

# Risk assessment process guide

v. 19 April 2023

Risk assessment evaluation in combination with capacity checks is a very useful tool for the National agency to screen the Erasmus+ and European solidarity corps applicants and ensure that contracts are not signed with fraudulent or suspicious beneficiaries. The following document presents the necessary legal basis as well as a description of one way (the Czech way) how to conduct the checks.

The first part of the document presents all the essential and supportive legal sources and rules that we follow. We believe that these arguments sufficiently justify the process. However, this is the opinion of the Youth and Sport Division of the Czech National Agency, not an official interpretation of the European Commission.

Should you have questions, feel free to contact me, Simon, Head of the Youth and Sport Division of the Czech National agency at [Simon.Presser@dzs.cz](mailto:Simon.Presser@dzs.cz) enjoy the reading 😊

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## Legal framework

As promised, the first section describes and quotes the key legal documents. Some are essential, some are more or less supportive. We recommend to perceive all the documents as a complex set of rules that – altogether – serves as a powerful tool and justification for the risk based operational capacity checks.

### Guide for National Agencies (GfNA):

First and foremost there is the guide for NAs. It clearly states the following:

**4.9.3 Risk assessment** (3.7.3. in GfNA 2022): *„The objective of the risk assessment is to assess the applicant’s status with respect to the **globality of its ongoing activity** (past projects, number of concurrent projects, number of sectors). ... NAs should assess the specific risks linked to the organisation to enable the relevant risk ratings to be integrated in the management and monitoring of the project, as well as any eventual **risk based check**.“*

**4.9.2.1 Operational capacity check** (3.7.6.1 in GfNA 2022): *„If specified by the relevant Call for proposals, the NA shall check the operational capacity of the applicant before taking the grant award decision in order to ensure that applicants have the professional competencies and qualifications required to carry out the proposed project. ... **If the applicant’s operational capacity is deemed to be insufficient, the application shall be rejected**“*

**5.7 Dealing with irregularities and frauds:** *„The NA shall take appropriate measures to prevent irregularities and fraud“*

**1 Introduction:** *„The National Agency **is responsible for the successful implementation** in indirect management of the Programmes at national level in full respect of the **highest ethical standards** and the EU applicable, international and national law on ethical principles and of the policy priorities, with high quality, impact and return on investment of the EU funds that they manage. The National Agency has to ensure that beneficiaries commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities).“*

### Program guides

The Erasmus+ Program Guide for 2023 (hereafter referred to as the Erasmus+ Guide) states (p. 408) that *„An applicant may be **rejected from an award procedure if any of the declarations or information provided as a condition for participating in the procedure prove to be false**.“* Similarly, the European Solidarity Corps Guide for 2023 (hereafter referred to as the ESC Guide) (p. 88) states that *„Applicants or affiliated entities, where applicable, may be rejected from the award procedure if any of the declarations or information provided as a condition for participating in this procedure prove to be false.“*



From 2023 onwards, there is also a special provision regarding plagiarism. Partial reminders referring to the Declaration of honour can be found on pages 82 and 137. It is clearly stated that the Declaration of honour also includes a declaration of original content: „*Applicants must submit a signed declaration on their honour, certifying that ... the submitted application contains original content authored by the applicant organisation, and that no other organisations or external individuals have been paid for drafting the application.*” This provision should be understood in connection with the above-quoted passage - **signing a Declaration of honour for a plagiarized application is undoubtedly providing false information** and therefore a reason for rejection based solely on providing false information.

The main section concerning plagiarism can be found on page 415: „*All applications for projects and accreditations must contain original content **authored by the applicant**. Higher education institutions applying for international mobility activities may involve in the drafting of their application their partner HEIs from countries not associated to the program. No other organizations or external individuals can be paid or otherwise compensated for drafting the application. The National Agency may **reject the applicant from the selection process or may terminate an awarded project/accreditation at any time** if it determines that these rules have not been complied with.*” There is a significant change compared to the program guide for 2022, which only stated, see Guide 2022: „*All applications for projects and accreditations must contain original content authored by the applicant or other organizations jointly applying for a grant. No other organizations or external individuals can be paid for drafting the application.*”

### Declaration of honour

In addition to the above, the wording from the Declaration of Honour is added: „*The person subject to this declaration may be subject to rejection from this procedure and to administrative sanctions (exclusions) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.*”

There is also a checkbox in the PMM application that the applicant must click to declare that they meet all the criteria set out in the program guide.

×
Kontrolní seznam
i

Před odesláním žádosti národní agentuře se ujistěte, že:

- ☐ Splňuje všechna kritéria stanovená v [Programme Guide](#). [↗](#)
- ☐ Všechna relevantní pole ve formuláři žádosti jsou vyplněna.
- ☐ Zvolili jste správnou národní agenturu země, ve které má vaše organizace sídlo. Aktuálně vybraná NA je:

## Contract

Although the terms of the contract do not apply directly before the contract is signed, it can be argued that the conditions begin to apply to the applicant at the moment of its entry into force. If there is an obstacle that would make it impossible to fulfill the contractual obligations from the first moment of its effect, it would not be economical and efficient to take all steps to conclude the contract with knowledge or suspicion of malicious behaviour of the applicant. This would be unnecessary a waste of resources that could be allocated to honest applicants. Therefore we argue that the provisions mentioned in the contract are relevant even before signing thereof.

Moreover, according to the provision below, the contract can be terminated even in the event of retroactive discovery of discrepancies in the grant award process:

Annex I General conditions II.17.2.1: „*The Commission [National Agency] may terminate the Agreement,* if:

...

*f) the Commission has evidence that the beneficiary or any related person or any natural person who is essential for the award or for the implementation of the Agreement has committed irregularities, fraud or **breach of obligations in the award procedure** or while implementing the Agreement, including if the beneficiary or related person or natural person has submitted false information or failed to provide required information;*

...

*h) a beneficiary or any related person or any natural person who is essential for the award or for the implementation of the Agreement has created an entity under a different jurisdiction with the intend to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business“*

Similarly, the new 2023 contract template contains a similar provision in Article 28.1 Conditions: „*The granting authority may — at beneficiary termination, final payment or afterwards — reduce the grant for a beneficiary, if: ... the beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed: (i) substantial errors, irregularities or fraud or (ii) serious breach of obligations under this Agreement **or during its award** (including improper implementation of the action, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics or security rules (if applicable), etc.)“*

The 2023 contracts also include provisions on adherence to ethical standards and European values. Article 14.1 Ethics states: „*The action must be carried out in line with the highest ethical standards and the applicable EU, international and national law on ethical principles.*“ It is unquestionable that the provision of false information, plagiarism, and other activities by applicants that are subject to verification of these controls can directly violate these ethical standards. It is therefore defensible that national agencies must take steps to detect them.

## Quality standards

The last document we will mention is the quality standards, which are an integral part of the program guide. They state the following under III. Quality management: *„beneficiary organizations will be responsible for results and quality of the implemented activities, regardless of the involvement of any other organizations or individuals. During the implementation of Erasmus activities, beneficiary organizations must take responsibility for key decisions on all tasks that directly affect the outcomes of the implemented activities, especially in relation to these quality standards.”* Here we can find another basis for carrying out the controls in case of suspicion that the applicant was a mere proxy used by another organisation to just apply for the grant but its involvement in the project itself would be limited.

Finally, we would like to add that providing false information in grant applications may, in extreme cases, constitute a **violation of criminal laws** (provisions on fraud or subsidy fraud as a specific criminal offense) and therefore be subject to criminal proceedings. However, these aspects vary in each country and therefore we will not discuss the criminal aspect in this document.

In light of these provisions and our obligations as a national agency, we carry out checks in case of any reasonable risk concern. These inspections, which arise from risk assessments, are referred to as Capacity checks.



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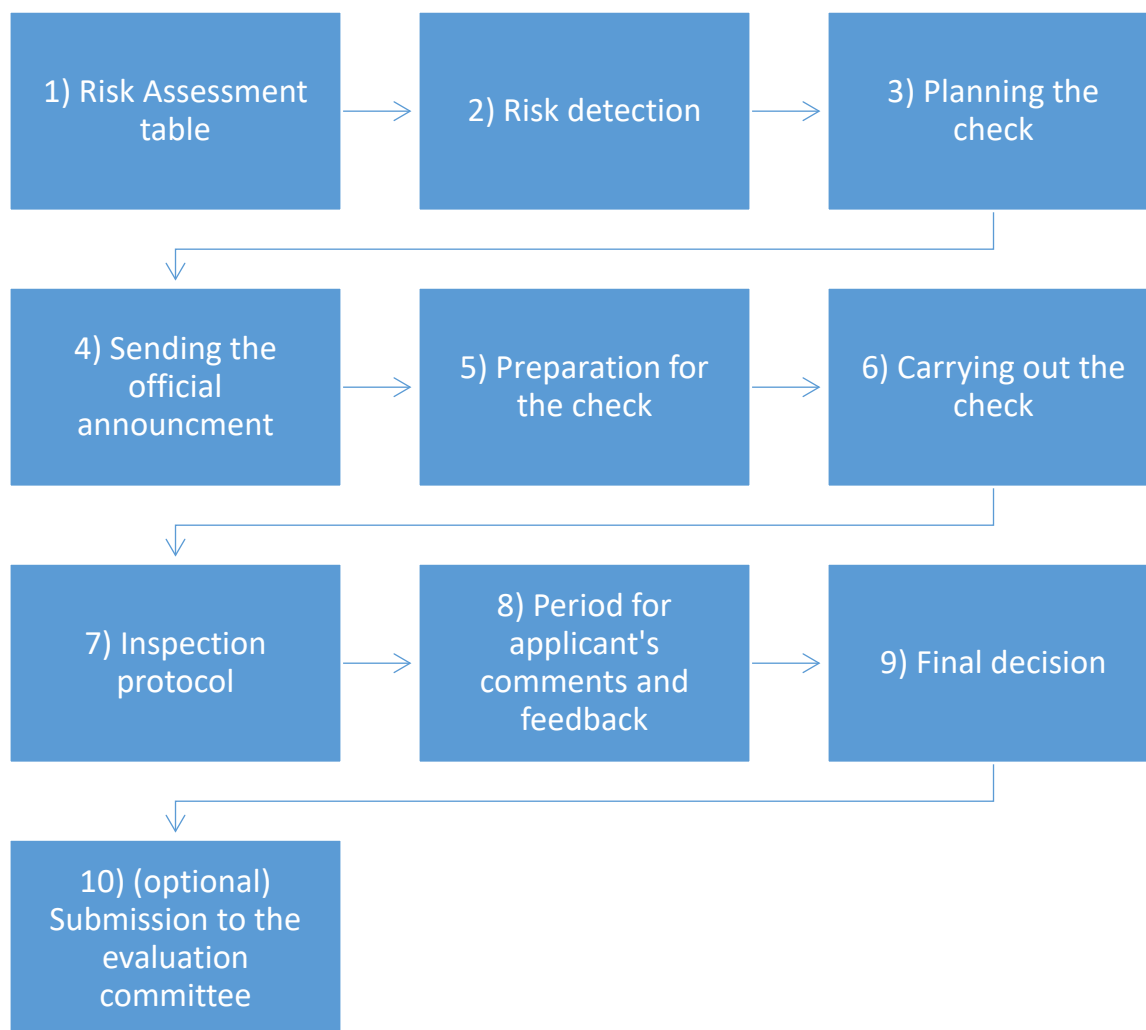
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## Process of the control



### 1) Risk assessment table

For each round of the call for application (each submission deadline), a "risk assessment" table will be created with the names of applicants and a column for "risk concern". Reasonable concern may be raised by, for example

- involvement in an extremely high number of projects (given the size and capacity of the applicant);
- suspicion of plagiarism based on a multiple submission report, suspiciously multi-lingual parts of applications etc.;
- repeated significant problems with the applicant;
- non-standard or illogical involvement of the applicant in multiple sectors;

- involvement of the same individuals in a non-standard number of organisations and/or projects;
- significant findings from past monitoring or primary checks;
- failure to implement corrective measures suggested by the National Agency during previous primary checks or audits;
- third-party reports;
- suspicious behaviour by the applicant;
- and any other reasons that give rise to a reasonable concern.

If the National Agency has reasonable concern with an applicant - i.e., one or more of the abovementioned categories are fulfilled - it may conduct an organizational check before signing the contract. **Reasonable concern may arise and change at any point in communication with the applicant until the contract is signed** - in such a case, the table will be updated. Each sector evaluates individually what the criteria and the extent to which they are fulfilled mean in its context (for example, what constitutes an extremely high number in KA1 Youth may differ from KA2 VET, depending on the individuality of each sector and each Key Action). In this evaluation, projects having the status of substitutes will receive a "postponed" status, and the assessment of reasonable concern may be conducted if the project is approved. Rejected projects will have a "not applicable" status.



## Hodnocení rizika / Risk Assessment

**Sektor:** Mládež (Erasmus+ Mládež, Evropský sbor solidarity)

**Rok:** 2021

**Kolo výzvy:** R1

Žadatel / Applicant <sup>1</sup>	Důvodná obava / Risk concern <sup>2</sup>
Applicant 1	
Applicant 2	
Applicant 3	
...	



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## 2) Risk detection

If we have reasonable suspicion that there is a risk of grant misuse, that the organization has insufficient capacity, or that there is any other risk, we may conduct a **risk assessment based capacity checks**.

Risk control must take place before the contract is signed. If the risk arises only after the contract's effectiveness and the National Agency is bound by it, checks are then performed through other forms of oversight (on the spot, system audit, etc.). The term "risk" is not precisely defined and cannot be precisely defined. Our obligation as a National Agency is to supervise the proper implementation of programs, their efficiency, and their positive impact. If we suspect that awarding a grant to a particular organization may undermine these objectives, we may conduct a check, see [legal framework](#) in the first part of this manual.

## 3) Planning the check

We contact the organization to find a date for the audit - depending on our practice with the particular organization, it is up to our discretion to what extent we want to formalize this step, it can be informal (phone / email, etc.) or formal (written request for proposed dates). In some cases, this step can be skipped, and the date can be determined and announced directly by us, which, however, can complicate the situation. Alternatively, this step can be combined with step 4), and in the official letter initiating the audit, the organization can be asked to propose dates - their subsequent approval can be done by email. This alternative is suitable primarily in situations where the interruption deadline periods is needed as soon as possible, and it is not appropriate to wait for the audit date to be found.

**As a rule, we plan and carry out the controls only after receiving evaluations and only for projects that receive more than 60 points.** The reason is the capacity limitations on the NA side, where conducting checks is a relatively demanding process, and carrying the checks before evaluations are done could mean investing dozens of hours in auditing projects that could not be approved anyway. We deem it is better to wait for the evaluation results and invest the capacities only in projects that are expected to be granted.

## 4) Sending the official announcement

The check announcement is a PDF document that must contain essential elements. These might be different for each NA as the means of official public communication required by law can differ. Following list applies to the Czech NA:

- National Agency letterhead
- Header to whom it is addressed
- Reference number
- Date of sending
- Notification that "The National agency will carry out a capacity check in your organisation" and the date and place of the audit (preferably the organization's residence or online)





- Depending on the risk involved, the check can be conducted at the beneficiaries premises, NA premises or online. It depends on whether conducting the audit directly at the organization's headquarters can affect clarifying what we see as the risk. If the National Agency has doubts about the applicant's proper existence or wants to look at certain materials, it is appropriate to conduct the audit on-site. If verification lies in checking of involvement of specific individuals, or circumstances of the application's creation, an **online call may be sufficient**.
- What the audit involves and what documents the applicant should prepare or at least consider in specific areas. However, in the case of suspicion of fraud, it is necessary to assess individually what to communicate to the applicant at this time, so that, for example, certain things are not modified / falsified at the last minute by the applicant but are rather caught off-guard. We try to find the right balance between informing and not scaring/alerting.
- Signature of the department head or division head

If the applicant refuses to participate, next steps should be assessed individually, however this could be a strong argument not to award the grant. Until the risk is clarified, the grant agreement should not be signed.

## 5) Preparation for the check

Each check can be slightly different. With some organizations, we may fear their organizational capacity due to the amount of projects they have; with others, we may suspect they are "proxies" only handing in the application but there is a different organisation orchestrating everything (often from another country); with others, we may suspect they have no intention of implementing the project, etc. Therefore, the preparation for the inspection will be individualized.

Generally, it is **recommended to check the results of the organization's previous projects, how many projects they are involved in and whether the partners are trustworthy, any previous communication, careful reading of the currently submitted project proposals, whether they contain any suspicious phrasing, etc.**

NA staff member shall prepare a set of questions relevant to the specific inspection in advance, so that they do not wander during the inspection and do not forget something essential. However, during the check, they can naturally deviate from the list and ask other questions as needed.

## 6) Carrying out the check

A team consisting of employees of the national agency - at least two people - is dispatched to carry out the check. At the beginning, we always inform the applicant about how the inspection will proceed and what the next steps will be - that is, a protocol will be drawn up from the inspection, to which the organization will be able to respond, and that the final decision will be issued later.

Using a prepared set of questions, we question representatives of the organization about facts relevant to clarifying risks. In some cases, it may be appropriate to ask directly, while in others it may be better

to ask indirectly and find out the true state of things (for example, the question "do you plan to misuse the grant?" is unlikely to lead to a confession, it is better to use guiding questions to gain an understanding of the project's development and financial management). It is not necessary to strictly adhere to the original set of questions, during the interview respond to new information and inquire further. The duration of the inspection depends on the case, typically lasting between 1-3 hours.

During the meeting, one member of the inspection team should always take notes and make the most detailed record, ideally using a laptop for speed and practicality.

At the end of the inspection, a **brief summary of the course and the most important information that was discussed is written**. It should be a very short document consisting of a few sentences so it is not difficult to draft it right on the spot (in case no printer is available it may be written by hand). The purpose of this document is to prevent the applicant from later claiming that the information in the [protocol](#) (see next point) is untrue and were not said during the inspection at all. From experience, we know that applicants do not have such tendencies on the spot immediately after the inspection and will truthfully agree to the essential information discussed. This summary should include the applicant's signature, indicating agreement with its contents. In the case of remote inspections, the applicant may be informed at the end of the inspection that a summary will be conducted - the following minutes of the call will be recorded, and a verbal summary will be given by NA, followed by asking the applicant if they agree with the content. This summary, like the Inspection Protocol (see next point), does not yet contain the conclusions of the national agency, it only summarizes the objectively discussed information.

## 7) Inspection protocol

The Protocol is a document that describes the course of the inspection. **The main focus is on factual aspects - which questions were asked, what answers were given, etc. The national agency does not yet draw any conclusions from the inspection or specify any consequences in the protocol, but only states factual findings.** It is also possible to add new questions to the protocol that were not asked during the interview. The protocol should be sent to the applicant within 15 – 30 days from the interview (specific timeframe should be communicated to the beneficiary during the interview).

At the end of the protocol, the applicant is asked to comment on it, dispute it and provide answers to the questions (if posed). The deadline for the applicant's response may be set individually, but it should not be shorter than 10 days or longer than 30 days. At the same time, the applicant is informed that from the date of sending their response or the expiration of the deadline for comment and feedback, the National Agency has 30 days to issue a final decision. This should be included in the protocol:

*"The applicant has the right to express their opinion in writing regarding this protocol (propose changes, additions, dispute certain parts, and answer questions) within XX days, or they can waive this right. Within 30 days of receiving the response (or the expiration of the response deadline), the National Agency will issue a final decision and inform the applicant of the conclusions."*

The protocol is signed by the head of the department or division.

## 8) Period for applicant's comments and feedback

Within the deadline set in the Protocol, the applicant may provide comments and feedback, i.e. clarify certain information, suggest additions or changes to the text, dispute certain statements, etc. If the protocol included additional questions, the applicant may answer them. The feedback must be provided in written form (an email is sufficient, signatures are not required) within the set deadline. If necessary (e.g. in case the coordinator is absent, etc.), the deadline for submitting feedback may be extended upon request.

## 9 & 10) Final decision + submitting to the evaluation committee

From the receipt of the statement or the end of the deadline (if no statement is sent), a 30-day period runs during which the national agency issues the final decision. **The decision will state what the result is and justify why we have reached it.** The statement of the organization from the previous section should be taken into account in the justification and it should be stated that the national agency has dealt with the remarks and addressed the arguments contained in it. The resolution of individual points may be:

- positive, for example, "points a,b,e were explained in the statement and allayed the concern of the national agency, or points a,b,e were explained in the statement, but other points are still significant enough to outweigh them"
- neutral, for example, "we take note of the statement on points x and y, but it did not convince the national agency of sufficient capacities..."
- negative, for example, "the statement on points l,m,n,o,p is considered by the national agency to be insufficient/false/misleading, etc."

The decision may also include recommendations for the organization and emphasize the key findings and conclusions, so that the applicant can learn and address any problems in the future if necessary.

The result of the check reflected in the decision must be formulated according to specific circumstances. In general, there are the following options:



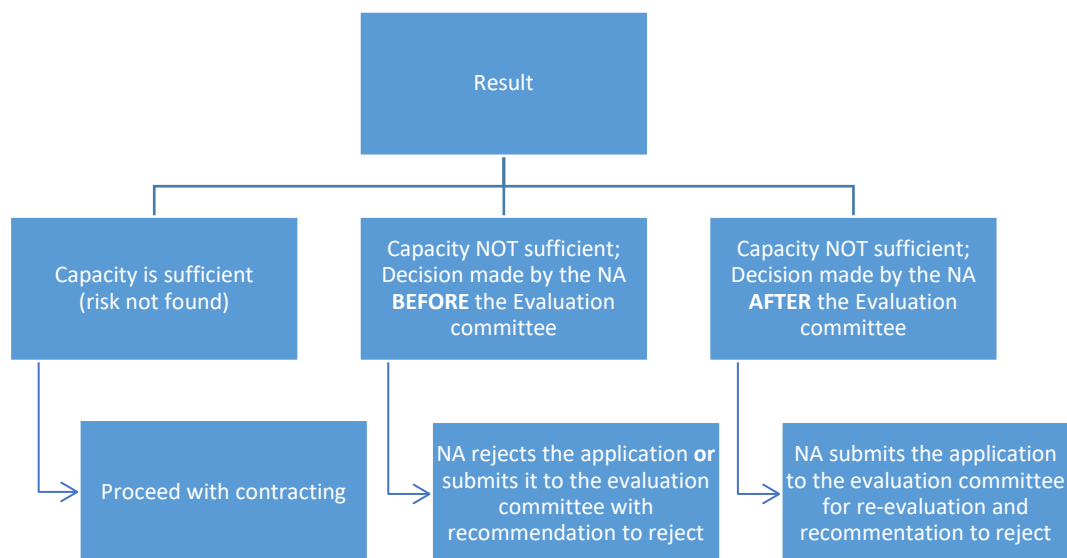
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If the concern about risk is **not confirmed**, the decision of the National Agency is such that the organization appears to have sufficient capacity and further steps are taken to properly sign the contract and implement the project.

If the risk concern is **confirmed BEFORE the decision of the evaluation committee** to approve the projects, then the National Agency may decide directly. The National Agency itself primarily decides in cases based on the findings of formal errors, breach of rules or condition violations. In case the concern arises from the content of the project, the National Agency can decide on its own, or leave the decision to the evaluation committee, to which the NA will provide its recommendation to reject the project.

If the concern about risk is **confirmed AFTER the decision of the evaluation committee**, the decision on the result of the capacity check must state that the National Agency decides on **resubmitting the project to the evaluation committee with a recommendation to reject it**. The National Agency should not overturn the decision of the evaluation committee itself, therefore the outcome of the process should be resubmission to the committee for it to reverse its initial decision and decide on rejection of the project. The committee may theoretically ignore the National Agency's recommendation, but we do not expect that to happen. It would be dealt with on an individual basis.

The decision may in some cases be a combination of the above approaches, for example, if an organization applies for four projects, but the National Agency believes that capacity is sufficient for only two projects, the decision may state that only two projects will be granted (probably according to the points awarded in the evaluation process, or other objective criteria) and two will be rejected.

**The decision should include a provision about the right of redress** and the way how the applicant may file an appeal against the decision according to procedures set by the NA.

After the end of the appeal period, the entire process is complete. Congratulations, it's time to celebrate! 😊