any possible double financing.

#### Article 8

##### **EURES Management Board**

1. The EURES Management Board shall assist the Commission, its European Coordination Office and the National Coordination Offices in promoting and overseeing the development of EURES.

2. The Management Board shall be composed of one representative of each Member State.

3. Where necessary, if EURES activities in a Member State are funded by an EU financial instrument such as the European Social Fund, the national authority providing this funding may be associated.

4. Representatives of the European social partners' organisations shall be invited to participate in the meetings of the Management Board as observers.

5. The Management Board shall establish its working methods and rules of procedure. As a general rule, it shall be convened twice a year by the chairperson. It shall deliver its opinions by simple majority.

6. The Management Board shall be chaired by a representative of the European Coordination office, which shall provide secretarial support.

7. The Commission shall consult the EURES Management Board on questions concerning the strategic planning, development, implementation, monitoring and evaluation of the services and activities referred to in this Decision, including:

- (a) the EURES Charter, in accordance with Article 10;
- (b) strategies, operational objectives and work programmes for the EURES network;
- (c) the Commission's reports required by Article 17 of Regulation (EU) No 492/2011.

#### Article 9

##### **EURES Coordination Group**

1. In order to assist it in the development, implementation and monitoring of EURES activities, the European Coordination Office shall institute a Coordination Group composed of the National EURES Coordinators, each one representing a EURES Member. The European Coordination Office can invite representatives of the European social partners and, when appropriate, representatives of other EURES Partners and experts, to attend the meetings of the Coordination Group.

2. The Coordination Group shall actively participate in the preparation of the work programmes and the coordination of their implementation.

3. The Coordination Group may set up permanent or ad hoc working groups, in particular for the planning and implementation of horizontal support activities.

4. The European Coordination Office shall organise the work of the Coordination Group.

#### Article 10

##### **EURES Charter**

1. The Commission shall adopt the EURES Charter in accordance with the procedures set out in Articles 12(2), 13(2) and 19(1) and Article 20 of Regulation (EU) No 492/2011, after consultation of the EURES Management Board established by Article 8 of this Decision.

2. On the basis of the principle that all vacancies and applications for employment that are made public by any of the EURES Members must be accessible throughout the Union, the EURES Charter shall, in particular, establish:

- (a) the EURES Service Catalogue, describing the universal and complementary services to be rendered by the EURES Members and Partners, including job-matching services, such as personalised counselling and advice to customers, whether they be jobseekers, workers or employers;
- (b) the development of innovative transnational and cross-border cooperation between employment services such as common placement agencies, with a view to the improvement of the functioning of the labour markets, their integration and improved mobility. The cooperation may include social services, the social partners and other institutions concerned;
- (c) the promotion of coordinated monitoring and assessment of skills surpluses and shortages;

- (d) the operational objectives of the EURES network, the quality standards to be applied as well as the obligations of the EURES Members and Partners, which include:
- (i) the interoperability of relevant databases of job vacancies and applications for employment, with the EURES vacancy exchange mechanism and the service levels to apply;
  - (ii) the kind of information, such as labour market information, information on living and working conditions, information on job offers and requests, information on traineeships and apprenticeships, measures to encourage youth mobility, acquisition of skills, and obstacles to mobility, which they have to supply to their customers and to the rest of the network, in cooperation with other relevant European services or networks;
  - (iii) task descriptions and criteria for appointment of national coordinators, EURES advisers and other key personnel at national level;
  - (iv) the training and qualifications required for EURES personnel and conditions and procedures for the organisation of visits and assignments for officials and specialised personnel;
  - (v) the drawing up, submission to the European Coordination Office and execution of work programmes;
  - (vi) the conditions governing the use of the EURES logo by the EURES Members and Partners;
  - (vii) the system for selection and accreditation of EURES Partners;
  - (viii) principles for monitoring and evaluating EURES activities;
- (e) procedures to set up a uniform system and common models for the exchange of labour market and mobility-related information within the EURES network, as provided for in Articles 12, 13 and 14 of Regulation (EU) No 492/2011, including information on jobs and on learning opportunities in the European Union to be incorporated into the EURES Portal.

#### Article 11

##### Promotion of EURES

1. EURES Members and Partners shall actively promote EURES.

2. They shall engage in an overall communications strategy designed to ensure the consistency and cohesion of the network vis-à-vis its users and take part in common information and promotion activities.

3. The acronym EURES shall be used exclusively for activities within EURES. It shall be illustrated by a standard logo, defined by a graphic design scheme, adopted by the European Coordination office.

4. The logo, registered as a Community Trade Mark at the Office for Harmonization in the Internal Market (OHIM), shall be used by the EURES Members and Partners in all their activities related to EURES to ensure a common visual identity.

#### Article 12

##### Cooperation with other services and networks

EURES Members and Partners shall actively collaborate with other European information and advisory services and networks at European, national and regional levels to achieve synergies and avoid overlaps.

#### Article 13

##### Repeal

Decision 2003/8/EC is hereby repealed. However, it shall continue to apply to operations in respect of which an application was submitted before the entry into force of this Decision.

#### Article 14

##### Date of application

This Decision shall apply from 1 January 2014.

#### Article 15

##### Addressees

This Decision is addressed to the Member States.

Done at Brussels, 26 November 2012.

For the Commission

László ANDOR

Member of the Commission