EU Grants

AGA – Annotated Grant Agreement

EU Funding Programmes 2021-2027

Version 1.0
01 May 2024

Disclaimer
This guide is aimed at assisting EU grant beneficiaries. It is provided for information purposes only and is not intended to replace the binding legal agreements themselves, nor professional legal advice for specific cases. Neither the EU Commission nor its agencies and funding bodies (or any person acting on their behalf) can be held responsible for the use made of it.

HISTORY OF CHANGES		
Version	**Publication date**	**Changes**
1.0 DRAFT	23.07.2021	▪ Pre-draft Horizon Europe MGA. ▪ Initial version following adoption of the corporate EU Grant Agreements
1.0 DRAFT	30.11.2021	▪ Pre-draft EU MGA (Articles 1-6; 7-9; 11, 13, 16, 17, 20; Annex 5) ▪ Complete revision of Introduction and Articles 1-6 (ALL PROGRAMMES) ▪ Alignment of Article 20 (day-equivalent conversion rules).
1.0 DRAFT	01.04.2023	▪ Significant changes to Articles 1-12; 20. These articles are now stabilised (except 6.2.D.X Specific other cost categories). Any further changes to these draft annotations will be specifically listed in subsequent versions. ▪ Significant pre-draft changes to all sections.
1.0	01.05.2024	General changes: ▪ Republication as non-draft. ▪ First-round quality check for alignment of style and presentation throughout all sections (including renumberings in Article 6). ▪ Changes to Articles 13-19, 21-44. These articles are now stabilised. Any further changes to these annotations will be specifically listed in subsequent versions. Specific changes: ▪ Introduction Clarifications in the participant table. ▪ Article 3 – Updated synergy actions specific case. ▪ Article 4.2 – Clarification of the examples in the warning box on action duration (website maintenance if required). ▪ Article 6.1 – Addition of 'Example 2' for ineligible activities for the general eligibility conditions; Addition of specific case – Travel costs for the kick-off/closing meeting, deletion of 'review' to avoid confusion with project review cost. ▪ Article 6.2.A.1 – Clarifications for the horizontal ceiling, specific case 'Parental leave', rounding correction in the example; clarifications in the specific case 'Project-based remuneration'. ▪ Article 6.2.A.2. – Clarification in section 3.2.4 in the warning box (where relevant application of a max. declarable day-equivalent ceiling based on the denominator used for the calculation of the daily rate). ▪ Article 6.2.A.4 – Minor changes in the presentation ▪ Article 6.2.A.5 – Addition of the unit cost table from the authorising decision; Instructions for how to add indirect costs (if eligible under the call conditions). ▪ Article 6.2.A.6 – New section on HE personnel unit cost. ▪ Article 6.2.A.6 – Minor changes in the presentation concerning the SMP ESS and Customs/Fiscalis unit costs. ▪ Article 6.2.B – Clarification that in some programmes the limitations on subcontracting are systematically lifted *(e.g. CEF)*; Clarification regarding competitive selection procedures ▪ Article 6.2.C – Clarification on the case of purchases between participants with reference to the more detailed section on subcontractors. ▪ Article 6.2.C.1 – New section on travel, accommodation and

		subsistence using actual costs; Warning boxes explaining relevant labels in the Grant Agreement; Clarification regarding breakfast; Correction in the distance bands for cost not covered by one of the unit costs; addition of ferry or boat travel. ▪ Article 6.2.C.2 – Two separate sections for depreciation and full cost; Warning boxes explaining relevant labels in the Grant Agreement; Clarification on depreciation timing; . ▪ Article 6.2.D.[1] Financial support to third parties – Deletion of warning box with clarification per recipient (further discussions needed). ▪ Article 6.2.D.[2] Internally invoiced goods and services – Clarification concerning the pool of costs to determine the cost per unit ▪ Article 6.2.D.[X] – New section on HE personnel unit cost (optional unit cost that can be requested for use in HE MGAs as from 1.5.2024). ▪ Article 6.2.D.[X] HE Access to Research infrastructure costs – Minor changes in the presentation. ▪ Article 6.2.D.[X] AMIF EMN costs – Minor changes in the presentation. ▪ Article 6.2.D.F Contributions – Updated text on contributions; Clarifications on how and where contributions are currently used. ▪ Article 6.3 – Further clarification for costs or contributions for staff of a national (or regional/local) administration; update of VAT guidance incl. for public authorities; updated synergy actions specific case; new specific case for combining EU actions with RRF. ▪ Article 7 – Presentation on technical and financial liability aligned with new section on payments in Article 21; Clarification concerning 'sole beneficiaries' within the meaning of Art 187(2) FR ▪ Article 9.2 – Additional clarifications for programmes with in-kind contributions (for free) as eligible cost. ▪ Article 9.3 – Warning box addition of best practice on subcontractor identification and clarifications in the specific case of new subcontracts. ▪ Article 10.3 – Warning box clarification on need for positive pillar-assessment and cumulative application of Art 10.2 and 10.3; Clarification in section on recoveries. ▪ Article 11 – Updated wording regarding obligation to comply with call conditions throughout the project. ▪ Article 13 – Clarification on security of information agreements with third countries. ▪ Article 14 – New annotations on ethics and values (not covered before). ▪ Article 15 – New annotations on data privacy ▪ Article 17 – Addition of a link to the guidelines on the use of the EU emblem; Link to EU communication network indicators. ▪ Article 18 – New annotations on specific rules for carrying out the action. ▪ Article 19.1 – Change of the example on direct communication with the beneficiaries (not via coordinator). ▪ Article 19.2 – Clarifications concerning the update of information directly in the Participant Register. ▪ Article 20.1 – Clarifications on sufficiency and appropriateness of evidence; Clarifications and additional explanations on day-

		equivalent conversion methods; Clarifications on the rounding rules. ▪ Articles 21, 22 – New annotations on reporting and payments. ▪ Articles 23-26 – New annotations on guarantees, certificates, audits and impact evaluation. ▪ Articles 27, 28 – New annotations on cost rejection and grant reductions. ▪ Article 34 – New annotations on administrative sanctions. ▪ Article 36 – Minor changes of presentation; Reference to Article 147(1) FR; Correction regarding formal notifications after the payment of the balance (for 2021-2027 they are done only electronically; not on paper). ▪ Article 39 – Minor corrections. ▪ Annex 5 IPR – Changes in the two warning boxes on special obligations for IPR and open access.
		▪
		▪

IMPORTANT NOTICE

The **AGA — Annotated Grant Agreement** is a **user guide** that aims to explain to **applicants** and **beneficiaries** the EU Model Grant Agreements for the EU funding programmes 2021-2027.

Programme specificities are reflected in this document as examples — in so far as they are accepted as mainstream solutions that can be used by several EU programmes.

The purpose of this document is to help users understand and interpret their Grant Agreements (GAs). By avoiding technical vocabulary, legal references and jargon, it seeks to help readers find answers to the practical questions they may come across when setting-up or implementing their projects.

In the same spirit, the document's structure mirrors that of the EU Model Grant Agreements (MGAs). It explains each MGA Article and includes examples where appropriate.

Since all EU MGAs are derived from the same basic model (EU General Model Grant Agreement), the AGA **focuses** mainly on this model. Other types of grants will be gradually covered by separate guidance, in order to be able to cover all specificities, not only the specific explanations on the contractual text.

Our approach

1. The **text** of the **article** appears in a grey text box — to differentiate it from the annotations.

   The **concepts** that are annotated are in bold and underlined.

   The annotations to the article are immediately underneath.

   Long articles are split into different parts, so the annotations can be placed below the relevant parts.

   Examples are in green.

   Lists are in red.

   Specific cases and **exceptions** are in orange.

   Programme-specific cases are in purple.

   New explanations (compared to the last AGA update) will be marked with: ■ (as from V1.0; not applicable for the draft versions)

   New rules that do not apply to all signed Grant Agreements (but instead only to those signed after a certain version, e.g. version 3.0), will be marked with: 3.0 and 3.0

2. As the AGA intends to be comprehensive, it will cover all possible **options** envisaged in the EU MGAs.

   Many of these options may not be relevant to your grant (and will not appear in the Grant Agreement you sign, or will be marked 'not applicable'). The chosen options will be summarised in the Data Sheet of your Grant Agreement.

Versioning

The AGA will be managed as a stable corporate document with versions. Older versions will be accessible through hyperlinks in the History of Changes table.

Other information

The AGA is limited to the provisions of the EU Model Grant Agreements. For a more general overview of how EU grants work, *see the Online Manual and the programme-specific guidance published in the Funding & Tenders Portal Reference Documents.*

The Portal Reference Documents also contain a comprehensive list of all other reference documents, for each EU programme (including legislation, work programme and templates).

Terms are explained in the Funding & Tenders Portal Glossary.

EU programmes 2021-2027

HE	Horizon Europe (including Euratom)
RFCS	Research Fund for Coal and Steel
DEP	Digital Europe Programme
EDF	European Defence Fund (including ASAP and EDIRPA)
CEF	Connecting Europe Facility
LIFE	Programme for Environment and Climate Action
I3	Interregional Innovation Investments
IMREG	Information measures for the EU Cohesion policy
ERDF-TA	Technical assistance at the initiative of the Commission for ERDF, CF and JT
INNOVFUND	Innovation Fund
RENEWFM	Renewable Energy Financing Mechanism
JTM	Just Transition Mechanism
EMFAF	European Maritime, Fisheries and Aquaculture Fund
AGRIP	Promotion of Agricultural Products
IMCAP	Information Measures for the Common Agricultural Policy
SMP	Single Market Programme
ERASMUS	Erasmus+
CREA	Creative Europe Programme
ESC	European Solidarity Corps
CERV	Citizens, Equality, Rights and Values Programme
JUST	Justice Programme
ESF	European Social Fund+
SOCPL	Social Prerogatives and Specific Competencies Lines
EU4H	EU4Health Programme
AMIF	Asylum, Migration and Integration Fund
ISF	Internal Security Fund
BMVI	Border Management and Visa Instrument
EUAF	EU Anti-fraud Programme
CUST	Customs Programme
FISC	Fiscalis Programme
CCEI	Customs Control Equipment Instrument
PERI	Programme for the Protection of the Euro against Counterfeiting
TSI	Technical Support Instrument
UCPM	Union Civil Protection Mechanism
HUMA	Humanitarian Aid

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I. EU GENERAL MODEL GRANT AGREEMENT (GENERAL MGA)

INTRODUCTION

General > Scope – Types of actions – Types of grant agreements?

1. Background and scope — What types of actions are funded by EU grants — Types of grant agreements

The EU uses different types of grants in its funding programmes ('programmes'). The EU Financial Regulation 2018/1046 distinguishes between 2 main types: action grants (AG) and operating grants (OG).[1]

In addition, there are simplified grant types which pay only lump sums (LS) or unit costs (UN).[2]

Grants are usually given through open calls for proposals, but may sometimes also be awarded directly without a call. They can be multi- or mono-beneficiary actions.

The General Model Grant Agreement (General MGA) is the grant agreement for EU action grants (AG), i.e. grants that are funded based on the actual costs incurred by the beneficiaries.

For guidance on other types of grants, *see How to manage your lump sum grants.*

This new General MGA has been introduced by the European Commission for the new generation of programmes under the Multiannual Financial Framework (MFF) 2021-2027 (new for 2021-2027), in order to ensure simpler and more coherent provisions for all EU programmes. Programme-specific provisions are grouped in Article 6 and Annex 5; the rest of the provisions are the same for all programmes.

The new AGA — Annotated Grant Agreement reflects this new structure. Moreover, since a wide range of programmes is now using the European Commission eGrants IT tools (EU Funding & Tenders Portal; also called 'Portal'), the annotations focus on grants managed through these IT tools. For other aspects, the AGA applies to grant agreements managed outside these tools (paper).

General > How to set up your project — Consortium composition and roles and responsibilities

2. How to set up your project — Consortium composition and roles and responsibilities

Capacity to successfully carry out the project:

The Financial Regulation 2018/1046 requires that beneficiaries must have the technical and financial resources needed to carry out their projects ('operational and financial capacity').[3]

This assessment is project-specific (and the outcome may accordingly vary between calls, depending on the complexity and nature of the action). What will be checked is if the

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1 *See Article 180(2) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union ('EU Financial Regulation') (OJ L 193, 30.7.2018, p. 1).*

2 *See Articles 180(3) and 125 EU Financial Regulation 2018/1046.*

3 *See Article 198 EU Financial Regulation 2018/1046.*

participants have sufficient operational and financial capacity to carry out the proposed action.

The sufficient capacity must be demonstrated in the proposal and be available at the moment of the implementation of the work (i.e. not necessarily already at the moment of submitting the proposal or signing the GA, but at least when the work starts). In order to give sufficient assurance, proposals should show how the resources will be made available when they are needed.

Examples (acceptable):

1. *For an innovative technology call, a Start-up company with no resources at the time of proposal submission, but with a credible business plan described in the application.*

2. *SME which, if it gets the grant, plans to double its capacity/staff.*

Examples (not acceptable):

1. *Consultancy company which submits a proposal where the majority of the work is subcontracted.*

2. *For a call for distribution of support goods in an immediate crisis situation, a start-up with no experience and no resources at the time of proposal submission.*

Different roles in the GA:

Ideally, the project work should be done by the beneficiaries and their affiliated entities themselves, but if needed, they may involve other partners and rely on outside resources *(purchase new equipment, goods, works or services, subcontract a part of the work or involve associated partners, etc)*.

⚠ Legally speaking, it is the **beneficiaries** that **remain fully responsible** towards the granting authority (since they are the ones that have signed the Grant Agreement (GA)). For all the other participants, the obligations under the Grant Agreement are indirect, meaning that the beneficiaries must ensure that the activities of the other participants are in line with the Grant Agreement. In case of non-compliance, the granting authority will turn to the beneficiaries to enforce their obligations.

Depending on the programme and type of action, entities can participate in various roles: as coordinator, beneficiaries, affiliated entities, associated partners, in-kind contributors, subcontractors or recipients of financial support to third parties (FSTP).

⚠ Each role is linked to a set of conditions and legal rights and obligations that are relatively rigid. Make sure that you chose the **appropriate role** for everyone. Having the wrong role can cause a lot of problems later on.

Coordinator vs other beneficiaries

The coordinator is the participant that will be the central contact point (for the granting authority) and represent the consortium (towards the granting authority). The other beneficiaries are the other entities that participate as beneficiaries (i.e. also sign the grant). For mono-beneficiary grants, the mono-beneficiary also has the coordinator role.

Beneficiaries vs affiliated entities

Affiliated entities (new for 2021-2027; in some programmes previously called 'linked third parties') are in practice treated largely like beneficiaries (except that — formally speaking — they do NOT sign the Grant Agreement).

They must fulfil the same conditions for participation and funding as the beneficiaries and need to have a validated participant identification code (PIC) in the Portal Participant Register. Annotations in this AGA which refer to beneficiaries usually also apply to affiliated entities (just like the provisions of the MGA themselves; *see also MGA Preamble*).

More details on participant registration and PICs are explained in the Online Manual > Participant Register > Registration and validation of your organisation on the Funding & Tenders Portal.

Subcontractors vs suppliers of goods, works and services

The core criterium for distinguishing between subcontracts and contracts/purchases is whether they concern action tasks as set out in the description of the action (DoA Annex 1 of the Grant Agreement).

Subcontracts	Purchases
Subcontracts concern the implementation of 'action tasks' described in Annex 1.	Purchases concern any other contracting cost (travel, equipment, goods, works and services) that are necessary for the beneficiaries to implement the work (can range from big equipment to petty goods) but do not constitute by themselves an action task described in Annex 1.
The price for the subcontracts will be declared as 'Subcontracting costs' in the financial statement.	The price for these contracts will be declared in one of the 'Purchase costs' columns in the financial statement.

Example (subcontracts): *Subcontract to organise a conference that is set as part of the tasks in Annex 1.*

Example (purchases): *Contract for an audit certificate on the financial statements; contract for the translation of documents; contract for the publication of brochures; contract for the creation of a website that enables the beneficiaries to work together (if creating the website is just a project management tool and not a separate subcontracted 'action task'); contract for organisation of the rooms and catering for a meeting (if the organisation of the meeting is not a separate subcontracted 'action task'); contract for hiring IPR consultants/agents needed for the project.*

⚠ The same kind of items *(e.g. writing materials)* can qualify as purchases in one action (simple consumables for the implementation of the action), but as subcontracting in another *(e.g. if it is an action task to acquire writing materials for a school)*.

Subcontractors and purchases vs affiliated entities

In contrast to subcontractors, affiliated entities have a link *(e.g. legal or capital)* with a beneficiary which goes beyond the implementation of the action.

Subcontracts and purchases	Affiliated entities
The beneficiaries have a *contractual* link with subcontractors/suppliers, with the object to buy something or subcontract action tasks.	With affiliated entities, there is a more *permanent legal link* which is not limited to the project .
The eligible cost is the price charged to the beneficiary (usually containing a profit margin for the supplier or subcontractors, but not for the beneficiary).	The eligible costs are only the costs of the affiliated entity, no profit is allowed (neither for the affiliated entity, nor for the beneficiary).

The beneficiary must award the contracts and subcontracts on the basis of best value for money (or lowest price) and absence of conflict of interests.	

Example (implementation by affiliated entity): *Company X and company Y do not control each other, but they are both fully owned by company Z. Company X is beneficiary in the grant and company Y implements some of the action tasks described in Annex 1(testing and analysis of the resistance of a new component under high temperatures).*

Contributions against payment vs in-kind contributions (for free)

In some projects, third parties make available some of their resources to a beneficiary without this being part of their normal economic activity *(i.e. seconding personnel, contributing equipment, infrastructure or other assets, or other goods and services)*.

This can be done against payment or for free. If against payment, the costs paid can be charged by the beneficiaries to the action *(e.g. A.3 Seconded persons, C.2 Equipment and C.3 Other goods, works and services)*; if for free, there are no costs that arise for the beneficiaries, so nothing can be charged to the action (exception for HE: in-kind contributions for free can under certain conditions be declared as eligible costs, *see Article 6.1*).

Example (in-kind contributions (for free)): *Civil servant working as a professor in a public university. His salary is paid not by the beneficiary (the university) but by the government (the ministry). According to the secondment agreement, the government does not ask any reimbursement in exchange (non-cash donation). Since the beneficiary does not incur any costs, nothing can be charged to the grant. (exception for HE: the beneficiary can declare the salary costs in its financial statements, even if they are paid by the ministry/government).*

Example (contributions against payment): *Civil servant working as a professor in a public university. His salary is paid by the government (the ministry) which employs him. According to the secondment agreement, the beneficiary (the university) has to reimburse the government an amount corresponding to the paid salary. The reimbursed amount is a cost for the beneficiary and is recorded as such in its accounts. The beneficiary will declare the amount reimbursed to the government in its financial statements.*

Associated partners vs affiliated entities and third parties giving in-kind contributions

A new type of participant has been introduced (new for 2021-2027), the so-called associated partners. They may implement action tasks, but in contrast to affiliated entities they do not need to have a capital or legal link to a beneficiary and cost incurred by associated partners can NOT be declared as eligible cost. In contrast to third parties giving in-kind contributions, the associated partners are fully named in the Grant Agreement and may implement important action tasks by themselves.

Entities that do not request funding or are not eligible for funding may participate in EU actions as associated partners, for example out of interest in contributing to the objectives of the action, gaining visibility, or participating due to ongoing (R&D) cooperation with a beneficiary.

As with any other participant that does not sign the Grant Agreement, the beneficiaries need to ensure *(e.g. through the consortium agreement)* that associated partners implement their action tasks in accordance with the Grant Agreement.

⚠ Where possible, associated partners should be linked to a specific beneficiary.

Combination of roles

In principle, each person or entity should only participate in a single role in an action. This is to avoid any potential conflicts of interest and ensure clear allocation of rights and obligations as well as certainty on cost eligibility.

A combination of roles within the same action is only possible in the following very limited cases provided it is not used in a way to circumvent rules of the Grant Agreement:

- **Associated partner + third party giving in-kind contribution:** If necessary for the implementation of the action, associated partners implementing their own tasks may also support beneficiaries and affiliated entities in the implementation of their tasks by providing in-kind contributions.

- **Associated partner/third party giving in-kind contribution/ + subcontractor:** It is in principle possible for an associated partner or a third party giving in-kind contributions in support of certain parts of the action to also compete for subcontracts for other parts of the same action. If, in accordance with the criteria for awarding subcontracts *(best value for money or lowest price, no conflict of interest)*, an associated partner or a third party already giving in-kind contributions gives the best offer, it may also participate as a subcontractor.

- **Recipients of financial support to third parties (FSTP) + any other role:** Recipients of financial support to third parties must normally be third parties to the agreement. Beneficiaries are not allowed to provide financial support under the Grant Agreement to themselves or their affiliated entities. However, certain exceptions may be made if explicitly allowed in the call conditions/Grant Agreement and justified in the DoA Annex 1 *(e.g. for HE Co-funded Partnerships, see Annex 5 > HE Co-funded Partnerships)*. By contrast, in the case of third parties providing in-kind contributions or subcontractors, assuming that the financial support is not directly related to their tasks, they are considered third parties to the agreement and may therefore in principle receive financial support to third parties under the conditions set out in the Grant Agreement.

This table gives an overview of the different kinds of EU grants participants and indicates cost eligibility (not exhaustive):

TYPE	Can implement 'action tasks' on its own?*	What is eligible for the beneficiary/ affiliated entity?*	Must be identified in Annex 1 GA?*	Conditions for participation*	Grant Agreement article
Beneficiaries	**YES**	**Costs**	**YES**	Must be eligible	Article 7
Affiliated entities	**YES**	**Costs**	**YES**	Must have a link (e.g. capital or legal link) with a beneficiary and fulfil the same eligibility conditions	Article 8
Associated partners	**YES**	**n/a**	**YES**	No specific conditions (Aps do not receive funding).	Article 9.1
Third parties contributing to the project	**NO** (participate in the action as contributors)	**n/a** (exception for HE: Costs)	**YES**		Article 9.2
Subcontractors	**YES**	**Invoiced price**	**DEPENDS** (usually only subcontracted tasks; for some programmes also subcontractor name)	Must be best value for money or lowest price and no conflict of interest (*plus additional conditions for some programmes*)	Article 9.3
Third parties receiving financial support**	**NO** (participate in the action as recipients)	**Amount of support given**	**NO** (only conditions for FSTP recipients)	According to the conditions in Annex 1	Article 9.4

* *Unless otherwise provided for in the call conditions.*
** *Only if allowed in the call conditions.*

ANNOTATIONS

PREAMBLE

General > Preamble

PREAMBLE

GRANT AGREEMENT

Project [insert number] — [insert acronym]

PREAMBLE

This **Agreement** ('the Agreement') is **between** the following parties:

on the one part,

[OPTION 1: the **European Union** ('EU'), represented by the European Commission ('European Commission' or 'granting authority'),*]*

[[OPTION 2: the **European Atomic Energy Community** ('Euratom'), represented by the European Commission ('European Commission' or 'granting authority'),*]]*

[OPTION 3 for direct management by executive agencies: the *[***European Climate, Infrastructure and Environment Executive Agency (CINEA)***]* *[***European Education and Culture Executive Agency (EACEA)***]* *[***European Research Council Executive Agency (ERCEA)***]* *[***European Health and Digital Executive Agency (HaDEA)***]* *[***European Innovation Council and SME Executive Agency (EISMEA)***]* *[***European Research Executive Agency (REA)***]* ('EU executive agency' or 'granting authority'), under the powers delegated by the European Commission ('European Commission'),*]*

[OPTION 4 for indirect management by EU funding bodies: [**insert name of funding body**] ('granting authority')*[*, under the powers delegated by the European Commission ('European Commission')*]]*

and

on the other part,

1. 'the coordinator':

[**COO legal name (short name)**], PIC [number], established in [legal address],

*[*and the following other beneficiaries, if they sign their 'accession form' (see Annex 3 and Article 40):

2. [**BEN legal name (short name)**], PIC [number], established in [legal address],

*[*3. **Joint Research Centre (JRC)**, PIC [number], established in RUE DE LA LOI 200, BRUSSELS 1049, Belgium,*]*

[same for each beneficiary]*]*

Unless otherwise specified, references to 'beneficiary' or 'beneficiaries' include the coordinator and affiliated entities (if any).

If only one beneficiary signs the Grant Agreement ('mono-beneficiary grant'), all provisions referring to the 'coordinator' or the 'beneficiaries' will be considered — mutatis mutandis — as referring to the beneficiary.

The parties referred to above have agreed to enter into the Agreement.

By signing the Agreement and the accession forms, the beneficiaries accept the grant and agree to implement the action under their own responsibility and in accordance with the Agreement, with all the obligations and terms and conditions it sets out.

The Agreement is composed of:

Preamble	
Terms and Conditions (including Data Sheet)	
Annex 1	Description of the action
Annex 2	Estimated budget for the action
Annex 2a	Additional information on unit costs and contributions (if applicable)
Annex 3	Accession forms (if applicable)
Annex 3a	Declaration on joint and several liability of affiliated entities (if applicable)
Annex 4	Model for the financial statements
Annex 5	Specific rules (if applicable)

Template published on Portal Reference Documents.

1. Consortium: Coordinator — Beneficiaries — Affiliated entities — Other participants

In EU grants, the consortium is normally composed of the key project participants, i.e. typically the coordinator and the other beneficiaries, affiliated entities and associated partners. Sometimes also subcontractors and third parties that contribute to the action are included.

The **coordinator** is the beneficiary which is the central contact point for the granting authority and represents the consortium (towards the granting authority). For mono-beneficiary grants, the mono-beneficiary also has the coordinator role.

The signature arrangements are the following:

- the coordinator directly signs the Grant Agreement
- the other beneficiaries sign the Grant Agreement by signing the Accession Form *(see Article 40)*. Only beneficiaries sign the Accession Form. Affiliated entities, associated partners etc. do NOT sign the Accession Form.

Amendments to the GA, if any, will be signed by the coordinator on behalf of the other beneficiaries.

The **division of roles and responsibilities** within the consortium are explained in *Article 7*.

Generally speaking:

- the coordinator must coordinate and manage the grant, including distribution of payments received from the granting authority, and is the central contact point for the granting authority
- the beneficiaries must collectively together contribute to a smooth and successful implementation of the project *(i.e. implement their part of the action properly, comply with their own obligations under the Grant Agreement and support the coordinator in his obligations)*.

The beneficiaries are bound by the grant terms and conditions. This means that they must:

- carry out the action as described in the description of the action (DoA; Annex 1 of the Grant Agreement) and
- comply with all the other provisions of the Grant Agreement and all the applicable provisions of EU, international and national law *(including general principles, such as fundamental rights, values, and ethical principles)*.

The involvement of **other participants** which do not sign the Grant Agreement *(affiliated entities, associated partners, subcontractors, etc)* varies depending on the role. Since there is no formal contractual link with them, their obligations will always be enforced through the responsible beneficiaries.

⚠ The consortium set-up must follow the **roles** in the **Grant Agreement**.

Participants should be attributed their roles according to their real contribution to the project. The main actors should be the beneficiaries or affiliated entities. All other roles should be complementary.

This means for instance:

- affiliated entities — are allowed to *fully* participate in the action; they are treated like beneficiaries for most issues (including cost eligibility); they do not however have access to the Portal My Area section *(see Article 36)*; annotations in this AGA which refer to beneficiaries usually also apply to affiliated entities (just like the provisions of the MGA themselves; *see also MGA Preamble*)
- subcontracting — beneficiaries/affiliated entities may NOT subcontract tasks to other beneficiaries/affiliated entities
- coordinator tasks — the coordinator tasks listed in the Grant Agreement may NOT be subcontracted (they can only be delegated, under certain circumstances, to an entity with 'authorisation to administer' or in the case of 'sole beneficiaries' within the meaning of Article 187(2) of the Financial Regulation 2018/1046; *see Article 7*).

For an overview on the different types of third parties and their roles, rights and obligations under the Grant Agreement, *see the table in Article 7.*

⚠ If you are an **assocation** with members who will implement some of the action activities (or an European Economic Interest Grouping (EEIG) or joint venture), you should make sure that the members participate as affiliated entities, so that they will be able to charge their costs to the project. Otherwise these costs will NOT be eligible.

2. Name and address — Legal entity data

The legal entity data *(legal name, address, legal representatives, etc)* of the beneficiaries comes from the Funding & Tenders Portal Participant Register (former 'Beneficiary Register').

This data will be automatically used for all communications concerning the grant *(see Article 36)* and will also be used in case you are applying for other EU grants, prizes or tenders (if managed through the Portal).

⚠ The beneficiaries (via their legal entity appointed representative (LEAR)) must keep their **data** in the Participant Register **up-to-date at all times** including after the end of the grant (*see Article 19).*

DATA SHEET

General > Data Sheet

DATA SHEET

DATA SHEET

1. General data

Project summary:

Project summary
Text from DoA Annex 1 Part A (same text as proposal abstract)

Keywords: [keywords from proposal]

Project number: [project number, e.g. 690853330]

Project name: [full title, e.g. Training European Judges in Competition law]

Project acronym: [acronym, e.g. TEJC]

Call: [call ID, e.g. PROG-(SUBPROG-)YEAR-CALLABREV]

Topic: [topic ID, e.g. PROG-(SUBPROG-)YEAR-CALLABREV-NN/TOPICABBREV]

Type of action: [ToA, e.g. JUST Project Grants]

Granting authority: *[*European Commission – EU*]* *[*European Commission – Euratom*]* *[*[name of Executive Agency]*]* *[*[name of EU funding body]*]*

Grant managed through EU Funding & Tenders Portal: *[OPTION 1 for eGrants:* Yes (eGrants)*]* *[OPTION 2 for paper grants:* No*]*

[OPTION for SGAs: Framework Partnership Agreement No [insert number] — [insert acronym]*]*

Project starting date[1]: *[OPTION 1 by default: [*first day of the month following the entry into force date*]][*day after the entry into force date*]* *[*the effective starting date notified by the beneficiaries (to be notified within [X] months from entry into force date)*]]* *[OPTION 2 if selected for the grant:* fixed date: [dd/mm/yyyy]*]*

Project end date: [dd/mm/yyyy]

Project duration: [number of months, e.g. 48 months]

[OPTION for programmes with linked actions: [OPTION if selected for the grant: Linked action: Linked with other action:

- [insert linked action information, e.g. name, acronym, number, funded by (EU/name of other donor organisation), description (grant/ procurement/ prize/ equity investment/ repayable loan/etc)]
    - *[OPTION if selected for the grant:* Specific linked action type: *[*Synergy*]*/Blended finance (linked action)*]]*
    - Collaboration agreement: *[OPTION 1 by default:* No*]* *[OPTION 2 if selected for the call:* Yes*]*
- … *]]*

Consortium agreement: *[*n/a*]* *[[OPTION 1 by default:* Yes*]* *[OPTION 2 if selected for the call:* No*]]*

*[*Additional information: [insert information]*]*

[1] This date must normally be the first day of a month and later than the entry into force of the agreement. The RAO can decide on another date, if justified by the applicants. However, the starting date may not be earlier than the submission date of the grant application – except if provided for by the basic act or in cases of extreme urgency and conflict prevention (Article 193 EU Financial Regulation 2018/1046).

2. Participants

List of participants:

Number	Role	Short name	Legal name	Country	PIC	Total eligible costs (BEN and AE) ~~partipants without funding and associated partners)~~	*[OPTION for programmes with contributions:* Total eligible contributions	Maximum grant amount	Entry date	Exit date
1	COO			IT		117 000.00	0	117 000.00	02.03.2017	
2	BEN			DE		90 000.00	0	63 000.00		
Total							*]*			

Coordinator:

- [COO legal name (short name)]: from [insert date] to [insert date]
- …

3. Grant

Maximum grant amount, total estimated eligible costs and contributions and funding rate:

Total eligible costs (BEN and AE)	*[OPTION for programmes with contributions:* Total eligible contributions (unit, flat-rate and lump sum contributions and financing not linked to costs)	Funding rate (%)	Maximum grant amount (Annex 2)	*[OPTION for programmes with contigency reserve: [*Contingency reserve	Maximum grant amount (award decision)
877 500.00	80 000.00*]*	[...], [...]	607 500.00	[amount]*]]*	[amount]

Grant form: *[*Budget-based*][*Activity-based*][*Lump Sum*][*Unit*]*

Grant mode: Action grant

Budget categories/activity types: [list of applicable budget categories/activity types]

Cost eligibility options: *[*n/a*]*

- *[*In-kind contributions eligible costs*]*
- *[*Parental leave*]*
- *[[*Standard supplementary payments*] [*Project-based supplementary payments*]]*
- *[*Average personnel costs (unit cost according to usual cost accounting practices*)]*
- *[[OPTION if selected for the call*[1]*:* Additional subcontracting rules*]]*
- *[[OPTION if selected for the call:* Country restrictions for subcontracting costs*]]*
- *[[OPTION if selected for the grant*[1]*:* Limitation for subcontracting*]]*
- *[[OPTION if selected for the call*[1]*:* Additional purchasing rules*]]*

- *[*Travel and subsistence:
  - Travel: *[*Actual costs*][*Unit or actual costs*]*
  - Accommodation: *[*Actual costs*][*Unit or actual costs*]*
  - Subsistence: *[*Actual costs*][*Unit or actual costs*]]*
- *[*Equipment: *[OPTION 2:* depreciation only*] [OPTION 3:* full cost only*] [OPTION 4:* depreciation and full cost for listed equipment*][OPTION 5:* full cost and depreciation for listed equipment*] [OPTION 6: [OPTION 1 by default:* depreciation only*][OPTION 2 if selected for the call:* full cost only*][OPTION 3 if selected for the call:* depreciation and full cost for listed equipment*][OPTION 4 if selected for the call:* full cost and depreciation for listed equipment*]]]*
- *[[OPTION if selected for the call:* Costs for providing financial support to third parties (*[*actual cost*][*unit cost*]*; max amount for each recipient: EUR *[*60 000*][*[…]*]*[1]*)]]*
- *[*Indirect cost flat-rate: *[*7%*][*[…]%*]*] of the *[OPTION A for programmes with 7% flat-rate on all cost categories:* eligible direct costs (categories A-D, except volunteers costs and exempted specific cost categories, if any)*][OPTION B for programmes with 25% flat rate:* eligible direct costs (categories A-D, except volunteers costs, subcontracting costs, financial support to third parties and exempted specific cost categories, if any)*][OPTION C for programmes with flat rate on different base:* [list the costs on which the flat-rate should be based, e.g. eligible personnel costs (category A, except volunteers costs, if any)]*]]*
- *[OPTION D for EDF:* Indirect costs: flat-rate of 25% of the eligible direct costs (categories A-D, except volunteers costs, subcontracting costs, financial support to third parties and exempted specific cost categories, if any) or actual costs*]*
- VAT: *[*No*][*Yes*]*
- *[[OPTION if selected for the grant:* Double funding for Synergy actions*]]*
- *[[OPTION if selected for the call:* Country restrictions for eligible costs*]]*
- *[*Other ineligible costs*]*

Budget flexibility: *[*No*][*Yes (*[*no flexibility cap*][*with flexibility cap*])]*

[[OPTION if selected for the call: **Additional record-keeping rules** (art 20)*]]*

4. Reporting, payments and recoveries

4.1 Continuous reporting (art 21)

[OPTION 1 for eGrants:

Deliverables: see Funding & Tenders Portal Continuous Reporting tool

*[***Progress reports ([Name])**: No/Yes (deadline for submission, *[*30*][*[…]*]* days after end of period)

Progress report No	Month from	Month to
1	1	6
2	13	18

]]

[1] If the RAO decides to set specific rules, they must be set out in the call and take into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk (proportionality). Specific rules may only be set for the award of contracts of a value higher than EUR 60 000.

[2] This is a standard obligation for all EU grants. It may be unselected only for actions where subcontracting is a key/large part of the action (e.g infrastructure projects; technical assistance, statistical programmes, etc).

[3] If the RAO decides to set specific rules, they must be set out in the call and take into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk (proportionality). Specific rules may only be set for the award of contracts of a value higher than EUR 60 000.

[4] The amount applicable to the call must be specified in the call conditions. It may not be more than 60 000 EUR, unless the objective of the actions funded by the call would otherwise be impossible or overly difficult to achieve (Article 204 EU Financial Regulation 2018/1046). A higher amount may exceptionally be agreed with the granting authority, if this is announced in the call and is needed because otherwise the objective of the action would be impossible or overly difficult to achieve.

[OPTION 2 for paper grants:

Standard deliverables: [insert standard deliverables]

*[***Progress reports ([Name])**[1]: No/Yes (deadline for submission, *[*30*]/[*[…]*]* days after end of period)

Progress report No	Month from	Month to
1	1	6
2	13	18

]

*[***Special reports**: No/Yes (deadline for submission: [date])*]*

*[***Reports on cumulative expenditure incurred**[1]: No/Yes (deadline for submission: *[*30 November*]/[*31 December*]* each year)*]* *]*

4.2 Periodic reporting and payments

Reporting and payment schedule (art 21, 22)**:**

Reporting					Payments	
Reporting periods			Type	Deadline	Type	Deadline (time to pay)
RP No	Month from	Month to				
					Initial pre-financing	*[OPTION 1 by default:* 30 days from *[OPTION 1:* entry into force/10 days before starting date*[*/financial guarantee (if required)*]]* *[OPTION 2:* entry into force/starting date*[*/financial guarantee (if required)*]]* *[OPTION 3:* entry into force*[*/financial guarantee (if required)*]]* *[OPTION 4:* accession of all beneficiaries*[*/financial guarantee (if required)*]]* *[OPTION 5:* date of notification of the starting date/10 days before the starting date*[*/financial guarantee (if required)*]]* – whichever is the latest*]* *[OPTION 2: if selected for the call:* n/a*]*
1	[number]	[number]	Additional pre-financing report	60 days after end of reporting period	Additional pre-financing	*[OPTION 1 if selected for the grant: [*90*][*60*]* days from receiving additional pre-financing report*[*/financial guarantee (if required)*]* – whichever is the latest*][OPTION 2:* n/a*]*
2	[number]	[number]	Periodic report	60 days after end of reporting period	Interim payment	*[OPTION 1 if selected for the grant: [*90*][*60*]* days from receiving periodic report*][OPTION 2:* n/a*]*
3	[number]	[number]	Periodic report	60 days after end of reporting period	Final payment	*[*90*][*60*]* days from receiving periodic report

[1] Progress report should be added if there are long reporting periods linked to payments (additional pre-financing or interim/final payment) – depending on the programme, typically more than 12 or 18 months.

[1] Reports on cumulative expenditure must be added to the list of deliverables for grants of more than EUR 5 million, with pre-financing and reporting periods of more than 18 months.

Pre-financing payments and guarantees: *[*n/a*]*

Pre-financing payment		Prefinancing guarantee		
Type	**Amount**	**Guarantee amount**	**Division per participant**	
Pre-financing 1 (initial)	150 000,00	*[*150 000,00*]* *[*n/a*]*	1 – [short name]	*[*n/a*]* *[*150 000,00*]*
			2 – [short name]	
Pre-financing 2 (additional)	50 000,00	*[*50 000,00*]* *[*n/a*]*	1 – [short name]	*[*n/a*]* *[*50 000,00*]*
			2 – [short name]	

Reporting and payment modalities (art 21, 22)**:**

Mutual Insurance Mechanism (MIM): *[*No*]/[*Yes*]*

[OPTION for programmes with Mutual Insurance Mechanism (MIM): MIM contribution: *[*5%*]/[*[…]%*]* of the maximum grant amount ([insert amount]), retained from the initial pre-financing *[additional OPTION for programmes with MIM split contribution: [additional OPTION if selected for the call:*, […]% of the maximum grant amount ([insert amount]), retained from the second pre-financing*]/[additional OPTION if selected for the call:* and […]% of the maximum grant amount ([insert amount]), retained from the third pre-financing*]]*

[OPTION for programmes with pre-financing baseline date Option 1, 2, 3 or 5: Restrictions on distribution of initial pre-financing: The pre-financing may be distributed only if the minimum number of beneficiaries set out in the call conditions (if any) have acceded to the Agreement and only to beneficiaries that have acceded.*]*

Interim payment ceiling (if any): *[*90%*]/[*100%*]/[*[…%]*]* of the maximum grant amount

*[*Early pre-financing clearing (before reaching interim payment ceiling): *[*100%*]/[*[…]%*]* of the pre-financing to be cleared before interim payments can be made *]*

[[OPTION if selected for the call: Exception for revenues: No/Yes*]]*

No-profit rule: *[*n/a*]/[[OPTION if selected for the grant*[1]*: No/Yes*]]*

Late payment interest: *[*ECB + 3.5 %*]/[*[…]%*]*

Bank account for payments:

[IBAN account number and SWIFT/BIC, e.g. IT75Y0538703601000000198049; GEBABEBB]

Conversion into euros: *[*n/a*]/[*/Double conversion*]/*Double conversion (EU or Oanda)*]/*Direct conversion*]]*

Reporting language: *[*Language of the Agreement*]/[*[other language(s)]*]/[*[insert information, e.g. Language of the Agreement or other EU official language, if specified in the call conditions)]*]*

[1] This is a standard obligation for all EU grants. It may be unselected only under the conditions of Article 192(3) EU Financial Regulation 2018/1046):
- actions with the objective to reinforce the financial capacity of the beneficiaries
- actions where the continuity after their end is to be ensured by the income generated by the action
- grants in the form of study, research or training scholarships paid to natural persons or as other forms of direct support paid to natural persons who are most in need
- grants which are entirely in the form of financing not linked to costs
- actions implemented only by non-profit organisations (i.e. all beneficiaries and affiliated entities are non-profit organisations)
- grants with a maximum amount of not more than EUR 60 000 (low value grants).

4.3 Certificates (art 24)

*[*n/a*]*

[[OPTION if selected for the grant: Operational verification report (*[*each interim/final payment*]/[*final payment*])]]*

Certificates on the financial statements (CFS): *[*n/a*]*

[OPTION 1 for programmes with standard CFS rules (interim/final payment + one/two thresholds):

Conditions:

Schedule: interim/final payment, if threshold is reached

Standard threshold (beneficiary-level):

- *[*financial statement: requested EU contribution to costs ≥ EUR *[*150 000*]/[*325 000*]/[*[…]*]]*
- *[*estimated budget: maximum grant amount ≥ EUR *[*200 000*]/[*750 000*]/[*[…]*]]*

[additional OPTION for programmes with SPA: Special threshold for beneficiaries with a systems and process audit(see Article 24): financial statement: requested EU contribution to costs ≥ EUR […]*]*

[OPTION if selected for the grant: Exempted beneficiaries:

- [BEN/AE legal name (short name)]
- [BEN/AE legal name (short name)]*]]*

[OPTION 2 for programmes with CFS only at final payment + one/two thresholds

Conditions:

Schedule: only at final payment, if threshold is reached

Standard threshold (beneficiary-level):

- *[*financial statement: requested EU contribution to costs ≥ EUR *[*150 000*]/[*325 000*]/[*[…]*]]*
- *[*estimated budget: maximum grant amount ≥ EUR *[*200 000*]/[*750 000*]/[*[…]*]]*

[additional OPTION for programmes with SPA: Special threshold for beneficiaries with a systems and process audit (see Article 24): financial statement: requested EU contribution to costs ≥ EUR […]*]*

[OPTION if selected for the grant: Exempted beneficiaries:

- [BEN/AE legal name (short name)]
- [BEN/AE legal name (short name)]*]]*

[OPTION 3 for programmes with CFS for interim/final payment + no threshold

Conditions:

Schedule: each interim/final payment (no threshold)

[additional OPTION for programmes with SPA: Special threshold for beneficiaries with a systems and process audit (see Article 24): financial statement: requested EU contribution to costs ≥ EUR […] *]*

[OPTION if selected for the grant: Exempted beneficiaries:

- [BEN/AE legal name (short name)]
- [BEN/AE legal name (short name)]*]]*

4.4 Recoveries (art 22)

First-line liability for recoveries: *[*n/a*]*

Beneficiary termination: Beneficiary concerned

Final payment: *[OPTION 1 for programmes without MIM:* Coordinator*][OPTION 2 for programmes with MIM:* Each beneficiary for their own debt*]*

After final payment: Beneficiary concerned

Joint and several liability for enforced recoveries (in case of non-payment): *[*n/a*]*

[OPTION 1 for programmes with joint and several liability of beneficiaries: [OPTION 1 by default: Limited joint and several liability of other beneficiaries — up to the maximum grant amount of the beneficiary*)] [OPTION 2 if selected for the grant:* Unconditional joint and several liability of other beneficiaries — up to the maximum grant amount for the action*] [OPTION 3 if selected for the grant:* Individual financial responsibility: Each beneficiary is liable only for its own debts (and those of its affiliated entities, if any)*]]*

[OPTION 2 for programmes without joint and several liability of beneficiaries: Individual financial responsibility: Each beneficiary is liable only for its own debts (and those of its affiliated entities, if any).*]*

[additional OPTION for all programmes with joint and several liability of affiliated entities: [OPTION 1 by default: Joint and several liability of affiliated entities — n/a*] [OPTION 2 if selected for the grant:* Joint and several liability of the following affiliated entities with their beneficiary — up to the maximum grant amount for the affiliated entity indicated in Annex 2:

- [AE legal name (short name)], linked to [BEN legal name (short name)]
- [AE legal name (short name)], linked to [BEN legal name (short name)]*]]*

5. Consequences of non-compliance, applicable law & dispute settlement forum

*[***Suspension and termination:**

*[*Additional suspension grounds (art 31)*]*

*[*Additional termination grounds (art 32)*]]*

Applicable law (art 43)**:**

Standard applicable law regime: EU law + law of Belgium

[OPTION if selected for the grant: Special applicable law regime:

- [BEN legal name (short name)]: *[OPTION 1:* no applicable law clause selected*] [OPTION 2: [*EU law*][+]*law of [name Member State or EFTA country]*][+]*general principles governing the law of international organisations and the general rules of international law*]]*
- [BEN legal name (short name)]: *[OPTION 1:* no applicable law clause selected*] [OPTION 2: [*EU law*][+]*law of [name Member State or EFTA country]*][+]*general principles governing the law of international organisations and the general rules of international law*]]]*

Dispute settlement forum (art 43)**:**

Standard dispute settlement forum:

EU beneficiaries: EU General Court + EU Court of Justice (on appeal)

Non-EU beneficiaries: Courts of Brussels, Belgium (unless an international agreement provides for the enforceability of EU court judgements)

[OPTION if selected for the grant: Special dispute settlement forum:

- [BEN legal name (short name)]: Arbitration
- [BEN legal name (short name)]: Arbitration *]*

6. Other

Specific rules (Annex 5): *[*No*][*Yes*]*

Standard time-limits after project end:

Confidentiality (for X years after final payment): 5

Record-keeping (for X years after final payment): 5 (or 3 for grants of not more than EUR 60 000)

Reviews (up to X years after final payment): *[*2*][*5 (or 3 for grants of not more than EUR 60 000)*]*

Audits (up to X years after final payment): *[*2*][*5 (or 3 for grants of not more than EUR 60 000)*]*

Extension of findings from other grants to this grant (no later than X years after final payment): *[*2*] [*5 (or 3 for grants of not more than EUR 60 000)*]*

Impact evaluation (up to X years after final payment): 5 (or 3 for grants of not more than EUR 60 000)

For the options that APPLY TO YOUR ACTION, please see your Grant Agreement or the programme's MGA published as part of the call documents and available on Portal Reference Documents!

1. Data Sheet

The Data Sheet shows ALL options in the Grant Agreement (i.e. all provisions in the terms and conditions that are flagged as options — *marked by red or green brackets*).

⚠ The Data Sheet uses the **IT labels** that are used by the Portal Grant Management System for the automatic generation of the contracts.

These labels do NOT necessarily reflect the precise legal provisions and must therefore ALWAYS be cross-checked with the full text of the corresponding provision in the terms and conditions.

Examples:

1. *The options 'Actual costs/Unit or actual cost' for travel and subsistence in the Data Sheet are linked to the corresponding Options in Article 6.2.C.1. Thus, 'Unit or actual costs' does NOT mean that the beneficiaries can freely choose which cost form to use. The cost form to be used is prescribed by the conditions in Article 6.2.C.1.*

2. *The options 'Yes/No' for VAT in the Data Sheet are linked to the Options in Article 6.3(viii). Thus, 'Yes' means eligible under the conditions set out in that provision (Article 6.3(viii)); 'No' means always ineligible.*

Red options are options which have been selected at programme- or type of action-level.

Green options are options that are selected either at call- or project-level.

CHAPTER 1 GENERAL

ARTICLE 1 — SUBJECT OF THE AGREEMENT

ARTICLE 1 — SUBJECT OF THE AGREEMENT

This Agreement sets out the rights and obligations and terms and conditions applicable to the grant awarded *[OPTION for SGAs:* under Framework Partnership Agreement No [insert number] — [insert acronym]*]* for the implementation of the action set out in Chapter 2.

1. Subject of the Grant Agreement

The Grant Agreement sets out the rights and obligations of each party and the terms and conditions of the grant that beneficiaries must comply with when implementing the action (i.e. the project).

⚠ Grants are public funding in form of **donation** *(i.e. a free, non-reimbursable contribution)*. The EU donates to actions because it is a way to incentivise activities that are in the public policy interest. It is a positive way to support and involve citizens and encourage broad cooperation across borders without taking ownership in the action.

⚠ The granting authority is **NOT procuring your work, goods or services**, nor is your project 'done for the European Commission' or any other EU granting authority.

ARTICLE 2 — DEFINITIONS

ARTICLE 2 — DEFINITIONS

For the purpose of this Agreement, the following definitions apply:

Action — The project which is being funded in the context of this Agreement.

Grant — The grant awarded in the context of this Agreement.

EU grants — Grants awarded by EU institutions, bodies, offices or agencies (including EU executive agencies, EU regulatory agencies, EDA, joint undertakings, etc)

Participants — Entities participating in the action as beneficiaries, affiliated entities, associated partners, third parties giving in-kind contributions, subcontractors or recipients of financial support to third parties.

Beneficiaries (BEN) — The signatories of this Agreement (either directly or through an accession form).

Affiliated entities (AE) — Entities affiliated to a beneficiary within the meaning of Article 187 of EU Financial Regulation 2018/1046[12] which participate in the action with similar rights and obligations as the beneficiaries (obligation to implement action tasks and right to charge costs and claim contributions).

Associated partners (AP) — Entities which participate in the action, but without the right to charge costs or claim contributions.

Purchases — Contracts for goods, works or services needed to carry out the action (e.g. equipment, consumables and supplies) but which are not part of the action tasks (see Annex 1).

Subcontracting — Contracts for goods, works or services that are part of the action tasks (see Annex 1).

In-kind contributions — In-kind contributions within the meaning of Article 2(36) of EU Financial Regulation 2018/1046, i.e. non-financial resources made available free of charge by third parties.

Fraud — Fraud within the meaning of Article 3 of EU Directive 2017/1371[13] and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995[14], as well as any other wrongful or criminal deception intended to result in financial or personal gain.

Irregularities — Any type of breach (regulatory or contractual) which could impact the EU financial interests, including irregularities within the meaning of Article 1(2) of EU Regulation 2988/95[15].

Grave professional misconduct — Any type of unacceptable or improper behaviour in exercising one's profession, especially by employees, including grave professional misconduct within the meaning of Article 136(1)(c) of EU Financial Regulation 2018/1046.

Applicable EU, international and national law — Any legal acts or other (binding or non-binding) rules and guidance in the area concerned.

Portal — EU Funding & Tenders Portal; electronic portal and exchange system managed by the European Commission and used by itself and other EU institutions, bodies, offices or agencies for the management of their funding programmes (grants, procurements, prizes, etc.).

[12] For the definition, see Article 187 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 ('EU Financial Regulation') (OJ L 193, 30.7.2018, p. 1): "**affiliated entities** [are]:
(a) entities that form a sole beneficiary [(i.e. where an entity is formed of several entities that satisfy the criteria for being awarded a grant, including where the entity is specifically established for the purpose of implementing an action to be financed by a grant)];
(b) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Article 136(1) and 141(1) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation".

[13] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

[14.] OJ C 316, 27.11.1995, p. 48.

[15] Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

1. Definitions

The definitions in Article 2 show important terms which are mentioned repeatedly throughout the different provisions of the Grant Agreement.

They refer to:

- types of participants *(e.g. 'beneficiaries'; 'affiliated entities')*
- budget cost categories *(e.g. 'subcontracting')*

or

- other important legal concepts *(e.g. 'grave professional misconduct').*

Other terms that are not widely used are defined **directly in the relevant articles** *(e.g. Articles 16, 35, etc)* and Annex 5 (if applicable).

CHAPTER 2 ACTION

General > Article 3 — Action

ARTICLE 3 — ACTION

> **ARTICLE 3 — ACTION**
>
> The grant is awarded for the action [**insert project number**] — [**insert acronym**] ('action'), as described in Annex 1.
>
> *[OPTION for programmes with linked actions: [OPTION if selected for the grant[16]:* This action is linked to the action(s) set out in the Data Sheet (see Point 1) ('linked actions').*]]*
>
> [16] Linked actions cover all types of joint/combined/coordinated actions, where the action implementation should be linked to another action *(e.g. Horizon complementary grants, Horizon joint actions; Horizon MSCA SNLS grants, EDIDP COFUND, JU implementing grants, etc.)*.

1. Actions

The grant is awarded to allow the consortium to implement the action as described in the Annex 1 of the Grant Agreement (i.e. the project).

Depending on the EU programme under which the grant is awarded, your action may belong to a specific type of action that is mentioned in the call conditions *(e.g. Project Grants, Lump Sum Grants, Infrastructure Grants, Grants for Procurement, Coordination and Support Actions, etc)*.

2. Linked actions

Linked actions are used when the granting authority wishes to establish a formal link between your action and other activities, that may for example complement, precede or succeed your project.

The linked action is identified in the Grant Agreement *(see Data Sheet, Point 1)* and may refer to any formally set-up activity, such as other EU grants, but also grants from EU Member States or international organisations, blended finance, or activities carried out under procurement contracts, etc.

The beneficiaries of both actions must have arrangements, to ensure that both actions are implemented and coordinated properly. If required by the granting authority *(see Data Sheet, Point 1)*, these arrangements must be set out in a written collaboration agreement (or, if the consortia are identical, as part of their consortium agreement; *see Article 7*).

Specific cases (linked actions):

EU Synergy actions — When projects are part of EU 'Synergy calls' *(i.e. jointly coordinated calls that pursue common policy objectives and allow for the combination of funding)*, they will always be flagged as 'Synergy actions' and benefit from the special cost eligibility rules in Article 6.3. Other actions (not part of a 'Synergy call') can be flagged by the granting authority as 'Synergy action' on request. This is typically needed if an action should benefit from different combined EU grants. In this case, the beneficiaries must inform both granting authorities so that they can take measures to prevent double funding. For details, *see Article 6.3*.

ARTICLE 4 — DURATION AND STARTING DATE

ARTICLE 4 — DURATION AND STARTING DATE

The duration and the starting date of the action are set out in the Data Sheet (see Point 1).

1. Action starting date

The action starting date is fixed in the Data Sheet of the Grant Agreement.

It is usually the first day of the month following the grant signature. But the parties can also agree to a fixed starting date (if justified during grant preparation, *e.g. conference that must take place on a specific date*).

The fixed starting date should normally be in the future *(after grant signature)* but it is possible to propose an earlier starting date (*retroactive)*.

Be however aware that by starting the action before signing the GA, you risk that the starting date will not be accepted by the granting authority (which will assess the compliance with applicable rules) or that the grant will not be signed, and no costs will be eligible *(e.g. for activities implemented before signature of the grant)*. Conversely, starting dates far in the future affect normally also the timing of your (first) pre-financing payment.

⚠ The action starting date can normally **NOT** be **before the submission of the proposal** — unless the Programme Regulation (basic act) allows this or in cases of emergency, *e.g. for humanitarian aid and civil protection, for urgencies in the veterinary or phytosanitary domain, etc*.

⚠ The starting date will also affect the **eligibility of costs** *(see Article 6.1(a)(ii))*.

2. Action duration

The action duration is fixed in the Data Sheet of the Grant Agreement.

It usually comes from your proposal (based on the call conditions) and is expressed as a number of months, running from the action starting date.

The action end date shown in the system is the date that is automatically calculated from the starting date (starting date + months of duration).

⚠ The action duration relates only to the period during which the action tasks (set out in Annex 1) are implemented. This is **NOT** the same as **project closure** (i.e. final payment) or the end of the Grant Agreement. After the action end date, the beneficiaries still have to submit their final report and the granting authority will have to make the payment of the balance. Moreover, certain obligations under the Grant Agreement continue even afterwards *(e.g. keeping supporting documents in case of audits, continue to use certain equipment for the same objective, maintain the website of the project if required, etc)*.

CHAPTER 3 GRANT

General > Article 5 — Grant

ARTICLE 5 — GRANT

ARTICLE 5 — GRANT

5.1 Form of grant

The grant is an action grant[17] which takes the form of a *[*budget-based*][*activity-based*]* mixed actual cost grant (i.e. a grant based on actual costs incurred, but which may also include other forms of funding, such as unit costs or contributions, flat-rate costs or contributions, lump sum costs or contributions or financing not linked to costs).

5.2 Maximum grant amount

The maximum grant amount is set out in the Data Sheet (see Point 3) and in the estimated budget (Annex 2).

[OPTION for programmes with contingency reserve: [OPTION if selected for the call: The maximum grant amount can be raised at the end of the action, by activating the contingency reserve set out in the Data Sheet (see Point 3).*]]*

5.3 Funding rate

[OPTION 1 for programmes with single funding rate (per action): The funding rate for costs is […]% of the action's eligible costs. Contributions are not subject to any funding rate.*]*

5.4 Estimated budget, budget categories and forms of funding

The estimated budget for the action is set out in Annex 2.

It contains the estimated eligible costs and contributions for the action, broken down by participant *[OPTION for programmes with activity-based budget:*, type of activity*]* and budget category.

Annex 2 also shows the types of costs and contributions (forms of funding)[19] to be used for each budget category.

If unit costs or contributions are used, the details on the calculation will be explained in Annex 2a.

5.5 Budget flexibility

The budget breakdown may be adjusted — without an amendment (see Article 39) — by transfers (between participants and budget categories), as long as this does not imply any substantive or important change to the description of the action in Annex 1.

However:

- changes to the budget category for volunteers (if used) always require an amendment
- changes to budget categories with lump sums costs or contributions (if used; including financing not linked to costs) always require an amendment
- changes to budget categories with higher funding rates or budget ceilings (if used) always require an amendment
- addition of amounts for subcontracts not provided for in Annex 1 either require an amendment or simplified approval in accordance with Article 6.2
- other changes require an amendment or simplified approval, if specifically provided for in Article 6.2
- *[OPTION 1 by default:* flexibility caps: not applicable*] [OPTION 2 for programmes with flexibility caps: [OPTION 1 by default:* flexibility caps: not applicable*] [OPTION 2 if selected for the call:* flexibility caps: *[*transfers between budget categories of more than *[*20%*][*[…%]*]* *[*of the total costs and contributions*][*per budget category*]* set out in Annex 2 require an amendment*][*[other]*]]* .

[17] For the definition, see Article 180(2)(a) EU Financial Regulation 2018/1046: '**action grant**' means an EU grant to finance "an action intended to help achieve a Union policy objective".

[19] See Article 125 EU Financial Regulation 2018/1046.

1. Form of grant

EU grants are normally '**budget-based mixed actual cost**' grants (meaning grants, broken down by budget categories and participants, and based on actual costs incurred and other simplified forms of funding *(e.g. normally unit costs for SME owners/natural person beneficiaries and volunteers, if applicable and flat rate costs for indirect costs)*.

However, depending on the programme and type of action, grants may also be:

- pure actual cost grants *(e.g. some operating grants)*
- pure lump sum grants
- pure unit grants
- 'activity-based mixed actual cost' grants, i.e. broken down by budget categories as well as by activities

or

- any other combination of costs and/or contributions.

For guidance on other types of grants, *see How to manage your lump sum grants.*

General > Article 5.2 Maximum grant amount

2. Maximum grant amount

The maximum grant amount set out in this Article defines the maximum amount of funding that the granting authority has available for the grant. It is a ceiling and not necessarily the 'final grant amount' and in any case not a 'price' due to the beneficiaries. It can NOT be exceeded, *e.g. to accommodate higher or anticipated cost*.

⚠ The **maximum grant amount** can **NOT** be **increased** — even if the eligible costs of the action are higher than planned.

Specific cases:

Contingency reserve — In some programmes, the maximum grant amount foreseen in the award decision may go beyond the maximum grant amount in Annex 2 to accommodate a 'contingency reserve'. In this case, the maximum grant amount in Annex 2 can be raised during the action by activating the contingency reserve (— up to the maximum grant amount set out in the award decision). This requires the agreement of the granting authority and must be requested through an amendment *(see Article 39)*.

General > Article 5.3 Funding rate

3. Funding rate

EU grants are normally subject to 'co-financing' or 'co-funding', meaning that the EU granting authority does only provide a part of the funding of the action and the remaining parts must be financed from the beneficiaries' own resources, income generated by the action *(e.g. by selling results)*, or financial or in-kind contributions from third parties *(e.g. grants from national or private funding programmes)*. As such, the EU grants are normally subject to a **single funding rate** for the entire action — which is expressed as a fixed percentage and announced in the call conditions. Through the application of the funding rate (a percentage of the eligible cost), co-financing is ensured as the remaining no eligible cost will need to be

covered from other sources. Normally the granting authority does not require any further information on the sources of co-financing, unless specifically requested for the action.

For some programmes and types of action *(e.g. HE, DEP, EDF, CEF, SMP)*, there are however several funding rates inside the project. These may depend on:

- the type of beneficiaries *(e.g. SMEs; for-profit or non-profit legal entities, place of establishment etc)*
- the type of cost categories to be covered
- the type of activities to be performed (for activity-based grants).

Where funding rates are based on the type of beneficiary, beneficiaries and their affiliated entities will be assessed separately. The funding rate of a beneficiary does NOT condition the funding rate of its affiliated entities.

> ***Example:*** *The beneficiary is entitled to a 70 % funding rate, it has an affiliated entity entitled to a funding rate of 100 %. The cost incurred by the affiliated entities will be funded at 100 % — despite the lower funding rate of the beneficiary to which it is linked.*

In order to avoid abuse, the budget flexibility is restricted. Changes that would entail a higher funding rate *(e.g. change between budget category or activity, relocation of budget (and tasks) to a beneficiary with higher rate)* are always subject to an amendment. Changes between beneficiaries with different funding rates will be monitored closely, to ensure that no disproportionate amount of tasks and budget is transferred from the beneficiary to its affiliated entity or vice versa in order to unduly profit from funding rate differences (budget transfers that result in substantive or important changes, i.e. changes that would also affect the description of the action in Annex 1, are subject to a mandatory amendment).

⚠ **Conditions** for the funding rate must normally be **complied with throughout the action**. Thus, a change of activity, type of beneficiary, etc. affecting the conditions for the funding rate, would also require a change of the funding rate (including specific increases or bonuses based on pre-set conditions) in line with the original call conditions.

General > Article 5.4 Estimated budget, budget categories and forms of funding

4. Estimated budget

The estimated budget of the action is calculated on the basis of the estimated eligible costs and — if applicable —contributions submitted by the consortium, and is annexed to the Grant Agreement (Annex 2).

The estimated budget also determines the maximum grant amount for each beneficiary/affiliated entity and for the action as a whole *(see above)*.

5. Budget categories and forms of funding

The **budget categories** are listed in Article 6.2 and reflected, for each programme and type of action, in the budget table in Annex 2.

The standard budget categories which usually apply are the following:

- Personnel costs
  - Costs for employees (or equivalent)
  - Costs for natural persons working under a direct contract
  - Costs of personnel seconded by a third party against payment

    - Costs for SME owners/beneficiaries that are natural persons without salary *(not all programmes)*
    - Costs for volunteers' work *(not all programmes)*
    - Costs for other personnel categories *(only SMP ESS, CUST/FISC)*
- Subcontracting costs
- Purchase costs
    - Travel costs, accommodation costs and subsistence costs *(all programmes except RFCS, CCEI)*
    - Equipment costs
    - Costs of other goods, works and services
- Other cost categories
    - Financial support to third parties (FSTP) *(all programmes except RFCS, EUAF, CUST/FISC, CCEI, PERI, TSI, UCPM)*
    - Internally invoiced goods and services *(only HE, DEP and EDF)*
- Indirect costs

Depending on the EU programme and the type of action, additional programme-specific budget categories may apply, for instance:

- HE Access to research infrastructure costs *(see Article 6.2.D.X RI)*
- HE PCP/PPI procurement costs *(see Article 6.2.D.X HE_PCP/PPI)*
- HE Euratom Cofund staff mobility costs *(see Article 6.2.D.X EURATOM)*
- HE ERC additional funding *(see Article 6.2.D.X ERC)*
- DEP PAC procurement costs *(see Article 6.2.D.X PAC)*
- CEF Studies *(see Article 6.2.D.X STUD)*
- CEF Synergetic elements *(see Article 6.2.D.X SYN)*
- CEF Works in outermost regions *(see Article 6.2.D.X OUT)*
- CEF Land purchase *(see Article 6.2.D.X CEF_LAND)*
- LIFE Land purchase *(see Article 6.2.D.X LIFE_LAND)*
- SMP PPI procurement costs *(see Article 6.2.D.X SMP_PPI)*
- SMP COSME EEN additional coordination and networking costs *(see Article 6.2.D.X EEN)*
- AMIF EMN ad hoc queries *(see Article 6.2.D.X QUERI)*
- CUST/FISC Long-term missions *(see Article 6.2.D.X MISS)*
- HUMA Field office costs *(see Article 6.2.D.X FIELD)*

These budget categories may be cost-based *(actual costs, unit costs, flat-rate costs, lump sum costs, costs according to usual cost accounting practices)* or contribution-based, i.e. fixed by the granting authority on the basis of a cost-related methodology including e.g. indirect cost *(unit contribution, lump sum contribution, flat-rate contribution) or a non-cost related methodology (financing not linked to cost)*. Which of these **forms of funding** applies, is shown, for each budget category, in the estimated budget *(Annex 2)*.

If unit costs or contributions are used, the details on the calculation will be explained in Annex 2a of the Grant Agreement.

General > Article 5.5 Budget flexibility

6. Budget transfers (budget flexibility)

The budget in Annex 2 is an estimation. The budget is therefore in principle flexible (with certain exceptions, *see below*).

⚠ A transfer can **NOT** lead to an **increase** of the **maximum grant amount**.

⚠ Moreover, you should be aware that the **budget table** is considered by the granting authority to **reflect the actual situation** and may therefore be the basis for certain decisions, such as the calculation of amounts to be offset from (pre-financing) payments for beneficiaries that have outstanding debts to the Commission *(see Article 22)*.

As a general principle, beneficiaries may transfer budget among themselves, between affiliated entities or between budget categories (without requesting an amendment; *see Article 39*) and — at the time of reporting — declare costs that are different from the estimated budget provided that the action remains in line with the description of the action in Annex 1 (if this is not the case, an amendment is needed, under the conditions of Article 39).

If the incurred eligible costs during the action implementation turn out to be lower than the estimated eligible costs, the difference can thus be allocated to another beneficiary or another budget category. The amount reimbursed for the other beneficiary/other budget category (to which the budget transfer is intended) may thus be higher than planned.

Example: *The estimated budget includes personnel costs of EUR 60 000 for beneficiary A and EUR 75 000 for beneficiary B. However, at the end of the action, the actual personnel costs of beneficiary A are EUR 75 000 due to an increase in salaries or to the need to employ additional personnel to carry out the tasks mentioned in Annex 1 while the actual personnel costs of beneficiary B are EUR 60 000. This may be acceptable provided the additional costs of beneficiary A fulfil the eligibility requirements of Article 6 and up to the maximum grant amount in Annex 2 (at the level of the action).*

The following changes always require an amendment:

- changes to the description of the action in Annex 1
- changes to the budget category for volunteers (if used)
- changes to budget categories with lump sums costs or contributions (if used; including financing not linked to costs)
- changes to budget categories or activities with higher funding rates or budget ceilings (if used)
- activation of the contingency reserve (where foreseen in the Grant Agreement).

The following require either an amendment or a simplified approval procedure:

- addition of amounts for subcontracts not provided for in Annex 1
- other changes in certain specific cost categories, if specifically provided for in Article 6.2.

Best practice: In case of doubt, the coordinator should consult the granting authority on whether a change requires an amendment or — at least — a simplified approval procedure.

Specific cases (grant)

Simplified approval procedure (general)— For some cases and types of cost indicated, the Grant Agreement provides for simplified approval procedures, meaning that beneficiaries can ask for an ex post approval by the granting authority to accept costs which have been incurred, but were not planned in the estimated budget. For such simplified approval, they must declare the costs in question in the next periodic report and flag and justify them. Simplified approval is however at the full discretion of the granting authority. This means that the beneficiaries bear the risk that the costs might not be approved at interim or final payment-stage later on.

Flexibility caps — If this option is activated in the Grant Agreement, transfers between budget categories going beyond a certain threshold percentage require an amendment. In this case, unauthorised changes going beyond the threshold may be rejected (cost rejection, applied to beneficiaries concerned/equally among the consortium members).

Financial support to third parties (FSTP) — A transfer from the budget category of financial support to third parties to any other category usually implies a significant change to the nature of the action and often requires also changes to the description of the action. Therefore, such a transfer normally requires an amendment of the Grant Agreement.

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS AND CONTRIBUTIONS

6.1 General eligibility conditions

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS AND CONTRIBUTIONS

In order to be eligible, costs and contributions must meet the eligibility conditions set out in this Article.

6.1 General eligibility conditions

The **general eligibility conditions** are the following:

(a) for actual costs:

(i) they must be actually incurred by the beneficiary

(ii) they must be incurred in the period set out in Article 4 (with the exception of costs relating to the submission of the final periodic report, which may be incurred afterwards; see Article 21)

(iii) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2

(iv) they must be incurred in connection with the action as described in Annex 1 and necessary for its implementation

(v) they must be identifiable and verifiable, in particular recorded in the beneficiary's accounts in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary's usual cost accounting practices

(vi) they must comply with the applicable national law on taxes, labour and social security and

(vii) they must be reasonable, justified and must comply with the principle of sound financial management, in particular regarding economy and efficiency

(b) for unit costs or contributions (if any):

(i) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2

(ii) the units must:

- be actually used or produced by the beneficiary in the period set out in Article 4 (with the exception of units relating to the submission of the final periodic report, which may be used or produced afterwards; see Article 21)
- be necessary for the implementation of the action and

(iii) the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 20)

(c) for flat-rate costs or contributions (if any):

(i) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2

(ii) the costs or contributions to which the flat-rate is applied must:

- be eligible
- relate to the period set out in Article 4 (with the exception of costs or contributions relating to the submission of the final periodic report, which may be incurred afterwards; see Article 21)

(d) for lump sum costs or contributions (if any):

(i) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2

(ii) the work must be properly implemented by the beneficiary in accordance with Annex 1

(iii) the deliverables/outputs must be achieved in the period set out in Article 4 (with the exception of deliverables/outputs relating to the submission of the final periodic report, which may be achieved afterwards; see Article 21)

(e) for unit, flat-rate or lump sum costs or contributions according to usual cost accounting practices (if any):

(i) they must fulfil the general eligibility conditions for the type of cost concerned

(ii) the cost accounting practices must be applied in a consistent manner, based on objective criteria, regardless of the source of funding

(f) for financing not linked to costs (if any), the results must be achieved or the conditions must be fulfilled as described in Annex 1.

In addition, for direct cost categories (e.g. personnel, travel & subsistence, subcontracting and other direct costs) only costs that are *directly* linked to the action implementation and can therefore be attributed to it *directly* are eligible. They must not include any *indirect* costs (i.e. costs that are only indirectly linked to the action, e.g. via cost drivers).

[OPTION for programmes with in-kind contributions eligible: **In-kind contributions** provided by third parties free-of charge may be declared as eligible direct costs by the beneficiaries which use them (under the same conditions as if they were their own, provided that they concern only direct costs and that the third parties and their in-kind contributions are set out in Annex 1 (or approved ex post in the periodic report, if their use does not entail changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants; 'simplified approval procedure').*]*

1. Eligible costs

The grant can only reimburse **eligible** costs (and, where applicable, contributions; *see Article 6.2.F*), i.e. costs that comply with the general and specific conditions set out in this Article.

Therefore, beneficiaries/affiliated entities must enter ONLY eligible costs into the estimated budget *(see Article 5.4)*, and later on into the financial statements *(see Article 21)*. If ineligible costs are declared, they will be **rejected** *(see Article 27)*.

Article 6.1 lists the general eligibility conditions for each form of funding *(actual costs, unit, flat-rate, lump sum, costs according to usual cost accounting practices, financing not linked to costs)*; Article 6.2 refers to the specific eligibility conditions for each budget category.

⚠ Cost eligibility is **NOT** the same as **beneficiary/action eligibility**. The latter are normally checked upstream (before grant signature/amendment), in order to make sure that only eligible beneficiaries/actions are selected for a grant. Loss of beneficiary/action eligibility during an ongoing grant normally leads to termination or change of status *(see Articles 32_and_39)*; costs become automatically ineligible as from the date of loss of eligibility.

For a consolidated list of eligibility issues relating to specific situations/legal framework in individual countries, see *AGA — List of country-specific issues*.

2. General eligibility conditions for actual costs

In order to be eligible, actual costs must be:

- **actually incurred** by the beneficiary/affiliated entity, i.e.:
  - real and not estimated, budgeted or imputed and
  - definitively and genuinely borne by the beneficiary/affiliated entity (not by any other entity)
- incurred **during the action duration**, i.e. the generating event that triggers the costs must take place during the action duration set out in the Data Sheet.

  If costs are invoiced or paid later than the end date, they are eligible only if the debt existed already during the action duration (supported by documentary evidence) and the final cost are known at the moment of the final report.

  Example: *Costs of services or equipment supplied to a beneficiary may be invoiced and paid after the end date of the action, e.g. because of warranty periods, if the services or equipment were used by the beneficiary during the action duration. By contrast, costs of services or equipment supplied after the end of the action (or after GA termination) are normally not eligible.*

- entered as eligible costs **in the estimated budget**, under the relevant budget category in Annex 2

  This requirement is in practice automatically ensured by the IT system, since the financial statements mirror the budget categories that are available for the estimated budget. The only thing you need to pay attention to, is whether all the special cost categories (visible in the estimated budget and financial statements for the programme) are really eligible under the specific call you applied for *(e.g. financial support to third parties (FSTP), etc; see call conditions)*. If not, you should leave those columns empty and NOT enter any costs (they are ineligible and will be rejected).

  The requirement also has no impact on budget flexibility; costs may be transferred between beneficiaries and eligible budget categories without amending the Grant Agreement, under the conditions set out in Article 5.5.

- **connected to the action** and **necessary** for its implementation as described in Annex 1, i.e. to achieve the action's objectives

  The grant cannot be used to finance activities other than those approved by the granting authority.

  Examples:

  1. *The activities of the project cost less than foreseen so the beneficiary decides to conduct additional activities including for example hiring additional staff, organising an additional event, renewing office equipment. Additional activities regularly require a change of the description of the action (Annex 1). To be eligible, such reallocation of 'savings' need to be pre-discussed with the granting authority and may regularly require an amendment.*

  2. *Activities that violate the Grant Agreement (e.g. activities that are against the call conditions, against applicable law, against EU values, etc.) can never be necessary for the implementation of the action and therefore any cost related to such activities do not fulfil the general eligibility conditions.*

– **identifiable and verifiable**, i.e. come directly from the beneficiary/affiliated entity's accounts, be directly reconcilable with them and supported by documentation

The records and supporting documents must show the actual costs of the work, i.e. what was actually paid and recorded in the beneficiary's profit and loss accounts *(see Article 20)*.

Costs must be calculated according to the applicable accounting rules of the country in which the beneficiary is established and according to the beneficiary's usual cost accounting practices.

Example: *If a beneficiary always charges a particular cost as an indirect cost, it must do so also for EU and Euratom grants, and should not charge it as a direct cost.*

Be aware however, that the usual cost accounting practices may NOT be used as an excuse for non-compliance with other Grant Agreement provisions. You must bring your usual cost accounting practices in line with the Grant Agreement *(e.g. conditions for calculating personnel costs; conditions for charging depreciation costs, etc.).*

– in compliance with applicable **national laws on taxes, labour and social security**

and

– **reasonable, justified** and must comply with the principles of **sound financial management**, in particular regarding economy and efficiency *(i.e. be in line with good housekeeping practice when spending public money and not be excessive)*.

'Economy' means minimising the costs of resources used for an activity (input), while maximising quality; 'efficiency' is the relationship between outputs and the resources used to produce them.

Examples:

1. *The beneficiary may NOT increase the remuneration of its personnel, upgrade its travel policy or its purchasing rules because of the grant support.*

2. *Entertainment or hospitality expenses (including gifts, special meals and dinners) are generally not eligible.*

3. *Tips which are not obligatory are not eligible. By contrast, in some countries the invoice includes a certain mandatory amount as payment for the 'service'. In this case, the amount may be considered eligible — if the other eligibility conditions are fulfilled.*

⚠ **Double funding risk —** A cost item or element can NOT be declared more than once within the same or another budget category or activity *(e.g. cost for internally invoiced goods and services cannot include cost elements already charged under equipment cost)*.

Specific cases (actual costs):

Costs related to preparing, submitting and negotiating the proposals — Can generally NOT be declared as eligible for the action (they are incurred before the action starts), this includes cost for the preparation of the consortium agreement which should be signed before the action starts. However, costs related to updating the consortium agreement may be eligible if incurred during the action duration and in line with the general and specific eligibility conditions, in particular being necessary for the implementation of the action.

Travel costs for the kick-off/closing meeting — Even if the first leg of the journey takes place before the action starting date *(e.g. the day before the kick-off meeting)*, the costs may be eligible, if the meeting is held during the action duration. The same applies for the last leg of a journey after the end of the action duration for a closing meeting.

Costs for reporting at the end of the action — Costs related to drafting and submitting the final report are eligible even if they are incurred after the action duration.

Those costs include the cost of certificates on the financial statements (CFS) required by the Grant Agreement and the cost of participating in a project review carried out by the granting authority before the submission of the final report. They may also include the cost of personnel necessary to prepare the final report. However, they can NOT include any other action activities foreseen in the Annex 1 and undertaken after the end date of the action.

Costs to allow for the participation of disabled people *(e.g. costs for sign language interpreters required for dissemination events organised under the action)* — Are eligible if they fulfil the general and specific eligibility conditions listed under Articles 6.1 and 6.2. The beneficiaries must keep records *(see Article 20)* to prove in case of an audit, check or review the actual costs incurred and that they were necessary for the implementation of the action.

> ***Examples:***
>
> ***1.*** *When subcontracting the organisation of an event that is necessary for the implementation of the action, a beneficiary may select an offer that ensures full accessibility for persons with disability under the consideration of best value for money instead of the lowest price.*
>
> ***2.*** *When purchasing goods that are necessary for the implementation of the action, a beneficiary may purchase goods that ensure accessibility for disabled persons even if this entails a higher expense than comparable goods that do not offer accessibility.*

Cost for security measures — Where the implementation of an action requires additional security measures, costs can be declared under the appropriate cost category *(e.g. personnel costs for security staff, equipment costs for secure rooms, etc)* if in line with the general and specific eligibility conditions, in particular these cost must be directly connected to the action and necessary for its implementation. Conversely, costs for security not directly connected to the action (i.e. normal security measures of the beneficiaries with or without the EU action) are considered to be fully covered by the indirect costs.

3. General eligibility conditions for unit costs

In order to be eligible, unit costs or contributions must be:

- calculated by multiplying the number of actual units used to carry out the work *(e.g. number of hours worked on the action, number of tests performed, etc.)* or produced by the amount per unit
- the number of units must be **necessary** for the action
- the units must be used or produced during the **action duration**

and

- the beneficiaries must be able to show the **link** between the number of units declared and the **work on the action**.

The records and supporting documents must show that the number of units declared was actually used for the action *(see Article 20)*. The actual costs of the work are not relevant.

> ***Example:*** *A beneficiary which is an SME declares for its owner who does not receive a salary 50 days worked for an action in 2022. If there is an audit, the SME beneficiary must be able to show a record of the number of days worked by the owner for the action.*

Specific cases (unit costs):

Costs declared on the basis of the usual cost accounting practices — If this option is activated in the Grant Agreement *(e.g. HE, DEP, EDF, CEF, HUMA: Average personnel costs; HE, DEP, EDF: Internally invoiced goods and services)*, the beneficiaries must use unit costs using their own usual cost accounting practices. In this case: neither the amount per unit, nor the calculation method will be set out in Annex 2a of the Grant Agreement.

4. General eligibility conditions for flat-rate costs

In order to be **eligible**, flat-rate costs or contributions must be:

- calculated by **applying** a **flat rate** to certain **costs** (whether actual, unit or lump sum costs).

Example (7 % flat rate for indirect costs** — most programmes**):

A beneficiary is working on an action and uses a daily rate of EUR 240 for personnel costs. The beneficiary declares as eligible 40 day-equivalents of personnel costs + EUR 1 400 for other goods, works and services + EUR 1 500 for subcontracting during the first reporting period.

Eligible direct costs: (40 x 240 = 9 600) + 1 400 + 1 500 = 12 500

Eligible indirect cost: 7 % flat-rate of 12 500= EUR 875

Total eligible costs: 12 500 + 875 = EUR 13 375.

Funding rate of 70 % = EUR 9 362,50.

Example (25 % flat rate for indirect costs** — HE, EDF**):

A beneficiary is working on an innovation action and uses a daily rate of EUR 240 for personnel costs. The beneficiary declares as eligible 40 day-equivalents of personnel costs + EUR 1 400 for other goods and services + EUR 1 500 for subcontracting during the first reporting period.

Eligible direct costs: (40 x 240 = 9 600) + 1 400 + 1 500 = 12 500

Eligible indirect cost: 25 % flat-rate of 9 600 + 1 400 (not the 1 500 for subcontracting as the flat-rate does not apply on this specific cost category) = EUR 2 750

Total eligible costs: 12 500 + 2 750 = EUR 15 250

Funding rate of 70 % = EUR 10 675.

The records and supporting documents must show that the costs to which the flat-rate is applied are eligible *(see Article 20)*. If a flat-rate is applied, the actual indirect costs are not relevant for the granting authority and it is not necessary to calculate them precisely nor to keep any supporting document related to these.

5. General eligibility conditions for lump sum costs

In order to be **eligible**:

- the lump sum costs or contributions must correspond to the amount of lump sum costs set out in **Annex 2**
- the **work** must have been **carried out** in accordance to **Annex 1** of the Grant Agreement
- the output or result triggering payment of the lump sum must have been achieved during the **action duration**.

The records and supporting documents must show that the action tasks have been carried out as described in Annex 1. The actual costs of the work are not relevant.

6. Financing not linked to costs

In order to be eligible:

- the **results** must be **achieved** or the **conditions** must be **fulfilled** as described in **Annex 1** of the Grant Agreement during the action duration.

7. Direct and indirect costs

'Direct costs' are specific costs directly linked to the performance of the action and which can therefore be directly booked to it.

They are:

- either costs that have been caused in full by the activities of the action

– or costs that have been caused in full by the activities of several actions (projects), the attribution of which to a single action can, and has been, directly measured (i.e. not attributed indirectly via an allocation key, a cost driver or a proxy).

The beneficiaries must be able to show (with records and supporting evidence) the link to the action.

'Indirect costs' are costs that cannot be identified as specific costs directly linked to the performance of the action.

In practice, they are costs whose link to the action can NOT be (or has not been) measured directly, but only by means of cost drivers or a proxy (i.e. parameters that apportion the total indirect costs (overheads) among the different activities of the beneficiary).

⚠ Which kinds of cost fall under direct or indirect cost **depends on the nature of the action** and may therefore vary between programmes and calls.

⚠ Where they are reimbursed as **flat-rate** *(e.g. budget category E. Indirect costs in the EU action grants)*, you do NOT need to calctulate the indirect costs incurred for the action. They are covered by the flat-rate and automatically calculated by the IT system.

8. Conditions for eligible in-kind contributions for free *(HE)*

If eligible under the Grant Agreement *(only for HE)*, the beneficiaries/affiliated entities may charge costs for in-kind contributions made available for free.

What? These cover the costs, which a third party has for resources it contributes to the action for free *(i.e. made available for free for use by the project)*.

They must be **declared** under the budget category the beneficiary would use if they were their own costs *(e.g. 'Personnel costs for seconded persons', 'Equipment costs', 'Costs for other goods, works and services', etc)*, as actual or unit cost, depending on the rules of the budget category.

> ***Example:*** *Depreciation costs of equipment contributed free of charge must be declared under cost category D.2 Equipment (see Article 6.2.C.2).*

In addition to the general and specific **eligibility conditions** of the budget category used *(see Article 6.1 and 6.2)*, they must be limited to the *direct* costs incurred by the third party.

> ***Example:*** *A person not receiving a salary and who is the (co)owner of a SME is being seconded by this SME (third party) to a beneficiary. The direct costs incurred by the SME can be declared via the SME owner unit cost (daily rate) (see Article 6.2.A.4)*

Moreover, the in-kind contribution and the contributing third party must be mentioned in Annex 1 (simplified approval procedure; *see below*).

Specific cases (in-kind contributions eligible):

Simplified approval procedure (new in-kind contributions) — If the need for an in-kind contribution was not known at grant signature, the coordinator must request an amendment in order to introduce it in the Annex 1 (*see Article 39)* or flag it in the periodic report (simplified approval procedure). In the latter case, the beneficiaries bear however the risk that the granting authority might not approve the new contribution and reject the costs at interim or final payment-stage later on.

Internal invoicing of goods and services *(HE)* — For Horizon Europe, the granting authority can also accept costs that are internally invoiced in the third party providing in-kind contributions. In this case, they should be declared under cost category D.2 Internally invoiced goods and services *(see Article 6.2.D.2)*. In that context, the rules on internal

invoicing apply *(e.g. indirect (actual) costs of the third party can be included, depending on the usual cost accounting practices of the third party when calculating its unit cost for internally invoiced goods and services)*.

6.2 Specific eligibility conditions

> **6.2 Specific eligibility conditions for each budget category**
>
> For each budget category, the **specific eligibility conditions** are as follows:

1. Specific eligibility conditions for each budget category

Article 6.2 refers to **specific eligibility** conditions, applicable per budget category.

All programmes follow in principle the basic set of common budget categories from the General MGA (A. Personnel, B. Subcontracting, C. Purchases and D. Other). However not all programmes use all the cost categories and some programmes may have special/additional budget categories.

The eligibility conditions for all currently used budget categories are described in the following sections.

For a consolidated list of eligibility issues relating to specific situations/legal framework in individual countries, see *AGA — List of country-specific issues*.

Direct costs

A. Personnel costs

A. Personnel costs

[OPTION 1 for programmes without personnel acosts (ineligible):

Not applicable *]*

[OPTION 2 for programmes with personnel costs (standard):

1. Personnel costs (A.): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement, beneficiaries/affiliated entities may, depending on the options that apply, charge 'Personnel costs'.

This budget category covers the following subcategories:

- Costs for employees (or equivalent) *(see Article 6.2.A.1)*
- Costs for natural persons working under a direct contract and for personnel seconded by a third party against payment *(see Article 6.2.A.2 and 6.2.A.3)*
- Costs for SME owners not receiving a salary and for beneficiaries that are natural persons not receiving a salary *(see Article 6.2.A.4)*
- Costs for volunteers *(see Article 6.2.A.5)*
- Other personnel costs *(see Article 6.2.A.6)*

1.2 Depending on the type of personnel cost category, they must be **declared** as actual or unit costs (*e.g. unit cost for SME owners and volunteers cost, if applicable*).

1.3. The costs must comply with the **eligibility conditions** for each personnel cost category.

1.4 The **calculation** method will depend on the type of cost and the provisions of each personnel cost category.

A.1 Employees *(all programmes except SMP ESS, CUST/FISC)*

A.1 Costs for employees (or equivalent) are eligible as personnel costs if they fulfil the general eligibility conditions and are related to personnel working for the beneficiary under an employment contract (or equivalent appointing act) and assigned to the action.

They must be limited to salaries *[additional OPTION for programmes with parental leave:* (including net payments during parental leave)*]*, social security contributions, taxes and other costs linked to the remuneration, if they arise from national law or the employment contract (or equivalent appointing act) and be calculated on the basis of the costs actually incurred, in accordance with the following method:

{daily rate for the person

multiplied by

number of day-equivalents worked on the action (rounded up or down to the nearest half-day)}.

The daily rate must be calculated as:

{annual personnel costs for the person

divided by

215}

The number of day-equivalents declared for a person must be identifiable and verifiable (see Article 20).

[additional OPTION for programmes with parental leave: The actual time spent on parental leave by a person assigned to the action may be deducted from the 215 days indicated in the above formula.*]*

The total number of day-equivalents declared in EU grants, for a person for a year, cannot be higher than 215*[additional OPTION for programmes with parental leave:* minus time spent on parental leave (if any)*]*.

[OPTION A for programmes with standard rules for supplementary payments: The personnel costs may also include supplementary payments for personnel assigned to the action (including payments on the basis of supplementary contracts regardless of their nature), if:

- it is part of the beneficiary's usual remuneration practices and is paid in a consistent manner whenever the same kind of work or expertise is required
- the criteria used to calculate the supplementary payments are objective and generally applied by the beneficiary, regardless of the source of funding used.*]*

[OPTION B for programmes with project-based supplementary payments:

For personnel which receives supplementary payments for work in projects (project-based remuneration), the personnel costs must be calculated at a rate which:

- corresponds to the actual remuneration costs paid by the beneficiary for the time worked by the person in the action over the reporting period
- does not exceed the remuneration costs paid by the beneficiary for work in similar projects funded by national schemes ('national projects reference')
- is defined based on objective criteria allowing to determine the amount to which the person is entitled

and

- reflects the usual practice of the beneficiary to pay consistently bonuses or supplementary payments for work in projects funded by national schemes.

The national projects reference is the remuneration defined in national law, collective labour agreement or written internal rules of the beneficiary applicable to work in projects funded by national schemes.

If there is no such national law, collective labour agreement or written internal rules or if the project-based remuneration is not based on objective criteria, the national project reference will be the average remuneration of the person in the last full calendar year covered by the reporting period, excluding remuneration paid for work in EU actions.*]*

[additional OPTION for programmes with average personnel costs: If the beneficiary uses average personnel costs (unit cost according to usual cost accounting practices), the personnel costs must fulfil the general eligibility conditions for such unit costs and the daily rate must be calculated:

- using the actual personnel costs recorded in the beneficiary's accounts and excluding any costs which are ineligible or already included in other budget categories; the actual personnel costs may be adjusted on the basis of budgeted or estimated elements, if they are relevant for calculating the personnel costs, reasonable and correspond to objective and verifiable information

and

- according to usual cost accounting practices which are applied in a consistent manner, based on objective criteria, regardless of the source of funding.*]*

1. Employees or equivalent (A.1): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes except SMP ESS, CUST/FISC or where declared ineligible in the call conditions)*, the beneficiaries/affiliated entities may charge 'Costs for employees or equivalent'.

This budget category covers the costs for employees or equivalent that worked in the action, i.e. persons working for the beneficiary on the basis of an employment contract or equivalent appointing act.

'Equivalent appointing act' means the appointing acts of civil servants (who do not sign employment contracts, but receive official nominations for their posts).

⚠ ONLY costs for personnel **assigned to the action** (i.e. working for the project according to internal written instructions, organisation chart or other documented management decision) can be eligible.

⚠ **Record-keeping —** The monthly declaration of days worked in the project correctly signed *(see Article 20)* OR reliable time records will normally be sufficient proof of the assignment to the action — unless there is other contradicting evidence *(e.g. the employment contract indicates that the person was hired to work on another project)*.

What not? Cost of persons who work for the beneficiary, but NOT with an employment contract or equivalent appointing act *(e.g. staff provided by a temporary work agency, seconded staff, self-employed persons with a direct contract with the beneficiary)*.

1.2 Costs for employees (or equivalent) must be **declared** as:

- actual personnel costs *(standard case)*

or

- unit costs in accordance with the usual cost accounting practices *('average personnel costs'; if option applies in Grant Agreement; option in HE, DEP, EDF, CEF, HUMA)*.

1.3 The costs for employees (or equivalent) must comply with the **eligibility conditions** set out in Article 6.2.A.1, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred during the action duration, necessary, etc.; see Article 6.1(a) and (b))* and
- be paid in accordance with national law, the collective labour agreement and the employment contract/equivalent appointing act.

Generally, you may include, for each person concerned, the following:

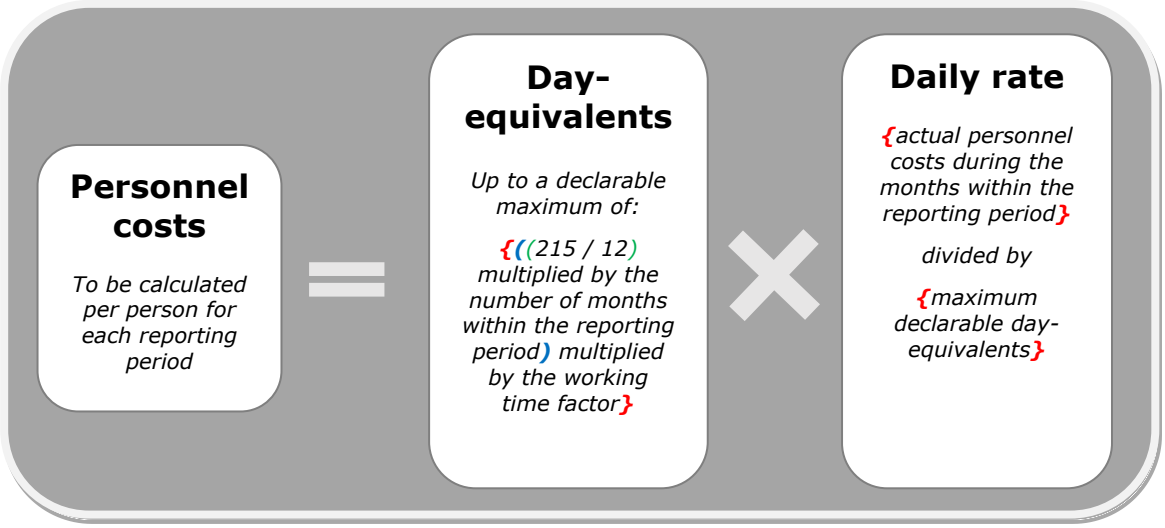
- fixed salary
- fixed complements, if they are unconditional entitlements for the person *(e.g. family allowance and contributions to medical insurance schemes set out in national law, complementary pension plan contributions set out in the collective labour agreement or other binding documents such as staff regulations)*
- variable complements, e.g. bonuses, if:
  - they are paid based on objective conditions set out, at least, in the internal rules of the beneficiary
  - they are paid in a consistent manner, *e.g. not just for actions supported by EU grants*, and
  - where applicable, subject to the specific eligibility conditions for supplementary payments *(see specific cases below)*
- social security contributions *(mandatory employer and employee contributions)*
- taxes linked to the remuneration *(e.g. income tax withholding)*
- other costs and payments linked to the remuneration if they are justified and registered as personnel costs in accordance with the beneficiary's usual remuneration practices *(e.g. benefits in kind like company car made available for the private use, lunch vouchers,* accrual for unconditional severance payments mandatory under national law or other binding documents such as collective labour agreements or other binding documents such as staff regulations*)*.

You may NOT include:

- any part of the remuneration which has not been an actual cost for you (*for example, salaries reimbursed by a social security scheme or a private insurance in case of long sick leave or maternity leave)*
- payments of dividends to employees *(profit distribution in the form of dividends)*
- variable complements based on commercial targets or fund raising targets *(because neither incurred in connection with the work of the action, nor necessary for its implementation)*
- arbitrary bonuses *(i.e. bonuses which are not paid based on objective conditions set out, at least, in the internal rules of the beneficiary or bonuses that are not paid in a consistent manner)*
- bonuses that depend on budget availability on the specific project *(e.g. paid only if there are remaining funds in the budget of a project)*.

'Objective conditions' means conditions which allow to identify who (e.g. what category of employees) will receive how much (*e.g. 5 € extra per hour, 10 % extra salary in each month of full dedication)* in what cases *(e.g. time worked as lead researcher in cooperative projects; an impartial and transparent assessment procedure on performance)*.

1.4 Calculation of the personnel costs. In most cases you have to calculate your personnel costs for the action as follows:



You must do these calculations normally **once per reporting period** (RP)[4] **for each person** who worked in the action.

Adaptations may be needed for specific cases, such as project-based remuneration or average personnel costs, depending on the applicable options in the Grant Agreement *(see specific cases below)*. Check the Data Sheet of your Grant Agreement, if specific options apply.

Regarding the calculation of day-equivalents worked in the action:

It is the sum of the day-equivalents actually worked for the action, rounded to the nearest half-day, and recorded in the monthly declarations or in your time-recording system (if you have a reliable time-recording system where you record, at least, all the actual time worked in the action).

For details on the declarations and on how to convert your working time on the action into day-equivalents, *see explanations in Article 20*.

[4] Alternatively, the calculation may be done separately for each calendar year within the reporting period, if this is consistently applied. In that case, the '*number of months within the reporting period*' referred to in the formulas is to be understood as the number of months of the respective calendar year that are within the reporting period.

⚠ **Horizontal 215-days ceiling —** In case of work on multiple actions per year, the total number of day-equivalents declared across EU grants for the person can NOT be higher than 215 per calendar year (or the corresponding pro-rata by multiplying 215 with the working time factor), to avoid double-funding of personnel cost.

Example: *In the reporting period form 01/07/2022 to 31/12/2023 the horizontal ceiling per year for a 50% part-time employee hired on 01/08/2022 would be:*

- 2022: (215/12 x 5 [months employed in the RP]) x 0,5 [part-time] = 45 [rounded]

- 2023: (215/12 x 12) x 0,5 = 107,5

Regarding the maximum declarable day-equivalents:

To calculate the daily rate, you first need to determine the maximum declarable day-equivalents. Since you may not declare more than 100% of your personnel cost, the number of declarable day-equivalents in each reporting period is capped. The maximum declarable day-equivalents for each reporting period are calculated as follows:

> ***{((215 / 12) multiplied by the number of months** [during which the person is employed] **within the reporting period) multiplied by the working time factor** [e.g. 1 for full-time, 0.5 for 50% part time etc.]**}***

You will round up or down to the nearest half day-equivalent.

> ***Examples:***
>
> *The reporting period runs from 01/01/2022 to 30/06/2022 (6 months):*
>
> ***Full-time case:** The person is a full-time permanent employee hired in 2020. The maximum number of day-equivalents to be used in the daily rate formula would be: **((**215 / 12**)** x 6 [months]**)** x 1 [full-time] = 107,5*
>
> ***Part-time case:** The person is a 50% part-time permanent employee hired in 2020. The maximum number of day-equivalents to be used in the daily rate formula would be: **((**215 / 12**)** x 6**)** x 0.5 [for 50% part-time] = 54*
>
> ***New hire case:** The person is a 50% part-time employee hired on 1/06/2022. The maximum number of day-equivalents to be used in the daily rate formula would be: **((**215 / 12**)** x 1 [only June 2022]**)** x 0.5 = 9*

The number of months used for the calculation either equates the length of the reporting period, or the length of employment of the person during this reporting period, if the latter is shorter *(e.g. the person is newly hired or no longer employed at any point during the reporting period)*.

> ***Example:** In the reporting period from 01/01/2022 to 31/03/2023 (i.e. 15 months) you hire a new person starting in full-time on 16/01/2023, with 2,5 months left in the reporting period. The number of months for the calculation of the maximum declarable day-equivalents is accordingly 2,5, not 15. The maximum number of declarable day-equivalents is **((**215/12**)** x 2,5**)** x 1 = 45 [rounded to the nearest half-day equivalent].*

For the purpose of all personnel cost calculations a month is considered to have 30 days.

> ***Example:** In the reporting period form 01/05/2022 to 31/03/2023, you calculate the number of months to be used when an employee is hired from 05/05/2022 until 20/10/2022:*
>
> *- May: 26 days as of the day of being hired, i.e. 26 / 30 = 0,87 months*
>
> *- June-September: 4 months*
>
> *- October: 20 days until end of employment, i.e. 20 / 30 = 0,67 months*
>
> *That is for the person in the reporting period: (26 / 30) + 4 + (20 / 30) = 5,54 months.*

If the working time factor changes for the person during the reporting period *(e.g. a change from part-time to full-time, change of contract)*, you calculate the maximum declarable day-equivalents separately for the months before and after this change of condition and add them up afterwards to calculate the maximum declarable day-equivalents for the reporting period.

Example:

In the reporting period from 01/01/2022 to 31/03/2023, you work full-time in 2022 and 50% part-time in 2023. You calculate the maximum declarable day-equivalents separately for 2022 and 2023 (because conditions have changed).

12 months of full-time work: ((215 / 12) x 12) x 1 = 215

3 months of part-time work: ((215 / 12) x 3) x 0.5 = 26,88

Total: The maximum declarable day-equivalents for the reporting period are therefore 215 + 26,88 = 242 (rounded to the nearest half-day equivalent).

Regarding the calculation of the daily rate:

You have to calculate a daily rate per person for the reporting period. For this, (irrespective of the situation, i.e. full-time, part-time, partial hire, etc), you have to use the following formula:

{actual personnel costs during the months within the reporting period}

divided by

{maximum declarable day-equivalents}

The actual personnel costs for the person are those eligible cost *(see 2.1.3 above)* recorded in accordance with your usual cost accounting practice in your (statutory) accounts until the end of the reporting period for which you are calculating the daily rate.

Example: *For a reporting period running from 01/01/2022 until 31/03/2023, to calculate the daily rate (which you will apply to days worked by the person in the action from 01/01/2022 until 31/03/2023) you will take into account the total personnel costs of the person recorded in your statutory accounts for the 12 months in 2022 and the 3 months in 2023 (January, February and March).*

If in line with the conditions described above *(see 2.1.3 above)*, the personnel costs can include any component that is legally obligatory by national law, the employment contract, or a similar act. Apart from taxes and social security contributions, this may also include for example the thirteenth salary, Christmas pay, etc. These personnel costs may also include supplementary payments for personnel assigned to the action *(including payments on the basis of supplementary contracts regardless of their nature)* if that is your usual remuneration practice for the kind of work or expertise required and based on objective criteria used regardless of the source of funding (i.e. not just for the individual EU grant).

Example:

In the reporting period from 01/12/2021 to 31/05/2023 (18 months), the person works 50% part-time from 01/12/2021 to 31/05/2022 (6 months) and full-time afterwards (12 months). You calculate the maximum declarable day-equivalents and the daily rate for the reporting period as follows:

Maximum declarable day-equivalents: Due to a change from part-time to full-time work, you need to calculate the declarable day-equivalents separately for the period from 01/12/2021 to 31/05/2022 and afterwards. The 6 months of part-time work calculation would be ((215 / 12) x 6) x 0.5 = 53.75 for the part-time which you would have to add up with the result of the calculation for the 12 months full-time period, which is 215 (i.e. ((215 / 12) x 12) x 1), the maximum number of declarable day-equivalents for the reporting period would be 53.75 + 215 = 269 (rounded to nearest half-day equivalent).

Daily rate: After taking into account all eligible elements (salary plus social contribution and taxes etc.) you recorded in your accounts a total eligible cost of EUR 15 000 personnel costs for working 6 months part-time and EUR 60 000 for 12 months full-time for a total cost of EUR 75 000. The daily rate for the person is calculated by dividing the personnel costs for the 18 months of work within the reporting period with the maximum declarable day equivalents, i.e. EUR 75 000 divided by 269 = EUR 278.81 daily rate.

Specific cases (costs for employees or equivalent (A.1)):

Teleworking — Teleworking days are accepted if:

- the beneficiary has in place clear rules allowing for teleworking, and
- the teleworked days were in line with those rules *(for example: they did not exceed the maximum days of teleworking allowed by the beneficiary's rules)*.

End-of-contract indemnities during the action — If the employment of a person working on the action ends during the action, the beneficiary may declare cost for end-of-contract indemnities, if in line with the general and specific eligibility conditions, and in particular that it is their usual remuneration practices *(e.g. required by national law, not just applied for EU actions, etc)* and that these cost have not been included already in the calculation of the daily rate *(e.g. as accrual for unconditional severance payments mandatory under national law)*. The eligible part of the indemnity can be charged in the reporting period in which the employee's contract ends. Since the entitlement to such indemnities is most often generated over a period of time longer than the reporting period (or the action), only the part of the indemnity that corresponds to the time worked by the person on the action can be charged (i.e. a pro-rata of the indemnity amount in proportion to the time spent on the action). This pro-rata amount should be added separately on top of the personnel costs calculated on the basis of the daily rate.

Example:

6 month into the second reporting period (both RPs of 12 month) of an action, a full-time employee, having worked a total of 154 day-equivalents on the action, stops being employed and is entitled to an end-of-contract indemnity of EUR 10 750. The employee has accumulated this indemnity over 5 years (60 months) of employment. You have determined that 3000€ of this are attributable to the time of employment during the action (taking into account e.g. changes in salary, indemnity conditions, working time, etc).

To determine the portion of the indemnity chargeable to the grant, you first divide EUR 3000 indemnity (corresponding to the time of employment during the action) by the maximum declarable day equivalents of the person during the action, i.e. {EUR 3000 divided by (215 [maximum declarable day equivalents RP1] + 107,5 [maximum declarable day equivalents RP2]) } = EUR 9,30 per declarable day equivalent.

Then you multiply the indemnity amount per day-equivalent with the day-equivalents actually worked on the action, i.e. EUR 9,30 x 154 [day equivalents worked on the action in RP1+RP2] = EUR 1432,20.

Parental leave *(option in HE, HUMA)* **—** If this option is activated in the Grant Agreement, days on parental leave during the reporting period may be deducted for the calculation of the maximum declarable days and the calculation of the daily rate *(i.e. by reducing the maximum declarable day-equivalents in the formulas by the number of day-equivalents spent on parental leave)*. Parental leave is any leave directly related to the birth or adoption of a child. Other leaves or absences can NOT be deducted, including long-term sick leave, breastfeeding leave and leave to take care of a sick child. The personnel costs used for the calculation of the daily rate during the reporting period in which the parental leave takes place, may only contain costs actually incurred by the beneficiary *(e.g. exclude any costs already covered by a national scheme paying the person on parental leave or reimbursing the beneficiary)*.

Example:

In a reporting period from 01/12/2021 to 31/01/2023 (14 months), an employee working full-time on the action takes four months of parental leave after the birth of a child, that is 71,67 day-equivalents (i.e. {((215/12) x 4 [months on parental leave]) x 1 [working time factor as per contract]}).

The maximum number of declarable day-equivalents for the reporting period is calculated as follows: {((215/12) x 14 [months]) x 1} minus 71,67 day-equivalents of parental leave = 179,16, rounded to 179 maximum declarable day-equivalents for the reporting period.

You will use this number (179) to calculate the daily rate, i.e. (actual personnel costs during the reporting period) divided by 179.

Several parallel or sequential contracts — If a person is employed with more than one employment contract with the beneficiary during the reporting period (where allowed by applicable law), the beneficiary should calculate a single daily rate. The actual personnel

costs are the sum of the costs of all these employment contracts during the months within the reporting period. The maximum declarable day-equivalents are the sum of the maximum declarable day-equivalents calculated individually for each of these employment contracts during the months within the reporting period.

Contracts without fixed salary/hours — The maximum number of declarable day-equivalents for employees that do not have a fixed amount of salary and working hours defined in their contract but only an hourly rate (where allowed by applicable law and not fitting under other cost categories, *e.g. SME owners, Subcontracting*) can be calculated as follows:

> ***{((****total salary paid to the employee in the reporting period****)*** *divided by* ***(****hourly rate fixed in the employment contract****))*** *divided by 8 [default day conversion factor]****}***
>
> ***Example:*** *A person does not have a fixed amount of working time and salary set out in the contract but the contract specifies that the persons earns EUR 10/hour when called to perform a certain task. Under the contract, you paid the persons EUR 7000 during the reporting period. The maximum declarable day-equivalents are = EUR 7000 / 10 [hourly rate] / 8 = 87,5 for the reporting period.*

Staff provided by a temporary work agency — Such staff can NOT be charged under this budget category because contracts with temporary work agencies qualify typically as purchase of services (unless the temporary work agency carries out directly some task of the action — in which case it would be considered as subcontracting). Although not eligible as personnel costs, the costs can be charged under other budget categories *(i.e. B. Subcontracting or C.3 Other goods, works and services)*, if they comply with the eligibility conditions *(e.g. best value for money and no conflict of interest; see Articles 6.2.B and 6.2.C)*.

Project-based remuneration *(option in HE)* **—** If this option is activated in the Grant Agreement, the beneficiaries may use this specific calculation method for the daily rate.

> ⚠ Note that for Horizon Europe, there are all in all three different ways how to calculate the daily rate:
>
> Case 1A: employee whose remuneration is fixed, i.e. same remuneration, regardless whether they are involved in specific projects or not *(actual costs; standard case, see 2.1.4 above)*
>
> Case 1B: employees whose remuneration increases through supplementary payments depending on whether they work in specific projects *(actual costs; specific case 'project-based remuneration', this section)*
>
> Case 2: beneficiaries declaring personnel costs as unit costs in accordance with their usual cost accounting practices *(unit costs; specific case 'average personnel costs', see next specific case below)*.

Project-based remuneration (Case 1B) should be used for employees (or equivalent) whose level of remuneration *(daily rate, hourly rate)* increases when and because the employee works in (EU, national or other) projects.

> ***Example:*** *An employee who gets a bonus or a new contract with a higher salary level for working in a project.*

Employees whose salary does not increase when working in projects are **covered by Case 1A** (not Case 1B); even when:

- the employment contract was signed explicitly to work in the action or

- the contract covering the work in the action is additional to the main contract with the employee but has the same remuneration level as the main contract *(i.e. same hourly/daily rate)* or

- part of the work in the action was done during overtime and the overtime hours are paid at a higher rate resulting from national law, collective agreement or employment contract, provided that such higher rate does not depend on projects.

For project-based remuneration (Case 1B), the daily rate must be calculated as follows:

Step 1 — Calculate the Case 1B **action daily rate** per person:

{actual personnel costs for work on the action [incl. project-based supplementary payments, bonuses, increased salary, etc] during the months within the reporting period}

divided by

{day-equivalents worked by the person on the action during the months within the reporting period}

For the calculation of the action daily rate you may include the same elements in the personnel costs as in Case 1A for the daily rate PLUS all bonuses you paid which were triggered by the participation in the action (even if those bonuses were not based on objective conditions). Bonuses triggered by the participation of the employee in other projects must be excluded.

Step 2 — Compare the action daily rate with the **national project daily rate**, i.e. the (theoretical) daily rate that you would pay to the person for work in national projects, in accordance with your usual remuneration practices. The daily rate to be used for the EU grant financial statement will be the **lower of the two**. In other words, if the action daily rate is higher than the national project daily rate, then you will have to use the national rate for that reporting period.

'National projects' are to be understood in the large sense, meaning all types of projects funded under any type of national (public or private) funding scheme, including projects co-financed by EU funds that are managed by EU Member States (*e.g. Regional Funds, Agricultural and Fisheries Funds*). This must exclude EU grants as defined in the Grant Agreement, i.e. actions funded by the EU Commission, EU executive agencies or other funding bodies, which do not qualify as national projects.

The (theoretical) national project daily rate must be calculated the as follows:

{theoretical personnel costs for similar work in a national project over the same number of months as the reporting period}

divided by

{maximum declarable day-equivalents}

The remuneration to which the person would be entitled to for work in national projects must be defined:

- either in regulatory requirements (such as national law or collective labour agreements)

- or in your written internal remuneration rules.

If the regulatory requirements or your written internal remuneration rules:

- provide for a bonus range *(e.g. between 500 and 1000; between 10% and 50%)* or a maximum ceiling *(e.g. up to 50)* rather than a precise amount per day or per hour, the remuneration to which the person would be entitled to (national project daily rate) is the average of the remuneration that the person received for work in national projects in the complete year before the end of the reporting period (e.g. calendar, financial or fiscal year depending on the beneficiary's usual cost accounting practices) for which data is available *(see further below)*.

  Example: *If the beneficiary has calculated the action daily rate for a 18 month-reporting period from 01/09/2021 to 28/02/2023, the average of the remuneration that the person received for work in national projects could be calculated based on the data of the complete calendar year 2022 (if available, otherwise of 2021 or the latest available calendar, financial or fiscal year before 2021).*

- provide for different levels of remuneration depending on the staff category, the remuneration to which the person would be entitled to is the one of the category to which the person belongs

- provide for different levels of remuneration depending on the type of nationally-funded projects (and/or the type of work within these projects), the remuneration to which the person would be entitled to is the one applicable to the type of project (and/or work) that is closest to the action

- change over the reporting period, the remuneration to which the person would be entitled to is the one that was applicable for the larger part of that reporting period.

If there are no regulatory requirements and you do not have internal rules defining objective conditions on which the national project daily rate can be determined, but you can demonstrate that your usual practice is to pay bonuses for work in national projects, the national project daily rate is the average of the remuneration that the person received in the last complete year (calendar, financial or fiscal year, *see above*) before the end of the reporting period for work in national projects calculated as follows:

{(total personnel costs of the person in the last complete year) minus (remuneration paid for EU actions during that complete year)}

divided by

{215 minus (days worked in EU actions during that complete year)}

'EU actions' are EU grants as defined in the Grant Agreement *(i.e. awarded by EU institutions, bodies, offices or agencies, including EU executive agencies, EU regulatory agencies, EDA, joint undertakings)*.

'Total personnel costs' covers all types of contracts with the person that qualify as personnel costs under Article 6.2.A.

If during the last reference period the person worked for the beneficiary only in EU grants as defined in the Grant Agreement, you must calculate the national project daily rate using the year before (or the last year in which the person worked in a national project).

If the person is a new employee hired in the reporting period, their national project daily rate, calculated according to the formula above, is the one applicable to the employee whose base salary (salary without bonuses) is the most similar to that person's.

Average personnel costs *(option in HE, DEP, CEF, EDF, HUMA,)* **—** If this option is activated in the Grant Agreement , beneficiaries who consistently calculate average rates for their staff as part of their analytical cost accounting system, can use these average rates for the daily rate.

You can use this method, provided that:

- the daily rate is calculated using the actual personnel costs recorded in your accounts, excluding any ineligible cost or costs already included in other budget categories *(no double funding of the same costs)*

  Therefore, you may have to adjust your usual methodology in order to remove:

  - costs that are ineligible under the Grant Agreement

    Example: *The daily rate in accordance with the beneficiary's usual cost accounting practices contains taxes not linked to the remuneration. Those taxes are ineligible and must be removed when calculating the daily rates for the action.*

  - costs that are already included in other budget categories

    Example: *Beneficiaries whose cost accounting practices for personnel costs include indirect costs. Indirect costs must be removed from the pool of costs used to calculate the daily rate charged to the action because indirect costs must be declared using a flat rate. Personnel costs cannot include any indirect costs.*

  If your usual methodology includes budgeted or estimated elements, we can only accept those, if they:

  - are relevant *(i.e. clearly related to personnel costs)*
  - are used in a reasonable way *(i.e. do not play a major role in the calculation)*
  - correspond to objective and verifiable information *(i.e. their basis is clearly defined and you can show how they were calculated)*

    Example: *Calculating average 2021 daily rates by using 2020 payroll data and increasing them by adding the CPI (consumer price index) on which the basic salaries are indexed.*

- you apply your cost accounting practices in a consistent manner, based on objective criteria that must be verifiable if there is a check, review, audit or investigation. You must do this no matter who is funding the action.

  This does not mean that cost accounting practices must be the *same* for all your employees, departments or cost centres. If, for example, your usual cost accounting practices include different calculation methods for permanent personnel and temporary personnel, this is acceptable. However, you cannot use different methods for specific actions, projects or persons on an ad-hoc basis.

  Example (acceptable): *Individual (actual) personnel costs are used for researchers, average personnel costs (unit costs calculated in accordance with the beneficiary's usual cost accounting practices) are used for technical support staff.*

  Example (unacceptable): *Average personnel costs are used to calculate costs in externally-funded projects only.*

If your usual cost accounting practice is to calculate hourly rates instead of daily rates, you must convert the hourly rate into a daily rate as follows:

Daily rate = hourly rate **x** 8

Alternative: If you have a usual cost accounting practice determining the standard number of annual productive hours of a full-time employee, you can alternatively multiply by the number of hours resulting from the following formula *(instead of by 8)*:

> ***{****The higher of:* ***(****the standard number of annual productive hours of a full-time employee according to your practice****)*** ***OR*** ***(****90 % of the standard annual workable hours of a full-time employee****)}***
>
> *divided by*
>
> *215*

A.2 Natural persons with direct contract and seconded persons *(all programmes except SMP ESS, CUST/FISC)*

> **A.2** and **A.3 Costs for natural persons working under a direct contract** other than an employment contract and costs for **seconded persons by a third party against payment** are also eligible as personnel costs, if they are assigned to the action, fulfil the general eligibility conditions and:
>
> (a) work under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed) and
>
> (b) the result of the work belongs to the beneficiary (unless agreed otherwise).
>
> They must be calculated on the basis of a rate which corresponds to the costs actually incurred for the direct contract or secondment and must not be significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

1. Natural persons with direct contract (A.2) and seconded persons (A.3): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes except SMP ESS, CUST/FISC)*, the beneficiaries/affiliated entities may charge 'Costs for natural persons under direct contract' or 'Costs for seconded persons'.

These budget categories cover the costs of two types of persons:

- self-employed natural persons *(e.g. some types of in-house consultants)* who work on the action for the beneficiary under conditions similar to those of an employee, but under a contract that is legally not an employment contract
- persons who are seconded by a third party against payment.

'Seconded' means the temporary transfer of an employee from a third party (the employer) to the beneficiary. Seconded persons are still paid and employed by the third party, but work for the beneficiary. They are at the disposal of the beneficiary and work under its control and instructions. A secondment normally requires the seconded person to work at the beneficiary's premises, although in specific cases it may be agreed otherwise in the secondment agreement.

Best practice: The secondment agreement should detail the conditions of secondment (*tasks, reimbursement from one entity to the other, duration of the secondment, location, etc)*.

What not? Cost of persons who are employees of the beneficiary, (co)owners of the beneficiary (if the beneficiary is an SME) or staff provided by a temporary work agency.

1.2 Costs for natural persons working under a direct contract and persons seconded against payment must be **declared** as actual costs.

1.3 The costs of natural persons with direct contract (A.2) and seconded persons (A.3) must comply with the **eligibility conditions** set out in Article 6.2.A.2 and 6.2.A.3, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred/used during the action duration by the beneficiary, necessary, linked to the action, etc; see Article 6.1(a))*
- the person must be hired under either:

- a direct contract signed between you and the natural person (not through another legal entity; e.g. *a temporary work agency)* or
- a contract signed between you and a legal entity fully owned by that natural person, and which has no other staff than the natural person being hired or
- a secondment agreement with the employer of the natural person

- the person must work under conditions similar to those of an employee, in particular:
  - the beneficiary must organise and supervise the work of the person in a way similar to that of its employees

    Example (acceptable): *The beneficiary's project leader and the person discuss regularly the work to be carried out for the action. The project leader decides the tasks and timing of the work and instructs the person accordingly.*

    Example (not acceptable): *The beneficiary's project leader and the person meet only once a month or irregularly, for updates on the state of play of the entrusted work. If changes are needed, they have to be agreed by the person and may lead to a change of the amount charged to the beneficiary.*
  - the person is subject to similar presence requirements as the employees

    Examples (acceptable):

    1. *The person works physically at the beneficiary's premises, following a time schedule similar to that of the employees (e.g. the beneficiary authorises up to two days of teleworking per week to its personnel and the person has chosen to benefit from this regime, i.e. works 2 days in teleworking and 3 days physically at the beneficiary's premises).*

    2. *The beneficiary does not require any presence at its premises and allows all its employees to telework full-time from anywhere in the world. The person choses to telework from home, i.e. the country where the seconding organisation is established.*

    Examples (not acceptable):

    1. *The beneficiary applies a consistent policy of only authorising up to two days of teleworking per week. However, the person works four days per week in teleworking and only one day at the beneficiary's premises.*

    2. *The beneficiary applies a consistent policy of requiring all staff to work at its premises. However, the person works from a country other than the one where the beneficiary is located.*
  - the remuneration must be based on working time, rather than on delivering specific outputs/products.

⚠ Similar conditions does **not mean equal conditions**. The working conditions of the person do NOT have to be exactly the same that those of an employee, but overall similar.

- the result of the work carried out *(including patents or copyright)* must in principle belong to the *beneficiary*; if (exceptionally) it belongs to the person, the beneficiary must (just like for employees) obtain the necessary rights from the person *(transfer, licences or other)*, in order to be able to respect its obligations under the Grant Agreement
- the cost of the person must not be significantly different from costs for employees of the beneficiary performing similar tasks; if the beneficiary does not have employees performing similar tasks, the comparison must be done with national salary references of the country where the beneficiary is located, for the staff category to which the person belongs in the sector of activity of the beneficiary and

– the cost must correspond exclusively to the remuneration of the person and related eligible taxes.

⚠ If the costs do not fulfil all the conditions indicated here above, they may be eligible as purchase of services *(see Article 6.2.C.3)* or subcontracting *(see Article 6.2.B)* but **NOT** as personnel costs.

Thus, for seconded persons, if the resulting daily rate is higher than the daily rate actually paid by the third party to the seconded person (applying the calculation rules of the Grant Agreement) the costs can NOT be declared as personnel costs. They may be eligible instead as purchase of services *(see Article 6.2.C.3)* or subcontracting *(see Article 6.2.B)*. The reason is that in this case the payment made by the beneficiary to the third party would be **higher than the actual remuneration** of the person, and this implies that there is a commercial margin (or other non-personnel cost) that is being charged by the third party to the beneficiary.

1.4 Costs of natural persons working under a direct contract and seconded persons against payment must be **calculated** as follows:

{**amount per unit [daily rate]**}

multiplied by

{**number of day-equivalents worked on the action**}

The daily rate must be calculated as follows:

– if the contract specifies a daily rate: this daily rate must be used; if the contract fixes an hourly rate instead of a daily rate, you must convert the hourly rate into a daily rate (daily rate = hourly rate **x** 8)

– if the contract states a fixed amount for the work and the number of days to be worked (or hours; in that case 8 hours = 1 day-equivalent): the global amount for the work must be divided by the number day-equivalents to be worked

– if the contract states a fixed amount for the work, but does not specify the number of days (or hours) that must be worked: the global amount for the work must be divided by the pro-rata of 215 annual day-equivalents which corresponds to the duration of the contract over the reporting period

***Example:** The contract provides that the person will work at the beneficiary's premises for assisting in action tasks. The contract is for 6 months starting on 1 January 2021 and ending on 30 June 2021. According to its time records, the person worked 60 day-equivalents in the action over that period. The contract sets a monthly payment of EUR 3 000 but does not explicitly establish the number of days/hours to be worked.*

Personnel costs for the action = 60 (day-equivalents worked in the action) x daily rate

Daily rate = annual personnel costs / pro-rata of 215 = (3 000 € x 6 months) / (215 x (6 months/12 months)) = 18 000 € / (215 x 0,5) = 18 000 € / 107,5 days = 167,44 €/day

Personnel costs for the action = 60 x 167,44 = 10 046,4€.

Cost elements that are ineligible under the Grant Agreement (even if they are part of the amount stated in the contract) must be removed from the calculation of the personnel cost.

⚠ **Horizontal 215-days ceiling —** Do NOT forget to also pay attention to the horizontal ceiling *(see Article 6.2.A.1)*.

⚠ **Maximum declarable day-equivalents —** If a number of day equivalents is used in the calculation of the amount per unit (daily rate), you can NOT declare more day-equivalents worked on the action than the number of day-equivalents used to calculate the daily rate.

Specific cases (costs for natural persons with direct contract and seconded personnel (A.2, A.3)):

Persons seconded against payment from a third party located in a different country than the beneficiary — As salary levels are not homogeneous across different countries, the remuneration of the person paid by the third party, and so the actual costs paid for the secondment, might be higher than those paid by the beneficiary for employees performing similar tasks. In that case, the actual costs paid for the secondment can still be considered eligible, if the beneficiary can demonstrate that its usual practice is to pay for secondments at the level of the actual remuneration of the seconded person.

Secondment of staff between beneficiaries/affiliated entities — Is allowed, but it is the beneficiary/affiliated entity who employs the person who has to declare its costs (NOT the beneficiary/affiliated to whom the person has been seconded).

Fellowships, scholarships, stipends, internship or similar agreements (not employees) — Costs for persons *(e.g. students, PhDs and other researchers*) under fellowships, scholarships, stipends, internship or similar agreements, through which they work for the beneficiary on the action (without having an employment contract) can be accepted, if the agreement is work-oriented (as opposed to training-oriented: i.e. not aimed at helping the student to acquire professional skills).

Such cost can be charged to the action as personnel costs, if they fulfil the conditions set out in Article 6.1 and 6.2.A.2, and in particular:

- the assignment of tasks and the remuneration complies with the applicable national law *(e.g. on taxes, labour and social security)*
- the recipients of fellowships, scholarships and stipends have the necessary qualifications to carry out the tasks allocated to them under the action.

PhD agreements are considered work-oriented. However, time for training, if any, may NOT be charged to the action.

Fellowships, scholarships and stipends, etc. that are not work-oriented are cannot be charged as personnel costs, but may be eligible as financial support to third parties (FSTP; cost category D.1), if explicitly allowed by the call conditions and in line with Annex 1 *(see Article 6.2.D.X)*.

Cost for exemptions from academic fees *(HE)* **—** The fees (or the fee exemption) are eligible as personnel cost, if the student contract includes the amount of waived fees as part of their remuneration. The other conditions set out in Article 6 have to be fulfilled as well *(e.g. the full remuneration, included the value of the waived fees, must be recorded in the university's accounts)*.

A.4 SME owners and natural person beneficiaries *(all programmes except SMP ESS, EUAF, CUST/FISC, CCEI, PERI)*

[additional OPTION for programmes with SME owner unit cost: **A.4** The work of **SME owners** for the action (i.e. owners of beneficiaries that are small and medium-sized enterprises[20] not receiving a salary) or **natural person beneficiaries** (i.e. beneficiaries that are natural persons not receiving a salary) may be declared as personnel costs, if they fulfil the general eligibility conditions and are calculated as unit costs in accordance with the method set out in Annex 2a.*]*

[20] For the definition, see Commission Recommendation 2003/361/EC: micro, small or medium-sized enterprise (SME) are enterprises
- engaged in an economic activity, irrespective of their legal form (including, in particular, self- employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity) and
- employing fewer than 250 persons (expressed in 'annual working units' as defined in Article 5 of the Recommendation) and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

1. SME owners and natural person beneficiaries (A.4): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes except SMP ESS, EUAF, CUST/FISC, CCEI, PERI)*, the beneficiaries/affiliated entities may charge 'SME owner/natural person beneficiary costs'.

This budget category covers the costs of two types of persons:

- Persons who are directly owners or co-owners (regardless of their percentage of ownership) of the beneficiary, if the beneficiary is an SME and the person is not an employee of the beneficiary. It applies also to SME owners whose work in the action for the beneficiary is remunerated via any type of non-employment contract *(e.g. a service contract)*, via profit distribution or by any remuneration method other than a salary resulting from an employment contract.

- Beneficiaries who are natural persons; i.e. who signed the Grant Agreement on her/his own name as individuals, not on behalf of another legal person *(e.g. a company)*.

'Directly' means not owners (or co-owners) through another company owned by them.

What not? SME owners who receive a salary (registered as such in the accounts of the SME) cannot declare personnel costs under this budget category, unless they can show that this salary corresponds exclusively to the management of the SME (and is therefore not linked to the action).

1.2 The costs must be **declared** as unit cost, using the unit cost (daily rate) fixed by the authorising decision C(2020)7115[5] and set out in Annex 2a.

The amount per unit (daily rate) is prefixed in the authorising decision, adjusted depending on the country where the beneficiary/affiliated entity is established:

Amount per unit [daily rate] = {EUR 5 080 /18 days [i.e. 282,22]}

multiplied by

{country-specific correction coefficient of the country where the beneficiary is established}

The country-specific correction coefficient is the one for HE MSCA actions *(see Horizon Europe Work Programme > Marie Skłodowska-Curie actions in force at the time of the call).*

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.A.4, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))* and
- be declared for an SME owner/natural person beneficiary, who works on the action but does not receive a salary.

The granting authority may verify that the beneficiary fulfils the conditions for using this unit cost.

1.4 The costs must be **calculated**, for the SME owner/natural person, in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the SME owner/natural person personnel costs is:

{amount per unit [daily rate]}

multiplied by

{number of day-equivalents worked on the action}

The daily rate is fixed in the authorising decision *(see above)*.

The calculation itself is **automated** by the IT system. The beneficiary/affiliated entity must only indicate the number of days worked on the action and the system will then correctly calculate the personnel costs (based on the parameters described above).

⚠ **Horizontal 215-days ceiling—** Do not forget to also pay attention to the horizontal ceiling *(see Article 6.2.A.1).*

[5] Commission Decision of 20 October 2020 authorising the use of unit costs for the personnel costs of the owners of small and medium-sized enterprises and beneficiaries that are natural persons not receiving a salary for the work carried out by themselves under an action or work programme (C(2020)7715).

General > Article 6.2.A.5 Volunteers

A.5 Volunteers *(ERDF-TA, LIFE, ERASMUS, CREA, CERV, JUST, ESF/SOCPL, AMIF/ISF/BMVI, UCPM)*

[additional OPTION for programmes with volunteers costs: **A.5** The work of **volunteers** for the action (i.e. persons who freely work for an organisation, on a non-compulsory basis and without being paid) may be declared as personnel costs, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions and are calculated as unit costs in accordance with the method set out in Annex 2a.

They:

- may not exceed the maximum amount for volunteers for the action (which corresponds to 50% of the total (ineligible and eligible) project costs and contributions estimated in the proposal)
- may not exceed the maximum amount for volunteers for each beneficiary set out in Annex 2
- may not make the maximum EU contribution to costs higher than the total eligible costs without volunteers.

If also indirect costs for volunteers are declared eligible in the call conditions, the amount of indirect costs may be added to the volunteers costs category in Annex 2, at the flat-rate set out in Point E.*]*

1. Volunteers (A.5): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(ERDF-TA, LIFE, ERASMUS, CREA, CERV, JUST, ESF/SOCPL, AMIF/ISF/BMVI, UCPM)*, the beneficiaries/affiliated entities may charge 'Volunteers costs'.

This budget category allows to increase the grant amount in order to recognise the contribution of volunteers in the project, i.e. when persons work for the beneficiary, on a non-compulsory basis and without being paid.

What not? The unit costs for volunteers work do not cover any actual costs which might be incurred and paid by the beneficiary, such as insurance, social security, travel or subsistence costs. Any such costs can be declared and reimbursed separately (if provided for in the call conditions).

1.2. The work carried out by volunteers can be **declared** as unit cost, using the unit cost fixed by the authorising decision C(2019)2646[6] and set out in Annex 2a.

The amount per unit (daily rate) is prefixed in the authorising decision, depending on the country where the volunteering activity takes place:

Country	Daily rate in €
Denmark, Ireland, Luxembourg, Netherlands, Austria, Sweden,	**157**

[6] Commission Decision of 10 April 2019 authorising the use of unit costs for declaring personnel costs for the work carried out by volunteers under an action or a work programme (C(2019)2646).

Liechtenstein, Norway	
Belgium, Germany, France, Italy, Finland, United Kingdom, Iceland	**131**
Czech Republic, Greece, Spain, Cyprus, Malta, Portugal, Slovenia	**78**
Bulgaria, Estonia, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Slovakia	**47**
Australia, Canada, Hong King, Israel, Japan, Kuwait, Macao, New Zealand, Qatar, United Arab Emirates, United States of America, Switzerland.	**92**
Albania, Angola, Antigua and Barbuda, Argentina, Barbados, Bosnia and Herzegovina, Brazil, Chile, Colombia, Comoros, Cook Islands, Dominica, Gabon, Grenada, Ivory Coast, Former Yugoslav Republic of Macedonia, Kosovo, Lebanon, Libya, Mexico, Montenegro, Nigeria, Peru, Saint Kitts And Nevis, Saint Lucia, Saint Vincent And the Grenadines, Sao Tome and Principe, Serbia, Seychelles, Thailand, Türkiye, Ukraine, Uruguay, Venezuela, Zambia, Zimbabwe	**45**
Afghanistan, Azerbaijan, Bahamas, Bolivia, Burkina Faso, Cameroon, China, Congo, Costa Rica, Djibouti, Dominican Republic, Ecuador, El Salvador, Georgia, Guatemala, Guinea-Bissau, Haiti, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Micronesia, Morocco, Mozambique, Namibia, Palestine, Panama, Papua New Guinea, Paraguay, Senegal, South Africa, Surinam, Swaziland, Russia, Trinidad and Tobago, Vanuatu	**32**
Algeria, Armenia, Bangladesh, Belarus, Belize, Benin, Bhutan, Botswana, Myanmar, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Congo – Democratic Republic of the-, Cuba, Korea (DPR), Egypt, Eritrea, Ethiopia, Equatorial Guinea, Fiji Island, Gambia, Ghana, Guinea, Guyana, Honduras, India, Indonesia, Kiribati, Kyrgyzstan, Laos, Lesotho, Liberia, Madagascar, Malawi, Malaysia, Maldives, Mali, Marshall Islands, Mauritania, Mauritius, Moldova, Mongolia, Nauru, Nepal, Nicaragua, Niger, Niue, Pakistan, Palau, Philippines, Rwanda, Samoa, Sierra Leone, Solomon, Somalia, South Sudan, Sri Lanka, Sudan, Syria, Tajikistan, Tanzania, Timor-Leste – Democratic Republic of, Togo, Tonga, Tunisia, Turkmenistan, Tuvalu, Uganda, Uzbekistan, Vietnam, Yemen	**17**

1.3. The costs must comply with the **eligibility conditions** set out in Article 6.2.A.5, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))*.

In addition, a double cap must be applied to limit the amounts declared for volunteers' work or the amount of the total EU contribution:

- the total EU contribution must be less than the total eligible costs excluding volunteer work.
- the amounts declared for volunteers work must also not exceed the maximum amount for volunteers for each beneficiary set out in Annex 2.

1.4. The costs must be **calculated**, for the volunteer working on the action, in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the volunteer personnel costs is:

{*amount per unit [daily rate depending on country]****}***

multiplied by

{*number of day-equivalents worked on the action****}***

The daily rate is fixed in the authorising decision *(see above)*.

If a use per hour is necessary, you must convert the daily rate as follows: hourly rate = daily rate / 8).

If explicitly allowed by the call conditions, you can also add **indirect costs** to the volunteers costs.

This calculation is however not automated in the system (i.e. the automatically calculated indirect costs in cost category E will not include this extra amount). If you want to charge the indirect costs, you must add them manually to the costs in cost category A.5 Volunteers costs, on top of the direct volunteers costs (i.e. calculate the indirect volunteers costs: **{**indirect cost flat rate x direct volunteers costs**}** and add this amount to the volunteers costs in cost category A.5).

A.6 Other personnel costs

[additional OPTION for programmes with other personnel cost categories: **A.6** [insert name of specific personnel cost category and eligibility conditions].*]]*

1. Other personnel costs (A.6): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement, the beneficiaries/affiliated entities may charge 'Other personnel costs'.

Such cost categories exist currently only in a limited number of EU programmes *(HE, SMP ESS, CUST/FISC)*:

- HE personnel unit cost *(see Article 6.2.A.6 HE_PERS)*
- SMP ESS personnel costs based on time *(see Article 6.2.A.6 SMP_ESS_PERS_TIME)*
- SMP ESS personnel costs based on deliverables *(see Article 6.2.A.7 SMP_ESS_PERS_DELIV)*
- Customs/Fiscalis personnel costs *(see Article 6.2.A.6 CUST/FISC_PERS)*

1.2 Depending on the provisions of the specific personnel cost categories, they must be **declared** as actual costs (or any other cost type, *e.g. unit cost, flat rate or lump sum*).

1.3. The costs must comply with the **eligibility conditions** set out in each specific personnel cost category.

1.4 The **calculation** method will depend on the type of cost and the provisions of each specific personnel cost category.

A.6 HE Personnel unit cost

[additional OPTION for HE: **A.6** For beneficiaries with **personnel unit cost**, the personnel costs under categories A.1-A.4 must be declared as unit cost and are eligible, if they fulfil the general eligibility conditions, are calculated as unit costs in accordance with the method set out in Annex 2a and comply with the conditions set out in Points A.1-A.4 for the underlying types of costs (personnel).*]*

1. HE Personnel unit cost (A.6): Types of costs — Forms — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for all Horizon Europe types of action which are mixed actual cost grants *(e.g. RIA, CSA, PCP/PPI, COFUND, ERC, EIC, EIT)*.

⚠ This cost category is **optional** in the sense that it is granted only on request. However, once the unit cost is approved, it must be used in all HE actions (i.e. new proposals submitted after the approval date and not yet signed grants under preparation; and including to calculate personnel costs for lump sum grants in the proposal's detailed budget table).

⚠ The approved unit cost is valid for at least two years. You may request an **update to the unit cost** amount, every two years after the approval date, until 31 December 2027. The updated unit cost will apply to all the beneficiary's Horizon Europe and Euratom proposals that are invited to grant preparation after the new approval date.

⚠ You may change your mind ONCE. After the approval you may, if needed, request to revert back to actual personnel costs (i.e. charging costs under categories A1 to A4), for all future grants signed after the unit cost is withdrawn (ongoing grants would not be impacted). Please be aware that if you revert back to actual costs, you will not be able to request again the use of the personnel unit cost for the rest of the MFF 2021-2027.

For beneficiaries/affiliated entities that have selected this unit cost, they must (once approved) charge all their personnel costs under 'HE Personnel unit cost'.

This budget category replaces categories A1-A4 (A.1 Employees, A.2 Natural persons with direct contract, A.3 Seconded persons against payment, or A.4 SME owners and natural person beneficiaries) and covers the cost of all personnel that works on HE actions.

1.2 The costs must be **declared** as unit costs, using the unit cost (daily rate) approved by the granting authority in accordance with the HE personnel unit cost authorising decision[7] and set out in Annex 2a.

The precise unit cost (daily rate, i.e. EUR/day) is not prefixed by the authorising decision. It must be calculated and approved for each beneficiary/affiliated entity organisation in the Portal Participant Register.

The formula for calculating the amount per unit (daily rate) is:

[7] Decision of 15 January 2024 authorising the use of unit costs for personnel costs for actions under the Horizon Europe and Euratom Programmes.

Amount per unit [daily rate] = ***{****total staff costs of the beneficiary in the last closed full financial year*[8]***}***

divided by

{*annual work units in the last closed full financial year*[2]***}***

divided by

{*215 days****}***

The result is subject to a maximum cap per country.

{*EUR 9 618 multiplied by the corresponding country-specific correction coefficient*

divided by

*18 days****}***

The country-specific correction coefficient is the one for HE MSCA actions *(see Horizon Europe Work Programme > Marie Skłodowska-Curie actions in force at the time of the approval).*

You can make a test calculation by using the wizard available on the Portal.

In order to formally request the use of the personnel unit cost, the request must be submitted by the organisation's legal entity authorised representative (LEAR) through the Portal (by entering total staff costs in the last closed full financial year, number of annual work units and country of establishment). It must be supported by an audit certificate (template to be used) provided by a qualified approved external auditor which is independent and complies with Directive 2006/43/EC (or for public bodies: by a competent independent public officer. The amount approved will be accessible in the Portal Participant Register.

The granting authority may verify that the provided data in the audit certificate match those in the statutory annual accounts and/or other official documents on which the audit certificate was delivered (and correct it, if needed).

For more information concerning the unit cost validation procedure*, see HE Personnel unit cost validation procedure*.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.A.6, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))*
- be calculated in accordance with the method set out in Annex 2a
- be declared based on the number of day equivalents for persons working on the action and
- comply with the specific conditions set out in Article 6.2.A.1-A.4 for the underlying types of costs. This means that costs can be declared in category A.6 only for personnel who have a working relationship with the beneficiary/affiliated entity falling under the categories A.1 Employees, A.2 Natural persons with direct contract, A.3

[8] At the moment of the request for the unit cost (or the request for its update).

Seconded persons against payment, or A.4 SME owners and natural person beneficiaries. Since in HE in-kind contributions are eligible, cost category A.6 may also be used for seconded persons free-of-charge who have such a working relationship with a third party *(e.g. an employee of a third party seconded free-of-charge to the beneficiary)*.

⚠ Cost category A.6 can NOT be used to declare costs for personnel with other kinds of working relationships *(e.g. staff provided by a temporary work agency must still be declared either as purchase of services or subcontracting)*.

1.4 The costs must be **calculated** in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the HE personnel unit costs is:

{**amount per unit** [daily rate approved in the Portal Participant Register]**}

multiplied by

{**number of day-equivalents worked on the action**}

The daily rate is fixed by the granting authority in the Participant Register, based on the rate requested by the beneficiary/affiliated entity *(see above)*.

The calculation itself is **automated** by the IT system. The beneficiary/affiliated entity must only indicate the number of days worked on the action and the system will then correctly calculate the personnel costs (based on the parameters described above)

⚠ **Horizontal 215-days ceiling —** You must also pay attention to the horizontal ceiling *(see Article 6.2.A.1)*.

A.6 and A.7 SMP ESS Personnel costs

[OPTION 2 for European Statistics: **A.6 ESS personnel costs based on time** spent are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions and are calculated as unit cost in accordance with the method set out in Annex 2b and the following:

{daily rate

multiplied by

number of actual days worked on the action (rounded up or down to the nearest half-day)}.

The number of actual days declared for a person must be identifiable and verifiable (see Article 20).

The daily rate is the rate of the pay grade set out in Annex 2b (or — for personnel without an applicable pay grade — the rate of the grade with the closest basic salary).

A.7 ESS personnel costs based on deliverables (e.g. number of conducted interviews, number of translated pages) are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions and are calculated on the basis of the costs actually incurred (i.e. limited to the amount per deliverable, including social security contributions, taxes or other costs included in the remuneration, if they arise from national law or the contract) and the following:

{amount per deliverable

multiplied by

number of deliverables produced for the action}.*]*

1. SMP ESS personnel costs based on time (A.6): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for all SMP ESS actions.

For these actions, the beneficiaries/affiliated entities may charge their personnel costs under 'ESS personnel costs based on time'.

This budget category replaces categories A.1-A.5 and covers the cost of all personnel that works on SMP ESS actions based on time *(i.e. not deliverables)*.

1.2 The costs must be **declared** as unit costs, using the individual unit cost salary grid (daily rates) agreed with the granting authority *(see SMP ESS authorising decision[9] and Annex 2a and 2b)*.

The precise unit cost (daily rates, i.e. EUR/day) is not prefixed by the authorising decision. It must be calculated for each grant and then entered into the unit cost table in Annex 2b of the Grant Agreement.

[9] Decision of 6 April 2021 authorising the use of unit costs for eligible personnel costs for actions implemented by Eurostat.

For more information concerning the salary grid validation, *see SMP ESS Unit cost grid validation procedure*.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.A.6, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))* and
- be declared for a person working on the action, based on time.

1.4 The costs must be **calculated**, for each person, in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the ESS personnel costs based on time is:

{amount per unit [daily rate depending on salary grid fixed in Annex 2b]}

multiplied by

{number of days worked on the action}

The daily rate is fixed by the granting authority, based on the salary grids of the beneficiary/affiliated entity in Annex 2b *(see above)*.

2. SMP ESS personnel costs based on deliverables (A7): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? This cost category will be inserted for all SMP ESS actions.

For these actions, the beneficiaries/affiliated entities may charge their personnel costs under 'ESS personnel costs based on deliverables'.

This budget category replaces categories A.1-A.5 and covers the cost of personnel that works on SMP ESS actions based on deliverables *(e.g. persons paid per survey)*.

2.2 The costs must be **declared** as actual costs.

2.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.A.7, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred/used during the action duration, necessary, linked to the action, etc; see Article 6.1(a))*

and

- be declared for a person working on the action, based on deliverables.

2.4 The costs must correspond to the costs actually incurred, **calculated**, for each person, as follows:

{amount per deliverable}

multiplied by

{number of deliverables produced for the action}

A.6 Customs/Fiscalis personnel costs

A.6 Customs/Fiscalis personnel costs are eligible, if (and in as far as) declared eligible in the call conditions and if they fulfil the general eligibility conditions and are calculated as unit cost in accordance with the method set out in Annex 2a and the following:

{daily rate

multiplied by

number of actual days worked on the action (rounded up or down to the nearest half-day)}.

The number of actual days declared for a person must be identifiable and verifiable (see Article 20).

The daily rate is the rate of the pay grade set out in Annex 2a (or — for personnel without an applicable pay grade — the rate of the grade with the closest basic salary).

1. Customs/Fiscalis personnel costs (A.X): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for all CUST/FISC actions.

For these actions, the beneficiaries/affiliated entities may charge their personnel costs under 'Customs/Fiscalis personnel costs'.

This budget category replaces categories A.1-A.5 and covers the cost of all personnel that works on CUST/FISC actions.

1.2 The costs must be **declared** as unit costs, using the individual unit cost salary grid (daily rates) agreed with the granting authority *(see CUST/FISC authorising decision*[10] *and Annex 2a and 2b)*.

The precise unit cost (daily rates, i.e. EUR/day) is not prefixed by the authorising decision. It must be calculated for each grant and then entered into the unit cost table in Annex 2b of the Grant Agreement.

For more information concerning the salary grid validation, *see CUST/FISC Unit cost grid validation procedure*.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.A.6, in particular:

[10] Decision of 28 April 2021 authorising the use of unit costs for direct personnel costs for cooperation, collaboration and training actions under the Customs and Fiscalis programmes.

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))* and
- be declared for a person working on the action.

1.4 The costs must be **calculated**, for each person, in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the Customs/Fiscalis personnel costs is:

{*amount per unit [daily rate depending on salary grid fixed in Annex 2b]****}***

multiplied by

{*number of days worked on the action****}***

The daily rate is fixed by the granting authority, based on the salary grids of the beneficiary/affiliated entity in Annex 2b *(see above)*.

B. Subcontracting costs

B. Subcontracting costs

[OPTION 1 for programmes without subcontracting (ineligible):

Not applicable *]*

[OPTION 2 for programmes with subcontracting (standard):

Subcontracting costs for the action (including related duties, taxes and charges*[OPTION for programmes with VAT eligible:*, such as non-deductible or non-refundable value added tax (VAT))*]*) are eligible, if they are calculated on the basis of the costs actually incurred, fulfil the general eligibility conditions and are awarded using the beneficiary's usual purchasing practices — provided these ensure subcontracts with best value for money (or if appropriate the lowest price) and that there is no conflict of interests (see Article 12).

Beneficiaries that are 'contracting authorities/entities' within the meaning of the EU Directives on public procurement must also comply with the applicable national law on public procurement.

[additional OPTION for programmes with additional subcontracting rules: [OPTION if selected for the call[21]*:* In addition, if the value of the subcontracts to be awarded exceeds EUR […], the beneficiaries must comply with the following rules: […].*]]*

[additional OPTION for programmes with country restrictions for subcontracting costs: [OPTION if selected for the call: The beneficiaries must ensure that the subcontracted work is performed in the eligible countries or target countries set out in the call conditions — unless otherwise approved by the granting authority.*]]*

[[OPTION if selected for the grant[22]*:* Subcontracting may cover only a limited part of the action.*]]*

The tasks to be subcontracted and the estimated cost for each subcontract must be set out in Annex 1 and the total estimated costs of subcontracting per beneficiary must be set out in Annex 2 (or may be approved ex post in the periodic report, if the use of subcontracting does not entail changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants; 'simplified approval procedure').*]*

[21] If the RAO decides to set specific rules, they must be set out in the call and take into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk (proportionality). Specific rules may only be set for the award of contracts of a value higher than EUR 60 000.

[22] This is a standard obligation for all EU grants. It may be unselected only for actions where subcontracting is a key/large part of the action (e.g infrastructure projects; PCP/PPI; technical assistance, statistical programmes, etc).

1. Subcontracting costs (B.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes)*, beneficiaries/affiliated entities may charge 'Subcontracting costs'.

This budget category covers subcontracted action tasks, i.e. contracts for parts of the project described in the description of the action (DoA; Annex 1) that are not implemented by the beneficiary itself, but by a subcontractor.

⚠ **Subcontracts** are normally wide in scope (implementation of a part of the project, i.e. action tasks). If a contract covers only individual equipment or consumables that do not constitute an action task by itself, this will be considered as a purchase *(see Article 6.2.C.2 and C.3)*.

⚠ Only **limited parts** of the action may be subcontracted — unless explicitly allowed in the call conditions/Grant Agreement. Limited parts means that subcontracting remains proportionate both in terms of share and type of subcontracted action tasks, as well as in terms of share in the eligible cost. The acceptable limit is assessed by the granting authority based on the nature of the action, which may vary between programmes and calls. For some programmes with large infrastructure projects *(e.g. CEF)*, it is systematically disactivated.

1.2 Subcontracting costs must be **declared** as actual costs.

1.3. The costs must comply with the **eligibility conditions** set out in Article 6.2.B, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred/used during the action duration, necessary, linked to the action, etc; see Article 6.1(a))*
- be based either on the best value for money (considering the quality of the service, good or work proposed, *i.e. the best price-quality ratio*) or on the lowest price
- not be subject to conflict of interest and
- for beneficiaries that are 'contracting authorities' or 'contracting entities' within the meaning of the EU Public Procurement Directives (Directives 2014/24, 2014/25 and 2009/81)[11]: comply with the applicable national law on public procurement; these rules normally provide for special procurement procedures for the types of contracts they cover.

The beneficiaries can in principle freely choose between best value for money and lowest price.

Best value for money applies the general cost eligibility condition set out in Article 6.1(a)(vii) *(i.e. that costs must be reasonable and comply with the principle of sound financial management)* to the subcontracting context.

A competitive selection of subcontractors should be the default approach since it is the safest way to ensure no conflict of interest, best value for money or lowest price through direct comparisons between offers. However, subcontracting does not necessarily require competitive selection procedures to be eligible, provided that, in case of a check, review, audit or investigation, the beneficiary can prove compliance with best value for money or lowest price AND no conflict of interest, for instance by showing:

- data from a previous competitive tender on a similar subject that confirms the market value
- a conducted market consultation, *e.g. price quotations, supplier brochures, or consultation with help of independent experts*

[11] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

- that no suitable offers have been submitted in response to a prior competitive selection procedure
- that a subcontractor is in a monopoly situation due to technical reasons; or exclusive (intellectual property) rights; or acquisition of a unique work of art or artistic performance; or that the task can only be performed by an international organisation which cannot participate in competitive procedures according to its statutes
- that the subcontractor is the winner of a prior competitive design contest under the action or a linked action
- a need for special security measures in order to protect the essential interests of the EU or Member States in accordance with the call conditions.

The beneficiary must be able to demonstrate that the criteria defining quality were clear and coherent with the purpose.

Best practice: It is recommended to entrust the decision of awarding a contract to an evaluation committee rather than to a sole person. Members of the evaluation committee should be aware that they need to disclose the existence of a conflict of interest. The beneficiary should have clear rules and guidance on situations of conflict of interest. These rules should provide information on who to contact for advice or disclose the conflict to and, where necessary, the appropriate action. It is good practice that staff involved in the procurement process formally signs a declaration of no conflict of interests before performing their duties.

Subcontracts *(tasks to be subcontracted and estimated costs; not necessarily the subcontractor, especially if not yet known)* must be justified in Annex 1 *(simplified approval procedure allowed; see below)*.

1.4 Regarding the **calculation**, the amount charged as eligible cost must correspond to the amount invoiced by the subcontractor.

Specific cases (subcontracting costs (B.)):

Simplified approval procedure (new subcontracts) — If the need for a subcontract was not known at grant signature, the coordinator must request an amendment in order to introduce it in the Annex 1 (*see Article 39)* or flag it in the periodic report (simplified approval procedure). In the latter case, the beneficiaries bear however the risk that the granting authority might not approve the new subcontract and reject the costs at interim or final payment-stage later on.

Subcontracting in actions affecting security or public order *(e.g. HE, DEP, EDF, CEF)* **—** If provided for in the call conditions, the simplified approval procedure is NOT allowed and specific participation conditions and cost eligibility criteria may apply to subcontracting in actions that concern essential interest of the EU and its Member States.

Subcontracting of action tasks involving classified information — Action tasks involving EU classified information may ONLY be subcontracted (cumulative conditions):

- to entities established in an EU Member State or in a non-EU country with a security of information agreement with the EU (or an administrative arrangement with the Commission) and
- if the granting authority has explicitly approved such requests in writing *(see Article 13.2 and Annex 5).*

Coordination tasks of the coordinator (distribution of funds, review of reports and other tasks listed in Article 7) — Can NOT be subcontracted (they can only be delegated, under certain circumstances, to an entity with 'authorisation to administer' or in the case of

'sole beneficiaries' within the meaning of Article 187(2) of the Financial Regulation 2018/1046; *see Article 7*).

Subcontracting to beneficiaries — Is NOT allowed in the same grant. All beneficiaries contribute to and are interested in the action; if one beneficiary needs the services of another in order to perform its part of the work it is the second beneficiary who should declare its own costs for that work.

Subcontracting to affiliates — Is normally NOT allowed in the same grant. As for subcontracting between beneficiaries *(see above)*, affiliated entities participating in the action should declare instead their own cost for that work. Subcontracting to affiliated entities not participating in the action is possible only exceptionally *e.g. in case of monopoly or where they have a framework contract (affiliate is their usual provider)*. The subcontracting still needs to comply with the general and specific cost eligibility conditions, in particular ensure best value for money or lowest price and avoid any conflict of interest. As best practice, these affiliates should rather be added to the action, be identified as affiliated entities under Article 8 and declare their own costs for that work.

Subcontracting to associated partners or third parties giving in-kind contributions — Exceptionally possible, e.g. in case of monopoly or where they have a framework contract (the associated partner or third party giving in-kind contributions is their usual provider) and provided that the Annex 1 DoA explains clearly what tasks the participant will perform as associated partner, or contribute to as third party giving in-kind contributions and what tasks will be performed as subcontractor (the latter remaining the responsibility of the subcontracting beneficiary). The subcontracting needs to comply with the general and specific eligibility conditions, in particular ensure best value for money or lowest price and avoid any conflict of interest.

Framework contracts — Framework contracts can be used for selecting a provider if this is the usual practice of the beneficiary *(e.g. for a type of service)*. In order to be eligible, the framework contract must (have) be(en) awarded on the basis of best-value-for-money or lowest price and absence of conflict of interest. The framework contract does not necessarily have to be concluded before the start of the action.

C. Purchase costs

> **C. Purchase costs**
>
> *[OPTION 1 for programmes without purchase costs (ineligible):*
>
> Not applicable *]*
>
> *[OPTION 2 for programmes with purchase costs (standard):*
>
> **Purchase costs** for the action (including related duties, taxes and charges*[OPTION for programmes with VAT eligible:*, such as non-deductible or non-refundable value added tax (VAT)*]*) are eligible if they fulfil the general eligibility conditions and are bought using the beneficiary's usual purchasing practices — provided these ensure purchases with best value for money (or if appropriate the lowest price) and that there is no conflict of interests (see Article 12).
>
> Beneficiaries that are 'contracting authorities/entities' within the meaning of the EU Directives on public procurement must also comply with the applicable national law on public procurement.
>
> *[additional OPTION for programmes with additional purchasing rules: [OPTION if selected for the call*[23] In addition, if the value of the goods, works or services to be purchased exceeds EUR […], the beneficiaries must comply with the following rules: […].*]]]*

1. Purchase costs (C.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement, the beneficiaries/affiliated entities may charge 'Purchase costs'.

This budget category covers, depending on the options that apply, the following sub-categories:

- Travel, accommodation and subsistence *(see Article 6.2.C.1)*
- Equipment *(see Article 6.2.C.2)*
- Other goods, works or services, if necessary to implement the action *(see Article 6.2.C.3)*.

⚠ **Purchase contracts** are normally limited in scope. If a contract covers the implementation of action tasks, this will be considered as a case of subcontracting *(see Article 6.2.B)*.

1.2 Depending on the provisions in the Grant Agreement, purchase costs must be **declared** as actual costs or unit cost (unit cost is provided for travel and subsistence costs for instance in *EMFAF, IMCAP, SMP, ERASMUS, CREA, CERV, JUST, ESF/SOCPL, EU4H, AMIF/ISF/BMVI, EUAF, CUST/FISC, TSI, UCPM*).

1.3. The costs must comply with the **eligibility conditions** set out in Article 6.2.C, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred/used during the action duration, necessary, linked to the action, etc; see Article 6.1(a))*

- be based either on the best value for money (considering the quality of the service, good or work proposed, *i.e. the best price-quality ratio*) or on the lowest price
- not be subject to conflict of interest and
- for beneficiaries that are 'contracting authorities' or 'contracting entities' within the meaning of the EU Public Procurement Directives (Directives 2014/24, 2014/25 and 2009/81)[12]: comply with the applicable national law on public procurement; these rules normally provide for special procurement procedures for the types of contracts they cover.

The beneficiaries can in principle freely choose between best value for money and lowest price.

Best value for money applies the general cost eligibility condition set out in Article 6.1(a)(vii) *(i.e. that costs must be reasonable and comply with the principle of sound financial management)* to the purchasing context. It does NOT necessarily require competitive selection procedures. However, if a beneficiary did not request several offers, it must — in case of a check, review, audit or investigation — be able to show that the price was market-value and that the criteria defining quality were clear and coherent with the purposes of the purchase (*for detailed guidance, see 6.2.B above)*.

Selecting the lowest price may be appropriate for automatic award procedures where the contract is awarded to the company that meets the conditions and quotes the lowest price *(e.g. electronic tendering for consumables)*.

1.4 The **calculation** method depends on the type of cost *(depreciation, actual or unit cost; see below)*.

Specific cases (purchase costs (C.)):

Purchases between participants — Are in principle not accepted. If a beneficiary needs supplies from another beneficiary, it is the latter beneficiary that should charge them to the action as cost. (Otherwise there is the risk that the grant is used to charge commercial profit margins.) Purchases between participants will only be accepted in exceptional and properly justified cases. For detailed explanations, see the specific cases in section 6.2.B on subcontracting between different types of participants.

Framework contracts — Framework contracts can be used for selecting a provider if this is the usual practice of the beneficiary (e.g. for a type of goods). In order to be eligible, the framework contract must (have) be(en) awarded on the basis of best-value-for-money or lowest price and absence of conflict of interest. The framework contract does not necessarily have to be concluded before the start of the action.

Providers of research infrastructures services for transnational and virtual access of users *(HE)* —The reimbursement of their costs by the beneficiaries will be considered as a specific purchase of services which will be specified in Annex 1. If *(e.g. due to the applicable national law)* an entity providing research infrastructure services cannot issue an invoice to a beneficiary, but is paid or reimbursed via any other form of transaction, this can be assimilated to an invoice and accepted as eligible purchase costs.

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[12] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (OJ L 94, 28.3.2014, p. 65) and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p.65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on public procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Best value for money can be assured if the providers do not make a profit and their access costs are calculated according to a well-defined methodology. To this extent, sufficient details must be provided, such as name of the service providers, purchase costs and object, as well as the explanation why these service providers are needed and why the purchase costs of the services are appropriate.

> ***Example:*** *Beneficiaries can explain why these providers of scientific services are necessary for the action, confirm that they will not include any profit margin when being reimbursed by the beneficiaries; that they will bear part of the access costs to the research infrastructure (because some of their costs will not be reimbursed like depreciation costs of their equipments).*

Best practice: Beneficiaries should contact the granting authority, if they intend to amend the grant to change a specific purchase of service assessed during proposal evaluation or to introduce a new specific purchase of service during the action implementation.

C.1 Travel and subsistence *(all programmes except RFCS, CCEI)*

C.1 Travel and subsistence

[OPTION 1 for programmes without travel and subsistence costs (ineligible):

Not applicable *]*

[OPTION 2 for programmes with travel and subsistence costs:

Purchases for **travel, accommodation** and **subsistence** must be calculated as follows:

- travel: *[OPTION A (actual costs):* on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel*] [OPTION B (unit or actual costs):* as unit costs in accordance with the method set out in Annex 2a if covered by Decision C(2021)35 or otherwise as costs actually incurred and in line with the beneficiary's usual practices on travel*]*
- accommodation: *[OPTION A (actual costs):* on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel*] [OPTION B (unit or actual costs):* as unit costs in accordance with the method set out in Annex 2a if covered by Decision C(2021)35 or otherwise as costs actually incurred and in line with the beneficiary's usual practices on travel*]*
- subsistence: *[OPTION A (actual costs):* on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel*] [OPTION B (unit or actual costs):* as unit costs in accordance with the method set out in Annex 2a if covered by Decision C(2021)35 or otherwise as costs actually incurred and in line with the beneficiary's usual practices on travel*].]*

1. Travel and subsistence costs (actual costs) (D.1): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement with the actual cost option *(HE, DEP, EDF, CEF, LIFE, AGRIP, HUMA)*, the beneficiaries/affiliated entities may charge 'Travel and subsistence costs' as actual costs.

⚠ In your Grant Agreement, this option is labelled '**actual costs**' (NOT 'unit or actual costs'; *see Data Sheet, Point 3*).

This budget category covers travels and related accommodation and subsistence allowances needed for the action. For some programmes, it is specifically broken down in the following sub-categories:

- Travel
- Accommodation
- Subsistence.

1.2 If the actual costs option is activated in the Grant Agreement, the costs must be **declared as** actual costs.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.C.1, in particular:

- fulfil the general conditions for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc.; *see Article 6.1(a)*) and

- be in line with the beneficiary's usual practices on travel.

The travels for which costs are claimed must be necessary for the action *(e.g. to present a paper explaining the results of a conference)*. Travel costs related to an event at which the beneficiary carried out work that was not specifically related to the action are NOT eligible.

All travel costs must be limited to the needs of the action; costs related to extensions (for other professional or private reasons) are NOT eligible.

Moreover, they must be adequately recorded.

Costs for breakfast for an overnight stay (if not included in the cost of the hotel room) can be charged (as subsistence costs) to the action if it is the beneficiary's normal practice to reimburse them.

Costs of a combined travel *(i.e. where the end point of travel is different from the start)* can be charged to the action ONLY up to the cost that would have been incurred if the travel would have been made exclusively for the action *(i.e. up to the theoretical cost of travelling directly back to the start point)* AND if:

- it is the usual practice of the beneficiary to pay for such travels *(e.g. travels combining professional and personal reasons)*
- it has been an actual cost for the beneficiary.

⚠ **Record-keeping —** In the case of combined travel, the beneficiary must keep records of not only the actual cost of the subsequent travel leg(s), but also of the theoretical direct return travel after the end of the work for the action in order to prove the cost that would have been incurred.

If the beneficiary reimburses travel and/or subsistence allowances as a per diem payment, it is the per diem amount that is considered an eligible cost, NOT the actual prices paid by the person receiving the per diem. (For the purposes of the grant, these per diem costs remain actual costs, NOT simplified forms such as unit costs). They must be recorded in the beneficiary's accounts and will be checked if there is an audit.

1.4 There is no specific **calculation** method; the costs must correspond to the eligible costs actually incurred (amounts paid for the travel, accommodation and subsistence).

Best practice: Beneficiaries that have special/atypical/particularly expensive travel plans should contact the granting authority for advice.

⚠ **Record-keeping —** In terms of record-keeping, the beneficiary must keep evidence of the actual costs incurred as well as evidence that the instance of travel fulfils the general eligibility conditions for actual costs *(for example that the travel was linked to the action)*.

2. Travel and subsistence costs (unit costs) (D.1): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? If eligible under the Grant Agreement with the unit cost option *(most programmes, e.g. . I3, ERDF-TA, IMREG, EMFAF, IMCAP, SMP, ERASMUS, CREA, CERV, JUST, ESF/SOCPL, EU4H, AMIF/ISF/BMVI, EUAF, CUST/FISC, PERI (partial), TSI, UCPM)*, the beneficiaries/affiliated entities may charge 'Travel and subsistence costs' as unit costs.

⚠ In your Grant Agreement, this option is labelled '**unit or actual costs**' (NOT 'actual costs'; *see Data Sheet, Point 3*).

This budget category covers travels needed for the action, broken down in the following sub-categories:

- Travel
- Accommodation
- Subsistence.

2.2 If the unit cost option is activated in the Grant Agreement, the costs must be **declared** using the unit cost fixed by the authorising decision C(2021)35[13] and set out in Annex 2a.

'Land travel' between 50 and 399 km covers any form of travel (bus, rail or car).

Travel below 50km will not be reimbursed using the travel unit costs. Such costs can be reimbursed using actual costs, if it is the usual practice of the beneficiary to reimburse such short-distance travel.

If a particular instance of travel, accommodation or subsistence in the action is not covered by one of the unit costs mentioned in the authorising decision C(2021)35, actual costs may be used (in same way as 'Travel and subsistence as actual costs' above). In practice, this is usually the case for:

- travel between 50 and 399km in a non-EU country
- travel between 50 and 399km and between a Member State and a non-EU country
- land travel between 50 and 399km in LU, CY or MT
- ferry or boat travel from island to island or island to mainland.

The amounts per unit are prefixed by the authorising decision.

2.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.C.1, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))* and
- be purchased for the action and in accordance with Article 6.2.C.

2.4 The costs must be **calculated**, for each travel and person travelling, in accordance with the methodology set out in the authorising decision and Annex 2a.

Regarding travel:

The formulas for calculating the travel are:

- by air above 400km: ***{****amount depending on distance band* ***x*** *number of journeys****}***
- by rail above 400km: ***{****amount depending on distance band* ***x*** *number of journeys****}***
- combined air and rail above 400 km: ***{****amount depending on distance band* ***x*** *number of journeys****}***

[13] Commission Decision of 12 January 2021 authorising the use of unit costs for travel, accommodation and subsistence costs under an action or work programme under the 2021-2027 multi-annual financial framework (C(2021)35) as amended by Commission Decision C(2023)4928 of 26.07.2023.

- land travel (50 – 399km) in 1 Member State: ***{****amount for intra-Member State* ***x*** *number of journeys****}***
- land travel (50-399km) between 2 Member States: ***{****amount for inter-Member State travel* ***x*** *number of journeys****}***
- travel between EU and one of EU's outermost regions and overseas countries and territories (OCTs)5: ***{****specific unit cost for that OCT* ***x*** *number of journeys****}***
- journey of less than 400 km not covered by land transport *(e.g. Helsinki/Tallinn)*: ***{****unit cost for air travel (400-600 km)* ***x*** *number of journeys****}***
- travel to/from places more than 400 km from a primary airport *(e.g. certain regions in Finland)*: ***{****relevant unit cost for air travel* ***x*** *150% number of journeys****}***

All unit costs are an amount to cover a return trip. However, the calculation of the distance should be done on the basis of the 1-way distance between the points.

For calculating the '**distance**' between two points for rail or air travel, beneficiaries can use the distance calculators available on the Europa website.

The start and end-points entered will normally be the place of employment of the person and the location of the meeting.

If, following the event, the person will travel to a place other than the start point, the amount to be declared will be the theoretical cost of returning to the same starting point, unless the different destination is necessary for the implementation of the action. In that case, the unit cost can be calculated using the longer of the distances *(e.g. if travel from Dublin – Brussels – Athens is justified for the action, the unit cost to be applied can be calculated on basis of the longer flight from Brussels – Athens)*.

Where the trip involves 3 journeys and is necessary for the implementation of the action *(e.g. Madrid – Brussels – Berlin – Madrid)*, the unit costs can be calculated on the basis of 2 separate return flights: Madrid – Brussels and Berlin – Madrid.

For checking the distance of travel to/from places more than 400km from a primary airport, the following are the '**primary airports**' to be used:

Member State	Airport(s)		
France	Paris (CDG)	Lyon (LYS)	Toulouse (TLS)
Germany	Frankfurt (FRA)	Munich (MUC)	Berlin (TXL)
Italy	Rome (FCO)	Milan (MXP)	Naples (NAP)
Poland	Warsaw (WAW)	Krakow (KRK)	Wroclaw (WRO)
Spain	Madrid (MAD)	Barcelona (BCN)	Valencia (VLC)
Austria	Vienna (VIE)	Innsbruck (INN)	
Belgium	Brussels (BRU)	Charleroi (CRL)	
Czechia	Prague (PRG)		
Greece	Athens (ATH)	Thessaloniki (SKG)	
Hungary	Budapest (BUD)		

Netherlands	Amsterdam (AMS)	Rotterdam (RTM)	
Portugal	Lisbon (LIS)	Porto (OPO)	
Romania	Bucharest (OTP)	Cluj (CLJ)	
Sweden	Stockholm (ARN)	Gothenburg (GOT)	
Bulgaria	Sofia (SOF)		
Croatia	Zagreb (ZAG)		
Cyprus	Larnaca (LCA)		
Denmark	Copenhagen (CPH)		
Estonia	Tallin (TLN)		
Finland	Helsinki (HEL)		
Ireland	Dublin (DUB)		
Latvia	Riga (RIX)		
Lithuania	Vilnius (VNO)		
Luxembourg	Luxembourg (LUX)		
Malta	Valetta (MAL)		
Slovenia	Ljubljana (LJU)		
Slovakia	Bratislava (BTS)		

Regarding accommodation:

The formula for calculating the accommodation is:

> ***{**amount per unit [depending on country]**}***
>
> *multiplied by*
>
> ***{**nights spent on travel**}***

For the EU's outermost regions or OCTs, the rate for the relevant Member State can be used as a proxy amount.

Regarding subsistence:

The formula for calculating the subsistence is:

> ***{**amount per unit [depending on country]**}***
>
> *multiplied by*
>
> ***{**days spent on travel**}***

Subsistence unit costs are for a 24-hour period. The amount of unit costs to be declared should be calculated by rounding up or down to the nearest full number of days, except for the first day where any amount of hours will be rounded up to 1 full day.

For the EU's outermost regions or OCTs, the rate for the relevant Member State can be used as a proxy amount.

The subsistence unit costs is intended to cover meals and other incidental expenses. However, it is not necessary to verify whether the person already received a meal free of cost (for example, a meal provided by the meeting/conference organiser or breakfast included in the associated hotel amount; this does not impact the amount paid for the subsistence unit cost).

⚠ **Record-keeping —** As regards record-keeping, the beneficiaries will have to be able to prove (upon request) that an instance of travel took place and was linked to the action. The beneficiaries do not need to keep specific records on the actual costs incurred, but must keep adequate records and supporting documents to prove the number of units declared (*see Article 20*).

Example: *Documents with a dated attendance list and description of the meeting can demonstrate that the travel took place, was necessary for the action and occurred during the action duration. To be able to identify the unit cost of each travel, the beneficiary could indicate on the attendance list the place of departure of the persons for whom travel costs are claimed. In case of an event with no attendance list (a smaller/informal meeting or event organised by a third party), the beneficiary must keep evidence to demonstrate that the person travelled and that it was linked to the action: the agenda, email invitation, the minutes or report of the event, the boarding pass, travel ticket, etc.*

Specific cases (Travel and subsistence (C.1)):

Travel and subsistence for persons other than personnel e.g. conference speakers, visiting experts (actual or unit cost) — Travel and subsistence costs may also be eligible for persons that participate in the action on an ad-hoc basis (e.g. attending specific meetings), if this complies with the general and specific eligibility conditions in Article 6.1 and 6.2.C, in particular being necessary for the implementation of the action, and:

- their participation is foreseen in Annex 1, or
- their participation is specifically justified in the periodic technical report and approved by the granting authority (simplified approval procedure).

In line with the beneficiary's usual practices on travel, the beneficiary may purchase itself or reimburse these persons.

Carbon-offsetting (actual cost only) — Costs associated with carbon offsetting measures can be eligible if they are in line with the beneficiary's usual practices on travel (not just for the EU action) and fulfil the general and specific cost eligibility conditions, *e.g. incurred during the action duration, in connection with the action as described in Annex 1 and the underlying travel is necessary for the action's implementation*.

C.2 Equipment

C.2 Equipment

[OPTION 1 for programmes without equipment costs (ineligible):

Not applicable *]*

[OPTION 2 for programmes with depreciation only:

Purchases of **equipment, infrastructure or other assets** used for the action must be declared as depreciation costs, calculated on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees. *]*

[OPTION 3 for programmes with full cost only:

Purchases of **equipment, infrastructure or other assets** specifically for the action (or developed as part of the action tasks) may be declared as full capitalised costs if they fulfil the cost eligibility conditions applicable to their respective cost categories.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.*]*

[OPTION 4 for programmes with depreciation and full cost for listed equipment (grant-level):

Purchases of **equipment, infrastructure or other assets** used for the action must be declared as depreciation costs, calculated on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

[additional OPTION if selected for the grant[24]: Moreover, for the following equipment, infrastructure or other assets purchased specifically for the action (or developed as part of the action tasks):

- [insert name/type of equipment]
- [insert name/type of equipment]

[same for more equipment]

costs may exceptionally be declared as full capitalised costs, if they fulfil the cost eligibility conditions applicable to their respective cost categories.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.*]]*

[OPTION 5 for programmes with full cost and depreciation for listed equipment (grant-level):

Purchases of **equipment, infrastructure or other assets** specifically for the action (or developed as part of the action tasks) may be declared as full capitalised costs if they fulfil the eligibility conditions applicable to their respective cost categories.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and,
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

[additional OPTION if selected for the grant: However, for the following equipment, infrastructure or other assets used for the action:

- [insert name/type of equipment]
- [insert name/type of equipment]

[same for more equipment]

the costs must be declared as depreciation costs, on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** such equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees. *]]*

[OPTION 6 for programmes with choice at call level:

[OPTION 1 by default (depreciation only):

Purchases of **equipment, infrastructure or other assets** used for the action must be declared as depreciation costs, calculated on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.*]*

[OPTION 2 full cost only (if selected for the call[25]):

Purchases of **equipment, infrastructure or other assets** specifically for the action (or developed as part of the action tasks) may be declared as full capitalised costs if they fulfil the cost eligibility conditions applicable to their respective cost categories.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.*]*

[OPTION 3 depreciation + full cost for listed equipment at grant level (if selected for the call[26]):

Purchases of **equipment, infrastructure or other assets** used for the action must be declared as depreciation costs, calculated on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

[additional OPTION if selected for the grant[27]: Moreover, for the following equipment, infrastructure or other assets purchased specifically for the action (or developed as part of the action tasks):

- [insert name/type of equipment]
- [insert name/type of equipment]

[same for more equipment]

costs may exceptionally be declared as full capitalised costs, if they fulfil the cost eligibility conditions applicable to their respective cost categories.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.*]]*

[OPTION 4 full cost + depreciation for listed equipment at grant level (if selected for the call[28]):

Purchases of **equipment, infrastructure or other assets** specifically for the action (or developed as part of the action tasks) may be declared as full capitalised costs if they fulfil the eligibility conditions applicable to their respective cost categories.

[25] To be used as an exception, only if justified by the nature of the actions and the context of the use of the equipment or assets.
[26] To be used as an exception, only if justified by the nature of the actions and the context of the use of the equipment or assets.
[27] Full purchase cost option and conditions must be specified in the call.
[28] To be used as an exception, only if justified by the nature of the actions and the context of the use of the equipment or assets.
[29] Depreciation option and conditions must be specified in the call.

'Capitalised costs' means:

- costs incurred in the purchase or for the development of the equipment, infrastructure or other assets and,
- which are recorded under a fixed asset account of the beneficiary in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

If such equipment, infrastructure or other assets are rented or leased, full costs for **renting or leasing** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

[additional OPTION if selected for the grant[29]*:* However, for the following equipment, infrastructure or other assets used for the action:

- [insert name/type of equipment]
- [insert name/type of equipment]

[same for more equipment]

the costs must be declared as depreciation costs, on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** such equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees. *]]]*

1. Equipment costs (depreciation costs) (C.2): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement with the depreciation option *(default option for most programmes)*, the beneficiaries/affiliated entities may charge 'Equipment costs' as depreciation costs.

⚠ In your Grant Agreement, this option is labelled '**depreciation only**' (NOT 'depreciation and full cost for listed equipment' or 'full cost and depreciation for listed equipment'; *see Data Sheet, Point 3*). For those other options, *see specific cases below*.

In this case, this budget category covers the depreciation costs of equipment, infrastructure or other assets used for the action. In addition, in some cases *(e.g. infrastructure)*, it may also include the costs necessary to ensure that the asset is ready for its intended use *(e.g. site preparation, delivery and handling, installation, etc)*.

What not? If the beneficiary's usual practice is to consider durable equipment costs (or some of them) as indirect costs, these can NOT be declared as direct costs, but are covered by the flat rate for indirect costs *(see Article 6.2.E)*. Any depreciation declared as a direct cost under the action must be a direct cost under the beneficiary's cost accounting practices *(see Article 6.2.)*.

1.2 The costs must be **declared as** actual costs.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.C.2, in particular:

- fulfil the general conditions for actual costs to be eligible *(i.e. incurred during the action duration, necessary, linked to the action, recorded in the beneficiary's accounts, etc; see Article 6.1(a))*
- have been purchased in accordance with Article 6.2.C and
- be written off in accordance with the beneficiary's usual accounting practices and with international accounting standards.

'International accounting standards' are an internationally recognised set of rules for maintaining books and reporting company accounts, designed to be compared and understood across countries.

Example: *The IAS 16 (International Accounting Standards) or the International Financial Reporting Standards (IFRS), originally created by the EU and now in common international use.*

1.4 They must be **calculated** according to the following principles:

- the depreciable amount (purchase price) of the equipment must be allocated on a systematic basis over its useful life *(i.e. the period during which the equipment is expected to be usable)*. If the equipment's useful life is more than a year, the beneficiary can NOT charge the total cost of the item in a single year

  'Useful life' means the time during which the equipment is useful for the beneficiary. If the beneficiary does not normally calculate depreciation, it may refer to its national tax regulations to define the useful life of the equipment.

  ⚠ Declaring the *full* price in one single year would be considered either as not compliant with the international accounting standards or as an excessive cost — and therefore in both cases ineligible; *see specific case 'cash-based accounting' below*), except in case of low-value assets *(see below)*.

- depreciated equipment costs can NOT exceed the equipment's purchase price
- if the beneficiary does not use the equipment exclusively for the action, only the portion used on the action may be charged (the amount of use must be auditable)

  Example:

  A large 3D printer was bought before the action started and was not fully depreciated. For 6 months in reporting period 1 it was used for the action for 50 % of the time and for other activities for the other 50 % of the time. Linear depreciation is applied according to the beneficiary's usual practices (depreciation over the expected period of use of the 3D printer): EUR 100 000 per year (EUR 50 000 for 6 months).

  Costs declared for the project: EUR 50 000 (6 months of use) multiplied by 50 % of use for the action during those 6 months = EUR 25 000.

- the beneficiary can charge depreciation in line with applicable audit standards and its usual accounting practices, i.e. normally at the earliest for periods as of the reception of the equipment and its availability for use (i.e. when it is in the location and condition necessary for it to be capable of operating in the manner intended by management).

  Example: *A robot-supported equipment was bought on 15 November and received and set up for use as of 01 December. The reporting period ends on 31 December and the financial year also ends on 31 December. The maximum depreciation that the beneficiary may charge is 1 month (from 1 to 31 December); i.e. 1/12 of the annual depreciation. This applies even if the beneficiary recorded in its accounts at 31 December a full year of depreciation for the item.*

The depreciation costs must be calculated for each reporting period.

2. Equipment costs (full cost) (C.2): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? If eligible under the Grant Agreement with the full cost option *(option in HE, RFCS, DEP, EDF, SMP, EU4H, EUAF, UCPM; mandatory in CEF, CCEI, HUMA)*, the beneficiaries/affiliated entities may charge 'Equipment costs' as full costs.

> ⚠ In your Grant Agreement, this option is labelled **'full cost only'** (NOT 'depreciation and full cost for listed equipment' or 'full cost and depreciation for listed equipment'; *see Data Sheet, Point 3*). For those other options, *see specific cases below*.
>
> ⚠ Equipment that does not comply with the specific conditions for full cost *(e.g. equipment purchased prior to the action but used for the action)* must be declared using the normal depreciation cost.

In this case, the equipment costs cover the full capitalised costs for the equipment, infrastructure or other assets to the grant.

'Capitalised' costs means recorded as assets in the beneficiary's balance sheet. They may relate to:

- the full purchase costs and/or
- the full development costs

and must be recorded under a fixed asset account in the beneficiary's accounting records in compliance with international accounting standards and the beneficiary's usual cost accounting practices.

2.2 The costs must be **declared as** actual costs.

2.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.C.2, in particular:

- for full purchase costs:
  - fulfil the general conditions for actual costs to be eligible *(i.e. incurred during the action duration, necessary, linked to the action, recorded in the beneficiary's accounts, etc; see Article 6.1(a))* and
  - have been purchased in accordance with Article 6.2.C

    Example: *A beneficiary needs to buy an off-the-shelf equipment to perform some of its action tasks. The related purchase costs are eligible if they comply with Article 6.2.C (i.e. 'best value for money/or lowest price' and 'no conflict of interests' principles).*

- for full development costs:
  - depending on the nature of the cost items included in the development cost, fulfil the general and specific cost eligibility conditions that would apply to the individual cost item (for example, have been purchased in accordance with Article 6.2.C or fulfil the specific conditions for personnel costs to be eligible Article 6.2.A).

    Example:

    A beneficiary is developing a prototype as part of its action tasks. For this purpose, it needs to buy several components and rely on a service provider to assemble some specific parts of the prototype. In that case, the related purchase costs are eligible if they comply with Article 6.2.C (i.e. notably with the 'best value for money/ or lowest price' and 'no conflict of interests' principles).

The beneficiary has also its own employees involved in the assembling of the other parts of the prototype. In that case, the related personnel costs are eligible if they comply with Article 6.2.A.1 (personnel costs for employees or equivalent appointing act).

2.4 They must be **calculated** according to the following principles:

- correspond to the actual costs incurred in the purchase or for the development and
- ensure that there is no double charging of costs (in particular, no charging of depreciation costs for the prototype or pilot plant to the grant or another EU grant).

They cover the full purchase/development costs (not only the depreciation costs for the reporting period).

Specific cases (equipment costs (C.2)):

Depreciation and full costs for listed items *(option in HE, RFCS, DEP, EDF, SMP, AMIF/ISF/BMVI, PERI, UCPM)* **—** If this option is activated in the Grant Agreement, the beneficiaries can use depreciation for all items, except certain items listed in the Grant Agreement for which you can charge full cost. *For details, see above*.

Full costs and depreciation for listed items *(option in HE, RFCS, EDF, LIFE, SMP, UCPM)* **—** If this option is activated in the Grant Agreement, the beneficiaries may charge all items at full cost, except the ones listed in the Grant Agreement for which you need to use depreciation. *For details, see above*.

Full price of a low-value asset in one single year (depreciation) — If the option for depreciation is activated, full cost of a low-value asset may exceptionally be eligible in the year when it is purchased if:

- the full cost is recorded in the accounts of the entity in accordance with its usual accounting practices as expenditure of that year *(i.e. NOT recorded as an asset subject to depreciation)*
- the cost of the asset is below the low-value ceiling as defined under national law *(e.g. national tax legislation)* or other objective reference compatible with the materiality principle

and

- the item is used exclusively for the action in the year of purchase.

If the item is not used exclusively for the action in the year of purchase, only the portion used on the action may be charged.

Equipment bought before the action starting date (depreciation) — If the option for depreciation is activated, depreciation costs for equipment used for the action, but bought before the action starting date are eligible if they fulfil the general eligibility conditions of Article 6.1(a). The remaining depreciation costs (the equipment has not been fully depreciated before the action's start) may be eligible for the portion corresponding to the action duration and to the rate of actual use for the purposes of the action.

Example: *According to the beneficiary's accounting practices, a piece of equipment bought in January 2020 has a depreciation period of 48 months. If the action starts in January 2022 (when 24 months of depreciation have already passed) and the equipment is used for this action, the beneficiary can declare the depreciation costs incurred for the remaining 24 months, in proportion to the equipment's use for the action.*

Cash-based accounting — There are NO exceptions for cash-based accounting. If the option for depreciation is activated, also beneficiaries with cash-based accounting may only charge the annual depreciation costs that correspond to the part of the equipment's use for the action.They can NOT charge the full price in one single year — even if their usual

accounting practice is to record the equipment's *total* purchase costs as an expense in one year.

Example:

A beneficiary that uses cash-based accounting buys a machine for EUR 100 000 in March 2021. According to the logbook of the machine, it is used for the action 50 % of the time from 1 July 2021 until the end of the action. The action started in January 2021 and runs for three years with two reporting periods. The machine's useful life is six years.

In the reporting period ending in June 2022, the beneficiary must declare depreciation costs taking into account the percentage of use, the time used for the action and the machine's useful life:

EUR 100 000 x (12/72 months) x 50 % (used for the action) = amount declared for the machine in the first reporting period

In the reporting period ending in December 2023, the beneficiary must declare:

EUR 100 000 x (18/72 months) x 50 % (used for the action) = amount declared for the machine in the second reporting period

Costs of renting or leasing of equipment, infrastructure or other assets (depreciation and full cost) — If the equipment was not purchased but rented or leased, the beneficiaries can charge the renting or leasing costs *(i.e. finance leasing, renting and operational leasing)* **—** both if the option for depreciation or the full cost option are activated,

The costs must comply with the general and specific eligibility conditions *(see Article 6.1(a) and Article 6.2.C).* The costs must be calculated according to the following principles :

- they must correspond to the actual eligible costs incurred for the renting or leasing
- they must not exceed the depreciation costs of similar equipment, infrastructure or assets
- they must not include any financing fees (*e.g. finance charges included in the finance lease payments or interests on loans taken to finance the purchase)*
- there must be no double charging of costs (e.g. no charging of depreciation costs for equipment previously funded at full cost by an EU grant)
- where the Grant Agreement provides for **depreciation**: if equipment is not used exclusively for the action, only the portion used on the action may be charged (the amount of use must be auditable)
- where the Grant Agreement provides for **full cost**: in principle the full rental or lease cost can be charged, irrespective of the portion used on the action. However, the cost still cannot exceed depreciation costs of similar equipment/infrastructure/assets that need to be determined based on the duration of the action (i.e. if you enter into a 5-year lease at the start of a 3-year action, you may only charge cost up to the amount of depreciation for three years).

C.3 Other goods, works and services

C.3 Other goods, works and services

[OPTION 1 for programmes without costs for other goods, works and services (ineligible):

Not applicable *]*

[OPTION 2 for programmes with costs for other goods, works and services (standard):

Purchases of **other goods, works and services** must be calculated on the basis of the costs actually incurred.

Such goods, works and services include, for instance, consumables and supplies, promotion, dissemination, protection of results, translations, publications, certificates and financial guarantees, if required under the Agreement. *]*

1. Costs of other goods, works and services (C.3): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes)*, the beneficiaries/affiliated entities may charge other purchases as 'Other goods, works and services'.

This budget category covers the costs for goods and services that were purchased for the action, such as:

- costs for consumables and supplies *(e.g. raw materials, office supplies)*
- communication and dissemination costs *(e.g. translation and printing costs or graphic designer fees for printed products such as leaflets or other promotional items in relation to communication activities; conference fees; costs for speakers and interpreters*)
- costs related to intellectual property rights (IPR) (*e.g. costs related to protecting the results such as consulting fees or fees paid to patent offices*)
- costs for certificates on financial statements (CFS) and certificates on methodology (CoMUC; where necessary)
- costs for financial guarantees (only if required by the granting authority; *see Data Sheet, Point 4.2*).

Best practice: If there is any doubt about whether a cost is eligible, or whether a cost is to be considered a purchase cost for other goods, works and services, the beneficiaries should contact the granting authority.

What not? If it is the beneficiary's usual accounting practice to consider some of these costs (or all of them) as *indirect* costs, they cannot be declared as direct costs.

1.2 Costs of other goods, works and services must be **declared as** actual costs.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.C.3, in particular:

- fulfil the general conditions for actual costs to be eligible *(i.e. incurred during the action duration, necessary, linked to the action, etc; see Article 6.1(a))* and

- be purchased specifically for the action and in accordance with Article 6.2.C.

1.4. Regarding the **calculation**, the costs must correspond to the eligible costs actually incurred *(i.e. the amount paid by the beneficiary for the supply of the goods, works or services)*.

Specific cases (costs for other goods, works and services (D.3)):

Supplies in stock — Supplies and consumables which were already in the stock of the beneficiary may be eligible as a direct cost, if they are used for the action and fit the definition of direct costs under Article 6.2.

Self-produced consumables with an accounting value in the inventory of the beneficiary *(i.e. not internally invoiced costs for goods and services)* — Consumables that are manufactured (produced) by the beneficiary itself do not have a purchase price; the cost of production for the beneficiary is however normally recorded in the accounts of the beneficiary (as part of the *inventory)*. Therefore, the eligible costs of self-produced consumables must be determined on the basis of its accounting value under the following conditions:

- only the *direct* costs within the accounting value of the consumable (cost of production) may be charged

and

- the amount resulting from the indent above may not be significantly higher than the market price of the consumable.

⚠ Beneficiaries can NOT charge the commercial price of their self-produced consumables, since it is not allowed to include a profit.

Staff provided by a temporary work agency — Costs for staff provided by a temporary work agency are eligible normally under category C.3 Other goods and services if they comply with the eligibility conditions (and unless the temporary work agency carries out directly some task of the action, in which case it can be considered as subcontracting and should be declared under category B. Subcontracting).

Communication and dissemination plans — The eligibility of costs for communication and dissemination plans *(e.g. HE plan for the exploitation and dissemination of results)* depends on their timing. Costs for the drawing up of plans that must be submitted together with the proposal are normally NOT eligible since they will have been incurred before the start of the action, to prepare the proposal. Costs for plans that are required only later or that occur when revising or implementing the plan may be eligible if the eligibility conditions are fulfilled.

Protection of results — Costs related to the protection of the action's results may be eligible if the eligibility conditions are fulfilled. However, costs related to protection of other intellectual property (*e.g. background patents*) are NOT eligible.

IPR access rights *(HE)* — Royalties paid for IPR access rights (and by extension any lump sum payments) may be eligible costs provided that all the eligibility conditions are fulfilled *(e.g. necessary for the implementation of the action, incurred during the action, reasonable, etc)*.

The following are however NOT eligible (or eligible only within certain limits):

- royalties for an exclusive licence: are eligible only if it can be shown that the exclusivity (and thus the higher royalties) is absolutely necessary for the implementation of the action

- royalties for licensing agreements which were already in force before the start of the action: only the part of the licence fee that can be linked to the action is eligible (since the licence presumably goes beyond the action implementation)

- royalties for access rights to background granted by other beneficiaries for implementing the action: since the default rule is that access rights are granted on a royalty-free basis and beneficiaries may deviate only if agreed before grant signature, royalties may be eligible only if explicitly agreed by all beneficiaries before grant signature

  Best practice: If beneficiaries intend to deviate from the default rule, it is recommended that this is explained in detail in their proposal.

- royalties for access rights to background granted by other beneficiaries for exploiting the results and by extension royalties paid to third parties for exploitation of the results: are NOT eligible.

Costs related to research output management *(HE)* **—** Costs for research output management *(e.g. management of research data)* are eligible if the eligibility conditions are fulfilled, including open access to peer-reviewed publications (but see the additional eligibility condition referenced immediately below), research data and other outputs.

Open access to scientific publications *(HE)* — In addition to fulfilling the other costs eligibility criteria, publication fees are ONLY eligible when publishing in full open access publishing venues *(see Annex 5 > Communication, dissemination and visibility)*.

D. Other cost categories

D. Other cost categories

[OPTION 1 for programmes without specific cost categories:

Not applicable *]*

[OPTION 2 for programmes with specific cost categories:

1. Other cost categories (D.X): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement, the beneficiaries/affiliated entities may charge costs under 'Other cost categories'.

Such cost categories exist in several EU programmes:

- Financial support to third parties (FSTP) *(all programmes except RFCS, EUAF, CUST/FISC, CCEI, PERI, TSI, UCPM; see Article 6.2.D.X FSTP)*
- Internally invoiced goods and services *(HE, DEP, EDF; see Article 6.2.D.X INT_INV)*
- HE Access to research infrastructure costs *(see Article 6.2.D.X RI)*
- HE PCP/PPI procurement costs *(see Article 6.2.D.X HE_PCP/PPI)*
- HE Euratom Cofund staff mobility costs *(see Article 6.2.D.X EURATOM)*
- HE ERC additional funding *(see Article 6.2.D.X ERC)*
- DEP PAC procurement costs *(see Article 6.2.D.X PAC)*
- CEF Studies *(see Article 6.2.D.X STUD)*
- CEF Synergetic elements *(see Article 6.2.D.X SYN)*
- CEF Works in outermost regions *(see Article 6.2.D.X OUT)*
- CEF Land purchase *(see Article 6.2.D.X CEF_LAND)*
- LIFE Land purchase *(see Article 6.2.D.X LIFE_LAND)*
- SMP PPI procurement costs *(see Article 6.2.D.X SMP_PPI)*
- SMP COSME EEN additional coordination and networking costs *(see Article 6.2.D.X EEN)*
- AMIF EMN ad hoc queries *(see Article 6.2.D.X QUERI)*
- CUST/FISC Long-term missions *(see Article 6.2.D.X MISS)*
- HUMA Field office costs *(see Article 6.2.D.X FIELD)*

1.2 Depending on the provisions of the specific cost categories, they must be **declared** as actual costs (or any other cost type, *e.g. unit cost, flat rate or lump sum*).

1.3. The costs must comply with the **eligibility conditions** set out in each specific cost category.

1.4 The **calculation** method will depend on the type of cost and the provisions of each specific cost category.

D.1 Financial support to third parties (FSTP) *(all programmes except RFCS,SMP ESS, EUAF, CUST/FISC, CCEI, PERI, TSI, UCPM)*

D.1 Financial support to third parties

Costs for providing financial support to third parties (in the form of **grants, prizes** or similar forms of support; if any) are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated *[*on the basis of the costs actually incurred*][*as unit costs in accordance with the method set out in Annex 2a*]* and the support is implemented in accordance with the conditions set out in Annex 1.

These conditions must ensure objective and transparent selection procedures and include at least the following:

(a) for grants (or similar):

(i) the maximum amount of financial support for each third party ('recipient'); this amount may not exceed the amount set out in the Data Sheet (see Point 3)[30] or otherwise agreed with the granting authority

(ii) the criteria for calculating the exact amount of the financial support

(iii) the different types of activity that qualify for financial support, on the basis of a closed list

(iv) the persons or categories of persons that will be supported and

(v) the criteria and procedures for giving financial support

(b) for prizes (or similar):

(i) the eligibility and award criteria

(ii) the amount of the prize and

(iii) the payment arrangements.

*[*This cost will not be taken into account for the indirect cost flat-rate.*]]*

[30] The amount must be specified in the call. It may not be more than 60 000 EUR, unless the objective of the action would otherwise be impossible or overly difficult (Article 204 EU Financial Regulation 2018/1046).

1. Financial support to third parties (FSTP) (D.1): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes except RFCS, SMP ESS, EUAF, CUST/FISC, CCEI, PERI, TSI, UCPM)* AND provided for in the call conditions, the beneficiaries/affiliated entities may charge costs under 'Financial support to third parties (FSTP)' where giving such support is part of the action activities.

This budget category covers 'cascading' (meaning the beneficiaries of the EU grant provide themselves in turn a financial contribution to third parties) grants, prizes or similar.

⚠ For some programmes, the specific cost category in Article 6 is complemented by specific rules for carrying out the action within the meaning of Article 18 *(see Annex 5 > HE Co-funded Partnerships)*.

Financial support to third parties may be given to natural persons *(e.g. allowance, scholarship, fellowship)* or legal persons *(e.g. non-repayable financial assistance to local NGOs)*, seed money to start-ups or microcredit, or other forms. Also prizes can be given on the basis of a contest organised by the beneficiary.

Examples:

1. *An action in the area of sustainable agriculture and forestry includes financial support for end-users (farmers) testing the technology developed within the action.*

2. *One of the work packages in Annex 1 includes funding for awarding three scholarships in the field of the action.*

3. *A prize announced at the beginning of the action for identifying a (new) approach to dealing with a technical implementation problem to be tackled at the end of the action.*

4. *A grant is given to a beneficiary foreseeing that the beneficiary should fund local NGOs which in turn provide food vouchers and microcredits to natural persons in third countries.*

The financial support scheme itself is NOT an EU action; the beneficiaries are providing the financial support in their own name and under their own responsibility. When promoting the EU action *(see Article 17)*, the financial support must therefore NOT be presented as directly provided by the EU.

What not? Support in kind *(e.g. transfer of material for free)* by the beneficiary to a third party is NOT considered financial support.

⚠ This cost category can only cover financial support. By contrast, cost for **non-financial support** or support given in-kind *(e.g. vouchers)* must be declared under other categories *(e.g. as cost for purchases of vouchers)*.

The recipients are NOT party to the Grant Agreement and therefore do NOT need to be listed nor be registered in the Participant Register.

1.2 Costs of financial support to third parties must normally be **declared as** actual costs (or, very exceptionally, as unit costs in accordance with the method set out in Annex 2a — *currently only for SMP COSME EYE*).

1.3 The actual costs must comply with the **eligibility conditions** set out in Article 6.2.D.1, in particular:

- fulfil the general conditions for actual costs to be eligible *(i.e. incurred during the action duration, necessary, linked to the action, etc; see Article 6.1(a))*
- respect the maximum amount of financial support to third parties as set out in the description of the action (DoA; Annex 1) — normally up to EUR 60 000 per recipient, but higher amounts are possible if necessary for the objectives of the action and agreed with the granting authority (in the call conditions/Grant Agreement) and
- comply with the other conditions for the support that are set out in Annex 1, and in particular:
  - for cascading grants (or similar):
    - the maximum amount per third party
    - the criteria for determining the exact amount of financial support *(e.g. EUR 2 000 per hectare; EUR 30 000 per student for a two-year scholarship)*

      Unless otherwise specified in the Grant Agreement, the financial support provided by the beneficiaries may take any form *(e.g. a lump sum or the reimbursement of the costs incurred by the recipients when implementing the*

supported activities); for the purposes of the EU grant, these remain however actual costs.

- a clear and exhaustive list of the types of activities that qualify for financial support for third parties *(e.g. financial support for third parties allowed for technology-testing activities)*

  These activities should benefit, primarily, the recipients (NOT the beneficiaries).

- the persons or category(ies) of persons that may receive it *(e.g. farmers; PhD students, SMEs)*

  Beneficiaries should describe in Annex 1 the procedures for selecting the recipients.

- the criteria for giving financial support *(e.g. physical characteristics of the agricultural plots which make them suitable for the purpose of the action)*.

  These criteria should respond to the objectives set out in the call conditions.

- for prizes:

  - the amount of the prize *(e.g. EUR 10 000)*

  - a clear and exhaustive list of the types of activities that qualify for financial support to third parties and the award criteria for assessing the quality of entries in light of the objectives and expected results

  - the conditions for participation and the conditions for cancellation of the contest, if any *(e.g. eligibility and exclusion criteria; deadline for submission of entries; possibility of jury interview)*

    The criteria must be objective.

  - the payment arrangements *(usually one payment)*.

- for other forms of financial support to third parties, at least:

  - the maximum amount per recipient

  - the criteria for determining the exact amount

  - the types of activities to be funded

  - the types of recipients eligible.

These conditions must also already be part of the proposal.

⚠ The FSTP conditions *(type of activities, eligible countries, etc)* may have to follow similar principles as those that apply to the beneficiaries themselves under the EU grant, if this is provided in the call conditions (of the EU grant). These conditions must then also be specified in the description of the action (DoA; Annex 1). Unless otherwise provided for in the call conditions, financial support to third parties needs to be given directly from the EU grant beneficiary to the (final) recipients, without further intermediaries.

⚠ The specific cost category in Article 6 is, for some programmes *(HE, DEP, HUMA etc)*, complemented by specific rules for carrying out the action within the meaning of Article 18.

1.4. Regarding the actual cost **calculation**, the costs must correspond to the eligible costs actually incurred *(i.e. the amounts paid by the beneficiary for the cascading grants, prizes or similar to the third parties during the duration of the action)*.

Specific cases (FSTP (D.1)):

(Micro)Loans and other financial instruments — If a call allows financial support to third parties, directly or via implementing partners, in repayable form such as (micro)loans or other financial instruments with a long-term character that exceed by their nature the duration of the action and the Grant Agreement, Annex 1 must provide for specific conditions on cost eligibility and acceptance.

D.2 Internally invoiced goods and services *(HE, DEP, EDF)*

D.2 Internally invoiced goods and services

Costs for internally invoiced goods and services directly used for the action may be declared as unit cost according to usual cost accounting practices, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions for such unit costs and the amount per unit is calculated:

(a) using the actual costs for the good or service recorded in the beneficiary's accounts, attributed either by direct measurement or on the basis of cost drivers, and excluding any cost which are ineligible or already included in other budget categories; the actual costs may be adjusted on the basis of budgeted or estimated elements, if they are relevant for calculating the costs, reasonable and correspond to objective and verifiable information

and

(b) according to usual cost accounting practices which are applied in a consistent manner, based on objective criteria, regardless of the source of funding.

'Internally invoiced goods and services' means goods or services which are provided within the beneficiary's organisation directly for the action and which the beneficiary values on the basis of its usual cost accounting practices.

[This cost will not be taken into account for the indirect cost flat-rate.]

1. Internally invoiced goods and services (D.2): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(HE, DEP and EDF)*, the beneficiaries/affiliated entities may charge costs under 'Internally invoiced goods and services'.

This budget category covers the costs for goods and services that the beneficiary itself produced or provided for the action. They may include (non-exhaustive list):

- self-produced consumables *(e.g. electronic wafers, chemicals)*
- use of specific devices or facilities needed for the action *(e.g. clean room, wind tunnel, supercomputer facilities, electronic microscope, animal house, greenhouse, aquarium)*
- standardised testing or research and development processes *(e.g. genomic test, mass spectrometry analysis)*
- hosting services for visiting project team members participating in the action *(e.g. housing, canteen*).

What not? Costs of goods or services purchased and costs of goods or services internally invoiced which are not directly used for the action *(e.g. supporting services like cleaning, general accountancy, administrative support, etc)*.

1.2 The costs must be **declared as** unit costs in accordance with usual cost accounting practices. The usual cost accounting practices must define both the unit *(e.g. hour of use of wind tunnel, one genomic test, one electronic wafer fabricated internally, etc)* and the methodology to determine the cost of the unit.

It is NOT necessary to have a document called 'internal invoice' to support these costs, but the beneficiary should have a documented methodology how to determine them (such a methodology must be part of its usual costs accounting practices). The beneficiary must also keep supporting evidence of the use of the good or service for the action and showing the number of units used.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.2, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units must be used during the action duration, necessary for the action, identifiable and verifiable, etc; see Article 6.1(b))*
- be in line with the beneficiary's usual cost accounting practices and
- the cost accounting practices must have been applied in a consistent manner, based on objective criteria, regardless of the source of funding.

It must be the usual practice of the beneficiary to calculate a unit cost for that good or service. The unit costs is the internal cost per unit that is charged between departments of the same entity; it is not the price charged in the context of commercial sales or to grants from other fund providers.

The beneficiary must consistently apply its usual cost accounting practices to calculate the unit cost, based on objective criteria that must be verifiable if there is a check, audit, review or investigation. You must do this no matter who is funding the action.

> ***Example (ineligible):*** *If you set up a new unit cost which applies only to EU actions, the internally invoiced costs based on that new unit cost would be ineligible as they would not be your usual cost accounting practice.*
>
> ***Example (eligible):*** *If you make adjustments to comply with the Grant Agreement because the usual methodology includes an ineligible cost item, the adjusted methodology will still be considered as your usual cost accounting practice and not as a new unit cost.*

1.4 The costs must be **calculated** using the actual costs recorded in the beneficiary's accounts, excluding any ineligible costs or costs already included in other budget categories:

- if necessary, the unit cost must be adjusted to remove:
  - cost elements that are ineligible under the Grant Agreement (even if they are part of the beneficiary's usual methodology for determining the unit cost for its internal invoices)

    Example: *The beneficiary uses internal invoices for the use of an electronic microscope based on a unit cost per hour of use. The methodology to calculate the unit cost includes costs of capital (e.g. interest charged by the bank for a loan used to buy the microscope). Those costs are ineligible under the Grant Agreement (see Article 6.3) and must therefore be removed. The unit cost must be recalculated without them.*

    ⚠ You can NOT simply apply an estimated percentage of deduction on the amount of your internal invoices to remove ineligible costs. You have to ensure that the internal invoice does not include any ineligible costs.

  - costs of resources that do not belong to the beneficiary and which it uses free of charge *(e.g. personnel or equipment of a third party provided free of charge)*, because those costs are not in its accounts *(see Article 6.1(a)(v))*
  - costs that are already included in other budget categories (double funding of the same costs, *see Article 6.1(a)(i)*)

Example: *The beneficiary uses internal invoices for water chemistry analyses, based on a unit cost per water sample analysed. The methodology to calculate the unit cost includes the cost of the staff carrying out the analysis. However, the costs for those persons are already charged to the action under direct personnel costs (category A.1). The cost of the staff must therefore be removed and the unit cost must be recalculated without them.*

- if budgeted or estimated elements were included in the calculation of the amount per unit, those elements must:
  - be relevant *(i.e. clearly related to invoiced item)*
  - be used in a reasonable way *(i.e. do not play major role in calculating the unit cost)*
  - correspond to objective and verifiable information *(i.e. their basis is clearly defined and the beneficiary can show how they were calculated)*
- only the share of the actual costs that are used for the production of the internally invoiced good or service may be included in the pool of costs used to determine the cost per unit; the share of these costs must be calculated by direct measurement ('direct costs'). The pool must not include any indirect costs *(except for in HE, see specific cases below)*, in particular not general administrative costs

  Allocation keys resulting in a higher unit cost for the internally invoiced good or service when used in EU grants compared with other projects will NOT be accepted.

⚠ **Impact on horizontal 215-days ceiling —** The share of the cost of a cost item included in the internal invoice reduces the share of the cost item that can be charged as direct costs to EU actions. For example, the share of the working time of a person that is included in the calculation of the unit cost reduces the number of day-equivalents that the person can charge over the year to EU grants *(see Article 6.2.A)*.

⚠ **Double funding risk —** The same time of the person can NOT be charged twice to the grant, i.e. it can NOT be once embedded in the unit cost and again as direct personnel costs.

Example (costs for use of an animal housing facility):

Generally eligible as part of the unit cost:

- *staff working for the facility (e.g. keepers, veterinarians and other persons directly assigned to run the animal house)*
- *consumables used for the animal housing (e.g. animal food, bedding)*
- *depreciation of cages and other equipment directly used to the housing of the animals*
- *generic supplies like electricity or water used in the facility*
- *specific maintenance and cleaning of the animal house facility*
- *costs of shared infrastructures where the animal housing is located (e.g. central heating, air-conditioning system) and their shared maintenance costs, allocated via usual key driver*
- *shared services with allocation of the costs incurred for the animal house facility via usual key driver (e.g. shared cleaning services of the building where the animal housing is located)*
- *depreciation costs of shared buildings allocated via usual key driver (e.g. if the animal housing is part of a main building of the beneficiary)*

Generally ineligible as part of the unit cost:

- *bank interests*
- *provisions for future expenses*
- *cost declared under other cost categories (e.g. personnel cost, equipment depreciation cost) and indirect cost (e.g. facility management costs allocated on the basis of the*

square meters the shelter occupies, general administrative costs such as those stemming from the HR, legal or accounting departments)

- *any other ineligible costs (see Article 6.3)*

Example (costs for use of a wind tunnel facility):

Generally eligible as part of the unit cost:

- *staff working for the facility (e.g. technicians, engineers and other persons directly assigned to the functioning of the wind tunnel)*
- *depreciation of the equipment, including specific software and hardware necessary for the functioning of the wind tunnel*
- *generic supplies like electricity* used for the wind tunnel
- *insurance of the wind tunnel (or the premises in which it is located)*
- *specific maintenance and cleaning of the wind tunnel equipment (e.g. air cooling system)*
- *calibration/metrology tests of the wind tunnel*
- *costs of shared infrastructures where the wind tunnel is located, allocated via usual key driver (e.g. central heating, air-conditioning system) and their related shared maintenance costs*
- *depreciation costs of shared buildings allocated via usual key driver (e.g. if the building where the wind tunnel is located is part of a main building of the beneficiary)*

Generally ineligible as part of the unit cost:

- *bank interests*
- *provisions for future expenses*
- *cost declared under other cost categories (e.g. personnel cost, equipment depreciation cost) and indirect cost (e.g. power supply costs allocated to a clean room on the basis of the square meters it occupies, general administrative costs such as those stemming from the HR, legal or accounting departments)*
- *any other ineligible costs (see Article 6.3)*

Specific cases (costs of internally invoiced goods and services (D.X)):

Actual direct and indirect costs *(HE)* **—** If part of the usual cost accounting practices, beneficiaries may calculate the share of the actual costs that are used for the production of the internally invoiced good or service either by direct measurement ('direct costs'; *see above*) or by using the allocation keys defined in the costs accounting practices ('indirect costs') *(e.g. power supply costs allocated to a clean room on the basis of the square meters it occupies, general administrative costs such as those stemming from the HR, legal or accounting departments)*.

Co-owned resources— As an exception, if the resource for which the unit cost is calculated is co-owned by the beneficiary and a third party, the costs registered in the accounts of the third party for the co-owned resource do not need to be removed if:

- the third party is mentioned in the grant *(e.g. as beneficiary, affiliated entity or, for HE, third party providing in-kind contributions in Annex 1)* and
- the costs fulfil the other eligibility conditions of this Article *(e.g. directly linked to the resource, exclude ineligible costs, etc)*.

D.3 and D.4 HE Access to research infrastructure costs

[OPTION for all HE and Euratom ToA (except HE IA, HE PCP/PPI, HE ERC Grants, HE EIC Grants and HE EIT KIC Actions): [OPTION if selected for the call: **D.3 Transnational access to research infrastructure unit costs**

Unit costs for providing transnational access to research infrastructure are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated in accordance with the method set out in Annex 2a and exclude any cost which are ineligible or already included in other budget categories.

Beneficiaries that declare costs under this cost category cannot use other cost categories such as internally invoiced goods and services or equipment costs (for charging the capital costs of the infrastructure), unless explicitly allowed in the call conditions.

This cost will not be taken into account for the indirect cost flat-rate.*]]*

[OPTION for all HE and Euratom ToA (except HE IA, HE PCP/PPI, HE ERC Grants, HE EIC Grants and HE EIT KIC Actions): [OPTION if selected for the call: **D.4 Virtual access to research infrastructure unit costs**

Unit costs for providing virtual access to research infrastructure are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated in accordance with the method set out in Annex 2a and exclude any cost which are ineligible or already included in other budget categories.

Beneficiaries that declare costs under this cost category cannot use other cost categories such as internally invoiced goods and services or equipment costs (for charging the capital costs of the infrastructure), unless explicitly allowed by the call conditions.

This cost will not be taken into account for the indirect cost flat-rate.*]]*

1. HE Transnational or virtual access to research infrastructure unit costs (D.3 and D.4): Types of costs — Form — Eligibility conditions — Calculation

1.1 This cost category will be inserted for the Horizon Europe standard types of action *(e.g. RIA, CSA, COFUND, etc)* that involve transnational and/or virtual access to research infrastructure for scientific communities ('provision of access activities'), in particular calls under Part III of the HE Work Programme, 'Research Infrastructures'.

⚠ This cost category is optional. Beneficiaries can declare their access costs either as unit costs under this cost category OR simply as actual costs under another fitting cost category *(e.g. purchase cost)*, OR — where duly justified and subject to certain conditions — as a combination of unit costs and actual costs.

⚠ The specific cost category in Article 6 is complemented by specific rules for carrying out the action within the meaning of Article 18 *(see Annex 5 > HE access for research infrastructure activities)*.

For these actions, the beneficiaries/affiliated entities may charge 'transnational or virtual access to research infrastructure unit costs'.

The budget category covers direct and indirect access costs for providing transnational access to research infrastructure *(i.e. the installation's operating costs and costs related to logistical,*

technological and scientific support for users, including ad-hoc user training and the preparatory and closing activities needed to use the installation).

What not? Travel and subsistence costs for users to get transnational access are not included in the access costs. These costs can be reimbursed separately, in category C.1 Travel and subsistence; *see Article 6.2.C.1*.

1.2 If declared under this budget category, the costs must be **declared** as unit costs, using the unit cost table (rates per unit of access) agreed with the granting authority *(see HE RI authorising decision[14] and Annex 2a and 2b)*.

⚠ **Double funding risk —** Costs that are declared as a specific unit cost can NOT be declared a second time under another budget category (for the costs that are covered, *see below*).

Example: *A same cost item (e.g the salary of a member of the research infrastructure staff) cannot be used for calculating the unit cost and then charged as actual cost under personnel costs.*

The 'unit of access' must be identified for each installation (i.e. the unit used to measure the quantity of access that the installation provides to its users).

The precise unit cost (amount per unit, i.e. EUR/unit of access) is not prefixed by the authorising decision. It must be calculated for each access provider and installation (you can use the calculators (calculator HE UN RI TA and calculator HE UN RI VA) provided on the call page) and then summarised in the table 'Summary of transnational/virtual access provision' in the proposal and in the unit cost table in Annex 2b of the Grant Agreement:

Short name access provider	Short name infrastructure	Installation		Unit of access	Amount per unit	Estimated No of units	Total unit cost (cost per unit x estimated no of units)
		No	Short name				

The summary table in the proposal is generic (must be filled in for all proposals giving access to research infrastructure, even if they do not use the unit cost). Annex 2b is needed only for actions that use the unit cost.

The formula for calculating the amount per unit (unit of access rate) is:

– for **transnational access**:

$$\{\frac{\textit{average annual total access costs to the installation (over past two years)}}{\textit{average annual total quantity of access to the installation (over past two years)}}\}$$

– for **virtual access:**

[14] Decision of 19 April 2021 authorising the use of unit costs for the costs of providing transnational and virtual access in Research Infrastructure actions.

{total virtual access costs to the installation (over the last year)

total quantity of virtual access to the installation (over the last year)}

The averages must be based on:

- *the beneficiary's certified or auditable historical data*
- *costs allocated to the installation according to the beneficiary's usual cost accounting practices (including where the installation has been in operation for less than two years) and*
- *a period excluding times when the installation was not usable (out of order, under repair or undergoing long-term maintenance).*

In exceptional and duly justified cases, the granting authority may agree with a beneficiary to use a different reference period than the ones referred to above (two years for transnational access and one year for virtual access).

The 'total quantity of access' means all the units of access annually provided by the installation, included access financed under previous EU grants, if any.

The 'annual total access costs to the installation' is calculated on the basis of the following categories of eligible costs:

- *the direct costs incurred by the access provider for the 'annual total quantity of access to the installation', as recorded in the certified or auditable profit-and-loss accounts of the reference period for:*
  - *personnel costs of administrative, technical and scientific staff directly assigned to the functioning of the installation and to the support of the users*
  - *costs of contracts for maintenance and repair (including specific cleaning, calibrating and testing) specifically awarded for the functioning of the installation (if not capitalised)*
  - *costs of consumables specifically used for the installation and the user's research work*
  - *costs of contracts for installation management, including security fees, insurance costs, quality control and certification, upgrading to national and/or EU quality, safety or security standards (if not capitalised) specifically incurred for the functioning of the installation*
  - *costs of energy power and water supplied for the installation where it can be verified as being supplied exclusively for the installation and as being a major cost item for the installation*
  - *costs of general services when they are specifically included in the provided access services (e.g. library costs, shipping costs, transport costs)*
  - *costs of software licence, internet connection or other electronic services for data management and computing when they are needed to provide access services*
  - *costs of specific scientific services included in the access provided or needed for the provision of access*
- *the indirect costs for providing access to the installation, equal to 25% of the eligible direct costs*

AND excluding:

- *all contributions to the capital investments of the installation (including rental, lease or depreciation costs of buildings as well as depreciation and lease of instrumentation); those costs are not eligible unless otherwise specified in the work programme/call conditions, in which case only the portion used to provide access under the action can be eligible*
- *travel and subsistence costs for users*
- *ineligible costs as referred to in Article 6.3.*

Example (amount per unit):

Assuming that a telescope provided 6 100 hours of access in year N-1 and 5 900 hours of access in year N-2 and that the total access costs (for the provision of these total quantities of access) in the two years calculated on the basis of the categories of costs indicated above (with the exclusion of any contribution to capital investment and of travel and subsistence costs of users) is respectively EUR 3 200 000 and EUR 2 800 000, then the unit cost is

Average costs = average (3 200 000, 2 800 000) = 3 000 000

Average hours = average (6 100, 5 900) = 6 000

Unit cost = average (3 200 000, 2 800 000) / average (6 100, 5 900) = 3 000 000 /6 000 = 500 €

The detailed calculations used (one calculator sheet for each installation) must be kept by beneficiaries as supporting documents in case of audits.

The granting authority may verify that the proposed unit costs comply with the prescribed calculation method (and correct them, if needed).

The proposal and Annex 1 should describe the access services provided and the logistical, technological and scientific support given to users (including ad-hoc training and preparatory and closing activities necessary to use the installation).

As mentioned above, the use of unit costs for transnational and virtual access activities is optional, i.e. each access provider can decide for each installation whether to be reimbursed on the basis of unit costs, actual costs or a combination of the two. This decision must be taken *before* grant signature and applied consistently throughout the action. In duly justified cases, *for example when there are significant variations in the costs for providing access*, it can be updated through an amendment with the agreement of the granting authority.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.3 and 6.2.D.4, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred/used during the action duration, necessary, linked to the action, correct calculation, etc.; see Article 6.1(a) and (b))*
- be incurred for providing transnational or virtual access to research infrastructure to scientific communities.

1.4 They must be **calculated**, for each access provider and installation, , in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the transnational or virtual access to research infrastructure unit costs is:

{*amount per unit [rate per unit of access set out in Annex 2b]****}***

multiplied by

{*number of actual units of access provided****}***

The unit of access rate is fixed by the granting authority, based on the rates proposed by the beneficiaries in Annex 2b *(see above)*.

D.5 HE PCP/PPI procurement costs

[OPTION for HE PCP/PPI: **D.5 PCP/PPI procurement costs**

PCP/PPI procurement costs are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated on the basis of the costs actually incurred and:

- are incurred for a joint pre-commercial procurement or joint or coordinated public procurement of innovative goods and services targeted by the action and described in Annex 1 and
- the procurement is carried out by a 'contracting authority/entity' as defined in the EU public procurement Directives (in particular, Directives 2014/24/EU, 2014/25/EU and 2009/81/EC).

The beneficiaries must award the procurement contracts to the tender(s) offering best value for money and use objective and transparent procedures which — unless otherwise provided in the call conditions — include:

- if a preliminary market consultation is carried out: the publication of a prior information notice about the consultation in the Official Journal of the European Union
- the publication of a contract notice in the Official Journal of the European Union
- the publication of a contract award notice within 48 days after concluding the contract(s) in the Official Journal of the European Union

in English and any additional language(s) chosen by the beneficiaries.

Where the call conditions restrict participation or control due to security reasons, the beneficiaries must ensure that the performance of the contract takes place in the eligible countries or target countries set out in the call conditions — unless otherwise approved by the granting authority.

For PPI procurements, beneficiaries that are 'contracting authorities/entities' within the meaning of the EU Directives on public procurement must also comply with these Directives and the applicable national law on public procurement.

The beneficiaries which act as procurers (i.e. the buyers group and the lead procurer), the object and estimated cost for each procurement and the estimated financial contribution per member of the buyers group must be set out in Annex 1 and the estimated procurement costs per beneficiary must be set out in Annex 2.

The costs for the cost categories other than procurement costs are eligible only up to 50% of the total estimated eligible costs of the action set out in Annex 2.

This cost will not be taken into account for the indirect cost flat-rate. *]*

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

1. HE PCP/PPI procurement costs (D.5): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for Horizon Europe PCP/PPI actions (i.e. calls with PCP/PPI ToA).

⚠ This cost category is used ONLY for calls that run as PCP/PPI type of action (i.e. where also the Annex 5 > *HE PCP and PPI procurements* provisions apply).

⚠ For these calls, the rules for subcontracts and subcontractors in Article 6.2.B and Article 9.3 do NOT apply for the PCP or PPI procurement. Costs must be charged under Article 6.2.D.5 (new for 2021-2027).

⚠ Other types of calls *(RIA, IA, CSA, etc)* are NOT subject to Article 6.2.D.5 (nor to Annex 5) — even if projects should include PCP or PPI activities. For them, the PCP/PPI activities must be handled as subcontracting in accordance with Article 6.2.B and Article 9.3.

⚠ However, for BOTH groups, the detailed provisions in General Annex H of the HE Work Programme apply. If you plan to implement PCP or PPI activities in a Horizon Europe action, you should therefore always first look at the General Annex.

ℹ For general guidance on PCP/PPI types of action in HE, see *How to set up and manage HE PCP and PPI grants*, *HE Programme Guide > Innovation Procurement* and *General Annexes B and H of the HE Work Programme*.

For these actions, the beneficiaries/affiliated entities may charge 'PCP/PPI procurement costs'.

This budget category 'covers only the costs of the PCP/PPI procurement (i.e. the price of the PCP/PPI procurement paid to the PCP/PPI providers, including related duties, taxes and charges, such as non-deductible, non-refundable value added tax (VAT)). Only costs of R&D services (PCP) or innovative solutions (PPI) procured by the beneficiaries are eligible.

⚠ Be aware that different duties, taxes and charges (in particular also a different VAT rate) may apply depending on the payment set-up for the procurement (**centralised or decentralised payments**).

What not? It does not cover the costs for the additional activities related to the PCP/PPI procurement.

'Additional activities' are the activities needed to prepare, manage and follow-up the PCP/PPI procurement *(including testing of solutions by the lead procurer, buyers group, or other end-users)* and further activities to embed the PCP/PPI into a wider set of demand side activities. Some of those are a mandatory part of the EU action *(e.g. the activities needed to coordinate and implement the PCP/PPI procurement; see mandatory deliverables defined in General Annex H of the HE Work Programme)*; others are optional *(e.g. activities to embed the PCP/PPI procurement into a wider set of demand side activities)*, unless otherwise specified in the HE work programme/call conditions.

> ***Examples (other additional activities):*** *Activities that aim to remove barriers to introducing an innovative solution on the market (including standardisation, certification and regulation); activities that prepare the ground for cooperation on future PCP or PPI projects; awareness raising and experience sharing/training.*

Costs for additional activities must always be charged under the fitting standard cost categories, even when they involve the procurement of (non PCP/PPI) goods or services.

> ***Example (additional activities):***
>
> ***Personnel costs:*** *Costs incurred by the lead procurer, buyers group and other consortium participants for consulting the market, preparing the call for tender documents etc must be charged under cost category A.*
>
> ***Subcontracting costs:*** *For web design or publicity campaign to promote the PCP/PPI procurement, for external experts that support the buyers group in evaluation of tenders must be charged under cost category B.*

Purchase costs: *For travel tickets, consumables and equipment that needs to be bought by the buyers group to test innovative solutions of the providers that win the PCP/PPI contracts must be charged under cost category C.*

Financial support to third parties (FSTP): *To award a prize to the solution provider(s) that performed best in the PCP/PPI procurement must be charged under cost category D.*

In-kind contributions (free of charge): *Potential end-users of the solutions (e.g. fire brigade) may make available personnel/equipment to the buyers group (e.g. Ministry of interior) to help test innovative solutions. For HE PCP/PPI actions, the costs of the personnel/equipment may be declared as eligible costs by the beneficiaries which use them under the standard cost categories A and C.2, as if they were their own (see Article 6.1).*

⚠ Indirect costs for the PCP/PPI procurement costs are also NOT reimbursed.

1.2 PCP/PPI procurement costs must be **declared** as actual costs (i.e. the price actually paid).

1.3 The 'PCP/PPI procurement costs' must fulfil the **eligibility conditions** set out in Article 6.2.D.5, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. incurred during the action duration, necessary, linked to the action, etc.; see Article 6.1(a))*
- be incurred for the PCP/PPI procurement described in Annex 1
- be based on the best value for money
- not be subject to conflict of interest
- awarded following objective and transparent procedures that comply with certain minimum conditions and
- for PPI: for beneficiaries that are 'contracting authorities' or 'contracting entities' within the meaning of the EU Public Procurement Directives *(Directives 2014/24/EU, 2014/25/EU and 2009/81/EC)*: comply with these Directives and the applicable national law on public procurement

⚠ For PCP/PPI procurements, the contracts may NOT be awarded based on the lowest price as the only award criterion. In addition to the price, it is mandatory to take into account also the quality of the proposed innovative solutions in the evaluation of the tenders.

The minimum procedural conditions explicitly mentioned in Article 6 include obligations to publish in the OJEU (TED portal) — at least in English (and in any additional languages chosen by the beneficiaries) — prior information notices (PIN) to announce the open market consultation and the upcoming PCP/PPI procurement, as well as contract notices and contract award notices for the PCP/PPI call for tenders.

⚠ Regarding deadlines for publication of notices, we will consider as the 'date of publication' the date when you submitted the notice to the OJEU Publication Office.

Additional transparency requirements (including timing and exceptions) are set out in Annex 5 > PCP and PPI procurements and General Annex H of the HE Work Programme.

For PCP procurements, the EU Public Procurement Directives normally do not apply (because exempted[15]). However, national laws on public procurement may apply if they have rules for this type of R&D service contracts. For PPI procurements, both the EU Directives and the national laws apply.

The beneficiaries which act as procurers *(i.e. the buyers group and the lead procurer)*, the object and estimated cost for each procurement and the estimated financial contribution per member of the buyers group must be justified in Annex 1. There is NO simplified approval procedure).

Finally, there is a cost eligibility ceiling: PCP/PPI procurement costs must amount to a minimum of 50% of the total estimated costs of the action in the budget table, and all additional costs can amount to maximum 50% of the costs. This is due to the fact that the PCP/PPI procurement should be the main objective of PCP/PPI actions.

The maximum amount for additional activities is fixed at Grant Agreement signature, based on all the estimated eligible costs of the action. The maximum amount of EU funding for additional activities therefore does NOT change (i.e. will NOT be reduced by the granting authority) when at the end of the action it turns out that the costs actually incurred for PCP/PPI procurement are less than initially estimated *(e.g. if the buyers group is able to procure at a better price than it had initially budgeted)*.

1.4 Regarding the **calculation**, the amount charged as eligible cost must correspond to the price invoiced for the PCP/PPI procurement(s).

[15] *See Article 14 of Directive 2014/24, Article 32 of Directive 2014/25 and Article 13(f)(j) of Directive 2009/81.*

D.7 and D.8 HE ERC additional funding

[OPTION for HE ERC Grants: **D.7 ERC additional funding**

Costs for ERC additional funding (e.g. start-up costs, major equipment, access to large facilities, major experimental and field work costs) are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated on the basis of the costs actually incurred, comply with the conditions set out in Points A and C for the underlying types of costs (personnel and purchases) and are incurred for activities eligible for such additional funding.

Changes to this cost category require either an amendment or, exceptionally, simplified approval (ex post in the periodic report). These changes may only be accepted provided that the objectives for which the additional funding was awarded remain the same.*]*

[OPTION for HE ERC Grants: **D.8 ERC additional funding (subcontracting, FSTP and internally invoiced goods and services)**

Costs for ERC additional funding (subcontracting, financial support to third parties (FSTP) and internally invoiced goods and services) are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated on the basis of the costs actually incurred, comply with the conditions set out in Points B, D.1 and D.2 for the underlying types of costs (subcontracting, financial support to third parties and internally invoiced goods and services) and are incurred for activities eligible for such additional funding.

Changes to this cost category require either an amendment or, exceptionally, simplified approval (ex post in the periodic report). These changes may only be accepted provided that the objectives for which the additional funding was awarded remain the same.

This cost will not be taken into account for the indirect cost flat-rate.*]*

1. HE ERC additional funding (D.7): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for all Horizon Europe ERC actions.

For these actions, the beneficiaries/affiliated entities may charge 'ERC additional funding'.

The budget category covers types of costs for additional funding set out in the applicable ERC Work Programme *(e.g. major equipment, major fieldwork costs, etc)*. Check your call text.

1.2 They must be **declared** as actual costs.

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.7, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. used during the action duration, necessary for the action, identifiable and verifiable, etc; see Article 6.1(a))*
- fulfil the eligibility conditions for the underlying types of costs in question *(e.g. costs related to a purchase of major equipment must also fulfil the specific eligibility conditions for the cost category C.2 Equipment)* and
- be incurred for activities eligible for additional funding and for objectives for which it was awarded.

1.4. Regarding the **calculation**, the costs must correspond to the eligible costs actually incurred *(i.e. the amount paid by the beneficiary)* and must be calculated according to the rules applicable to the type of cost in question.

2. ERC additional funding (subcontracting, FSTP and internally invoiced goods and services) (D.8): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? This cost category will be inserted for Horizon Europe ERC actions.

For these actions, the beneficiaries/affiliated entities may charge 'ERC additional funding (*subcontracting, FSTP and internally invoiced goods and services*).

This budget category covers the types of costs for additional funding set out in the ERC Work Programme and related to subcontracting, financial support to third parties (FSTP), and internally invoiced goods and services. *(e.g. major experimental work costs, access to large facilities, etc)*. Check your call text.

2.2 They must be **declared** as actual costs or as unit costs in accordance with usual cost accounting practices (for additional funding related to internally invoiced goods and services; *see Article 6.2.D.2*).

2.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.8, in particular:

- fulfil the general conditions for costs to be eligible *(i.e. used during the action duration, necessary for the action, identifiable and verifiable, etc; see Article 6.1(a))*
- fulfil the eligibility conditions for the underlying types of costs in question *(i.e. subcontracting, financial support to third parties (FSTP) and internally invoiced goods and services)*
- be incurred for activities eligible for additional funding and for the objectives for which it was awarded.

2.4. Regarding the **calculation**, the costs must correspond to the eligible (unit or actual) costs incurred and must be calculated according to the rules applicable to the type of cost in question.

Specific cases (ERC additional costs (D.7 and D.8)):

Simplified approval procedure (ERC additional costs) — If you need to make some changes in relation to the additional funding granted, the coordinator must request an amendment in order to change the Annex 1 (*see Article 39)* or flag it in the periodic report (simplified approval procedure; *for details, see Article 6.1*). In the latter case, the beneficiaries bear however the risk that the granting authority might not approve the change and reject the costs at interim or final payment-stage later on. It is highly recommended to contact the granting authority before deciding on any change.

Examples (change that could be accepted):

1. *The additional funding was awarded to purchase a particular piece of major equipment. During the implementation of the action, the PI proposes to use the additional funding to acquire a newly developed equipment that would allow the research team to carry out the action tasks in a more efficient manner. This change could be accepted.*

2. *The additional funding was awarded to carry out a sociological experiment in three European countries. During the implementation of the action, the PI proposes to enlarge the scope of the funded research and to include a fourth non-European country in the abovementioned experiment. This change could be accepted.*

Examples (change that would not be accepted):

1. *The additional funding was awarded to finance a scientific expedition to Antarctica. After successfully executing the expedition, the PI proposes to use remaining additional funding to purchase equipment for the action. This change would not be accepted.*

2. *The additional funding was awarded to cover the internally invoiced access to large facilities of the beneficiary. During the implementation of the action, the PI proposes to use the additional funding to recruit new team members in order to explore and develop alternative lines of research. This change would not be accepted.*

D.2 and D.3 AMIF EMN ad hoc queries

[OPTION for AMIF EMN Actions: **D.2 EMN ad hoc queries**

Costs for EMN ad hoc queries are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated as unit costs in accordance with the method set out in Annex 2a and relate to ad hoc queries of other EMN national contact points or the European Commission that were answered in writing.*]*

[OPTION for AMIF EMN Actions: **D.3 EMN translation of ad hoc queries**

Costs for EMN translation of ad hoc queries are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions, are calculated as unit costs in accordance with the method set out in Annex 2a and relate to replies to ad hoc queries of other EMN national contact points or the European Commission that were translated externally (i.e. not by personnel of the beneficiary organisation).*]*

1. AMIF EMN ad hoc queries (D.2): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? This cost category will be inserted for AMIF AMN actions.

For these actions, the beneficiaries/affiliated entities may charge costs for 'EMN ad hoc queries'.

This budget category covers all the eligible costs except translation costs, including but not limited to direct personnel costs and expert costs for ad hoc queries, either launched by European Migration Network National Contact Point (EMN NCP) or the European Commission, to which they provide a written response.

1.2 They must be **declared** as unit costs, using the unit cost (rate per query) agreed with the granting authority (see *AMIF authorising decision*[16] and *Annex 2a and 2b*).

The precise unit cost (amount per unit, i.e. EUR/ad hoc query answered in writing) is not prefixed by the authorising decision. It must be calculated for each grant and then entered into the unit cost table in Annex 2b of the Grant Agreement.

The formula for calculating the amount per unit (rate per query) is:

- for beneficiaries/affiliated entities **using only own personnel** (or personnel of another department that is part of the same legal entity) to reply to queries:

  average personnel costs for one hour spent on ad hoc query (over past two years), i.e.:

  $$\{((\text{average of the annual remunerations (i.e. salaries, social security contributions, taxes and other statutory costs included in the remuneration) of the employees working on ad hoc queries (over past two years)}) \over (\text{actual or usual annual working hours of one employee (over past two years)})\}$$

[16] Decision of 21 May 2021 authorising the use of unit costs under the European Migration Network for 2021-2027.

multiplied by

total number of hours spent on ad hoc queries (over past two years))}

divided by

{*total number of ad hoc queries (over past two years)*}

– for beneficiaries using **only external experts** (external contractors or personnel that is not part of the same legal entity) to reply to queries:

average rates per ad hoc query (over past two years), i.e.:

{*total costs invoiced (over past two years)*
total number of ad hoc queries (over past two years)}

– for beneficiaries using **own personnel AND external experts** to reply to queries:

total average personnel costs for ad hoc queries (over past two years), i.e.:

{((*average personnel costs for one hour spent on ad hoc query, i.e.:*
{average of the annual remunerations (i.e. salaries, social security contributions, taxes and other statutory costs included in the remuneration) of the employees working on ad hoc queries (over past two years)
actual or usual annual working hours of one employee (over past two years))

multiplied by

total number of hours spent on ad hoc queries (over past two years))

plus

total expert costs for all ad hoc queries (over past two years)}

divided by

{*total number of ad hoc queries (over past two years)*}

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.2, in particular:

– fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))* and

– relate to ad hoc queries of other EMN national contact points or the European Commission (participating in the network) that were answered in writing.

1.4 The costs must be **calculated** in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the costs for EMN ad hoc queries is:

{*amount per unit [rate per query fixed in Annex 2b]*}

multiplied by

{*number of ad hoc queries answered in writing*}

The rate per query is fixed by the granting authority, based on the rate proposed by the beneficiary/affiliated entity in Annex 2b *(see above)*.

2. AMIF EMN translation of ad hoc queries (D.3): Types of costs — Form — Eligibility conditions — Calculation

2.1 What? This cost category will be inserted for AMIF AMN actions.

For these actions, the beneficiaries/affiliated entities may charge costs for 'EMN translation of ad hoc queries'.

This budget category covers eligible direct costs relating to translation fees generated by the ad hoc queries, either launched by European Migration Network National Contact Point (EMN NCP) or the European Commission.

2.2 They must be **declared** as unit costs, using the unit cost (rate per translated query) agreed with the granting authority *(see AMIF authorising decision[17] and Annex 2a and 2b)*.

The precise unit cost (amount per unit, i.e. EUR/translated query) is not prefixed by the authorising decision. It must be calculated for each grant and then entered into the unit cost table in Annex 2b of the Grant Agreement.

The formula for calculating the amount per unit (rate per translated query) is:

average translation fees per ad hoc query (over past two years), i.e.:

$$\{\text{total fees for translations of (over past two years)} \over \text{total number of translated queries (over past two years)}\}$$

2.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.D.3, in particular:

- fulfil the general conditions for unit costs to be eligible *(i.e. units used during the action duration, necessary, linked to the action, correct calculation, etc; see Article 6.1(b))*
- relate to replies to ad hoc queries of other EMN national contact points or the European Commission that were translated externally (i.e. not by personnel of the beneficiary organisation).

2.4 The costs must be **calculated** in accordance with the methodology set out in the authorising decision and Annex 2a.

The formula for calculating the costs for EMN translation of ad hoc queries is:

{amount per unit [rate per translated query fixed in Annex 2b]}

multiplied by

{number of ad hoc queries translated}

The rate per translated query is fixed by the granting authority, based on the rate proposed by the beneficiary/affiliated entity in Annex 2b *(see above)*.

[17] Decision of 21 May 2021 authorising the use of unit costs under the European Migration Network for 2021-2027.

E. Indirect costs

> **E. Indirect costs**
>
> *[OPTION 1 for programmes without indirect costs:*
>
> Not applicable *]*
>
> *[OPTION 2 for programmes with indirect costs (standard):*
>
> **Indirect costs** will be reimbursed at the flat-rate of *[*7%*][*[…%]*]* of the *[OPTION A for programmes with standard 7% flat-rate on all cost categories:* eligible direct costs (categories A-D, except volunteers costs and exempted specific cost categories, if any)*][OPTION B for programmes with 25% flat rate:* eligible direct costs (categories A-D, except volunteers costs, subcontracting costs, financial support to third parties and exempted specific cost categories, if any)*][OPTION C for programmes with flat rate on different base:* [list the costs on which the flat-rate should be based, e.g. personnel costs (category A, except volunteers costs, if any)]*].]*

1. Indirect costs (E.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(all programmes; except CEF, CCEI and some LIFE and EUAF calls)*, the beneficiaries/affiliated entities may charge the 'Indirect costs'.

This budget category covers all costs for the action that are not *directly* linked to it (i.e. overheads).

1.2 Indirect costs are **declared** as a fixed flat-rate *(except EDF).* For most programmes the flat-rate is fixed at 7% of the eligible direct costs in accordance with Article 181(6) EU Financial Regulation 2018/1046; for some programmes, a higher rate is foreseen in the Programme Regulation (basic act; *see specific cases below*)).

1.3 The costs must comply with the **eligibility conditions** set out in Article 6.2.E, in particular:

- fulfil the general conditions for flat-rate costs to be eligible *(i.e. costs to which the flat-rate is applied must be eligible, correct calculation, etc.; see Article 6.1(c))*

1.4 The costs must be **calculated** by applying the 7% flat-rate to the eligible costs *(categories A-D, except volunteers costs and exempted specific cost categories, if any)*.

The calculation itself is **automated**: The indirect cost amount is prefilled by the IT system. Beneficiaries can change the amount, if they would like to request less indirect costs *(for instance, because they have a parallel EU operating grant and are not able to demonstrate cost separation; see specific cases below)*.

Specific cases (indirect costs E.)

25% indirect cost flat-rate *(HE, SME COSME EEN, EDF)* — If this option is activated in the Grant Agreement, the flat-rate is 25%, but the pool of eligible cost is smaller *(categories A-D, except volunteers costs, subcontracting costs, financial support to third parties (FSTP) and exempted specific cost categories, if any)*.

For Horizon Europe, all specific cost categories except D.7 ERC additional costs are exempted (i.e. do NOT count for the flat-rate).

Example:

A public university is a beneficiary under a Grant Agreement and has incurred the following costs:

- *EUR 100 000 personnel costs*
- *EUR 20 000 subcontracting costs*
- *EUR 10 000 other goods and services (consumables).*

Eligible direct costs: 100 000 + 20 000 + 10 000 = EUR 130 000

Eligible indirect costs: 25 % of (100 000 + 10 000) = EUR 27 500

Total eligible costs: EUR 157 500

Other indirect cost flat-rates *(RFCS, AGRIP, SMP ESS)* **—** If other options are activated in the Grant Agreement, the system will automatically calculate the indirect costs using those flat-rates *(e.g. RFCS 35%, AGRIP 4%, SMP ESS 30% all on category A. Personnel costs, except volunteers costs).*

Actual indirect costs *(EDF)* **—** If provided for in the call conditions, the beneficiaries may charge actual indirect cost in accordance with the rules of the Grant Agreement (instead of a flat-rate). Only beneficiaries whose usual cost accounting practices to calculate indirect costs are accepted by national authorities for comparable activities in the defence domain can use this option. This means that if your national authorities do not accept actual indirect costs for national contracts *(e.g. they accept only a simplification option like flat-rates)* or you have not carried out comparable activities in the defence domain under national contracts, you cannot use this option. Different beneficiaries within the same action may choose different options for their indirect costs.

Combining of EU action and operating grants — Beneficiaries that have parallel EU action grants and operating grants may claim indirect costs in their action grants ONLY if they are able to demonstrate cost separation *(i.e. that their operating grants do not cover any costs which are covered by their action grants)*.

'Operating grants' are not always easy to identify. They exist under various labels *(operating grants; financial contributions/support to the functioning/operation of entities; etc)*. Check your call conditions.

Example: *Operating grants are grants awarded to support the running costs of certain institutions pursuing an aim of European interest, such as: College of Europe, European standards bodies (CEN, CENELEC, ETSI).*

To demonstrate cost separation, the following conditions must be fulfilled:

- the operating grant may NOT cover 100% of the beneficiary's annual budget (i.e. it may not be a full operating grant)
- the beneficiary must use analytical accounting which allows for a cost accounting management with cost allocation keys and cost accounting codes AND must apply these keys and codes to identify and separate the costs *(i.e. to allocate them to either the action grant activities or the operating grant activities)*
- the beneficiary must record:
  - all real costs incurred for the activities that are covered by their operating grants *(i.e. personnel, general running costs and other operating costs linked to the operating grant work programme of activities)* and
  - all real costs incurred for the activities that are covered by the action grant (including the real indirect costs linked to the action)
- the allocation of the costs must be done in a way that leads to a fair, objective and realistic result.

Beneficiaries that cannot fulfil these conditions must either:

– keep the operating grant, but sign the action grant *without* indirect costs or request no indirect costs at reporting stage *(i.e. lower the pre-filled amount in the indirect cost column of the financial statement)*

or

– renounce to the operating grant, in order to be able to claim the indirect costs in the action grant.

Best practice: In case of overlapping EU action and operating grants, contact the granting authority for advice.

F. Contributions *(currently not used by any programme)*

Contributions

[OPTION 1 for programmes without contributions:

Not applicable *]*

[OPTION 2 for programmes with unit contributions:

F. Contributions

F.X [Insert name of unit contribution]

[Insert name of unit contribution] are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions and are calculated as unit costs in accordance with the method set out in Annex 2a *[*and [insert additional eligibility conditions, if any]*]*. *]*

[OPTION 3 for programmes with flat-rate contributions:

F.X [Insert name of flat-rate contribution]

[Insert name of flat-rate contribution] are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions for flat-rate contributions *[*and [insert additional eligibility conditions, if any]*]*.

They will be calculated at a flat-rate of […%] of [list the costs/contributions on which the flat-rate should be based]. *]*

[OPTION 4 for programmes with lump sum contributions:

F.X [Insert name of lump sum contribution]

[Insert name of lump sum contribution] are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions for lump sum contributions *[*and [insert additional eligibility conditions, if any]*]*.

They will be calculated on the basis of the lump sum amount set out in Annex 2. *]*

[OPTION 5 for programmes with financing not linked to costs:

F.X [Insert name of financing not linked to costs]

[Insert name of financing not linked to costs] are eligible, if and as declared eligible in the call conditions, if they fulfil the general eligibility conditions for financing not linked to costs *[*and are calculated as [insert calculation rule]*]* *[*and [insert additional eligibility conditions, if any]*]*. *]*

1. Contributions (F.): Types of costs — Form — Eligibility conditions — Calculation

1.1 What? If eligible under the Grant Agreement *(currently not in any programme)*, the beneficiaries/affiliated entities may charge 'Contributions'.

Contributions are simplified forms of output based funding. They are normally based on an approximation of the costs, calculated ex-ante, and paid on the basis of pre-defined mile stones/work packages. However, contrary to simplified costs (e.g. unit cost), they do not work with funding rates (because the contribution already incorporates the funding rate in the ex-ante calculation of the amount). This means that there is no need to apply any funding rate to the amount claimed by the recipient in a request for payment.

Currently no EU programme uses simplified contributions inside their actual cost grants (i.e. all budget categories are calculated with a funding rate).

By contrast, full lump sum or unit grants *(e.g. in HE, DEP, CEF, INNOVFUND, JTM, etc)* are usually contribution-based (meaning no funding rate needed in the budget table in Annex 2).

6.3 Ineligible costs and contributions

6.3 Ineligible costs and contributions

The following costs or contributions are **ineligible**:

(a) costs or contributions that do not comply with the conditions set out above (Article 6.1 and 6.2), in particular:

(i) costs related to return on capital and dividends paid by a beneficiary

(ii) debt and debt service charges

(iii) provisions for future losses or debts

(iv) interest owed

(v) currency exchange losses

(vi) bank costs charged by the beneficiary's bank for transfers from the granting authority

(vii) excessive or reckless expenditure

(viii) *[OPTION 1 for programmes with VAT eligible:* deductible or refundable VAT (including VAT paid by public bodies acting as public authority)*] [OPTION 2 for programmes with VAT ineligible:* VAT (always ineligible)*]*

(ix) costs incurred or contributions for activities implemented during Grant Agreement suspension (see Article 32)

(x) *[OPTION 1 by default:* in-kind contributions by third parties*] [OPTION 2 for programmes with in-kind contributions eligible:* in-kind contributions by third parties: not applicable*]*

(b) costs or contributions declared under other EU grants (or grants awarded by an EU Member State, non-EU country or other body implementing the EU budget), except for the following cases:

– *[OPTION 1 for programmes with Synergy actions: [OPTION 1 by default:* Synergy actions: not applicable*] [OPTION 2 if selected for the grant:* if the grants are part of jointly coordinated Synergy calls and funding under the grants does not go above 100% of the costs and contributions declared to them*]][OPTION 2 for programmes without Synergy actions:* Synergy actions: not applicable*]*

– if the action grant is combined with an operating grant[31] running during the same period and the beneficiary can demonstrate that the operating grant does not cover any (direct or indirect) costs of the action grant

(c) costs or contributions for staff of a national (or regional/local) administration, for activities that are part of the administration's normal activities (i.e. not undertaken only because of the grant)

(d) costs or contributions (especially travel and subsistence) for staff or representatives of EU institutions, bodies or agencies

(e) other[32]:

(i) *[OPTION 1 by default:* country restrictions for eligible costs: not applicable*] [OPTION 2 for programmes with country restrictions for eligible costs: [OPTION 1 by default:* country restrictions for eligible costs: not applicable*] [OPTION 2 if selected for the call:* costs or contributions for activities that do not take place in the eligible countries or target countries set out in the call conditions — unless approved by the granting authority*]]*

(ii) *[OPTION 1 by default:* other ineligible costs: not applicable*] [OPTION 2 for programmes with other ineligible costs:* costs or contributions declared specifically ineligible in the call conditions *]*.

6.4 Consequences of non-compliance

If a beneficiary declares costs or contributions that are ineligible, they will be rejected (see Article 27).

This may also lead to other measures described in Chapter 5.

[31] For the definition, see Article 180(2)(b) of EU Financial Regulation 2018/1046: '**operating grant**' means an EU grant to finance "the functioning of a body which has an objective forming part of and supporting an EU policy".

[32] Condition must be specified in the call.

1.Types of ineligible costs and contributions

What? Costs and contributions are ineligible, if one of the following applies:

- they do not meet the general and specific eligibility conditions set out in Articles 6.1 and 6.2

  Examples: *Bonuses paid by participants that do not fulfil the conditions set out in Article 6.2; subcontracting costs that do not comply with Article 6.2.*

- they are listed in Article 6.3, in particular:

  - costs related to return on capital or dividends paid by a beneficiary

    Example: *dividends paid as remuneration for investing in the action; remuneration paid as a share in the company's equity.*

  - debt and debt service charges

    'Debt service' is the amount paid on a loan in principal and interest, over a period of time.

    Example: *A beneficiary takes a loan used to acquire equipment or consumables for the project of EUR 100 000 at 9 percent interest for 10 years, the debt service for the first year (principal and interest) is EUR 15 582 and cannot be declared as eligible cost.*

  - provisions for future losses or debts

    'Provision' means an amount set aside in an organisation's accounts, to cover for a known liability of uncertain timing or amount. This includes allowances for doubtful or bad debts.

  - interest owed *(e.g. negative interest charged to the beneficiary's bank account)*

  - currency exchange losses *(i.e. for beneficiaries using currencies other than euros or being invoiced in a currency other than the currency they use: any loss due to exchange rate fluctuations,* e.g. *between the date of invoicing and the date of payment)*

  - bank costs charged by the beneficiary's bank for transfers from the granting authority

    Conversely, bank charges for the distribution of the EU funding from the coordinator to the beneficiaries may constitute an eligible cost for the coordinator (if the eligibility conditions of Article 6.1 and Article 6.2.C.3 are met).

  - excessive or reckless expenditure

'Excessive' means paying significantly more for products, services or personnel than the prevailing market rates or the usual practices of the beneficiary (and thus resulting in an avoidable financial loss to the action).

'Reckless' means failing to exercise care in the selection of products, services or personnel (and thus resulting in an avoidable financial loss to the action).

– ineligible VAT (deductible or refundable VAT, including VAT paid by public bodies acting as public authority)

The detailed provisions regarding the eligibility of VAT under the Financial Regulation 2018/1046 are as follows:

VAT is eligible where it is not recoverable under the applicable national VAT legislation AND is paid by a beneficiary other than a non-taxable person within the meaning of the first subparagraph of Article 13(1) of Directive 2006/112[18] *(see Article 186(4)(c) FR)*.

VAT is considered 'not recoverable' within the meaning of Article 186(4) FR if it is not deductible or refundable under the applicable national VAT legislation.

This is, in particular, the case if according to national law it is attributable to any of the following activities:

- (i) exempt activities without right of deduction
- (ii) activities which fall outside the scope of VAT
- (iii) activities, as referred to in point (i) or (ii), in respect of which VAT is not deductible but refunded by means of specific refund schemes or compensation funds not referred to in Directive 2006/112, even if that scheme or fund is established by national VAT legislation.

'Non-taxable persons' are inter alia public bodies (i.e. states, regional and local government authorities and other bodies governed by public law) in respect of activities or transactions in which they engage as public authorities *(see Article 13(1) Directive 2006/112)*. However, Article 186(4) FR clarifies that, for the purposes of eligibility of costs for EU funding, VAT relating to the activities listed in Article 13(2) of Directive 2006/112 must be regarded as paid by a 'beneficiary other than a non-taxable person', regardless of whether those activities are regarded by the Member State concerned as activities engaged in by bodies governed by public law acting as public authorities. Thus, 'VAT paid by public bodies acting as public authority' (any VAT, whether deductible/refundable or not) is ineligible for public bodies acting as public authority. However, this does not include VAT relating to the activities listed in Article 13(2) of Directive 2006/112 which can be eligible provided they are not deductible or refundable.

The general idea is therefore that in principle only VAT that is a genuine and definitive cost should normally be charged to the EU actions (— however subject to the boundaries and exceptions set out above).

Best practice: Ideally, VAT amounts (both if eligible and not) should be clearly identifiable in the accounting records.

[18] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

Thus, the cost and revenue accounts should exclude deductible and refundable VAT; such VAT should be recorded in separate payable or receivable accounts, without effect on revenue or cost line items.

VAT *paid* is a claim against the tax authority. It should be recorded in the 'assets' part of the balance sheet. It should not be recorded as expenditure in the profit and loss accounts (only the purchase price of goods and services *excluding* VAT should be recorded). Similarly, for the value of purchased equipment or assets, only the net purchase cost should be recorded in the balance sheet's fixed asset line, and the depreciation cost should be calculated based on this value, excluding VAT.

VAT *collected* is a debt towards the tax authority and should therefore be recorded in the 'liabilities' part of the balance sheet.

If applicable (*most programmes; except CEF, EUAF, CCEI, UCPM*), **VAT that does NOT fall under the above kinds of ineligible VAT can be eligible** and charged under the category of cost to which it relates.

- costs incurred during the suspension of the implementation of the action

  Example: *Action is suspended and one of the beneficiaries continues working on it after the date of the suspension*

- in-kind contributions for free (these are not a cost for the beneficiary; except in HE where they can be charged as eligible costs; *see Article 6.1*)

- costs declared under another EU grant *(i.e. double funding)*, except for 'Synergies actions' or operating grants

  This includes:

  - costs funded directly by other EU programmes managed by the European Commission or EU executive agencies

  - costs managed/funded/awarded by Member States but co-funded from the EU budget *(e.g. Structural Funds, RRF, etc)*

  - costs for grants awarded/funded/managed by other EU, international or national bodies and co-funded with EU funds *(e.g. joint undertakings, Article 185 TFEU bodies)*

- costs or contributions for staff of a national (or regional/local) administration, for activities that are part of the administration's normal activities *(i.e. not undertaken only because of the grant)* cannot be charged to the project. However, if additional otherwise normal activities are implemented directly and specifically for the project, such cost can be declared, even if they are the same kind of activities as the administration's normal tasks. These must be activities that are implemented due to the action and either additional in quality (different in nature or conditions) or quantity (more than usual), to the normal operations of the national (or regional/local) administration.

  Example*: Giving a fine for speed excess may be considered as a normal activity of the police, but if this is done in a specific place for a specific time due to the implementation of a LIFE project testing new speed limits to improve air quality, they are different in quality and/or quantity to what the police would have done otherwise and therefore directly and specifically implemented for the action.*

- costs or contributions (especially travel and subsistence) for staff or representatives of EU institutions, bodies or agencies

- for restricted calls: costs or contributions for activities that do not take place in the eligible countries or target countries set out in the call conditions — unless approved by the granting authority

- cost declared specifically ineligible in the call conditions.

2. Declaration of ineligible costs or contributions

If a participant declares ineligible costs or contributions in a financial statement, they will be rejected by the granting authority *(see Article 27)*.

Specific cases (ineligible costs):

Partially deductible VAT — Some entities have a mixed VAT regime, meaning that they carry out VAT exempt or out-of-the-scope activities AND VAT taxed activities. When VAT paid on goods or services by these entities cannot be directly allocated to one or the other category of activities, it will be *partially* deductible. Therefore it will also be *partially* eligible. The eligible part corresponds to the pro-rata of the VAT which is not deductible for that entity.

In these cases, the beneficiary uses a provisional (estimated) deduction ratio during the year. The final ratio is only determined at the end of the financial year. The beneficiary must regularise VAT when closing its accounts. Therefore, the beneficiary must also regularize the VAT costs declared for the grant *(by declaring, in the next reporting period, an adjustment for the difference between the provisional deduction ratio and the final ratio)*.

VAT incurred in non-EU countries — VAT which cannot be refunded in third countries may be considered eligible under certain conditions. The beneficiaries must be able to show that their request for exemption has been rejected by the competent authorities or the applicable legislation which stipulate that VAT cannot be refunded.

If a beneficiary receives a VAT refund after the receipt of the final payment, it needs to inform the granting authority which may recover amounts unduly paid.

Non-identifiable VAT in foreign invoices — In exceptional cases where the beneficiary cannot identify the VAT charged by the supplier *(e.g. small non-EU invoices)*, the full purchase price can be recorded in the accounts if it is not possible to deduct/refund the VAT. That VAT would therefore be eligible.

Duties — The eligibility of duties depends on the eligibility of the cost item to which they are linked *(i.e. in whose price they are included)*. If the item is eligible, the duty is also eligible.

Combining EU Synergy actions — Different EU grants can be combined if the combined actual funding rate over all eligible costs of the project does not go above 100% AND the grant is flagged as 'Synergy action' *(see Data Sheet, Point 1)*. If the synergy is not already coordinated by the granting authorities from the outset (as a 'Synergy call', i.e. coordinated call by both granting authorities with combined fixed funding rates that do not go above 100%; *see also Article 3*), the beneficiaries need to inform the granting authorities if they apply for and receive more than one source of EU funding for the action. To prevent double funding and subsequent cost rejections and recoveries, the granting authorities will assess adaptations of the action(s) on a case-by-case basis (this may include partitioning of the action, rejection/reduction of eligible cost, etc).

Best practice: If you notice that your grant is not flagged as 'Synergy action' although it should be, contact the granting authority to see if it is possible to make an amendment.

Combining EU actions with the Recovery and Resilience Facility (RRF) actions — EU grants can NOT be combined with RRF actions because the funding model of the RRF (which finances milestones and targets without direct connection to individual project costs) makes it normally not possible to combine RRF funding with other EU funding for the same set of activities (and costs). If the same project should nonetheless receive funding from an EU

programme and the RRF, the project must be designed as separate actions, clearly delineated and separated for each part (without overlaps of activities (and costs)).

Combining of EU action and operating grants — EU action grants can be combined with EU operating grants if the beneficiaries are able to demonstrate cost separation *(i.e. that the operating grant does not cover any costs which are already covered by the action grants, in particular indirect costs already covered by the action grant)*. If cost separation cannot be demonstrated, beneficiaries can still keep both grants, but must renounce to the flat-rate on indirect cost in the action grant (since the indirect cost are already considered to be covered by the operating grant). For detailed conditions, *see Article 6.2.E*.

> ***Example:*** *Operating grants are grants awarded to support the running costs of certain institutions pursuing an aim of European interest, such as: College of Europe, European standards bodies (CEN, CENELEC, ETSI).*

CHAPTER 4 GRANT IMPLEMENTATION

SECTION 1 CONSORTIUM: BENEFICIARIES, AFFILIATED ENTITIES AND OTHER PARTICIPANTS

ARTICLE 7 — BENEFICIARIES

ARTICLE 7 — BENEFICIARIES

The beneficiaries, as signatories of the Agreement, are fully responsible towards the granting authority for implementing it and for complying with all its obligations.

They must implement the Agreement to their best abilities, in good faith and in accordance with all the obligations and terms and conditions it sets out.

They must have the appropriate resources to implement the action and implement the action under their own responsibility and in accordance with Article 11. If they rely on affiliated entities or other participants (see Articles 8 and 9), they retain sole responsibility towards the granting authority and the other beneficiaries.

They are jointly responsible for the *technical* implementation of the action. If one of the beneficiaries fails to implement their part of the action, the other beneficiaries must ensure that this part is implemented by someone else (without being entitled to an increase of the maximum grant amount and subject to an amendment; see Article 39). The *financial* responsibility of each beneficiary in case of recoveries is governed by Article 22.

The beneficiaries (and their action) must remain eligible under the EU programme funding the grant for the entire duration of the action. Costs and contributions will be eligible only as long as the beneficiary and the action are eligible.

The internal roles and responsibilities of the beneficiaries are divided as follows:

(a) Each beneficiary must:

(i) keep information stored in the Portal Participant Register up to date (see Article 19)

(ii) inform the granting authority (and the other beneficiaries) immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 19)

(iii) submit to the coordinator in good time:

- the pre-financing guarantees (if required; see Article 23)
- the financial statements and certificates on the financial statements (CFS) (if required; see Articles 21 and 24.2 and Data Sheet, Point 4.3)
- the contribution to the deliverables and technical reports (see Article 21)
- any other documents or information required by the granting authority under the Agreement

(iv) submit via the Portal data and information related to the participation of their affiliated entities.

(b) The coordinator must:

(i) monitor that the action is implemented properly (see Article 11)

(ii) act as the intermediary for all communications between the consortium and the granting authority, unless the Agreement or granting authority specifies otherwise, and in particular:

- submit the pre-financing guarantees to the granting authority (if any)
- request and review any documents or information required and verify their quality and completeness before passing them on to the granting authority
- submit the deliverables and reports to the granting authority
- inform the granting authority about the payments made to the other beneficiaries (report on the distribution of payments; if required, see Articles 22 and 32)

(iii) distribute the payments received from the granting authority to the other beneficiaries without unjustified delay (see Article 22).

The coordinator may not delegate or subcontract the above-mentioned tasks to any other beneficiary or third party (including affiliated entities).

However, coordinators which are public bodies may delegate the tasks set out in Point (b)(ii) last indent and (iii) above to entities with 'authorisation to administer' which they have created or which are controlled by or affiliated to them. In this case, the coordinator retains sole responsibility for the payments and for compliance with the obligations under the Agreement.

Moreover, coordinators which are 'sole beneficiaries'[33] (or similar, such as European research infrastructure consortia (ERICs)) may delegate the tasks set out in Point (b)(i) to (iii) above to one of their members. The coordinator retains sole responsibility for compliance with the obligations under the Agreement.

The beneficiaries must have internal arrangements regarding their operation and co-ordination, to ensure that the action is implemented properly.

If required by the granting authority (see Data Sheet, Point 1), these arrangements must be set out in a written consortium agreement between the beneficiaries, covering for instance:

- the internal organisation of the consortium
- the management of access to the Portal
- different distribution keys for the payments and financial responsibilities in case of recoveries (if any)
- additional rules on rights and obligations related to background and results (see Article 16)
- settlement of internal disputes
- liability, indemnification and confidentiality arrangements between the beneficiaries.

The internal arrangements must not contain any provision contrary to this Agreement.

[OPTION for programmes with linked actions: [OPTION if selected for the grant: For linked actions, the beneficiaries must have arrangements with the participants of the other action, to ensure that both actions are implemented and coordinated properly.

If required by the granting authority (see Data Sheet, Point 1), these arrangements must be set out in a written collaboration agreement with the participants of the other action or, if the consortium is the same, as part of their consortium agreement, covering for instance:

- the internal organisation and decision making processes

[33] For the definition, see Article 187(2) EU Financial Regulation 2018/1046: "Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the **sole beneficiary**, including where it is specifically established for the purpose of implementing the action financed by the grant."

[34] For the definition, see Article 196(2)(c) EU Financial Regulation 2018/1046: "**Entities which do not have legal personality** under the applicable national law [shall be eligible for participating in a call for proposals], provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees for the protection of the financial interests of the Union equivalent to those offered by legal persons."

- the areas where close collaboration/synchronisation is needed (e.g. on management of outputs, common approaches towards standardisation, links with regulatory and policy activities, common communication and dissemination activities, sharing of information, access to background and results, etc.)
- settlement of disputes
- liability, indemnification and confidentiality arrangements between the beneficiaries in both actions.

The arrangements with the participants of the other action must not contain any provision contrary to this Agreement.]]

1. Division of roles and responsibilities — Responsibilities towards the granting authority — Technical and financial responsibility for the action

The beneficiaries are formal parties to the Grant Agreement (they sign the Grant Agreement or Accession Forms). They have direct contractual obligations under the Grant Agreement and are fully responsible for implementing the action properly *(see Article 11)*.

This means that:

- each beneficiary must ensure that it complies with its obligations under the Grant Agreement
- each beneficiary must ensure swift and proper implementation of the action (i.e. that there are no delays and that the work is done properly)
- each beneficiary is responsible (towards the granting authority) for the tasks performed by its subcontractors, affiliated entities and associated partners
- the granting authority is NOT responsible for the implementation of the action and has NO responsibility for the way in which the action is conducted (or any adverse consequences).

The beneficiaries are jointly responsible for the technical implementation of the action. This means that they (and any new beneficiaries added later on during the project through an amendment) accept that they are together responsible for fully implementing the whole project.

If one of the beneficiaries leaves the action (irrespective of the reason), the remaining partners must carry out the action as set out in the description of the action (DoA; Annex 1) — including the part of the defaulting beneficiary. They will have to do this without any additional funding. The Grant Agreement will have to be amended, in order to redistribute the tasks, terminate the beneficiary's participation, and/or add a new beneficiary *(see Article 39)*.

> ***Example:*** *Beneficiaries A, B and C have signed a Grant Agreement with a duration of three years with the Commission in order to carry out an action. One year later, beneficiary C goes bankrupt. Beneficiaries A and B remain fully responsible to implement the whole action, including the tasks of C. A and B must agree that one (or both) take over the part of beneficiary C (or ensure replacement by adding a new beneficiary), to make sure that the entire action is implemented as described in Annex 1.*

From a financial point of view, each participant is in principle responsible for the proper and sound financial management of their part of the grant. In case of recoveries, there may however, depending on the programme and Grant Agreement, be certain situations where beneficiaries may be held responsible for their partners (financial liability):

- for programmes without MIM *(all programmes except HE)*: the financial liability is as follows:

  - at beneficiary termination, the beneficiary concerned must pay back any undue amounts to the consortium; the granting authority will inform them about this obligation, but not intervene to recover this money (no debit note)

  - at the payment of the balance, the coordinator is fully liable for the whole amount that needs to be recovered (i.e. paid back to the granting authority)— even if it has not been the final recipient of the concerned amount (debit note); if the coordinator does not pay (irrespective of the reason), the granting authority will enforce recovery (through offsetting, drawing on the pre-financing guarantee, joint and several liability of other beneficiaries or affiliated entities, or legal action or enforceable decision; *see Article 22.4*)

  - after payment of the balance, recoveries (if any) will be made directly against the beneficiary concerned (debit note)

- for programmes with MIM *(HE only)*: each beneficiary's financial liability is in principle limited to their own debt and undue amounts paid for costs declared by their affiliated entities. It is only for the contribution to the MIM that financial responsibility is shared:

  - at beneficiary termination, the beneficiary concerned must pay back any undue amounts to the consortium; the granting authority will inform them about this obligation and, if the beneficiary doesn't pay, the granting authority may call on the MIM to intervene and then start a recovery procedure against the beneficiary in the name of the MIM (debit note)

  - at the payment of the balance, the contribution to the MIM will be used to cover recoveries (if any); if the contribution is not sufficient, the coordinator will be asked to pay back the amount owed (as representative of the consortium); if the debt is not paid but the report on the distribution of payments was provided, the granting authority will calculate the share of the debt per beneficiary and confirm the amount to be recovered from each of them separately (debit note); if they do not pay (irrespective of the reason), the granting authority will enforce recovery (through offsetting, joint and several liability of affiliated entities, or legal action or enforceable decision; *see Article 22.4*); if the report on the distribution of payments was NOT provided, the granting authority will enforce recovery against the coordinator (debit note); if needed, the granting authority may call on the MIM to intervene and will then continue recovery in the name of the MIM (second debit note replacing the first)

  - after payment of the balance, recoveries (if any) will be made directly against the beneficiary concerned (debit note); no MIM intervention (new for 2021-2027).

Beneficiaries are always liable for repaying the debts of their affiliated entities *(see Article 22.2)*.

2. Division of roles and responsibilities — Roles and responsibilities within the consortium

The general division of roles and responsibilities within the consortium is as follows:

- the coordinator must coordinate and manage the grant and is the central contact point for the granting authority

- the beneficiaries and other participants must all together contribute to a smooth and successful implementation of the grant *(i.e. contribute to the proper implementation*

of the action, comply with their own obligations under the Grant Agreement and support the coordinator in his obligations).

All communication with the granting authority should in principle go through the coordinator. Documents/information should be submitted via the coordinator — unless, for specific cases, the granting authority requests individual partners to provide such information directly *(e.g. in case of an audit, the beneficiaries must submit the documents requested directly to the auditors, see Article 25)*.

Other participants *(i.e. affiliated entities, associated partners, subcontractors, etc)* may be part of the consortium, if this is considered useful by the beneficiaries. It is generally recommended to involve all entities that are important for the successful implementation of the project, independently of their formal role in the grant.

3. The coordinator's roles and responsibilities

The coordinator is the central contact point for the granting authority and represents the consortium (towards the granting authority).

For this purpose, the Grant Agreement imposes a number of specific coordination tasks.

Coordination tasks:

- Monitor that the action is implemented properly
- Act as the intermediary for all communications — unless the Grant Agreement specifies otherwise
- Request and review documents or information required by the granting authority and verify their completeness and correctness
- Submit the deliverables and reports in the system
- Submit the pre-financing guarantees to the granting authority (if any)
- Distribute payments to the other beneficiaries, without unjustified delay
- Inform the granting authority of the amounts paid to each beneficiary, if requested to do so *(see Articles 22 and 32)*

The coordination tasks include quality-checking of documents/information submitted by the beneficiaries, in particular:

- reviewing the individual financial statements from each beneficiary to verify consistency with the action tasks, as well as completeness and correctness
- verifying that all the requested documents/information have been provided by the beneficiary *(e.g. the use of resources, etc)*
- verifying that the beneficiary submits the documents/information in the requested format
- verifying that the technical information submitted by a beneficiary concerns its action tasks as described in Annex 1 (and not something unrelated to the action).

The coordinator is not, however, obliged to verify the *eligibility* of the costs declared, nor to request justifications. Each beneficiary/affiliated entity remains responsible for the cost it declares (both as regards eligibility and as regards sufficient records and supporting documents to substantiate them).

The coordination tasks listed above can NOT be subcontracted or outsourced to another entity including other beneficiaries, affiliated entities, subcontractors, or associated partners. They can only be delegated, under certain circumstances, to entities with 'authorisation to

administer' or in the case of 'sole beneficiaries' within the meaning of Article 187(2) of the Financial Regulation 2018/1046 *(see below)*.

By contrast, the coordinator remains free — like any other beneficiary — to use affiliated entities or subcontractors for *other* tasks; *see Articles 8 and 9.4*).

Specific cases (coordinator responsibilities):

'Entities with authorisation to administer' — Coordinators that are public bodies may exceptionally delegate coordination tasks *(e.g. the administration of the payments)* to another entity, if this is their usual practice *(e.g. a foundation)*.

For the handling of such coordinator tasks, this other entity must fulfil the following conditions:

- it must participate as an affiliated entity of the coordinator

and

- it must have been granted an 'authorisation to administer' in order to handle the coordinator's administrative affairs (and those must include receiving and administering EU funds).

In this case, the bank account number to be provided by the coordinator during grant preparation must be that of the entity with the authorisation to administer. The payments will then be transferred directly to it and it will have to distribute them for the coordinator.

Since they participate as affiliated entity, the entity must be registered in the Participant Register (have a PIC) and be validated by the Central Validation Service.

The coordinator will remain fully responsible for the entity under the Grant Agreement. For detailed guidance, see the specific cases in Article 8.

'Sole beneficiaries' (or similar, *e.g. ERICs*[19]**)** — Entities which form one joint entity for the purpose of implementing the action and all comply with the eligibility criteria can participate as 'sole beneficiaries' in EU actions *(see Article 187(2) FR)*. Coordinators which are sole beneficiaries (or similar, *e.g. European Research Infrastructure Consortia (ERICs)*) and do not have their own resources may exceptionally delegate the coordination tasks to one of their members. Coordinators using one of their members remain fully responsible for them under the Grant Agreement.

Technical/scientific coordination (or similar) — The coordinator within the meaning of the Grant Agreement is the beneficiary in charge of the (administrative) coordination tasks set out in this Article. Other kinds of coordination activities, *i.e. tasks not listed in this Article (e.g. of technical or scientific nature)* can be carried out by any other participant.

These participants may internally *(i.e. within the consortium)* be called, for example, 'technical' or 'scientific coordinator', but they will NOT be considered coordinator in the meaning of the Grant Agreement and are not subject to the rules in Article 7.

Costs for this type of technical/scientific coordination are eligible, if they comply with the eligibility conditions set out in Article 6.

4. Internal arrangements between beneficiaries — Consortium agreement

[19] Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (OJ L 206, 08.08.2009, p.1).

The participants should (mandatory for multi-beneficiary grants, if required in the Data Sheet) conclude a consortium agreement to ensure a smooth and successful action implementation.

The 'consortium agreement' is an agreement between members of the consortium, to set out their internal arrangements for implementing the project and the administration of the EU grant. It is purely internal; it should NOT be submitted to the granting authority for information or review; the granting authority is NOT party and has NO responsibility for it (nor for any adverse consequences).

Best practice: In view of their importance for avoiding disputes and ensuring a smooth implementation of the grant, we strongly recommend that every consortium sets up a consortium agreement, even if not mandatory in the Data Sheet. In any case, the beneficiaries need to put in place all necessary arrangements regarding their operation and co-ordination to ensure the proper implementation of the action.

The consortium agreement should complement the Grant Agreement and must NOT contain any provision contrary to it (or the applicable EU, international or national law).

It should in principle be negotiated and concluded before grant signature *(i.e. each beneficiary should sign the consortium agreement before signing the Accession Form to accede to the Grant Agreement)*. Otherwise, there is usually a serious risk that prolonged disagreement jeopardises the action. Of course, the consortium agreement does not have to remain the same during the lifetime of the action, it can be modified by the consortium at any moment.

The duration should at least cover the time until the final payment, however, a longer or open-ended duration, where relevant, should be considered in order to fully cover any issues that may emerge after the final payment, such as exploitation of the results *(e.g. licensing)*, issues arising from audits, etc.

The agreement must be in writing. It may be a simple written agreement or take some other form *(e.g. a notarial deed or part of the statutes of a separate legal entity, such as a European Economic Interest Grouping, association or joint venture).*

For guidance on consortium agreements, *see How to draw up your consortium agreement*. This document has been developed for H2020 actions, but it can also serve for inspiration in other EU programmes (including for the new MFF 2021-2027). In case of questions, please contact the granting authority.

5. Relationship with beneficiaries of linked actions — Collaboration agreement

The participants of linked actions must make arrangements to determine and coordinate implementation in the areas where close collaboration is needed and should conclude a collaboration agreement (mandatory if required in the Data Sheet), to ensure that linked actions are implemented and coordinated properly.

'Collaboration agreement' are agreements between the participants of linked actions to coordinate their work. The granting authority is not party and has NO responsibility for them (nor for any adverse consequences). If the consortium in the linked actions is the same, the collaboration agreement may be included as part of the consortium agreement.

The collaboration agreement should complement the Grant Agreement and must NOT contain any provision contrary to it (or the applicable EU, international or national law).

It should set out the details on the collaboration and synchronisation of the activities as well as on the internal organisation and decision processes of the linked actions. If considered useful, it can also foresee common boards and advisory structures. These will complement

the governance of each of the linked actions; they can NOT replace the consortium and other project governance mechanisms that are required for the EU action (if applicable).

For guidance on collaboration agreements, *see* *How to draw up your collaboration agreement.* This document has been developed for H2020 actions, but it can also serve for inspiration in other EU programmes (including for the new MFF 2021-2027). In case of questions, please contact the granting authority.

ARTICLE 8 — AFFILIATED ENTITIES

ARTICLE 8 — AFFILIATED ENTITIES

[OPTION 1 for programmes without affiliated entities: Not applicable *]*

[OPTION 2 for programmes with affiliated entities (standard): [OPTION 1 if selected for the grant: The following entities which are linked to a beneficiary will participate in the action as 'affiliated entities':

- [**AE legal name (short name)**], PIC [number], linked to [BEN legal name (short name)]
- [**AE legal name (short name)**], PIC [number], linked to [BEN legal name (short name)]

[same for more AE]

Affiliated entities can charge costs and contributions to the action under the same conditions as the beneficiaries and must implement the action tasks attributed to them in Annex 1 in accordance with Article 11.

Their costs and contributions will be included in Annex 2 and will be taken into account for the calculation of the grant.

The beneficiaries must ensure that all their obligations under this Agreement also apply to their affiliated entities.

The beneficiaries must ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the affiliated entities.

Breaches by affiliated entities will be handled in the same manner as breaches by beneficiaries. Recovery of undue amounts will be handled through the beneficiaries.

If the granting authority requires joint and several liability of affiliated entities (see Data Sheet, Point 4.4), they must sign the declaration set out in Annex 3a and may be held liable in case of enforced recoveries against their beneficiaries (see Article 22.2 and 22.4).*]*

[OPTION 2: Not applicable*]]*

1. Affiliated entities

Affiliated entities (in some programmes formerly called 'linked third parties'; new for 2021-2027) are entities with a (usually legal or capital) link to a beneficiary and which implement parts of the action and are allowed to charge costs directly to the grant.

They do not become party to the Grant Agreement (do not sign the GA) but can be part of the consortium and often play an important role in implementing the action. Therefore, the Grant Agreement mentions them by name and defines their role (rights and obligations).

In practice, they are treated in many ways like beneficiaries *(have their own financial statement, must provide their own CFS, must contribute to the technical report, must submit deliverables, etc)*.

⚠ **Annotations** in this AGA **which refer to beneficiaries usually also apply to affiliated entities** (just like the provisions of the MGA themselves; *see also MGA Preamble*).

⚠ For technical and security reasons, affiliated entities do NOT however have **direct access to the Portal My Area** section *(see Article 36)*. They therefore always need to go through their beneficiaries *(to sign the declaration of honour, submit financial statements, contribute to the technical report, etc)*.

Characteristics of implementation by affiliated entities:

- They do not sign the Grant Agreement (and are therefore not beneficiaries).
- They perform action tasks attributed to them in the DoA Annex 1 *(including the handling of subcontracting, financial support to third parties (FSTP), etc).*
- They do not charge a 'price', but declare their *own costs*.
- The work is and is usually carried out on their premises, under their full and direct control, instructions and management, with their own employees.
- The beneficiary remains responsible towards the granting authority for the work carried out by its affiliated entities and for the recovery of undue payments from its affiliated entities (if any).

'Link to the beneficiaries' means in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation *(see Article 187(1)(b) FR)*. This covers:

- permanent legal structures (*e.g. the relationship between an association and its members)*
- contractual cooperation not limited to the action *(e.g. an existing collaboration agreement for activities in a field relevant to the action;)*
- capital link, i.e.
  - direct or indirect control of the beneficiary
  - under the same direct or indirect control as the beneficiary

  or
  - directly or indirectly controlling the beneficiary.

Moreover, it covers not only the case of parent companies or holdings and their daughter companies or subsidiaries and vice-versa, but also the case of affiliates between themselves *(e.g. entities controlled by the same entity)*.

Examples:

1. *Company A established in France holding 20% of the shares in Company B established in Italy. However, with 20% of the shares, it has 60% of the voting rights in company B. Therefore, company A controls company B and both companies may be affiliated entities.*

2. *Company X and company Y do not control each other, but they are both owned by company Z. They are both considered affiliated entities.*

3. *The Ministry A is in accordance with national law the supervisory authority of a national agency. They can be considered as affiliated entities. Conversely, if the national agency is by statute set up as independent from the central government, the agency and the Ministry should instead participate as separate beneficiaries (or other fitting roles).*

4. *Associations, foundations or other legal entities composed of members — That entity is generally the beneficiary and the members are the affiliated entities.*

5. *Joint Research Units (JRU) (i.e. research laboratories/infrastructures created and owned by two or more different legal entities in order to carry out research) — They do not have a separate legal personality, but form a single research unit where staff and resources from the different members are put together to the benefit of all. Though lacking legal personality, they exist physically, with premises, equipment, and resources that belong to them. A member of the JRU can be the beneficiary and other members can participate as affiliated entities. The JRU has to meet all the following conditions:*

- *scientific and economic unity*
- *last a certain length of time*
- *recognised by a public authority.*

It is necessary that the JRU itself is recognised by a public authority, i.e. an entity identified as such under the applicable national law. The beneficiary must provide to the granting authority, a

copy of the resolution, law, decree, decision, attesting the relationship between the beneficiary and the affiliated entity(ies), or a copy of the document establishing the joint research unit, or any other document that proves that research facilities are put in a common structure and correspond to the concept of scientific and economic unit.

Just like beneficiaries, affiliated entities must normally fulfil the conditions for participation and funding.

Example: *Company A established in Germany is a beneficiary in a grant. A owns B, a French company and also owns C, a company established in a non-EU country not associated to the programme. B and C may be considered affiliates to A, however only B may participate as affiliated entity to A, because company C is established in a non-associated third country and is therefore not eligible. C can instead participate as an associated partner.*

Affiliated entities must be listed in Article 8, their tasks must be mentioned in Annex 1 and their budget in Annex 2.There is NO simplified approval procedure.

The beneficiaries are responsible for the proper implementation of the action tasks done by affiliated entities *(proper quality, timely delivery, etc)*.

They must moreover ensure that the affiliated entities comply with the same obligations as they themselves *(mutatis mutandis)*.

Obligations that must be extended to affiliated entities:

- all obligations *(mutatis mutandis)*

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the affiliated entities.

Moreover, the beneficiaries must also ensure that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the affiliated entities, and in particular to audit the payments received. If access is denied by the affiliated entities, the costs will be rejected.

Specific cases (affiliated entities):

Joint and several liability of affiliated entities — The granting authority may (during grant preparation) require joint and several liability of an affiliated entity, if:

- the financial capacity of a beneficiary is 'weak' and
- the beneficiary mainly coordinates the work of its affiliated entity.

Examples:

1. *The financially weak beneficiary is an association and most of the work is carried out by several of its members as affiliated entities.*

2. *The financially weak beneficiary is a small company with a substantial part of its work implemented by a bigger affiliated entity.*

3. *The proposal submitted by four independent entities established in four Member States is positively evaluated. The four successful applicants decide to form a legal entity to simplify the management of the project. The newly established entity will be the beneficiary, i.e. a new legal entity. The successful applicants will carry out the work as affiliated entities of the new legal entity.*

If requested, the affiliated entity must accept joint and several liability with their beneficiary. In this case, it must sign a declaration (on paper and in blue-ink, using the Annex 3a generated by the system) to be submitted by the beneficiary at the moment of its accession to the grant (or amendment adding the affiliated entity). The affiliated entity must send the original to the beneficiary (by registered post with proof of delivery), who must upload it (as a scanned PDF copy) in the system.

The liability is for any amount owned by the beneficiary under the Grant Agreement, and up to the affiliated entity's maximum EU contribution in Annex 2.

More details on the financial capacity check are available in the Online Manual > Participant Register > Financial capacity assessment on the Portal.

Entities created in order to manage administrative/financial tasks (including 'entities with authorisation to administer') — These are typically legal entities *(foundations, spin-off companies, etc)*, created or controlled by a beneficiary *(usually a public body like a university/ministry)* to handle the financial and administrative aspects of the beneficiaries' involvement e.g. in EU actions.

If they handle coordinator tasks *(see Article 7)* or implement action tasks themselves, they have to participate as affiliated entity of the beneficiary/coordinator and have to declare their own costs.

For resources put at the disposal of the beneficiary (regardless of whether the entity is also involved as affiliated entity declaring costs for coordination or action tasks):

- if the resources are provided against payment: the costs should be declared by the beneficiary/coordinator in the appropriate cost category *(e.g. personnel put at the disposal of the beneficiary by these entities must be declared under cost category A.3 Seconded persons; equipment or other goods, works and services put at the disposal must be declared under cost category C.2 Equipment or C.3 Other goods, works and services)*

- if the resources are provided for free: the costs can only be declared if in-kind contributions are eligible costs for the programme *(only HE)*.

Best practice: It is recommended to describe in the DoA Annex 1 the relation between the beneficiary and the foundation/spin-off and its impact on the Grant Agreement.

ARTICLE 9 — OTHER PARTICIPANTS INVOLVED IN THE ACTION

9.1 Associated partners

ARTICLE 9 — OTHER PARTICIPANTS INVOLVED IN THE ACTION

9.1 Associated partners

[OPTION 1 for programmes without associated partners: Not applicable *]*

[OPTION 2 for programmes with associated partners (standard): [OPTION 1 if selected for the grant: The following entities which cooperate with a beneficiary will participate in the action as 'associated partners':

- [**AP legal name (short name)**], PIC [number] *[*associated partner of [BEN legal name (short name)]*]*
- [**AP legal name (short name)**], PIC [number] *[*associated partner of [BEN legal name (short name)]*]*

[same for more AP]

Associated partners must implement the action tasks attributed to them in Annex 1 in accordance with Article 11. They may not charge costs or contributions to the action and the costs for their tasks are not eligible.

The tasks must be set out in Annex 1.

The beneficiaries must ensure that their contractual obligations under Articles 11 (proper implementation), 12 (conflict of interests), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping) also apply to the associated partners.

The beneficiaries must ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the associated partners.*]*

[OPTION 2: Not applicable*]]*

1. Associated partners

Associated partners are entities that implement action tasks, but without receiving EU funding.

They do not become party to the Grant Agreement (do not sign an accession form), but they implement parts of the action and are thus often involved actively in the consortium. Therefore, the Grant Agreement mentions them by name and defines their role (rights and obligations).

Characteristics of implementation by associated partners:

- They do not sign the Grant Agreement (and are therefore not beneficiaries).
- They perform action tasks attributed to them in the DoA Annex 1
- They participate at own costs (do not receive EU funding).
- The consortium (or, in case the associated partner cooperates with a specific beneficiary as named in Article 9.1, that beneficiary) remains responsible towards the granting authority for the work performed by the associated partners.

Associated partners do NOT need to have a (capital or legal) link to any beneficiary (but they may have one).

Since they do not receive EU funding, associated partners do NOT have to comply with the eligibility conditions (but they may)).

Associated partners must be listed in Article 9.1, their tasks must be mentioned in Annex 1.

The beneficiaries are responsible for the proper implementation of the tasks implemented by associated partners *(proper quality, timely delivery, etc)*.

They must moreover ensure that they comply with certain obligations:

Obligations that must be extended to associated partners:

- Proper implementation *(see Article 11), including compliance with call conditions*
- Avoiding conflict of interest *(see Article 12)*
- Confidentiality and security obligations *(see Article 13)*
- Ethics *(see Article 14)*
- Give visibility to the EU funding *(see Article 17.2)*
- Respect specific rules for the action implementation *(see Article 18), including compliance with specific rules set out in Annex 5*
- Information obligations *(see Article 19)*
- Record-keeping *(see Article 20)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the associated partners *(e.g. via contractual arrangements, consortium agreement, etc)*.

The beneficiaries must also ensure that the associated partners respect the call conditions and Annex 5.

> ***Example:*** *In Horizon Europe, the Grant Agreement provides for additional obligations in Annex 5 regarding results, e.g. open access to peer-reviewed scientific publications which applies to all such publications under the Grant Agreement, including publications where associated partners are involved.*

Moreover, the beneficiaries must ensure that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the associated partners, particular concerning the action implementation.

9.2 Third parties giving in-kind contributions

> **9.2 Third parties giving in-kind contributions**
>
> *[OPTION 1 for programmes with in-kind contributions allowed but not eligible (standard):*
>
> Other third parties may give in-kind contributions to the action (i.e. personnel, equipment, other goods, works and services, etc. which are free-of-charge), if necessary for the implementation.
>
> Third parties giving in-kind contributions do not implement any action tasks. They may not charge costs or contributions to the action and the costs for the in-kind contributions are not eligible.
>
> The third parties and their in-kind contributions should be set out in Annex 1.*]*
>
> *[OPTION 2 for programmes with in-kind contributions eligible:*
>
> Other third parties may give in-kind contributions to the action (i.e. personnel, equipment, other goods, works and services, etc. which are free-of-charge) if necessary for the implementation.
>
> Third parties giving in-kind contributions do not implement any action tasks. They may not charge costs or contributions to the action, but the costs for the in-kind contributions are eligible and may be charged by the beneficiaries which use them, under the conditions set out in Article 6. The costs will be included in Annex 2 as part of the beneficiaries' costs.
>
> The third parties and their in-kind contributions should be set out in Annex 1.
>
> The beneficiaries must ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the third parties giving in-kind contributions. *]*
>
> *[OPTION 3 for programmes with in-kind contributions not allowed:*
>
> In-kind contributions (i.e. personnel, equipment, other goods and services, etc. given by third parties free-of-charge) are not allowed for the implementation of the action.*]*

1. Third parties providing in-kind contributions: In-kind contributions allowed but not eligible

This is the standard rule for most EU programmes. Beneficiaries may use in-kind contributions provided by third parties, if necessary to implement the action, but they are not counted towards the project budget (not eligible costs).

Examples (in-kind contributions allowed but not eligible):

1. *Civil servant working as a professor in a public university is also working on the action. His salary is paid not by the beneficiary (the university) but by the government (the ministry). It can therefore not be charged to the EU grant.*

2. *A entity providing learning spaces for free to the beneficiaries, for example a municipality for an NGO part of the project.*

3. *A graphic company providing for free the design of booklets.*

⚠ In-kind contributions refers only to the case where a third party **makes available** some of its resources to a beneficiary **for free** (i.e. without any payment; new for 2021-2027). In this case, the beneficiary itself makes no payment and there is therefore NO cost incurred by the beneficiary. There are therefore normally NO costs that can be charged to the action (**—** unless specifically provided for in the Programme Regulation, *e.g. for HE*).

⚠ By contrast, if there is any **payment** by the beneficiary to the third party for the in-kind contribution provided, the beneficiary can declare the costs in the appropriate cost category:

- personnel costs for seconded persons *(see Article 6.2.A.3)*

- renting costs for equipment *(see Article 6.2.C.2)* or

- purchase costs for other goods, works and services *(see Article 6.2.C.3).*

2. Third parties providing in-kind contributions: In-kind contributions eligible

For some EU programmes *(only HE)*, the Programme Regulation (basic act) allows in-kind contribution costs to be charged to the action.

> ***Examples (in-kind contributions eligible):*** *Civil servant working as a professor in a public university is also working on the action. His salary is paid not by the beneficiary (the university) but by the government (the ministry). In Horizon Europe, the beneficiary may charge these costs to the grant, even if they are incurred by a third party (the ministry/government).*

The eligibility conditions for such costs are set out in Article 6.1. However, in kind contributions against payment ARE NOT a budget category: Depending on the type of cost, they must be declared in, and comply with, the fitting budget category (e.g. personnel costs, equipment).

In-kind contributions and the third parties contributing them must be mentioned in Annex 1 (simplified approval procedure; *see below*).

Moreover, if in-kind contributions are charged to the action, the beneficiaries must also ensure that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the third parties, and in particular to audit their costs. If access is denied by the third party, the costs will be rejected.

Specific cases (in-kind contributions eligible):

Simplified approval procedure (new in-kind contributions) — For programmes where in-kind contributions are eligible *(only HE)*, if the need for an in-kind contribution was not known at grant signature, the coordinator must request an amendment in order to introduce the new contribution into the Annex 1 (*see Article 39)* or flag it in the periodic report (simplified approval procedure; *for details, see Article 6.1*). In the latter case, the beneficiaries bear however the risk that the granting authority might not approve the new contribution and reject the costs at interim or final payment-stage later on.

9.3 Subcontractors

> **9.3 Subcontractors**
>
> *[OPTION 1 for programmes without subcontractors (ineligible):* Not applicable *]*
>
> *[OPTION 2 for programmes with subcontractors (standard):* Subcontractors may participate in the action, if necessary for the implementation.
>
> Subcontractors must implement their action tasks in accordance with Article 11. The costs for the subcontracted tasks (invoiced price from the subcontractor) are eligible and may be charged by the beneficiaries, under the conditions set out in Article 6. The costs will be included in Annex 2 as part of the beneficiaries' costs.
>
> The beneficiaries must ensure that their contractual obligations under Articles 11 (proper implementation), 12 (conflict of interest), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping) also apply to the subcontractors.
>
> The beneficiaries must ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the subcontractors. *]*

1. Subcontractors

Subcontractors do not become party to the Grant Agreement (do not sign the GA), but they often implement important parts of the action (i.e. action tasks specified in Annex 1) and thus may need to be involved actively in the consortium. Therefore, the Grant Agreement mentions them and defines their role (rights and obligations).

Characteristics of subcontractors:

- They do not sign the Grant Agreement (and are therefore not beneficiaries).
- They perform action tasks attributed to them in the DoA Annex 1.
- charges a price, which usually includes a profit (— this distinguishes it from affiliated entities; *see Article 8*), to be declared as subcontracting costs by a beneficiary.
- The work is carried out without the direct supervision of the beneficiary and is not hierarchically subordinate to the beneficiary (— this distinguishes it from action tasks implemented by in-house consultants; *see Article 6.2.A.2)*.
- The motivation is pecuniary, not the work on the project itself. The subcontractor is paid by the beneficiary in exchange for its work.
- The beneficiary remains fully responsible towards the granting authority for action tasks performed by its subcontractors.

Example (subcontract): *A Grant Agreement for an action on nature reserves describes in Annex 1 two action tasks. The first task concerns a comparative study of water quality in the reserve, which the beneficiary's employee will compile after taking and sending water samples to laboratories. The lab work is necessary for the implementation of the action but only a subactivity of compiling the study (the action task), therefore it will fall under purchase costs (see Article 6.2.C). The second task concerns an aerial survey of the water bodies for which the beneficiary does not have the necessary know-how and assets and therefore subcontracts to a service provider who will implement the survey (the action task) through activities like aerial photography and analysis.*

The action tasks to be subcontracted and the estimated costs (not necessarily the subcontractor, especially if not known yet) must be identified and justified in Annex 1 (Article 6.2.B; simplified approval procedure; *see below*).

⚠ Normally you are NOT obliged to give information about the names of the subcontractors selected (in DoA Annex 1 or periodic report), but many programmes require this information indirectly through the detailed budget/cost reporting table.

Best practice: If you think that there is an issue with a subcontractor that might impact the eligibility of subcontracting costs *(e.g. potential conflict of interest; subcontractor not in compliance with the call conditions or subject to sanctions, etc)*, inform the granting authority and ask for specific guidance.

The beneficiaries are responsible for the proper implementation of the subcontracted action tasks by the subcontractors *(proper quality, timely delivery, etc)*.

They must moreover ensure that they comply with certain obligations:

Obligations that must be extended to subcontractors:

- Proper implementation *(see Article 11), including compliance with call conditions*
- Avoiding conflict of interest *(see Article 12)*
- Confidentiality and security obligations *(see Article 13)*
- Ethics *(see Article 14)*
- Give visibility to the EU funding *(see Article 17.2)*
- Respect specific rules for the action implementation *(see Article 18), including compliance with specific rules set out in Annex 5*
- Information obligations *(see Article 19)*
- Record-keeping *(see Article 20)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the subcontractors *(e.g. via contractual arrangements, consortium agreement, etc)*.

The beneficiaries must also ensure that the subcontractors respect the the call conditions and Annex 5.

Moreover, the beneficiaries must ensure that that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the subcontractors, and in particular to audit the payments received. If access is denied by the subcontractor, the costs will be rejected.

Specific cases (subcontractors):

Simplified approval procedure (new subcontracts) — If the need for a subcontract was not known at grant signature, the coordinator must request an amendment in order to introduce the subcontracting of one or more tasks in Annex 1 (*see Article 39)* or, if allowed, flag it in the periodic report (simplified approval procedure; allowed for most programmes; *for details, see Article 6.1*). In the latter case, the beneficiaries bear however the risk that the granting authority might not approve the new subcontracting of the task(s) and reject the costs at interim or final payment-stage later on.

9.4 Recipients of financial support to third parties (FSTP)

> **9.4 Recipients of financial support to third parties**
>
> *[OPTION 1 for programmes without financial support to third parties:* Not applicable *]*
>
> *[OPTION 2 for programmes with financial support to third parties:* If the action includes providing financial support to third parties (e.g. grants, prizes or similar forms of support), the beneficiaries must ensure that their contractual obligations under Articles 12 (conflict of interest), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping) also apply to the third parties receiving the support (recipients).
>
> The beneficiaries must also ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the recipients.*]*

1. Recipients of financial support to third parties (FSTP)

Recipients of financial support to third parties *(grants, prizes or other)* do not become party to the Grant Agreement (do not sign the GA) and are not part of the consortium. They do not implement action tasks, but they benefit from them and receive (indirectly) a part of the EU funding. Therefore, the Grant Agreement defines their role (rights and obligations).

Characteristics of FSTP recipients:

- They do not sign the Grant Agreement (and are therefore not beneficiaries).
- They do not perform action tasks, but the financial support given to them is part of an action task specified in the DoA Annex 1.
- They receive financial support from the grant (e.g. sub-grant or prize money), to be declared as financial support to third parties cost by a beneficiary.

The beneficiaries remain responsible towards the granting authority for the proper use of the funding by the recipients.

They must moreover ensure that they comply with certain obligations, where relevant/applicable based on the nature of the action:

Obligations that must be extended to FSTP recipients:

- Avoiding conflict of interest *(see Article 12)*
- Confidentiality and security obligations *(see Article 13)*
- Ethics *(see Article 14)*
- Give visibility to the EU funding, as appropriate *(see Article 17.2)*
- Respect specific rules for the action implementation *(see Article 18)*
- Information obligations *(see Article 19)*
- Record-keeping *(see Article 20)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the recipients *(e.g. via cascading call conditions or contractual arrangements, scholarship agreement, rules of contest, etc)*.

Moreover, the beneficiaries must also ensure that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the recipients, and in particular to audit the payments received. If access is denied by the recipient, the costs will be rejected.

ARTICLE 10 — PARTICIPANTS WITH SPECIAL STATUS

10.1 Non-EU participants

ARTICLE 10 — PARTICIPANTS WITH SPECIAL STATUS

10.1 Non-EU participants

[OPTION 1 for programmes without non-EU participants (ineligible): Not applicable *]*

[OPTION 2 for programmes with non-EU participants (standard): Participants which are established in a non-EU country (if any) undertake to comply with their obligations under the Agreement and:

- respect general principles (including fundamental rights, values and ethical principles, environmental and labour standards, rules on classified information, intellectual property rights, visibility of funding and protection of personal data)
- for the submission of certificates under Article 24: use qualified external auditors which are independent and comply with comparable standards as those set out in EU Directive 2006/43/EC
- for the controls under Article 25: allow for checks, reviews, audits and investigations (including on-the-spot checks, visits and inspections) by the bodies mentioned in that Article (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.).

Special rules on dispute settlement apply (see Data Sheet, Point 5).*]*

[35] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts or similar national regulations (OJ L 157, 9.6.2006, p. 87).

1. Non-EU participants

Non-EU participants are not a separate category of participants, but simply participants *(e.g. beneficiary, affiliated entity, associated partner, subcontractor)* that are not legally established in one of the EU Member States. They can usually participate in EU funding programmes, if:

- their country is associated to the programme (so-called 'associated country') — *standard case*

OR

- if the programme is open to participation and funding of entities from third countries — rare *(e.g. HE).*

Since non-EU participants are normally not subject to EU law, the Grant Agreement recalls the most important principles and makes them contractually binding. Thus, participants undertake to comply with all their obligations under the Grant Agreement and commit to:

- respect key principles, such as fundamental rights, EU values and ethical principles, environmental and labour standards, security of information rules, respect for IPR protection and privacy
- use appropriate audit standards as well as qualified and independent external auditors
- allow for checks, reviews, audits and investigations by the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))*

Moreover, since non-EU participants are regularly located outside the jurisdiction of the EU courts (General Court, Court of Justice), disputes will be settled by the courts of Brussels, Belgium (— unless an international agreement provides for the enforceability of EU court judgments).

Specific cases (non-EU participants):

International Organisations — International organisations do NOT fall under Article 10.1 (nor under the option for non-EU participants in the declaration of honour (DoH) to be signed before grant signature), since they do NOT count as participants from non-EU countries.

Formally speaking, place of establishment of international organisations is irrelevant and for the purposes of the Grant Agreement they are considered as neither EU nor non-EU entities. They have a special status (supra-national)and are covered specifically by the provisions of Article 10.2.

If an international organisation is pillar-assessed, the provisions of Article 10.3 apply in addition.

10.2 Participants which are international organisations

10.2 Participants which are international organisations

[OPTION 1 for programmes without international organisations: Not applicable *]*

[OPTION 2 for programmes with international organisations (standard): Participants which are international organisations (IOs; if any) undertake to comply with their obligations under the Agreement and:

- to respect general principles (including fundamental rights, values and ethical principles, environmental and labour standards, rules on classified information, intellectual property rights, visibility of funding and protection of personal data)
- for the submission of certificates under Article 24: to use either independent public officers or external auditors which comply with comparable standards as those set out in EU Directive 2006/43/EC
- for the controls under Article 25: to allow for the checks, reviews, audits and investigations by the bodies mentioned in that Article, taking into account the specific agreements concluded by them and the EU (if any).

For such participants, nothing in the Agreement will be interpreted as a waiver of their privileges or immunities, as accorded by their constituent documents or international law.

Special rules on applicable law and dispute settlement apply (see Article 43 and Data Sheet, Point 5).*]*

1. International organisations

International organisations are not a separate category of participants, but simply participants *(e.g. beneficiary, affiliated entity, associated partner, subcontractor)* with a specific legal form and status under international public law and validated as such in the Participant Register.

> ***Examples:*** *International organisations are for example UN organisations and specialised agencies (e.g. WHO, UNHCR, UNEP, UNESCO), ESA, ECMWF, OCCAR.*

They can usually participate in EU funding programmes, unless the programme explicitly provides otherwise *(e.g. in HE, international European research organisations (IEROs) can always participate with funding, while other international organisations can participate with funding only under certain circumstances set out in the work programme/call conditions)*.

Since international organisations are normally not subject to EU law, the Grant Agreement recalls the most important principles and obligations regarding audits and controls and makes them contractually binding.

In addition, Article 10.2 acknowledges that nothing in the Grant Agreement will be interpreted as a waiver of the privileges and immunities set out in their constituent documents and recognized under international law.

Thus, for instance,:

- enforceable decisions under Article 299 TFEU or decisions on administrative sanctions (i.e. exclusion or financial penalties; *see Articles 22 and 34*) will normally not be directed at international organisations
- international organisations agree with the granting authority on the applicable law that should apply to the Grant Agreement (including no applicable law; *see Article 43.1*).
- dispute settlement is normally not brought before national or EU courts but referred to

the Permanent Court of Arbitration *(see Article 43.2)*.

Additional specific rules apply moreover if the international organisation is also pillar-assessed *(see Article 10.3)*.

10.3 Pillar-assessed participants

10.3 Pillar-assessed participants

[OPTION 1 for programmes without pillar-assessed entities: Not applicable *]*

[OPTION 2 for programmes with pillar-assessed entities: Pillar-assessed participants (if any) may rely on their own systems, rules and procedures, in so far as they have been positively assessed and do not call into question the decision awarding the grant or breach the principle of equal treatment of applicants or beneficiaries.

'Pillar-assessment' means a review by the European Commission on the systems, rules and procedures which participants use for managing EU grants (in particular internal control system, accounting system, external audits, financing of third parties, rules on recovery and exclusion, information on recipients and protection of personal data; see Article 154 EU Financial Regulation 2018/1046).

Participants with a positive pillar assessment may rely on their own systems, rules and procedures, in particular for:

- record-keeping (Article 20): may be done in accordance with internal standards, rules and procedures
- currency conversion for financial statements (Article 21): may be done in accordance with usual accounting practices
- guarantees (Article 23): for public law bodies, pre-financing guarantees are not needed
- certificates (Article 24):
  - certificates on the financial statements (CFS): may be provided by their regular internal or external auditors and in accordance with their internal financial regulations and procedures
  - certificates on usual accounting practices (CoMUC): are not needed if those practices are covered by an ex-ante assessment

and use the following specific rules, for:

- recoveries (Article 22): in case of financial support to third parties, there will be no recovery if the participant has done everything possible to retrieve the undue amounts from the third party receiving the support (including legal proceedings) and non-recovery is not due to an error or negligence on its part
- checks, reviews, audits and investigations by the EU (Article 25): will be conducted taking into account the rules and procedures specifically agreed between them and the framework agreement (if any)
- impact evaluation (Article 26): will be conducted in accordance with the participant's internal rules and procedures and the framework agreement (if any)
- Grant Agreement suspension (Article 31): certain costs incurred during grant suspension are eligible (notably, minimum costs necessary for a possible resumption of the action and costs relating to contracts which were entered into before the pre-information letter was received and which could not reasonably be suspended, reallocated or terminated on legal grounds)
- Grant Agreement termination (Article 32): the final grant amount and final payment will be calculated taking into account also costs relating to contracts due for execution only after termination takes effect, if the contract was entered into before the pre-information letter was received and could not reasonably be terminated on legal grounds
- liability for damages (Article 33.2): the granting authority must be compensated for damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement only if the damage is due to an infringement of the participant's internal rules and procedures or due to a violation of third parties' rights by the participant or one of its employees or individual for whom the employees are responsible.

Participants whose pillar assessment covers procurement and granting procedures may also do purchases, subcontracting and financial support to third parties (Article 6.2) in accordance with their internal rules and procedures for purchases, subcontracting and financial support.

Participants whose pillar assessment covers data protection rules may rely on their internal standards, rules and procedures for data protection (Article 15).

The participants may however not rely on provisions which would breach the principle of equal treatment of applicants or beneficiaries or call into question the decision awarding the grant, such as in particular:

- eligibility (Article 6)
- consortium roles and set-up (Articles 7-9)
- security and ethics (Articles 13, 14)
- IPR (including background and results, access rights and rights of use), communication, dissemination and visibility (Articles 16 and 17)
- specific rules for carrying out the action (Article 18)
- information obligation (Article 19)
- payment, reporting and amendments (Articles 21, 22 and 39)
- rejections, reductions, suspensions and terminations (Articles 27, 28, 29-32)

If the pillar assessment was subject to remedial measures, reliance on the internal systems, rules and procedures is subject to compliance with those remedial measures.

Participants whose assessment has not yet been updated to cover (the new rules on) data protection may rely on their internal systems, rules and procedures, provided that they ensure that personal data is:

- processed lawfully, fairly and in a transparent manner in relation to the data subject
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed and
- processed in a manner that ensures appropriate security of the personal data.

Participants must inform the coordinator without delay of any changes to the systems, rules and procedures that were part of the pillar assessment. The coordinator must immediately inform the granting authority.

Pillar-assessed participants that have also concluded a framework agreement with the EU, may moreover — under the same conditions as those above (i.e. not call into question the decision awarding the grant or breach the principle of equal treatment of applicants or beneficiaries) — rely on provisions set out in that framework agreement.]

1. Pillar-assessed entities

Pillar-assessed entities are not a separate category of participants not a separate category of participants, but simply participants *(e.g. beneficiary, affiliated entity, associated partner)* that are also 'pillar-assessed'.

⚠ Article 10.3 applies only to entities with a **positive** pillar-assessment. Entities with ongoing pillar-assessment procedures must apply the standard rules under the Grant Agreement until they fulfil the requirements to benefit from the special status provided for in Article 10.3 (i.e. having a positive pillar assessment).

⚠ The special provisions in Article 10 may apply cumulatively for entities with multiple statuses. Thus if an international organisation participates in a consortium and is also pillar-assessed, both Article 10.2 and 10.3 will apply.

The 'pillar assessment' is a special ex-ante assessment of the rules, systems and procedures used for managing funds in accordance with Article 154 of the EU Financial Regulation 2018/1046. It provides the granting authority with assurance that the entity can offer a similar level of protection of the budget as the Commission when it manages EU funds.

Since the pillar assessment ensures that the granting authority can rely on the systems, rules and procedures of such entities, they can rely on those systems, rules and procedures also for the grant, provided that:

- the systems, rules and procedures used have actually been positively assessed

  Example: *An entity has been pillar-assessed but the auditors had material findings regarding the internal audit capacity leading to a negative internal control pillar result. In this case, the granting authority cannot rely on the entity's own rules in this respect and the entity cannot use its own internal auditors to draw up the CFS for the activities under the Grant Agreement.*

- the application of own systems, rules and procedures does not call into question the decision awarding the grant and does not lead to a breach of the principle of equal treatment.

Thus, if pillar-assessed entities apply in a call for proposals they must comply with all the call conditions *(IPR protection, security, ethics, etc)* and the provisions of the Grant Agreement *(rules on electronic management and communication, reporting and monitoring, payment arrangements, etc)*, even if these might not be in line with their internal practice (pillar-assessed or not). The rules of the pillar-assessed entity can therefore only be used, if they do not contradict the conditions set out in the call or the Grant Agreement.

Examples:

1. Financial support to third parties (FSTP): *A beneficiary has been positively assessed for the grants pillar. Normally, it could therefore rely on its own rules and procedures when giving FSTP in the form of grants. However, if the call conditions stipulate specific criteria for the provision of FSTP (e.g. because these are necessary to achieve the objectives of the call) then the pillar-assessed entity has to follow the criteria provided for in the call, irrespective of its own positively-assessed practices. The application of other rules would call into question the award decision since the FSTP would not comply with the conditions of the call.*

2. Subcontracting: *A beneficiary has been positively assessed for the procurement pillar. Normally, it could therefore rely on its own rules and procedures for e.g. subcontracting. However, if the call conditions stipulate specific security provisions for subcontracting to protect the EU security interests (e.g. the exclusion of contractors not established in EU Member States) then the pillar-assessed entity has to follow the criteria provided for in the call irrespective of its own positively-assessed practices, its own membership etc. The application of other rules would put the EU security interests at risk and would thus call into question the award decision.*

If the pillar assessment resulted in findings that require remedial measures (i.e. 'supervisory measures' in the meaning of Article 154(3) EU Financial Regulation 2018/1046) for certain pillars, the pillar-assessed entity must apply these remedial measures, *mutatis mutandis*, also for the grant (if it would like to rely on its own systems, rules and procedures).

Example: *A pillar-assessed entity is a beneficiary in a Grant Agreement that requires the provision of financial support to third parties (FSTP) in the form of grants and the subsequent publication of recipient information. The entity has been positively assessed in the grants pillar; however, the auditors had findings in the publication pillar. If the Commission therefore imposes supervisory measures requiring the pillar-assessed entity to publish regularly all grant recipients that profit from EU funds on the entity's website, the pillar-assessed entity will have to follow this measure*

also for the financial support to third parties given under the Grant Agreement, if it intends to rely on its own systems, rules and procedures.

The granting authority must be immediately informed of any change to the systems, rules and procedures. If the pillar-assessed entity relies on systems, rules and procedures that have not been positively assessed, the costs and contributions may be rejected and the grant reduced.

⚠ The application of remedial/supervisory measures for failed pillars should **not lead to** a situation where the pillar-assessed entity is subject to **stricter rules** than other participants, i.e. obligations that go beyond the requirements set out in the Grant Agreement. In this case the pillar-assessed entity can choose to apply the grant rules instead of the agreed remedial/supervisory measures.

Specific rules apply in particular with respect to cases of recovery, liability, suspension and termination owing to the specific nature of pillar-assessed entities (usually public law bodies, international organisations etc.) and their frame of cooperation with the granting authority.

List of specific rules for pillar-assessed entities:

- **Recovery:** If a pillar-assessed entity provides financial support to third parties (FSTP) and eventually it turns out *(e.g. following a check by the pillar-assessed entity)* that the recipients have received undue amounts, the pillar-assessed entity should try to recover the undue amounts from the recipients and can do so, following its own positively assessed rules and procedures. These amounts would normally be considered as ineligible costs under the Grant Agreement. However, if despite best efforts by the pillar-assessed entity the undue amounts cannot be recovered from the recipients, the granting authority will also not recover the corresponding amount from the pillar-assessed entity (unless the non-recovery is due to error or negligence on part of the pillar-assessed entity).

- **Liability:** Normally, participants have to compensate the granting authority for damages they caused in connection to the implementation of action *(see Article 33.2)*. However, pillar-assessed entities will not have to compensate the granting authority for such damages if the pillar-assessed entity was in compliance with its own positively-assessed rules and procedures and did not violate the rights of any third parties.

- **Suspension:** Normally, if the Grant Agreement is suspended, cost incurred during the suspension period will not be eligible. However, for pillar assessed entities costs may be eligible even during grant suspension to ensure the resumption of the action after the suspension and to serve payments under legal commitments such as purchase and subcontracts which were concluded by the pillar-assessed entity for the implementation of the action before the pillar-assessed entity was informed of a possible suspension, provided the payment obligations under these commitments can themselves not be temporarily stopped *(e.g. suspended for the period of the Grant Agreement suspension)*.

- **Termination:** Similarly, in case of Grant Agreement termination, pillar-assessed entities may be reimbursed for (unavoidable) cost for legal commitments such as purchase- and subcontracts which were concluded by the pillar-assessed entity for the implementation of the action before information on a possible termination was received, even if execution of the contracts would only take place after the payment of the balance. As in the case of suspension, the pillar-assessed entity has to take all reasonable effort to reduce such cost *e.g. by terminating the contracts at the earliest opportunity*.

If there is an applicable framework agreement within the meaning of Article 130 EU Financial Regulation 2018/1046 (i.e. Financial Framework Partnership Agreement (FFPA)) concluded between the European Commission and the pillar-assessed entity, the grant-relevant provisions in the financial framework partnership agreement may be applied, provided they

do not fall under the list of provisions that would breach the principle of equal treatment or call into question the decision awarding the grant , *e.g. regarding audits*.

⚠ **Record-keeping —** If a pillar-assessed entity relies on its own positively-assessed rules for record-keeping, it must still ensure that these record-keeping rules are in line with obligations under the Grant Agreement, e*.g. record-keeping must be done in a way that allows checks, reviews and audits (under the rules of a financial framework partnership agreement, if applicable) and follow the rules for recording of time worked on the action for the calculation of personnel costs*.

SECTION 2 RULES FOR CARRYING OUT THE ACTION

ARTICLE 11 — PROPER IMPLEMENTATION OF THE ACTION

ARTICLE 11 — PROPER IMPLEMENTATION OF THE ACTION

11.1 Obligation to properly implement the action

The beneficiaries must implement the action as described in Annex 1 and in compliance with the provisions of the Agreement, the call conditions and all legal obligations under applicable EU, international and national law.

11.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Proper implementation of the action

The action must be properly implemented, i.e. implemented in accordance with the beneficiaries' obligations. These obligations include the obligations stemming explicitly from the Grant Agreement but also include any other rules applicable to the activities of the project. The obligations to properly implement the action requires:

- that the action (i.e. the work) must be carried out as described in the description of the action (DoA; Annex 1 of the Grant Agreement)
- compliance with the provisions of the Agreement (other than those set out in the DoA; Annex 1 of the Grant Agreement)
- compliance with the call conditions as set out in all the documents accompanying the call for proposals

AND

- compliance with all the applicable provisions of EU, international and national law.

⚠ The requirement to properly implement the action is a **general obligation** to implement the grant in good faith in compliance with any applicable rules (whether specifically listed in the Grant Agreement or not) at any step of implementation. It is the beneficiaries' responsibility to be aware of this and apply it to their project.

The work must be done properly (good quality) and on time. Participants must prevent delays (or reduce them as much as possible). In addition, important delays should be immediately signalled to the granting authority *(see Article 19)*.

When implementing the action as set out in the description of the action (DoA; Annex 1 of the Grant Agreement), all work on the project must comply with the obligations set out in other parts of the Grant Agreement, in particular the rules for carrying out the action *(e.g. data protection, confidentiality; see also Annex 5)*.

> ***Example:*** *As part of the activities set out in your description of the action, you are subcontracting the conduct of a survey. Even though you have to ensure the proper technical conduct of the survey as described in the action and ensure submission of the deliverable within*

the time limits of the action under the terms of the grant, you also have to comply with the rules on subcontracting, any applicable data protection rules etc. Otherwise, the granting authority may reject cost or reduce your grant even if you provided your deliverable in good quality and on time.

This means in practice that full compliance with all obligations at all time is expected.

Apart from obligations explicitly specified in the Grant Agreement and its Annexes, the beneficiaries must also comply with the call conditions *(e.g. conditions on geographic eligibility, eligible participants, financial support to third parties (FSTP), specific cost eligibility rules, etc)*. These conditions must be fulfilled throughout the implementation of the project.

Example: *The call conditions provide that entities subject to EU restrictive measures (also called 'sanctions') cannot participate in the grant in any capacity, including as associated partners or subcontractors.*

The granting authorities cannot know in advance and therefore cannot specify all possible obligations that a beneficiary may have in connection with the activities under the Grant Agreement. Accordingly the Grant Agreement includes the general obligations to comply with all the applicable provisions of EU, international and national law *(including general principles, such as fundamental rights, values and ethical principles)*.

If activities take place in several countries, the participants must comply with the national law of the country in which they are established AND that of the country (or countries) where the action is implemented.

Example: *Each beneficiary must comply in particular with the labour law applicable to the personnel working on the action and must fulfil the tax and social obligations related to the activities it carries out under the applicable national law. If a part of the activities is done in another country, the applicable rules must be respected.*

This obligation also requires compliance with other legal acts and other binding or non-binding rules and guidance in the area concerned (*see definition of 'Applicable EU, international and national law' in Article 2*). This includes applicable professional code of conducts, sectoral guidance, but also covers relevant legal acts such as work programmes adopted by the granting authority or guidance provided by the granting authority.

Example: *Activities in the course of the project may require the involvement of certain professions whose work is governed by sector- or profession-specific guidelines or codes of conducts, e.g. in healthcare. The proper implementation of the action would normally oblige the beneficiary to comply with all such guidelines or codes of conduct in concerned areas of work (unless the description of the action explicitly requires otherwise, e.g. to test innovative new methods, within the boundaries of binding rules).*

It also includes compliance with relevant legal acts such as the conditions set out in work programmes adopted by the granting authority and applicable to the action, or any guidance provided by the granting authority.

Specific cases (proper implementation):

Conflicts between applicable rules — The beneficiaries remain fully responsible to plan and implement their action in a way that ensures the exercise of the rights by the granting authority/other EU bodies, including for checks, reviews, audits and investigations. If conflicts with applicable *(e.g. national/third country)* rules prevent the exercise of these rights *(e.g. access to records or results)* the granting authority may reject costs, reduce the grant or terminate the participation of the beneficiary (or the Grant Agreement).

Conflicts with security rules — Be aware that national/third country security requirements *(national/third country security classification, national export restrictions, etc)* may affect the project implementation (and even put it at risk). It is the beneficiaries' responsibility to avoid this and to keep your project free of such restrictions, either by adapting the action or by obtaining all necessary authorisations to be able to comply with your obligations under the Grant Agreement *(see also specific case above)*. Any potential security issues should immediately be notified to the granting authority.

Example: *According to national rules a personnel security clearance (PSC) may be required for accessing information even below CONFIDENTIEL UE/EU CONFIDENTIAL level. If this prevents the granting authority, ECA, OLAF or EPPO from exercising their rights, the reference to conflicting national rules will not release the beneficiary from contractual obligations and the granting authority will take the necessary measures (e.g. rejection of cost due to lack of supporting documents).*

ARTICLE 12 — CONFLICT OF INTERESTS

ARTICLE 12 — CONFLICT OF INTERESTS

12.1 Conflict of interests

The beneficiaries must take all measures to prevent any situation where the impartial and objective implementation of the Agreement could be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect interest ('conflict of interests').

They must formally notify the granting authority without delay of any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

The granting authority may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

12.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28) and the grant or the beneficiary may be terminated (see Article 32).

Such breaches may also lead to other measures described in Chapter 5.

1. Conflict of interests

The beneficiaries must ensure that the action is implemented impartially and objectively, as described in the Grant Agreement. They must do their best to take all measures to avoid conflicts of interest. Persons working on the action should in particular:

- refrain from taking any action which may bring them into a situation of conflict of interests
- take appropriate measures to prevent conflicts of interest from arising in the tasks under their responsibility
- take appropriate measures to address any situations which may objectively be perceived as a conflict of interests

AND

- report any conflict of interests, or situations that could be perceived as a conflict of interests.

Best Practice: It is recommended that the beneficiaries have a system in place that allows (at least) persons working on the action to declare conflicts of interests and clear rules how to address such situations. Awareness-raising activities should be carried out regularly.

'Conflicts of interests' can negatively affect the action and may lead to a rejection of cost or grant reduction, in particular if a conflict of interests affects the action's implementation in terms of:

- quality, *e.g. if a conflict of interest leads to persons/contractors not best qualified for the work*

OR

- cost, *e.g. if a conflict of interest leads to award of (sub)contract's or purchases not offering best value for money or lowest price*.

Conflicts of interests must be avoided irrespective of whether they actually affect quality or cost, or whether the persons involved actually gain any benefit (or not).

Conflicts may be resulting from direct or indirect interests in relation to:

- **family or emotional ties,** while often connected, avoidance of conflict of interests due to 'family' or 'emotional life' are separate obligations. An emotional bond between family members is therefore not required for a person's impartiality to be compromised by reasons involving family, e.*g. subcontracts with business owned by family members, even if no close emotional ties exist*

  Examples:

  Direct interest: *A person works for a beneficiary who plans to subcontract a task. A company owned by the person's spouse may submit an offer. In this case the person working for the beneficiary could have a direct interest in awarding the spouse's company (and therefore would need to declare a conflict of interest and abstain from being involved in the preparation and award of the subcontract).*

  Indirect interest: *A person works for a beneficiary who plans to subcontract a task. A company may submit an offer. The person's spouse my work for a usual supplier of that company, or my own facilities or land that would be used by that company in case it implements the subcontract. In this case the person working for the beneficiary could have an indirect interest in awarding the company (and therefore would need to declare a conflict of interest and abstain from being involved in the preparation and award of the subcontract).*

- **political or national affinity,** this concerns situations where beneficiaries or third parties may be chosen, or activities carried out, based on political or national considerations (although a mere link with beliefs, views, opinions or preferences of the person does not automatically constitute a personal interest)

  Example: *The CEO of a beneficiaries selects a contractor, or a site for a demonstration, not based on objective and verifiable criteria on the merits, but instead selects a compatriot as contractor or a demonstration site due to the political party membership of the local mayor*.

- **economic interests** which include, but are not limited to, direct financial benefits

  Examples:

  1. *A beneficiary or a person working for a beneficiary subcontracts work to another legal entity because it is a shareholder in this other legal entity.*

  2. *A professor working for a beneficiary (a university) subcontracts work to a consultancy firm in which the professor is a partner.*

  3. *A beneficiary agrees to award a subcontract to a company in exchange for preferential treatment in that company's own future contracting.*

  4. *A person working for a beneficiary receives an offer for a subcontract from a company for which the person has applied for a position.*

- **other direct and indirect interests**, which can include reception of gifts or hospitality, non-economic interests, or result from involvement with e.g. non-governmental organisations (even if non-remunerated), resulting in competing duties of loyalty between one entity the person owes a duty to and another person or entity the person owes a duty.

  Examples:

  1. *To discuss its proposed offer, a potential subcontractor has invited staff of the beneficiary to its premises, including hotel accommodation, dinner and gifts.*

  2. *A person involved in subcontracting of a beneficiary is also holding an office in a local NGO. The President of the NGO owns a company that may become the subcontractor.*

If there is a (risk of) a conflict of interests, the coordinator must inform the granting authority so that steps can be agreed to resolve the situation and avoid cost rejection or reduction of the grant.

This may result in the requirement by the granting authority to put in place certain measures, in particular for persons with a perceivable risk of conflict of interest to withdraw from any decision-making that could affect their direct or indirect interest.

ARTICLE 13 — CONFIDENTIALITY AND SECURITY

ARTICLE 13 — CONFIDENTIALITY AND SECURITY

13.1 Sensitive information

The parties must keep confidential any data, documents or other material (in any form) that is identified as sensitive in writing ('sensitive information') — during the implementation of the action and for at least until the time-limit set out in the Data Sheet (see Point 6).

If a beneficiary requests, the granting authority may agree to keep such information confidential for a longer period.

Unless otherwise agreed between the parties, they may use sensitive information only to implement the Agreement.

The beneficiaries may disclose sensitive information to their personnel or other participants involved in the action only if they:

(a) need to know it in order to implement the Agreement and

(b) are bound by an obligation of confidentiality.

The granting authority may disclose sensitive information to its staff and to other EU institutions and bodies.

It may moreover disclose sensitive information to third parties, if:

(a) this is necessary to implement the Agreement or safeguard the EU financial interests and

(b) the recipients of the information are bound by an obligation of confidentiality.

The confidentiality obligations no longer apply if:

(a) the disclosing party agrees to release the other party

(b) the information becomes publicly available, without breaching any confidentiality obligation

(c) the disclosure of the sensitive information is required by EU, international or national law.

Specific confidentiality rules (if any) are set out in Annex 5.

13.2 Classified information

The parties must handle classified information in accordance with the applicable EU, international or national law on classified information (in particular, Decision 2015/444 and its implementing rules).

Deliverables which contain classified information must be submitted according to special procedures agreed with the granting authority.

Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the granting authority.

Classified information may not be disclosed to any third party (including participants involved in the action implementation) without prior explicit written approval from the granting authority.

Specific security rules (if any) are set out in Annex 5.

13.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Sensitive information — Confidentiality

If the project involves, uses or generates information that should not be made public *(e.g. commercially sensitive information, business or trade secrets, confidential market data, valuable results not yet protected by intellectual property rights, security-sensitive information, etc)*, it should be identified and handled as 'sensitive' in accordance with the provisions in Article 13.1 (and Annex 5, if the Grant Agreement sets out specific rules for the programme, *e.g. HE*).

⚠ For actions raising specific concerns, such as security or public order *(e.g. involving strategic assets)*, beneficiaries may have to comply with additional obligations before and after the grant award. For example, in some programmes *(e.g. HE, DEP, EDF, CEF),* actions linked to security concerns may have to undergo a security review before selection and may be made subject to specific security recommendations in Annex 1.

Sensitive information (former 'confidential'; new for 2021-2027) must be kept confidential — during the action and for at least five years afterwards *(see Data Sheet, Point 6)* — meaning that they may be disclosed only within the strict limits of what is allowed under Article 13, in particular to implement the Grant Agreement or protect the EU financial interests.

The confidentiality obligation is a minimum obligation: Beneficiaries may extend the period and agree to additional confidentiality-related obligations among themselves *(for example, for access for other participants)*. Moreover, they may ask the granting authority to extend the period. This request must explain why and clearly identify the sensitive information concerned.

Best practice: In order to avoid issues, it is recommended that beneficiaries inform each other and the granting authority in case they know about laws that would require disclosing sensitive information. This can allow to work together to minimise any negative effects.

2. EU-classified information

If the project uses or generates information that is (or must be) classified, additional rules and procedures will apply in line with Article 13.2 (and Annex 5, if the Grant Agreement sets out specific rules for the programme).

These are in particular:

- security rules for protecting EU classified information set out in Decision No 2015/444[20] and its implementing rules on classified grants[21] and programme security instruction (PSI), if any *(e.g. HE, DEP, EDF,)* and
- national rules on the protection of classified information.

[20] Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p.53).

[21] Commission Decision (EU, Euratom) 2021/259 of 10 February 2021 laying down implementing rules on industrial security with regard to classified grants (OJ L 58, 19.2.2021, p. 55).

⚠ Security of information agreements concluded by the EU with third countries or international organisations may also be indirectly relevant in certain ways (for instance, may be a pre-condition for awarding (or not) the grant by the granting authority), but they do not impose any direct obligations for on the consortium (do not directly apply to them).

Projects expected to involve EU classified information (EUCI) will have to undergo a security review procedure before selection, to set EU classification levels and other security recommendations *(e.g. HE, DEP, EDF, CEF)*.

> ***Example:*** *Some of the information produced by a project could potentially be used to plan terrorist attacks or avoid detection of criminal activities.*

3. Specific rules in Annex 5

Depending on the programme, additional rules may be set out in Annex 5 *(e.g. HE, DEP, EDF CEF, EMFAF, AMIF/ISF/BMVI, UCPM, EDF)*.

ARTICLE 14 — ETHICS AND VALUES

ARTICLE 14 — ETHICS AND VALUES

14.1 Ethics

The action must be carried out in line with the highest ethical standards and the applicable EU, international and national law on ethical principles.

Specific ethics rules (if any) are set out in Annex 5.

14.2 Values

The beneficiaries must 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).

Specific rules on values (if any) are set out in Annex 5.

14.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Ethics

The action must ensure ethics compliance, this obligation is twofold:

- the action is in line with the highest ethical standards and
- the action ensures compliance with applicable international, EU and national law.

Main ethical principles:

- Respecting human dignity and integrity
- Ensuring honesty and transparency and notably getting free and informed consent (as well as assent whenever relevant)
- Protecting vulnerable persons
- Ensuring privacy and confidentiality
- Promoting justice and inclusiveness
- Minimising harm and maximising benefit
- Sharing the benefits with disadvantaged populations, especially in developing countries
- Maximising animal welfare, in particular by ensuring replacement, reduction and refinement in animal research
- Respecting and protecting the environment and present/future generations

The key sources of EU and international law are the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR) and its Protocols (for other texts). Another important source is the UN Convention on the Rights of Persons with Disabilities (UN CRPD).

Activities exposed to ethics risks usually run an ethics review as part of their grant selection procedures *(HE, DEP and EDF)*. Other programmes may perform manual checks.

For more guidance, see How to complete your ethics self-assessment (can be used for all programmes and especially for *HE, DEP and EDF*).

2. Values

All EU policies and programmes must respect the values on which the EU is founded and which are set out in Article 2 of the Treaty on European Union. Furthermore, the EU institutions, bodies, offices and agencies as well as the Member States, when implementing EU law, must respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.

Based on Article 14.2 of the MGA, during the implementation of the action, the beneficiaries must commit to and ensure the respect of EU values.

EU values:

- respect for human dignity
- freedom
- democracy
- equality, including equality between women and men, non-discrimination
- rule of law
- respect for human rights, including rights of persons belonging to minorities
- pluralism, tolerance, justice, solidarity.

Accordingly, there can be no discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation during the implementation of the action or work programme.

3. Breaches of ethics or EU values

Breaches of ethics or EU values under this Article may lead to grant reductions *(see Article 28)* or other measures described in Chapter 5, such as rejection of costs or contributions, payment deadline suspension, payment suspension, GA suspension, beneficiary or GA termination, damages and administrative sanctions (i.e. exclusion from EU award procedures and/or financial penalties).

Be aware that these measures may be taken not only when the beneficiary itself breached the EU values, also when other persons and entities, such as its affiliated entities, associated partners, subcontractors, recipients of financial support to third parties (FSTP) *(see Articles 8, 9.1, 9.3 and 9.4)* OR persons having powers of representation, decision-making or control, or persons essential for the award/implementation of the grant breach them *(see Article 32)*.

Example: *Termination of a beneficiary because a person having powers of representation for the beneficiary makes a public statement which discriminates against religion or belief.*

4. Specific rules in Annex 5

Depending on the programme, additional rules may be set out in Annex 5 *(e.g. HE, DEP, EDF EMFAF, AMIF/ISF/BMVI, EDF, EU4H, Euratom)*.

ARTICLE 15 — DATA PROTECTION

15.1 Data processing by the granting authority

ARTICLE 15 — DATA PROTECTION

15.1 Data processing by the granting authority

Any personal data under the Agreement will be processed under the responsibility of the data controller of the granting authority in accordance with and for the purposes set out in the Portal Privacy Statement.

For grants where the granting authority is the European Commission, an EU regulatory or executive agency, joint undertaking or other EU body, the processing will be subject to Regulation 2018/1725[38].

[38] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L **295, 21.11.2018, p. 39).**

1. Processing of personal data (by the EU)

The granting authority will process personal data in compliance with Regulation 2018/1725[22] and as set out in the Funding & Tenders Portal Privacy Statement .

Personal data will be processed only for the purpose of implementing, managing and monitoring the grant implementation/compliance with the provisions under the Grant Agreement or protecting EU financial interests (including controls on eligibility of costs, proper implementation of the action and compliance with other obligations).

⚠ When the granting authority collects and processes personal data under the Grant Agreement, national data protection law is NOT applicable and will NOT be accepted as a justification for not complying with obligations under the Grant Agreement.

The level of detail of the data requested will depend on the process and situation and will be limited to what is necessary (data minimisation).

The processing of personal data under the Grant Agreement (manual or electronic) is notified (by the data controller) to the Data Protection Officer (DPO) of the European Commission. In addition, for processing that implies specific risks to the rights and freedoms of the data subjects *(e.g. processing of data relating to health)*, the European Data Protection Supervisor (EDPS) will be consulted.

The notifications are available via the Register of the DPO[23] (and describe the processing operations, legal basis, security safeguards, retention period, possible data transfer, etc.).

[22] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295, 21.11.2018, p. 39).

[23] Available at http://ec.europa.eu/dpo-register/search.htm.

2. Right to access and correct personal data

Persons whose data is being processed (data subjects) can contact the data controller or the DPO (via the contact information in the Privacy Statement), to:

- correct errors in the data, block access or delete their data
- complain about the data collection and use, and claim compensation for any damage.

3. Complaints to the EDPS

Persons whose data is being processed (data subjects) can also lodge a complaint with the European Data Protection Supervisor (EDPS) (i.e. the independent supervisory authority for data processing by EU institutions).

Best practice: Please contact first contact the data controller *(see above)* to clarify concerns or solve problems regarding your data.

15.2 Data processing by the beneficiaries

15.2 Data processing by the beneficiaries

The beneficiaries must process personal data under the Agreement in compliance with the applicable EU, international and national law on data protection (in particular, Regulation 2016/679[39]).

They must ensure that personal data is:

- processed lawfully, fairly and in a transparent manner in relation to the data subjects
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed and
- processed in a manner that ensures appropriate security of the data.

The beneficiaries may grant their personnel access to personal data only if it is strictly necessary for implementing, managing and monitoring the Agreement. The beneficiaries must ensure that the personnel is under a confidentiality obligation.

The beneficiaries must inform the persons whose data are transferred to the granting authority and provide them with the Portal Privacy Statement.

15.3 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

[39] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ('GDPR') (OJ L 119, 4.5.2016, p. 1).

1. Processing of personal data (by the Consortium)

During the implementation of the action, the beneficiaries will collect and process personal data, *e.g. of their own staff, staff of other participants, and may also share such data with the granting authority*. In all such instances, the personal data must be processed in line with the provisions under the Grant Agreement, in particular in compliance with applicable EU and national law on data protection (in particular, with the General Data Protection Regulation 2016/679[24] (GDPR)).

[24] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

⚠ The data protection obligations *(e.g. to ensure that personal data is processed lawfully, fairly and in a* transparent *manner)* are a contractual obligation under the Grant Agreement and apply to all beneficiaries, irrespective of whether the GDPR is directly applicable to them or whether applicable national law provides for such requirements (or not).

According to those rules, personal data must be processed according to certain principles and conditions.

Easy to understand guidance on principles and compliance with data protection is for example provided by the European Data Protection Board in the EDPB data protection guide for small business.

'Personal data' means any information, private or professional, which relates to an identified or identifiable natural person (for the full definition, *see Article 4(1) GDPR*).

- name, surname, phone numbers (e.g. staff)
- identification numbers, such as an individual's client number, an individual's employee number
- a booking reference
- email addresses, location data
- photos, videos and audio recordings containing images or sounds of individuals.

Processing of **special categories** of data is in principle prohibited, except in the specific circumstances set out in Article 9(2) GDPR.

Data that reveals information about health, sex life or sexual orientation, racial or ethnic origin political opinions, religious or philosophical beliefs, biometric and genetic data or trade union membership (so-called 'sensitive data') is subject to specific rules for the processing, in order to protect it more.

'Processing' means any operation (or set of operations) which is performed on personal data, either manually or by automatic means. This includes:

- – collection
- – recording
- – organisation
- - structuring
- - storage
- - adaptation or alteration
- – retrieval and consultation
- – use
- – disclosure by transmission, dissemination or otherwise making available
- – alignment or combination
- – restriction, erasure or destruction.

Examples (processing of personal data): *creating a mailing list or a list of participants; managing a database; accounting records on personnel costs; time-sheets; project planning with names*

Personal data must be processed according to certain principles and conditions that aim to ensure both data quality and confidentiality[25].

The beneficiaries must give their staff access to personal data on a need to know basis, for carrying out their tasks/functions under the Grant Agreement. This means that the beneficiaries must put in place adequate access controls and retention policies for the various categories of data they hold.

The beneficiaries must inform persons (including their staff whose personal data are collected and processed) about the disclosure of their data to the granting authority by providing them with the Privacy Statement.

Examples:

1. *Before encoding staff data in the Participant Register or into a proposal, the beneficiary must provide the staff concerned with the privacy statement.*

2. *If in an ex-post audit, the Granting Authority requests the names, CVs, time-sheets and salaries of the beneficiary's staff (to check the eligibility of personnel costs), the beneficiary must inform the staff concerned and provide them with the privacy statement.*

The beneficiaries must ensure for all their data collection and processing a valid legal basis *(see EDPB data protection guide for small business > Process personal data lawfully)*. Special attention is required were personal data is transferred to third countries *(see EDPB data protection guide for small business > International data transfers)*.

Specific cases (Data protection):

International Organisations — The application of the General Data Protection Regulation (GDPR) is without prejudice to the provisions of international law, such as the ones governing the privileges and immunities of international organisations *(see Articles 10.2)*. The international organisations are subject to their own data protection internal rules / regulatory frameworks. At the same time, any controller or processor that falls within the scope of the GDPR for a given processing activity, and that exchanges personal data with international organisations, has to comply with the GDPR rules on transfers to international organisations. Agreements can build on elements already existing in the data protection internal rules / regulatory framework of the international organisation.

Pillar-assessed participants — Entities that are pillar-assessed may rely on their own positively assessed systems, rules and procedures for data protection *(see Articles 10.3).*

[25] *See Articles 5–11 GDPR Regulation 2016/679.*

ARTICLE 16 — INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE

ARTICLE 16 — INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS —ACCESS RIGHTS AND RIGHTS OF USE

16.1 Background and access rights to background

The beneficiaries must give each other and the other participants access to the background identified as needed for implementing the action, subject to any specific rules in Annex 5.

'Background' means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that is:

(a) held by the beneficiaries before they acceded to the Agreement and

(b) needed to implement the action or exploit the results.

If background is subject to rights of a third party, the beneficiary concerned must ensure that it is able to comply with its obligations under the Agreement.

16.2 Ownership of results

The granting authority does not obtain ownership of the results produced under the action.

'Results' means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.

16.3 Rights of use of the granting authority on materials, documents and information received for policy, information, communication, dissemination and publicity purposes

The granting authority has the right to use non-sensitive information relating to the action and materials and documents received from the beneficiaries (notably summaries for publication, deliverables, as well as any other material, such as pictures or audio-visual material, in paper or electronic form) for policy information, communication, dissemination and publicity purposes — during the action or afterwards.

The right to use the beneficiaries' materials, documents and information is granted in the form of a royalty-free, non-exclusive and irrevocable licence, which includes the following rights:

(a) **use for its own purposes** (in particular, making them available to persons working for the granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services)

(b) **distribution to the public** (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes)

(c) **editing or redrafting** (including shortening, summarising, inserting other elements (e.g. meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation)

(d) **translation**

(e) **storage** in paper, electronic or other form

(f) **archiving**, in line with applicable document-management rules

(g) the right to authorise **third parties** to act on its behalf or sub-license to third parties the modes of use set out in Points (b), (c), (d) and (f), if needed for the information, communication and publicity activity of the granting authority and

(h) **processing**, analysing, aggregating the materials, documents and information received and **producing derivative works**.

The rights of use are granted for the whole duration of the industrial or intellectual property rights concerned.

If materials or documents are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the beneficiaries must ensure that they comply with their obligations under this Agreement (in particular, by obtaining the necessary licences and authorisations from the rights holders concerned).

Where applicable, the granting authority will insert the following information:

"© – [year] – [name of the copyright owner]. All rights reserved. Licensed to the [name of granting authority] under conditions."

16.4 Specific rules on IPR, results and background

Specific rules regarding intellectual property rights, results and background (if any) are set out in Annex 5.

16.5 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such a breach may also lead to other measures described in Chapter 5.

1. Background and access rights to background

In order to ensure a successful project, the participants must give each other mutual access to background that is necessary for the project implementation (and thus get an overview of the relevant background and identify if it is needed for the action).

⚠ Specific (or **different**) **conditions** and additional rules on access to background are provided **for some programmes** in Annex 5 *(e.g. HE, RFCS, DEP, EDF)*.

'Background' means any tangible or intangible input — from data to know-how, information or rights — that exists *before* the grant is signed and that is needed to implement the action or to exploit its results *(e.g. database rights, patents, prototypes, cell lines, etc)*.

Background is not limited to input owned, but potentially extends to anything the beneficiaries lawfully hold *(e.g. through a licence with the right to sub-licence)*. If a beneficiary is a legal person, it also extends to input held by other parts of the beneficiary's organisation.

For registered intellectual property rights ('Intellectual property' being understood in the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organisation[26]), it suffices that the application was filed before the grant is signed.

[26] Convention establishing the World Intellectual Property Organisation, signed in Stockholm on 14 July 1967. Available at http://www.wipo.int/treaties/en/convention/trtdocs_wo029.html.

If access to background is subject to restrictions due to the **rights of third parties**, the beneficiary should inform the other beneficiaries — before signing the grant — to ensure that the beneficiaries are still able to comply with their grant obligations.

> ***Example:*** *A beneficiary holding background is by a pre-existing agreement (e.g. licence agreement) restricted in the access it can grant to such background. The beneficiaries may agree to exclude the background. Such an exclusion may be temporary (e.g. to permit the adequate protection of the background before providing access) or limited (e.g. to exclude only one or more specific beneficiaries). But since background is by definition considered to be needed for the implementation or exploitation, the impact of such an exclusion on the (especially if not temporary) should be carefully examined by the beneficiaries.*

Best practice: Although not obligatory, beneficiaries are advised to agree in writing on background before the grant is signed, to ensure that they have access rights to what is needed for implementing the action, including exploiting its results. The agreement may take any form *(e.g. positive list, negative list)*. It may be a separate agreement or may be part of the consortium agreement. If after grant signature beneficiaries come to hold useful inputs relevant to implement the action, they should endeavour to come to an agreement how such inputs can be used in the action.

2. Ownership of results

Results belong to the beneficiary(ies) that generated them. The granting authority does not obtain ownership of the results produced under the action.

'Results' include the action's tangible effects *(e.g. data, prototypes, microorganisms),* intangible effects *(e.g. know-how, formulas)*, as well as any attached rights (*e.g. patent rights and database rights)*. Results do not include the effects generated/produced by activities outside of the project — be it before the action starts, during its course or after it ends.

Best practice: To avoid or resolve ownership disputes, beneficiaries should keep documents such as laboratory notebooks to show how and when they produced the results.

3. Rights of use of the granting authority for communication, dissemination and publicity purposes

The granting authority may use (free of charge) any non-sensitive information relating to the action and materials and documents received from the beneficiaries for policy, information, communication, dissemination and publicity purposes — during the action or afterwards.

> ***Examples (materials):*** *Summaries for publication (submitted as part of the reports), public deliverables and any other material provided by beneficiaries, such as pictures or audio-visual material.*
>
> ***Examples (communication activities):*** *Using a picture or the publishable summary included in the final report submitted by the action to write a story about successful actions for a Commission publication, or for speeches, etc.*
>
> ***Examples (publicising activities):*** *Providing on a granting authority website information about the action such as its name, a project summary, the participating partners, the EU funding, etc.*

The right to use the beneficiaries' materials, documents and information is granted in the form of a royalty-free, non-exclusive and irrevocable licence, for the whole duration of the industrial or intellectual property rights concerned

Beneficiaries may ask the granting authority to include a copyright notice *(e.g. by including such a notice in the material)*.

The beneficiaries must ensure that granting authority the can use the documents or materials by making arrangements with any third parties that could claim rights to them.

If the granting authority needs to edit or redraft the material, it will be careful not to distort any content.

4. Specific rules in Annex 5

Depending on the programme, additional (or different) rules may be set out in Annex 5 *(all programmes)*.

ARTICLE 17 — COMMUNICATION, DISSEMINATION AND VISIBILITY

ARTICLE 17 — COMMUNICATION, DISSEMINATION AND VISIBILITY

17.1 Communication — Dissemination — Promoting the action

Unless otherwise agreed with the granting authority, the beneficiaries must promote the action and its results by providing targeted information to multiple audiences (including the media and the public), in accordance with Annex 1 and in a strategic, coherent and effective manner.

Before engaging in a communication or dissemination activity expected to have a major media impact, the beneficiaries must inform the granting authority.

17.2 Visibility — European flag and funding statement

Unless otherwise agreed with the granting authority, communication activities of the beneficiaries related to the action (including media relations, conferences, seminars, information material, such as brochures, leaflets, posters, presentations, etc., in electronic form, via traditional or social media, etc.), dissemination activities and any infrastructure, equipment, vehicles, supplies or major result funded by the grant must acknowledge the EU support and display the European flag (emblem) and funding statement (translated into local languages, where appropriate):

The emblem must remain distinct and separate and cannot be modified by adding other visual marks, brands or text.

Apart from the emblem, no other visual identity or logo may be used to highlight the EU support.

When displayed in association with other logos (e.g. of beneficiaries or sponsors), the emblem must be displayed at least as prominently and visibly as the other logos.

For the purposes of their obligations under this Article, the beneficiaries may use the emblem without first obtaining approval from the granting authority. This does not, however, give them the right to exclusive use. Moreover, they may not appropriate the emblem or any similar trademark or logo, either by registration or by any other means.

17.3 Quality of information — Disclaimer

Any communication or dissemination activity related to the action must use factually accurate information.

Moreover, it must indicate the following disclaimer (translated into local languages where appropriate):

> "Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or [name of the granting authority]. Neither the European Union nor the granting authority can be held responsible for them."

17.4 Specific communication, dissemination and visibility rules

Specific communication, dissemination and visibility rules (if any) are set out in Annex 5.

17.5 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Communication, dissemination and promoting the action

Unless otherwise agreed with the granting authority, the beneficiaries must **promote** the action through communication and dissemination activities, by providing targeted information to multiple audiences *(including the media and the public)*, in a strategic and effective manner and possibly engaging in a two-way exchange.

⚠ **Security obligations —** Respect of other obligations under the Grant Agreement may limit in some cases the possibility to communicate about the action or disseminate (all of) its results *(e.g. security related obligations such as in case of grants involving classified information; see Article 13)*.

⚠ The same may also be the case only temporarily, i.e. no communication until other obligations under the Grant Agreement are fulfilled *(e.g. until certain results are protected)*.

The beneficiaries are in principle free to choose the type of activities, but they should comply with the principles below and in line with Annex 1.

> ***Examples:*** *A press release at the start of the action; an interview in the local radio station after a major achievement of the action; organising workshops about the action; an event in a shopping mall that shows how the outcomes of the action are relevant to our everyday lives; producing a brochure to explain the action's work to schools or university students.*

The activities must be:

- effective *(suited to achieving the action's communication and dissemination goals)* and be proportionate to the scale of the action *(activities carried out by a large-scale action with beneficiaries coming from several different countries and a large budget must be more ambitious than smaller actions)*
- strategic *(ad hoc efforts are NOT sufficient)*
- coherent *(avoid contradictory messages)*.

Moreover, the activities must address **multiple audiences** (beyond the action's own community), including the media and the public, in a way that can be understood by non-specialists. They should highlight the action's goals, results and include the public policy perspective sought, e.g. by addressing aspects such as:

- contribution to competitiveness and to solving societal challenges

- impact on everyday lives *(e.g. creation of jobs, development of new technologies, better quality products, more convenience, improved life-style, etc)*
- actual or likely exploitation of the results by policy-makers, industry and other communities
- transnational cooperation in a European consortium *(i.e. how working together has allowed to achieve more than otherwise possible).*

The granting authority must be informed beforehand about any activity that is expected to have a **major media impact** *(media coverage in online and printed press, broadcast media, social media, etc)* that will go beyond having a local impact and which has the potential for national and international outreach).

For more guidance and communication best practices, see *Communicating about your EU-funded project*, *EU communication network indicators*, and the *HE Social Media Guide*.

For detailed instructions regarding the use of the European flag (emblem) and funding statements (including downloadable pictures), *see Guidelines on the use of the EU emblem in the context of EU programmes 2021-2027*.

2. Quality of information

Any communication or dissemination activity related to the action must use factually accurate information. Should it later appear that certain information was not factually accurate *(e.g. new results obtained in a project disprove earlier information given about preliminary results)*, the beneficiaries must take any appropriate and immediate steps to correct the wrong information.

3. Specific rules in Annex 5

Depending on the programme, additional (or different) rules may be set out in Annex 5.

ARTICLE 18 — SPECIFIC RULES FOR CARRYING OUT THE ACTION

ARTICLE 18 — SPECIFIC RULES FOR CARRYING OUT THE ACTION

[OPTION 1 for programmes without specific rules for carrying out the action (standard): Not applicable *]*

[OPTION 2 for programmes with specific rules for carrying out the action:

18.1 Specific rules for carrying out the action

Specific rules for implementing the action (if any) are set out in Annex 5

18.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such a breach may also lead to other measures described in Chapter 5.*]*

1. Specific rules for carrying out the action

For all EU programmes, specific rules for carrying out the action are set out in Annex 5.

These rules set out additional obligations that must be respected by the participants when implementing the action activities. They are usually programme-specific and address particular policy aspects and situations.

Like all other Annex 5 provisions, they are an integral part of the Grant Agreement and an essential part of the obligations that must be complied with, in order to properly implement the action.

SECTION 3 GRANT ADMINISTRATION

ARTICLE 19 — GENERAL INFORMATION OBLIGATIONS

19.1 Information requests

> **ARTICLE 19 — GENERAL INFORMATION OBLIGATIONS**
>
> **19.1 Information requests**
>
> The beneficiaries must provide — during the action or afterwards and in accordance with Article 7 — any information requested in order to verify eligibility of the costs or contributions declared, proper implementation of the action and compliance with the other obligations under the Agreement.
>
> The information provided must be accurate, precise and complete and in the format requested, including electronic format.

1. Requests for information

In addition to the specific information obligations set out in other parts of the Grant Agreement *(e.g. Articles 20.1, 25.1.2, 25.1.3 and 26.1)*, the granting authority may request information from the beneficiaries, to verify that they:

- properly implemented the tasks described in Annex 1
- complied with their obligations under the Grant Agreement.

The granting authority may request **any type** of information it needs (including personal data in order to verify that costs declared for specific people are eligible; *see Article 15*). The level of detail will depend on the purpose of the request.

It may request the information for **any purpose** *(e.g. checks for monitoring the action or assessing reports and requests for payment; reviews; audits; investigations; evaluation of the action's impact)*.

The granting authority may request this information at **any time**, either during the action or afterwards.

Examples:

1. *In an ex-post audit that starts 18 months after the balance is paid, the granting authority may request any information it needs during the audit procedure (see Article 25).*

2. *The granting authority may request information from the beneficiaries in order to evaluate the action's impact within the time-limit set out in the Data Sheet of the Grant Agreement (see Article 26).*

The beneficiary concerned must provide accurate, precise and complete information, in the format and within the deadline requested.

⚠ **Record-keeping —** The beneficiary must keep records and other supporting documents to prove the proper implementation of the action until the time-limit set out in the Data Sheet (normally 5 years after final payment; *see Article 20.1*).

Unless the Grant Agreement specifies direct communication with the other beneficiaries *(e.g. see Articles 7, 21, 25, 26, 39)*, the granting authority will (usually) contact the coordinator to

provide the information requested. All beneficiaries have to keep their contact information updated in the Portal also after the end of the action, *see Article 19.2*.

> ***Example:*** For audits after the end of the action, the granting authority will normally communicate directly with the concerned beneficiary/affiliated entity.

All information exchanges should in principle take place through the the Portal, unless the granting authority explicitly instructs or authorises otherwise *(see Article 36)*.

19.2 Participant Register data updates

> **19.2 Participant Register data updates**
>
> The beneficiaries must keep — at all times, during the action or afterwards — their information stored in the Portal Participant Register up to date, in particular, their name, address, legal representatives, legal form and organisation type.

1. Information in the Participant Register

What? Each beneficiary must keep their information in the Participant Register up-to-date, including after the end of the grant.

Updated information is required in particular during the time-limit for record-keeping set out in the Data Sheet, *e.g. for the purpose information requests for checks, reviews, audits and investigation*.

The information includes:

- name
- address
- legal representatives
- legal form *(e.g. private limited liability company, public law body, S.A., S.L.)*
- organisation type *(e.g. SME, secondary or higher education establishment, etc.)*.

How? The information must be updated directly in the Portal Participant Register and will then be available in the system.However, for important changes impacting the action implementation, the coordinator should also be informed by the beneficiary (in writing).

More details on participant registration are explained in the Online Manual > Participant Register.

19.3 Information about events and circumstances which impact the action

19.3 Information about events and circumstances which impact the action

The beneficiaries must immediately inform the granting authority (and the other beneficiaries) of any of the following:

(a) **events** which are likely to affect or delay the implementation of the action or affect the EU's financial interests, in particular:

(i) changes in their legal, financial, technical, organisational or ownership situation (including changes linked to one of the exclusion grounds listed in the declaration of honour signed before grant signature)

(ii) *[OPTION 1 by default:* linked action information: not applicable*] [OPTION 2 for programmes with linked actions: [OPTION 1 by default:* linked action information: not applicable*] [OPTION 2 if selected for the grant:* changes regarding the linked action (see Article 3)*]]*

(b) **circumstances** affecting:

(i) the decision to award the grant or

(ii) compliance with requirements under the Agreement.

19.4 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Information about events and circumstances which impact the action

What? Each beneficiary must immediately inform about any event that is likely to (significantly) affect or delay the action's implementation or affect the EU financial interests. Such change include in particular (but are not limited to) legal, financial, technical, organisational or ownership changes and, if required in the Grant Agreement, changes in the linked actions (if any).

> ***Examples:*** *A beneficiary is under financial stress and chooses to liquidate; a beneficiary is acquired by or merged with another legal entity; a beneficiary plans to move its facility from a Member State to a (non-EU) third country; the consortium implementing a linked action dissolves and no longer cooperates, affecting the implementation of the action as described in Annex 1.*

The beneficiaries must also inform about any such changes concerning their affiliated entities.

How? The beneficiary concerned should normally inform the coordinator (through their usual communication channels*)*, who will then inform:

- the granting authority, via the Portal
- the other beneficiaries, through the usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc*).

Best practice: It is recommended that these type of communications are done in writing (not only orally).

⚠ **Register update** — In many cases, the change may also require an update of the Participant Register. Consult your LEAR and ask them to make the update.

2. Information about circumstances affecting the decision to award the grant or compliance with requirements under the GA

What? Beneficiaries that become aware of circumstances (or changes thereof) that could (potentially) affect the decision to award the grant or compliance with requirements under the Grant Agreement must disclose them.

Relevant circumstances are those that:

- **affect (or could have affected) the decision to award the grant**, e.g. if the information had been known at the time of evaluation it may have led to a different scoring in the award criteria and may thus have affected the ranking of proposals, and/or it would have led to rejection (e.g. due to ineligibility)

  Example (eligibility): *The eligibility criteria of a call require a consortium of three beneficiaries established in Member States. During the action implementation, one of the beneficiaries decides to relocate to a third country.*

  Example (award criteria): *A consortium has three beneficiaries. One of them has a laboratory with specialised equipment and personnel, including a team of internationally renowned experts in the same field as the project. The quality of the work to be carried out by this laboratory was taken into account by the evaluators for the scoring of the award criteria, leading to a higher ranking of the proposal. During the action's implementation, the beneficiary sells the laboratory to an external company without involvement in the action, losing an important part of the relevant expertise.*

- **affect (or could affect) the fulfilment of obligations** under the Grant Agreement.

  Examples (obligations):

  1. *Due to e.g. a merger, acquisition or contractual changes, certain intellectual property (e.g. background identified as needed for implementing the action) becomes subject to rights of a third party which no longer allows the beneficiary to implement the action as described in Annex 1, so the beneficiary can no longer comply with its obligations under the grant.*

  2. *Due to a change of national legislation (e.g. security or export restrictions), the beneficiary sees itself no longer able to provide deliverables and report on its activities in accordance with the Grant Agreement.*

⚠ Even if certain circumstances do not amount to a situation that would potentially affect the decision to award the grant or compliance with requirements under the Grant Agreement, they may still have to be notified under point (a) as events which are likely to affect or delay the implementation of the action or affect the EU financial interests.

How? The beneficiary concerned should normally inform the coordinator who will then inform the granting authority and the other consortium members.

Based on the information, it is then up to the granting authority to assess whether the award decision or the fulfilment of the obligations are actually affected and whether further measures are required (incl. measures set out in Chapter 5).

Best practice: In case of doubt, the beneficiary should inform the granting authority (or coordinator) for clarification.

ARTICLE 20 — RECORD-KEEPING

ARTICLE 20 — RECORD-KEEPING

20.1 Keeping records and supporting documents

The beneficiaries must — at least until the time-limit set out in the Data Sheet (see Point 6) — keep records and other supporting documents to prove the proper implementation of the action in line with the accepted standards in the respective field (if any).

In addition, the beneficiaries must — for the same period — keep the following to justify the amounts declared:

(a) for actual costs: adequate records and supporting documents to prove the costs declared (such as contracts, subcontracts, invoices and accounting records); in addition, the beneficiaries' usual accounting and internal control procedures must enable direct reconciliation between the amounts declared, the amounts recorded in their accounts and the amounts stated in the supporting documents

(b) for flat-rate costs and contributions (if any): adequate records and supporting documents to prove the eligibility of the costs or contributions to which the flat-rate is applied

(c) for the following simplified costs and contributions: the beneficiaries do not need to keep specific records on the actual costs incurred, but must keep:

(i) for unit costs and contributions (if any): adequate records and supporting documents to prove the number of units declared

(ii) for lump sum costs and contributions (if any): adequate records and supporting documents to prove proper implementation of the work as described in Annex 1

(iii) for financing not linked to costs (if any): adequate records and supporting documents to prove the achievement of the results or the fulfilment of the conditions as described in Annex 1

(d) for unit, flat-rate and lump sum costs and contributions according to usual cost accounting practices (if any): the beneficiaries must keep any adequate records and supporting documents to prove that their cost accounting practices have been applied in a consistent manner, based on objective criteria, regardless of the source of funding, and that they comply with the eligibility conditions set out in Articles 6.1 and 6.2.

Moreover, the following is needed for specific budget categories:

(e) for personnel costs: time worked for the beneficiary under the action must be supported by declarations signed monthly by the person and their supervisor, unless another reliable time-record system is in place; the granting authority may accept alternative evidence supporting the time worked for the action declared, if it considers that it offers an adequate level of assurance

(f) *[OPTION 1 by default:* additional record-keeping rules: not applicable*] [OPTION 2 for programmes with additional record-keeping rules: [OPTION 1 by default:* additional record-keeping rules: not applicable*] [OPTION 2 if selected for the call:* for [insert name of budget category]: [insert specific records/requirements]*].]*

The records and supporting documents must be made available upon request (see Article 19) or in the context of checks, reviews, audits or investigations (see Article 25).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under the Agreement (including the extension of findings; see Article 25), the beneficiaries must keep these records and other supporting documentation until the end of these procedures.

The beneficiaries must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. The granting authority may accept non-original documents if they offer a comparable level of assurance.

20.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Records and other supporting documentation

The beneficiaries (and their affiliated entities) must keep appropriate and sufficient evidence to **prove** the eligibility of all the costs declared, proper implementation of the action and compliance with all the other obligations under the Grant Agreement. If costs are not supported by appropriate and sufficient evidence, they will be rejected.

⚠ **Record-keeping —** Beneficiaries that do not keep sufficient and appropriate supporting documents will bear the **full risk**. The granting authority may take any measures set out in Chapter 5, including to reject cost or reduce or terminate the grant. Systemic failure to keep supporting documents may also lead to consequences in other EU actions (extension of audit findings).

'Sufficiency' relates to the quantity of evidence; 'appropriateness' relates to its quality. Evidence is considered sufficient and appropriate if it is persuasive enough to support the facts or elements that need to be established. In the case of audits, the evidence will be assessed by the auditors according to generally accepted audit standards.[27]

The evidence must be verifiable, auditable and available.

Best practice: Where the nature of the action or participants may pose risks or difficulties for checks, reviews, audits and investigations, the consortium may consider on procedures to facilitate access to records, *e.g. by depositing also adequate records with the coordinator*, in order to minimise the risk for cost rejections by the granting authority due to lack of access to supporting documents.

The evidence must be correctly archived for the duration indicated in the Grant Agreement *(see Data Sheet, Point 6)*. In general, for at least 5 years after the balance is paid (3 years for low-value grants up to EUR 60 000) or longer if there are ongoing procedures *(audits, investigations, litigation, etc)*. In this case, the evidence must be kept until ongoing procedures end.

⚠ The rules in the Grant Agreement determine obligations under the EU action and do NOT absolve the beneficiary from compliance with obligations under **national law**, *e.g. national laws requiring a longer retention period for keeping documents (or other additional measures)*.

[27] International Standard on Auditing ISA 500 'Audit Evidence'.

2. Original documents

In principle, the beneficiaries must keep original documents *(i.e. documents considered as original under national law*) in the format in which they were received or created. This means that:

- documents received or created in paper form should be kept in paper form
- documents received or created electronically should be kept in their electronic format *(hard copies of original electronic documents are NOT required)*.

Examples:

1. *We will accept authenticated copies or digitally-signed documents, if national law accepts these as originals.*

2. *We will accept digitalised copies of documents (instead of hard copies), if this is acceptable under national law.*

Exceptionally, the granting authority may accept non-original documents if they offer a comparable level of assurance but this assessment is entirely up to the granting authority and any beneficiary not keeping an original bears the full risk of cost rejection or grant reduction.

Best practice: Beneficiaries should apply a consistent record-keeping policy, i.e. avoid that non-original documents are presented only for the EU action whereas original records are kept for other activities.

3. Records for actual costs

For actual costs, the beneficiaries must:

- keep detailed records and other supporting documents to prove the eligibility of the costs declared
- use cost accounting practices and internal control procedures that make it possible to verify that the amounts declared, amounts recorded in the accounts and amounts recorded in supporting documentation match up.

The information included in the financial statements for each budget category (i.e. personnel costs, subcontracting costs, etc) must be broken down into details and must match the amounts recorded in the accounts and in supporting documentation.

Examples:

1. *For costs declared in category A.1 Employees (or equivalent): the costs must be detailed for each person carrying out work for the action (individual daily rate multiplied by day-equivalents worked for the action). They must match the accounting records (i.e. general ledger transactions, annual financial statements) and supporting documentation (i.e. labour contracts, collective labour agreements, applicable national law on taxes, labour and social security contributions, payslips, time records, bank statements showing salary payments, etc).*

2. *For costs declared in category C. Purchase costs: the beneficiary must keep a breakdown of costs declared by type (i.e. equipment cost, costs of other goods, works and services, etc). It should be able to provide details of individual transactions for each type of cost. For depreciation, it must be able to provide details per individual equipment used for the action. Declared costs must match accounting records (i.e. general ledger transactions, annual financial statements) and supporting documentation (i.e. purchase orders, delivery notes, invoices, contracts, bank statements, asset usage logbook, depreciation policy, etc).*

4. Records for simplified cost and contributions, and financing not linked to cost

In contrast to actual cost, for simplified cost options (units, lump sums, flat-rates) and financing not linked to cost, keeping of financial records on the actual cost incurred during the action is NOT required.

⚠ While the EU Grant Agreement does not require to keep financial records on the actual cost incurred, this does NOT release the beneficiary from **record-keeping rules under applicable national law**.

Any financial and accounting records will not be assessed unless it is necessary for the assessment of the implementation of the units, lump sums etc. declared, or to assess the correctness of the methodology for beneficiaries using their usual cost accounting practices *(see below)*, or to assess the correctness of information provided in the proposal on which basis a simplified cost amount was established.

- flat-rate costs and contributions: the beneficiaries must keep detailed records and other supporting documents to prove that the costs to which the flat-rate is applied are eligible.

  Example: *For the flat-rate of indirect costs, the auditors will verify (and the beneficiaries must be able to show) that the actual direct costs to which the flat-rate is applied are eligible.*

- unit costs and contributions: the beneficiaries must keep detailed records and other supporting documents to prove the number of units declared.

- lump sum costs and contributions: the beneficiaries must keep adequate records and supporting documents to prove the completion of the action tasks, the achievement of results, or the fulfilment of the conditions as described in Annex 1.

- financing not linked to costs: the beneficiaries must keep adequate records and supporting documents to prove the achievement of the results or the fulfilment of the conditions as described in Annex 1.

5. Records for unit, flat-rate, lump sum costs and contributions calculated in accordance with the beneficiary's usual cost accounting practices

For unit, flat-rate, lump sum costs and contributions declared in accordance with usual cost accounting practices, the beneficiaries must keep detailed records and other supporting documents to:

- show that the method used is their usual cost accounting practice (i.e. not just used for the EU grant)

- show that the method used for the initial calculation of the unit, flat-rate, or lump sum appropriately reflects the actual costs as recorded in the statutory accounts

  Examples:

  1. *For average personnel costs (HE, DEP, EDF, CEF, HUMA): accounting records; financial statement extracts; labour contracts; collective labour agreements; applicable tax, labour and social security laws; pay slips; bank statements showing salary payments; classification of employees (based on experience, qualifications, salary, department, etc).*

  2. *For internally invoiced goods and services (HE, DEP, EDF): accounting records; financial statement extracts; time records (or other records) for the share of personnel costs included in the unit costs; invoices or contracts for maintenance costs, cleaning costs, other services, etc, showing how the actual costs are directly or indirectly included in the unit cost calculation.*

  ⚠ Manual interventions into the accounting data must be traceable and documented.

- verify that the unit, flat-rate, lump sum are free of ineligible cost components

  Examples:

  1. *For average personnel costs (HE, DEP, EDF, CEF, HUMA): records that show that the daily rate does not include an indirect cost component (they should be covered by the indirect costs category); records that show that the daily rate does not include travel costs (they should be claimed under category C.1 Travel and subsistence).*

2. For internally invoiced goods and services (HE, DEP, EDF): evidence that shows that there is no profit/margin/mark-up included in the internally invoiced goods and services (e.g. different rates: one for billing the activity, with mark-up, and another one for internal costing, free of any mark-up); lists of accounts/cost centres that were excluded from the calculation of internally invoiced goods and services — because already included in the costs claimed under another budget categories (e.g. under personnel costs)

- assess the acceptability of budgeted and estimated elements

Examples:

***1.** For average personnel costs (HE, DEP, EDF, CEF, HUMA): records that show the method for calculating the annual salary increases (e.g. consumer price index which, according to the beneficiary's usual remuneration policy, serves as the basis for annual salary increases).*

***2.** For internally invoiced goods and services (HE, DEP, EDF): traceable data used to determine the budgeted/ estimated elements; records on the nature and frequency of the updates of the budgeted and estimated elements; etc.*

It is NOT necessary to keep records on the actual costs incurred during the action (per person/good or service) — unless they are needed to document the usual cost accounting practices.

6. Records for personnel costs — Day-equivalents worked for the action

For persons who work for the action (regardless if they are full-time or part-time employees and/or if they work exclusively or not for the action; new for 2021-2027), the beneficiaries may either:

- by default, sign a monthly declaration on day-equivalents worked for the action (template)

OR

- use another paper- or computer-based reliable time recording system, to record (at least) all the time (days/hours) worked for the action.

Best practice: It is recommended to explore the simplification potential of using monthly declarations on days worked for the action. This limits record-keeping burden and avoids the need for conversion of hours into day-equivalents.

Reliable time records must be dated and signed at least monthly by the person working for the action and their supervisor.

⚠ **NO rounding** (up or down to the nearest half day-equivalent) for the time recording in the **monthly declarations**. The rounding rule applies ONLY for the cost calculation (i.e. the number of day-equivalents to declare and the maximum declarable day-equivalents) and for the conversion from the total hours worked on the action into day-equivalents (in case of time-recording systems based on hours). By contrast, it is not allowed to round up or down to the nearest half day-equivalent in the monthly declaration.

***Example:** If a person with a standard working day of 8 hours worked 2 hours on the action during a given month, 0,25 day-equivalents should be recorded for that month in their monthly declaration.*

If the time recording system is computer-based, the signatures may be electronic *(i.e. linking the electronic identity data, e.g. a password and user name, to the electronic validation data)*, with a documented and secure process for managing user rights and an auditable log of all electronic transactions.

Conversion of hours into day-equivalents: If you do not use the monthly declaration of days, and instead record the time worked in hours, you must convert the total hours worked into day-equivalents to calculate the personnel costs for the grant (*see Article 6.2.A.1*).

To convert hours into day-equivalents:

{number of hours worked by the person on the action during the reporting period

divided by

(number of hours of a day-equivalent)}

The resulting figure must be rounded up or down to the nearest half-day (*e.g. 17,79 = 18 day-equivalents; 17,64 = 17,5 day-equivalents)*.

You have three options to determine the **number of hours of a day equivalent**:

- **Option 1:** a day equivalent is 8 hours
- **Option 2:** average working hours as per contract (or another binding document, *e.g. collective labour agreement, national labour legislation*). You can NOT use this option if the contract (or other binding document) does not allow to determine the average number of hours that the person must work per day.
  - 2a: If the number of working hours is specified per day:

    {working hours per day divided by working time factor}

    Examples:

    Full-time case: *The employment contract establishes that the person is employed full-time and must work 7,8 hours each working day. A day-equivalent for the person is 7,8 hours (7,8 / 1 [working time factor]).*

    Part-time case: *The employment contract establishes that the person is employed 50 % part-time and must work 4 hours each working day. A day equivalent for the person is 8 hours (4 / 0.5 [working time factor]).*

  - 2b: If the number of working hours is specified per week or month:

    {(working hours per week [or month] divided by working time factor) divided by working days per week [or month]}

    ⚠ For the calculation above, the number of 'working days' per week (or month) is not the actual days worked by the person, but the standard number of working days per week (or month) as per the beneficiary's usual practices (and applicable rules/laws). This is usually 5 working days per week *(e.g. Monday to Friday)*. The number should be the same for full-time and part-time employees irrespective of the actual distribution of the (full or part-time) working time over the week (or month).

    Examples:

    Full-time case: *The employment contract establishes that the person must work 37,5 hours per week over 5 working days. A day-equivalent for the person is ((37,5 / 1 [working time factor]) / 5 [days]) = 7,5 hours.*

    Part-time case (hours per week): *The person is employed 50 % part-time and the contract establishes that the person must work 18,75 hours per week (consisting of five working days as per the beneficiary's practice). In practice, the person works two full days and a half each week (Monday, Tuesday, Wednesday morning). The number of working days to be used in the formula is 5 (NOT 2,5 or 3 actual days worked). A day-equivalent for the person is ((18.75 / 0.5 [working time factor]) / 5 [days]) = 7,5 hours.*

    Part-time case (hours per month): *The person is employed 50 % part-time and the contract establishes that the person must work 80 hours per month over 22 working days. A day-equivalent for the person is ((80 / 0,5 [working time factor]) / 22 [days]) = 7,3 hours.*

- **Option 3:** If you have a usual cost accounting practice determining the standard number of annual productive hours of a full-time employee, you may determine the value of a day-equivalent as follows:

{(the higher between the standard number of annual productive hours of a full-time employee and 90 % of the standard annual workable hours of a full-time employee)

divided by

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⚠ The chosen **option must be applied consistently**, i.e. using the same option at least per group of personnel employed under similar conditions *(e.g. same type of contract, same cost-centre)*. You cannot apply the most favourable option for each employee individually.

⚠ A conversion normally needs to be done only once **per person per reporting period** for the purpose of reporting to the granting authority. It is not required that you keep a parallel record system that directly converts hours into day-equivalents.

⚠ **If you keep parallel time record systems**, *e.g. weekly time-sheets of hours and monthly declarations of days*, **they must be consistent**. In case of significant discrepancies discovered e.g. during checks, reviews and audits, only the set of documents recording the lower amount of days will be accepted.

7. Records of affiliated entities, associated partners and other participants

In principle, each participant keeps their own records (to prove costs or proper implementation; new for 2021-2027). In case of a check, review, audit or investigation, the granting authority may ask the coordinator or responsible beneficiary to provide the necessary documents.

ARTICLE 21 — REPORTING

21.1 Continuous reporting

ARTICLE 21 — REPORTING

21.1 Continuous reporting

The beneficiaries must continuously report on the progress of the action (e.g. **deliverables, milestones**, **outputs/outcomes, critical risks, indicators,** etc; if any), in the Portal Continuous Reporting tool and in accordance with the timing and conditions it sets out (as agreed with the granting authority).

Standardised deliverables (e.g. progress reports not linked to payments, reports on cumulative expenditure, special reports, etc; if any) must be submitted using the templates published on the Portal.

1. Continuous reporting

What? The beneficiaries must provide regular updates on the status of the action implementation. This is the continuous reporting.

The continuous reporting may cover (non-exhaustive list):

- progress in achieving milestones, which are control points in the action that help to chart progress *(kick-off meetings, steering committees, first-draft of a survey, prototype, etc)*; they may correspond to the completion of a key deliverable, which allows the next phase of the work to begin or is needed at intermediary points

- deliverables, which are additional outputs that must be produced at a given moment during the action and submitted to the granting authority

  Examples: *Information, special report, a technical diagram brochure, list, a software milestone or other building block of the action.*

- response to critical risks, which are a plausible event or issue that could have a high adverse impact on the ability of the action to achieve its objectives

- programme-specific monitoring information or indicators like those related to publications, communications activities, IPRs, Open Data, Trainings, Gender etc. (if required for your programme and depending on the type of action).

How & When? The deliverables (including progress reports not linked to payments, if any) must be submitted through the Portal Continuous Reporting tool, in accordance with the schedule set out for them. Both the schedule and templates to be used (if any) are available through the Deliverables screen.

21.2 Periodic reporting: Technical reports and financial statements

21.2 Periodic reporting: Technical reports and financial statements

In addition, the beneficiaries must provide reports to request payments, in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2):

- for additional pre-financings (if any): an **additional pre-financing report**
- for interim payments (if any) and the final payment: a **periodic report**.

The pre-financing and periodic reports include a technical and financial part.

The technical part includes an overview of the action implementation. It must be prepared using the template available in the Portal Periodic Reporting tool.

The financial part of the additional pre-financing report includes a statement on the use of the previous pre-financing payment.

The financial part of the periodic report includes:

- the financial statements (individual and consolidated; for all beneficiaries/affiliated entities)
- the explanation on the use of resources (or detailed cost reporting table, if required)
- the certificates on the financial statements (CFS) (if required; see Article 24.2 and Data Sheet, Point 4.3).

The **financial statements** must detail the eligible costs and contributions for each budget category and, for the final payment, also the revenues for the action (see Articles 6 and 22).

All eligible costs and contributions incurred should be declared, even if they exceed the amounts indicated in the estimated budget (see Annex 2). Amounts that are not declared in the individual financial statements will not be taken into account by the granting authority.

By signing the financial statements (directly in the Portal Periodic Reporting tool), the beneficiaries confirm that:

- the information provided is complete, reliable and true
- the costs and contributions declared are eligible (see Article 6)
- the costs and contributions can be substantiated by adequate records and supporting documents (see Article 20) that will be produced upon request (see Article 19) or in the context of checks, reviews, audits and investigations (see Article 25)
- for the final periodic report: all the revenues have been declared (if required; see Article 22).

Beneficiaries will have to submit also the financial statements of their affiliated entities (if any). In case of recoveries (see Article 22), beneficiaries will be held responsible also for the financial statements of their affiliated entities.

1. Periodic reporting

What? In addition to the continuous reporting and in order to receive payments (any type; additional pre-financings, interim and final payment), the beneficiaries (and their affiliated entities) must submit reports for payment to document the technical (and financial) implementation of the action. This is the periodic reporting.

⚠ These reports must be distinguished from deliverables and milestones (that are part of Annex 1; *see Article 21.1*)

How & When? The reports for payment must be submitted through the Portal Periodic Reporting tool after the end of each reporting period (including the final one; for the schedule, see Data Sheet, Point 4.2).

The coordinator must submit either an additional pre-financing report (for additional pre-financing payment) or a periodic report (for interim and final payment).

In both cases, this report is composed of two main parts, a technical and a financial part.

The **technical part** aims at providing an overview of the action implementation and progress and its content is programme-specific. It usually includes an explanation of work carried out, overview of progress, publishable summary, key performance indicators, etc (template available for download directly in the system)

The **financial part** is filled in directly online and includes:

- for additional pre-financing:
  - a statement on the use of the previous pre-financing payment (only supporting document; no other financial information to be filled in)
- for interim and final payments:
  - the financial statements (individual and consolidated; for all beneficiaries/affiliated entities

    ⚠ **Record-keeping —** The beneficiary must keep adequate records of the financial statement submitted for its affiliated entity *(see Article 20)*.
  - the explanation on the use of resources (or detailed cost reporting table, if required)

    ⚠ The explanation of the use of resources must be consistent with the costs declared in the financial statement per beneficiary.
  - the certificates on the financial statements (CFS) (if required; *see Article 24.2 and Data Sheet, Point 4.3*) (template available for download directly in the system).

    ⚠ **Record-keeping —** The beneficiaries must keep adequate records of the CFS uploaded for their affiliated entities *(see Article 20)*.

For **additional pre-financings**, the statement on the use of the previous pre-financing serves to curb the paying out of additional pre-financing, if not really needed (— either because progress of the action is slow or the consumption of the previous pre-financing is low). The additional pre-financing payment will be reduced, if — according to this statement — the previous pre-financing was not fully used *(see Article 22.3.1)*. Thus*:*

- if 70% or more of the previous pre-financing has been used: the additional pre-financing is paid in full
- if less than 70% of the previous pre-financing has been used: the additional pre-financing will be reduced by an amount equal to the difference between the percentage actually used and 70%.

For **interim or final payments**, each beneficiary/affiliated entity must fill out their individual financial statement (individually), and then signed and formally submitted to the coordinator

(for beneficiaries, directly in the Portal; for affiliated entities, through their beneficiary). This includes the coordinator, who must also submit the individual financial statement for itself.

The individual financial statements (Annex 4 of the Grant Agreement) must contain all costs that:

- were incurred by the beneficiary/affiliated entities during the reporting period and
- fulfil the eligibility conditions set out in *Article 6*.

Best practice: Beneficiaries/affiliated entities should declare ALL their eligible costs — even if they are above the estimated budget in Annex 2 (cost overruns). The grant will be capped at the maximum grant amount in Annex 2, but cost overruns may turn out useful, if the granting authority should reject some of the costs (at payment or later on).

Beneficiaries/affiliated entities may declare costs incurred during a previous reporting period, if they were not declared before.

By contrast, once costs have been declared (closed financial statement), they should normally no longer be changed. If a beneficiary/affiliated entity notices a mistake in a previous financial statement *(e.g. incorrect accounting information; error in the calculation; etc)*, they can however make an **adjustment** (positive or negative) at the next reporting. Such adjustments can be made to the financial statements for any previous reporting period.

> ***Example:*** *An internal audit by the beneficiary on the annual accounts finds errors in the accounting information used to calculate the daily rate. The beneficiary can adapt the costs declared to the EU action at the next reporting.*

For **affiliated entities**, the financial statements must be filled out and submitted by their beneficiary (since the affiliated entities cannot sign them in the IT system). Before submission, the beneficiary must complete the data for the affiliated entity (based on the information it received from the affiliated entity). The affiliated entity must ensure the accuracy of the encoded information, but the beneficiary is ultimately responsible for submitting the statement *(see Article 21.2)*.

Best practice: Beneficiaries and their affiliated entities may establish practical information exchange procedures to ensure and verify the accuracy of the financial statement data to be submitted. For example, the beneficiary can create a PDF export from the system and send it to the affiliated entity for confirmation.

21.3 Currency for financial statements and conversion into euros

21.3 Currency for financial statements and conversion into euros

The financial statements must be drafted in euro.

[OPTION 1 for programmes with double conversion (standard):

Beneficiaries with general accounts established in a currency other than the euro must convert the costs recorded in their accounts into euro, at the average of the daily exchange rates published in the C series of the *Official Journal of the European Union* (ECB website), calculated over the corresponding reporting period.

If no daily euro exchange rate is published in the *Official Journal* for the currency in question, they must be converted at the average of the monthly accounting exchange rates published on the European Commission website (InforEuro), calculated over the corresponding reporting period.

Beneficiaries with general accounts in euro must convert costs incurred in another currency into euro according to their usual accounting practices.*]*

[OPTION 2 for programmes with direct conversion:

Beneficiaries with general accounts established in a currency other than the euro must convert the costs incurred in another currency directly into euro, at the average of the daily exchange rates published in the C series of the *Official Journal of the European Union* (ECB website), calculated over the corresponding reporting period.

If no daily euro exchange rate is published in the *Official Journal* for the currency in question, they must be converted at the average of the monthly accounting exchange rates published on the European Commission website (InforEuro), calculated over the corresponding reporting period.

Beneficiaries with general accounts established in euro must convert costs incurred in another currency into euro according to their usual accounting practices.*]*

1. Currency for financial statements and conversion into euro

Beneficiaries/affiliated entities must report their costs in the financial statements in euros.

The rules on conversion (of costs incurred in other currencies into euros) are as follows:

- for beneficiaries/affiliated entities with accounting records in euros: conversion of costs according to their usual accounting practices
- for beneficiaries/affiliated entities with accounting records in a currency other than the euro, the rules on conversion of costs recorded in their accounts may be one of the following:
  - for programmes with double conversion rule *(see Data Sheet, Point 4.2; currently all programmes)*:
    - using the average, over the corresponding reporting period, of the daily exchange rates published:
      - in the C series of the *Official Journal of the European Union*

        To calculate this average rate based on the daily exchange rates published in the C series of the *Official Journal of the European Union*, the beneficiaries may use the editable charts on the ECB website.

How to calculate the rate on the ECB website:

Step 1 — Go to the ECB website.

Step 2 — Click on the chart icon [ ] for the currency.

Step 3 — Select the conversion (normally other currency vs. Euro).

Step 4 — Insert the starting date of the reporting period in the field 'from' and the end date of the reporting period in the field 'to'. The average for the period will appear above the chart.

⚠ Note that the **ECB has changed their methodology** for the displayed average currency exchange rates (over any given period). Therefore, average currency conversion rates taken from the ECB website before **13 April 2023** may not correspond to the average for the same period displayed since April 13. Financial statements based on currency conversions done with the ECB calculator before 13 April 2023 remain however fully valid and will be recognised in case of checks, audits, reviews or investigations. You do not need to make any recalculations/adjustments. Discrepancies that are due only to the change in the ECB calculator will NOT be considered as errors.

If NO daily euro exchange rate is published by the ECB for your currency: use the average of the monthly accounting rates over the corresponding reporting period, using the currency converter on the Commission website (InforEur).

- for programmes with direct conversion rule *(see Data Sheet, Point 4.2; currently no programme)*:
  - using the average, over the corresponding reporting period, of the daily exchange rates published in the C series of the Official Journal of the European Union

    To calculate this average rate based on the daily exchange rates published in the C series of the *Official Journal of the European Union*, the beneficiaries may use the editable charts on the ECB website *(see above)*
  - if NO daily euro exchange rate is published: using the average of the monthly accounting rates over the corresponding reporting period, using the currency converter on the Commission website (InforEur).

For cost adjustments to previous periods ('adjustment financial statements'), the exchange rate to be used is the one for the reporting period in which the costs adjusted were incurred.

For eligible costs related to drafting and submitting the final reports incurred after the action duration, the exchange rate to be used is the one for the last reporting period.

21.4 Reporting language

> **21.4 Reporting language**
>
> The reporting must be in the language of the Agreement, unless otherwise agreed with the granting authority (see Data Sheet, Point 4.2).
>
> **21.5 Consequences of non-compliance**
>
> If a report submitted does not comply with this Article, the granting authority may suspend the payment deadline (see Article 29) and apply other measures described in Chapter 5.
>
> If the coordinator breaches its reporting obligations, the granting authority may terminate the grant or the coordinator's participation (see Article 32) or apply other measures described in Chapter 5.

1. Language of reports

The reports must be drafted **in the language of the Grant Agreement** (indicated at the end of the Grant Agreement, next to the signatures of the parties), unless the granting authority agreed differently.

ARTICLE 22 — PAYMENTS AND RECOVERIES — CALCULATION OF AMOUNTS DUE

22.1 Payments and payment arrangements

ARTICLE 22 — PAYMENTS AND RECOVERIES — CALCULATION OF AMOUNTS DUE

22.1 Payments and payment arrangements

Payments will be made in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2).

They will be made in euro to the bank account indicated by the coordinator (see Data Sheet, Point 4.2) and must be distributed without unjustified delay (restrictions may apply to distribution of the initial pre-financing payment; see Data Sheet, Point 4.2).

Payments to this bank account will discharge the granting authority from its payment obligation.

The cost of payment transfers will be borne as follows:

- the granting authority bears the cost of transfers charged by its bank
- the beneficiary bears the cost of transfers charged by its bank
- the party causing a repetition of a transfer bears all costs of the repeated transfer.

Payments by the granting authority will be considered to have been carried out on the date when they are debited to its account.

1. Payments to be made

The granting authority will make payments in accordance with what is set out in the Data Sheet. This may include the following:

- **pre-financing payment(s)** at the beginning of the action (to provide beneficiaries with a cash float to start working on the project).

  Pre-financing will NOT be paid before the Grant Agreement is signed (even if the starting date of the action is before).

- **interim payment(s)** to cover eligible costs incurred in the reporting periods (as many interim payments as number of reporting periods, minus one which is the final payment)

- the **final payment** (payment of the balance) after the end of the action.

⚠ All payments (pre-financings, interim payments and final payment) may be **offset against debts** of any of the beneficiaries towards the granting authority — up to the amount due to that beneficiary based on its eligible cost and contributions. If the granting authority is the Commission or an EU executive agency, the offsetting will also be done for debts towards other Commission services or executive agencies. This offsetting will be done automatically and is **not** subject to the consent of the beneficiary concerned.

All payments are subject to a **payment deadline** (i.e. number of days within which the granting authority has to pay the consortium — after having received the payment request). The deadline is defined in the Data Sheet.

If there are issues with the payment request or with the costs declared which make it impossible to continue with the payment, the granting authority will **suspend the deadline**

(see Article 29). The granting authority can also, in specific circumstances, **suspend payments** *(see Article 30).*

The payments are made **to the coordinator's** bank account as set out in the Grant Agreement; the beneficiaries are NOT paid individually by the granting authority.

The coordinator must distribute the amounts received to the beneficiaries. However, how and when the payments are distributed is in principle an internal matter for the consortium.

> The consortium agreement (if applicable) may set out, for instance, specific periods for the distribution of payments or that the distribution will be carried out in instalments (and these will not be considered 'unjustified delays', if the arrangements set out in the consortium agreement are complied with).
>
> Similarly, the consortium agreement may provide for a distribution of the funding which is different from the contribution approved by the granting authority for each beneficiary.
>
> If the coordinator does NOT comply with its payment distribution obligations, this is in principle an issue to be resolved within the consortium. However, persistent failure to comply with obligations of the coordinator (such as distribution of payments) may lead to any of the consequences as provided under the respective measure in Chapter 5.

The granting authority will normally not be informed of the distribution of the payments by the coordinator, unless:

- if it specifically requests this
- in the event of recovery at the payment of the balance *(see Article 22.3.4)*
- if the participation of one or more beneficiary is terminated *(see Article 22.3.2)*.

22.2 Recoveries

22.2 Recoveries

Recoveries will be made, if — at beneficiary termination, final payment or afterwards — it turns out that the granting authority has paid too much and needs to recover the amounts undue.

[OPTION 1 for programmes with joint and several liability of beneficiaries: The general liability regime for recoveries (first-line liability) is as follows: At final payment, the coordinator will be fully liable for recoveries, even if it has not been the final recipient of the undue amounts. At beneficiary termination or after final payment, recoveries will be made directly against the beneficiaries concerned.

Beneficiaries will be fully liable for repaying the debts of their affiliated entities.

In case of enforced recoveries (see Article 22.4):

- the beneficiaries will be jointly and severally liable for repaying debts of another beneficiary under the Agreement (including late-payment interest), if required by the granting authority (see Data Sheet, Point 4.4)
- affiliated entities will be held liable for repaying debts of their beneficiaries under the Agreement (including late-payment interest), if required by the granting authority (see Data Sheet, Point 4.4).*]*

[OPTION 2 for programmes without joint and several liability of beneficiaries: Each beneficiary's financial responsibility in case of recovery is in principle limited to their own debt and undue amounts of their affiliated entities.

In case of enforced recoveries (see Article 22.4), affiliated entities will be held liable for repaying debts of their beneficiaries, if required by the granting authority (see Data Sheet, Point 4.4).*]*

1. Recoveries of undue amounts

If it turns out that the granting authority has **paid too much** — for example due to cost rejection or grant reduction *(in particular, following a check, audit, extension of audit findings, review or OLAF investigation),* it will recover the amount paid in excess.

Recovery normally takes place only at payment of the balance or afterwards. Exceptionally, it can take place before, if a beneficiary's participation is terminated.

The detailed calculations for all cases are described in *Article 22.3*.

2. Financial liability for recoveries

The financial liability for recoveries depends on the programme:

- for programmes without MIM *(all programmes except HE)*: the financial liability is as follows:
  - at beneficiary termination, the beneficiary concerned must pay back any undue amounts to the consortium; the granting authority will inform them about this obligation, but not intervene to recover this money (no debit note)
  - at the payment of the balance, the coordinator is fully liable for the whole amount that needs to be recovered (i.e. paid back to the granting authority)— even if it has not been the final recipient of the concerned amount (debit note); if the coordinator does not pay (irrespective of the reason), the granting

authority will enforce recovery (through offsetting, drawing on the pre-financing guarantee, joint and several liability of other beneficiaries or affiliated entities, or legal action or enforceable decision; *see Article 22.4*)

- after payment of the balance, recoveries (if any) will be made directly against the beneficiary concerned (debit note)

- for programmes with MIM *(HE only)*: each beneficiary's financial liability is in principle limited to their own debt and undue amounts paid for costs declared by their affiliated entities. It is only for the contribution to the MIM that financial responsibility is shared:

  - at beneficiary termination, the beneficiary concerned must pay back any undue amounts to the consortium; the granting authority will inform them about this obligation and, if the beneficiary doesn't pay, the granting authority may call on the MIM to intervene and then start a recovery procedure against the beneficiary in the name of the MIM (debit note)

  - at the payment of the balance, the contribution to the MIM will be used to cover recoveries (if any); if the contribution is not sufficient, the coordinator will be asked to pay back the amount owed (as representative of the consortium); if the debt is not paid but the report on the distribution of payments was provided, the granting authority will calculate the share of the debt per beneficiary and confirm the amount to be recovered from each of them separately (debit note); if they do not pay (irrespective of the reason), the granting authority will enforce recovery (through offsetting, joint and several liability of affiliated entities, or legal action or enforceable decision; *see Article 22.4*); if the report on the distribution of payments was NOT provided, the granting authority will enforce recovery against the coordinator (debit note); if needed, the granting authority may call on the MIM to intervene and will then continue recovery in the name of the MIM (second debit note replacing the first)

  - after payment of the balance, recoveries (if any) will be made directly against the beneficiary concerned (debit note); no MIM intervention (new for 2021-2027).

In addition, beneficiaries are always liable for repaying the debts of their affiliated entities AND there may be specific joint and several liability regimes in case of enforced recoveries (depending on the type of programme and Grant Agreement; *see Article 22.4*).

2.1Programmes with joint and several liability of beneficiaries, the granting authority will recover the undue amounts:

from the coordinator if the recovery is at the final payment

from the beneficiary who owes the money (including undue amounts paid for costs declared by its affiliated entities, if any) if the recovery is at beneficiary termination or after the final payment.

In case of enforced recovery, i.e. when the coordinator/beneficiary does not pay the amount owed, if the corresponding option has been activated (see Data Sheet, point 4.4), the granting authority may hold the beneficiaries jointly and severally liable for repaying debts of another beneficiary under the Agreement (including late-payment interest)

recover also from the affiliated entities. The affiliated entity's financial responsibility (for the debt towards the granting authority) is limited to its maximum grant amount in Annex 2.For more information on enforced recoveries see *Article 22.4*.

2.2. Programmes without joint and several liability of beneficiaries he granting authority will recover the undue amounts from the beneficiary that owes the money (including undue amounts paid for costs declared by its affiliated entities, if any).

In case of recovery, each beneficiary's financial responsibility is normally limited to its own debt (which includes undue amounts paid for costs declared by its affiliated entities, if any).

If the granting authority has requested joint and several liability of an affiliated entity, it may recover also from the affiliated entity in case of enforced recovery. The affiliated entity's financial responsibility (for the debt towards the granting authority) is limited to its maximum grant amount in Annex 2.

For more information on enforced recoveries see *Article 22.4*.

3. Procedure

The basic procedure for recovery is almost always the same: After a **contradictory procedure**, the granting authority claims repayment of the amounts and, if not paid, then enforces recovery (see *Article 22.4*).

Contradictory procedure:

Step 1 — The granting authority informs the coordinator/beneficiary concerned of its intention to recover (and the reasons why), in a **pre-information letter**.

Step 2 — The coordinator/beneficiary concerned has **30 days** to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or **confirms** the amount to be recovered, and issues a debit note.

Specific cases:

Recoveries for beneficiary in insolvency/bankruptcy — If a beneficiary is in insolvency/bankruptcy proceedings, the granting authority may have to act quickly in order to submit its claims in accordance with the deadlines under the national insolvency/bankruptcy procedures. If immediate action is needed, it will make a provisional declaration and then complete the contradictory procedure with the beneficiary (and, if needed, adjust or cancel the provisional declaration).

22.3 Amounts due

22.3.1 Pre-financing payments

22.3 Amounts due

22.3.1 Pre-financing payments

The aim of the pre-financing is to provide the beneficiaries with a float.

It remains the property of the EU until the final payment.

For **initial pre-financings** (if any), the amount due, schedule and modalities are set out in the Data Sheet (see Point 4.2).

For **additional pre-financings** (if any), the amount due, schedule and modalities are also set out in the Data Sheet (see Point 4.2). However, if the statement on the use of the previous pre-financing payment shows that less than 70% was used, the amount set out in the Data Sheet will be reduced by the difference between the 70% threshold and the amount used.

[OPTION for programmes with Mutual Insurance Mechanism (MIM): The contribution to the Mutual Insurance Mechanism will be retained from the pre-financing payments (at the rate and in accordance with the modalities set out in the Data Sheet, see Point 4.2) and transferred to the Mechanism.*]*

Pre-financing payments (or parts of them) may be offset (without the beneficiaries' consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

1. Pre-financing payments

Most programmes foresee the payment of pre-financing, in order to give beneficiaries a sufficient float to start working on the action.

⚠ **All pre-financing funds remain EU property** until they are cleared against eligible costs or contributions accepted by the granting authority (normally at final payment). The pre-financing is therefore an advance payment. It will only become the property of the beneficiaries when the granting authority approves the corresponding EU funding based on eligible costs or contributions.

If this option is activated in the Grant Agreement, the **initial pre-financing** payment is automatically paid after grant signature. The consortium does NOT need to submit a request of payment to get it.

For **additional pre-financings** (if any), the consortium will be prompted to submit an additional pre-financing report (which includes a statement on the use of the previous pre-financing payment; *see Article 21.2*).

The 'use' of pre-financing does not necessarily correspond to incurring actual cost. Pre-financing can be considered already used if in accordance with the usual accounting practice of the beneficiary a corresponding amount has been committed *(e.g. on subcontracts or financial support to third parties (FSTP))* for the implementation of the action and cannot be used for other commitments anymore.

The additional pre-financing payment will be reduced if — according to the statement on use of the previous pre-financing payment — less than 70% of the previous pre-financing was used. In that case, the amount of the additional pre-financing set out in the Data Sheet will be reduced by the difference between 70% of the previous pre-financing and the amount actually used.

> ***Example:*** *The Data Sheet indicates that there will be an initial pre-financing of EUR 100 000 and one additional pre-financing of EUR 50 000. The consortium reports in the statement of the use of previous pre-financing payment that only EUR 65 000 have been used so far. The additional pre-financing payment will be:*
>
> ***{****50 000 – **(**(100 000 x 0.7) – 65 000**)}** = 45 000*

Pre-financing amount:

The amount of the initial and additional pre-financings (if any) are fixed by the granting authority before grant signature (calculation usually based on a percentage of the maximum grant amount in Annex 2). It will be lowered for additional pre-financings if the beneficiaries used less than 70% of the previous pre-financing. The granting authority will inform the coordinator about the amount paid in the pre-financing payment letter.

Specific cases (pre-financing payments):

Contribution to the Mutual Insurance Mechanism (MIM) *(HE only)* — For programmes with MIM, the contribution to the Mutual Insurance Mechanism (*see Article 5.2)* will be automatically deducted from the initial pre-financing payment and transferred to the MIM (and then released at the end of the action; *see specific cases 'final payment'*).

> ***Example:*** *For a grant with a maximum amount of EUR 1 000 000 and a 40% pre-financing rate, EUR 50 000 (5% of the maximum grant amount) will be retained from the EUR 400 000 pre-financing, resulting in a payment of EUR 350 000 to the coordinator.*

Financial support to third parties (FSTP)— Where an action includes financial support to third parties *(e.g. in the form of grants)*, the commitments entered into by the beneficiaries vis-à-vis their third parties receiving financial support can be included in the 'additional pre-financing report' for the purpose of calculating the 70% usage threshold, even if no payments have been made — provided it is the usual accounting practice of the beneficiaries to consider the corresponding amounts as committed/used and thus no longer available for other purposes.

22.3.2 Amount due at beneficiary termination — Recovery

22.3.2 Amount due at beneficiary termination — Recovery

In case of beneficiary termination, the granting authority will determine the provisional amount due for the beneficiary concerned. Payments (if any) will be made with the next interim or final payment.

The **amount due** will be calculated in the following step:

Step 1 — Calculation of the total accepted EU contribution

Step 1 — Calculation of the total accepted EU contribution

The granting authority will first calculate the 'accepted EU contribution' for the beneficiary for all reporting periods, by calculating the 'maximum EU contribution to costs' (applying the funding rate to the accepted costs of the beneficiary), taking into account requests for a lower contribution to costs and CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions (if any). The resulting amount is the 'total accepted EU contribution' for the beneficiary.

The **balance** is then calculated by deducting the payments received (if any; see report on the distribution of payments in Article 32), from the total accepted EU contribution:

{total accepted EU contribution for the beneficiary

minus

{pre-financing and interim payments received (if any)}.

If the balance is **positive**, the amount will be included in the next interim or final payment to the consortium.

If the balance is **negative**, it will be **recovered** in accordance with the following procedure:

The granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to recover, the amount due, the amount to be recovered and the reasons why and
- requesting observations within 30 days of receiving notification.

If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered and ask this amount to be paid to the coordinator (**confirmation letter**).

[OPTION for programmes with Mutual Insurance Mechanism (MIM): If payment is not made to the coordinator by the date specified in the confirmation letter, the granting authority may call on the Mutual Insurance Mechanism to intervene, if continuation of the action is guaranteed and the conditions set out in the rules governing the Mechanism are met.

In this case, it will send a **beneficiary recovery letter**, together with a **debit note** with the terms and date for payment.

The debit note for the beneficiary will include the amount calculated for the affiliated entities which also had to end their participation (if any).

If payment is not made by the date specified in the debit note, the granting authority will **enforce recovery** in accordance with Article 22.4.*]*

The amounts will later on also be taken into account for the next interim or final payment.

1. Amount due at beneficiary termination — Recoveries?

If a beneficiary is terminated and leaves the consortium, the granting authority must provisionally close the accounts for that beneficiary.

The **amount due** at beneficiary termination will be calculated on the basis of the termination report, the EU contribution already approved and the report on the distribution of payments *(see also Article 32)*. It will be equal to the accepted EU contribution minus payments received by the beneficiary (pre-financing(s) and interim payments; if any).

⚠ If the terminated beneficiary is **audited later on**, but while the project is still ongoing, its amount due will be re-calculated to determine the amount to recover. If the terminated beneficiary is audited after the end of the project, the recovery will follow the standard rules (revised final grant amount calculated).

2. Amount due

The amount due at beneficiary termination is the part of the grant which the beneficiary is entitled to keep when they leave the project.

Calculation of the amount due at beneficiary termination:

Step 1 — **Calculation of the accepted EU contribution**

In order to calculate the amount of **accepted EU contribution** for the beneficiary concerned, the granting authority will add the two following:

- **maximum EU contribution to costs**, which is the result of multiplying the accepted costs for the beneficiary (i.e. costs declared in the interim and termination reports and accepted by the granting authority; *see Articles 6 and 27*) by the applicable funding rate(s) and sum them up to a total amount for the beneficiary.

  Depending on whether termination is initiated by the beneficiaries or the granting authority, only costs incurred *(see Article 6.1(a))* until end-of-work date or date of which termination takes effect are eligible (except for costs for the termination report). Costs relating to contracts due for execution (i.e. delivery) after end-of-work/termination are NOT eligible (except for pillar-assessed participants, *see Article 10.3*).

  If the beneficiary requested less EU contribution than the maximum EU contribution resulting from its eligible costs, the accepted EU contribution will be this lower requested amount.

  If the beneficiary must submit a certificate on the financial statements (CFS, see *Articles 21* and *24.2* and Data Sheet, Point 4.3) with the termination report but fails to do so, the maximum EU contribution will be capped at the CFS threshold stated in the Data Sheet minus one euro.

  Example: *The terminated beneficiary requested in total EUR 490 000 as EU funding for costs. According to the Data Sheet, a CFS is necessary if the requested EU contribution to costs ≥ EUR 430 000. If the beneficiary does not submit the CFS, the maximum EU contribution to costs will be capped at EUR 429 999.*

- **accepted contributions (if any)**, resulting from accepted unit, flat-rate or lump sum contributions and financing not linked to costs.

⚠ If the coordinator **fails to submit the termination report** (within the 60 days of the date on which termination takes effect), costs and contribution that were not included in an approved periodic financial report will NOT be taken into account for the calculation of the accepted EU contribution. The granting authority will NOT send a written reminder and will not extend the deadline.

If the granting authority has decided to apply a **reduction of the grant** (see *Article 28)*, for example if the beneficiary has committed a serious breach of obligations under the Grant Agreement, the EU contribution will be reduced (decreased) accordingly. The final result will be the **total accepted EU contribution** for the beneficiary.

Balance (amount to be paid or recovered):

The balance (amount to be paid or recovered) will be equal to the accepted EU contribution minus payments received by the beneficiary (pre-financing(s) and interim payments; if any).

The amount of pre-financing(s) and interim payments received must be communicated to the granting authority by the coordinator via the report on distribution of payments that must be submitted as part of the termination (see *Article 32.2.2*). If the coordinator does not submit the report on the distribution of payments, the terminated beneficiary will NOT have to repay any amounts to the consortium.

If the amount due is **positive** (more accepted EU contribution than payments made), the granting authority will include the difference in the next interim/final payment to the consortium.

If the amount due is **negative** (less accepted EU contribution than payments made), the beneficiary must pay back the difference, i.e. the money it received in excess, to the consortium.

Example for calculating the amount due at beneficiary termination:

Grant with three beneficiaries (A, B and C) and two reporting periods.

Maximum grant amount: EUR 500 000 (beneficiary maximum grant amounts in Annex 2: A= EUR 200 000; B= EUR 200 000; C= EUR 100 000).

Funding rate: 100 %. No contributions.

Pre-financing: EUR 200 000.

Accepted EU contribution: *Beneficiary A goes bankrupt in the middle of the action and is terminated at month 18 (of 36), just before the end of RP1.*

Costs declared by beneficiary A in the termination report = EUR 62 500.

Costs rejected for beneficiary A following audit = EUR 12 500.

Accepted costs beneficiary A: EUR 62 500 – EUR 12 500 = EUR 50 000.

Application of funding rate: EUR 50 000 (total accepted EU contribution).

Beneficiary balance: *Payments received by beneficiary A (according to the report on the distribution of payments): EUR 60 000.*

Beneficiary A balance = EUR 50 000 (accepted EU contribution) – EUR 60 000 (payments received) = EUR -10 000 (excess payments of EUR 10 000).

Recovery: *Amount to be recovered from beneficiary A: EUR 10 000 (negative balance of EUR 10 000 must be returned to the consortium).*

3. Procedure

I granting authority will inform the beneficiary concerned about the termination calculations and give them the opportunity to provide observations (beneficiary termination calculation letter and final letter).

If the balance is negative, a mechanism is needed to recover this amount and ensure that it is paid back to the consortium (who will need the missing float to successfully complete the project). The procedure depends on the type of programme (with or without MIM):

For programmes without MIM *(all programmes except HE)*, the granting authority will inform the beneficiary concerned about the amount that needs to be returned to the consortium (and the obligation to do so). For the rest, this will however be treated as a matter for the consortium to deal with, and the granting authority will therefore not intervene any further.

For programmes with MIM *(HE only)*, the granting authority will make sure that the amount in question is recovered from the beneficiary concerned and injected back into the consortium (debit note issued by the EU). If the beneficiary doesn't honour the debit note, the granting authority may call on the MIM to intervene and then recover the amount for the MIM (if needed by enforcing the recovery, using the mechanisms set out in Article 22.4).

22.3.3 Interim payments

22.3.3 Interim payments

Interim payments reimburse the eligible costs and contributions claimed for the implementation of the action during the reporting periods (if any).

Interim payments (if any) will be made in accordance with the schedule and modalities set out the Data Sheet (see Point 4.2).

Payment is subject to the approval of the periodic report. Its approval does not imply recognition of compliance, authenticity, completeness or correctness of its content.

The **interim payment** will be calculated by the granting authority in the following steps:

Step 1 — Calculation of the total accepted EU contribution

Step 2 — Limit to the interim payment ceiling

Step 1 — Calculation of the total accepted EU contribution

The granting authority will calculate the 'accepted EU contribution' for the action for the reporting period, by first calculating the 'maximum EU contribution to costs' (applying the funding rate to the accepted costs of each beneficiary), taking into account requests for a lower contribution to costs, and CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions from beneficiary termination (if any). The resulting amount is the 'total accepted EU contribution'.

[OPTION for programmes with early pre-financing clearing (before reaching the interim payment ceiling): If pre-financing clearing before reaching the interim payment ceiling is provided for in the Data Sheet (see Point 4.2), the total accepted EU contribution will be lowered to clear the amount of pre-financing payments previously made.]

Step 2 — Limit to the interim payment ceiling

The resulting amount is then capped to ensure that the total amount of pre-financing and interim payments (if any) does not exceed the interim payment ceiling set out in the Data Sheet (see Point 4.2).

Interim payments (or parts of them) may be offset (without the beneficiaries' consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

1. Interim payments

During the project, the granting authority will make interim payments, if this option is activated in the Grant Agreement.

The amount of the **interim payments** will be calculated on the basis of the costs and contributions reported in the financial statements and the (previous pre-financing and/or interim) payments already made.

⚠ Cost and contributions accepted in a periodic report may still be **rejected later** if a check, review, audit or investigation finds out that they were not eligible.

Calculation of interim payments:

Step 1 — **Calculation of the total accepted EU contribution**

In order to calculate the amount of accepted EU contribution for the action for the reporting period concerned, the granting authority will add the two following:

- **maximum EU contribution to costs**, which is the result of multiplying the accepted costs reported in the financial statements *(see Articles 6 and 27)* by the applicable funding rate(s) and sum them up to a total amount for the consortium.

  The following amounts will flow into the calculation of the maximum EU contribution to costs for the interim payment to the consortium:

  - If a beneficiary requested less EU contribution than the maximum EU contribution resulting from its eligible costs, its accepted EU contribution will be this lower requested amount.

  - If a beneficiary must submit a certificate on the financial statements (CFS, see *Articles 21* and *24.2* and Data Sheet, Point 4.3) with the periodic report but fails to do so, its maximum EU contribution will be capped at the CFS threshold stated in the Data Sheet minus one euro.

    Example: *The terminated beneficiary requested in total EUR 490 000 as EU funding for costs. According to the Data Sheet, a CFS is necessary if the requested EU contribution to costs ≥ EUR 430 000. If the beneficiary does not submit the CFS, the maximum EU contribution to costs will be capped at EUR 429 999.*

- **accepted contributions (if any)**, resulting from accepted unit, flat-rate or lump sum contributions and financing not linked to costs.

If during the reporting period the participation of a beneficiary was terminated and if a grant **reduction** was applied to the terminated beneficiary, the amount of that grant reduction will reduce the accepted EU contribution.

Step 2 — **Capping the amount at the interim payments ceiling**

If the total accepted EU contribution is more than the ceiling set out in the Data Sheet (Point 4.2) minus the pre-financing(s) and previous interim payments, the payment will be capped at that limit. The pre-financing clearing is automatically recorded with costs above the interim payment threshold (normally 90%).

Examples for calculating interim payments:

Case 1:

Grant with three beneficiaries (A, B and C) and three reporting periods.

Maximum grant amount in Annex 2: EUR 1 000 000 and 100% funding rate. No contributions.

Pre-financing of EUR 333 334.

Interim payment ceiling: 90% of the maximum grant amount of EUR 1 000 000 = EUR 900 000

Interim payment RP1:

Costs declared by the consortium for RP1: EUR 625 000.

After checking the reports EUR 25 000 claimed by beneficiary A and EUR 15 000 claimed by beneficiary B are considered not eligible. The granting authority therefore rejects EUR 40 000.

Total accepted costs RP1: EUR 585 000.

Application of funding rate: 100% = EUR 585 000 (total accepted EU contribution).

Limit to 90% of the maximum grant amount minus pre-financing = EUR 900 000 – EUR 333 334 [pre-financing payment] = EUR 566 666.

Amount to be paid out to the consortium as interim payment for RP1: EUR 566 666 [EUR 585 000 accepted contribution capped by the interim payment ceiling of EUR 900 000 minus pre-financing of EUR 333 334].

The difference between 566 666 and 585 000 will be cleared from the pre-financing.

Interim payment RP 2:

Total accepted costs RP2: EUR 162 500.

Amount to be paid out to the consortium as interim payment for RP2: EUR 0 (the 90% ceiling of EUR 900 000 has already been reached after RP1: EUR 333 334 [pre-financing payment]+ EUR 566 666 [RP1 interim payment]).

The accepted cost will be used to further clear the pre-financing.

Case 2 (grant with terminated beneficiary):

Grant with three beneficiaries (A, B and C) and two reporting periods.

Maximum grant amount: EUR 500 000 (beneficiary maximum grant amounts in Annex 2: A= EUR 200 000; B= EUR 200 000; C= EUR 100 000).

Funding rate: 100%. No contributions.

Pre-financing: EUR 200 000.

Interim payment ceiling: 90% of the maximum grant amount of EUR 500 000 = EUR 450 000.

Beneficiary A was terminated before the end of RP1 and the amount due was its accepted costs :EUR 62 500 EUR (no grant reductions applied).

Interim payment RP1:

Costs declared by beneficiary A: EUR 62 500.

Costs declared by beneficiary B for RP1: EUR 143 750.

Costs declared by beneficiary C for RP1: EUR 112 500.

Total costs declared RP1: EUR 62 500 + EUR 143 750 + EUR 112 500 = EUR 318 750.

Some costs declared by beneficiary B are rejected for an amount of EUR 12 500. Total accepted costs RP 1: EUR 318 750 – EUR 12 500 = EUR 306 250.

Application of the funding rate 100%: EUR 306 250 (total accepted EU contribution).

Limit to 90 % of the maximum grant amount minus pre-financing = EUR 450 000 [ceiling] – EUR 200 000 [pre-financing payment] = EUR 250 000.

Amount to be paid out to the consortium as interim payment for RP1: EUR 250 000 [EUR 306 250 accepted contribution capped by the interim payment ceiling of EUR 450 000 minus pre-financing of EUR 333 334].

Case 3:

Grant with three beneficiaries (A, B and C) and three reporting periods.

Maximum grant amount: EUR 500 000 (beneficiary maximum grant amounts in Annex 2: A= EUR 200 000; B= EUR 200 000; C= EUR 100 000).

Funding rate: 100%.

Pre-financing: EUR 200 000.

Interim payment ceiling: 90% of the maximum grant amount of EUR 500 000 = EUR 450 000.

Interim payment RP1:

Costs declared by beneficiary A for RP1: EUR 118 750.

Costs declared by beneficiary B for RP1: EUR 143 750.

Costs declared by beneficiary C for RP1: EUR 112 500.

Total costs declared RP1: EUR 118 750 + EUR 143 750 + EUR 112 500 = EUR 375 000.

Some direct costs declared by beneficiary A are rejected for an amount of EUR 12 500.

Total accepted costs RP 1: EUR 375 000 – EUR 12 500 = EUR 362 500.

Application of the funding rate 100%: EUR 362 500 (total accepted EU contribution).

Limit to 90 % of the maximum grant amount minus pre-financing: EUR 450 000 – EUR 200 000 = EUR 250 000.

Amount to be paid out to the consortium as interim payment for RP1: EUR 250 000.

Interim payment RP2:

Costs declared by beneficiary A for RP2: EUR 25 000.

Costs declared by beneficiary B for RP2: EUR 37 500.

Costs declared by beneficiary C for RP2: EUR 37 500.

Total costs declared RP2: EUR 25 000 + EUR 37 500 + EUR 37 500 = EUR 100 000.

Costs rejected for beneficiary B at RP2: EUR 12 500.

Costs rejected for beneficiary C at RP2: EUR 6 250.

Total accepted costs RP2 = EUR 81 250.

Application of the funding rate 100%: EUR 81 250 (total accepted EU contribution).

Amount to be paid out to the consortium as interim payment for RP2: EUR 0 (the 90% limit has already been reached in RP1: EUR 200 000 + EUR 250 000 = EUR 450 000).

2. Procedure

The granting authority will inform the coordinator about the interim payment calculations and give them the possibility to submit observations (payment letter and final letter).

22.3.4 Final payment — Final grant amount — Revenues and Profit — Recovery

22.3.4 Final payment — Final grant amount — Revenues and Profit — Recovery

The final payment (payment of the balance) reimburses the remaining part of the eligible costs and contributions claimed for the implementation of the action(if any).

The final payment will be made in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2).

Payment is subject to the approval of the final periodic report. Its approval does not imply recognition of compliance, authenticity, completeness or correctness of its content.

The **final grant amount for the action** will be calculated in the following steps:

Step 1 — Calculation of the total accepted EU contribution

Step 2 — Limit to the maximum grant amount

Step 3 — Reduction due to the no-profit rule

Step 1 — Calculation of the total accepted EU contribution

The granting authority will first calculate the 'accepted EU contribution' for the action for all reporting periods, by calculating the 'maximum EU contribution to costs' (applying the funding rate to the total accepted costs of each beneficiary), taking into account requests for a lower contribution to costs, CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions (if any). The resulting amount is the 'total accepted EU contribution'.

Step 2 — Limit to the maximum grant amount

If the resulting amount is higher than the maximum grant amount set out in Article 5.2, it will be limited to the latter.

Step 3 — Reduction due to the no-profit rule

If the no-profit rule is provided for in the Data Sheet (see Point 4.2), the grant must not produce a profit (i.e. surplus of the amount obtained following Step 2 plus the action's revenues, over the eligible costs and contributions approved by the granting authority).

'Revenue' is all income generated by the action, during its duration (see Article 4), for beneficiaries that are profit legal entities *[OPTION for programmes with exception for revenues: [OPTION if selected for the call:* (— with the exception of [insert exceptions], which are not considered as revenues)*]]*.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the eligible costs approved by the granting authority (as compared to the amount calculated following Steps 1 and 2 minus the contributions).

The **balance** (final payment) is then calculated by deducting the total amount of pre-financing and interim payments already made (if any), from the final grant amount:

{final grant amount

minus

{pre-financing and interim payments made (if any)}}.

If the balance is **positive**, it will be **paid** to the coordinator.

[OPTION for programmes with Mutual Insurance Mechanism (MIM): The amount retained for the Mutual Insurance Mechanism (see above) will be released and **paid** to the coordinator (in accordance with the rules governing the Mechanism).*]*

The final payment (or part of it) may be offset (without the beneficiaries' consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

If *[OPTION for programmes with Mutual Insurance Mechanism (MIM):* — despite the release of the Mutual Insurance Mechanism contribution —*]* the balance is **negative**, it will be **recovered** in accordance with the following procedure:

The granting authority will send a **pre-information letter** to the coordinator:

- formally notifying the intention to recover, the final grant amount, the amount to be recovered and the reasons why
- *[OPTION for programmes with Mutual Insurance Mechanism (MIM):* requesting a report on the distribution of payments to the beneficiaries within 30 days of receiving notification and*]*
- requesting observations within 30 days of receiving notification.

[OPTION 1 for programmes without Mutual Insurance Mechanism (MIM): If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered (**confirmation letter**), together with a **debit note** with the terms and date for payment.*]*

[OPTION 2 for programmes with Mutual Insurance Mechanism (MIM): If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received) and the coordinator has submitted the report on the distribution of payments, it will calculate the **share of the debt per beneficiary**, by:

(a) identifying the beneficiaries for which the amount calculated as follows is negative:

{{{total accepted EU contribution for the beneficiary

divided by

total accepted EU contribution for the action}

multiplied by

final grant amount for the action},

minus

{pre-financing and interim payments received by the beneficiary (if any)}}

and

(b) dividing the debt:

{{amount calculated according to point (a) for the beneficiary concerned

divided by

the sum of the amounts calculated according to point (a) for all the beneficiaries identified according to point (a)}

multiplied by

the amount to be recovered}.

and confirm the amount to be recovered from each beneficiary concerned (**confirmation letter**), together with **debit notes** with the terms and date for payment.

The debit notes for beneficiaries will include the amounts calculated for their affiliated entities (if any).

If the coordinator has not submitted the report on the distribution of payments, the granting authority will **recover** the full amount from the coordinator (**confirmation letter** and **debit note** with the terms and date for payment).*]*

If payment is not made by the date specified in the debit note, the granting authority will **enforce recovery** in accordance with Article 22.4.

1. Final payment — Recoveries?

At the final payment (payment of the balance), the granting authority must close the accounts for the action.

The **final payment amount** (to be paid or recovered) will be calculated on the basis of the costs and contributions reported in the financial statements and the payments already made.

⚠ Cost and contributions **accepted** in a periodic report **may still be rejected later** if a check, review, audit or investigation finds out that they were not eligible.

2. Final grant amount

The final grant amount is the total EU contribution to which the consortium as a whole is entitled to at the end of the action. It can never be higher than the maximum grant amount in Annex 2, but it can be lower if there are insufficient total accepted eligible costs and contributions or if the granting authority applies a grant reduction (see *Article 28*).

The final grant amount will depend on two types of criteria:

- **implementation criteria**, i.e. was the action implemented as described in Annex 1 and in accordance with the obligations set out in the Grant Agreement.

  This is mostly a technical analysis by the granting authority of the work performed during the action, as compared with the activities set out in Annex 1 of the Grant Agreement. If the action was not properly implemented, the granting authority may decide to **reduce** the grant (*see Article 28*).

- **financial criteria**, including:
  - the amount of (accepted) eligible costs and contributions
  - the funding rate(s)
  - the maximum grant amount *(*Annex 2)
  - the profit.

Calculation of the final grant amount:

Step 1 — **Total accepted EU contribution**

In order to calculate the total accepted EU contribution for the action, the granting authority will determine the following elements:

- **maximum EU contribution to costs**, which is the result of multiplying the **accepted eligible costs** reported in the financial statements (*see Articles 6 and 27*) by the applicable funding rate(s) and sum them up to a total amount for the consortium.
  - If a beneficiary requested less EU contribution than the maximum EU contribution resulting from its eligible costs, its accepted EU contribution will be this lower requested amount.
  - If a beneficiary must submit a certificate on the financial statements (CFS, see *Articles 21* and *24.2* and Data Sheet, Point 4.3) with the periodic report but fails to do so, its maximum EU contribution will be capped at the CFS threshold stated in the Data Sheet minus one euro.

Example: *The beneficiary requested in total EUR 490 000 as EU funding for costs. According to the Data Sheet, a CFS is necessary if the requested EU contribution to costs ≥ EUR 430 000. If the beneficiary does not submit the CFS, the maximum EU contribution to costs will be capped at EUR 429 999.*

- **accepted contributions (if any)**, resulting from accepted unit, flat-rate or lump sum contributions and financing not linked to costs.

If the granting authority has decided to apply a **reduction of the grant** (see *Article 28*), for example due to improper implementation of the action, the EU contribution will be reduced (decreased) accordingly. The final result will be **the total accepted EU contribution**.

Step 2 — **Limit to maximum grant amount**

If the total accepted EU contribution is higher than the maximum grant amount for the action in Annex 2, it will be capped at the maximum grant amount.

Step 3 — **No-profit rule** (if applicable*see Data Sheet, Point 4.2*)

For entities that work for profit (in their usual activities), EU grants must not have the purpose or effect of producing a profit during the action. Beneficiaries that are profit legal entities (and that do not fall under any of the other exceptions*, see below*) must therefore declare their revenues at the end of the action.

⚠ For the calculation of the profit, only the EU grant (and other EU grants, if any; *see Article 6.3*) and the **revenues** from the action *(e.g. from the sale of results, such as products, services and publications, conference fees)* are taken into account. Grants from other donors for the action or for the activities of the beneficiaries ('financial contributions') are NOT considered as revenue.

'**Revenue**' is all income generated by the action, during its duration (see Article 4), for beneficiaries that are profit legal entities. The revenue must be:

- established (i.e. revenue that has been collected AND entered in the accounts)
- generated (i.e. revenue that has not yet been collected, but which has been generated)

or

- confirmed (i.e. revenue that has not yet been collected, but for which the beneficiary has a commitment or written confirmation).

Exceptions: Only for-profit entities must declare revenues. In addition, certain types of grants are exempted:

- actions with the objective to reinforce the financial capacity of the beneficiaries *(— this should be clear from the call)*
- actions where the continuity after their end is to be ensured by the income generated by the action *(— this should be clear from the call)*
- grants in the form of study, research or training scholarships paid to natural persons or as other forms of direct support paid to natural persons who are most in need *(e.g. refugees, the unemployed)*
- grants with a maximum amount of not more than EUR 60 000 (low value grants)

Profit calculation and deduction: The declared revenues will be taken into account by the system and the profit (if any) will be deducted from the amount resulting from

Step 2 in proportion to the final rate of reimbursement of eligible costs (i.e. not the entire profit is deducted, only an amount proportionate to the EU share of funding the action):

{profit}

multiplied by

{final rate of reimbursement of the eligible costs}

The **profit** is calculated as follows:

{((amount after step 2 [the lower of total accepted EU contribution or maximum grant amount]) plus action revenue) minus accepted eligible costs}

The **final rate of reimbursement** is distinct from the funding rate. It is the proportion of EU funding, i.e. the eligible cost of the action compared to the final grant amount. It is calculated as follows:

{(Amount after step 2 [the lower of total accepted EU contribution or maximum grant amount]) divided by accepted eligible cost}

Balance — Payment or recovery:

The balance (amount to be paid or recovered) will be equal to the final grant amount minus the payments already made to the consortium (pre-financing(s) and interim payments).

If the resulting amount is **positive** (final grant amount higher than payments made), the granting authority will pay the difference as final payment.

If the resulting amount is **negative** (final grant amount lower than payments made), the final payment will take the form of a recovery (the consortium will have to pay back the EU contribution received in excess).

Example for calculating the final grant amount:

At the end of an action with a maximum grant amount of EUR 1 million and a funding rate of 70% the beneficiary, a private IT-startup, submits the last periodic report for the final payment. The beneficiary has declared eligible cost of EUR 1,7 million during all reporting periods. The financial statements of the beneficiary show that profit was generated due to a ministry of a Member State procuring for EUR 800 000 a licence for the use of an IT tool developed under one of the work packages during the last reporting period of the action. The grant does not provide for a specific exemption from the no-profit rule.

Relevant data (see Data Sheet):

Exempted: No (no specific exemption under the grant, and no general exemption as the IT-startup is a for-profit entity)

Maximum grant amount in Annex 2: EUR 1 000 000

Funding rate: 70%

Accepted eligible cost: EUR 1 700 000

Revenue: EUR 800 000

***Step 1 – Total accepted EU contribution:** With a funding rate of 70% applied to the accepted eligible cost of EUR 1 700 000, the maximum EU contribution to costs would be*

EUR 1 700 000 x 0.7 = EUR 1 190 000.

***Step 2 – Limit to maximum grant amount:** However, the accepted EU contribution of EUR 1 190 000 amount is capped by the maximum grant amount to EUR 1 000 000.*

***Step 3 – No–Profit:** The profit would be EUR 1 000 000 [EU grant from step 2 amount] + EUR 800 000 [revenue] – EUR 1 700 000 [accepted eligible cost] = EUR 100 000*

The amount to be deducted would be the profit multiplied by the final rate of reimbursement:

EUR 100 000 [profit] x (EUR 1 000 000 [step 2 amount] / EUR 1 700 000 [accepted eligible cost]). That is EUR 100 000 [profit] x 58,82% [final rate of reimbursement] = EUR 58 820

***Final grant amount** = EUR 1 000 000 [step 2 amount] – EUR 58 820 [profit deduction] = EUR 941 180*

Specific cases (final payment):

Combining EU Synergy actions — If the same action received more than one source of EU funding (only allowed for actions flagged as 'Synergy action', see *Data Sheet Point 1*), at final payment it needs to be ensured that the combined actual funding rates do not go beyond 100% of the accepted eligible cost of the action and the total EU funding (of all EU grants combined) will accordingly be taken into account for the calculation of revenue.

Income from exploitation of results *(HE only)* **—** For actions under Horizon Europe, income generated by the exploitation of results are NOT considered as revenues. Exploitation is defined in Annex 5 *(e.g. commercialising a product or service)*.

Income from building up of reserves *(operating grants in all programmes)* **—** For operating grants, amounts which are dedicated to the building up of reserves are NOT considered as revenues.

Release of the contribution to the Mutual Insurance Mechanism (MIM) *(HE only)* — For programmes with MIM, the contribution to the MIM that was kept from the pre-financing (*see specific cases 'pre-financing')* must be released back to the consortium.

If the balance is positive, the contribution will be released in a separate payment.

If the balance is negative, the amount to be recovered (debt) will be first compensated against the MIM contribution released. If this amount is enough to cover the debt, the recovery process ends here (the consortium will be paid out the remainder of the MIM contribution, if any is left after the compensation). If the released contribution is not sufficient to cover the debt, the rest will be recovered *(see procedure below)*.

3. Procedure

The granting authority will inform the consortium about the final payment calculations and give them the opportunity to provide observations (payment letter and final letter).

If the balance is negative, the amount needs to be recovered. The procedure depends on the type of programme (with or without MIM).

For programmes without MIM *(all programmes except HE)***:** At the payment of the balance, the coordinator is fully liable for the whole amount that needs to be recovered (i.e. paid back to the granting authority) — even if it has not been the final recipient of the concerned amount.

Therefore, the coordinator will receive the final letter with a debit note for the full amount of the debt of the consortium, with the instructions for payment. If the coordinator does not pay the debt, the granting authority will enforce the recovery using the mechanisms set out in Article 22.4.

For programmes with MIM *(HE only)***:**

The coordinator is not fully liable for the whole amount that needs to be recovered; each beneficiary's financial liability is in principle limited to their own debt and undue amounts paid for costs declared by their affiliated entities.

Therefore, the coordinator will receive a request to submit the report on the distribution of payments (in the payment letter) and the negative balance (debt) will be split among the beneficiaries that received more money than their share in the final grant amount (payments in excess; based on their eligible costs and contributions). Each beneficiary's share in the debt is calculated using the formula:

{((total accepted EU contribution for the beneficiary)

divided by

total accepted EU contribution for the action**)**

multiplied by

final grant amount for the action**}**

The negative balance will be then divided among those beneficiaries who received payments in excess, in proportion to their relative share of the total payments in excess. Each of those beneficiaries will receive a separate debit note for their share of the debt, with the instructions for payment (beneficiary recovery letter).

For each beneficiary that does not pay their debt, the granting authority will enforce the recovery using the mechanisms set out in Article 22.4.

Beneficiaries who did not receive more money than their share of the final grant amount will thus not have to contribute to the repayment of the negative balance. Similarly, the coordinator is only liable for the full amount of the debt, if they did not submit the report on the distribution of payments (only in this case will they receive a debit note for the full amount).

Example (negative balance with MIM):

Grant with four beneficiaries: A, B, C, D.

Maximum grant amount in Annex 2: EUR 3 000 000 (beneficiary maximum grant amounts: A= EUR 800 000; B= EUR 1 200 000; C= EUR 600 000; D= EUR 400 000).

Funding rate: 100 %.

MIM contribution: 5% of 3 000 000 = EUR 150 000.

Payments received: EUR 2 700 000 (EUR 150 000 retained for the MIM).

Final grant amount:

Total accepted costs: EUR 3 080 000.

Application of the funding rate: 100% = EUR 3 430 000 (total accepted EU contribution).

Grant reduction of EUR 400 000

Accepted EU contribution: 3 080 0–0 - 400 000 = EUR 2 680 000.

Limit to maximum grant amount: not applicable (because maximum grant amount > accepted EU contribution)

No receipts/profit.

Final grant amount: EUR 2 680 000

Balance & MIM release:

Payments made: EUR 2 700 000.

Balance: EUR 2 680 000 (final grant amoun–) - EUR 2 700 000 (payments made) = EUR -20 000 (excess payments of EUR 20 000).

Compensating against MIM and release: EUR 150 000 – 20 000 = EUR 130 000.

22.3.5 Audit implementation after final payment — Revised final grant amount — Recovery

22.3.5 Audit implementation after final payment — Revised final grant amount — Recovery

If — after the final payment (in particular, after checks, reviews, audits or investigations; see Article 25) — the granting authority rejects costs or contributions (see Article 27) or reduces the grant (see Article 28), it will calculate the **revised final grant amount** for the beneficiary concerned.

The **beneficiary revised final grant amount** will be calculated in the following step:

Step 1 — Calculation of the revised total accepted EU contribution

Step 1 — Calculation of the revised total accepted EU contribution

The granting authority will first calculate the 'revised accepted EU contribution' for the beneficiary, by calculating the 'revised accepted costs' and 'revised accepted contributions'.

After that, it will take into account grant reductions (if any). The resulting 'revised total accepted EU contribution' is the beneficiary revised final grant amount.

If the revised final grant amount is lower than the beneficiary's final grant amount (i.e. its share in the final grant amount for the action), it will be **recovered** in accordance with the following procedure:

The **beneficiary final grant amount** (i.e. share in the final grant amount for the action) is calculated as follows:

{{{total accepted EU contribution for the beneficiary

divided by

total accepted EU contribution for the action}

multiplied by

final grant amount for the action}.

The granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to recover, the amount to be recovered and the reasons why and
- requesting observations within 30 days of receiving notification.

If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered (**confirmation letter**), together with a **debit note** with the terms and the date for payment.

Recoveries against affiliated entities (if any) will be handled through their beneficiaries.

If payment is not made by the date specified in the debit note, the granting authority will **enforce recovery** in accordance with Article 22.4.

1. Audit implementation after final payment — Revised final grant amount — Recovery?

If there is an audit (or similar, such as for instance an OLAF investigation) after the end of the action which finds ineligible costs or contributions (or breaches that require a grant reduction), the granting authority will have to recalculate the grant for the beneficiary concerned.

The **amount to be recovered** after the final payment will be calculated by comparing the beneficiary's share in the final grant amount (i.e. at the final payment of the grant) and the beneficiary's revised final grant amount (i.e. amount entitled to after the audit).

Calculation of the revised final grant amount:

Step 1 — **Calculation of the revised total accepted EU contribution**

In order to calculate the amount of **revised accepted EU contribution** for the beneficiary concerned, the granting authority will consider the:

- **maximum revised EU contribution to costs**, which is the result of multiplying the accepted costs for the beneficiary, after implementation of the adjustments (*see Articles 6, 25 and 27*) by the applicable funding rate(s) and sum them up to a total amount for the beneficiary.
- **revised accepted contributions (if any)**, resulting from accepted unit, flat-rate or lump sum contributions and financing not linked to costs after the adjustments.

If the granting authority has decided to apply a reduction of the grant (see *Article 28)*, for example if the audit finds irregularities in the action implementation by the beneficiary, the revised accepted EU contribution will be reduced (decreased) accordingly. The final result will be the **revised total accepted EU contribution** for the beneficiary.

Amount to be recovered:

If the revised final grant amount is **lower than the beneficiary's final grant amount** (i.e. its share in the final grant amount for the action), there will need to be a recovery of the difference.

The beneficiary's share in the final grant amount (what the beneficiary was entitled to, based on its eligible costs and contributions, when the final payment was done) is:

{((**(total accepted EU contribution for the beneficiary) divided by (total accepted EU contribution for the action)**)** multiplied by final grant amount for the action**}

⚠ The beneficiary's share in the final grant amount is not necessarily equal to the money it received from the coordinator. The consortium may have decided on a different distribution of the EU funding. However, the amount to be recovered will be calculated using the beneficiary's **notional share irrespectively of the amount it actually received from the coordinator.**

The **amount to be recovered** from the beneficiary will be:

{the beneficiary's share in the final grant amount**}**

minus

{the beneficiary's revised final grant amount**}**

2. Procedure

The granting authority will inform the beneficiary concerned about the audit implementation calculations and give them the opportunity to provide observations (audit implementation pre-information letter and final letter).

For the recovery process, see *Article 22.2*. If the beneficiary does not pay the debt, the granting authority will enforce the recovery using the mechanisms set out in Article 22.4.

22.4 Enforced recoveries

22.4 Enforced recovery

If payment is not made by the date specified in the debit note, the amount due will be recovered:

(a) by offsetting the amount — without the coordinator or beneficiary's consent — against any amounts owed to the coordinator or beneficiary by the granting authority.

In exceptional circumstances, to safeguard the EU financial interests, the amount may be offset before the payment date specified in the debit note.

For grants where the granting authority is the European Commission or an EU executive agency, debts may also be offset against amounts owed by other Commission services or executive agencies.

(b) *[OPTION 1 for programmes with pre-financing guarantees:* by drawing on the financial guarantee(s) (if any)*][OPTION 2 for programmes without pre-financing guarantees:* financial guarantee(s): not applicable*]*

(c) *[OPTION 1 for programmes with joint and several liability of beneficiaries:* by holding other beneficiaries jointly and severally liable (if any; see Data Sheet, Point 4.4)*] [OPTION 2 for programmes without joint and several liability of beneficiaries:* joint and several liability of beneficiaries: not applicable*]*

(d) *[OPTION 1 for programmes with joint and several liability of affiliated entities:* by holding affiliated entities jointly and severally liable (if any, see Data Sheet, Point 4.4)*][OPTION 2 for programmes without joint and several liability of affiliated entities:* joint and several liability of affiliated entities: not applicable*]* or

(e) by taking legal action (see Article 43) or, provided that the granting authority is the European Commission or an EU executive agency, by adopting an enforceable decision under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 100(2) of EU Financial Regulation 2018/1046.

[OPTION for programmes with Mutual Insurance Mechanism (MIM): If the Mutual Insurance Mechanism was called on by the granting authority to intervene, recovery will be continued in the name of the Mutual Insurance Mechanism. If two debit notes were sent, the second one (in the name of the Mutual Insurance Mechanism) will be considered to replace the first one (in the name of the granting authority). Where the MIM intervened, offsetting, enforceable decisions or any other of the above-mentioned forms of enforced recovery may be used mutatis mutandis.*]*

The amount to be recovered will be increased by **late-payment interest** at the rate set out in Article 22.5, from the day following the payment date in the debit note, up to and including the date the full payment is received.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2015/2366[42] applies.

For grants where the granting authority is an EU executive agency, enforced recovery by offsetting or enforceable decision will be done by the services of the European Commission (see also Article 43).

[42] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ **L 337, 23.12.2015, p. 35).**

1. Enforced recoveries

If the coordinator/beneficiary concerned does not pay a debit note by the specified deadline, the granting authority will **recover** the amount (with interest at the rate set out in *Article 22.5*), in one of the following ways:

- by **offsetting** it
- for programmes with pre-financing guarantees *(most programmes, except HE)*: by **drawing on the financial guarantee(s)** (if any)
- for programmes with MIM *(HE only)*: by **drawing on the Mutual Insurance Mechanism (MIM)**, and then follow up with a debit note on behalf of the MIM against the debtor (and continue the recovery procedure applying any of the other measures to enforce the recovery)
- if the granting authority has requested joint and several liability: by **calling upon the beneficiary(ies)** or **affiliated entities concerned** *(see Data Sheet, Point 4.4)*

or

- by either:
  - taking **legal action** in a national court or the European Court of Justice *(see Article 43)* or
  - adopting a **decision** that is **enforceable** within the meaning of Article 299 TFEU[28].[29]

'Offsetting' allows to directly deduct the amount owed *by* the coordinator/beneficiary from any other amount that the granting authority owes *to* the coordinator/beneficiary. With the offsetting, both amounts are considered paid.

⚠ **Offsetting** is normally implemented as a **public law measure** (i.e. directly on the basis of Article 102 of the Financial Regulation 2018/1046). Therefore, the dispute settlement normally follows the public law remedies (i.e. Article 263 TFEU action; *see Article 43.2*).

For the cases not covered by the Financial Regulation, offsetting will however — exceptionally — be implemented as a purely **contractual measure** *(e.g. offsetting against international organisations)*. In this case, the normal contractual means for dispute settlement apply (i.e. Article 272 TFEU action, arbitration, etc; *see Article 43.2*).

Normally, offsetting is carried out *after* the deadline specified in the debit note has expired. However, in exceptional circumstances, the granting authority may offset before this date in order to safeguard the EU financial interests *(see Article 102(1) Financial Regulation 2018/1046)*.

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[28] *See Article 299 TFEU: "Acts of the Council, the Commission or the European Central Bank which impose a pecuniary obligation on persons other than States, shall be enforceable. Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice of the European Union. When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. Enforcement may be suspended only by a decision of the Court. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner."*

[29] *See Article 100(2) of the Financial Regulation 2018/1046.*

If the offsetting takes place after the deadline for payment has expired, the interest must also be offset. The interest is normally offset first, before the principal amount.

'Joint and several liability' means to hold another participant liable for paying the debit note. There are two types of joint and several liability:

- joint and several liabilities of beneficiaries (only for programmes without MIM; *all programmes except HE*) — ONLY if selected by the granting authority during grant preparation; check the Data Sheet

- joint and several liability of affiliated entities *(all programmes)* — ONLY if selected by the granting authority during grant preparation; check the Data Sheet

These joint and several liability regimes are subject to ceilings. Affiliated entities are generally only liable up to their maximum grant amount in Annex 2. This is also the default option for beneficiaries ('limited liability'), but for them the granting authority may also select another option (either up to the maximum grant amount for the action ('unconditional liability') or no joint and several liability ('individual liability')).

'Drawing on the MIM' is available only for programmes with MIM *(HE only)*. For 2021-2027, MIM interventions are limited to defaults in the context of beneficiary terminations and negative payment of the balance *(see Articles 22.3.2 and 22.3.4)*; the MIM can no longer be called on to intervene after the payment of the balance *(see Article 22.3.5)*.

'Enforceable decisions' are public law decisions, taken directly on the basis of Article 100(2) of the Financial Regulation No 2018/1046.

The decision will contain a summary of the claim, state that the debtor has not paid its debt (despite having been sent a debit note and several reminders) and indicate the amount of the debt.

The decision — duly endorsed with the order for enforcement issued by the competent authority in the Member State concerned — allows to have the **debtor's assets seized**.

Since they are public law decisions, the dispute settlement normally follows the public law remedies (i.e. Article 263 TFEU action; *see Article 4.2*).

Specific case (recoveries):

International organisations — Enforceable decisions under Article 299 TFEU (and other public law decisions) will NOT be taken against international organisations where this would be contrary to the privileges and immunities accorded by their constituent documents or international law *(see Article 10.2)*.

Offsetting *(see Article 102 of the Financial Regulation 2018/1046)* is — by contrast — a measure that may be taken in relation to international organisations, however NOT as public law measure as such but as a purely contractual measure (on the basis of Article 22.4 of the Grant Agreement). Offsetting for international organisations will therefore be subject to the contractual means for dispute settlement (i.e. arbitration; *see Article 43.2*).

22.5 Consequences of non-compliance

> **22.5 Consequences of non-compliance**
>
> **22.5.1** If the granting authority does not pay within the payment deadlines (see above), the beneficiaries are entitled to **late-payment interest** at the rate applied by the European Central Bank (ECB) for its main refinancing operations in euros ('reference rate'), plus the rate specified in the Data Sheet (Point 4.2). The reference rate is the rate in force on the first day of the month in which the payment deadline expires, as published in the C series of the *Official Journal of the European Union*.
>
> If the late-payment interest is lower than or equal to EUR 200, it will be paid to the coordinator only on request submitted within two months of receiving the late payment.
>
> Late-payment interest is not due if all beneficiaries are EU Member States (including regional and local government authorities or other public bodies acting on behalf of a Member State for the purpose of this Agreement).
>
> If payments or the payment deadline are suspended (see Articles 29 and 30), payment will not be considered as late.
>
> Late-payment interest covers the period running from the day following the due date for payment (see above), up to and including the date of payment.
>
> Late-payment interest is not considered for the purposes of calculating the final grant amount.
>
> **22.5.2** If the coordinator breaches any of its obligations under this Article, the grant may be reduced (see Article 29) and the grant or the coordinator may be terminated (see Article 32).
>
> Such breaches may also lead to other measures described in Chapter 5.

1. Late-payment interest (to be paid by the EU)

If the granting authority pays late, i.e. beyond the payment deadlines, it will automatically pay the consortium late payment interest for the overdue period unless:

- all beneficiaries in the Grant Agreement are Member States or entities acting on behalf of Member States or
- the deadline for payment is actually not overdue because the payment deadline is formally suspended *(see Article 29)* or payments are formally suspended *(see Article 30)* or
- the amount of the late-payment interest is not higher than EUR 200, in which case it will only be paid upon request from the coordinator.

Late-payment interest paid are paid separately and on top of the grant amounts.

⚠ Late-payment interest may also be due **from the beneficiaries**, if they must pay back undue amounts in the context of a recovery and are late with this payment *(see Article 22.2)*.

ARTICLE 23 — GUARANTEES

ARTICLE 23 — GUARANTEES

[OPTION 1 for programmes without pre-financing guarantees: Not applicable *]*

[OPTION 2 for programmes with pre-financing guarantees:

23.1 Pre-financing guarantee

If required by the granting authority (see Data Sheet, Point 4.2), the beneficiaries must provide (one or more) pre-financing guarantee(s) in accordance with the timing and the amounts set out in the Data Sheet.

The coordinator must submit them to the granting authority in due time before the pre-financing they are linked to.

The guarantees must be drawn up using the template published on the Portal and fulfil the following conditions:

(a) be provided by a bank or approved financial institution established in the EU or — if requested by the coordinator and accepted by the granting authority — by a third party or a bank or financial institution established outside the EU offering equivalent security

(b) the guarantor stands as first-call guarantor and does not require the granting authority to first have recourse against the principal debtor (i.e. the beneficiary concerned) and

(c) remain explicitly in force until the final payment and, if the final payment takes the form of a recovery, until five months after the debit note is notified to a beneficiary.

They will be released within the following month.

23.2 Consequences of non-compliance

If the beneficiaries breach their obligation to provide the pre-financing guarantee, the pre-financing will not be paid.

Such breaches may also lead to other measures described in Chapter 5.*]*

1. Pre-financing guarantees *(most programmes, except HE)*

What? For programmes that allow for pre-financing guarantees *(most programmes except HE),* a guarantee may be required in particular where the financial capacity checks of one (or more) of the beneficiaries in the consortium reveal weaknesses. The guarantee will be asked from the coordinator, for the entire consortium. It allows the granting authority to protect itself against the risk of losing pre-financing (i.e. the consortium not being able to honour a recovery debt at the end of the action).

When? Where required by the granting authority, guarantees are a prerequisite for paying out the pre-financing. They are therefore usually requested during grant preparation and have to be provided by the coordinator before grant signature.

⚠ However, the obligation to provide a valid guarantee continues to apply during the entire project. If for any reason the guarantee becomes invalid *(e.g. because the issuing bank ceases its operations),* it needs to be **replaced by a new guarantee**. If the coordinator refuses to provide a new guarantee, the grant can be terminated.

How? Pre-financing guarantees usually take the form of a guarantee by a bank or other approved financial institution established in the EU. The costs for obtaining such a guarantee

can be declared as eligible cost under the Grant Agreement. If accepted by the granting authority, guarantees can also be obtained from other providers *(e.g. subsidiaries may obtain a guarantee from their parent company)*.

The pre-financing guarantee must be sent by the coordinator as original (by registered post with proof of delivery OR courier service) to the postal address of the granting authority.

ARTICLE 24 — CERTIFICATES

24.1 Operational verification report (OVR)

ARTICLE 24 — CERTIFICATES

[OPTION 1 for programmes without certificates:

Not applicable*]*

[OPTION 2 for programmes with certificates:

24.1 Operational verification report (OVR)

[OPTION 1 by default: Not applicable *]*

[OPTION 2 for programmes with operational verification reports (instead of reviews): If required by the granting authority (see Data Sheet, Point 4.3), the beneficiaries must provide a certified operational verification report, in accordance with the schedule, threshold and conditions set out in the Data Sheet.

The coordinator must submit it as part of the periodic report (see Article 21).

The report must be drawn up using the template published on the Portal and fulfil the following conditions:

(a) be provided by an independent third party approved by the granting authority

(b) the verification must be carried out according to a methodology approved by the granting authority and the highest professional standards to ensure that the action was actually done and implemented in accordance with the conditions set out in the Agreement.

The report will not affect the granting authority's right to carry out its own checks, reviews or audits, nor preclude the European Court of Auditors (ECA), the European Public Prosecutor's Office (EPPO) or the European Anti-Fraud Office (OLAF) from using their prerogatives for audits and investigations under the Agreement (see Article 25). *]*

1. Operational verification report

This option is currently not activated by any of the programmes using the General Model Grant Agreement. If needed, the granting authority will provide guidance directly to the beneficiaries.

24.2 Certificate on the financial statements (CFS)

24.2 Certificate on the financial statements (CFS)

[OPTION 1 for programmes without CFS: Not applicable*]*

[OPTION 2 for programmes with CFS: If required by the granting authority (see Data Sheet, Point 4.3), the beneficiaries must provide certificates on their financial statements (CFS), in accordance with the schedule, threshold and conditions set out in the Data Sheet.

The coordinator must submit them as part of the periodic report (see Article 21).

The certificates must be drawn up using the template published on the Portal, cover the costs declared on the basis of actual costs and costs according to usual cost accounting practices (if any), and fulfil the following conditions:

(a) be provided by a qualified approved external auditor which is independent and complies with Directive 2006/43/EC (or for public bodies: by a competent independent public officer)

(b) the verification must be carried out according to the highest professional standards to ensure that the financial statements comply with the provisions under the Agreement and that the costs declared are eligible.

The certificates will not affect the granting authority's right to carry out its own checks, reviews or audits, nor preclude the European Court of Auditors (ECA), the European Public Prosecutor's Office (EPPO) or the European Anti-Fraud Office (OLAF) from using their prerogatives for audits and investigations under the Agreement (see Article 25).

If the costs (or a part of them) were already audited by the granting authority, these costs do not need to be covered by the certificate and will not be counted for calculating the threshold (if any). *]*

1. Certificate on the financial statements

What? If a certificate on the financial statements (CFS) is required for an interim or final payment, the beneficiaries (and affiliated entities) concerned must provide it as part of the periodic reporting *(see Article 21.2)*.

The CFS is a certificate covering the actual costs and costs (or contributions) according to usual accounting practices contained in a financial statement.

It is based on agreed-upon procedures within the meaning of International Standard on Related Services (ISRS) 4400 (revised) for *Agreed-upon Procedures Engagements* issued by the International Auditing and Assurance Standards Board (IAASB).

Provided that the provisions of Directive 2006/43/EC (or similar standards) are complied with, the participant is free to choose a **qualified external auditor**, including its usual external auditor:

– 'qualified' means qualified in accordance with national legislation implementing Directive 2006/43[30] (or any EU legislation that replaces this Directive)

– 'external' means the auditor is independent from the participant.

In accordance with the agreed-upon procedures set out in the CFS, the CFS auditor must report on the correct declaration of cost in the financial statement, i.e. that they are accurately recorded in the beneficiary's accounting system and eligible.

The CFS auditor has to explain findings of deviation from the rules (for any reason) in detail in the certificate. The granting authority will consider the explanation in light of the facts reported by the auditor, and decide on steps to take.

⚠ If the auditor finds discrepancies/exceptions, the cost item should normally not be included in the financial statement submitted to the granting authority (and does not need to be mentioned in the CFS). However, if the issue cannot be rectified by excluding the costs from the financial statement or is of more serious systemic nature, it should be reported.

When & How? The CFS must be provided by the beneficiary concerned, as part of their financial report, directly in the Portal Periodic Reporting tool. The template is available there for download.

The CFS threshold and schedule are set out in the Data Sheet, Point 4.3. It depends on the amount of EU contribution requested (new for 2021-2027: not only the amount of actual costs and unit costs according to usual cost accounting practices declared) and is calculated automatically by the system for each entity separately; i.e. each beneficiary/affiliated entity must submit a CFS if they reach the threshold (without taking into account the EU contribution requested by the others).

⚠ If the participation of the beneficiary in the grant **has been audited** by they granting authority, costs and contributions covered by the audit **are NOT counted for the threshold**. If nevertheless the beneficiary reaches the threshold (after deducting the costs and contributions audited) those **do not need to be covered** (again) by the CFS.

If a certificate is required, it must cover all applicable cost categories set out in the template.

The costs of a required CFS are eligible under the applicable cost category (usually 6.2.C.3 as a cost for services). The costs for CFS that are not mandatory *(e.g. because the threshold was not reached or because it was not required in that reporting period)* are NOT eligible (because not necessary for the action).

Examples (errors):

Grant Agreement with 2 reporting periods (an interim reporting period and a final)

Point 4.3 of the Data Sheet: CFS mandatory only at final payment and only if requested EU contribution to costs ≥ EUR 430 000

*Beneficiary A submits a CFS with the reports of the interim reporting period: the costs of the CFS are **not eligible (wrong timing)***

*Beneficiary B requests EUR 380 000 of EU contribution and submits a CFS at the final payment: the costs of the CFS are **not eligible (wrong threshold)***

The CFS does not affect the granting authority's right to carry out its own assessment or audits. Neither does the reimbursement of costs covered by a certificate preclude the

[30] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

granting authority, the European Commission, the European Anti-Fraud Office (OLAF), the European Public Prosecutor's Office (EPPO) or the European Court of Auditors from carrying out checks, reviews, audits and investigations in accordance with the Grant Agreement.

Specific case (CFS):

Public bodies — Public bodies can choose an external auditor or an independent public officer. In this case, independence is usually defined as independence 'in fact and in appearance' *(e.g. that the officer is not involved in drawing up the financial statements)*. It is for each public body to appoint the public officer and ensure their independence. The certificate should refer to this appointment.

Pillar-assessed entities — Pillar-assessed participants can choose their regular internal or external auditors in accordance with their internal financial regulations and procedures as assessed by the European Commission in accordance with Article 154(3) of the Financial Regulation 2018/1046 *(see Article 10.3)*.

24.3 Certificate on the compliance of usual cost accounting practices (CoMUC) *(DEP, EDF, CEF)*

24.3 Certificate on the compliance of usual cost accounting practices (CoMUC)

[OPTION 1 by default: Not applicable*]*

[OPTION 2 for programmes with costs according to usual accounting practices: Beneficiaries which use unit, flat rate or lump sum costs or contributions according to usual costs accounting practices (if any) may submit to the granting authority, for approval, a certificate on the methodology stating that their usual cost accounting practices comply with the eligibility conditions under the Agreement.

The certificate must be drawn up using the template published on the Portal and fulfil the following conditions:

(a) be provided by a qualified approved external auditor which is independent and complies with Directive 2006/43/EC[43] (or for public bodies: by a competent independent public officer)

(b) the verification must be carried out according to the highest professional standards to ensure that the methodology for declaring costs according to usual accounting practices complies with the provisions under the Agreement.

If the certificate is approved, amounts declared in line with this methodology will not be challenged subsequently, unless the beneficiary concealed information for the purpose of the approval.*]*

[43] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts or similar national regulations (OJ L 157, 9.6.2006, p. 87).

1. Certificate on the compliance of the methodology for usual cost accounting practices (CoMUC) *(DEP, EDF, CEF)*

What? For programmes where costs (or contributions) according to usual accounting practices are eligible *(DEP, EDF, CEF)* beneficiaries (and affiliated entities) that use these accounting practices to charge costs under their grants may submit a certificate on the compliance of usual cost accounting practices (CoMUC) to the granting authority for approval.

The CoMUC is a certificate covering the methodology that is used to charge costs (or contributions) according to usual cost accounting practices.

It is a certificate based on agreed-upon procedures within the meaning of International Standard on Related Services (ISRS) 4400 (revised) for *Agreed-upon Procedures Engagements* issued by the International Auditing and Assurance Standards Board (IAASB).

Provided that the provisions of Directive 2006/43/EC (or similar standards) are complied with, the participant is free to choose a **qualified external auditor**, including its usual external auditor:

- 'qualified' means qualified in accordance with national legislation implementing Directive 2006/43[31] (or any EU legislation that replaces this Directive)

- 'external' means the auditor is independent from the participant.

When & How? Requests for approval can be submitted at any time to the granting authority of an ongoing grant.

Best practice: In order to ensure that the auditor has enough information to get assurance on the methodology, it is recommended to request it only *after* the first reporting period has passed.

The template is available on the Portal Reference Documents for download.

Approval is limited to the (cost) accounting practices described and certified in the certificate.

Approval is valid for:

- all grants of the beneficiary under the EU programme for which it was submitted (it is not limited to a single grant)

- all costs and contributions declared according to the certified accounting practices, including costs and contributions declared *before* the granting authority approval (if the beneficiary can show that they were declared according to the approved practices).

If the granting authority approves the CoMUC, it will afterwards not challenge any amounts that the beneficiary declares using the certified methodology — unless information was concealed or fraud or corruption was used to obtain the approval.

Best practice: Beneficiaries should nevertheless keep detailed records and other supporting documents (to prove that their methodology complied with the rules, if necessary).

If the beneficiary **changes its accounting practices**, the certificate does not apply to any cost incurred under the changed accounting practices. The beneficiary may submit another request for approval to the granting authority for the new practices.

⚠ If the beneficiary declares personnel costs according to the changed cost accounting practices *before* the new certificate is approved, it bears the **full risk** of non-approval and cost rejection by the granting authority.

If the beneficiary also has grants in other EU programmes with similar cost eligibility rules, the CoMUC can in principle also be relied on for these other programmes. However, it is at the discretion of the granting authorities of those other programmes, whether they consider their rules as equivalent and accept the CoMUC also for their programme.

The costs of the CoMUC are NOT eligible and cannot be charged to the EU action (because not necessary for the action — the CoMUC is not mandatory and not linked to a specific action).

Specific case (CoMUC):

[31] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

Public bodies — Public bodies can choose an external auditor or an independent public officer. In this case, independence is usually defined as independence 'in fact and in appearance' (e.g. that the officer is not involved in drawing up the financial statements). It is for each public body to appoint the public officer and ensure their independence. The certificate should refer to this appointment.

Pillar-assessed entities — Pillar-assessed participants can choose their regular internal or external auditors in accordance with their internal financial regulations and procedures as assessed by the European Commission in accordance with Article 154(3) of the Financial Regulation 2018/1046 *(see Article 10.3)*.

24.4 Systems and process audit (SPA)

24.4 Systems and process audit (SPA)

[OPTION 1 by default: Not applicable *]*

[OPTION 2 for programmes with SPA: Beneficiaries which:

- use unit, flat rate or lump sum costs or contributions according to documented (i.e. formally approved and in writing) usual costs accounting practices (if any) or
- have formalised documentation on the systems and processes for calculating their costs and contributions (i.e. formally approved and in writing), have participated in at least […] actions under [insert name of previous programme, e.g. Horizon 2020] and participate in at least […] ongoing actions under [insert name of current programme, e.g. Horizon Europe]

may apply to the granting authority for a systems and process audit (SPA).

This audit will be carried out as follows:

Step 1 — Application by the beneficiary.

Step 2 — If the application is accepted, the granting authority will carry out the systems and process audit, complemented by an audit of transactions (on a sample of the beneficiary's [insert name of current programme, e.g. Horizon Europe] financial statements).

Step 3 — The audit result will take the form of a risk assessment classification for the beneficiary: low, medium or high.

Low-risk beneficiaries will benefit from less (or less in-depth) ex-post audits (see Article 25) and a higher threshold for submitting certificates on the financial statements (CFS; see Articles 21 and 24.2 and Data Sheet, Point 4.3). *]*

1. Combined review (SPA)

The provision is only used by Horizon Europe and open only to a relatively small group of beneficiaries that fulfil the criteria (repetitive and frequent participation in several consecutive programmes required). If needed, the granting authority will provide guidance directly to the beneficiaries concerned.

24.5 Consequences of non-compliance

> **24.5 Consequences of non-compliance**
>
> If a beneficiary does not submit a certificate on the financial statements (CFS) or the certificate is rejected, the accepted EU contribution to costs will be capped to reflect the CFS threshold.
>
> If a beneficiary breaches any of its other obligations under this Article, the granting authority may apply the measures described in Chapter 5.]

1. Missing CFS

If a beneficiary must submit a certificate on the financial statements (CFS, see *Articles 21* and *24.2* and Data Sheet, Point 4.3) but fails to do so, their maximum EU contribution to costs will be capped at the CFS threshold in the Data Sheet minus one Euro.

> ***Example:*** *The terminated beneficiary requested in total EUR 490 000 as EU funding for costs. According to the Data Sheet, a CFS is necessary if the requested EU contribution to costs ≥ EUR 430 000. If the beneficiary does not submit the CFS, the maximum EU contribution to costs will be capped at EUR 429 999.*

ARTICLE 25 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS

25.1 Granting authority checks, reviews and audits

25.1.1 Internal checks

> **ARTICLE 25 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS**
>
> **25.1 Granting authority checks, reviews and audits**
>
> **25.1.1 Internal checks**
>
> The granting authority may — during the action or afterwards — check the proper implementation of the action and compliance with the obligations under the Agreement, including assessing costs and contributions, deliverables and reports.

1. Checks (by the granting authority)

What & When? The granting authority may — at any moment including after the end — check aspects relating to the grant relating to the proper implementation of the action and compliance with the obligations under the Grant Agreement.

> ***Examples:***
>
> ***1.*** *After receiving the reports (see Article 21), the granting authority checks the different documents (explanation of the work carried out, overview of the progress, explanation of the use of resources, etc.), for consistency with the description and work plan of the action.*
>
> ***2.*** *The granting authority performs a plagiarism check on documents submitted by the consortium.*
>
> ***3.*** *After receiving information about misconducts concerning an entity that participates in EU actions, the granting authority checks all the grant in order to see if it needs to take action.*
>
> ***4.*** *After the end of the action, the granting authority receives a complaint by one of the beneficiaries that another beneficiary does not respect its intellectual property obligations and decides to look into this allegation.*

These checks may concern beneficiaries or other partners involved in the action — which is why beneficiaries must ensure that the granting authority can exercise its rights towards other participants (affiliated entities, associated partners, third parties providing in-kind contributions, subcontractors and recipients of financial support to third parties (FSTP)) by including appropriate clauses in their contracts with them, *see Articles 8 and 9*.

Checks themselves are **internal,** i.e. usually carried out directly by staff of the granting authority based on available documents. If needed, the granting authority may, however, **request information** from the beneficiaries *(see Article 19.1)*.

> ***Example:*** *An internal check shows that the beneficiaries did not clearly explain the allocation and use of resources in their periodic report. The granting authority asks for more information by a given date.*

The granting authority may carry out these checks on its own or with the **assistance of external expert(s)** — without asking the beneficiaries for approval before appointing them. In this case, the granting authority will ensure that there is no conflict of interest by asking the expert(s) to sign a declaration.

If the check shows ineligible costs or contributions or serious breach of obligations, this may lead to rejection or grant reduction and, if necessary, recovery *(see Articles 27, 28 and 22.2)* or any other measure mentioned in Chapter 5.

If a more in-depth examination is required, the granting authority may start a review or an audit.

25.1.2 Project reviews

25.1.2 Project reviews

The granting authority may carry out reviews on the proper implementation of the action and compliance with the obligations under the Agreement (general project reviews or specific issues reviews).

Such project reviews may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the coordinator or beneficiary concerned and will be considered to start on the date of the notification.

If needed, the granting authority may be assisted by independent, outside experts. If it uses outside experts, the coordinator or beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.

The coordinator or beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources). The granting authority may request beneficiaries to provide such information to it directly. Sensitive information and documents will be treated in accordance with Article 13.

The coordinator or beneficiary concerned may be requested to participate in meetings, including with the outside experts.

For **on-the-spot** visits, the beneficiary concerned must allow access to sites and premises (including to the outside experts) and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the review findings, a **project review report** will be drawn up.

The granting authority will formally notify the project review report to the coordinator or beneficiary concerned, which has 30 days from receiving notification to make observations.

Project reviews (including project review reports) will be in the language of the Agreement.

1. Project reviews (by the granting authority)

What? The granting authority may — at any moment and until the time-limit set out in the Data Sheet (Point 6) — carry out a project review.

Reviews normally concern mainly the technical implementation of the action, but they may also cover financial and budgetary aspects or compliance with other obligations under the Grant Agreement. They usually concern the entire project, but may exceptionally also focus on issues related to only one specific beneficiary.

They may also extend to other participants involved in the action — which is why beneficiaries must ensure that the granting authority can exercise its rights also towards those other participants (affiliated entities, associated partners, subcontractors and recipients of financial support to third parties (FSTP)) by including appropriate clauses in their contracts with them, *see Articles 8 and 9*.

Project reviews consist in an in-depth examination (often done with the help of independent experts) of the progress of the action, and in particular:

- the degree to which the work plan has been carried out and whether all expected deliverables were completed
- whether the objectives of the action are still relevant

- how resources were planned and used in relation to the achieved progress, and if their use respected the principles of economy, efficiency and effectiveness
- the management procedures and methods of the action
- the beneficiaries' contributions and integration within the action
- for Horizon Europe: the expected potential scientific, technological, economic, competitive and social impact, and plans for using and disseminating results.

For some types of action, they are done regularly *(e.g. for the periodic reports related to a payment, to help the granting authority to properly assess the action implementation and the work carried out by the beneficiaries)*, for others they are done ad hoc.

If the review shows ineligible costs or contributions, substantial errors, irregularities or fraud or serious breach of obligations (including non- or improper implementation of the action as described in Annex 1), this may lead to suspension, termination, rejection, grant reduction and recovery *(see Articles 30-32, 27, 28 and 22.2)* and to exclusion and/or financial penalties *(see Article 34)*.

If carried out during the implementation of the action, a review may also recommend reorientations to the action.

2. Procedure

How? The review will be initiated by a **project review invitation letter** sent to the coordinator (or, exceptionally, the beneficiary concerned) through the Portal.

The letter will also mention the names of the independent experts that have been appointed (if any). The consortium may object to an expert, but only on the grounds of commercial confidentiality or conflict of interests.

The review may include **on-the-spot visits** or a **review meeting** (on the granting authority premises or anywhere relevant for the action). If there is a meeting, the invitation will indicate the documents that will be discussed, normally:

- Annex 1 (the contractual description of the action against which the assessment will be made)
- for periodic reviews: the periodic report(s) (technical and financial) for the period(s) under review (including documents related to financial/budgetary issues)
- deliverables that were due
- for final reviews: the periodic reports (technical and financial) for all periods (including documents related to financial/budgetary issues).

The results of the review will be recorded in a **project review report**.

The project review report together with the granting authority comments will be notified to the coordinator (or, exceptionally, the beneficiary concerned), who will have 30 days to submit observations (**contradictory project review procedure**; not to be confused with the separate contradictory procedure for any subsequent rejection, grant reduction or suspension/termination procedure under Articles 27, 28, 31 and 32).

The granting authority operational services (authorising officers) will analyse the comments received and decide on the follow-up, if any.

25.1.3 Audits

> **25.1.3 Audits**
>
> The granting authority may carry out audits on the proper implementation of the action and compliance with the obligations under the Agreement.
>
> Such audits may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the beneficiary concerned and will be considered to start on the date of the notification.
>
> The granting authority may use its own audit service, delegate audits to a centralised service or use external audit firms. If it uses an external firm, the beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.
>
> The beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Agreement. Sensitive information and documents will be treated in accordance with Article 13.
>
> For **on-the-spot** visits, the beneficiary concerned must allow access to sites and premises (including for the external audit firm) and must ensure that information requested is readily available.
>
> Information provided must be accurate, precise and complete and in the format requested, including electronic format.
>
> On the basis of the audit findings, a **draft audit report** will be drawn up.
>
> The auditors will formally notify the draft audit report to the beneficiary concerned, which has 30 days from receiving notification to make observations (contradictory audit procedure).
>
> The **final audit report** will take into account observations by the beneficiary concerned and will be formally notified to them.
>
> Audits (including audit reports) will be in the language of the Agreement.

1. Audits (by the granting authority)

What? The granting authority may — at any moment and up until the time-limit set out in the Data Sheet (Point 6) — carry out an audit.

⚠ **Record-keeping —** Once an audit has started, the beneficiary must keep ALL the records and supporting documents until the audit procedure AND its follow-up (including rejection, grant reduction, recovery and litigation) are completed.

Example: *If the beneficiary archives the paper copies of the original supporting documentation not on its premises, the documentation must be retrieved and sent there in time for the audit fieldwork.*

Audits normally focus the financial implementation of the action by a beneficiary (i.e. financial and budgetary implementation), but they may also cover technical aspects or compliance with other obligations under the Grant Agreement (i.e. an in-depth examination of the implementation of the action by the beneficiary). This examination is carried out by professional (external or granting authority in -house) auditors according to generally accepted audit standards.

They may also extend to other participants involved in the action — which is why beneficiaries must ensure that the granting authority can exercise its rights also towards those other participants (affiliated entities, associated partners, subcontractors and recipients

of financial support to third parties (FSTP) and, for HE, also third parties providing in-kind contributions) by including appropriate clauses in their contracts with them, *see Articles 8 and 9*.

With the exception of affiliated entities (who are usually audited directly; *see specific cases below*), the audit procedure for any third party will formally be with the beneficiary and the beneficiary will be responsible for ensuring that the auditors have access to all necessary documents and to carry out checks on the third party's premises.

If the audit shows, ineligible costs or contributions, substantial errors, irregularities or fraud or serious breach of obligations, this may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 30-32, 27, 28 and 22.2)* and, in very serious cases, to exclusion and/or financial penalties *(see Article 34)*. In some cases, findings may result in the acceptance of additional costs (if the beneficiary declared them).

Specific cases (audits):

Affiliated entities — In contrast to other third parties, the granting authority will audit affiliated entities, as if they are beneficiaries. The audit will be carried out on the premises of the affiliated entity and all communication concerning the audit will be carried out directly with it *(e.g. audit initiation letter, contradictory audit procedure; audit result implementation)*. However, since the financial consequences in case of recovery would normally have to be borne by the beneficiary to which the entity is affiliated *(see Article 22.2)*, the granting authority will also notify the beneficiary about launching the audit, as well as about a summary of its conclusions.

Audits for periodical assessment of eligible costs or contributions based on units, lump sums and flat rates — The European Commission may also audit the accounting records of beneficiaries to obtain general information about real costs of cost items for which it has fixed unit costs or contributions, flat-rates or lump-sums (for statistical purposes or to gather data to assess their adequacy). Such audits will normally have no direct consequences for the beneficiaries that were audited; even if the actual costs turn out to be lower, this will not lead to a rejection of costs (— except in exceptional cases e*.g. where the audit reveals non-compliance with other obligations, e.g. under national law or wrongful information in the proposal, etc*).

2. Procedure

How? The audit will be initiated by a **letter of announcement (LoA)** sent to the beneficiary (or affiliated entity) concerned through the Portal.

If the granting authority uses an external audit firm, this letter will mention its name. The beneficiary may object on grounds of commercial confidentiality or conflict of interests (together with the reasons why) and — if justified — the granting authority may decide to appoint another external auditor (or, in exceptional circumstances, to carry out the audit itself).

The audit usually involves a **desk review** of the documents requested from the beneficiary and an **on-the-spot visit** (i.e. on the beneficiary's premises or on the site on which the action is being implemented). There may however also be audits that consist only in a desk review.

The auditors will request access to a wide range of records and documentation *(e.g. payslips, labour contracts, complete statutory accounts, etc.)* and will indicate how and when it must be provided (and in which format).

The beneficiary must provide the auditors with all requested information, records and supporting documents (in the format and within the deadline specified).

> ***Example:*** *A hard copy list of records from the general ledger (accounting document) disclosing hundreds or thousands of transactions is impossible to process manually, therefore the auditors will normally require an electronic version.*

Objections based on data protection or confidentiality will NOT be accepted. Where the records and documentation contain personal data, the granting authority will process it in compliance with Regulation 2018/1725 and the beneficiary must inform the persons concerned about this processing *(see Article 15.1)*.

Confidential data will be processed in accordance with Article 13.

Failure to provide the requested information (in the requested format and within the specified deadline) will lead to the rejection of costs or contributions (and possibly other measures, such as recovery, suspension of payments, termination, administrative and financial penalties, etc.).

For on-the-spot audits, the beneficiary must allow access to its premises and ensure that all records and supporting documentation are readily available. This includes granting access to research facilities and interviewing the researchers that worked on the action.

The results of the audit will be recorded in an **audit report**.

The draft audit report will be sent to the beneficiary concerned, who will have 30 days to submit observations (**contradictory audit procedure**; not to be confused with the separate contradictory procedure for any subsequent rejection or grant reduction under Articles 27 and 28).

The audit procedure will be closed (by the granting authority auditors) with the **final audit report** and the **audit letter of conclusion (LoC)** — and the file will then be passed on to the granting authority for the follow-up, if any.

⚠ Please **do NOT take any immediate action** at this point — even if the audit found ineligible costs/breaches. Do NOT deduct them from the next financial statement. The proposed adjustments must first be analysed and will, if needed, be implemented by the granting authority at the next payment. You will be informed by payment letter/audit implementation pre-information letter and have another possibility to submit observations.

25.2 European Commission checks, reviews and audits in grants of other granting authorities

25.2 European Commission checks, reviews and audits in grants of other granting authorities

Where the granting authority is not the European Commission, the latter has the same rights of checks, reviews and audits as the granting authority.

1. Checks, reviews and audits (by the European Commission)

EU grants are often not managed by the European Commission itself, but by legally separate entities such as EU executive agencies or joint undertakings. The European Commission is in these cases not the granting authority but does retain equivalent rights for checks, reviews and audits.

Where the European Commission conducts such a check, review or audit of an action of another granting authority, the guidance provided above applies *mutatis mutandis*, *see Articles 25.1.1, 25.1.2, 25.1.3*.

25.3 Access to records for assessing simplified forms of funding

> **25.3 Access to records for assessing simplified forms of funding**
>
> The beneficiaries must give the European Commission access to their statutory records for the periodic assessment of simplified forms of funding which are used in EU programmes.

1. Access to assess simplified forms of funding (by the European Commission)

The European Commission may access the accounting records of beneficiaries to obtain general information about real costs of cost items for which it has fixed unit costs or contributions, flat-rates or lump-sums (for statistical purposes or to gather data to assess their adequacy). Such access will normally have no direct consequences for the beneficiaries. Even if the actual costs turn out to be lower than the simplified form of funding, this will not lead to a rejection of costs.

25.4 OLAF, EPPO and ECA audits and investigations

25.4 OLAF, EPPO and ECA audits and investigations

The following bodies may also carry out checks, reviews, audits and investigations — during the action or afterwards:

- the European Anti-Fraud Office (OLAF) under Regulations No 883/2013[44] and No 2185/96[45]
- the European Public Prosecutor's Office (EPPO) under Regulation 2017/1939
- the European Court of Auditors (ECA) under Article 287 of the Treaty on the Functioning of the EU (TFEU) and Article 257 of EU Financial Regulation 2018/1046.

If requested by these bodies, the beneficiary concerned must provide full, accurate and complete information in the format requested (including complete accounts, individual salary statements or other personal data, including in electronic format) and allow access to sites and premises for on-the-spot visits or inspections — as provided for under these Regulations.

To this end, the beneficiary concerned must keep all relevant information relating to the action, at least until the time-limit set out in the Data Sheet (Point 6) and, in any case, until any ongoing checks, reviews, audits, investigations, litigation or other pursuits of claims have been concluded.

[44] Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

[45] Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

1. OLAF, EPPO and ECA audits and investigations

In addition to the granting authority and the European Commission, you can also have a check, review, audit or investigation from any of the following:

- the **European Anti-Fraud Office (OLAF)**: OLAF is the EU's anti-fraud office, responsible for investigating fraud against the EU budget.

  If the granting authority suspects that a beneficiary or third party involved in an action committed fraud or other illegal acts, it will inform OLAF (and/or EPPO), who may decide to investigate.

  OLAF will send the outcome of the investigation to the granting authority, who will then decide how to proceed.

- the **European Public Prosecutor's Office (EPPO)**: EPPO is an independent and decentralised prosecution office of the European Union, with the competence to investigate, prosecute and bring to judgment crimes against the EU budget, such as fraud, corruption or serious cross-border VAT fraud.

- the **European Court of Auditors (ECA)**: ECA is the independent external auditing body for all European institutions. As such, it may carry out audits on all recipients of EU funds (including beneficiaries, affiliated entities, associated partners, subcontractors and recipients of financial support to third parties (FSTP) and, for HE, also third parties providing in-kind contributions).

Depending on the outcome, the results of such an audit may be notified to the beneficiary.

These bodies are not subject to the time-limits for audits and reviews set out in the Data Sheet (Point 6) for the granting authority. They may carry out their activities at any point during or after the action.

If the check, review, audit or investigation shows **ineligible costs or contributions**, **substantial errors, irregularities or fraud** or serious **breach of obligations**, it may lead to suspension, termination, cost rejection, grant reduction and recovery *(see Articles 30-32, 27, 28 and 22.2)* and, in very serious cases, to exclusion and/or financial penalties *(see Article 34)*.

25.5 Consequences of checks, reviews, audits and investigations — Extension procedures

25.5.1 Consequences of checks, reviews, audits and investigations in this grant

> **25.5 Consequences of checks, reviews, audits and investigations — Extension of results of reviews, audits or investigations**
>
> **25.5.1 Consequences of checks, reviews, audits and investigations in this grant**
>
> Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to rejections (see Article 27), grant reduction (see Article 28) or other measures described in Chapter 5.
>
> Rejections or grant reductions after the final payment will lead to a revised final grant amount (see Article 22).
>
> Findings in checks, reviews, audits or investigations during the action implementation may lead to a request for amendment (see Article 39), to change the description of the action set out in Annex 1.
>
> Checks, reviews, audits or investigations that find systemic or recurrent errors, irregularities, fraud or breach of obligations in any EU grant may also lead to consequences in other EU grants awarded under similar conditions ('extension to other grants').
>
> Moreover, findings arising from an OLAF or EPPO investigation may lead to criminal prosecution under national law.

1. Consequences of findings in this grant and extension to other grants

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to any of the measures described in Chapter 5 *(i.e. cost rejections, grant reductions, suspension, termination, etc)*.

If they find systemic or recurrent errors, irregularities, fraud or breach of obligations, this may also lead to consequences in other EU grants awarded under similar conditions ('extension to other grants').

Moreover, findings leading to OLAF or EPPO investigations may also lead to criminal prosecution under national law.

25.5.2 Extension from other grants

25.5.2 Extension from other grants

Results of checks, reviews, audits or investigations in other grants may be extended to this grant, if:

(a) the beneficiary concerned is found, in other EU grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant and

(b) those findings are formally notified to the beneficiary concerned — together with the list of grants affected by the findings — within the time-limit for audits set out in the Data Sheet (see Point 6).

The granting authority will formally notify the beneficiary concerned of the intention to extend the findings and the list of grants affected.

If the extension concerns **rejections of costs or contributions**: the notification will include:

(a) an invitation to submit observations on the list of grants affected by the findings

(b) the request to submit revised financial statements for all grants affected

(c) the correction rate for extrapolation, established on the basis of the systemic or recurrent errors, to calculate the amounts to be rejected, if the beneficiary concerned:

(i) considers that the submission of revised financial statements is not possible or practicable or

(ii) does not submit revised financial statements.

If the extension concerns **grant reductions**: the notification will include:

(a) an invitation to submit observations on the list of grants affected by the findings and

(b) the **correction rate for extrapolation**, established on the basis of the systemic or recurrent errors and the principle of proportionality.

The beneficiary concerned has **60 days** from receiving notification to submit observations, revised financial statements or to propose a duly substantiated **alternative correction method/rate**.

On the basis of this, the granting authority will analyse the impact and decide on the implementation (i.e. start rejection or grant reduction procedures, either on the basis of the revised financial statements or the announced/alternative method/rate or a mix of those; see Articles 27 and 28).

1. Extension of findings from other grants

Findings from other EU grants may also impact the grant. Article 25.5.2 alloIhe granting authority to apply measures *(e.g. cost rejection or grant reduction)* , if there were issues in other EU grants in which the beneficiary participates or participated (i.e. including past grants), provided that the extension is notified within the audit time limit (see DataSheet, Point 6), and the findings have:

– '**systemic or recurrent**' nature, meaning not just an individual occurrence in one other grant but something expected to affect all similar activities of the beneficiary also in other grants

Example (extension): *During an audit of another grant, the granting authority detected systematic irregularities in the calculation of personnel costs (e.g. recurrent errors in the time-recording systems for personnel). The beneficiary has used the same practice in all EU grants.*

– '**similar conditions**', meaning that the other grant contains obligations that are similar enough to the obligations of the present grant that errors in the other grant would also be errors under the rules of the present grant.

Example (no extension): *During an audit of the beneficiary's participation in another grant, the granting authority detected recurrent errors in the record of actual cost for travel and subsistence. However, in the present grant the beneficiary uses unit cost for travel and subsistence. Therefore other rules apply an errors in the actual cost do not affect the unit cost under the present grant (in this case).*

– '**material impact on this grant**', meaning that findings in other grants must be relevant in the context of implementation of the present grant, i.e. leading to a measurable error.

Example (no extension): *During an audit of another grant, the granting authority detected systematic (accidental) errors in the calculation of depreciation of equipment of the beneficiary. While the present grant follows the same cost eligibility rules on equipment, the beneficiary has only declared personnel and subcontracting costs for the implementation of the present grant. Therefore, findings on equipment costs in other grants have no impact on the present grant.*

2. Procedure

How? The audit extension procedure will be initiated as part of the **letter of audit conclusions (LoC)** and the beneficiary concerned will be asked to provide further documents and information and observations.

Once the necessary documents and information are received, the audit extension procedure will be closed (by the granting authority auditors) with the **audit extension complete letter** — and the file will then be passed on to the granting authorities of the concerned projects for the follow-up, if any.

⚠ Please **do NOT take any immediate action** at this point. The proposed extensions must first be analysed and will, if needed, be implemented by the granting authorities of the concerned projects. You will be informed by payment letter/audit implementation pre-information letter and have another possibility to submit observations.

25.5.2 Consequences of non-compliance

25.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

1. Refusal to give access for checks, reviews, audits or investigations

The beneficiaries (and through Article 9 also the other partners involved in the action) are obliged to give access to the granting authority/Commission/OLAF/EPPO/ECA for the checks, reviews, audits and investigations set out in Article 25 of the Grant Agreement.

If they refuse such access or otherwise intentionally and without proper justification resist a check, review, audit or investigation, this constitutes a breach of the Grant Agreement.

The consequences depend on the case. If the refusal means that certain costs or contributions could not be verified (and are thus insufficiently substantiated), they will be considered ineligible and rejected *(see Article 27)*. In addition (or if there is no impact on specific costs or contributions), the grant may be reduced *(see Article 28)*.

ARTICLE 26 — IMPACT EVALUATIONS

ARTICLE 26 — IMPACT EVALUATIONS

26.1 Impact evaluation

The granting authority may carry out impact evaluations of the action, measured against the objectives and indicators of the EU programme funding the grant.

Such evaluations may be started during implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the coordinator or beneficiaries and will be considered to start on the date of the notification.

If needed, the granting authority may be assisted by independent outside experts.

The coordinator or beneficiaries must provide any information relevant to evaluate the impact of the action, including information in electronic format.

26.2 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, the granting authority may apply the measures described in Chapter 5.

1. Impact evaluations

In principle, for 2021-2027, all programmes measure the impact of the actions through the key performance indicators (KPIs) that are collected as part of the continuous reporting.

The formal evaluation procedure set out in this provision is therefore currently not in active use by any of the programmes using the General Model Grant Agreement. If needed, the granting authority will provide guidance directly to the beneficiaries.

CHAPTER 5 CONSEQUENCES OF NON-COMPLIANCE

SECTION 1 REJECTIONS AND GRANT REDUCTION

ARTICLE 27 — REJECTION OF COSTS AND CONTRIBUTIONS

ARTICLE 27 — REJECTION OF COSTS AND CONTRIBUTIONS

27.1 Conditions

The granting authority will — at beneficiary termination, interim payment, final payment or afterwards — reject any costs or contributions which are ineligible (see Article 6), in particular following checks, reviews, audits or investigations (see Article 25).

The rejection may also be based on the extension of findings from other grants to this grant (see Article 25).

Ineligible costs or contributions will be rejected.

27.2 Procedure

If the rejection does not lead to a recovery, the granting authority will formally notify the coordinator or beneficiary concerned of the rejection, the amounts and the reasons why. The coordinator or beneficiary concerned may — within 30 days of receiving notification — submit observations if it disagrees with the rejection (payment review procedure).

If the rejection leads to a recovery, the granting authority will follow the contradictory procedure with pre-information letter set out in Article 22.

27.3 Effects

If the granting authority rejects costs or contributions, it will deduct them from the costs or contributions declared and then calculate the amount due (and, if needed, make a recovery; see Article 22).

1. Rejection of costs or contributions

What? If the granting authority finds **ineligible costs or contributions** *(in particular, following a check, audit, extension of audit findings, review or investigation)*, it will reject them (— in full, i.e. for the amount that is ineligible).

Grounds for cost or contribution rejection (by the EU):

- Costs or contributions do not comply with the Grant Agreement's **general eligibility rules**, *see Article 6.1*
- Costs or contributions do not comply with the Grant Agreement's **specific eligibility rules**, *see Article 6.2*
- Costs or contributions fall under the categories of **ineligible costs or contributions**, *see Article 6.3.*

Whereas rejection will usually be based on findings of the granting authority under the respective grant, it may also happen that costs or contributions are rejected based on **extension of audit findings** (*see Article 25.5) from other grants*, if:

- the other grants were awarded under similar conditions (i.e. same or similar rules applicable)

- the ineligibility is:
  - systemic or recurrent, and
  - has a material impact across grants.

When? Rejection of costs or contributions can take place at any moment — at the time of beneficiary termination, interim payment, payment of the balance or afterwards (e.g. following ex-post audits).

⚠ Cost or contributions must comply with general and specific eligibility conditions and not fall under the categories of ineligible cost. Any cost or contributions that do not comply with all of these conditions may be rejected (*see Article 6)*.

2. Procedure

How? The beneficiaries will be informed about the cost rejections and given the opportunity to submit their observations.

Formally speaking, the procedure is slightly different:

- if rejection leads to a recovery: the procedure is a standard **contradictory procedure**
- if rejection does NOT lead to a recovery (just a decreased payment): the procedure is a**payment review procedure**.

The difference in the two procedures is in the timing. In case of recoveries, there is nothing to pay out, so the procedure foresees a standard contradictory procedure. In case of positive amount to pay, the procedure switches to the payment review procedure in order to allow the granting authority to immediately pay out undisputed amounts and focus the observations/review on the disputed amounts.

Contradictory procedure:

Step 1 — The granting authority informs the coordinator/beneficiary concerned of its intention (and the reasons why), in a pre-information letter.

Step 2 — The coordinator/beneficiary concerned has 30 days to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or confirms it (notification of amounts due; *see Article 22.3)*.

Payment review procedure:

Step 1 — The granting authority informs the coordinator about the rejection of costs or contributions and notifies the amounts that will be paid out (notification of amounts due; *see Article 22.3)*.

Step 2 — If the beneficiaries disagree, the coordinator/beneficiary concerned has 30 days to inform the granting authority of its objections.

Step 3 — The granting authority analyses the request for review and informs the coordinator of its outcome.

Depending on the moment when costs or contributions are rejected, this procedure will be directed either at the **coordinator** or the **beneficiary concerned**:

- for rejections at the time of an interim payment or the final payment: normally the coordinator

- for rejections after beneficiary termination and after final payment: normally the beneficiary concerned.

If it is directed at the coordinator, the coordinator must immediately inform the beneficiaries concerned via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc)* and ask for their comments. It must also inform the other beneficiaries.

If it is directed at the beneficiary during the action, the granting authority will inform the coordinator later on (in a way that preserves confidentiality). Beneficiaries should inform their coordinator if there is the risk of a significant impact on the action (*see Article 19.3*).

If it is directed at the beneficiary after the action, beneficiaries do not have to inform their coordinators or ask them to submit comments.

3. Effects

If the granting authority rejects costs or contributions at **beneficiary termination**, it will deduct the rejected amount from the costs or contributions that the beneficiary declared in the termination report and calculate the amount due to the beneficiary. If the amount is lower than the (pre-financing and interim) payments received by the beneficiary, the granting authority will recover the difference *(see Article 22.3.2)*.

If the granting authority rejects costs or contributions at the moment of an **interim payment** or the **final payment**, it will deduct them and calculate the amount to be paid accordingly *(see Articles 22.3.3* and *22.3.4)*.

If ineligible costs or contributions are found **in-between payments**, the granting authority will reject them at the next payment (i.e. deduct the amount rejected from the amounts declared in the next financial statement and calculate the amount to be paid accordingly; *see Article 22*).

If the granting authority rejects costs **after the final payment**, it will deduct the amount rejected from the amounts accepted for the beneficiary at the final payment and calculate a **revised final grant amount** for the beneficiary. This may be followed by a **recovery** if needed *(see Article 22.3.5)*.

ARTICLE 28 — GRANT REDUCTION

ARTICLE 28 — GRANT REDUCTION

28.1 Conditions

The granting authority may — at beneficiary termination, final payment or afterwards — reduce the grant for a beneficiary, if:

(a) 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.), or

(b) 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 — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (see Article 25).

The amount of the reduction will be calculated for each beneficiary concerned and proportionate to the seriousness and the duration of the errors, irregularities or fraud or breach of obligations, by applying an individual reduction rate to their accepted EU contribution.

28.2 Procedure

If the grant reduction does not lead to a recovery, the granting authority will formally notify the coordinator or beneficiary concerned of the reduction, the amount to be reduced and the reasons why. The coordinator or beneficiary concerned may — within 30 days of receiving notification — submit observations if it disagrees with the reduction (payment review procedure).

If the grant reduction leads to a recovery, the granting authority will follow the contradictory procedure with pre-information letter set out in Article 22.

28.3 Effects

If the granting authority reduces the grant, it will deduct the reduction and then calculate the amount due (and, if needed, make a recovery; see Article 22).

1.Grant reduction

What? If the granting authority finds (*e.g. following a check, audit, extension of audit findings, review or investigation*) substantial errors, irregularities or fraud or breach of obligations (*e.g. the action has not been properly implemented, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics, values or security rules, etc*) under the Grant Agreement or during the award procedure, it may reduce the grant in proportion to the seriousness of the finding.

⚠ Grant reductions will be made in **proportion** to the seriousness of the error, irregularity, fraud or breach *(e.g. in case of fraud the reduction may be up to a 100%)*.

⚠ If the issues are found before the end of the action, the beneficiaries must take all possible **corrective steps** to bring the action implementation back into line with the Grant Agreement.

Grounds for grant reduction:

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The granting authority may make a grant reduction if a beneficiary has committed substantial errors, irregularities or fraud or serious breach of obligations — either during the award procedure or under the Grant Agreement.

  Serious breach of obligations may cover all kinds of non-compliance with Grant Agreement obligations (including obligations during the award procedure).

  Example: *False declarations in the proposal form in order to obtain EU funding.*

  In practice, the most frequent breach is improper implementation of the action/non-compliance with Annex 1 (i.e. if the work performed does not correspond to the activities described in Annex1). This will normally be examined on the basis of the periodic and final technical reports and, if needed, a project review.

  Breaches of other obligations, such as the obligation to respect and commit to EU values *(see Article 14)*, may also lead to grant reductions.

  Example: *A non-governmental organisation campaigning for justice regardless of religious or political background released very controversial statements of xenophobic nature, in particular by calling to destroy country X. One of the activities which was supposed to be implemented by the entity was cancelled by the subcontractor because of these statements. In the specific context of the action in question , these statements were considered a breach of the obligation to respect EU values (non-discrimination). This conduct led to a reduction of the grant amount (among other measures).*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The granting authority may also make a grant reduction, if such substantial errors, irregularities or fraud or serious breach of obligations were found in *other* grants, if:

  - the other grants were awarded under similar conditions (i.e. same or similar rules applicable) and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

When? Grant reductions will be made at beneficiary termination, at the end of the action or after the payment of the balance.

2. Procedure

How? The beneficiaries will be informed about the grant reductions and given the opportunity to submit their observations.

Formally speaking, the procedure is slightly different:

- if reduction leads to a recovery: the procedure is a standard **contradictory procedure**
- if reduction does NOT lead to a recovery (just a decreased payment): the procedure is a**payment review procedure**.

The difference in the two procedures is in the timing. In case of recoveries, there is nothing to pay out, so the procedure foresees a standard contradictory procedure. In case of positive amount to pay, the procedure switches to the payment review procedure in order to allow the granting authority to immediately pay out undisputed amounts and focus the observations/review on the reduction.

Contradictory procedure:

Step 1 — The granting authority informs the coordinator/beneficiary concerned of its intention (and the reasons why), in a pre-information letter.

Step 2 — The coordinator/beneficiary concerned has 30 days to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or confirms it (notification of amounts due; see Article 22.3).

Payment review procedure:

Step 1 — The granting authority informs the coordinator about the reduction and notifies the amounts that will be paid out (notification of amounts due; *see Article 22.3)*.

Step 2 — If the beneficiaries disagree, the coordinator/beneficiary concerned has 30 days to inform the granting authority of its objections.

Step 3 — The granting authority analyses the request for review and informs the coordinator of its outcome.

Depending on the moment when reduction takes place, this procedure will be directed either at the **coordinator** or the **beneficiary concerned**:

- for reductions at the time of the final payment: normally the coordinator
- for reductions after beneficiary termination and after final payment: normally the beneficiary concerned.

If it is directed at the coordinator, the coordinator must immediately inform the beneficiaries concerned via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments. It must also inform the other beneficiaries.

If it is directed at the beneficiary during the action, the granting authority will inform the coordinator later on (in a way that preserves confidentiality). Beneficiaries should inform their coordinator if there is the risk of a significant impact on the action (*see Article 19.3*).

If it is directed at the beneficiary after the action, beneficiaries do not have to inform their coordinators or ask them to submit comments.

3. Effects

If the granting authority makes a reduction at **beneficiary termination**, it will deduct the reduction from the accepted EU contribution based on the costs or contributions that the beneficiary declared in the termination report and calculate the amount due to the beneficiary. If the amount is lower than the (pre-financing and interim) payments received by the beneficiary, the granting authority will recover the difference *(see Article 22.3.2)*.

If the granting authority makes a reduction at the **final payment**, it will deduct them and calculate the amount to be paid accordingly *(see Article 22.3.4)*.

If the granting authority makes a reduction **after the final payment**, it will deduct the amount reduced from the accepted EU contribution for the beneficiary at the final payment

and calculate a **revised final grant amount**. This may be followed by a **recovery** if needed *(see Article 22.3.5)*.

For more guidance on grant reductions*, see the Guidance on grant reductions*.

SECTION 2 SUSPENSION AND TERMINATION

ARTICLE 29 — PAYMENT DEADLINE SUSPENSION

ARTICLE 29 — PAYMENT DEADLINE SUSPENSION

29.1 Conditions

The granting authority may — at any moment — suspend the payment deadline if a payment cannot be processed because:

(a) the required report (see Article 21) has not been submitted or is not complete or additional information is needed

(b) there are doubts about the amount to be paid (e.g. ongoing audit extension procedure, queries about eligibility, need for a grant reduction, etc.) and additional checks, reviews, audits or investigations are necessary, or

(c) there are other issues affecting the EU financial interests.

29.2 Procedure

The granting authority will formally notify the coordinator of the suspension and the reasons why.

The suspension will **take effect** the day the notification is sent.

If the conditions for suspending the payment deadline are no longer met, the suspension will be **lifted** — and the remaining time to pay (see Data Sheet, Point 4.2) will resume.

If the suspension exceeds two months, the coordinator may request the granting authority to confirm if the suspension will continue.

If the payment deadline has been suspended due to the non-compliance of the report and the revised report is not submitted (or was submitted but is also rejected), the granting authority may also terminate the grant or the participation of the coordinator (see Article 32).

EU grants provide for different types of suspensions (suspension of the payment deadline (specific pending payment), suspension of all future payments and suspension of the grant agreement). Check the correct guidance

1. Suspension of the payment deadline (by the EU)

What? The granting authority must make its payments in accordance with the timeline set out in the Data Sheet (usually 30 days from grant signature/start of project for initial prefinancing and 60 or 90 days from reception of the additional pre-financing/periodic report. If the deadline is missed, late payment interest will be due by the granting authority (*see below and Article 22.5*) — unless the payment deadline has been suspended.

⚠ Suspension of the payment deadline must be **distinguished** from **suspension of payments** *(see Article 30)*. Suspension of the payment deadline is an ad hoc measure regarding a pending payment. Suspension of payments is independent of any individual payment request as a measure to stop making payments to a beneficiary which is, for example, suspected of serious misconducts.

The payment deadline may be suspended temporarily on the grounds listed in this Article.

Grounds for suspension of the payment deadline (by the EU):

- **Payment request** is **incomplete** or **requires clarification.**

  The granting authority may suspend the payment deadline, if the reports (or any of their documents) are incomplete or unclear and the granting authority is therefore not in a position to determine that the action has been properly implemented and the payment is due.

  Examples: *the reports, the certificate on the financial statement or other supporting documents are missing; the information in the periodic technical report is incomplete; additional information on the coordinator's new bank account is needed*

- **Doubts on the amount to be paid** in the financial statements that require additional verifications.

  The granting authority may suspend the payment deadline, if it has doubts *(e.g. due to conflicting information between documents, or audit findings in other grants on the eligibility of the costs in the financial statements)* and additional checks, reviews, audits or investigations are needed to establish the amount to be paid.

  Example: *The costs claimed in the financial statements are not consistent with the action tasks described in the technical report.*

- There are **other issues affecting the EU financial interests.**

  The granting authority may also suspend the payment deadline, if it has other doubts on the eligibility of payment claims. It will request the necessary information or enact other measures including by means of on-the-spot-checks if necessary.

  Example: *The granting authority has received information that parts of the activities are not properly implemented and subject to fraud.*

2. Procedure

How? The granting authority will **inform** the coordinator of the suspension of the payment deadline and explain the reasons why.

There is NO contradictory procedure for the suspension itself. However, if the suspension exceeds two months, the coordinator may ask the granting authority if the suspension is to be continued (i.e. ask to confirm it or lift it). In addition, a contradictory procedure/payment review will be available later on if the granting authority should eventually decide to dispute amounts and make rejections/grant reductions).

3. Effects

Suspension starts on the day the notification (announcing payment deadline suspension) is sent to the coordinator (and ends on the day it is lifted).

As soon as the suspension is started, passing days do no longer count towards the 60 or 90 day deadline set out in the DataSheet and accordingly no late-payment interest for the beneficiaries will accrue. With the lifting of the suspension, the remaining payment period starts to run again (as from the day-count on which the suspension started).

If the issues have been resolved satisfactorily *(e.g. the coordinator sent the requested information or re-submitted the report)* or the granting authority has finished the necessary verifications *(e.g. an audit),* it will lift the suspension and inform the coordinator.

⚠ If a deadline has been **suspended for several reasons**, it will be lifted only when the consortium has satisfactorily addressed ALL the reasons.

ARTICLE 30 — PAYMENT SUSPENSION

ARTICLE 30 — PAYMENT SUSPENSION

30.1 Conditions

The granting authority may — at any moment — suspend payments, in whole or in part for one or more beneficiaries, if:

(a) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed or is suspected of having 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.), or

(b) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant.

If payments are suspended for one or more beneficiaries, the granting authority will make partial payment(s) for the part(s) not suspended. If suspension concerns the final payment, the payment (or recovery) of the remaining amount after suspension is lifted will be considered to be the payment that closes the action.

30.2 Procedure

Before suspending payments, the granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to suspend payments and the reasons why and
- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the suspension (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

At the end of the suspension procedure, the granting authority will also inform the coordinator.

The suspension will **take effect** the day after the confirmation notification is sent.

If the conditions for resuming payments are met, the suspension will be **lifted**. The granting authority will formally notify the beneficiary concerned (and the coordinator) and set the suspension end date.

During the suspension, no pre-financing will be paid to the beneficiaries concerned. For interim payments, the periodic reports for all reporting periods except the last one (see Article 21) must not contain any financial statements from the beneficiary concerned (or its affiliated entities). The coordinator must include them in the next periodic report after the suspension is lifted or — if suspension is not lifted before the end of the action — in the last periodic report.

EU grants provide for different types of suspensions (suspension of the payment deadline (specific pending payment), suspension of all future payments and suspension of the grant agreement). Check the correct guidance

1. Suspension of payments (by the EU)

What? The granting authority may suspend pre-financing, interim and final payments (for one or more beneficiaries), on the grounds listed in this Article.

⚠ **Suspension of payments** has NO impact on the action implementation. The beneficiary concerned must continue to work on the action, while addressing the issues that have led to suspension of the payment; costs incurred during suspension of payments are in principle eligible, but there will be no payments.

Grounds for suspension of payments (by the EU):

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The granting authority may suspend payments, if a beneficiary has committed or is suspected of having committed substantial errors, irregularities or fraud or serious breach of obligations *(e.g. the action has not been properly implemented, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics, values or security rules, etc)* — either during the award procedure or under the Grant Agreement.

  Example:

  1. *False declarations in the proposal form, in order to obtain EU funding*

  2. *Based on information received from a third party, the granting authority suspects that the beneficiary and the person who has powers of control towards the beneficiary are in breach of EU values. The information received indicates that public statements which are discriminatory and incite hate towards women have been made by the person who controls the beneficiary. The granting authority suspended payments to the beneficiary until it confirmed that the allegations were not supported by reliable evidence.*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The granting authority may also suspend payments, if such substantial errors, irregularities- or, fraud or serious breach of obligations were found in *other* grants, if

  - the other grants were awarded under similar conditions (i.e. same or similar rules applicable) and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

  Example: *During an audit of other grants, the granting authority detected systemic irregularities in the calculation of personnel costs that also affect all other Grant Agreements signed by the audited beneficiary. The grating authority may suspend all outstanding payments for the audited beneficiary until the issue is resolved.*

2. Procedure

How? Before suspending payments, the granting authority will follow a contradictory procedure to give the beneficiary the possibility to submit observations.**Contradictory procedure:**

Step 1 — The granting authority informs the beneficiary concerned of its intention (and the reasons why), in a pre-information letter.

Step 2 — The beneficiary concerned has 30 days to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or confirms it.

3. Effects

Suspension starts on the day the notification (confirming suspension) is sent to the beneficiary concerned (and ends on the day it is lifted).

During suspension, NO individual financial statements may be submitted for the beneficiary (or beneficiaries) concerned with the periodic reports (except with the report for the final reporting period).

Costs incurred (for continuing to implement the action during suspension) are eligible and may be included in the next financial report, after suspension has been lifted. At the latest, they must be included in the periodic report for the final reporting period (— even if suspension is still ongoing).

Technical reports submitted during suspension must include the work of the beneficiaries concerned.

If payments for one (or some) of the beneficiaries are **still suspended at the end of the action**, the granting authority will make a partial payment of the balance for the amount that is not suspended (— but ONLY after having received all the necessary information for the final calculations for ALL consortium members, i.e. including the suspended beneficiaries).

⚠ The **partial final payment** that will be paid out in this case is NOT the payment that closes the action for the purposes of the deadlines set out in Point 6 of the Data Sheet. That payment will be made only after the payment suspensions are lifted.

ARTICLE 31 — GRANT AGREEMENT SUSPENSION

31.1 Consortium-requested GA suspension

ARTICLE 31 — GRANT AGREEMENT SUSPENSION

31.1 Consortium-requested GA suspension

31.1.1 Conditions and procedure

The beneficiaries may request the suspension of the grant or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 35) — make implementation impossible or excessively difficult.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the date the suspension takes effect; this date may be before the date of the submission of the amendment request and
- the expected date of resumption.

The suspension will **take effect** on the day specified in the amendment.

Once circumstances allow for implementation to resume, the coordinator must immediately request another **amendment** of the Agreement to set the suspension end date, the resumption date (one day after suspension end date), extend the duration and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the grant has been terminated (see Article 32). The suspension will be **lifted** with effect from the suspension end date set out in the amendment. This date may be before the date of the submission of the amendment request.

During the suspension, no pre-financing will be paid. Costs incurred or contributions for activities implemented during grant suspension are not eligible (see Article 6.3).

EU grants provide for different types of suspensions (suspension of the payment deadline (specific pending payment), suspension of all future payments and suspension of the grant agreement). Check the correct guidance

2. 1. GA suspension (by the Consortium)

What? The beneficiaries may suspend the action (in full or in part), on the ground set out in this Article.

⚠ GA suspension may be used exceptionally if it is necessary to stop the action implementation, to **fix specific problems**. It should NOT be used in situations that cannot be resolved through a temporary interruption of the project activities; in these cases, it may be better to terminate the Grant Agreement *(see Article 32)*.

Ground for GA suspension (by the Consortium):

- **Action can no longer be implemented (or becomes excessively difficult)**

  The beneficiaries may suspend the action (in full or in part), if implementation becomes impossible or excessively difficult.

  Example: *A fire devastates a beneficiary's premises, with most of the technical equipment and computers used for the action and containing the action results. The beneficiaries*

therefore request that the part of the action that is affected by this is suspended until the premises are restored.

⚠ **Information obligation** — Depending on the reasons for suspension, the beneficiaries may also have to take other measures under the Grant Agreement *(e.g. inform the granting authority under Article 19; notify a situation of force majeure under Article 35)*.

2. Procedure

How? The coordinator must submit a request for amendment *(see Article 39)* to the granting authority.

Amendment procedure:

The amendment request must include:

- the reasons why
- the date the suspension takes effect (this date may be before the date of the submission of the amendment request) and the expected date of resumption.

3. Effects

Suspension starts on the date specified in the amendment request.

The beneficiaries must immediately take all the necessary steps to limit the damage and do their best to resume (i.e. continue) implementing the action as soon as possible.

During suspension, costs incurred (for implementing the suspended part of the action) are NOT eligible *(see Article 6.3)*. Costs may again be incurred for the action, once action implementation is resumed.

If the action **can be continued (resumed)**, the coordinator must notify it to the granting authority by requesting an amendment to the Grant Agreement.

The resumption amendment must again be requested in accordance with Article 39 *(e.g. it must be signed by the coordinator's LSIGN)*.

It sets the resumption date and adapts the grant to the new situation *(e.g. by extending the action duration, modifying Annexes 1 and 2, updating the reporting periods)*.

If the granting authority approves the resumption amendment, the suspension is lifted and will be resumed as from the resumption date (i.e. one day after the suspension end date set in the amendment, which can be retroactive, i.e. back to the date when the problem stopped/issue was clarified).

Example: *The action was suspended on 24.03.2023 due to an extreme weather event affecting the premises of the coordinator and making continuous implementation of the action temporarily unfeasible. After two months of clearing efforts, the conditions improve and the coordinator's premises are accessible again. The coordinator requests an amendment to set the suspension end date on 22.05.2023. Therefore, the action will be resumed as from 23.05.2023.*

If the suspension is lifted and the action resumes, the action's remaining budget can be used for action implementation.

If a part of the action cannot be implemented anymore (e.g. due to impossibility following the circumstances causing the suspension), the granting authority may agree to amend the Grant Agreement with changes necessary to adapt the action to the new situation, including by decreasing activities and budget unless changes are so significant that they call into question the decision awarding the grant or breach the principle of equal treatment (*see below and Article 39*).

If the action or a significant part of it **can NOT be continued** (or the granting authority does not approve the amendment; *see Article 39*), the Grant Agreement (or the participation of one or more beneficiaries) may be terminated.

In this case, NO further costs (incurred after the date of suspension) can be declared, except the costs for the reports *(see Article 6.1)*.

> ***Example:*** *The action starts on 01.01.2022 and is to last 36 months. The action's implementation is suspended for four months, from the date specified in the amendment request, e.g. 01.12.2022 to 31.03.2023 and the suspension leads to the Grant Agreement termination. The eligible costs are:*
>
> - *costs incurred from the action's start (01.01.2022) until the date specified in the amendment request (30.11.2022)*
> - *costs incurred for the submission of the first periodic report and the final report.*

31.2 EU-initiated GA suspension

31.2 EU-initiated GA suspension

31.2.1 Conditions

The granting authority may suspend the grant or any part of it, if:

(a) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed or is suspected of having 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.), or

(b) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant

(c) other:

(i) *[OPTION 1 by default:* linked action issues: not applicable*] [OPTION 2 for programmes with linked actions: [OPTION 1 by default:* linked action issues: not applicable*] [OPTION 2 if selected for the grant:* the linked action (see Article 3) has not started as specified in Annex 1, has been suspended or can no longer contribute, and this impacts the implementation of the action under this Agreement*]]*

(ii) *[OPTION 1 by default:* additional GA suspension grounds: not applicable*] [OPTION 2 for programmes with additional GA suspension grounds:* [additional GA suspension grounds: insert other grounds]*]*.

31.2.2 Procedure

Before suspending the grant, the granting authority will send a **pre-information letter** to the coordinator:

- formally notifying the intention to suspend the grant and the reasons why and
- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the suspension (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

The suspension will **take effect** the day after the confirmation notification is sent (or on a later date specified in the notification).

Once the conditions for resuming implementation of the action are met, the granting authority will formally notify the coordinator a **lifting of suspension letter**, in which it will set the suspension end date and invite the coordinator to request an amendment of the Agreement to set the resumption date (one day after suspension end date), extend the duration and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the grant has been terminated (see Article 32). The suspension will be **lifted** with effect from the suspension end date set out in the lifting of suspension letter. This date may be before the date on which the letter is sent.

During the suspension, no pre-financing will be paid. Costs incurred or contributions for activities implemented during suspension are not eligible (see Article 6.3).

The beneficiaries may not claim damages due to suspension by the granting authority (see Article 33).

Grant suspension does not affect the granting authority's right to terminate the grant or a beneficiary (see Article 32) or reduce the grant (see Article 28).

EU grants provide for different types of suspensions (suspension of the payment deadline (specific pending payment), suspension of all future payments and suspension of the grant agreement). Check the correct guidance

1. GA suspension (by the EU)

What? The granting authority may suspend the action (in full or in part), on the grounds listed in this Article.

Grounds for GA suspension (by the EU):

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The granting authority may suspend the action, if a beneficiary (or one of its person having powers of representation, decision-making or control, or one of its person essential for the award/implementation of the grant) has committed or is suspected of having committed substantial errors, irregularities or fraud or serious breach of obligations *(e.g. the action has not been properly implemented, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics, values or security rules, etc)* — either during the award procedure or under the Grant Agreement

  Examples:

  1. *False declarations in the proposal form, in order to obtain EU funding*

  2. *Based on information received from a third party, the granting authority suspects that the beneficiary and the person who has powers of control towards the beneficiary are in breach of EU values. The information received indicates that public statements which are discriminatory and incite to hate towards women have been made by the person who controls the beneficiary. The granting authority suspended the Grant Agreement implementation until it confirmed that the allegations were not supported by reliable evidence.*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The granting authority may also suspend the action, if a beneficiary (or one of its person having powers of representation, decision-making or control, or one of its person essential for the award/implementation of the grant) has committed substantial errors, irregularities or fraud or serious breach of obligations in *other* grants, if:

  - the other grants were awarded under similar conditions (i.e. same or similar rules applicable) and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

  Example: *During an audit of other grants, the granting authority detected systematic irregularities in the calculation of personnel costs that also affect all other Grant Agreements signed by the audited beneficiary. The granting authority may suspend the audited beneficiary's part of the action until the issue is resolved.*

- If provided in the Grant Agreement: **the linked action** *(see Article 3)* has not started as specified in Annex 1, has been suspended or can no longer contribute and this impacts the implementation of the action under the Grant Agreement.

- Depending on the programme and on the type of action, there may be **other specific grounds** for suspension of the Grant Agreement by the granting authority, for example:

  – **major delays** *(CEF, RENEWFM, JTM)*

  – **loss of scientific or technological relevance** *(HE)*

    The granting authority may terminate the Grant Agreement, if the action has lost scientific or technological relevance.

    Example: *A proposal on research on a new system based on recently discovered material is selected. After the action starts, a European scientific publication demonstrates that this material contains a chemical substance that irremediably harms human health. Therefore, the action cannot continue and the granting authority decides to terminate the Grant Agreement.*

  – **loss of economic relevance** *(HE-EIC actions)*

    The granting authority may terminate the Grant Agreement, if the action has lost its economic relevance

  – **loss of relevance as being part of a given portfolio** *(HE-challenge-based EIC Pathfinder actions and Missions)*

    The granting authority may terminate the Grant Agreement, if the action has lost its relevance as part of the Portfolio for which it has been initially selected.

  – **change of humanitarian context no longer allows the implementation of the action** *(HUMA)*.

Specific cases (GA suspension by the EU):

Loss of scientific or technological relevance *(HE)* **—** The granting authority may suspend the action, if it needs time to assess whether the action has lost scientific or technological relevance. This may in particular be the case:

- if a complete revision of Annex 1 is necessary to assess the impact of a request for amendment
- if work has significantly deviated from the original work plan
- if a key beneficiary leaves the action and the consortium needs time to find a replacement
- after a check, audit or review of the action.

  Example: *There are technical problems with implementing the work under an action as described in Annex 1, so the consortium proposes changes to the work to be carried out. This may jeopardise its technological relevance and the granting authority decides to suspend its implementation and to carry out a review.*

Loss of economic relevance *(HE-EIC actions)* **—** The granting authority may suspend the action, if the action has lost its economic relevance.

Loss of relevance as being part of a portfolio *(HE-challenge-based EIC Pathfinder actions and Missions)* **—** The granting authority may suspend the action, if the action has lost its relevance as part of the Portfolio for which it has been initially selected.

2. Procedure

How? Before suspending the Grant Agreement, the granting authority will follow a contradictory procedure to give the consortium the possibility to submit observations.

Contradictory procedure:

Step 1 — The granting authority informs the coordinator of its intention (and the reasons why), in a pre-information letter.

Step 2 — The coordinator has 30 days to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or confirms it.

If possible, the granting authority will give an estimation of how long the suspension will be needed.

3. Effects

The suspension starts the day after the confirmation notification is sent (or on a later date specified in the confirmation notification).

During suspension, costs incurred (for implementing the suspended part of the action) are NOT eligible *(see Article 6.3)*. Eligible costs may again be incurred and declared for the action, once the suspension is lifted.

If the action **can be continued**, the granting authority will lift the suspension and inform the coordinator (together with the suspension end date).

The suspension can be lifted retroactively (i.e. back to the date when the problem stopped/issue was clarified).

The coordinator must then request an amendment to the Grant Agreement *(see Article 39)*, to set the resumption date (one day after suspension end date) in the tools and adapt the grant to the new situation *(e.g. by extending the action duration modifying Annexes 1 and 2, updating the reporting periods)*.

If the action (or part of it) **can NOT be continued**, the Grant Agreement (or a beneficiary's participation) may be terminated.

If the suspension leads to the Grant Agreement termination, NO further costs (incurred after the date of suspension) can be declared, except the costs for the reports *(see Article 6.1)*.

Ineligible costs will be rejected. The grant may be reduced, if the termination is based on substantial errors, irregularities, fraud or serious breach of obligations (*for instance if the action has not been implemented properly; see Article 28*). In certain cases, the granting authority may also impose administrative sanctions (i.e. exclusion and/or financial penalties; *see Article 34*).

ARTICLE 32 — GRANT AGREEMENT OR BENEFICIARY TERMINATION

32.1 Consortium-requested GA termination

ARTICLE 32 — GRANT AGREEMENT OR BENEFICIARY TERMINATION

32.1 Consortium-requested GA termination

32.1.1 Conditions and procedure

The beneficiaries may request the termination of the grant.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the date the consortium ends work on the action ('end of work date') and
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request.

The termination will **take effect** on the termination date specified in the amendment.

If no reasons are given or if the granting authority considers the reasons do not justify termination, it may consider the grant terminated improperly.

32.1.2 Effects

The coordinator must — within 60 days from when termination takes effect — submit a **periodic report** (for the open reporting period until termination).

The granting authority will calculate the final grant amount and final payment on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before the end of work date (see Article 22). Costs relating to contracts due for execution only after the end of work are not eligible.

If the granting authority does not receive the report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

Improper termination may lead to a grant reduction (see Article 28).

After termination, the beneficiaries' obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 41 (assignment of claims)) continue to apply.

1. GA termination (by the Consortium)

What? The beneficiaries have the right to terminate the Grant Agreement.

⚠ GA termination should be a **last-resort measure**, if all efforts to continue the action fail.

If the action implementation just becomes *temporarily* impossible or excessively difficult, it may be better not to terminate the grant, but to suspend it *(see Article 31)*. In this case, the Grant Agreement would only be terminated if it turns out later that implementation cannot be resumed anymore.

Example: *A fire devastates premises where most of the technical equipment and computers used in the action are stored. If the beneficiaries consider that the premises can be replaced and the action will still be correctly implemented, they may suspend implementation and resume it when the new laboratory is operational. However, if the action has been suspended and it is not possible to find new premises and therefore it is impossible to resume the action, the beneficiaries may terminate the Grant Agreement.*

Grounds for GA termination (by the Consortium):

- **Any ground** that **justifies** early termination of the action

  The beneficiaries may terminate the Grant Agreement in principle on any ground — as long as there is a good reason *(e.g. circumstances make its implementation impossible or excessively difficult; loss of the action's scientific or technological relevance; force majeure)*.

Even if there are no legitimate reasons for discontinuing the action, the granting authority can NOT oppose, but termination will be considered **improper**.

⚠ **Improper termination** of the Grant Agreement may lead to a grant reduction *(see Article 28).*

This will be the case, for instance, if:

- the implementation of the action has become impossible or excessively difficult due to the beneficiaries' wilful misconduct or gross negligence
- the reasons provided are based on changes in the strategic choices of the beneficiaries, not linked to any specific economic or operational difficulties
- implementation would have been possible if the beneficiaries had made more (but still reasonable) efforts.

Example: *The beneficiaries decide to terminate the Grant Agreement due to internal communication and decision-making problems within the consortium, and notify the granting authority via the coordinator. The granting authority considers that these internal problems have jeopardised the action's implementation, but do not justify terminating the Grant Agreement because they could have been solved within the consortium on the basis of the consortium agreement. This improper termination may lead to a grant reduction.*

Best practice: Beneficiaries should contact the granting authority beforehand, to discuss the termination and possible alternatives.

2. Procedure

How? The coordinator must submit a request for amendment *(see Article 39)* to the granting authority.

Amendment procedure:

The amendment request must include:

- the reasons why
- the date the consortium ends work on the action ('end of work date') and
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request. Terminations cannot be retroactive (notably to be able to comply with the obligations and deadlines after termination).

3. Effects

The coordinator must — within **60 days** — submit the necessary **reports** (i.e. a periodic report for the open reporting period until termination).

If the coordinator fails to submit the *reports* (within the 60 days of the date on which termination takes effect), costs that are not included in an approved periodic financial report will NOT be taken into account when the final grant amount is calculated. The granting authority will NOT send a reminder and will NOT extend the deadline.

The granting authority will calculate the final grant amount and the payment of the balance *(see Article 22)*.

If the total amount of earlier payments (pre-financing payment and interim payments, if any) received before termination:

- is greater than the final grant amount, the balance is negative and will take the form of a recovery *(see Article 22.2)*
- is lower than the final grant amount, the granting authority will pay the balance *(see Article 22.3.4)*.

Only costs incurred *before* the end of work date (i.e. generating event before the end of work date; *see Article 6.1(a)*) are eligible — except for the:

- costs for the reports *(see Article 6.1)*

  Example: *The action's duration is 36 months. The starting date is 01.01.2022. The notified end of work date is 01.05.2023. Therefore, only costs incurred in connection with the action from 1.1.2022 to 1.5.2023 (16 months) and the costs related to submission of the periodic report for the last reporting period are eligible*

- costs for (the part of) contracts or subcontracts delivered before the end of work date *(see Article 6.1)*.

  Example: *One of the beneficiaries of the Grant Agreement has a contract to carry out 8 tests during the action's duration. However, only three tests out of 8 are carried out before the end of work date. Therefore, only the costs related to these 3 tests carried out before the end of work date may be eligible for the action.*

The detailed calculations are described in Article 22.

Termination has NO effect on the provisions that normally continue to apply after the end of the action.

Obligations that continue to apply after GA termination:

- Keeping records and other supporting documentation *(see Article 20)*
- Submitting the periodic report (for the open reporting period until termination) *(see Articles 32.1.2 and 21.2)*
- Providing requested information and allow access to their sites and premises *(e.g. for checks, reviews, audits, investigations or evaluations of the action's impact; see Articles 25 and 26)*
- Complying with the rules on management of intellectual property, background and results *(see Article 16 and Annex 5)*
- Maintaining confidentiality *(see Article 13 and Annex 5)*
- Complying with the security obligations (if applicable) *(see Article 13 and Annex 5)*
- Promoting the action and giving visibility to the EU funding *(see Article 17 and Annex 5)*

- No assignment of claims for payment *(see Article 42)*

32.2 Consortium-requested beneficiary termination

32.2 Consortium-requested beneficiary termination

32.2.1 Conditions and procedure

The coordinator may request the termination of the participation of one or more beneficiaries, on request of the beneficiary concerned or on behalf of the other beneficiaries.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the opinion of the beneficiary concerned (or proof that this opinion has been requested in writing)
- the date the beneficiary ends work on the action ('end of work date')
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request.

If the termination concerns the coordinator and is done without its agreement, the amendment request must be submitted by another beneficiary (acting on behalf of the consortium).

The termination will **take effect** on the termination date specified in the amendment.

If no information is given or if the granting authority considers that the reasons do not justify termination, it may consider the beneficiary to have been terminated improperly.

32.2.2 Effects

The coordinator must — within 60 days from when termination takes effect — submit:

(i) a **report on the distribution of payments** to the beneficiary concerned

(ii) a **termination report** from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; see Articles 21 and 24.2 and Data Sheet, Point 4.3)

(iii) a second **request for amendment** (see Article 39) with other amendments needed (e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator, etc.).

The granting authority will calculate the amount due to the beneficiary on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before the end of work date (see Article 22). Costs relating to contracts due for execution only after the end of work are not eligible.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).

If the granting authority does not receive the termination report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

If the granting authority does not receive the report on the distribution of payments within the deadline, it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned and that
- the beneficiary concerned must not repay any amount to the coordinator.

If the second request for amendment is accepted by the granting authority, the Agreement is **amended** to introduce the necessary changes (see Article 39).

If the second request for amendment is rejected by the granting authority (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the grant may be terminated (see Article 32).

Improper termination may lead to a reduction of the grant (see Article 31) or grant termination (see Article 32).

After termination, the concerned beneficiary's obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 41 (assignment of claims)) continue to apply.

1. Partner termination (by the Consortium)

What? The beneficiaries may terminate the participation of one of the partners (or several), if:

- the partner concerned can no longer participate or
- the consortium has decided to change the partner (in accordance with the internal decision-making procedures). In this case, the consortium must inform the beneficiary concerned, request the beneficiary's opinion in writing and provide it to the granting authority (or — if the beneficiary didn't reply — provide proof that the beneficiary's opinion has been requested in writing).

Grounds for partner termination (by the Consortium):

- **Any ground** that **justifies** termination of the participation of the beneficiary

  The beneficiaries may terminate the participation of one of their consortium members in principle on any ground — as long as there is a good reason *(e.g. withdrawal by a beneficiary because due to a change in ownership; the beneficiary cannot implement its tasks in the same way; bankruptcy)*.

If there are no legitimate reasons, the granting authority will NOT oppose beneficiary termination, but it will be considered **improper**.

⚠ **Improper termination** of the participation of a beneficiary may lead to grant reduction *(see Article 28)* or even grant termination *(see Article 32.3)*.

Termination extends to **affiliated entities**. Affiliated entities cannot participate in the action without the beneficiary they are linked to, therefore, terminating a beneficiary's participation implies that its affiliated entities may NOT continue participating in the action.

Best practice: Partner terminations should always be first discussed within the consortium, to make sure that everybody agrees. In case of conflicts, they should be resolved in accordance with the consortium agreement. The granting authority will not get involved in internal disputes; it is the coordinator's responsibility to handle partner terminations correctly.

⚠ For beneficiaries that are involved in **several EU Grant Agreements,** withdrawal from one Grant Agreement does NOT necessarily imply that it has to also withdraw from the others.

⚠ **Information obligation** — In case of **bankruptcy** (or similar), the beneficiary or the coordinator must immediately inform the granting authority. Late information will be considered as a breach of the information obligation under the Grant Agreement *(see Article 19.4).*

2. Procedure

How? The coordinator must submit a request for amendment *(see Article 39)* to the granting authority.

Amendment procedure:

The amendment request must include:

- the reasons why
- the opinion of the beneficiary concerned (or proof that this opinion has been requested in writing)
- the date the beneficiary ends working on the action ('end of work date')
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request. Terminations cannot be retroactive (notably to be able to comply with the obligations and deadlines after termination).

3. Responsibility

NO amendment is needed if the termination takes effect after the end of the action (and before payment of the balance) — unless it concerns the coordinator (since the coordinator has many obligations also after the end of the action, *e.g. submit the reports, receive the payment of the balance and distribute the payment among the beneficiaries*).

If it is rejected, the beneficiaries will have to make another proposal to the granting authority. If a satisfactory solution cannot be found (i.e. the request for an amendment calls into question the decision awarding the grant or breaches the principle of the equal treatment of applicants), the Grant Agreement may be terminated.

> ***Example:*** *A key beneficiary terminates its participation in the Grant Agreement. The consortium cannot find a proper replacement and the granting authority therefore considers that the action cannot be continued in the way for which it was originally awarded the grant.*

If the amendment is accepted by the granting authority, the Grant Agreement must also be amended to introduce the necessary changes (including, if necessary, the replacement with new beneficiaries).

4. Effects

The coordinator must — within 60 days — submit the following:

- a report on the distribution of payments to the beneficiary concerned
- a termination report from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; *see Articles 21 and 24.2 and Data Sheet, Point 4.3*)
- a second request for amendment *(see Article 39)* with the other amendments needed *(e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator, etc.)*.

Best practice: If possible, the two amendments should be combined and done together.

⚠ In case of **coordinator termination**, the reports must be submitted by the new coordinator (to avoid problems with the payment). If the nomination of the new coordinator takes more time, the 60 days deadline may be extended.

The information contained in the beneficiary's termination report must also be included in the periodic report for the next reporting period.

The granting authority will calculate the amount due to the terminated beneficiary:

- if the granting authority owes amounts to the beneficiary, those amounts will be paid with the following payment to the consortium (interim or final)
- if the beneficiary owes, those amounts must be paid back to the consortium.

Only costs incurred before the end of work date (i.e. generating event before the end of work date *see Article 6.1(a)*) are eligible — except for the:

- costs for the termination report *(see Article 6.1)*
- costs for (the part of) contracts or subcontracts delivered before the end of work date *(see Article 6.1)*.

If the coordinator fails to submit the *termination report* (within the 60 days of the date on which termination takes effect), costs that are not included in an approved periodic financial report will NOT be taken into account when the contribution is calculated. The granting authority will NOT send a written reminder and will not extend the deadline.

If the coordinator fails to submit the *report on the distribution of payments*, the beneficiary whose participation was terminated will NOT have to repay any amounts to the consortium. The detailed calculations are described in Article 22.

If the second request for amendment is rejected by the granting authority (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the Grant Agreement may be terminated *(see Article 32)*.

Termination has no effect on the provisions that normally continue to apply after the end of the action *(see Article 32.2).* If the second request for amendment is accepted by the granting authority, the Grant Agreement is amended to introduce the necessary changes *(see Article 39)*.

If the Grant Agreement continues (i.e. it is amended), the remaining members of the consortium (and any new beneficiaries) have the responsibility for fully implementing the action as described in Annex 1 *(see Article 7)*. They must carry out the action (including the part that the defaulting beneficiary was supposed to carry out and without any additional funding to do so).

Specific cases (partner termination by the Consortium):

Termination of the coordinator without its agreement — The decision to terminate the coordinator must be made by the rest of the consortium (according to its internal decision-making procedures). The notification and amendment request must be made by one of the beneficiaries (acting on behalf of the other beneficiaries; *see Article 39*) and the reports must be submitted by the new coordinator (to avoid problems with the payment). If needed, the 60 days deadline for submission of the reports can be extended *(see above)*.

Coordinator in bankruptcy/liquidation/administration (or similar) — In principle the coordinator must be changed. If the coordinator can no longer submit the request, the same procedure as for coordinator termination without its agreement should be used *(see above and Article 39)*.

32.3 EU-initiated GA or beneficiary termination

32.3 EU-initiated GA or beneficiary termination

32.3.1 Conditions

The granting authority may terminate the grant or the participation of one or more beneficiaries, if:

(a) one or more beneficiaries do not accede to the Agreement (see Article 40)

(b) a change to the action or the legal, financial, technical, organisational or ownership situation of a beneficiary is likely to substantially affect the implementation of the action or calls into question the decision to award the grant (including changes linked to one of the exclusion grounds listed in the declaration of honour)

(c) following termination of one or more beneficiaries, the necessary changes to the Agreement (and their impact on the action) would call into question the decision awarding the grant or breach the principle of equal treatment of applicants

(d) implementation of the action has become impossible or the changes necessary for its continuation would call into question the decision awarding the grant or breach the principle of equal treatment of applicants

(e) a beneficiary (or person with unlimited liability for its debts) is subject to bankruptcy proceedings or similar (including insolvency, winding-up, administration by a liquidator or court, arrangement with creditors, suspension of business activities, etc.)

(f) a beneficiary (or person with unlimited liability for its debts) is in breach of social security or tax obligations

(g) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has been found guilty of grave professional misconduct

(h) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed fraud, corruption, or is involved in a criminal organisation, money laundering, terrorism-related crimes (including terrorism financing), child labour or human trafficking

(i) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) was created under a different jurisdiction with the intent to circumvent fiscal, social or other legal obligations in the country of origin (or created another entity with this purpose)

(j) a beneficiary (or 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.)

(k) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings from other grants to this grant; see Article 25)

(l) despite a specific request by the granting authority, a beneficiary does not request — through the coordinator — an amendment to the Agreement to end the participation of one of its affiliated entities or associated partners that is in one of the situations under points (d), (f), (e), (g), (h), (i) or (j) and to reallocate its tasks, or

(m) other:

(i) *[OPTION 1 by default:* linked action issues: not applicable*] [OPTION 2 for programmes with linked actions: [OPTION 1 by default:* linked action issues: not applicable*] [OPTION 2 if selected for the grant:* the linked action (see Article 3) has not started as specified in Annex 1, has been terminated or can no longer contribute, and this impacts the implementation of the action under this Agreement*]]*

(ii) *[OPTION 1 by default:* additional GA termination grounds: not applicable*] [OPTION 2 for programmes with additional GA termination grounds:* [additional GA termination grounds: insert other grounds]*]*.

32.3.2 Procedure

Before terminating the grant or participation of one or more beneficiaries, the granting authority will send **a pre-information letter** to the coordinator or beneficiary concerned:

- formally notifying the intention to terminate and the reasons why and
- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the termination and the date it will take effect (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

For beneficiary terminations, the granting authority will — at the end of the procedure — also inform the coordinator.

The termination will **take effect** the day after the confirmation notification is sent (or on a later date specified in the notification; 'termination date').

32.3.3 Effects

(a) for **GA termination**:

The coordinator must — within 60 days from when termination takes effect — submit a **periodic report** (for the last open reporting period until termination).

The granting authority will calculate the final grant amount and final payment on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before termination takes effect (see Article 22). Costs relating to contracts due for execution only after termination are not eligible.

If the grant is terminated for breach of the obligation to submit reports, the coordinator may not submit any report after termination.

If the granting authority does not receive the report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

Termination does not affect the granting authority's right to reduce the grant (see Article 28) or to impose administrative sanctions (see Article 34).

The beneficiaries may not claim damages due to termination by the granting authority (see Article 33).

After termination, the beneficiaries' obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 41 (assignment of claims)) continue to apply.

(b) for **beneficiary termination**:

The coordinator must — within 60 days from when termination takes effect — submit:

(i) a **report on the distribution of payments** to the beneficiary concerned

(ii) a **termination report** from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; see Articles 21 and 24.2 and Data Sheet, Point 4.3)

(iii) a **request for amendment** (see Article 39) with any amendments needed (e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator, etc.).

The granting authority will calculate the amount due to the beneficiary on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before termination takes effect (see Article 22). Costs relating to contracts due for execution only after termination are not eligible.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).

If the granting authority does not receive the termination report within the deadline, only costs and contributions included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

If the granting authority does not receive the report on the distribution of payments within the deadline, it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned and that
- the beneficiary concerned must not repay any amount to the coordinator.

If the request for amendment is accepted by the granting authority, the Agreement is **amended** to introduce the necessary changes (see Article 39).

If the request for amendment is rejected by the granting authority (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the grant may be terminated (see Article 32).

After termination, the concerned beneficiary's obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 41 (assignment of claims)) continue to apply.

1. GA or beneficiary termination (by the EU)

What? The granting authority may terminate the Grant Agreement or the participation of one (or more) of the beneficiaries, on the grounds listed in this Article.

⚠ Beneficiary termination may lead to GA termination, if the granting authority considers that following such beneficiary termination, the necessary changes to the Grant Agreement (and their impact on the action) would call into question the decision awarding the grant or breach the principle of equal treatment of applicants *(see Article 32.3.1(c))*

Grounds for termination (by the EU):

- **Non-accession to the Grant Agreement**

  The granting authority may terminate the Grant Agreement, if one (or more) beneficiaries did not accede to the Grant Agreement (i.e. did not sign the

Accession Form within 30 days after the entry into force of the Grant Agreement or did not provide the requested declaration on joint and several liability).

Non-accession of a beneficiary does NOT automatically lead to the Grant Agreement termination; the consortium can find an alternative solution that ensures the proper implementation of the action without the beneficiary (and request an amendment; *see Article 39)*.

In this case, the granting authority will terminate the Grant Agreement only if it considers the solution inappropriate or if the consortium no longer complies with the **eligibility conditions set out in the call conditions** *(e.g. the rules regarding the minimum number of beneficiaries, their legal situation, or their place of establishment)*.

- **Change in a beneficiary's situation**

The granting authority may terminate the participation of a beneficiary, if there has been a change to its (or one of its affiliated entities) legal, financial, technical, organisational or ownership situation, that is likely to substantially affect or delay the action's implementation or calls into question the decision to award the grant.

Such changes can be of any kind and can be triggered by the beneficiary itself or outside circumstances.

Examples (termination):

1. *Beneficiary R moves from Europe to Australia and becomes no longer eligible for receiving EU funding under the programme. Since participants must comply with the eligibility conditions throughout the duration of the action, this would be a change that calls into question the decision to award the grant and the granting authority may decide to terminate the beneficiary's participation in the Grant Agreement (or the entire Grant Agreement if the other beneficiaries fail to find a solution to replace it).*

2. *An action's key beneficiary is taken over by a non-European company (not entitled to participate due to security reasons). This substantially affects the action implementation and the ownership, protection, exploitation and dissemination of the results. The granting authority decides to terminate the beneficiary's participation (or the Grant Agreement as a whole if the other partners fail to find a replacement).*

3. *A beneficiary becomes subject to EU restrictive measures (or other public law measures that prohibit the granting authority from providing funding). This means that the beneficiary is no longer eligible for funding and the granting authority may decide to terminate its participation (or the Grant Agreement if no other solution can be found).*

4. *An SME participating as a beneficiary in a grant is acquired by another company. Following the change of ownership, the beneficiary exceeds the ceilings of the SME definition and loses its SME status. As one of the awarding conditions to participate in that mono-beneficiary grant is to be a single start-up or an SME, the change of status calls into question the decision to award the grant and the Granting Authority decides to terminate the Grant Agreement.*

⚠ **Costs** become **automatically ineligible** as from the date of change of situation that entails loss of eligibility, *e.g. change of ownership, relocation date, etc* (*see Article 6*).

⚠ Depending on the case, the granting authority may also request **additional measures** to solve the issue, *e.g. asking the consortium to replace the partner by amendment, changing the partner's role to associated partner, etc*.

- **Grant Agreement cannot be amended after termination** of a beneficiary's participation

The granting authority may terminate the Grant Agreement, if it cannot be amended after termination of a beneficiary's participation because the necessary changes to the Grant Agreement would call into question the decision awarding the grant or breach the principle of the equal treatment of applicants; *see Article 39*).

The Grant Agreement may be **directly terminated** if beneficiary termination would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

- **Action can no longer be implemented**

The granting authority may terminate the Grant Agreement, if action implementation is prevented by *force majeure* or the action implementation is suspended and resumption is not possible or the necessary amendment is not acceptable *(see Articles 31 and 39)*.

Example:

1. *A fire devastates premises where most of the technical equipment and computers with the action's data are stored. The coordinator suspends the action's implementation to rebuild the premises. The granting authority carries out a review after the force majeure takes place and concludes that the consortium can no longer implement the action. It therefore decides to terminate the Grant Agreement.*

2. *A beneficiary that has the necessary background to work on the action and owns the installations where most of the work would be implemented decides to terminate its participation. The granting authority decides to terminate the Grant Agreement because the remaining consortium cannot continue implementing the action in the same way without this beneficiary. Continuing the action in a different way then originally evaluated and ranked would call into question the decision awarding the grant.*

- **Bankruptcy, winding-up, administration, arrangement with creditors, suspension of business activities or other similar proceedings**

The granting authority may terminate the participation of a beneficiary, if it is declared bankrupt, being wound up, having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, or is subject to any other similar proceedings or procedures under national law (since this normally implies that the beneficiary cannot carry out the work properly).

Example: *A coordinator informs the granting authority that a beneficiary participating in a Grant Agreement is insolvent. It does not notify beneficiary termination because it thinks that the beneficiary may continue implementing the action. The granting authority considers that the beneficiary has not sufficient means to pursue implementation and terminates the beneficiary's participation.*

⚠ **Information obligation** — In case of **bankruptcy** (or similar), the beneficiary or the coordinator must immediately inform the granting authority. Late information will be considered as a breach of the information obligation under the Grant Agreement *(see Article 19.4)*.

- **Non-compliance with tax or social security obligations**

The granting authority may terminate the participation of a beneficiary, if it has not fulfilled its obligations to pay social security contributions or taxes under applicable national law (i.e. the law of the country in which it is established and those of the country(ies) where the action is implemented; *see Article 11.1*).

Example: *A national administration notifies to the granting authority that a beneficiary did not pay social security contribution for its employees. If this beneficiary cannot prove that it paid these contributions or clarify the situation within a given deadline, the granting authority may terminate its participation in the Grant Agreement. If the beneficiary declared personnel costs including amounts for social security contributions not actually incurred, the granting authority may furthermore recover any undue amounts.*

- **Grave professional misconduct**

The granting authority may terminate the participation of a beneficiary, if it (or one of its persons having powers of representation, decision-making or control, or

one of its persons essential for the award/implementation of the grant) has been found guilty of grave professional misconduct (proven by any means).

'Grave professional misconduct' is defined as any type of unacceptable or improper behaviour in exercising one's profession, especially by employees, including grave professional misconduct within the meaning of Article 136(1)(c) of the EU Financial Regulation 2018/1046 *(see Article 2)*.

According to Article 136(1)(c) of the Financial Regulation, a person or entity is guilty of grave professional misconduct when it has violated applicable laws or regulations or ethical standards of the profession to which the person or entity belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence. Therefore, one of the following conditions needs to exist in order for a conduct to be qualified as grave professional misconduct:

- the entity has violated applicable laws or regulations or ethical standards of the profession to which it belongs or
- the entity had a wrongful conduct which has an impact on its professional credibility and the conduct denotes wrongful intent or gross negligence.

The concept of 'professional misconduct' covers "*all wrongful conduct which has an impact on the professional credibility of the operator at issue and not only the violations of professional ethical standards in the strict sense of the profession to which that operator belongs, which are established by the disciplinary body of that profession or by a judgment which has the force of res judicata*"[32].

Examples:

1. *A legal entity's participation in a Grant Agreement is terminated when a national investigation uncovers that it falsified the results of its clinical studies.*

2. *A non-governmental organisation campaigning for justice regardless of religious or political background released controversial statements of anti-Semitic nature, in particular by calling to destroy country X. Expressing the wish to destroy country X was considered a conduct which has an impact on the integrity and professional credibility of the organisation and represents a breach of the generally accepted professional ethical standards and of EU values. The organisation participation in the Grant Agreement was terminated on the ground of grave professional misconduct.*

- **Fraud, corruption or other criminal activities**

The granting authority may terminate the participation of a beneficiary, if it (or one of its persons having powers of representation, decision-making or control, or one of its persons essential for the award/implementation of the grant) has committed fraud, corruption, or is involved in a criminal organisation, money laundering or any other illegal activity.

Example: *A legal entity's participation in several EU projects is terminated when its owner is convicted by national courts to have participated in large-scale drug trafficking.*

- **Circumvention of fiscal, social or other legal obligations in the country of origin**

The granting authority may terminate the participation of a beneficiary, if it (or entities having powers of representation, decision-making or control) was created

[32] *See Judgment of 13 December 2012, Forpostą SA and ABC Direct Contact sp. z o.o. v Poczta Polska SA, C-465/11, ECLI:EU:C:2012:801.*

under a different jurisdiction with the intent to circumvent fiscal, social or other legal obligations in the country of origin (or one of its persons having powers of representation, decision-making or control, or one of its persons essential for the award/implementation of the grant created an entity with this purpose).

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in this grant)**

  The granting authority may terminate the Grant Agreement or the participation of a beneficiary, if a beneficiary (or one of its persons having powers of representation, decision-making or control, or one of its persons essential for the award/implementation of the grant) has committed substantial errors, irregularities or fraud or serious breach of obligations *(e.g. the action has not been properly implemented, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics, values or security rules, etc)* — either during the award procedure or during the action.

  Examples:

  1. *False declarations in the proposal form; coordinator does not transfer payments to the other beneficiaries, or beneficiaries do not pay their subcontractors; coordinator does not submit the reports or information (despite a reminder); consortium does not inform the granting authority about the receipt of a second grant for the same/similar proposal; review shows that action does not achieve its critical objectives and is way behind schedule and consortium submits a short-term implementation plan that is not acceptable; audit shows that beneficiary declared costs based on fake invoices; a check shows that reports submitted by the consortium were almost entirely copied from the web (plagiarism); consortium does not submit an amendment request after beneficiary termination*

  2. *A legal entity's participation in a Grant Agreement is terminated when the granting authority checks uncovers that the entity made a public speech inciting to hate and discrimination (breach of obligation to respect EU values in Article 14).*

- **Substantial errors, irregularities or fraud OR serious breach of obligations (in other grants)**

  The granting authority may also terminate the Grant Agreement, if a beneficiary (or one of its person having powers of representation, decision-making or control, or one of its person essential for the award/implementation of the grant) has committed substantial errors, irregularities or fraud or serious breach of obligations in *other* grants, if

  - the other grants were awarded under similar conditions (i.e. same or similar rules applicable) and
  - the substantial errors, irregularities or fraud or serious breach of obligations are:
    - systemic or recurrent and
    - have a material impact on this grant.

  Example: *During an audit of other grants, the granting authority detected systematic irregularities in the calculation of personnel costs that appear intentional and also affect all other Grant Agreements signed by the audited beneficiary. The granting authority may terminate the participation of the audited beneficiary in the Grant Agreement.*

- **Non-removal of an affiliated entity/associated partner**

  The granting authority may terminate the participation of a beneficiary if it refuses to remove one of its affiliated entities or an associated partner which is in one of the following situations:

  - bankruptcy, winding-up, administration, arrangement with creditors, suspension of business activities or other similar proceedings;

- grave professional misconduct
- non-compliance with tax or social security obligations
- fraud, corruption or other criminal activities
- substantial errors, irregularities or fraud or serious breach of obligations (in this grant or other grants).

- If provided in the Grant Agreement: **the linked action** (see Article 3) has not started as specified in Annex 1, has been terminated or can no longer contribute, and this impacts the implementation of the action under this Agreement
- Depending on the programme and on the type of action, there may be **other specific grounds for termination** of the Grant Agreement by the granting authority, for example:
  - **major delays** *(CEF, RENEWFM, JTM)*
  - **loss of scientific or technological relevance** *(HE)*

    The granting authority may terminate the Grant Agreement, if the action has lost scientific or technological relevance.

    Example: *A proposal on research on a new system based on recently discovered material is selected. After the action starts, a European scientific publication demonstrates that this material contains a chemical substance that irremediably harms human health. Therefore, the action cannot continue and the granting authority decides to terminate the Grant Agreement.*
  - **loss of economic relevance** *(HE-EIC actions)*

    The granting authority may terminate the Grant Agreement, if the action has lost its economic relevance
  - **loss of relevance as being part of a given portfolio** *(HE-challenge-based EIC Pathfinder actions and Missions)*

    The granting authority may terminate the Grant Agreement, if the action has lost its relevance as part of the Portfolio for which it has been initially selected.
  - **change of humanitarian context no longer allows the implementation of the action** *(HUMA)*.

Before terminating (the Grant Agreement or a beneficiary's participation), the granting authority may first suspend the Grant Agreement *(see Article 31.2)*, to try to fix the problems and re-establish compliance with the Grant Agreement. In this case, it will only terminate (the Grant Agreement or a beneficiary's participation) if the action cannot be resumed.

2. Procedure

How? Before GA or beneficiary termination, the granting authority will follow a contradictory procedure to give the consortium/beneficiary the possibility to submit observations.**Contradictory procedure:**

Step 1 — The granting authority informs the coordinator/beneficiary concerned of its intention (and the reasons why), in a pre-information letter.

Step 2 — The coordinator/beneficiary concerned has 30 days to submit observations. An extension may be granted on justified request — if submitted within the 30 days.

Step 3 — The granting authority analyses the observations and either stops the procedure or confirms it.

Depending on the situation and type of termination, this procedure will be directed either at the coordinator or the beneficiary concerned:

- terminations linked to the consortium *(e.g. grant termination after a negative project review)*: normally the coordinator
- terminations linked to a beneficiary *(e.g. beneficiary termination or simultaneous termination of grants after a beneficiary audit)*: normally the beneficiary concerned.

If it is directed at the coordinator, the coordinator must inform the other beneficiaries, via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc.)* and ask for their comments.

If it is directed at the beneficiary concerned, the granting authority will inform coordinator later on (in a way that preserves confidentiality).

If a beneficiary is terminated on the basis of Article 32.3.1(e) (i.e. bankruptcy or similar), the granting authority will also contact the liquidator/administrator (— as soon as possible after the termination is confirmed).

⚠ **Information obligation** — Beneficiaries should inform their coordinator since beneficiary termination always has a significant impact on the action *(see Article 19)*, likely requiring a redistribution of tasks and budget.

3. Effects

The termination will take effect the day after the confirmation notification is sent (or on a later date specified in the notification; 'termination date'): Terminations cannot be retroactive (notably to be able to comply with the obligations and deadlines after termination).

The effects of Grant Agreement termination are the same as when the beneficiaries terminate the Grant Agreement *(see Article 32.1.2)*.

Only costs incurred before termination (i.e. generating event before the termination date; *see Article 6.1(a)*) are eligible. Costs relating to contracts due for execution only after termination are not eligible.

Ineligible costs will be rejected. The grant may be reduced, if the termination is based on substantial errors, irregularities, fraud or serious breach of obligations (*for instance if the action has not been implemented properly; see Article 28*). In certain cases, the granting authority may also impose administrative sanctions (i.e. exclusion and/or financial penalties; *see Article 34*).

The detailed calculations are described in Article 22.

Termination has no effect on the provisions that normally continue to apply after the end of the action *(see Article 32.3.3)*.

Obligations that continue to apply after GA termination:

- Keeping records and other supporting documentation *(see Article 20)*
- Submitting the periodic report (for the open reporting period until termination) *(see Articles 32.1.2 and 21.2)*
- Providing requested information and allow access to their sites and premises *(e.g. for checks, reviews, audits, investigations or evaluations of the action's impact; see Articles 25 and 26)*

- Complying with the rules on management of intellectual property, background and results *(see Article 16 and Annex 5)*
- Maintaining confidentiality *(see Article 13 and Annex 5)*
- Complying with the security obligations (if applicable) *(see Article 13 and Annex 5)*
- Promoting the action and giving visibility to the EU funding *(see Article 17 and Annex 5)*
- No assignment of claims for payment *(see Article 42)*

SECTION 3 OTHER CONSEQUENCES: DAMAGES AND ADMINISTRATIVE SANCTIONS

ARTICLE 33 — LIABILITY FOR DAMAGES

33.1 Liability of the granting authority

> **ARTICLE 33 — DAMAGES**
>
> **33.1 Liability of the granting authority**
>
> The granting authority cannot be held liable for any damage caused to the beneficiaries or to third parties as a consequence of the implementation of the Agreement, including for gross negligence.
>
> The granting authority cannot be held liable for any damage caused by any of the beneficiaries or other participants involved in the action, as a consequence of the implementation of the Agreement.

1. Liability for damages (of the EU)

When signing the grant, the beneficiaries agree that the granting authority can NOT be held liable if — in implementing the Grant Agreement — the granting authority (or its staff/representatives) cause damage to a beneficiary or third party.

Moreover, the granting authority can NOT be held liable if — in implementing the Grant Agreement — a beneficiary or third party involved in the action causes damage to another beneficiary or third party.

Examples:

1. *An experiment carried out by a beneficiary leads to an accidental escape of pollutants into the local river.*

2. *A fire breaks out in a beneficiary's laboratory in the course of an experiment for the action conducted during an audit by the granting authority.*

Subsidiary (secondary) liability is also excluded.

The granting authority is also not liable for damages caused by other participants involved in the action (i.e. affiliated entities, associated partners, subcontractors and recipients of financial support to third parties (FSTP)).

33.2 Liability of the beneficiaries

> **33.2 Liability of the beneficiaries**
>
> The beneficiaries must compensate the granting authority for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement, provided that it was caused by gross negligence or wilful act.
>
> The liability does not extend to indirect or consequential losses or similar damage (such as loss of profit, loss of revenue or loss of contracts), provided such damage was not caused by wilful act or by a breach of confidentiality.

1. Liability for damages (of the Consortium)

What? If by implementing the action (or by not implementing the action as agreed) a beneficiary causes damage to the granting authority, intentionally or as a result of gross negligence, the granting authority may claim compensation.

Examples:

1. *Costs of legal proceedings borne by the granting authority.*

2. *At a meeting on the granting authority's premises, a beneficiary smokes and causes a fire.*

2. Procedure

How? For liability cases, the granting authority will follow the normal procedure for damages claims (i.e. bringing an action for contractual damages before the EU courts (General Court)).

ARTICLE 34 — ADMINISTRATIVE SANCTIONS AND OTHER MEASURES

ARTICLE 34 — ADMINISTRATIVE SANCTIONS AND OTHER MEASURES

Nothing in this Agreement may be construed as preventing the adoption of administrative sanctions (i.e. exclusion from EU award procedures and/or financial penalties) or other public law measures, in addition or as an alternative to the contractual measures provided under this Agreement (see, for instance, Articles 135 to 145 EU Financial Regulation 2018/1046 and Articles 4 and 7 of Regulation 2988/95[46]).

[46] Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests **(OJ L 312, 23.12.1995, p. 1).**

1. Administrative sanctions

What? In the framework of the EU Early Detection and Exclusion System (EDES), the Financial Regulation 2018/1046 provides that the competent EU services can take the following measures:

- exclusion from participation in award procedures and from being selected for implementing Union funds, when the beneficiary (or a natural or legal person who is a member of the administrative, management or supervisory body of the beneficiary, a natural person who is essential for the award or for the implementation of the Grant Agreement, a natural or legal person that assumes unlimited liability for the debts of the beneficiary) is in one or more of the exclusion situations mentioned in Article 136 of the Financial Regulation *(e.g. grave professional misconduct, breach of obligations, fraud, corruption, irregularity, bankruptcy, etc)*

- financial penalties, in the cases described in Article 140 of the Financial Regulation *(e.g. grave professional misconduct, breach of obligations, fraud, irregularity)*

- in order to reinforce the deterrent effect of the above measures, publication of the information related to the case on the Europa website.

These measures are public law measures (not based on the Grant Agreement) and are conditional on established facts and findings that are substantiated by reliable evidence *(e.g. OLAF reports; EPPO's investigations; checks, audit or controls of EU services etc).*

When there is only a suspicion of risk threatening the EU financial interests and the relevant facts are not yet established, the case may be registered in the database for information, to enable further verifications and reinforced monitoring.

> ***Example:*** *The representative of a non-governmental organisation campaigning for justice regardless of religious or political background released controversial statements of anti-Semitic nature, in particular by calling to destroy country X. Expressing the wish to destroy country X is considered a breach of EU values (non-discrimination) and a grave professional misconduct (a conduct which has an impact on the integrity and professional credibility of the organisation and represents a breach of the generally accepted professional ethical standards). The organisation was excluded for a specific duration from participation in award procedures covered by the general budget of the Union.*

2. Procedure

How? Before taking any of the administrative measures above, the competent EU service will normally follow a contradictory procedure with the person or entity concerned to give them the possibility to submit observations (— except if it is necessary to preserve the confidentiality of an investigation or of national judicial proceedings).

SECTION 4 FORCE MAJEURE

ARTICLE 35 — FORCE MAJEURE

ARTICLE 35 — FORCE MAJEURE

A party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.

'Force majeure' means any situation or event that:

- prevents either party from fulfilling their obligations under the Agreement,
- was unforeseeable, exceptional situation and beyond the parties' control,
- was not due to error or negligence on their part (or on the part of other participants involved in the action), and
- proves to be inevitable in spite of exercising all due diligence.

Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

1. Force majeure

What? In case of force majeure, the parties will be excused from not fulfilling their obligations (i.e. there will be no breach of obligations under the Grant Agreement and none of the adverse measures for breach of contract will be applied).

'Force majeure' relates to an extraordinary event or situation that is beyond the party's control and that prevents it from fulfilling its obligations under the Grant Agreement.

The event or situation must be inevitable (despite the beneficiary's due diligence, i.e. level of care that can reasonably be expected from a beneficiary, in order to ensure the fulfilment of its obligations under the Grant Agreement) and unforeseeable. Force majeure can NOT be used to justify situations caused by a beneficiary's negligence, events that could reasonably have been anticipated or events that are inherent to the normal activity of the beneficiary (*e.g. sick leaves, strikes, technical failure, human errors, etc.).*

> ***Examples (force majeure):*** *An earthquake, terrorist attack or volcanic eruption; delay in using equipment due to floods in the region/country.*
>
> ***Examples (not force majeure):*** *machine malfunctions, robberies; a subcontractor building a test site goes bankrupt, labour disputes or strikes, financial difficulties, personnel issues, for example sickness*

⚠ Usually, force majeure can be evoked **ONLY for the immediate impact** of the situation. Once earthquakes, extreme weather events, etc. have taken place and impact on the further implementation of the action becomes foreseeable, the beneficiaries must adapt their planning, take mitigation measures and take all other necessary steps to fulfil their obligations under the Grant Agreement under the new circumstances.

If force majeure entails *extra* costs for the implementation of the action they may be eligible but it will normally be the beneficiaries that will have to bear them (since they were not budgeted in the proposal and the maximum grant amount in Annex 2 cannot be increased).

If a task for the action could not be executed due to a situation of force majeure but certain costs were incurred for that task and could not have been avoided, those costs may still be eligible and can be charged to the action.

> ***Example:*** *Airline tickets bought by a beneficiary to attend a meeting related to the action. The flight is cancelled because the air traffic is suspended due a terrorist threat, and so the beneficiary cannot travel to the meeting. If the ticket costs fulfil the eligibility conditions set out under Article 6 of the Grant Agreement and it is impossible for the beneficiary to get those costs reimbursed (e.g by the airline or a travel insurance) then they may be eligible, even if the beneficiary did not travel.*

Force majeure may lead to Grant Agreement suspension *(see Article 31)* or Grant Agreement termination *(see Article 32)*.

How? The coordinator must immediately formally notify the granting authority (through Portal Formal Notifications: My Projects > Actions > Manage Project > Launch new interaction with the EU > Formal Notification).

The beneficiary concerned must quickly put in place all possible measures to limit the damage caused by the force majeure, including measures to limit related costs.

CHAPTER 6 FINAL PROVISIONS

ARTICLE 36 — COMMUNICATION BETWEEN THE PARTIES

ARTICLE 36 — COMMUNICATION BETWEEN THE PARTIES

[OPTION 1 for eGrants:

36.1 Forms and means of communication — Electronic management

EU grants are managed fully electronically through the EU Funding & Tenders Portal ('Portal').

All communications must be made electronically through the Portal in accordance with the Portal Terms and Conditions and using the forms and templates provided there (except if explicitly instructed otherwise by the granting authority).

Communications must be made in writing and clearly identify the Grant Agreement (project number and acronym).

Communications must be made by persons authorised according to the Portal Terms and Conditions. For naming the authorised persons, each beneficiary must have designated — before the signature of this Agreement — a 'legal entity appointed representative (LEAR)'. The role and tasks of the LEAR are stipulated in their appointment letter (see Portal Terms and Conditions).

If the electronic exchange system is temporarily unavailable, instructions will be given on the Portal.

36.2 Date of communication

The sending date for communications made through the Portal will be the date and time of sending, as indicated by the time logs.

The receiving date for communications made through the Portal will be the date and time the communication is accessed, as indicated by the time logs. Formal notifications that have not been accessed within 10 days after sending, will be considered to have been accessed (see Portal Terms and Conditions).

If a communication is exceptionally made on paper (by e-mail or postal service), general principles apply (i.e. date of sending/receipt). Formal notifications by registered post with proof of delivery will be considered to have been received either on the delivery date registered by the postal service or the deadline for collection at the post office.

If the electronic exchange system is temporarily unavailable, the sending party cannot be considered in breach of its obligation to send a communication within a specified deadline.

36.3 Adresses for communication

The Portal can be accessed via the Europa website.

The address for paper communications to the granting authority (if exceptionally allowed) is the official mailing address indicated on its website.

For beneficiaries, it is the legal address specified in the Portal Participant Register.*]*

[OPTION 2 for paper grants: For grants which are not managed through the EU Funding & Tenders Portal (see Data Sheet, Point 1), the specific rules set out in Annex 5 apply.*]*

1. Communication between the parties — Funding & Tenders Portal electronic exchange system

All communications (information, requests, submissions, 'formal notifications', etc) between the consortium and the granting authority — before and after the payment of the balance — must be in electronic form and done directly inside the Funding & Tenders Portal.

⚠ By using the **Portal**, the communications will automatically fulfil the minimum conditions set out in the Grant Agreement (i.e. that they must be made in writing and bear the number of the Grant Agreement (project number and acronym), in order to be on record and identifiable)

⚠ For actions that require a document upload, you should always use the **forms and templates** provided on the Portal Reference Documents — unless explicitly instructed otherwise by the granting authority.

The Funding & Tenders Portal is the European Commission platform for the single electronic data exchange area for participants (SEDIA) under Article 147(1) of the EU Financial Regulation 2018/1046.

The Portal offers different functions:

- viewing and changing the legal entity data in the Participant Register
- formal notifications and other actions inside the different grant management workflows *(amendments, reporting, deliverables, etc)*
- contacting granting authority outside a workflow (either through the Portal Formal Notifications Service or Messaging Service)
- where necessary, secured electronic signatures (*for instance, for signing the Grant Agreement, accession to the Grant Agreement, amendments and financial statements).*

It keeps logs of all communication and allows for delivery with proof of receipt.

All communications are recorded in the project file (with date and time). For communications that trigger deadlines, also the date and time of access are recorded.

The use of Portal secured personalised area ('My Area', also called 'electronic exchange system' or 'Portal Grant Management System') is subject to the Funding & Tenders Portal Terms & Conditions.

Access is limited to persons with a user account and authorisation to act for the beneficiary. For that purpose, all beneficiaries must have appointed a legal entity appointed representative (LEAR) before signature of the Grant Agreement. Authorisation and access are linked to user roles *(e.g. LEAR, PLSIGN or PFSIGN*).

Examples:

1. *Only Legal Signatories (PLSIGNs) may sign the Grant Agreement and amendments.*

2. *Only Financial Statement Signatories (PFSIGNs) may sign the financial statements.*

3. *Only Primary Coordinator Contacts (PCoCos) and Coordinator Contacts (CoCo) may submit information to the granting authority. The Primary Coordinator Contact can be changed only by the responsible (project) officer in the back-office, while the other roles can be managed by the participants themselves via the Portal. (In case of MSCA-IF the Supervisor identified in the proposal becomes the PCoCo, in ERC grants the PI identified in the proposal becomes the PCoCo.)*

4. *Only Participant Contacts (PaCos) may submit information to the coordinator. They cannot submit information directly to the granting authority.*

5. *Only the Participant Contact(s) (PaCo, or PCoCo and CoCo(s) in case of the coordinator), Legal Signatory (PLSIGN) or Financial Signatory (PFSIGN) of the recipient beneficiary may access a formal notification for the first time (i.e. may formally receive it).*

6. *Task Managers (TaMa) may only complete and save web forms and upload documents related to their organisation's participation in the grant. They cannot submit information to the coordinator or the granting authority.*

7. *Team Members (TeMe) have read-only access to project information. They cannot complete or save forms, nor submit information to the coordinator or the granting authority.*

More details on My Area and access and roles in the Portal are explained in the Online Manual > My Area.

In principle, all communications from/to the granting authority must normally go via the coordinator — unless the Grant Agreement or other rules provide for direct communication with the other beneficiaries *(e.g. Articles 21, 25, 26, 39; OLAF Regulations No 883/2013 and No 2185/2996)*.

Beneficiaries may receive notifications even after the end of the project *(e.g. for audits, impact evaluations, etc)*. Therefore they (and in particular their LEARs) are obliged to keep the contact data up to date, in order to ensure that the communication channels remain active.

The responsibility for opening notifications in time is with the beneficiaries.

⚠ **Formal notifications** are considered to have been accessed 10 days after they have been sent (— even if not actually opened by the recipient, *e.g. refusal of reception or omission*). Deadlines that are counted from the date of receipt are counted as of day eleven *(see Article 3.3.3 Funding & Tenders Portal Terms & Conditions)*.

Specific cases (Portal access rights):

Beneficiaries in bankruptcy — If a beneficiary goes bankrupt during the action, the liquidator may be granted the necessary access rights in the Portal, in order to complete the beneficiary's obligations. If exceptionally necessary, the granting authority can also agree to communication outside the Portal electronic exchange system (i.e. via registered post or e-mails).

2. Date of communication

Communications are considered to have been **sent** on the date and time they are sent through the electronic exchange system.

Communications are considered to have been **received** on the date and time they were accessed. If formal notifications have not been accessed within 10 days after sending, they will be considered to have been accessed.

Formal communications made on paper, sent by registered post with proof of delivery, are considered to have been made on either:

- the delivery date registered by the postal service or
- the deadline for collection at the post office.

The sending party cannot be considered in breach of its obligation to comply with a deadline in case it can demonstrate that the electronic exchange system was unavailable.

3. Addresses

EU grants are managed fully electronically through the Funding & Tenders Portal.

If exceptionally, the communication is on paper, the addresses are as follows:

- for communicating to the granting authority: the official mailing address indicated on its website (or as otherwise indicated in the call)
- for communicating to beneficiaries: the legal address specified in the Portal Participant Register.

ARTICLE 37 — INTERPRETATION OF THE AGREEMENT

ARTICLE 37 — INTERPRETATION OF THE AGREEMENT

The provisions in the Data Sheet take precedence over the rest of the Terms and Conditions of the Agreement.

Annex 5 takes precedence over the Terms and Conditions.

The Terms and Conditions take precedence over the Annexes other than Annex 5.

Annex 2 takes precedence over Annex 1.

1. Interpretation

All parts of the Grant Agreement are designed to be as complementary as possible and avoid conflicting or concurrent provisions.

However, if this nonetheless happens, the Grant Agreement provides for the following order of precedence:

1. Data Sheet
2. Annex 5
3. Terms and Conditions
4. Other Annexes
    a. Annex 2
    b. Annex 1

ARTICLE 38 — CALCULATION OF PERIODS AND DEADLINES

ARTICLE 38 — CALCULATION OF PERIODS AND DEADLINES

In accordance with Regulation No 1182/71[47], periods expressed in days, months or years are calculated from the moment the triggering event occurs.

The day during which that event occurs is not considered as falling within the period.

'Days' means calendar days, not working days.

[47] Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8/6/1971, p. 1).

1. Periods in days

A period expressed in days starts on the day following the triggering event and ends at midnight of the last day of the period.

Days are **calendar days** (not working days).

Example:

Under Article 21.2 and in accordance with the schedule set out in Point 4.2 of the Data Sheet, the coordinator (or beneficiaries in mono-beneficiaries grants) must submit a periodic report within 60 days following the end of each reporting period.

The action is divided into the following reporting periods:

RP1: from 1 March 2022 to 31 August 2023

RP2: from 1 September 2023 to 28 February 2024

Therefore, the deadline of 60 days for the first periodic report starts on 1 September 2023 and ends on 30 October 2023.

The deadline of 60 days for the second and last periodic report starts on 1 March 2024 and ends on 29 of April 2024.

2. Periods in months or years

Periods expressed in months or years end at midnight on the day with the same date as the day on which the period started, in the last month or year of the period.

Example: *Under Article 29, the granting authority may suspend the payment deadline if a request for payment cannot be processed. The suspension takes effect on the day the granting authority sends the notification. When the suspension exceeds two months, the coordinator may ask the granting authority to confirm if the suspension will continue. The granting authority sent the notification for a grant payment deadline on 31 July 2023. Therefore, the suspension will have exceeded two months on 30 September 2023.*

If that day does not exist *(e.g. 31 of April)*, the period ends at midnight of the last day of that month (e.g. 30 of April).

Example: *Under Article 25.1.2 and in accordance with the time-limit set out in Point 6 of the Data Sheet, reviews may be started up to two years after the final payment is made. A grant's final payment takes place on 29 February 2023. Therefore, the two-year review period starts on 1 March 2023 and ends on 1 March 2025.*

ARTICLE 39 — AMENDMENTS

ARTICLE 39 — AMENDMENTS

39.1 Conditions

The Agreement may be amended, unless the amendment entails changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

Amendments may be requested by any of the parties.

39.2 Procedure

The party requesting an amendment must submit a request for amendment signed directly in the Portal Amendment tool.

The coordinator submits and receives requests for amendment on behalf of the beneficiaries (see Annex 3). If a change of coordinator is requested without its agreement, the submission must be done by another beneficiary (acting on behalf of the other beneficiaries).

The request for amendment must include:

- the reasons why
- the appropriate supporting documents and
- for a change of coordinator without its agreement: the opinion of the coordinator (or proof that this opinion has been requested in writing).

The granting authority may request additional information.

If the party receiving the request agrees, it must sign the amendment in the tool within 45 days of receiving notification (or any additional information the granting authority has requested). If it does not agree, it must formally notify its disagreement within the same deadline. The deadline may be extended, if necessary for the assessment of the request. If no notification is received within the deadline, the request is considered to have been rejected.

An amendment **enters into force** on the day of the signature of the receiving party.

An amendment **takes effect** on the date of entry into force or other date specified in the amendment.

1. Amendments

What & When? Amendments serve to change the Grant Agreement by mutual consent of the parties.

They are normally done at the initiative of the consortium, but they may also be initiated by the granting authority *(e.g. where errors need to be corrected; to change Annex 1 after a review of the action, etc).*

They are mandatory for all substantive or important changes to the Grant Agreement, e.g. changes impacting the project outcome, changes that affect the description of the action in Annex 1, etc.

⚠ The **general terms and conditions** of the Grant Agreement that apply to all EU grants can NOT be changed via an amendment. Only project-specific data *(e.g. duration of the reporting periods, starting date, etc.)* and the options in the Grant Agreement are open to amendments.

⚠ Moreover, amendments may NOT result in changes that — if they had been known before awarding the grant — would have had an **impact on the award decision**. Those are mostly changes that:

- involve the consortium composition and have an impact on the eligibility criteria set out in the call conditions *(e.g. minimum number or types of participants in a proposal)*

- involve changes to the action and/or its budget and affect the award criteria announced in the call conditions (e.g. the tasks in Annex 1 are changed so substantially that the action no longer corresponds to the scope of the call for proposals)

- breach the principle of equal treatment of applicants

- do not comply with the applicable rules *(e.g. Financial Regulation 2018/1046)* or with provisions of the Grant Agreement itself *(e.g. amendment to subcontract tasks of the coordinator).*

Characteristics of amendments:

- Can only be done in writing — a verbal agreement is not binding on the parties since EU granting authorities are bound to written format[33].
- Enters into force after the signature by the coordinator and the granting authority through an exchange of signatures.
- Takes effect on the date agreed by the parties (retroactive or in the future); if no date is specified, on the date when the second party approves it (not retroactive).
- Are usually available only during the action (i.e. after the entry into force of the Grant Agreement and before the final payment).
- Must normally be requested before the end of the project; in exceptional cases amendment clauses are also open after the end of the project *(e.g. change of coordinator or change of coordinator's bank account, in order to be able to make the final payment)*.
- Has to be signed by persons having the same capacity to represent the legal entity as those who signed the initial Grant Agreement.
- Leaves all the other provisions of the Grant Agreement which are not affected unchanged and with continued full effect.
- Forms an integral part of the Grant Agreement.
- Has to be in line with the rules applicable to the Grant Agreement (including applicable EU, international and national law, where relevant under the Agreement).
- Cannot have the purpose or effect of making changes to the Grant Agreement which might call into question the decision awarding the grant or result in unequal treatment of beneficiaries or applicants.

From a strictly legal perspective, amendments are necessary whenever there is a need to change the Grant Agreement (including changes to its Annexes).

[33] *See Article 201(1) EU Financial Regulation 2018/1046.*

The amendment clauses that are available in the Portal Amendment tool are called '**AT clauses'**.

Example: *If an affiliated entity ends its participation, the option in Article 8 and the Data Sheet must be updated to set its 'termination date'. This can be done by using amendment clause AT6.*

⚠ **Information obligation —** Changes in the name, address, legal form and organisation type AND changes in the legal, financial, technical, organisational or ownership situation may or may not require an amendment *(see below)* — but they ALL trigger the information obligation under Article 19.3.

If such changes affect the implementation of the action and require an amendment, the granting authority will examine the situation and inform the coordinator.

Examples (change that requires an amendment):

1. *Beneficiary A becomes bankrupt. It will be necessary terminate its participation and to amend the Grant Agreement.*

2. *Beneficiary B moves from Europe to Australia during the action. The change of address implies that the beneficiary becomes ineligible for funding, so the Grant Agreement will have to be amended to terminate participation or change role to associated partner.*

Example (change that does NOT require an amendment): *Beneficiary D changes its name. The update in the Portal Participant Register is sufficient; no amendment is needed.*

Changes without any impact on the Grant Agreement normally do NOT necessarily require a formal amendment. They are therefore sometimes done by information procedure, sometimes by formal amendment (if simpler because an automated clause is available).

Sample list (non-exhaustive) of cases where an amendment is necessary:

- **Addition of a new beneficiary** (**AT1**; *see Article 40.2*)

  What? Addition of a new beneficiary during the action.

  How? The amendment is normally triggered by the consortium.

  The new beneficiary must first register (and get validated) in the Portal Participant Register — unless it already has a validated participant identification code (PIC).

  The beneficiary's name (and their entry date) will be updated in the Preamble and the list of participants in the Data Sheet and the beneficiary will be entitled to submit costs as from that date.

  For the entry date, it is possible to choose between a fixed date (retroactive or future) OR the date of signature of the Accession Form OR the date of entry into force of the amendment.

  Handover period — If a new beneficiary joins to replace a beneficiary that leaves, the entry date (of the new beneficiary) may be set before the termination date (of the beneficiary that is replaced) — so that *both* can incur costs for a certain period.

  Example: *The former beneficiary ends its participation on 01.06.2021, and the new beneficiary accedes to the Grant Agreement on 01.05.2021.*

  Combinations

  Annexes 1 and 2 will also have to be changed (AT21 and AT41).

  If the new beneficiary is participating with affiliated entities/associated partners, they will also have to be added (with effect from the same date) (AT2, AT3).

  For international organisations a change of the applicable law/dispute settlement options may be needed (AT16, AT17).

- **Addition of an affiliated entity/associated partner** (**AT2, AT3**; *see Article 8 and 9.1*)

  What? Addition of a new affiliated entity/associated partner during the action.

  How? The amendment is normally triggered by the consortium.

  The new affiliated entity/associated partner must first register (and, for affiliated entities, also get validated) in the Portal Participant Register — unless it already has a participant identification code (PIC).

  The affiliated entity/associated partner name (and their entry date) will be updated in the list of participants in the Data Sheet and Article 8/9.1.

  For the entry date, it is possible to choose between a fixed date OR the accession date of the beneficiary OR the date of entry into force of the amendment.

  > ⚠ If the affiliated entity/associated partner joins the action at the same time as the beneficiary they are linked to, the **starting date** of participation must be the same as the date of the new beneficiary.

  Combinations

  Annexes 1 and 2 will also have to be changed (AT21 and AT41).

- **Beneficiary termination** (**AT4**; *see Article 32*)

  What? Removal of a beneficiary during the action.

  > ⚠ There is NO need to request an amendment if termination takes effect after the end of the action *(see Article 4)* — unless the beneficiary concerned is the coordinator AND the amendment is necessary to comply with the obligation to submit the reports and distribute the payments.
  >
  > ⚠ There is NO more need for a separate termination notification (simplification; new for 2021-2027).

  How? The amendment is normally triggered by the consortium.

  The beneficiary's name (and their exit and termination dates) will be updated in the Preamble and the list of participants in the Data Sheet. The beneficiary will be entitled to submit costs until that date.

  For the exit date, it is possible to choose between a fixed date (retroactive or future) OR the day after submission of the amendment request OR the date of entry into force of the amendment.

  > ⚠ The **exit date** should be the date the participant stops (or stopped) working on the action (i.e. end of eligibility date).

  For the termination date, the choice is between a fixed date (future) after the submission of the amendment request OR the date of entry into force of the amendment, whichever is the latest. It is normally predefined by the exit date and automatically fixed by the IT system.

  Combinations

  Annexes 1 and 2 will normally have to be changed (AT21 and AT41).

  If the beneficiary was participating with affiliated entities/associated partners, they will also have to be removed (with effect from the same date) (AT6, AT7).

If the coordinator is removed, the amendment will also have to propose a new coordinator and coordinator bank account (AT11, AT12).

- **Removal of an affiliated entity/associated partner** (**AT6, AT7**; *see Article 8 and Article 9.1*)

  What? Removal of an affiliated entity/associated partner during the action.

  How? The amendment is normally triggered by the consortium.

  ⚠ If requested by the granting authority *(e.g. because of audit results or an OLAF investigation)*, the consortium MUST submit an amendment to remove an affiliated entity/associated partner. If the consortium does not follow-up this request, the beneficiary can be terminated by the granting authority (which will also remove the affiliated entity/associated partner).

  The name of the affiliated entity/associated partner (and their exit and termination dates) will be updated in the list of participants in the Data Sheet and Article 8/9.1.

  For the exit date, it is possible to choose between a fixed date (retroactive or future) OR the day after submission of the amendment request OR the date of entry into force of the amendment.

  For the termination date, the choice is between a fixed date (future) after the submission of the amendment request OR the date of entry into force of the amendment, whichever is the latest. It is normally predefined by the exit date and automatically fixed by the IT system.

  Combinations

  Annexes 1 and 2 will normally have to be changed (AT21 and AT41).

- **Change of coordinator (AT11)**

  What? Replacement of the coordinator during the action *(e.g. because of financial difficulties)*.

  ⚠ This amendment clause usually remains open even *after* the end of the action — until the final payment is paid out.

  What not? There is NO need to request an amendment if there is only a change in the person in charge of the coordination of the project (since the person's name is not mentioned in the Grant Agreement).

  ⚠ **Information obligation** — In this case you should however inform the granting authority *(see Article 19)*.

  How? The amendment is normally triggered by the consortium.

  The new coordinator becomes beneficiary No 1 in the Preamble and list of participants in the Data Sheet and the handover date is added to the coordinator list in the Data Sheet.

  For the handover date, it is possible to choose between a fixed date (retroactive or future) OR the date of entry into force of the amendment.

⚠ The **handover date** should be the date when the new coordinator takes over (and the former coordinator stops acting as coordinator).

⚠ If there was a **gap** (former coordinator leaves before new coordinator starts; e.g. coordinator is in bankruptcy) this will be visible in the coordinator list, since the handover date for the former coordinator (when it stopped doing coordinator tasks) must be at the latest its termination date.

Combinations

Annexes 1 and 2 will normally have to be changed (AT21 and AT41).

The coordinator bank account will have to be changed (AT12).

If the new coordinator is not already a beneficiary of the Grant Agreement, it must first accede to the Grant Agreement as a new beneficiary (AT1).

If the former coordinator would like to leave, its participation will have to be terminated (AT4).

- **Change of the coordinator's bank account for payments (AT12)**

What? An amendment is necessary for all events that imply a change of the account number/IBAN code indicated in the Grant Agreement (*see Data Sheet, point 4)*.

What not? NO amendment is necessary for a change of the name of the bank or name of the account holder; a change of the bank account data (and validation) in the Portal Participant Register is sufficient.

How? The amendment is normally triggered by the consortium.

The bank account data must first be updated in the Portal Participant Register (and be validated).

- **Changes to Annex 1 (description of the action) (AT21)**

What? Changes to the description of the action, in particular:

  - significant change of the action tasks *(e.g. if tasks are added/removed)* or of their division among the beneficiaries

    ⚠ Significant changes to the action such as removal of action tasks may put into question the decision to award the grant. The granting authority will assess on a case-by-case basis whether such changes are permissible.

  - changes concerning eligible in-kind contributions provided by third parties free of charge *(HE)* or subcontracts

    Such changes could in principle also be made via simplified approval procedure *(see Articles 9.2 and 9.3*); however, if the beneficiary requests an amendment, it will immediately know if the granting authority agrees (or not). Without amendment, this decision is left for later and the granting authority may reject the costs as ineligible at the moment of the payment.

  - changes concerning the tasks to be carried out by affiliated entities and related costs (including if an affiliated entity is removed)

  - changes concerning Grant Agreement options (options are removed or added)

  - significant changes concerning deliverables *(e.g. adding/removing deliverables; changes in substance of a project output which is reflected in a deliverable, etc.)*.

What not? Changes to the due date of a deliverable normally do not require an amendment.

How? The amendment is normally triggered by the consortium.

Combinations

Annex 2 may have to be changed (AT41).

- **Change of the starting date, project duration or reporting periods (AT24, AT25, AT26)**

What? Change of the action's schedule (starting date, action duration or reporting periods).

> ***Example:*** *The Grant Agreement for the action has a fixed starting date that is before the date on which the Grant Agreement enters into force. Because of weather conditions, the consortium cannot start on that date and requests the granting authority to change it.*

> ⚠ Even if the action is prolonged, the **maximum grant amount** will **NOT** be **increased**.

How? The amendment is normally triggered by the consortium.

Extensions should be requested *before* the action ends and must be specifically justified.

Combinations

Annex 1 may have to be changed (AT21).

Depending on the case all three clauses may have to be used (AT24, AT25 and AT26).

- **Changes to Annex 2 (estimated budget) and Annex 2a, 2b, 2c, 2d, 2e, if necessary (AT41, AT51, AT51a, 51b, 51c, 51d)**

What? Changes to the estimated budget, in particular:

  - a budget transfer between beneficiaries or between budget categories (or both) which is linked to a significant change in the action's work (i.e. Annex 1); including new subcontracts (*for HE, also new eligible in-kind contributions*)
  - a budget transfer to a form of costs that was not used by the beneficiary (i.e. with 0 EUR costs in Annex 2) — except for transfer of amounts to budget categories which are based on unit costs or unit contributions calculated using the usual cost accounting practices of the beneficiary (*e.g. budget category D.2 Internal invoices*)
  - a budget transfer to or from the budget category for volunteers *(for programmes with eligible costs for volunteers: ERDF-TA, LIFE, ERASMUS, CREA, CERV, JUST, ESF/SOCPL, AMIF/ISF/BMVI, UCPM)*
  - a budget transfer to or from to budget categories based on lump sum costs or lump sum contributions

What not? There is NO need to request an amendment for changes covered by the budget flexibility rule in Article 5.5.

How? The amendment is normally triggered by the consortium.

Best practice: If Annex 2b or other specific cost annexes need to be changed, the beneficiaries should contact the granting authority.

Combinations

Annex 1 may have to be changed (AT21).

For more guidance on amendments, *see the Amendment Guide and the Online Manual > Amendments*.

2. Procedure

How? Amendment requests must be **prepared** by the requesting party (i.e. usually the coordinator) directly in the Portal Amendment tool.

Best practice: In case of doubt or if none of the available amendment clauses fit, beneficiaries should contact the granting authority, to discuss the amendment.

For the addition of new partners, the new entities (beneficiaries, affiliated entities or associated partners) must have been **registered** (and beneficiaries and affiliated entities also validated) in the Participant Register.

Examples:

1. *A new beneficiary must be validated (legal entity validation). This means that the new beneficiary will have to register in the Portal Participant Register, be validated and appoint a LEAR.*

2. *Validation of the new bank account, to change the bank account.*

The request must be unambiguous and complete and submitted in time (i.e. sufficiently in advance to allow proper analysis and preparation before it is due to take effect and — generally — before the end of the action; *see Article 4*). Requests introduced AFTER the end of the action will be accepted only exceptionally, for very specific and duly substantiated cases *(e.g. change of bank account, change of coordinator to make the final payment)*.

The coordinator must ensure that they have the agreement of the consortium (in accordance with the internal decision-making processes, *e.g. unanimity, simple or qualified majority, etc set out in the consortium agreement; where applicable*).

Once completed, the request (with all its uploaded supporting documents) must be **submitted** and **signed** by the PLSIGN of the coordinator (on behalf of the other beneficiaries, on the basis of the mandate given in the accession forms).

Pending amendment requests may at any moment be withdrawn (before they have been accepted or formally rejected).

Example: *The coordinator requests an amendment to change its bank account number and the reallocation of tasks in Annex 1 and of budget in Annex 2. Since the change of bank account is urgent because the Commission has to make the interim payment and the revision of the Annexes may require more time, the coordinator withdraws the request and makes a new request to change only the bank account and a second one to change the Annexes.*

A request containing several changes to the Grant Agreement will be considered as one (and must either be agreed or rejected by the other party as a whole).

If the receiving party requests additional information/documents, a new deadline will apply, i.e. 45 days from receiving the additional information/documents.

Example: *The coordinator submits a request to add a new beneficiary with several affiliated entities (see Article 8). The granting authority requests a signed declaration for the joint and several liability of the affiliated entities (Annex 3a). A new 45-day deadline for evaluation and validation will apply from the moment the granting authority receives the declaration.*

The other party must — within 45 days — **agree or disagree**.

The deadline may exceptionally be extended by the receiving party, for a period to be determined case-by-case and if necessary for the assessment of the request *(e.g. a review is needed to assess the changes)*.

If accepted it will be counter-signed by the receiving party directly in the Portal Amendment tool (for the consortium: by the PLSIGN of the coordinator).

If there is no reaction within the deadline, the request is in principle considered to have been rejected (there is NO tacit approval of amendments). A new amendment request may however be submitted — even if it fully or partly repeats the initial request.

For more guidance on amendments, *see the Amendment Guide and the Online Manual > Amendments*.

3. Effects

The amendment enters into force and is binding from the moment the receiving party has agreed to it (i.e. signed in the Portal Amendment tool).

The amendment will take effect (i.e. the changes to the Grant Agreement will start to apply) either:

- on the day of its entry into force (i.e. day of the last signature of the amendment) or
- on the specific date(s) indicated (and agreed) in the amendment.

The date should normally be *after* the entry into force of the amendment. In justified cases it may — exceptionally — be *before* (retroactivity of the amendment). In some cases, the Grant Agreement itself provides for retroactivity.

Examples (retroactivity allowed/foreseen in the GA):

1. *Where a new beneficiary is added to the Grant Agreement (AT3), it must assume the rights and obligations from the accession date specified in the Accession Form. If this date is before the entry into force of the amendment, this retroactivity implies that its costs will be considered eligible as from the accession date (and not as from the entry into force of the amendment).*

2. *Following a suspension of the implementation of the action by the beneficiary or by the Commission, the suspension will be lifted with effect from the resumption date set out in the amendment (AT26). This date may be before the date on which the amendment enters into force (see Article 31.2.2).*

3. *If the amendment intends to correct an error (AT60), the change will be made with effect from entry into force of the Grant Agreement (i.e. from the beginning).*

Depending on the amendment clause, the date of taking effect may have an impact on the eligibility of costs.

Amendment request involving several changes, may take effect on different dates.

Example: *On 1 May 2022, the coordinator requests an amendment to change the bank account and to add a new beneficiary. The addition of the beneficiary takes effect from the date of its accession, as specified in the Accession Form (1 April 2022), while the change of bank account takes effect on a date agreed by the parties or on the date on which the amendment enters into force (e.g. 10 June 2022, the day it is signed by the receiving party).*

Specific cases (amendments):

Budget transfers — Only the budget transfers that imply a change of Annex 2 (or one of its Annexes 2a-2e) require an amendment. Other transfers are covered by the budget flexibility principle and normally do NOT need an amendment *(see Article 5.5).*

Examples (no need for amendment):

1. *During the action implementation, a beneficiary that declared its direct personnel costs as actual costs decides to change this and instead to declare them as unit costs in accordance with its usual accounting practices (average personnel costs), which is allowed in its Grant Agreement.*

2. *An SME joins an on-going GA. The SME owner does not have a salary but incorrectly budgets its costs as actual personnel costs (category A.1). She realises the mistake and then switches to the unit costs for SME owners (category A.4); which is allowed in her Grant Agreement.*

Change of name, address or other legal entity data (of beneficiaries/affiliated entities) — Changes to participant legal data normally do NOT require an amendment.

Simple changes of name, legal form *(e.g. Ltd., S.A.)*, official registration number, address, VAT number do NOT require an amendment. An update of the beneficiary data by the LEAR (and validation) in the Portal Participant Register is normally sufficient.

If (exceptionally) the granting authority considers that the registered change affects the implementation of the action, it will inform the coordinator (and instruct them to request an amendment, if needed).

Example: *Company R moves from Europe to Australia and this implies that the beneficiary is no longer eligible for EU funding. In such a case, the coordinator will be asked to make an amendment to the Grant Agreement to exchange the beneficiary or to change its role into 'associated partner'.*

Short names have no legal value and only serve as easy identifiers in the Grant Agreement. If needed, they can be changed through an amendment (AT15).

A change of the person that represents the coordinator for the purposes of signing the Grant Agreement requires NO follow-up at all (not even a change in the Portal Participant Register — since the contact information there is only relevant at the moment of Grant Agreement signature (not afterwards).

Beneficiary termination due to non-accession — The amendment will have ex tunc effect (as from the beginning of the action and Preamble, list of participants in the Data Sheet and Article 8 and 9.1 will be adapted to reflect that the beneficiary (and its affiliated entities/associated partners) had never joined.

Change of roles — Participant changes that involve the switching of roles are now all done through so-called 'in/out amendments' (new for 2021-2027). Meaning that the entity ends its participation with one role and starts a new participation with another role.

⚠ Be aware that there may be **timing restrictions** which you may have to respect in that case *(e.g. exit date in one role must be before starting date in another role)*.

In case of loss of eligibility (and if participation is still allowed), partners may be forced to switch roles *(e.g. from beneficiary/affiliated entity to associated partner)*.

Example: *Beneficiary R moves from Europe to Australia and becomes no longer eligible for receiving EU funding under the programme. Since participants must comply with the eligibility conditions throughout the duration of the action, the Grant Agreement must be amended to change the beneficiary or change its role to associated partner. If R is participating with an affiliated entity M established in France, M will continue being eligible for funding, but would have to change role to participate as beneficiary.*

⚠ **Costs become automatically ineligible** as from the date of loss of eligibility *(see Article 6)*. That date should therefore be used as exit date.

Coordinator in bankruptcy/liquidation/administration (or similar) — After the end of the action, if the coordinator can continue its participation with the bank account of the administrator/liquidator (i.e. termination and coordinator change not really needed), it will be exceptionally sufficient to just change the bank account for payments (AT12) without changing the coordinator.

If the coordinator ceased business operations and will not be able to continue participating in the project, a coordinator change amendment will be needed. If the coordinator is no longer able to submit the request for amendment *(e.g. because the LEAR and all personnel with access rights in the Portal IT tools left)*, the same procedure as for coordinator change without its agreement should be used *(see below)*.

Termination of the coordinator without their agreement — If the consortium terminates the coordinator without its agreement, it must provide proof of its decision to change the coordinator and nominate one of the beneficiaries to act on its behalf to request the amendment *(see Article 32 and below).* Contact the Project Officer in charge of your project.

Partial takeovers (PTROs) — Partial takeovers (like all other transfers) are now also handled as normal in/out amendments (there are no more special all-in-one amendment clauses for transfers). The former participants will therefore have to submit a termination report and their participation will be formally closed.

⚠ In view of the special status of partial takeovers, the accession forms for new beneficiaries include a clause on **joint and several liability** for undue amounts paid to the beneficiary they replace (i.e. recoveries).

Partial takeovers are transfers of a business unit as a going concern (i.e. transfers that go beyond the simple sale of assets where a part of the business of the beneficiary — including the Grant Agreement — is taken over by (one or more) other entity(ies), *e.g. partial acquisition, distribution of a business unit after dissolution/liquidation, division/demerger, etc*).

Partial transfers are generally very complex and their effects depend on the specific circumstances of each case and grant contract and often also on national law.

Depending on whether the initial entity disappears or continues, there are different types of partial takeovers:

- Partial acquisition — *the original entity continues to exist, but a new entity purchases a department, business unit, or similar (and absorbs or takes over part of the rights and obligations of the original entity)*.

  Thus, *some* of the rights and obligations (and contracts) of the original entity are transferred to the new entity. Since the beneficiary continues to exist as a legal entity and only some of its rights and obligations are affected, a case-by-case analysis is needed (and an amendment therefore necessary).

  Example: *Company X sells its mobile phone division to company Z; all grants where the mobile phone division of X was involved will be affected by the transfer of rights and obligations; other grants where other divisions of company X work will not be affected.*

- Distribution of a business unit on dissolution/liquidation — *the original entity disappears (due to dissolution or liquidation), but (one or more) new entities purchase a department, business unit or similar (and absorb or take over part of its rights and obligations)*.

  Since only *some* of the beneficiary's rights and obligations are transferred, a case-by-case analysis is needed (and an amendment therefore necessary).

- Division/demerger — *the original entity disappears and several entities replace it; different parts of the original entity are transferred to the new entities (i.e. several partial transfers to different entities)*.

  Examples:

  1. *Company X has several ongoing grants. Company X is bought by two other companies (Y & Z), one of which will absorb the mobile phone division and the other the remaining divisions.*

For some grants there will be a transfer of rights and obligations from X to Y, for other grants it will be from X to Z.

2. *Company Ω has an ongoing grant (covering some action tasks to be implemented by its engineering division and some action tasks to be implemented by other divisions). Company Ω is bought by two other companies (E and O), one of which absorbs the engineering division and the other the remaining divisions. There are two partial takeovers: one to company E and one to company O.*

If the in/out amendment is due to a partial transfer, this should be clearly mentioned in the amendment request (together with a copy of the takeover contract, a short summary of the facts, timeline and effects of the takeover under the applicable national law and a list of the relevant provisions with references and hyperlinks to the texts.

Universal takeovers — Transfers of the Grant Agreement linked to a universal takeover normally do NOT require an amendment; an update of the beneficiary data by the LEAR (and validation) in the Portal Participant Register is sufficient.

Universal takeovers are transfers where the original entity is replaced by one new entity and all the rights and obligations — including the Grant Agreement — are transferred to this new entity *(e.g. merger or full acquisition*).

Example: *Beneficiary X merges with another existing entity Y by:*

- *becoming part of it (thus X and Y are together known as 'Y', and entity X ceases to exist) or*
- *establishing a new separate legal entity (X and Y are together known as 'Z').*

If (exceptionally) the granting authority considers that the registered transfer affects the action implementation, it will inform the coordinator (and instruct it to request an amendment, if needed).

Example:

1. *The legal form or type of organisation of the new entity differs from that of the former beneficiary or affiliated entity and this has an impact on the implementation of the action.*

2. *The coordinator transfers all its rights and obligations to another legal entity. If this involves a change of the bank account number in Data Sheet, each Grant Agreement in which it participates as coordinator must be amended to update this information (AT12).*

⚠ **Information obligation** — In case of a **universal takeover**, the beneficiary must — in addition to updating the data in the Portal Participant Register— inform the coordinator via its usual communication channels *(e.g. e-mail, registered letters with proof of delivery, etc)* under Article 19.

⚠ If a potential planned universal takeover could significantly affect or delay the implementation of the action, the EU financial interests, the decision to award the grant or the compliance with the Grant Agreement, **the coordinator should flag this as soon as possible the granting authority.** The same applies if the universal takeover concerns an affiliated entity.

ARTICLE 40 — ACCESSION TO THE AGREEMENT

ARTICLE 40 — ACCESSION AND ADDITION OF NEW BENEFICIARIES

40.1 Accession of the beneficiaries mentioned in the Preamble

The beneficiaries which are not coordinator must accede to the grant by signing the accession form (see Annex 3) directly in the Portal Grant Preparation tool, within 30 days after the entry into force of the Agreement (see Article 44).

They will assume the rights and obligations under the Agreement with effect from the date of its entry into force (see Article 44).

If a beneficiary does not accede to the grant within the above deadline, the coordinator must — within 30 days — request an amendment (see Article 39) to terminate the beneficiary and make any changes necessary to ensure proper implementation of the action. This does not affect the granting authority's right to terminate the grant (see Article 32).

40.2 Addition of new beneficiaries

In justified cases, the beneficiaries may request the addition of a new beneficiary.

For this purpose, the coordinator must submit a request for amendment in accordance with Article 39. It must include an accession form (see Annex 3) signed by the new beneficiary directly in the Portal Amendment tool.

New beneficiaries will assume the rights and obligations under the Agreement with effect from the date of their accession specified in the accession form (see Annex 3).

Additions are also possible in mono-beneficiary grants.

1. Accession of beneficiaries mentioned in the Preamble

All beneficiaries (except the coordinator) must accede to the Grant Agreement by signing the accession form *(see Annex 3)* directly in the Portal. They must do this within 30 days after the Grant Agreement enters into force *(see Article 44)*. With the signature of this form, they will assume the rights and be bound by the obligations under the Agreement with effect from the date of its entry into force (retroactive).

Before being able to sign the accession form, each beneficiary will have to have provided their declaration of honour (DoH) and those for its affiliated entities.

In addition, where required by the granting authority during grant preparation, the beneficiaries concerned will have to have provided their declarations on joint and several liability *(see Annex 3a)*.

Affiliated entities or associated partners do not become parties to the Grant Agreement and therefore do NOT need to sign an accession form.

The coordinator is NOT obliged to distribute hard copies of the Grant Agreement and Accession Form to the other beneficiaries. All documents are available in the project file on the Portal.

2. Addition of new beneficiaries (amendment)

What? In justified cases, the beneficiaries may request adding a new beneficiary.

The new beneficiary must comply with the eligibility criteria of the call conditions, have sufficient operational and financial capacity to perform the proposed tasks, comply with the non-exclusion criteria and commit to implement the action under the same terms and conditions as the other beneficiaries.

⚠ **Mono-beneficiary grants** can become multi-beneficiary grants, by addition of a new beneficiary (new for 2021-2027).

How? The coordinator must submit a request for amendment *(see Article 39).*

Amendment procedure:

The amendment request must include:

- the reasons why
- an accession form *(see Annex 3)* signed by the new beneficiary.

Before, the new beneficiary must have taken all necessary steps to be able to participate as beneficiary, i.e. register in the Participant Register and be validated — unless it already has a validated participant identification code (PIC), provide his declaration on honour, provide a declaration on joint and several liability of its affiliated entity (if required by the granting authority), etc.

Effects:

The accession form must specify the accession date. It must be either:

- the date of signature of the accession form
- the date of entry into force of the amendment

OR

- a fixed date:
  - either retroactive (i.e. before signature of the accession form)

  OR

  - future (i.e. after signature of the accession form — this should be an exceptional case with a justification).

Handover period — If a new beneficiary joins to replace a beneficiary that leaves, the accession date may be set before the termination date (of the beneficiary that is replaced) — so that both can incur costs for a certain period.

ARTICLE 41 — TRANSFER OF THE AGREEMENT

ARTICLE 41 — TRANSFER OF THE AGREEMENT

In justified cases, the beneficiary of a mono-beneficiary grant may request the transfer of the grant to a new beneficiary, provided that this would not call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

The beneficiary must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the accession form (see Annex 3) signed by the new beneficiary directly in the Portal Amendment tool and
- additional supporting documents (if required by the granting authority).

The new beneficiary will assume the rights and obligations under the Agreement with effect from the date of accession specified in the accession form (see Annex 3).

1. GA transfers

What? In justified cases, mono-beneficiary grants may be transferred to a new beneficiary, provided that certain conditions are complied with. Article 41 does not apply to multi-beneficiary actions.

⚠ NO transfer can be conducted before the amendment has been accepted by the granting authority. Transfers without a formal amendment are void and may result in grant termination. The former beneficiary remains fully responsible until the granting authority has approved the amendment.

'Transfer' means that the rights and obligations under the Grant Agreement are transferred from the current beneficiary to a new beneficiary — without passing via termination (Article 32) or addition of a new beneficiary (Article 40.2).

The transfer may NOT call into question the decision awarding the grant or breach the principle of equal treatment of applicants. The new beneficiary must comply with the eligibility criteria of the call conditions, have sufficient operational and financial capacity to perform the proposed tasks and commit to implement the action under the same terms and conditions as the former beneficiary.

Example: *The transfer will not be accepted if the new beneficiary does not fulfil the eligibility conditions or does not have sufficient financial and operational capacity.*

How? The former beneficiary must submit a request for amendment *(see Article 39)* to the granting authority.

Amendment procedure:

The amendment request must include:

- the reasons why. If the contracting authority considers that the reasons provided do not justify the transfer, it may reject the request

- the accession form in Annex 3 (i.e. the statement to take over all rights and obligations under the Grant Agreement) of the new beneficiary (signed directly in the Portal)
- any other supporting documents required by the granting authority.

Effects:

If the request for the transfer of the Grant Agreement to a new beneficiary is accepted by the granting authority, the Agreement will be amended to introduce the necessary changes and the new beneficiary will assume the rights and obligations thereof.

The transfer will take effect on the day of accession specified in the accession form (*see Annex 3*).

ARTICLE 42 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE GRANTING AUTHORITY

ARTICLE 42 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE GRANTING AUTHORITY

The beneficiaries may not assign any of their claims for payment against the granting authority to any third party, except if expressly approved in writing by the granting authority on the basis of a reasoned, written request by the coordinator (on behalf of the beneficiary concerned).

If the granting authority has not accepted the assignment or if the terms of it are not observed, the assignment will have no effect on it.

In no circumstances will an assignment release the beneficiaries from their obligations towards the granting authority.

1. Assignment of claims for payment

What? The beneficiaries may assign (i.e. transfer, sell or give) claims for payment (for work carried out under the action) to a third party, if the granting authority has explicitly approved it in writing and on the basis of a reasoned, written request by the coordinator.

⚠ Assignment has NO effect on the beneficiary's obligations under the Grant Agreement; it remains **fully bound** by them.

'Assignments of rights' are limited to claims for payment under Article 22.1. Transfers of other rights or obligations *(e.g. replacement of a beneficiary by the entity that bought it)* are governed by other provisions *(e.g. amendments; see Article 39)*.

Only *actual* (i.e. existing) claims for payment may be assigned (including pre-financing). Assignment is NOT possible for future claims.

How? Assignment of payment claims must be requested to the granting authority.

The request for approval must come from the coordinator, on behalf of the beneficiary concerned. It must be in writing and must explain the reasons for the assignment.

The granting authority will assess the reasons given and approve or reject the request in writing. In case the granting authority does not approve the assignment or if the terms of it are not observed, the assignment will have no effect.

Examples (reasonable requests for assignment):

1. *Assignment of a claim for payment for work carried out by a research laboratory sold after the end of the action (but before payment of the balance) by a beneficiary to another legal entity.*

2. *Assignment for the benefit of creditors in a bankruptcy procedure.*

If the assignment is linked to bankruptcy, the approval will also be subject to compliance with national law.

ARTICLE 43 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

43.1 Applicable law

> **ARTICLE 43 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES**
>
> **43.1 Applicable law**
>
> The Agreement is governed by the applicable EU law, supplemented if necessary by the law of Belgium.
>
> Special rules may apply for beneficiaries which are international organisations (if any; see Data Sheet, Point 5).

1. Applicable law

As a general rule, Grant Agreements are subject to EU law (supplemented — where necessary — by Belgian law), for questions on their interpretation, application and validity.

Specific cases (applicable law):

International organisations (IOs) — If requested by the international organisation, the DataSheet may provide for specific applicable law arrangements limited to the international organisation (*see also Article 10.2*):

Situation	Applicable law
Iinternational organisation that does NOT accept any applicable law clause	No reference to any applicable law[34]. The applicable law will be determined by the Permanent Court of Arbitration *(see also below point 2)*. According to the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States, the applicable law is: – the rules of the organisation concerned – the law applicable to any agreement or relationship between the parties and – where appropriate, the general principles governing the law of international organisations and the rules of general international law.
International organisation that accepts an applicable law clause, but not the standard clause (EU +	The international organisation can choose any of the following combinations of applicable law: – only EU law – only Belgian law

[34] *See Article 201(2) EU Financial Regulation 2018/1046.*

Belgian law)	– only other MS or EFTA country law – only general principles governing law of IOs + rules of general international law – EU law + MS or EFTA country law (except Belgium) – EU law + general principles governing law of IOs + rules of general international law – EU law + Belgian law + general principles governing law of IOs + rules of general international law – EU law + other MS or EFTA country law + general principles governing law of IOs + rules of general international law – Belgian law + general principles governing law of IOs + rules of general international law – other MS or EFTA country law + general principles governing law of IOs + rules of general international law

43.2 Dispute settlement

> **43.2 Dispute settlement**
>
> If a dispute concerns the interpretation, application or validity of the Agreement, the parties must bring action before the EU General Court — or, on appeal, the EU Court of Justice — under Article 272 of the Treaty on the Functioning of the EU (TFEU).
>
> For non-EU beneficiaries (if any), such disputes must be brought before the courts of Brussels, Belgium — unless an association agreement to the EU programme provides for the enforceability of EU court judgements under Article 272 TFEU.
>
> For beneficiaries with arbitration as special dispute settlement forum (if any; see Data Sheet, Point 5), the dispute will — in the absence of an amicable settlement — be settled in accordance with the Rules for Arbitration published on the Portal.
>
> If a dispute concerns administrative sanctions, offsetting or an enforceable decision under Article 299 TFEU (see Articles 22 and 34), the beneficiaries must bring action before the General Court — or, on appeal, the Court of Justice — under Article 263 TFEU.
>
> For grants where the granting authority is an EU executive agency (see Preamble), actions against offsetting and enforceable decisions must be brought against the European Commission (not against the granting authority; see also Article 22).

1. Dispute settlement

As a general rule, the Grant Agreements contain an Article 272 TFEU arbitration clause — referring contractual disputes (i.e. disputes on the interpretation, application or validity of the Grant Agreement) to the EU Courts (General Court).

An Article 272 action is ONLY possible once the granting authority position is final (i.e. against confirmation letters, debit notes, etc.; NOT against audit reports, audit letters, pre-information letters, etc).

Bringing an action against the granting authority:

- for grants signed by the European Commission: actions must be brought against the Commission
- for grants signed by an EU executive agency or other EU body: actions must be brought against the Agency or EU body.

For disputes of public law nature (i.e. which concern administrative sanctions, offsetting or enforceable decisions under Article 299 TFEU; *see Articles 22 and 34*) actions must be brought before the EU courts (General Court) under Article 263 TFEU (NOT before any other court and NOT under Article 272).

⚠ **Public law measures** must ALWAYS be brought to the European Court of Justice under Article 263 TFEU (including actions brought by non-EU beneficiaries).

⚠ All procedures are organised in a way that the beneficiaries will always be **informed** about what they can do if they disagree (**means of redress** information in the letters).

Specific cases (dispute settlement):

Non-EU beneficiaries — Contractual disputes must be brought before the courts of Brussels, Belgium. The only exception concerns non-EU beneficiaries which are for the purpose of the action considered to be established in an associated country and where the corresponding association agreement to the EU programme provides for the enforceability of EU court judgments under Article 272 TFEU. In this case, the beneficiaries concerned must bring the contractual dispute before the EU courts (General Court).

International organisations — Are the only types of beneficiaries that can make use of arbitration in EU grants, as a special means of disputes settlement (provided that the option is activated in the Grant Agreement; *see Data sheet*).

Thus, for international organisations, contractual disputes are referred to the Permanent Court of Arbitration (instead of the EU General Court) and EU granting authorities will normally avoid adopting public law measures, such as enforceable decisions under Article 299 TFEU or decisions on administrative sanctions *(see Article 34)*. Offsetting remains possible also against international organisations (as contractual measure, *see Article 22.4*).

ARTICLE 44 — ENTRY INTO FORCE

ARTICLE 44 — ENTRY INTO FORCE

The Agreement will enter into force on the day of signature by the granting authority or the coordinator, depending on which is later.

SIGNATURES

For the coordinator	For the granting authority
[function/forename/surname]	[forename/surname]
[electronic signature]	[electronic signature]
Done in [English]	Done in [English]
on [electronic time stamp]	on [electronic time stamp]

1. Entry into force

The Grant Agreement enters into force when the last of the following two signs:

- the coordinator
- the granting authority.

It is usually the granting authority who signs last.

All other beneficiaries become parties to the Grant Agreement through signing accession forms. This happens after grant signature by the coordinator (and has no impact on the entry into force date; entry into force is immediate). Beneficiaries that do not sign within the deadline set out in Article 40.1 will be terminated (removed from the grant through a consortium-initiated amendment; see *Article 40*).

ANNEX 5

General > Annex 5 > Confidentiality and security

ANNEX 5 SPECIFIC RULES ON CONFIDENTIALITY AND SECURITY *(HE, DEP, EDF, CEF, EMFAF, AMIF/ISF/BMVI, UCPM)*

CONFIDENTIALITY AND SECURITY (— ARTICLE 13)

[OPTION for programmes with security requirements: **Sensitive information with security recommendation**

Sensitive information with a security recommendation must comply with the additional requirements imposed by the granting authority.

Before starting the action tasks concerned, the beneficiaries must have obtained all approvals or other mandatory documents needed for implementing the task. The documents must be kept on file and be submitted upon request by the coordinator to the granting authority. If they are not in English, they must be submitted together with an English summary.

For requirements restricting disclosure or dissemination, the information must be handled in accordance with the recommendation and may be disclosed or disseminated only after written approval from the granting authority.*]*

[OPTION for programmes with EU classified information (standard): **EU classified information**

If EU classified information is used or generated by the action, it must be treated in accordance with the security classification guide (SCG) and security aspect letter (SAL) set out in Annex 1 and Decision 2015/444[49] and its implementing rules — until it is declassified.

Deliverables which contain EU classified information must be submitted according to special procedures agreed with the granting authority.

Action tasks involving EU classified information may be subcontracted only with prior explicit written approval from the granting authority and only to entities established in an EU Member State or in a non-EU country with a security of information agreement with the EU (or an administrative arrangement with the Commission).

EU classified information may not be disclosed to any third party (including participants involved in the action implementation) without prior explicit written approval from the granting authority.*]*

[49] Commission Decision 2015/444/EC, Euratom of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules on confidentiality and security *(HE, DEP, EDF, CEF, EMFAF, AMIF/ISF/BMVI, UCPM)*

Some programmes with calls that may involve sensitive or classified information *(HE, DEP, CEF, EMFAF, AMIF/ISF/BMVI, UCPM)* also have specific provisions on confidentiality and security in Annex 5.

They cover sensitive information with security recommendations and EU classified information.

2. Sensitive information with a security recommendation *(HE)*

For these programmes, proposals may have to undergo a security review before selection and may, if there are security issues, be made subject to specific security recommendations.

> ***Examples (security issues):*** *information on gaps and vulnerabilities in existing systems or critical infrastructures, design, characteristics and requirements of devices used in detection, law-enforcement measures to counter terrorism, tools and methodologies for predicting and detecting organised criminal activities, etc.*
>
> ***Examples (security recommendations):*** *classification, limited dissemination, establishment of a security advisory board, appointment of a project security officer, limiting the level of detail, using a fake scenario, etc.*

The most common security recommendations concern restricted disclosure or limited dissemination. This leads to the creation of deliverables, which are sensitive information with security recommendation. They are listed in Annex 1 (DoA, security section). If this is the case, third parties should have no access them. Thus, before disclosure or dissemination to a third party, the beneficiaries must inform the coordinator, who must request written approval from the granting authority. Other security recommendations concern the appointment of security staff *(security officers, security advisory board)*, specific measures for access to IT systems, etc.

> ⚠ Sensitive information concerning **commercial secrets**, know-how, etc are NOT sensitive information within the meaning of Annex 5. Commercially sensitive information is already protected under Article 13.1.

Some security requirements must be taken care of before grant signature, but most are for implementation during the grant.

In addition, beneficiaries must obtain — before the start of the action task for which they are needed — all the necessary security approvals, opinions, notifications and authorisations *(e.g. to security committees, etc)*. These documents do not need to be submitted, but must be kept on file and provided on request *(e.g. in case of security checks or audits)*. They must be able to show that the opinions/authorisations/notifications cover the tasks to be undertaken in the context of the action. If the documents are not in English, they may be asked to provide an English summary.

Best practice: When preparing the applications for approvals/opinions/notifications/ authorisations, you should request the assistance of security experts, security departments/committees and of your organisation's data protection officer, if relevant.

In case of changes to the security situation, the beneficiaries must inform the coordinator, which must immediately inform the granting authority and, if necessary, request for Annex 1 to be amended.

The granting authority may carry out security checks or audits, to ensure that the beneficiaries have properly implemented the security requirements and obtained the opinions/notifications/authorisations *(see Article 25)*.

3. EU classified information *(HE, DEP, EDF, CEF, EMFAF, AMIF/ISF/BMVI, UCPM)*

Projects with EU classified information will moreover have to comply with the provisions linked to EU classified information *(see Article 13.2).*

The project will have to follow a security classification guide (SCG) and security aspect letter (SAL) which set out the classification-level and the measures that need to be taken to protect the information. Both need to be added to Annex 1.

Only entities listed in the security section of Annex 1 can have access to EU classified information used or generated by the project. Before disclosure or dissemination to a third

party (including other participants involved in the action), the beneficiaries must inform the coordinator, which must request written approval from the granting authority.

In case of changes to the security situation, the beneficiaries must inform the coordinator, which must immediately inform the granting authority and, if necessary, request for Annex 1 to be amended.

Deliverables containing EU classified information must be submitted following the special procedure agreed with the granting authority, as described in the programme security instruction (PSI) *(e.g. HE PSI, DEP PSI, EDF PSI, ASAP PSI)*.

Action tasks involving EU classified information may ONLY be subcontracted (cumulative conditions):

- to entities established in an EU Member State or in a non-EU country with a security of information agreement with the EU (or an administrative arrangement with the Commission) and
- if the granting authority has explicitly approved such requests in writing.

For *more guidance on classification of information and security obligations,* see *How to handle security-sensitive projects*, *Guidelines on the classification of information in Horizon Europe projects* and *Guidelines on the classification of information in Digital Europe projects*.

ANNEX 5 SPECIFIC RULES ON ETHICS *(HE, RFCS, DEP, EDF, EMFAF, EU4H, AMIF/ISF/BMVI)*

ETHICS (— ARTICLE 14) *(DEP, EDF, EMFAF, EU4H, AMIF/ISF/BMVI)*

[OPTION for programmes with specific ethics rules: **Ethics**

Actions involving activities raising ethics issues must be carried out in compliance with:

- **ethical principles** *[*(including the highest standards of research integrity)*]*

and

- **applicable EU, international and national law**, including *[*the EU Charter of Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Supplementary Protocols*][*[other programme-specific legal acts]*]*.

The beneficiaries must pay particular attention to *[*the principle of proportionality, the right to privacy, the right to the protection of personal data, the right to the physical and mental integrity of persons, the right to non-discrimination, the need to ensure protection of the environment and high levels of human health protection*]*.

Before the beginning of an action task raising an ethical issue, the beneficiaries must have obtained all approvals or other mandatory documents needed for implementing the task, notably from any (national or local) ethics committee or other bodies *[*such as data protection authorities*]*.

The documents must be kept on file and be submitted upon request by the coordinator to the granting authority. If they are not in English, they must be submitted together with an English summary, which shows that the documents cover the action tasks in question and includes the conclusions of the committee or authority concerned (if any).*]*

ETHICS (— ARTICLE 14) *(HE, RFCS)*

[OPTION for programmes with specific ethics and research integrity rules: **Ethics and research integrity**

The beneficiaries must carry out the action in compliance with:

- ethical principles (including the highest standards of research integrity) and
- applicable EU, international and nationallaw, including the EU Charter of Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Supplementary Protocols.

No funding can be granted, within or outside the EU, for activities that are prohibited in all Member States. No funding can be granted in a Member State for an activity which is forbiddenin that Member State.

The beneficiaries must pay particular attention to the principle of proportionality, the right to privacy, the right to the protection of personal data, the right to the physical and mental integrity of persons, the right to non-discrimination, the need to ensure protection of the environment and high levels of human health protection.

The beneficiaries must ensure that the activities under the action have an **exclusive focus on civil applications**.

The beneficiaries must ensure that the activities under the action **do not**:

- aim at human cloning for reproductive purposes
- intend to modify the genetic heritage of human beings which could make such modifications heritable (with the exception of research relating to cancer treatment of the gonads, which may be financed)
- intend to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer, or
- lead to the destruction of human embryos (for example, for obtaining stem cells).

*[*Activities involving research on **human embryos** or **human embryonic stem cells** may be carried out only if:

- they are set out in Annex 1 or
- the coordinator has obtained explicit approval (in writing) from the granting authority.*]*

In addition, the beneficiaries must respect the fundamental principle of **research integrity** —as set out in the European Code of Conduct for Research Integrity[59].

This implies compliance with the following principles:

- reliability in ensuring the quality of research reflected in the design, the methodology, the analysis and the use of resources
- honesty in developing, undertaking, reviewing, reporting and communicating research in a transparent, fair and unbiased way
- respect for colleagues, research participants, society, ecosystems, cultural heritage and the environment
- accountability for the research from idea to publication, for its management and organisation, for training, supervision and mentoring, and for its wider impacts

and means that beneficiaries must ensure that persons carrying out research tasks follow the good research practices including ensuring, where possible, openness, reproducibility and traceability and refrain from the research integrity violations described in the Code.

Activities raising ethical issues must comply with the additional requirements formulated by the ethics panels (including after checks, reviews or audits; see Article 25).

Before starting an action task raising ethical issues, the beneficiaries must have obtained all approvals or other mandatory documents needed for implementing the task, notably from any (national or local) ethics committee or other bodies such as data protection authorities.

The documents must be kept on file and be submitted upon request by the coordinator to the granting authority. If they are not in English, they must be submitted together with an English summary, which shows that the documents cover the action tasks in question and includes the conclusions of the committee or authority concerned (if any).

[59] European Code of Conduct for Research Integrity of ALLEA (All European Academies).

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules on ethics *(HE, RFCS, DEP, EDF, EMFAF, EU4H, AMIF/ISF/BMVI)*

Some programmes with ethics-sensitive calls *(HE, RFCS, DEP, EDF, EMFAF, EU4H, AMIF/ISF/BMVI)* also have specific provisions on ethics in Annex 5.

Depending on the programme, the obligations may vary.

2. Ethical principles and applicable law *(HE, RFCS)*

The beneficiaries must carry out the action in compliance with:

- ethical principles (including, where applicable the highest standards of research integrity) and
- applicable international, EU and national law.

The main ethical principles depend on the domain. For research and innovation related domains, they are:

Main ethical principles:

- Respecting human dignity and integrity
- Ensuring honesty and transparency towards research subjects and notably getting free and informed consent (as well as assent whenever relevant)
- Protecting vulnerable persons
- Ensuring privacy and confidentiality
- Promoting justice and inclusiveness
- Minimising harm and maximising benefit
- Sharing the benefits with disadvantaged populations, especially if the research is being carried out in developing countries
- Maximising animal welfare, in particular by ensuring replacement, reduction and refinement ('3Rs') in animal research
- Respecting and protecting the environment and future generations

The key sources of EU and international law are the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR) and its Protocols (for other texts). Another important source is the UN Convention on the Rights of Persons with Disabilities (UN CRPD). In addition, some programmes mention sector-specific legislation *(such as, for instance, the EU Directives on animal health and organic-labelling for EMFAF)*.

3. Exclusive focus on civil applications *(HE and RFCS)*

For programmes with this provision *(HE and RFCS)*, the activities under the action must have an exclusive focus on civil applications.

This does not mean that the research results cannot peripherally be useful in a military context. Research related to *dual-use* products or technologies (usually used for civilian purposes but with possible military applications) is not prohibited *(e.g. development of an algorithm that might also be used for optimising military logistics)*. However, activities that *focus* on military applications will NOT be funded *(e.g. development of a robot designed for military intervention)*.

4. Prohibited activities and activities involving research on human embryos or human embryonic stem cells *(HE)*

Prohibited activities may not take place under the action.

Activities that involve human embryos (hE) or human embryonic stem cells (hESC) can only be funded, if:

- they comply with the Statement by the Commission on research activities involving human embryos or human embryonic stem cells[35] (in particular, do NOT result in the destruction of human embryos)

and

- they are set out in Annex 1 of the Grant Agreement or
- the coordinator has obtained explicit approval by the granting authority.

These activities are de facto considered as raising sensitive ethics issues and must always undergo an ethics assessment (*see below*) that can lead to ethics requirements that will be included in Annex 1.

5. Research integrity *(HE and RFCS)*

In order to meet the highest standards of research integrity, the beneficiaries must follow the principles listed in this provision and ensure that the persons carrying out research tasks comply with the European Code of Conduct for Research Integrity *(i.e. follow the good research practices listed in this Code and refrain from any research integrity violations it describes)*.

They also must ensure that appropriate procedures, policies and structures are in place to foster responsible research practices, to prevent questionable research practices and research misconduct, and to handle allegations of breaches of the principles and standards in the Code of Conduct *(see Guidelines for Promoting Research Integrity in Research Performing Organisation)*.

Fundamental research integrity principles:

- **reliability** in ensuring the quality of research reflected in the design, the methodology, the analysis and the use of resources
- **honesty** in developing, undertaking, reviewing, reporting and communicating research in a transparent, fair and unbiased way
- **respect** for colleagues, research participants, society, ecosystems, cultural heritage and the environment
- **accountability** for the research from the idea to publication, for its management and organisation, for training, supervision and mentoring, and for its wider impacts.

The Code constitutes a general reference framework and takes into account the legitimate interests of the beneficiaries *(i.e. regarding IPRs and data sharing)*. This does not change the other obligations under this Agreement or obligations under applicable international, EU or national law, all of which still apply.

In addition, beneficiaries should rely on local, national or discipline-specific guidelines, if such documents exist and are not contrary to the Code.

[35] Joint Declarations of the European Parliament, Council and Commission (Framework Programme) (2021/C 185/01).

6. Activities raising ethics issues *(HE, RFCS, DEP, EDF, EMFAF, EU4H, AMIF/ISF/BMVI)*

For these programmes, proposals may have to undergo an ethics review before selection and will, if one or more ethics issues are identified, be made subject to ethics requirements to be solved immediately or implement during the grant. In the latter case, they will be included as deliverables in Annex 1.

> ***Examples (ethics issues):*** *involvement of patients, volunteers, children or vulnerable populations; use of human (embryonic) stem cells; implication of developing countries; collecting and processing of personal data; use of animals; risk of environmental impact.*
>
> ***Examples (ethics deliverables):*** *to submit to the granting authority a report on certain ethics issues during the course of the action*.
>
> ***Examples (ethics requirements before grant signature):*** *confirmation personal data of this study will not be transferred outside the EU.*

In addition, beneficiaries must obtain — before starting an action task raising ethical issues — all the necessary ethics opinions, notifications and authorisations. These documents do not need to be submitted, but must be kept on file and provided on request *(in case of ethics reviews, checks or audits)*. They must be able to show that the opinions/authorisations/notifications cover the tasks to be undertaken in the context of the action. If the documents are not in English, beneficiaries may be asked to provide an English summary.

Best practice: When preparing the applications for such opinions/notifications/ authorisations, beneficiaries should request the assistance of ethics experts, research ethics departments/committees and of their organisation's data protection officer.

The granting authority may carry out ethics checks or reviews to ensure that the beneficiaries have properly implemented the ethics requirements and obtained the opinions/notifications/authorisations *(see Article 25)*.

Specific cases (ethics):

Activities carried out in a non-EU country — Such activities must comply with the laws of that country AND be allowed in at least one EU Member State. The beneficiaries must sign the related declaration in their application.

For more guidance on ethics, *see How to complete your ethics self-assessment*.

ANNEX 5 SPECIFIC RULES ON EU VALUES *(HE; RFCS)*

VALUES (— ARTICLE 14) *(HE, RFCS)*

[OPTION for programmes with gender rules: **Gender mainstreaming**

The beneficiaries must take all measures to promote equal opportunities between men and women in the implementation of the action and, where applicable, in line with the gender equality plan. They must aim, to the extent possible, for a gender balance at all levels of personnel assigned to the action, including at supervisory and managerial level.*]*

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules on EU values *(HE and RFCS)*

For some programmes *(HE and RFCS)*, Annex 5 includes specific provisions on EU values.

2. Gender mainstreaming *(HE and RFCS)*

The beneficiaries must take all measures:

- to promote gender equality, i.e. equal opportunities between men and women in the implementation of the action, and
- in line with their gender equality plan (GEP), if applicable.

Promote gender equality:

The beneficiaries should:

- aim for a balanced participation of women and men in their research teams
- being proactive in ensuring gender balance among the individuals who are primarily responsible for carrying out the work (in accordance with the categories defined in the monitoring system)
- being proactive in promoting gender equality among consortium members and participants in the implementation of the action.

Examples (measures to promote gender equality within a project): *Transparency of recruitment and advancement processes, including gender-sensitive language in vacancies and job-descriptions; plans and conditions for career advancement; transparent gender equal wage classification and grading of jobs; development of leadership opportunities; gender planning and budgeting; gender impact assessment of policies; climate surveys of institutions; trainings on unconscious gender biases in recruitment and assessment of researchers, as well as in collaborative work; adoption of family-friendly policies; promotion of gender-sensitive mobility and dual-career couples schemes; measures to prevent and address gender based violence such as sexual harassment.*

⚠ This is a **best effort obligation**: The beneficiaries must aim — to the extent possible — for a gender balance at all levels of personnel assigned to the action, including at the supervisory and managerial levels.

⚠ Beneficiaries should keep appropriate **documentation** about the steps taken and measures put in place *(see Article 20)*.

In addition, the gender dimension should be integrated in research and innovation content. This is a by default requirement for all Horizon Europe RIA/IA and Programme Cofund actions, with some exceptions.

ℹ For more guidance on gender equality, including the integration of the gender dimension into research and innovation content*, see HE Programme Guide > Gender equality*.

Gender equality plan:

The gender equality plan (GEP) is an eligibility criterion for participating in Horizon Europe actions for legal entities from Member States and HE associated countries that are:

- public bodies
- research organisations
- higher education establishments.

The 'gender equality plan' is a document that sets out the gender equality strategy of an organisation.

The GEP does not apply to other types of legal entities *e.g. private for-profit organisations, including SMEs, non-governmental or civil society organisations*.

The GEP (or equivalent document) must cover the following minimum process-related requirements:

- publication: a formal document published on the institution's website and signed by the top management
- dedicated resources: commitment of resources and expertise in gender equality to implement the plan
- data collection and monitoring: sex/gender disaggregated data on personnel (and students, for the establishments concerned) and annual reporting based on indicators
- training: awareness raising/training on gender equality and unconscious gender biases for staff and decision-makers.

Content-wise, the GEP should address the following areas, using concrete measures and targets:

- work-life balance and organisational culture
- gender balance in leadership and decision-making
- gender equality in recruitment and career progression
- integration of the gender dimension into research and teaching content
- measures against gender-based violence, including sexual harassment.

Costs relating to the GEP (including for its implementation/updates) are NOT eligible (since they relate to an eligibility criterion for participating).

More information on the GEP in Horizon Europe is available here and in these FAQ.

ANNEX 5 SPECIFIC RULES ON IPR *(all programmes)*

INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE (— ARTICLE 16) *(all Programmes except HE, RFCS, DEP, EDF)*

[OPTION for programmes with mandatory list of background: **List of background**

The beneficiaries must, where industrial and intellectual property rights (including rights of third parties) exist prior to the Agreement, establish a list of these pre-existing industrial and intellectual property rights, specifying the rights owners.

The coordinator must — before starting the action — submit this list to the granting authority.*]*

[OPTION for programmes with rights of use not only on communication material, but also on results: **Rights of use of the granting authority on results for information, communication, dissemination and publicity purposes**

The granting authority also has the right to exploit non-sensitive results of the action for information, communication, dissemination and publicity purposes, using any of the following modes:

- *[*use for its own purposes (in particular, making them available to persons working for the granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services)*]*
- *[*distribution to the public in hard copies, in electronic or digital format, on the internet including social networks, as a downloadable or non-downloadable file*]*
- *[[*editing*]* *[*or*]* *[*redrafting*]* (including *[*shortening*]*, *[*summarising*]*, *[*changing*]*, *[*correcting*]*, *[*cutting*]*, *[*inserting elements (e.g. *[*meta-data*]*, *[*legends*]* *[*or*]* *[*other*]* *[*graphic*]*, *[*visual*]*, *[*audio*]* *[*or*]* *[*text*]* elements*]**[*or*]**[*[insert other as appropriate]*]**[*extracting parts (e.g. audio or video files)*]*, *[*dividing into parts*]* *[*or*]* *[*use in a compilation*]]*
- *[[*translation*]* *[*(including inserting subtitles/dubbing)*]* in *[*English*]*, *[*French*]*, *[*German*]* *[*all official languages of EU*]* *[*[list other languages as appropriate]*]]*
- *[*storage in paper, electronic or other form*]*
- *[*archiving in line with applicable document-management rules*]*
- *[*the right to authorise third parties to act on its behalf or sub-license to third parties, including if there is licensed background, any of the rights or modes of exploitation set out *[*in this provision*]* *[*in Point*[*s*]* [...]*]]*
- *[*processing, analysing, aggregating the results and producing derivative works*]*
- *[*disseminating the results in widely accessible databases or indexes (such as through 'open access' or 'open data' portals or similar repositories), whether free of charge or not*]*
- *[*[insert additional option]*]*.

The beneficiaries must ensure these rights of use *[*for a period of […]*]**[*for the whole duration they are protected by industrial or intellectual property rights*]**[*during the action*].]*

If results are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the beneficiaries must ensure that they comply with their obligations under this Agreement (in particular, by obtaining the necessary licences and authorisations from the rights holders concerned).*]*

INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE (— ARTICLE 16) *(DEP, EDF)*

[OPTION for programmes with specific IPR rules:

Definitions

Access rights — Rights to use results or background.

Dissemination — The public disclosure of the results by appropriate means, other than resulting from protecting or exploiting the results, including by scientific /or professional/ publications in any medium.

Exploit(ation) — The use of results in further /innovation and deployment/ activities other than those covered by the action concerned, including among other things, commercial exploitation such as developing, creating, manufacturing and marketing a product or process, creating and providing a service, or in standardisation activities.

Fair and reasonable conditions — Appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

List of background /— Background free from restrictions/

The beneficiaries must, where industrial and intellectual property rights (including rights of third parties) exist prior to the Agreement, establish a list of these pre-existing industrial and intellectual property rights, specifying the rights owners.

The coordinator must — before starting the action — submit this list to the granting authority.

/Where the call conditions restrict participation or control due to security or EU strategic autonomy reasons, background that is subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions and that impact the results (i.e. would make the results subject to control or restrictions) must not be used and must be explicitly excluded in the list of background — unless otherwise agreed with the granting authority./

/Results free from restrictions

Where the call conditions restrict participation or control due to /security or EU strategic autonomy reasons/, the beneficiaries must ensure that the results of the action are not subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions — unless otherwise agreed with the granting authority./

Ownership of results

Results are owned by the beneficiaries that generate them (unless the consortium agreement specifies another ownership regime).

/For […] however, two or more beneficiaries own results jointly if:

- they have jointly generated them and
- it is not possible to:
  - establish the respective contribution of each beneficiary, or
  - separate them for the purpose of applying for, obtaining or maintaining their protection.

The joint owners must agree — in writing — on the allocation and terms of exercise of their joint ownership ('joint ownership agreement'), to ensure compliance with their obligations under this Agreement./

Protection of results

The beneficiaries must adequately protect their results — for an appropriate period and with appropriate territorial coverage — if protection is possible and justified, taking into account all relevant considerations, including the prospects for commercial exploitation, legitimate interests of the other beneficiaries and any other legitimate interests.

/Exploitation of results

Beneficiaries must — up to four years after the end of the action (see Data Sheet, Point 1) — use their best efforts to exploit their results directly or to have them exploited indirectly by another entity, in particular through transfer or licensing.

*[*Where the call conditions restrict participation or control due to security or EU strategic autonomy reasons (and unless otherwise agreed with the granting authority), the beneficiaries must produce a significant amount of products, services or processes that incorporate results of the action or that are produced through the use of results of the action in the eligible countries or target countries set out in the call conditions.

Where the call conditions impose moreover a first exploitation obligation, the first exploitation must also take place in the eligible countries or target countries set out in the call conditions.

The beneficiaries must ensure that these obligations also apply to their affiliated entities, associated partners, *[*third parties giving in-kind contributions,*]* subcontractors and recipients of financial support to third parties.*]]*

Transfers and licensing of results

Where the call conditions restrict participation or control due to security or EU strategic autonomy reasons, the beneficiaries may not transfer ownership of their results *[*or grant licences*]* to third parties which are established in countries which are not eligible countries or target countries set out in the call conditions (or are controlled by such countries or entities from such countries) — unless they have requested and received prior approval by the granting authority.

The request must:

- identify the specific results concerned
- describe in detail the new owner and the planned or potential exploitation of the results and
- include a reasoned assessment of the likely impact of the transfer *[*or license*]* on the *[*security interests or EU strategic autonomy*]*.

The granting authority may request additional information.

*[*The beneficiaries must ensure that their obligations under the Agreement are passed on to the new owner and that this new owner has the obligation to pass them on in any subsequent transfer.*]*

Access rights — Additional rights of use

Rights of use of the granting authority on results for information, communication, publicity and dissemination purposes

The granting authority also has the right to exploit non-sensitive results of the action for information, communication, dissemination and publicity purposes, using any of the following modes:

- *[*use for its own purposes (in particular, making them available to persons working for the granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services)*]*
- *[*distribution to the public in hard copies, in electronic or digital format, on the internet including social networks, as a downloadable or non-downloadable file*]*
- *[[*editing*]* *[*or*]* *[*redrafting*]* (including *[*shortening*]*, *[*summarising*]*, *[*changing*]*, *[*correcting*]*, *[*cutting*]*, *[*inserting elements (e.g. *[*meta-data*]*, *[*legends*]* *[*or*]* *[*other*]* *[*graphic*]*, *[*visual*]*, *[*audio*]* *[*or*]* *[*text*]* elements*]**[*or*]**[*[insert other as appropriate]*]**[*extracting parts (e.g. audio or video files)*]*, *[*dividing into parts*]* *[*or*]* *[*use in a compilation*]]*
- *[[*translation*]* *[*(including inserting subtitles/dubbing)*]* in *[*English*]*, *[*French*]*, *[*German*]* *[*all official languages of EU*]* *[*[list other languages as appropriate]*]]*
- *[*storage in paper, electronic or other form*]*
- *[*archiving in line with applicable document-management rules*]*
- *[*the right to authorise third parties to act on its behalf or sub-license to third parties, including if there is licensed background, any of the rights or modes of exploitation set out *[*in this provision*]* *[*in Point*[*s*]* [...]*]]*
- *[*processing, analysing, aggregating the results and producing derivative works*]*
- *[*disseminating the results in widely accessible databases or indexes (such as through 'open access' or 'open data' portals or similar repositories), whether free of charge or not*]*

- *[*[insert additional option]*]*.

*[*The beneficiaries must ensure these rights of use *[*for a period of […]*]/[*for the whole duration they are protected by industrial or intellectual property rights*]/[*during the action*]*. *]*

If results are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the beneficiaries must ensure that they comply with their obligations under this Agreement (in particular, by obtaining the necessary licences and authorisations from the rights holders concerned).

Access rights for the granting authority EU institutions, bodies, offices or agencies [and national authorities] to results for policy purposes

The beneficiaries must grant access to their results — on a royalty-free basis — to the granting authority, other EU institutions, bodies, offices or agencies, for developing, implementing and monitoring EU policies or programmes. *[*Such access does not extend to beneficiaries' background.*]*

Such access rights are limited to non-commercial and non-competitive use.

*[*The access rights also extend to national authorities of EU Member States or associated countries, for developing, implementing and monitoring their policies or programmes in this area. In this case, access is subject to a bilateral agreement to define specific conditions ensuring that:

- the access will be used only for the intended purpose and
- appropriate confidentiality obligations are in place.

Moreover, the requesting national authority or EU institution, body, office or agency (including the granting authority) must inform all other national authorities of such a request.*]*

[Access rights for the granting authority to results in case of a public emergency

If requested by the granting authority in case of a public emergency, the beneficiaries must grant non-exclusive, world-wide licences to third parties — under fair and reasonable conditions — to use the results to address the public emergency.*]*

[Access rights for third parties to ensure continuity and interoperability

Where the call conditions impose continuity or interoperability obligations, the beneficiaries must make the *[*materials, documents and information*]* *[*and*]* *[*results*]* produced in the framework of the action available to the public (freely accessible on the Internet under *[*open licences*]* *[*or*]* *[*open source licences*]*).*]*

Access rights for national authorities to the special report for use by/for armed forces or security or intelligence forces

For Research Actions, the beneficiaries must grant access to the special report — on a royalty-free basis — to national authorities of EU Member States or associated countries for use by/for their armed forces or security or intelligence forces (including in the framework of cooperative programmes).

'Special report' means the specific deliverable summarising the results of a research project and providing information on the basic principles, aims, outcomes, basic properties, tests performed, potential benefits, potential defence applications and expected exploitation path of the research towards development. It may also include information on the ownership of IPRs.

Access to the special report will be granted by the granting authority, after having ensured that appropriate confidentiality obligations are in place.

Access rights for third parties to further develop results

For Research Actions, the beneficiaries must grant access — on a royalty-free basis — to results which are necessary for the execution of other EU grants or contracts between national authorities of two or more EU Member States or associated countries and one or more beneficiaries, to further develop together results generated by the action.

In this case, access is subject to a bilateral agreement to define specific conditions ensuring that:

- the access rights will be used only for the intended purpose and
- appropriate confidentiality obligations are in place.*]*

INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE (— ARTICLE 16) *(HE, RFCS)*

[OPTION for programmes with specific IPR rules:

Definitions

Access rights — Rights to use results or background.

Dissemination — The public disclosure of the results by appropriate means, other than resulting from protecting or exploiting the results, including by scientific publications in any medium.

Exploit(ation) — The use of results in further research and innovation activities other than those covered by the action concerned, including among other things, commercial exploitation such as developing, creating, manufacturing and marketing a product orprocess, creating and providing a service, or in standardisation activities.

Fair and reasonable conditions — Appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

FAIR principles — 'findability', 'accessibility', 'interoperability' and 'reusability'.

Open access — Online access to research outputs provided free of charge to the end-user.

Open science — An approach to the scientific process based on open cooperative work, tools and diffusing knowledge.

Research data management — The process within the research lifecycle that includes the organisation, storage, preservation, security, quality assurance, allocation of persistent identifiers (PIDs) and rules and procedures for sharing of data including licensing.

Research outputs — Results to which access can be given in the form of scientific publications, data or other engineered results and processes such as software, algorithms, protocols, models, workflows and electronic notebooks.

*[***Scope of the obligations**

For this section, references to 'beneficiary'or 'beneficiaries'do not include affiliated entities (if any).*]*

*[***Agreement on background — Background free from restrictions**

The beneficiaries must identify in a written agreement the background as needed for implementing the action or for exploiting its results.

Where the call conditions restrict control due to strategic interests reasons, background that is subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions and that impact the exploitation of the results (i.e. would make the exploitation of the results subject to control or restrictions) must not be used and must be explicitly excluded in the agreement on background —unless otherwise agreed with the granting authority.*]*

*[***Results free from restrictions**

Where the call conditions restrict control due to strategic interests reasons, the beneficiaries must ensure that the results of the action are not subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions — unless otherwise agreed with the granting authority.*]*

Ownership of results

Results are owned by the beneficiaries that generate them.*[*[…]*]*

[However, two or more beneficiaries own results jointly if:

- they have jointly generated them and
- it is not possible to:
  - establishthe respective contribution of each beneficiary, or
  - separate them for the purpose of applying for, obtaining or maintaining their protection.

The joint owners must agree —in writing —on the allocation and terms of exercise of their joint ownership ('joint ownership agreement'), to ensure compliance with their obligations under this Agreement.

Unless otherwise agreed in the joint ownership agreement or consortium agreement, each joint owner may grant non-exclusive licences to third parties to exploit the jointly-owned results (without any right to sub-license), if the other joint owners are given:

- at least 45 days advance notice and
- fair and reasonable compensation.

The joint owners may agree —in writing —to apply another regime than joint ownership.

If third parties (including employees and other personnel) may claim rights to the results, the beneficiary concerned must ensure that those rights can be exercised in a manner compatible with its obligations under the Agreement.

The beneficiaries must indicate the owner(s) of the results (results ownership list) in the final periodic report.]

Protection of results

Beneficiaries which have received funding under the grant must adequately protect their results —for an appropriate period and with appropriate territorial coverage —if protection is possible and justified, taking into account all relevant considerations, including the prospects for commercial exploitation, the legitimate interests of the other beneficiaries and any other legitimate interests.

Exploitation of results

Beneficiaries which have received funding under the grant must —up to four years after the end of the action (see Data Sheet, Point 1) —use their best efforts to exploit their results directly or to have them exploited indirectly by another entity, in particular through transfer or licensing.

[If, despite a beneficiary's best efforts, the results are not exploited within one year after the end of the action, the beneficiaries must (unless otherwise agreed in writing with the granting authority) use the Horizon Results Platform to find interested parties to exploit the results.

If results are incorporated in a standard, the beneficiaries must (unless otherwise agreed with the granting authority or unless it is impossible) ask the standardisation body to include the funding statement (see Article 17) in (information related to) the standard.]

[*Additional exploitation obligations*

Where the call conditions impose additional exploitation obligations (including obligations linked to the restriction of participation or control due to strategic assets, interests, autonomy or security reasons), the beneficiaries must comply with them —up to four years after the end of the action (see Data Sheet, Point 1).

Where the call conditions impose additional exploitation obligations in case of a public emergency, the beneficiaries must (if requested by the granting authority) grant for a limited period of time specified in the request,non-exclusive licences — under fair and reasonable conditions — to their results to legal entities that need the results to address the public emergency and commit to rapidly and broadly exploit the resulting products and services at fair and reasonable conditions. This provision applies up to four years after the end of the action (see Data Sheet, Point 1).]

Additional information obligation relating to standards

Where the call conditions impose additional informationobligations relating to possible standardisation,the beneficiaries must —up to four years after the end of the action (see Data Sheet, Point 1) —inform the granting authority, if the results could reasonably be expected to contribute to European or international standards.

Transfer and licensing of results

Transfer of ownership

The beneficiaries may transfer ownership of their results, provided this does not affect compliance with their obligations under the Agreement.

The beneficiaries must ensure that their obligations under the Agreement regarding their results are passed on to the new owner and that this new owner has the obligation to pass them on in any subsequent transfer.

Moreover, they must inform the other beneficiaries with access rights of the transfer at least 45 days in advance (or less if agreed in writing), unless agreed otherwise in writing for specifically identified third parties including affiliated entities or unless impossible under the applicable law. This notification must include sufficient information on the new owner to enable the beneficiaries concerned to assess the effects on their access rights. The beneficiaries may object within 30 days of receiving notification (or less if agreed in writing), if they can show that the transfer would adversely affect their access rights. In this case, the transfer may not take place until agreement has been reached between the beneficiaries concerned.

Granting licences

The beneficiaries may grant licences to their results (or otherwise give the right to exploit them), including on an exclusive basis, provided this does not affect compliance with their obligations.

Exclusive licences for results may be granted only if all the other beneficiaries concerned have waived their access rights.

Granting authority right to object to transfers or licensing [— Horizon Europe actions]

Where the call conditions in Horizon Europe actions provide for the right to object to transfers or licensing, the granting authority may — up to [four][[…]] years after the endof the action (see Data Sheet, Point 1) — object to a transfer of ownership or the exclusive licensing of results, if:

- [the beneficiaries which generated the results have received funding under the grant]
- it is to a legal entity established in a non-EU country not associated with Horizon Europe, and
- the granting authority considers that the transfer or licence is not in line with EU interests.

Beneficiaries that intend to transfer ownership or grant an exclusive licence must formally notify the granting authority before the intended transfer or licensing takes place and:

- identify the specific results concerned
- describe in detail the new owner or licensee and the planned or potential exploitation of the results, and
- include a reasoned assessment of the likely impact of the transfer or licence on EU interests, in particular regarding competitiveness as well as consistency with [ethical principles and security considerations].

The granting authority may request additional information.

If the granting authority decides to object to a transfer or exclusive licence, it must formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information it has requested).

No transfer or licensing may take place in the following cases:

- pending the granting authority decision, within the period set out above
- if the granting authority objects
- until the conditions are complied with, if the granting authority objection comes with conditions.

A beneficiary may formally notify a request to waive the right to object regarding intended transfers or grants to a specifically identified third party, if measures safeguarding EU interests are in place. If the granting authority agrees, it will formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information requested).

[Granting authority right to object to transfers or licensing — Euratom actions

Where the call conditions in Euratom actions provide for the right to object to transfers or licensing,the granting authority may — up to four years after the end of the action (see Data Sheet, Point 1) —object to a transfer of ownership or the exclusive or non-exclusive licensing of results, if:

- the beneficiaries which generated the results have received funding under the grant
- it is to a legal entity established in a non-EU country not associated to the Euratom Research and Training Programme 2021-2025 and
- the granting authority considers that the transfer or licence is not in line with the EU interests.

Beneficiaries that intend to transfer ownership or grant a licence must formally notify the granting authority before the intended transfer or licensing takes place and:

- identify the specific results concerned
- describe in detail the results, the new owner or licensee and the planned or potential exploitation of the results, and
- include a reasoned assessment of the likely impact of the transfer or licence on EU interests, in particular regarding competitiveness as well as consistency with ethical principles and security considerations (including the defence interests of the EU Member States under Article 24 of the Euratom Treaty).

The granting authoritymay request additional information.

If the granting authoritydecides to object to a transfer or licence, it will formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information requested).

No transfer or licensing may take place in the following cases:

- pending the granting authoritydecision, within the period set out above
- if the granting authorityobjects
- until the conditions are complied with, if the granting authority objection comes with conditions.

A beneficiary may formally notify a request to waive the right to object regarding intended transfers or grants to a specifically identified third party, if measures safeguarding EU interests are in place. If the granting authority agrees, it will formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information requested).*]*

[Limitations to transfers and licensing due to strategic assets, interests, autonomy or security reasons of the EU and its Member States

Where the call conditions restrict participation or control due to strategic assets, interests, autonomy or security reasons, the beneficiaries may not transfer ownership of their results or grant licences to third parties which are established in countries which are not eligible countries or target countries set out in the call conditions(or, if applicable, are controlled by such countries or entities from such countries) — unless they have requested and received prior approval by the granting authority.

The request must:

- identify the specific results concerned
- describe in detail the new owner or licensee and the planned or potential exploitation of the results, and
- include a reasoned assessment of the likely impact of the transfer or license on the *[*strategic assets, interests, autonomy or security of the EU and its Member States*]*.

The granting authority may request additional information.*]*

Access rights to results and background

[Exercise of access rights — Waiving of access rights — No sub-licensing

Requests to exercise access rights and the waiver of access rights must be in writing.

Unless agreed otherwise in writing with the beneficiary granting access, access rights do not include the right to sub-license.

If a beneficiary is no longer involved in the action, this does not affect its obligations to grant access.

If a beneficiary defaults on its obligations, the beneficiaries may agree that that beneficiary no longer has access rights.*]*

[Access rights for implementing the action

The beneficiaries must grant each other access —on a royalty-free basis —to background needed to implement their own tasks under the action, unless the beneficiary that holds the background has —before acceding to the Agreement —:

- informed the other beneficiaries that access to its background is subject to restrictions, or
- agreed with the other beneficiaries that access would not be ona royalty-free basis.

The beneficiaries must grant each other access —on a royalty-free basis —to results needed for implementing their own tasks under the action.*]*

[Access rights for exploiting the results

The beneficiaries must grant each other access —under fair and reasonable conditions —to results needed for exploiting their results.

The beneficiaries must grant each other access —under fair and reasonable conditions —to background needed for exploiting their results, unless the beneficiary thatholds the background has —before acceding to the Agreement —informed the other beneficiaries that access to its background is subject to restrictions.

Requests for access must be made —unless agreed otherwise in writing —up to one year after the end of the action (see Data Sheet, Point 1).*]*

[Access rights for entities under the same control

Unless agreed otherwise in writing by the beneficiaries, access to results and, subject to the restrictions referred to above (if any), background must also be granted —under fair and reasonable conditions —to entities that:

- are established in an EU Member State or Horizon Europe associated country
- are under the direct or indirect control of another beneficiary, or under the same direct or indirect control as that beneficiary, or directly or indirectly controlling that beneficiary and
- need the access to exploit the results of that beneficiary.

Unless agreed otherwise in writing, such requests for access must be made by the entity directly to the beneficiary concerned.

Requests for access must be made —unless agreed otherwise in writing —up to one year after the end of the action (see Data Sheet, Point 1).*]*

[Access rights for the granting authority, EU institutions, bodies, offices or agencies and national authorities to results for policy purposes [— Horizon Europe actions]

*[*In Horizon Europe actions,*]* the beneficiaries which have received funding under the grant must grant access to their results —on a royalty-free basis —to the granting authority, EU institutions, bodies, offices or agencies for developing, implementing and monitoring EU policies or programmes. Such access rights do not extend to beneficiaries' background.

Such access rights are limited to non-commercial and non-competitive use.

For actions under the cluster 'Civil Security for Society', such access rights also extend to national authorities of EU Member States for developing, implementing and monitoring their policies or programmes in this area. In this case, access is subject to a bilateral agreement to define specific conditions ensuring that:

- the access rights will be used only for the intended purpose and
- appropriate confidentiality obligations are in place.

Moreover, the requesting national authority or EU institution, body, office or agency (including the granting authority) must inform all other national authorities of such a request.*]*

[Access rights for the granting authority, Euratom institutions, funding bodies or the Joint Undertaking Fusion for Energy — Euratom actions

In Euratom actions, the beneficiaries which have received funding under the grant must grant access to their results —on a royalty-free basis —to the granting authority, Euratom institutions, funding bodies or the Joint Undertaking Fusion for Energy for developing, implementing and monitoring Euratom policies and programmes or for compliance with obligations assumed through international cooperation with non-EU countries and international organisations.

Such access rights include the right to authorise third parties to use the results in public procurement and the right to sub-license and are limited to non-commercial and non-competitive use.*]*

Additional access rights

Where the call conditions impose additional access rights, the beneficiaries must comply with them.*]*

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules on IPR, background and results *(all programmes)*

All programmes have additional rules regarding background and results and linked intellectual property rights.

Most programmes use the standard set of additional rules concerning rights of use by the granting authority of results for information, communication, dissemination and publicity purposes. Some programmes *(especially HE, RFCS, DEP and EDF)* use more customised provisions that may vary from programme to programme.

⚠ For Horizon Europe, the references to **'beneficiary' or 'beneficiaries'** in this section do NOT include affiliated entities. However, there are specific access rights provisions for entities under the same control in line with the HE Regulation 2021/695 *(e.g. for access rights)*.

2. List of background *(some programmes)*

Programmes with actions that rely a lot on pre-existing data, know-how or information including linked intellectual property rights, have a provision obliging the beneficiaries to establish a so-called 'list of background'. This list should include both background owned by project participants and rights owned by third parties. It will allow the consortium to make sure that everyone has the rights they need for their part of the project.

Depending on the programme, the list remains either consortium-internal or must be shared with the granting authority (usually before starting the action).

3. Rights of use on results for information, communication, dissemination and publicity purposes *(most programmes)*

Most programmes contain a provision allowing the granting authority to use results for information, communication, dissemination and publicity purposes.

This concerns only non-sensitive information and aims mainly the communication and dissemination activities that are part of the programme management *(e.g. press communications, stakeholder consultations, results portals, media and web-presence, etc)*.

4. Agreement on background *(some programmes)*

For some programmes, the list of background must be defined in a written agreement, in which the beneficiaries identify and agree on what constitutes background for their action. This list will be the basis for the access obligations.

Specific cases (background):

Limitations to use of background due to security or strategic interests (restricted calls) *(HE, DEP, EDF)* — Where the work programme/call conditions provide for restricted participation *(e.g. due to security or strategic interests reasons)*, background that is subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions and that would impact the exploitation of the results should normally not be used, if possible.

The precise scope of this provision depends on the programme. Please cross-check with the Grant Agreement you signed.

'Background that impacts the exploitation of results' should be understood as making the exploitation of those results subject to control or restrictions, for example if exploitation would require the agreement of entity owning the background. If such background needs to be used, this must first be agreed with the granting authority.

5. Ownership of results *(HE)*

Results belong to the beneficiary that generated/produced them *(see Article 16.2)*.

Best practice: To avoid or resolve ownership disputes, keep documents such as laboratory notebooks to show who produced the results, how and when.

If others ('third parties') could claim rights on results, the beneficiaries must ensure that they can respect their obligations under the grant by making arrangements (transfers, licences, other) with the third parties *(e.g. affiliated entities, associated partners, associated partners linked to a beneficiary in MSCA, employees, subcontractors, other members of Joint research units (JRUs), etc)*. Such arrangements could be separate between the beneficiaries and the third party, or in the consortium agreement if they concern affiliated entities or associated partners. If making such arrangements is impossible, the beneficiary must refrain from using the third party to generate the results.

> ***Examples (third parties that may claim rights):*** *academic institutions in countries that have a kind of 'professor's privilege' system (according to which researchers may have some rights to the*

results of university research); employees or students who carry out work for the action (if they have rights under national law or their contract); beneficiaries for which affiliated entities carry out a part of the work.

Examples (arrangements): *transferring (partial) ownership to the beneficiary; granting access rights to the beneficiary with a right to sub-license.*

The list of owners of the results generated by the action must be provided to the granting authority at the end of the action in the final reporting (results ownership list (ROL)).

In case of joint ownership, all joint owners must be listed even if (some of) the joint owners are not members of the consortium. The results ownership list provides a snapshot in time, meaning that ownership changes may happen after the submission of the final periodic report.

If the ownership of the results is not clear, the beneficiaries should indicate all potential owners.

Example: *A beneficiary is involved in a legal dispute on the ownership.*

Specific cases (ownership of results):

Results generated by associated partners — For results generated by associated partners, the situation is similar to that of beneficiaries not having received funds within the meaning of the HE Regulation 2021/695. Provisions in the Annex 5 that apply only to 'beneficiaries which have received funding under the grant' do NOT apply *(e.g. the obligation to protect the results or the best efforts obligation to exploit the results)*. Respect of all other obligations *(e.g. obligation to provide access if needed to implement the project or exploit the results or obligations related to dissemination/open science)* must be ensured.

Automatic joint ownership — If beneficiaries have jointly generated results and it is not possible to establish their respective contribution or to separate them for protection, the beneficiaries automatically become joint owners.

In this case, the beneficiaries concerned must conclude a joint ownership agreement (in writing).

This agreement should cover in particular:

Joint ownership agreement content:

- how the ownership is divided *(e.g. equally or not)*.
- if/how the joint results will be protected, including issues related to the cost of protection *(e.g. patent filing and examination fees, renewal fees, prior state-of-the-art searches, infringement actions, etc)*, or to the sharing of revenues or profits.
- how the joint results will be exploited and disseminated.
- how disputes will be settled *(e.g. via a mediator, applicable law, etc)*.

Best practice: Include at least general principles on joint ownership already in the consortium agreement to make it easier to negotiate a full joint ownership agreement later on.

Unless otherwise provided in the consortium agreement or the joint ownership agreement, the joint owners automatically have the right to grant non-exclusive licences to third parties against fair and reasonable compensation (without prior authorisation from the other joint owners). The joint owner that intends to grant the licence must give the other joint owners at least 45 days advance notice (together with sufficient information, to check if the proposed compensation is fair and reasonable). Such licences may not include sub-licensing.

The joint owners may agree in writing not to continue with joint ownership and apply another regime.

> ***Example:*** *The joint owners may transfer ownership to a single owner and agree on more favourable access rights (or on any other fair counterpart). In such case, the rules regarding transfer of ownership apply.*

The joint owners may agree to apply another regime even before the results are generated, *e.g. in the consortium agreement*, if they consider it appropriate.

Joint ownership by agreement — Outside the cases described above, the beneficiaries may also become joint owners if they specifically agree on it.

> ***Example:*** *A beneficiary may decide that a part of its results will be owned jointly with its parent company or another third party. Also in this case, the rules regarding transfer or ownership apply.*

6. Protection of results *(HE)*

'Beneficiaries having received funding under the grant' must:

- examine the possibility of protecting their results and
- if possible and justified taking into account all relevant considerations, protect them.

> ***Examples (no protection necessary):*** *If protection is impossible under EU or national law or not justified (in view of the absence of potential for commercial or industrial exploitation, if the action's objective does not require protection, if additionally protecting a part of certain technology would not bring significantly broader protection, etc)*

Beneficiaries are in principle free to choose any available form of protection, but protection should be adequate depending on the characteristics of the results to ensure effective protection. While some forms of IP protection, such as copyright, do not require registration, others, such as patent, trade marks or industrial design require the filing of an application before the relevant registration body. Although important for commercial and industrial exploitation, IP protection is not mandatory, if not justified.

Standard forms of protection:

- Patent
- Trademark
- Industrial design
- Copyright

> ***Examples:*** *Protection for a design: e.g. industrial design, copyright.*

In some cases, it may be advisable to protect an invention by keeping it confidential as a trade secret, or to postpone the filing of a patent (or other IPR) application.

> ***Example (better not to protect for the moment):*** *Keeping an invention (temporarily) confidential could allow further development of the invention while avoiding the negative consequences associated with premature filing (earlier priority and filing dates, early publication, possible rejection due to lack of support or industrial applicability, etc) but this requires careful consideration given the possible risks of such an approach*.

Best practice: Consider seeking expert advice to help you to decide whether and how to protect results.

Costs related to protection are eligible, if they fulfil the cost eligibility conditions *(see Article 6.1).*

When deciding on protection, the beneficiaries must also consider the other beneficiaries' legitimate interests. Any other beneficiary invoking legitimate interests must demonstrate how the decision would harm them. The mere fact that the protection would establish an exclusive right which could affect beneficiaries which are competitors is not a legitimate interest.

> ***Example (harm):*** *The protection could lead to the disclosure of valuable background that is held by the other beneficiary (as a trade secret or flagged as confidential) and may require coordination.*

Best practice: Although beneficiaries are not required to consult other beneficiaries before deciding whether to protect their results or not, it may be advisable to provide for arrangements (either in the consortium agreement or in separate agreements), to ensure that where needed decisions on protection take due account of the interests of all beneficiaries concerned.

Protection should last for an appropriate period and have appropriate territorial coverage (in view of potential) commercial or industrial exploitation and other elements *(e.g. potential markets and countries in which potential competitors are located)*. Patent applications should identify the rightful inventors.

> ***Example (not rightful inventor):*** *An entity systematically designates a head of department as one of the inventors, although it is not true.*

⚠ Be aware that errors (or fraud) in **identifying inventors** may lead to the invalidation of the patent.

7. Exploitation of results *(HE)*

The beneficiaries must take measures aiming to ensure the exploitation of their results — either by themselves (*e.g. a beneficiary owning results uses them directly*) or indirectly by others (other beneficiaries or third parties, *e.g. through licensing or by transferring the ownership of results*).

⚠ This is a **best effort obligation**: The beneficiaries must be proactive and take specific measures to try to ensure that their results are exploited (to the extent possible and justified).

Where possible, these measures should be consistent with the impact expected from the action and the plan for the exploitation and dissemination of the results. The exploitation of results should take into consideration the objectives of the Horizon Europe Programme *(see specific objectives in Article 3(2) of the HE Regulation 2021/695)*, including promoting innovation in the EU and strengthening the European Research Area.

The 'plan for the exploitation and dissemination of results including communication activities' is a document that details the communication, dissemination and exploitation activities that will be carried out during the project (or afterwards) , to achieve the expected impact.

All proposals must (unless explicitly excluded by the HE work programme/call conditions), include a first version of the plan (summary of the planned activities under the description of the impact pathways). If successful, the projects will then have to provide the complete plan for the exploitation and dissemination of results including communication activities (normally within the first six months of the action and then regularly update it). Moreover, beneficiaries will have to report on the activities undertaken. *See Annex 5 > Communication, dissemination and visibility*.

'Exploitation' (as defined at the beginning of Annex 5) means the use of results in further research and innovation activities other than those covered by the action concerned, *including among other things, commercial exploitation such as developing, creating, manufacturing and marketing a product or process, creating and providing a service, or in standardisation activities*.

⚠ Exploitation can also be **non commercial**, for example use in non-commercial research or non-commercial teaching activities. When results of the action are used to influence R&I policy or decision making, this is another form of exploitation.

Best practice: Consider applying for dissemination and exploitation support services, including go to market support and IP management provided by the European Commission, during and after the end of your action i.e. the Horizon Results Booster. This service is available to all running and finished projects.

The best efforts obligation applies only to 'beneficiaries having received funding under the grant' and applies during the action and up to four years after the end of the action.

Specific case (exploitation of results):

Additional exploitation obligations *(HE)* — Where the HE work programme/call conditions provide for additional exploitation obligations, those obligations must also be complied with/fulfilled (by ALL beneficiaries, unless explicitly stated otherwise).

Additional information obligation relating to standards *(HE)* — Where the HE work programme/call conditions provide for this additional obligation, the beneficiaries must moreover inform the granting authority on any results that could contribute to European or international standards.

> ***Example:*** *The results are produced in an area in which standards play an important role (such as in mobile communication, diagnostics or immunological diseases).*

Public emergency — Where the HE work programme/call conditions provide for additional exploitation obligations in case of a public emergency, when requested by the granting authority, the beneficiaries must grant non-exclusive licences under fair and reasonable conditions to legal entities that need the results to address the public emergency and commit to rapidly and broadly exploit the resulting products and services at fair and reasonable conditions.

⚠ This provision is intended to be broadly used and may therefore already be activated generally in the General Annexes of the HE Work Programme for all calls under a given work programme *(e.g. for HE Work Programme 2023-2024)*.

⚠ Be also aware that for calls specifically addressing a public emergency, the additional exploitation obligations may already have been activated directly in the HE work programme/call conditions. In this case, there will normally not be an additional request by the granting authority.

'Public emergencies' are emergencies characterised by an unexpected genuine and sufficiently serious threat undermining EU security, public order or public health.

> ***Examples:*** *Public emergencies could cover events such as pandemic diseases (like Covid-19), terrorist attacks, hacking, earthquakes, tsunamis, CBRN events, e.g. novel and highly fatal infectious agents or biological or chemical toxins, as well as those from resulting cascading risks.*

The public emergency obligation is a last resort option that will only be activated if the granting authority considers that the EU security, public order or public health cannot be protected by any less restrictive measure.

Thus, the granting authority will for instance not request activation of the public emergency obligation if it considers that the beneficiary is able to address the public emergency themself and commits to rapidly and broadly exploit the resulting products and services directly or indirectly at fair and reasonable conditions. In most cases the obligation will therefore probably remain dormant.

In case of activation of the public emergency provision by a request of the granting authority, the duration of the obligations and the fairness and reasonability of the licences will be assessed on a case-by-case basis and will depend on the specific circumstances of the public emergency, the context of each project and the nature of its results.

As this is an additional exploitation obligation, the beneficiary cannot OPT out and must comply with the additional obligations if requested by the granting authority.

Best practice: If you intend to grant any exclusive licences to results that might be concerned, you must make sure that the licensing agreement allows for an eventual activation of the obligation *(e.g. that it allows you to suspend the exclusive character and grant licences)*.

Horizon Results Platform *(HE)* **—** The Horizon Results Platform (HRP) is a platform developed by the European Commission to help promote the exploitation of the results from the R&I framework programmes. It allows beneficiaries of grants from FP7, Horizon 2020, Horizon Europe and Euratom to publish and promote the uptake of their results towards their target audiences. It can be accessed by beneficiaries through the Portal. Detailed instructions on how to publish results can be found in the IT How To > Managing Project Results in the Horizon Results Platform.

Beneficiaries are strongly encouraged to consider the use of this free Platform to their own benefit, at any stage of the project, during as well as after the end of the project, provided they have **key exploitable results** (KER; high potential to be exploited, i.e.to be used in a product, process or service, or act as an important input to further research, R&I related policy or education, etc). Results such as outcomes or announcements of consortia meetings, conferences or other events are not considered as key exploitable results and all project deliverables are not necessarily key exploitable results either.

Publishing results in the Horizon Results Platform ensures **high visibility** to a variety of potential users and stakeholders including industry, academia, investors, public administrations, etc and may lead to finding help to exploit the results directly *(e.g. financing)* or finding third parties which may be interested to exploit the results.

> ***Example:*** *Certain beneficiaries in a project have developed a prototype and have jointly filed for intellectual property protection, however they do not have the capacity to bring the results to the market. The beneficiaries concerned published their results on the Horizon Results Platform and a company signalled its interest to use the technology in its production line. After negotiations, the beneficiaries agreed to transfer ownership of the prototype and any attached rights to this company in return for royalties.*

The use of the Horizon Results Platform becomes **mandatory**, if one year after the end of the action, key exploitable results are not exploited.

> ***Example:*** *Beneficiaries in a project have developed R&I policy recommendations and guidelines to be used by public authorities in case of water pollution resulting from industrial activities. The beneficiaries would like to see them being used but despite their best efforts they have not managed to have local authorities use them. At the latest one year after the end of the grant, the beneficiaries must publish the policy recommendations on the Horizon Results Platform (with the appropriate result type = 'policy related result'). Publishing them on HRP will provide them visibility to policymakers from local, regional, national and EU authorities and also regulatory bodies.*

However, if justified on the basis of a request of the beneficiary, the obligation to use the Horizon Results Platform may be waived.

> ⚠ **Security obligations —** The Platform should also NOT be used if such use would be contrary to other grant obligations *(e.g. security rules)*.

> ***Examples:***
>
> ***1.*** *A beneficiary is intending to exploit certain key exploitable results commercially, either directly or indirectly, but awaits a marketing authorisation before being able to do so.*

2. *Two beneficiaries owning results are close to finalising an agreement with a third party to exploit certain key exploitable results*

⚠ Using the Platform does NOT mean that the beneficiary concerned should no longer use its best efforts to exploit its results directly or indirectly via other means.

8. Transfers and licencing of results *(HE)*

Transfers of ownership:

The beneficiaries may transfer ownership of their results, provided this does not affect compliance with their obligations under the Agreement.

⚠ **Security obligations —** Transfer may be restricted/NOT possible for results that are subject to limited disclosure/dissemination *(see Article 13 and Annex 5 > Confidentiality and security)*.

In case of transfer, the beneficiaries must ensure that their obligations (regarding the results) apply to the new owner and that this new owner will pass them on in any subsequent transfer *(e.g. by including this in their arrangements with the new owner)*.

Obligations that must be extended to new owners:

- Possible joint ownership obligations
- Protection of results
- Exploitation of results
- Transfer and licensing of results
- Access rights to result
- Dissemination of results, open science and visibility of EU funding

When transferring ownership, they must also consider the other beneficiaries' legitimate interests, in particular:

- the beneficiary that intends to make the transfer must give the other beneficiaries (that still have or still may request access rights) at least 45 days advance notice (or less if agreed in writing; together with sufficient information to allow them to properly assess the extent to which their access rights may be affected)
- any other beneficiary (with access rights) may object to the transfer within 30 days of receiving notification (or less if agreed in writing), if it can show that it would adversely affect its access rights; in this case, the transfer may not take place, until the beneficiaries concerned reach an agreement

The mere fact that the results concerned are transferred to a competitor is NOT in itself a valid reason for an objection. The beneficiary concerned must demonstrate the adverse effects on the exercise of its access rights.

Example (adverse effect): *Beneficiary A intends to transfer ownership of a new process it created during the course of an action to a competitor of beneficiary B. If beneficiary B shows that its access rights would be adversely affected by such a transfer (for instance, because the competitor has a proven track record of systematically legally challenging beneficiary B's claims), the transfer may not take place until the two beneficiaries reach an agreement.*

Granting licences:

The beneficiaries may grant licences to their results, including on an exclusive basis, provided this does not affect compliance with their obligations under this Agreement *(e.g. they must in particular ensure that any access rights can be exercised and that any additional exploitation obligations are/can be complied with)*.

⚠ **Security obligations —** Transfer may be restricted/NOT possible for results that are subject to limited disclosure/dissemination *(see Article 13 and Annex 5 > Confidentiality and security)*.

Exclusive licences *(e.g. for commercial exploitation)* may be granted only if all other beneficiaries have waived their access rights and other access rights/obligations are preserved, *(e.g. the access rights of the EU, Member States or activation of the public emergency obligation if applicable)*.

Specific cases (transfers and licencing of results):

Mergers & acquisitions (M&A) — If a transfer of ownership is not explicit (through an 'intended' transfer) but part of a take-over or merger of two companies, confidentiality constraints normally prevail (under M&A rules). Therefore, it may be necessary to inform the other beneficiaries only *after* the merger/acquisition took place, instead of *before*.

Specifically-identified third parties — The beneficiaries may (by prior written agreement) waive their right to object to transfers of ownership to a *specifically-identified* third party *(e.g. an affiliate entity of one of them).* In this case, there is no need to inform them of such transfers in advance (and they do not have the right to object).

Before agreeing to such a global authorisation, beneficiaries should carefully consider the situation (and in particular the identity of the third party concerned), to determine if their access rights would be affected.

> ***Example:*** *For large industrial groups, it is sometimes clear from the beginning that all results produced will be transferred to another entity of the group, without being detrimental to the other beneficiaries (who agreed to the global authorisation).*

If the granting authority has the right to object to transfers, the beneficiary must formally notify the request to waive its right to object in advance (through Portal Formal Notifications: My Projects > Actions > Manage Project > Launch new interaction with the EU > Formal Notification) and the granting authority may object.

Joint research units (JRUs) — Where the internal arrangements of a JRU state that any results produced by one member are owned jointly by all members, the JRU member that is the beneficiary must ensure that it complies with the obligations on transfers under the Grant Agreement (placing results under joint ownership of the JRU is a form of transfer).

Common legal structures (CLS) — CLS (i.e. entities representing several other legal entities, *e.g. European Economic Interest Groupings (EEIG) or associations*) that are beneficiaries of an action may want to transfer ownership to one (or more) of their members. This is not prohibited. However, the normal rules on transfers apply *(e.g. access rights have to remain available)*.

Best practice: Beneficiaries that are members of a common legal structure are strongly advised to agree on specific arrangements with the other members of the common legal structure, in particular relating to ownership and access rights.

Right to object to transfers or exclusive licensing — Where the HE work programme/call conditions provide for the right to object, the granting authority may object to transfers or *exclusive* licences (or, for Euratom grants, also *non-exclusive* licences) to legal entities established in a non-associated third country if the granting authority considers that the transfer or licence is not in line with EU interests.

⚠ This provision is intended to be broadly used and may therefore already be activated generally in the General Annexes of the HE Work Programme for all calls under a given work programme *(e.g. for HE Work Programme 2023-2024)*.

Possible grounds for objection:

- Planned transfer/licence not in line with EU competitiveness interests

  Example: *if the transfer or licence would create a major competitive disadvantage for European companies or could make the results commercially unavailable on fair and reasonable conditions in the EU*

- Planned transfer/licence not consistent with ethical principles

  Example: *If the transfer or licence could cause the results to be used in a way that is not in accordance with the fundamental ethical rules and principles recognised at EU and international level*

- Planned transfer/licence not consistent with security considerations (including, for Euratom grants, the Member States' defence interests under Article 24 of the Euratom Treaty)

  Example: *If the transfer or licence could make results considered significant from a security standpoint not readily available in the EU, or if security-sensitive results could fall into the hands of third parties that are considered a security risk*

- Planned transfer/licence weakens the EU scientific and technological bases.

  Example: *If the transfer or licence could weaken the EU capacity & independence in strategic technological areas (e.g. quantum computing, artificial intelligence)*

This right does NOT apply to results generated by 'beneficiaries not having received funding under the grant'.

The beneficiary must formally notify the granting authority in advance of any planned transfer or exclusive licence (and, for Euratom grants, also of any non-exclusive licence) through Portal Formal Notifications (My Projects > Actions > Manage Project > Launch new interaction with the EU > Formal Notification).

A notification before the results are generated is allowed, if the specific results concerned (and the details of the transfer/licence) can already be identified so an assessment can be made.

Right to object waiver for specifically-identified third parties — A beneficiary may formally notify (through Portal Formal Notifications: My Projects > Actions > Manage Project > Launch new interaction with the EU > Formal Notification) a request to waive the right to object regarding intended transfers or grants to a specifically identified third party, if measures safeguarding EU interests are in place. If the granting authority agrees, it will formally notify the beneficiary concerned within 60 days of receiving notification (or any additional information requested).

Limitations to transfers and licensing due to strategic assets, interests, autonomy or security reasons (restricted calls) — Where the HE work programme/call conditions provide for restricted participation, prior approval by the granting authority is required regarding any transfers or (exclusive or non-exclusive) licences to third parties which are established in countries which are not eligible countries or target countries set out in the call conditions (or, if applicable, are controlled by such countries or entities from such countries).

9. Access rights to background & results *(HE)*

What & When? The beneficiaries must provide access to background and results, if it is needed:

- by another beneficiary, for implementing action tasks or exploiting results
- by an entity established in a EU Member State or HE associated country and under the direct or indirect control of another beneficiary, or under the same direct or indirect control as another beneficiary, or directly or indirectly controlling such a beneficiary, to exploit the results generated by that beneficiary— unless otherwise agreed or provided for in other provisions of the Agreement.

  Examples: *Beneficiary A used background from beneficiary B to generate its results which is also needed to exploit those results. Beneficiary A would like to use its entity C, a sister company under the same control as beneficiary, established in a MS to exploit the results. For this, entity C needs access rights to beneficiary B's background. If entity C is established in a Member State or an associated country, it has access rights unless otherwise provided for in the consortium agreement. If not, the beneficiaries could agree on additional access rights (see further below).*

  Other examples (restrictions) may be in relation to security related provisions or in case of restrictions due to strategic assets, interests, autonomy or security of the EU and its Member States.

There is NO definition of 'needed'. The beneficiary owning the background or results has to assess (on a case by case basis and taking into account the action's specificities), if the requesting beneficiary needs the access (and may refuse it, if it does not).

> ***Example (results needed for implementation):*** *If without these results, action tasks could not be implemented, would be significantly delayed or would require significant additional financial or human resources.*
>
> ***Example (background needed for exploitation):*** *If without these results, exploiting a result would be technically or legally impossible or if significant additional R&D work would have to be carried out outside of the action to develop an alternative equivalent solution.*

Best practice: To avoid conflicts and where appropriate, agree *(e.g. in the consortium agreement)* on a common interpretation of what is needed.

However, for background there is NO (or a more limited) obligation to give access, if there are restrictions (legal or otherwise) and the beneficiary has informed the others — before acceding to the grant (or immediately when additional background is agreed on).

> ***Example:*** *A pre-existing agreement (e.g. an exclusive licence) which precludes the granting of access rights to certain background for exploitation purposes.*

By contrast, if a beneficiary contracts on background later, it must ensure that it can comply with its access obligations under the grant.

The other beneficiaries may waive their access rights, provided that such a **waiver** is made in writing.

Best practice: Waivers should be made only on a case-by-case basis, once the results have been correctly identified and it is clear that access is not needed.

How? Access rights are not automatic; they must be requested (in writing).

Best practice: Use your internal rules *(e.g. consortium agreement)* to specify how to make such written requests.

Access may be requested even from beneficiaries who left the action before the end, under the same conditions as from active beneficiaries. Similarly, if a beneficiary is no longer involved in the action, this does not affect its obligations to grant access.

If applicable, for entities established in a EU Member State or a HE associated country and under the direct or indirect control, or under the same direct or indirect the same control as another beneficiary, or directly or indirectly controlling such a beneficiary, access must be requested directly from the beneficiary owning the background or results. However, the beneficiary owning the background results may agree to a different arrangement.

Access to results for exploitation may be requested up to one year after the end of the action — unless the beneficiaries agreed on another time limit.

The agreement by the beneficiary owning the results (on the request for access) may be in any form (tacit, explicit, in writing or oral).

Best practice: To keep a record of entities that have access, a written agreement may be needed, in particular for important background or results.

In case of disagreement, the requesting beneficiary can better substantiate its request, withdraw it or resort to the conflict resolution procedures foreseen by the consortium (*e.g. in the consortium agreement*). If a conflict on access rights to results is likely to affect the action implementation, the beneficiaries must immediately inform the granting authority.

If a beneficiary defaults on its obligations, the beneficiaries may agree that that beneficiary no longer has access rights.

Conditions for access:

Royalty free — Fair and reasonable conditions

Access to results must be given:

- for the implementation of action tasks: royalty-free
- for the exploitation of results: under fair and reasonable conditions.

  Examples (monetary compensation): *A lump sum, a royalty percentage, or a combination of both.*

  Examples (non-financial terms): *A requirement to grant access to technology it has, or to agree on cooperation in a different field or in a future project.*

Best practice: In case financial terms are involved, it may not be always possible to determine, at the moment of agreeing to these terms, what fair and reasonable financial conditions are, since the potential value of the foreground or background and the ways of exploitation may not be clear. Beneficiaries could in such cases opt for an open system which allows them to take into account unexpected developments, for example by adjusting royalty percentages in case certain milestones are reached.

The conditions for access to background are slightly different. Unless restrictions apply, access must be given:

- for the implementation of action tasks: the default rule is royalty-free

  However, if agreed by the beneficiaries before the grant is signed, for background other conditions may apply.

  Example: *A beneficiary owns a novel technology needed by other beneficiaries for implementing their tasks under the action and the other beneficiaries do not bring the same level of background. In such case the beneficiaries may agree that access to the novel technology to implement the action will not be on a royalty-free basis.*

  Best practice: If beneficiaries intend to deviate from the default rule, it is recommended that this is explained in detail in their proposal. Royalty fees paid for access to background for implementation purposes may exceptionally be eligible costs if explicitly agreed by all beneficiaries before grant signature *(see Article 6.2.C.3).*

– for the exploitation of results: under fair and reasonable conditions.

Scope of access:

Sublicensing/Licensing — Additional access rights — More favourable terms — Additional conditions

The access rights set out in the Grant Agreement cover only the access needed.

Access rights are a right to use by the entity concerned and do NOT automatically give the right to the requesting beneficiary to sub-licence. (If this were the case, access rights to results would be extended — without consent — to virtually any entity in the world, including a beneficiary's competitors).

Sub-licensing is only allowed if the beneficiary owning the results agrees — although such agreement should not be unduly refused, if the sublicensing is necessary. In this case the sub-licensing does not have to be royalty-free (even if the access rights concerned would be) and can itself be made subject to specific conditions.

> ***Examples:***
> ***1.*** *A university may need the right to sub-license access to results needed to exploit its own results to third parties, to make it possible to derive value from its own results.*
> ***2.*** *In large industrial groups it is quite common that research is conducted by one entity and exploitation by one or several other entities. Access rights enjoyed by the 'research entity' but not by the 'exploitation entities)' would raise problems for those entities not covered by the access rights for entities under the same control.*

Best practice: If needed, agree on the terms and conditions of the sub-licensing generally and in writing *(in the consortium agreement or separately)*.

> ***Examples:*** *In such an agreement, they could foresee that sub-licensing could apply to the results (or part of them), but not to the background; sub-licensing could apply to (some of the) entities forming part of the same group , but not to (some of the) other entities.*

The beneficiaries remain free to grant licences (including quasi-exclusive licences) to their own results, as long as they can guarantee that all their grant obligations are/will be respected, including that all access rights can be exercised. They can even grant an exclusive licence to exploit their results, if the other beneficiaries have waived any access rights which would make granting the exclusive licence impossible (and no additional obligations apply with the same effect, *e.g. additional exploitation/access rights obligations*).

Beneficiaries are free to grant additional access rights to results, beyond the rights foreseen in the grant if compatible with their obligations under the grant.

> ***Examples:*** *Additional access rights for third parties (e.g. affiliated entities if they need it for implementation purposes, entities under same control but not established in an EU Member State or HE associated country).*

Best practice: Such additional provisions may be included in the consortium agreement or in a separate agreement.

Access may also be granted on more favourable terms *(e.g. include the right to sub-licence)* or be made subject to additional conditions *(e.g. appropriate confidentiality obligations)*. Access rights may be exercised as long as agreed by the concerned beneficiaries *(e.g. which for patents could be until the patent expires)*.

Access rights for the granting authority, EU institutions, bodies, offices or agencies and national authorities to results for policy purposes — Horizon Europe actions:

The granting authority, EU institutions, bodies, offices or agencies (and/or EU Member States national authorities for Horizon Europe actions under the cluster 'Civil security for Society')

have specific access rights for policy purposes. Such access does not extend to beneficiaries' background.

Access rights for the granting authority, Euratom institutions, funding bodies and the Joint Undertaking Fusion for Energy — Euratom actions:

In Euratom actions, the granting authority, Euratom institutions, Euratom funding bodies and the Fusion for Energy Joint Undertaking have royalty-free access, for:

- developing, implementing and monitoring Euratom policies and programmes
- complying with Euratom's obligations under international research and cooperation agreements in the field of nuclear energy.

These access rights include the right to sub-license *(e.g. to third parties involved in such an international agreement)* or to use the results in public procurement, as long as they are only used for non-commercial and non-competitive purposes.

> ***Example:*** *Euratom is part of the ITER Agreement and is committed to disseminating information on technological solutions developed in the context of ITER projects, and to sharing them on a non-discriminatory basis with other ITER members and ITER itself. It does this by giving ITER and ITER members royalty-free licences, including the right to sub-license, for the intellectual property produced, so that they can publicly sponsor fusion and research programmes.*

Additional access rights:

Where the HE work programme/call conditions provide for additional access rights, they must also be respected and access granted.

> ***Example:*** *Additional access rights for the beneficiaries of linked actions.*

ANNEX 5 SPECIFIC RULES ON COMMUNICATION, DISSEMINATION AND VISIBILITY *(all programmes)*

COMMUNICATION, DISSEMINATION AND VISIBILITY (— ARTICLE 17) *(all Programmes except HE, RFCS, DEP)*

[OPTION for programmes with communication and dissemination plans: **Communication *[*and dissemination*]* plan**

The beneficiaries must provide a detailed communication *[*and dissemination*]* plan *[*('[insert name]')*]*, setting out the objectives, key messaging, target audiences, communication channels, social media plan, planned budget and relevant indicators for monitoring and evaluation.*]*

[OPTION for programmes with additional communication and dissemination activities: **Additional communication and dissemination activities**

*[*If agreed with the granting authority*]* the beneficiaries *[*must*][*may*]* engage in the following additional communication and dissemination activities:

- *[*present the project (including project summary, coordinator contact details, list of participants, European flag and funding statement *[*and special logo*]* and project results) on the beneficiaries' websites or social media accounts*]*
- *[*for actions involving publications, mention the action and the European flag and funding statement *[*and special logo*]* on the cover or the first pages following the editor's mention*]*
- *[*for actions involving public events, display signs and posters mentioning the action and the European flag and funding statement *[*and special logo*]]*
- *[*for actions involving equipment, infrastructure or works *[*of more than EUR […]*]*, display public plaques or billboards as soon as the work on the action starts and a permanent commemorative plaque once it is finished, with the European flag and funding statement *[*and special logo*]]*
- *[*for actions involving equipment, infrastructure or works *[*of less than EUR […]*]*, display as soon as the work on the action starts a printed or electronic sign of appropriate size, with European flag and funding statement *[*and special logo*]]*
- *[*for actions *[*that [insert definition of certain priority projects, themes, areas, etc.]*]* *[*or*]* *[*actions with a maximum grant amount of more than EUR […]*]*, organise a specific communication event to promote the action*]*
- *[*upload the public project results to the [insert Programme name] Project Results platform, available through the Funding & Tenders Portal*]*
- *[*[insert additional option]*].]*

[OPTION for programmes authorised to use special logos: **Special logos**

Communication activities and infrastructure, equipment or major results funded by the grant must moreover display the following logo:

- [insert special logos]*]*

[OPTION for programmes where the promotion or visibility could harm persons involved in the action implementation: **Limited communication and visibility to protect persons involved**

Where the communication, dissemination or visibility obligations set out in Article 17 *[*or this Annex*]* would harm the safety of persons involved in the action, the beneficiaries may submit appropriate alternative arrangements to the granting authority for approval.*]*

COMMUNICATION, DISSEMINATION AND VISIBILITY (— ARTICLE 17) *(RFCS, DEP)*

[OPTION for programmes with specific communication, dissemination and visibility rules:

***[*Communication *[*and dissemination*]* plan**

The beneficiaries must provide a detailed communication *[*and dissemination*]* plan *[*('[insert name]')*]*, setting out the objectives, key messaging, target audiences, communication channels, social media plan, planned budget and relevant indicators for monitoring and evaluation.*]*

***[*Dissemination of results**

The beneficiaries must disseminate their results as soon as feasible, in a publicly available format, subject to any restrictions due to the protection of intellectual property*[*, security rules*]* or legitimate interests.

*[*They must upload the public project results to the *[*[…]*]* Project Results platform, available through the Funding & Tenders Portal.*]*

In addition, where the call conditions impose additional dissemination obligations, they must also comply with those.*]*

***[*Additional communication activities**

The beneficiaries must engage in the following additional communication activities:

- *[*present the project (including project summary, coordinator contact details, list of participants, European flag and funding statement *[*and special logo*]* and project results) on the beneficiaries' websites or social media accounts*]*
- *[*for actions involving publications, mention the action and the European flag and funding statement *[*and special logo*]* on the cover or the first pages following the editor's mention*]*
- *[*for actions involving public events, display signs and posters mentioning the action and the European flag and funding statement *[*and special logo*]]*
- *[*for actions involving equipment, infrastructure or works *[*of more than EUR […]*]*, display public plaques or billboards as soon as the work on the action starts and a permanent commemorative plaque once it is finished, with the European flag and funding statement *[*and special logo*]]*
- *[*for actions involving equipment, infrastructure or works *[*of less than EUR […]*]*, display as soon as the work on the action starts a printed or electronic sign of appropriate size, with European flag and funding statement *[*and special logo*]]*
- *[*for actions *[*that [insert definition of certain priority projects, themes, areas, etc.]*]* *[*or*]* *[*actions with a maximum grant amount of more than EUR […]*]*, organise a specific communication event to promote the action*]*
- *[*[insert additional option]*].]]*

COMMUNICATION, DISSEMINATION, OPEN SCIENCE AND VISIBILITY (— ARTICLE 17) *(HE)*

Dissemination

Dissemination of results

The beneficiaries must disseminate their results as soon as feasible,in a publicly available format,subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests.

A beneficiary that intends to disseminate its results must give at least 15 days advance notice to the other beneficiaries (unless agreed otherwise), together with sufficient information on the results it will disseminate.

Any other beneficiary may object within (unless agreed otherwise) 15 days of receiving notification, if it can show that its legitimate interests in relation to the results or background would be significantly harmed. In such cases, the results may not be disseminated unless appropriate steps are taken to safeguard those interests.

Additional dissemination obligations

Where the call conditions impose additional dissemination obligations, the beneficiaries must alsocomply with those.

Open Science

Open science: open access to scientific publications

The beneficiaries must ensure open access to peer-reviewed scientific publications relating to their results. In particular, they must ensure that:

- at the latest at the time of publication, a machine-readable electronic copy of the published version or the final peer-reviewed manuscript accepted for publication, is deposited in a trusted repository for scientific publications
- immediate open access is provided to the deposited publication via the repository, under the latest available version of the Creative Commons Attribution International Public Licence (CC BY) or a licence with equivalent rights; for monographs and other long-text formats, the licence may exclude commercial uses and derivative works (e.g. CC BY-NC, CC BY-ND) and
- information is given via the repository about any research output or any other tools and instruments needed to validate the conclusions of the scientific publication.

Beneficiaries (or authors) must retain sufficient intellectual property rights to comply with the open access requirements.

Metadata of deposited publications must be open under a Creative Common Public Domain Dedication (CC 0) or equivalent, in line with the FAIR principles (in particular machine-actionable) and provide information at least about the following: publication (author(s), title, date of publication, publication venue); Horizon Europe or Euratom funding; grant project name, acronym and number; licensing terms; persistent identifiers for the publication, the authors involved in the action and, if possible, for their organisations and the grant. Where applicable, the metadata must include persistent identifiers for any research output or any other tools and instruments needed to validate the conclusions of the publication.

Only publication fees in full open access venues for scientific publications are eligible for reimbursement.

Open science: research data management

The beneficiaries must manage the digital research data generated in the action (‘data’) responsibly, in line with the FAIR principles and by taking all of the following actions:

- establish adata management plan (‘DMP’) (and regularly update it)
- as soon as possible and within the deadlines set out in the DMP, deposit the data in a trusted repository; if required in the call conditions,this repository must be federated in the EOSC in compliance with EOSC requirements
- as soon as possible and withinthe deadlines set out in the DMP, ensure open access — via the repository — to the deposited data, under the latest available version of the Creative Commons Attribution International Public License (CC BY) or Creative Commons Public Domain Dedication (CC0) or a licence/dedication with equivalent rights, following the principle ‘as open as possible as closed as necessary’, unless providing open access would in particular:
    - be against the beneficiary’s legitimate interests, including regarding commercial exploitation,or
    - be contrary to any other constraints, in particular the EU competitive interests or the beneficiary’s obligations under this Agreement; if open access is not provided (to some or all data), this must be justified in the DMP

- provide information via therepository about any research output or any other tools and instruments needed to re-use or validate the data.

Metadata of deposited data must be open under a Creative Common Public Domain Dedication (CC 0) or equivalent (to the extent legitimate interests or constraints are safeguarded), in line with the FAIR principles (in particular machine-actionable) and provide information at least about the following: datasets (description, date of deposit, author(s) and embargo); Horizon Europe or Euratom funding; grant project name, acronym and number; licensing terms; persistent identifiers for the dataset, the authors involved in the action, and, if possible, for their organisations and the grant. Where applicable, the metadata must include persistent identifiers for related publications and other research outputs.

Open science: additional practices

Where the call conditions impose additional obligations regarding open science practices, the beneficiaries must also comply with those.

Where the call conditions impose additional obligations regarding the validation of scientific publications,the beneficiaries must provide (digital or physical) access to data or other results needed for validation of the conclusions of scientific publications, to the extent that their legitimate interests or constraints are safeguarded (and unless they already provided (open) access at publication).

Where the call conditions impose additional open science obligations in case of a public emergency, the beneficiaries must (ifrequested by the granting authority) immediately deposit any research output in a trusted repository and provide open access to it under a CC BY licence, a Public Domain Dedication (CC 0) or equivalent. As an exception, if the access would be against the beneficiaries' legitimate interests, the beneficiaries must grant non-exclusive licenses —under fair and reasonable conditions —to legal entities that need the research output to address the public emergency and commit to rapidly and broadly exploit the resulting products and services at fair and reasonable conditions. This provision applies up to four years after the end of the action (see Data Sheet, Point 1).

Plan for the exploitation and dissemination of results including communication activities

Unless excluded by the call conditions, the beneficiaries must provide and regularly update a plan for the exploitation and dissemination of results including communication activities.

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules for communication, dissemination and visibility *(all programmes)*

All programmes have additional rules regarding communication and dissemination activities.

Most programmes use the standard set of additional rules concerning the communication and dissemination plan and the additional communication activities. Some programmes *(HE, RFCS, DEP)* use more customised provisions.

2. Communication and dissemination plan *(some programmes)*

Programmes that need more detailed information about the communication strategy followed by the action, have a provision obliging the beneficiaries to provide their full communication plan (— in addition to the key elements that already need to be part of each proposal/DoA Annex 1).

For more guidance and communication best practices, *see Communicating about your EU-funded project and the HE Social Media Guide*.

3. Special logos *(some programmes)*

In principle, for 2021-2027, all programmes follow the corporate EU visual identity, meaning that there are in principle no longer any programme-specific logos. There are however exceptions for some programmes *(e.g. CREA Media, LIFE, HUMA, UCPM)*. Also, Grant Agreements of EU funding bodies (such as for instance the EU joint undertakings) will keep using their own logos (in addition to the EU logo) and will require their use by the projects.

4. Limited communication and visibility to protect persons involved *(some programmes)*

Some programmes (especially those active in conflicts and crises, *like HUMA*), will limit communication and visibility options in order to protect the persons working on the ground. In these cases, the consortium may propose to the granting authority alternative arrangement.

5. Dissemination *(HE)*

Unless it goes against their legitimate interests, the beneficiaries must — as soon as feasible, but not before a decision on their possible protection — disseminate their results, i.e. make them public.

Results that are disclosed too early (before the decision on their protection) may run the risk of making protection impossible.

> ***Example:*** *If a result is disclosed (in writing (including by e-mail) or orally (e.g. at a conference) before filing for patent protection — even to a single person who is not bound by secrecy or confidentiality obligations (typically someone from an organisation outside the consortium) this may invalidate a subsequent patent application.*

NO dissemination at all may take place, if:

- the results in question need to be protected as a trade secret (i.e. confidential know-how) or
- dissemination conflicts with any other obligations under the grant *(e.g. personal data protection, security obligations, etc)*.

Security obligations — Dissemination may be restricted/NOT possible for results that are subject to security rules *(see Article 13 and Annex 5 > Confidentiality and security)*.

The beneficiaries may choose the appropriate publicly available format for disseminating their results.

Standard forms of dissemination:

- website
- presentation at a scientific conference, at an education and training event or other events with stakeholders and potential users of the results
- peer-reviewed publication

The dissemination measures should be consistent with the plan for the exploitation and dissemination of the results *(see below)* and proportionate to the impact expected from the action.

When deciding on dissemination, the beneficiaries must also consider the other beneficiaries' legitimate interests.

The beneficiary that intends to disseminate must give the other beneficiaries at least 15 days advance notice (together with sufficient information on the intended dissemination) — unless otherwise agreed.

Any other beneficiary may object to dissemination — unless otherwise agreed — within 15 days of receiving notification, if it can show that it would suffer significant harm (in relation to its background or results). In this case, the results may not be disseminated — unless appropriate steps are taken to safeguard the interests at stake.

> ***Examples (significant harm):*** *Disseminating the results would lead to disclosure of valuable background held by another beneficiary as a trade secret or would make protecting another beneficiary's results more difficult. Appropriate steps could include: omitting certain data or postponing dissemination until the results are protected.*

Best practice: Beneficiaries should provide for arrangements (either in the consortium agreement or in separate agreements) to ensure that decisions on dissemination take due account of the interests of all beneficiaries concerned and yet allow for publication of results without unreasonable delay. This may include a specific mechanism to resolve any disputes as soon as possible.

Where the HE work programme/call conditions provide for additional dissemination obligations, those obligations must also be complied with/fulfilled.

> ***Example:*** *Requirement to disseminate the results in a specific website.*

6. Open science *(HE)*

'Open science' is an approach based on open cooperative work and systematic sharing of knowledge and tools as early and widely as possible in the research process.

The open science provisions in Horizon Europe contain a set of requirements and encouraged practices that cover some of the most important aspects of open science. They concern research outputs such as scientific publications and research data and additional open science practices .

'Research outputs' are results to which online access can be given in the form of scientific publications, data or other engineered outcomes and processes, such as software, algorithms, protocols, models, workflows and electronic notebooks.

6. Open science: Open access to scientific publications *(HE)*

Beneficiaries must ensure open access to peer-reviewed scientific publications relating to their results. This includes articles and long-text formats, such as monographs and other types of books. Immediate open access is required i.e. at the same time as the first publication, through a trusted repository using specific open licences.

'Peer review' is the assessment of manuscripts or publications by researchers with relevant expertise.

An article is considered to be peer-reviewed when it has been scrutinized and approved by expert researchers. The number of the positive assessments required is set by each publishing venue.

Long-text formats — such as books/monographs and edited volumes — are considered to be peer-reviewed if the manuscript (or a substantial part thereof) has been reviewed at least by one independent expert external to the publisher or to the series scientific editor(s). PhD theses and habitations for professorial degrees are considered peer-reviewed, if they are

formally published through a publisher. Book chapters are NOT considered long-text formats but are treated similarly to articles.

Best practice: Beneficiaries are encouraged to provide open access to ALL publications, even if they are not peer-reviewed.

How to provide open access:

Beneficiaries/authors may publish in the venue of their choice, either in a closed venue (i.e. access to all content is restricted), an open access publishing venue or in a hybrid publishing venue, provided that all their open access-related obligations as detailed in this section are complied with.

'Open access publishing venues' are publishing venues whose entire scholarly content is published in open access *(e.g. open access journals, books, publishing platforms, repositories or preprint servers*).

'Hybrid publishing venues' are publishing venues which provide part of their scholarly content in open access, while another part is accessible through subscriptions/payments *(e.g. hybrid journals and books)*. These are often journals/books based on subscription/purchase which provide open access to part of their content when an open access fee is paid by their authors/institutions (paid ad hoc or on the basis of an institutional agreement with the publishers).

'Mirror and sister journals' (i.e. more recently established open access versions of existing subscription journals, which may share the same editorial board as the original journal and usually have (at least initially) the same or very similar aims, scope and peer review processes and policies; these journals often have a name similar to the subscription title but a different ISSN) are considered open access publishing venues for Horizon Europe grants (not hybrid journals).

In parallel, beneficiaries/authors must deposit their publication in a machine-readable format *(i.e. structured format that can automatically be read and processed by a computer)* in a trusted repository — before or at publication time — and immediately provide open access to the publication through that repository.

⚠ Publishing in an **open access venue** without depositing in a repository, does NOT comply with the open access requirements. All peer-reviewed publications must be deposited in trusted repositories and open access provided to them through the repositories.

When choosing the publishing venue and the repository, beneficiaries/authors must keep in mind that licensing requirements, metadata requirements and validation requirements must also be complied with at this time.

⚠ The European Commission offers Horizon Europe beneficiaries Open Research Europe (ORE), an **open access publishing platform with no publishing fees**. ORE is offered as an additional publishing option to Horizon Europe beneficiaries. When ORE is the selected publishing venue, all requirements for open access to scientific publications are automatically fulfilled, as ORE deposits publications in the all-purpose repository Zenodo under the conditions required by Horizon Europe.

Immediate open access through the repository must be provided either to the final peer-reviewed manuscript accepted for publication or to the final published peer-reviewed version.

Please also note that publication fees are only eligible when publishing in full open access publishing venues (venues in which the entire scholarly content is openly accessible to all) and not in hybrid venues. Publication fees may, in particular, include peer review fees, including where the peer review service has been provided by an organisation different from

the one providing the publishing venue. Peer review fees for publications are eligible for reimbursement only for the first round of peer reviewers.

⚠ **Publishing fees** (including page charges or colour charges) for publications in other venues, for example in subscription journals (including hybrid journals) or in books that contain some scholarly content that is open and some that is closed are NOT eligible costs.

⚠ **Publishing fees** for open access books may be eligible to the extent that they cover the first digital open access edition of the book (which could include different formats such as html, pdf, epub, etc.).

⚠ **Printing fees** for monographs and other books are NOT eligible.

Repository requirements:

Beneficiaries must ensure deposition of and open access to publications (and research data, where the case) through trusted repositories.

'Repositories' are online archives, where researchers can deposit digital research outputs and provide (open) access to them.

Repositories help manage and provide access to scientific outputs and contribute to the long-term preservation of digital assets.

They can be institutional, operating with the purpose to collect, disseminate and preserve digital research outputs of individual research organisations (institutional repositories, *e.g. the repository of University X*) or domain-specific, operating to support specific research communities and supported/endorsed by them *(e.g. Europe PMC for life sciences including biomedicine and health or arXiv for physics, mathematics, computer science, quantitative biology, quantitative finance and statistics; Phonogrammarchiv for audio-visual recordings the CLARIN-DK-UCPH Repository for digital language data or the European Nucleotide Archive or databases of astronomical observations operated by the European Southern Observatory, among others)*. There are also general-purpose repositories, *such as for example Zenodo, developed by CERN*.

Personal websites and databases, publisher websites, as well as cloud storage services *(Dropbox, Google drive, etc)* are NOT considered repositories. Academia.edu, ResearchGate and similar platforms do not allow open access under the terms required and therefore are also NOT considered repositories.

Trusted repositories can be grouped into three categories which may overlap:

- certified repositories, such as those certified by international organisations or government-authorised certification bodies *(e.g. CoreTrustSeal, nestor Seal DIN31644, ISO16363)*
- disciplinary or domain repositories commonly used and endorsed by the research communities, and which are recognised internationally
- general-purpose repositories, institutional repositories or any other repositories that present the essential characteristics of trusted repositories, i.e.:
  - display specific characteristics of organisational, technical and procedural quality, *such as services, mechanisms and/or provisions that are intended to secure the integrity and authenticity of their contents*, thus facilitating their use and re-use in the short- and long-term. Trusted repositories have specific provisions in place and offer explicit information online about their policies, which define their services *(e.g. acquisition, access, security of content, long-term sustainability of service including funding, etc)*

- provide broad, equitable and ideally open access to content free at the point of use, as appropriate, and respect applicable legal and ethical limitations. They assign persistent unique identifiers to contents *(e.g. DOIs, handles, etc)*, such that the contents *(publications, data and other research outputs)* are unequivocally referenced and thus citeable. They ensure that contents are accompanied by metadata sufficiently detailed and of sufficiently high quality to enable discovery, reuse and citation and contain information about provenance and licensing. Their metadata is machine-actionable and standardized *(e.g. Dublin Core, Data Cite, etc)* preferably using common non-proprietary formats and following the standards of the respective community the repository serves, where applicable

- facilitate mid- and long-term preservation of the deposited material. They have mechanisms or provisions for expert curation and quality assurance for the accuracy and integrity of datasets and metadata, as well as procedures to liaise with depositors where issues are detected. They meet generally accepted international and national criteria for security to prevent unauthorized access and release of content and have different levels of security, depending on the sensitivity of the data being deposited, to maintain privacy and confidentiality.

Licensing requirements and IPR:

Scientific publications must be licensed under the latest available version of a Creative Commons Attribution International Public Licence (CC BY) or an equivalent licence. For monographs and other long-text formats the licence may exclude commercial uses and derivative works (as in CC BY-NC, CC BY-ND or CC BY-NC-ND or equivalent licences).

For more guidance, including an explanatory checklist of the rights conferred by the above licences that will help researchers to understand publisher-equivalent licences, *see the HE Programme Guide*.

Beneficiaries (or authors, where the case) must retain sufficient intellectual property rights to be able to comply with their open access requirements.

⚠ The obligation to ensure open access under the conditions set out in the Grant Agreement precedes any subsequent publishing agreement and is therefore a prior obligation with respect to such agreements.

Best practice: Beneficiaries/authors retain the copyright on their work and grant, insofar as possible, non-exclusive licences to publishers. To facilitate this, beneficiaries should put in place institutional policies to ensure copyright retention by authors and/or beneficiaries and compliance with the open access requirements.

To help you find publishing venues that comply with Horizon Europe open access requirements, you can use:

- the Journal Checker Tool — can help to determine whether a specific publishing venue allows compliance with the open access obligations of Horizon Europe

- the Directory of Open Access Journals — can help to identify full open access journals that allow open access publishing under CC BY or an equivalent licence

- Open Research Europe — open access publishing platform of the European Commission, allows automatic compliance with the Horizon Europe requirements.

Validation requirements:

Information must be given via the repository (or via the copy of the publication deposited in the repository) about any research output or any other tools and instruments needed to validate the conclusions of the scientific publication. Research outputs, tools and instruments

may include data, software, algorithms, protocols, models, workflows, electronic notebooks and others. Information should include a detailed description of the research output/tool/instrument, how to access it, any dependencies on commercial products, potential version/type, potential parameters, etc.

Best practice: It is recommended that open access is provided to these research outputs, tools and instruments — unless legitimate interests or constraints apply.

Metadata requirements:

Metadata should be in line with the FAIR (Findable, Accessible, Interoperable, Reusable) principles. In particular, it should be machine-actionable *(i.e. machine-readable, and automatic computer processing can extract information from the metadata attributes ensuring a cross-linking between different research outputs)* and follow a standardised format, in line with community standards, and should provide rich information on the publication/data *(author(s), publication title, date of publication, publication venue)*; Horizon Europe or Euratom funding; grant project name, acronym and number; licensing terms.

Additionally, metadata must be open access under a Creative Commons Public Domain Dedication (CC0) or equivalent, ensuring its reusability.

⚠ Persistent identifiers (PIDs) *(such as a Digital Object Identifier (DOI) or a handle)* must be provided for the peer-reviewed version of the publication in the first publishing venue *(e.g. journal, book, publishing platform)*; where the peer-reviewed version has been published in a preprint server or a repository as first publishing venue, the PID of that version has to be provided. PIDs also have to be provided for all author(s) involved in the action *(such as ORCIDs or ResearcherIDs)* and, if possible, for their organisations *(such as ROR IDs)* and the grant *(such as grant DOIs)*.

Best practice: It is recommended that researchers apply these requirements for metadata to digital research outputs, including data and other tools and instruments identified as necessary to validate publications.

Visibility, acknowledgment of EU support and disclaimers:

Scientific publications must also acknowledge the EU support and display the European flag (emblem) and funding statement in line with the provisions set out in Article 17 and, where applicable, the special logos set out in Annex 5 *(see specific rules below)*.

Best practice: In addition to the metadata requirements, in order to facilitate the identification of your action and follow-up by the granting authority and your readers/audience, it is recommended to include, within the text of your publication, specific information on the grant *(e.g. project name, acronym, grant agreement number, and/or your project's digital object identifier (project DOI))*.

7. Open science: Research data management *(HE)*

Beneficiaries must manage responsibly the digital research data generated in the action ('data') in line with the FAIR (Findable, Accessible, Interoperable, Reusable) principles. They should also ensure open access to research data via a trusted repository under the principle 'as open as possible, as closed as necessary'.

⚠ Generated data also includes re-used data that have been processed or modified in a systematic or methodical way.

The requirements for research data management apply only to data that are generated in the course of the action. Beneficiaries should also consider re-used data when developing their data management plans (DMPs), if they form part of their research and to the extent possible.

Best practice: Beneficiaries are encouraged to manage research outputs other than publications and research data also in line with the FAIR principles and to adequately describe relevant efforts in the DMP. Other research outputs may include software, algorithms, code, protocols, models, workflows, electronic notebooks among others.

How to meet the research data management and open access requirements:

Beneficiaries must do the following to meet the requirements:

- establish a data management plan (DMP), addressing important aspects of research data management

AND

- deposit the data in a trusted repository and ensure open access through the repository, as soon as possible and within the deadlines set out in the DMP.

Data management plan

Beneficiaries must submit a DMP as a mandatory project deliverable (normally within 6 months after grant signature). An updated DMP deliverable must then be produced mid-project (for projects longer than twelve months) and at the end of the project (where relevant).

The 'data management plan (DMP)' is a document that outlines from the start of the project the main aspects of the lifecycle of research outputs, notably including data. This includes their provenance, organisation and curation, as well as adequate provisions for their access, preservation, sharing, and eventual deletion, both during and after a project.

Writing a DMP is an activity directly linked to the methodology of the research, i.e. good data management will make the work more efficient/save time, contribute to safeguarding information and to increasing the impact and the value of the data among the beneficiaries and others, during and after the research.

Beneficiaries should maintain the DMP as a living document and update it over the course of the project whenever significant changes arise. This includes (but is not limited to) the generation of new data, changes in data access provisions or curation policies, attainment of tasks *(e.g. datasets deposited in a repository, etc)*, changes in relevant practices *(e.g. new innovation potential, decision to file for a patent)*, changes in consortium composition.

Best practice: Beneficiaries are encouraged to encode their DMP deliverables as non-restricted, public deliverables, unless there are reasons *(legitimate interests or other constraints)* not to do so. In the case they are made public, it is also recommended that open access is provided under a CC BY licence to allow a broad re-use.

For more guidance on research data management and making research data FAIR, and for a DMP template, *see the HE Programme Guide*

Deposit and ensure open access through trusted repository

The data must be deposited in a trusted repository, ensuring open access via the repository, as soon as possible and within the deadlines set out in the DMP.

The deposition of the data must take place as soon as possible after data production/generation or after adequate processing and quality control have taken place, providing value and context to the data and at the latest by the end of the project.

This does not entail that data must be made open, but rather that it is deposited so that metadata information is available and hence information about the data is findable. In

exceptional cases in which specific constraints apply *(e.g. security rules)*, deposition can be delayed beyond the end of the project.

Best practice: It is recommended to maintain data available for a substantial period — at least five years, and preferably 10 years or even longer — according to specific needs and/or disciplinary deposition practices, in line with the recommendations of the European Code of Conduct for Research Integrity.

The data includes raw data, to the extent technically feasible, but especially if it is crucial to enable re-analysis, reproducibility and/or data re-use.

Data underpinning a scientific publication should be deposited at the latest at the time of publication, and in line with standard community practices.

For calls with a condition relating to the European Open Science Cloud (EOSC), data must be deposited in trusted repositories that are federated in the EOSC in compliance with the EOSC requirements. A list of the services offered by EOSC, including for storage and processing of research data, can be found on the EOSC Portal.

Open access is required as the default for research data under the principle 'as open as possible, as closed as necessary'. This means that, as an exception, beneficiaries may or must keep certain data closed for justified reasons; they must explain in the DMP the exception(s) under which they choose to (or must) restrict access to some (or all) of the research data.

Acceptable exceptions are: if providing open access is against the beneficiary's legitimate interests, including regarding commercial exploitation; if it is contrary to any other constraints, such as data protection rules, privacy, confidentiality, trade secrets, EU competitive interests, security rules, intellectual property rights or would be against other obligations under the Grant Agreement.

> ***Examples (valid justification):***
>
> ***1.*** *Data which is commercially valuable may be kept closed if making the data open would undermine the exploitation of the data or other results (such as could endanger trade secrets) or make IP protection of results more difficult.*
>
> ***2.*** *Data protection/privacy rules may mean that certain (sensitive) personal data cannot be made open.*
>
> ***3.*** *Security rules may also require closed data. In projects relating to the strategic assets, interests, autonomy or security of the Union, data should to be kept closed if making the data open would put in jeopardy those objectives.*

Licensing requirements:

Research data in open access must be licensed under the latest available version of a Creative Commons Attribution International Public Licence (CC BY) requiring attribution of authorship, or a licence providing equivalent rights, or under a Creative Commons Public Domain Dedication (CC0) or equivalent (which waives any rights to the data). The latter may be appropriate in particular for large datasets that can be more easily re-used without restrictions, or in any other case if authors so desire. A Creative Commons Public Domain Mark (PDM) or equivalent should be applied to raw research data, unless the data meet the requirements to be protected by copyright/database right.

Requirements for the re-use and validation of data:

Information must be given via the repository about any research output or any other tools and instruments needed for the re-use or validation of research data. Research outputs, tools and instruments may include data, software, algorithms, code, protocols, models, workflows, electronic notebooks and others. Information must include a detailed description of the research output/tool/instrument, how to access it, any dependencies on commercial products, potential version/type, potential parameters, etc.

Best practice: Beneficiaries are encouraged to provide open access to these research outputs, tools and instruments — unless legitimate interests or constraints apply.

Metadata requirements:

Metadata should be in line with the FAIR (Findable, Accessible, Interoperable, Reusable) principles. In particular, it should be machine-actionable *(i.e. machine-readable, and automatic computer processing can extract information from the metadata attributes ensuring a cross-linking between different research outputs)* and follow a standardised format, in line with community standards, and should provide rich information on the data *(author(s), dataset description, date of dataset deposit, dataset deposit venue and dataset embargo (if any))*; Horizon Europe or Euratom funding; grant project name, acronym and number; licensing terms.

Additionally, metadata must be open access under a Creative Commons Public Domain Dedication (CC0) or equivalent, to the extent that legitimate interests are safeguarded and constraints are taken into account.

In cases where data is closed but there are no compelling reasons that the related metadata should not be findable and accessible, it is recommended that open access is provided to the metadata of the data, with CC0 public domain dedication or equivalent, if possible, while the dataset itself remains closed.

Persistent identifiers (PIDs) must be provided for the dataset (such as a *Digital Object Identifier* (DOI) or a handle), for all author(s) involved in the action (such as *ORCIDs* or *ResearcherIDs*) and, if possible, for their organisations (such as *ROR* IDs) and the grant (such as grant DOIs).

All the above provisions regarding research data management are also recommended for research outputs other than scientific publications and research data.

Beneficiaries (or researchers, where the case) should retain sufficient intellectual property rights to comply with the research data management requirements and to follow the research output management recommendations.

8. Open science: Additional open science practices *(HE)*

Where the HE work programme/call conditions provide for additional obligations regarding open science practices, those obligations must also be complied with.

Such open science practices can include, where relevant, early and open sharing of research *(for example, through preregistration, registered reports, pre-prints, or crowd-sourcing)*; research output management (beyond publications and data); measures to ensure reproducibility of research outputs; providing open access to research outputs beyond publications and research data *(for example software, models, algorithms, and workflows)*; participation in open peer-review; and involving all relevant knowledge actors including citizens, civil society and end users in the co-creation of R&I agendas and contents *(such as citizen science)*.

Specific cases (open science):

Additional obligations regarding validation of scientific publications — If provided for in the HE work programme/call conditions, beneficiaries must provide (digital or physical) access to data or other results needed for the validation of the conclusions of scientific publications, to the extent that their legitimate interests are safeguarded and constraints are taken into account *(for example through agreements with relevant confidentiality provisions)* and unless they already provided the (open) access at the time of publication.

⚠ This provision is intended to be broadly used and may therefore already be activated generally in the General Annexes of the HE Work Programme for all calls under a given work programme (*e.g. HE Work Programme 2023-2024*).

Additional obligations regarding open science in public emergencies — If the public emergency provisions apply and can be activated on request of the granting authority *(see above for more explanations on additional exploitation obligations in case of public emergencies)*, the requirement regarding immediate open access is extended beyond publications, i.e. to any research outputs as follows:

- Beneficiaries must immediately deposit any research output in a repository and provide open access to it under the latest version of a CC BY licence or having released it via a Public Domain Dedication (CC 0) or equivalent. Immediate means that deposition of the research outputs must take place as soon as feasible, taking into consideration the urgent nature of public emergencies and the care for the public good.

- As an exception, if providing open access would be against their legitimate interests, the beneficiaries must grant non-exclusive licences — under fair and reasonable conditions — to legal entities that need the research output to address the public emergency and commit to rapidly and broadly exploit the resulting products and services on fair and reasonable conditions. This obligation will apply for a period of time specified in the request and up to four years after the end of the action. The duration of this obligation and the fairness and reasonability of the licences will be assessed on a case-by-case basis and will depend on the specific circumstances of the public emergency, the context of each project and the nature of its results.

⚠ This provision is intended to be broadly used and may therefore already be activated generally in the General Annexes of the HE Work Programme for all calls under a given work programme *(e.g. HE Work Programme 2023-2024)*.

In addition to the requirements regarding data management plans (DMPs) outlined above, in the case of a public emergency for which the granting authority has activated the provision by a request made at the stage of the HE work programme/call conditions, the beneficiaries should provide a DMP preferably with the proposal or at the latest before grant signature. The work programme/call conditions may provide for additional obligations in this regard.

ℹ For more guidance on open science practices and how to incorporate them in the action see the *HE Programme Guide*.

9. Plan for the exploitation and dissemination of results including communication activities

Unless the HE work programme/call conditions explicitly state otherwise, proposals must include a first version of the plan for the exploitation and dissemination of results including communication activities. A more detailed plan will then need to be provided as mandatory project deliverable (normally within 6 months after grant signature).

The 'plan for the exploitation and dissemination of results including communication activities' is a document that details the communication, dissemination and exploitation activities that will be carried out in the project to achieve the expected impact.

All measures described in the plan should be proportionate to the scale of the project, and should contain concrete actions to be implemented. Where relevant (and in particular for HE Innovation Actions), the measures should describe a plausible path to commercialise the innovations. If exploitation is expected primarily in non-associated third countries, justify by explaining how that exploitation is still in the EU interest.

This plan must be updated as required under the Grant Agreement (at least once before the end of the project), in alignment with the project's progress. Changes on the dissemination, exploitation and communication activities can be introduced through the Portal Continuous Reporting tool. The last version of the plan before the end of the project must include the dissemination and exploitation activities that the beneficiaries plan to implement in a period up to 4 years after the end the project.

During that period, beneficiaries must continue reporting on the progress of their activities and on the project results through the Portal Continuous Reporting tool, which will remain accessible.

ANNEX 5 SPECIFIC RULES FOR CARRYING OUT THE ACTION *(all programmes)*

SPECIFIC RULES FOR CARRYING OUT THE ACTION (— ARTICLE 18)

…

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules for carrying out the action *(all programmes)*

All programmes have additional rules for carrying out the actions.

Some of these additional rules are standardised (i.e. based on a similar text, *e.g. specific rules for public procurement actions, specific rules for financial support to third parties (FSTP), specific rules for blending operations, etc*). Others are completely customised and programme-specific *(e.g. specific rules for humanitarian aid operations (HUMA), specific rules for ESF actions (ESF), specific rules for information and promotion campaigns for agricultural products (AGRIP)*).

Specific rules for the implementation in case of restrictions due to strategic assets, interests, autonomy or security of the EU and its Member States *(HE, DEP, EDF, CEF-DIG)*

SPECIFIC RULES FOR CARRYING OUT THE ACTION (— ARTICLE 18)

Implementation in case of restrictions due to strategic assets, interests, autonomy or security of the EU and its Member States

Where the call conditions restrict participation or control due to strategic assets, interests, autonomy or security, the beneficiaries must ensure that none of the entities that participate as affiliated entities, associated partners, *[*third parties giving in-kind contributions,*]* subcontractors or recipients of financial support to third parties are established in countries which are not eligible countries or target countries set out in the call conditions (or, if applicable, are controlled by such countries or entities from such countries) —unless otherwise agreed with the granting authority.The beneficiaries must moreover ensure that any cooperation with entities established in countries which are not eligible countries or target countries set out in the call conditions (or, if applicable, are controlled by such countries or entities from such countries) does not affect the strategic assets, interests, autonomy or securityof the EU and its Member States.

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules for the participation in case of restrictions due to strategic assets, interests, autonomy or security of the EU and its Member States (restricted calls) *(HE)*

Where the HE work programme/call conditions restrict participation due to strategic assets, interests, autonomy or security, the beneficiaries must ensure that none of the entities that participate as affiliated entities, associated partners, subcontractors or recipients of financial support to third parties (FSTP) are established in countries which are not eligible countries or target countries set out in the call conditions (or, if applicable, are controlled by such countries or entities from such countries) — unless otherwise agreed with the granting authority.

If applicable (and unless the HE work programme/call conditions provide otherwise), beneficiaries should provide the necessary justification why the involvement of such entities is needed. Thus, if already known at the time of submission, the proposals must clearly indicate that they will involve such entities, i.e. identify (if possible) the entities concerned and justify why their involvement is needed.

The beneficiaries must moreover ensure that any cooperation with entities established in countries which are not eligible countries or target countries set out in the call conditions (or, if applicable, are controlled by such countries or entities from such countries) does not affect the strategic assets, interests, autonomy or security of the EU and its Member States. This includes but is not limited to cooperations that could negatively impact the protection and exploitation of the results.

Specific rules for the recruitment and working conditions for researchers *(HE, RFCS)*

Recruitment and working conditions for researchers

The beneficiaries must take all measures to implement the principles set out in Annex II to the Council Recommendation on a European framework to attract and retain research, innovation and entrepreneurial talents in Europe[60] (from now on 'the European Charter for Researchers'), in particular regarding:

- working conditions
- transparent recruitment processes based on merit, and
- career development.

The beneficiaries must ensure that researchers and all participants involved in the action are aware of them.

[60] Council Recommendation C/2023/1640 of 18 December 2023 on a European framework to attract and retain research, innovation and entrepreneurial talents in Europe, Annex II (OJ C, C/2023/1640, 29.12.2023).

The precise wording of Annex 5 may vary between EU programmes. Make sure to cross-check with the Grant Agreement you have signed!

1. Specific rules for the recruitment and working conditions for researchers *(HE, RFCS)*

The specific rules for the recruitment and working conditions of researchers apply to all Horizon Europe and RFCS actions.

2. Charter for Researchers and Code of Conduct for their Recruitment — Recruitment, working conditions and career development — Rights for the researchers *(HE, RFCS)*

According to these rules, the beneficiaries must take all measures to implement the principles set out in the European Charter for Researchers and the Code of Conduct for their Recruitment[36].

The Charter provides a framework for researchers' activities and career management, and includes obligations for researchers, employers and funders. The Code of Conduct provides for transparency to the recruitment and selection process, ensuring the equal treatment of all applicants. It includes obligations for employers and funders.

[36] Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75/67 , 22.3.2005, p. 67).

⚠ This is a **best effort obligation**: The beneficiaries must be proactive and take specific steps to address conflicts between their policies and practices and the principles set out in the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers.

⚠ Beneficiaries should keep appropriate **documentation** about the steps taken and measures put in place *(see Article 20)*.

The granting authority will verify compliance with this obligation, when monitoring the action implementation and in case of checks, reviews, audits and investigations *(see Article 25)*.

The beneficiaries must in particular implement the general principles and requirements from that relate to recruitment, working conditions and career development.

List of principles (relating to recruitment):

- Recruitment
- Transparency
- Judging merit
- Selection
- Variations in the chronological order of CVs
- Recognition of mobility experience
- Recognition of qualifications
- Seniority
- Postdoctoral appointments

List of principles (relating to working conditions):

- Research freedom
- Accountability
- Non-discrimination
- Working conditions
- Research environment
- Funding and salaries (in particular, adequate social security)
- Stability and permanence of employment
- Gender balance
- Intellectual property rights
- Complaints/appeals and
- Participation in decision-making bodies.

List of principles (relating to career development):

- Career development
- Access to research training and continuous development (independently of the researcher's status)

- Value of mobility
- Access to career advice
- Supervision
- Evaluation/appraisal systems.

The principles relating to recruitments imply that beneficiaries should have a clear policy for recruiting and selecting researchers, which is publicly available and ensures that:

- all research vacancies and funding opportunities are publicly advertised *(e.g. via the EURAXESS Jobs Portal[37])*
- vacancies and funding opportunities are also published in English
- vacancy announcements include a clear job description
- vacancy announcements include the requirements for the position or the funding opportunity, and the selection criteria
- there is an appropriate time period left between publication and the deadline for applications
- there are clear rules for the composition of the selection panels *(e.g. number and role of members, inclusion of experts from other (foreign) institutions, gender balance)*
- adequate feedback is given to applicants
- there is a complaint mechanism
- the selection criteria adequately value mobility, qualifications and experience, including qualifications and experience obtained in non-standard or informal ways.

These principles also apply to selection procedures that do not lead to formal employment relationship *(e.g. award of a research fellowship)*.

For more guidance on researcher rights, *see the Human Resources Strategy for Researchers tool.*

[37] Available at http://ec.europa.eu/euraxess/jobs

Specific rules for access to research infrastructure *(HE)*

[OPTION for all HE and Euratom ToA (except HE IA, HE PCP/PPI, HE ERC Grants, HE EIC Grants and HE EIT KIC Actions): **Specific rules for access to research infrastructure activities**

Definitions

Research Infrastructures —Facilities that provide resources andservices for the research communities to conduct research and foster innovation in their fields. This definition includes the associated human resources, and it covers major equipment or sets of instruments; knowledge-related facilities such as collections, archives or scientific data infrastructures; computing systems, communication networks, and any other infrastructure, of a unique nature and open to external users, essential to achieve excellence in research and innovation. Where relevant, they may be used beyond research, for example for education or public services, and they may be 'single-sited', 'virtual' or 'distributed'[61]:

When implementing access to research infrastructure activities, the beneficiaries must respect the following conditions:

- for transnational access:
  - access which must be provided:

    The access must be free of charge, transnational access to research infrastructure or installations for selected user-groups.

    The access must include the logistical, technological and scientific support and the specific training that is usually provided to external researchers using the infrastructure. Transnational access can be either in person (hands-on), provided to selected users that visit the installation to make use of it, or remote, through the provision to selected user-groups of remote scientific services (e.g. provision of reference materials or samples, remote access to a high-performance computing facility).
  - categories of users that may have access:

    Transnational access must be provided to selected user-groups, i.e. teams of one or more researchers (users).

    The majority of the users must work in a country other than the country(ies) where the installation is located (unless access is provided by an international organisation, the Joint Research Centre (JRC), an ERIC or similar legal entity).

    Only user groups that are allowed to disseminate the results they have generated under the action may benefit from the access (unless the users are working for SMEs).

    Access for user groups with a majority ofusers not working in a EU Member State or Horizon Europe associated countryis limited to 20% of the total amount of units of access provided under the grant (unless a higher percentage is foreseen in Annex 1).
  - procedure and criteria for selecting user groups:

    The user groups must request access by submitting (in writing) a description of the work that they wish to carry out and the names, nationalities and home institutions of the users.

    The user groups must be selected by (one or more) selection panels set up by the consortium.

    The selection panels must be composed of international experts in the field, at least half of them independent from the consortium (unless otherwise specified in Annex 1).

    The selection panels must assess all proposals received and recommend a short-list of the user groups that should benefit from access.

    The selection panels must base their selection on scientific merit, taking into account that priority should be given to user groups composed of users who:

[61] See Article 2(1) of the Horizon Europe Framework Programme Regulation 2021/695.

- have not previously used the installation and
- are working in countries where no equivalent research infrastructure exist.

It will apply the principles of transparency, fairness and impartiality.

Where the call conditions impose additional rules for the selection of user groups,the beneficiaries must also comply with those.

- other conditions:

The beneficiaries must request written approval from the granting authority for the selection of user groups requiring visits to the installations exceeding 3 months (unless such visits are foreseen in Annex 1).

In addition, the beneficiaries must:

- advertise widely, including on a their websites, the access offered under the Agreement
- promote equal opportunities in advertising the access and take into account the gender dimension when defining the support provided to users
- ensure that users comply with the terms and conditions of the Agreement
- ensure that its obligations under Articles 12, 13, 17 and 33 also apply to the users
- keep records of the names, nationalities, and home institutions of users, as well as the nature and quantity of access provided to them

- for virtual access:
  - access which must be provided:

    The access must be free of charge, virtual access to research infrastructure or installations.

    'Virtual access' means open and free access through communication networks to digital resources and services needed for research, without selecting the users to whom access is provided.

    The access must include the support that is usually provided to external users.

    Where allowed by the call conditions, beneficiaries may in justified cases define objective eligibility criteria (e.g. affiliation to a research or academic institution) for specific users.

  - other conditions:

    The beneficiaries must have the virtual access services assessed periodically by a board composed of international experts in the field, at least half of whom must be independent from the consortium (unless otherwise specified in Annex 1). For this purpose, information and statistics on the users and the nature and quantity of the access provided, must be made available to the board.

    The beneficiaries must advertise widely, including on a dedicated website, the access offered under the grant and the eligibility criteria, if any.

    Where the call conditions impose additional traceability[62] obligations, information on the traceability of the users and the nature and quantity of access must be provided by the beneficiaries.

These obligations apply regardless of the form of funding or budget categories used to declare the costs (unit costs or actual costs or a combination of the two).]

[62] According to the definition given in ISO 9000, i.e.: "Traceability is the ability to trace the history, application, use and location of an item or its characteristics through recorded identification data."The users can be traced, for example, by authentication and/or by authorization or by other means that allows for analysis of the type of users and the nature and quantity of access provided.

1. Specific rules for access to research infrastructure activities *(HE)*

The specific rules for access to research infrastructure activities apply to Horizon Europe actions involving transnational and/or virtual access to research infrastructure for scientific communities (in particular calls under Part III of the HE Work Programme, 'Research infrastructures').

⚠ The specific rules in Annex 5 apply independently of the cost form chosen by the beneficiary (unit cost or actual cost; *see Article 6.2.D.3 and 6.2.D.4*).

2. Transnational access to research infrastructure *(HE)*

Grants including this type of activity usually reimburse — for the provision of transnational access — the following types of costs:

- 'access costs' (i.e. the operating costs of the research infrastructure or installation and costs related to logistical, technological and scientific support for users, including ad-hoc user training and the preparatory and closing activities needed to use the installation)
- 'users' travel and subsistence costs
- costs of advertising the transnational access offered under the action
- costs related to the selection procedure *(e.g. the selection panel members' travel and subsistence costs, logistical costs of meetings, fees, etc.)*
- costs of preparing the detailed access activity information that must be included in the periodic technical reports. For this purpose, beneficiaries should keep records of the names, nationalities and home institutions of users, as well as the nature and quantity of access provided to them.

'Installation' means a part or a service of a research infrastructure that could be used independently from the rest. A research infrastructure consists of one or more installations.

The access costs (first indent) may be declared as unit costs, actual costs or — under certain conditions — as a combination of the two *(see HE RI authorising decision[38])*, while the other costs in this list (users' travel and subsistence, advertisement, selection, reporting, etc) must be declared as actual costs *(see Article 6)*.

If the access costs are declared as *unit cost*, they must be declared under the budget category 6.2.D.3 Transnational access to research infrastructure unit costs. They must fulfil the general eligibility conditions and the specific conditions for that budget category *(see Article 6.2.D.3)*.

If they are declared as *actual costs*, they must be declared under the other budget categories *(see Article 6)*. They must fulfil the general eligibility conditions and the specific conditions for

[38] Decision of 19 April 2021 authorising the use of unit costs for the costs of providing transnational and virtual access in Research Infrastructure actions.

the type of cost in question *(e.g. costs for other goods and services must also fulfil the specific eligibility conditions for the cost category C.3 Other goods, works and services)*.

Capital investments *(i.e. equipment costs for renting, leasing, purchasing depreciable equipment, infrastructure or other assets)* will NOT be reimbursed , unless provided for in the HE work programme/call conditions *(see also Article 6.2.D.3)*.

Transnational access must be measured (in 'units of access').

The units of access for the various installations must be specified in Annex 1 of the Grant Agreement. A unit of access will always be specified for each installation (regardless whether the access costs are declared as unit cost or actual costs).

> ***Examples (units of access):*** *Per beam-hour for a synchrotron; per night for a telescope; per number of frozen embryos for a mouse repository; per week of access for a historical archive; per campaign-day for a research vessel.*

Detailed information on the provision of access activity must be described in the periodic technical reports.

> ⚠ **Record-keeping —** The beneficiaries must keep appropriate records and supporting documentation to justify the number of units of transnational access for which they declare costs, including:
>
> - users' names, nationalities and home institutions
> - the nature and quantity of access and provided to them
> - the number of units of access provided.
>
> This information must be included in the periodic reports to the granting authority.

3. Transnational access which must be provided *(HE)*

Transnational access can be either:

- in person (hands-on), provided to selected users that visit the installation or
- remote, through the provision to selected users of remote scientific services.

Remote transnational access requires competitive selection of the users to be served under the Grant Agreement, since it always applies to resources that are not unlimited *(e.g. computing hours on a supercomputer or remote analysis of a sample)*. It is thus different from virtual access, for which selection of users is NOT required.

> ***Examples (remote access):*** *provision of reference materials or samples (e.g. shipping of a virus strain); performing a remote sample analysis or sample deposition; remote access to a high-performance computing facility.*

Transnational access must be given to selected user groups (free of charge).

4. Categories of users that may have transnational access — Limited access for special user groups *(HE)*

For transnational access, the majority of the users, in a user team applying for access, must work in a country other than the country(ies) where the installation is located (— unless access is provided by an international organisation, the European Commission Joint Research Centre (JRC), a European Research Infrastructure Consortium (ERIC) or similar legal entity with international membership).

Only user groups that are allowed to disseminate the results they will generate under the action may benefit from the access (— unless the users are working for SMEs).

User groups in which all or most users work in non-associated **third countries** may ONLY have access for up to 20 % of the total number of units of access provided under the grant.

The consortium should itself define whether this 20% limit is uniformly applied to the different installations or some installations may be used more than others. This should be done in the consortium agreement.

Specific cases:

Distributed research infrastructure — In the case of distributed research infrastructures, the exemption for the user origin/location applies to ALL installations providing services under the umbrella of the research infrastructure *(e.g. the ERIC)*, even if owned/operated by a different legal entity *(e.g. local/national node of an ERIC)*. In this case, all concerned installations must be clearly listed in the proposal as being part of the same research infrastructure benefitting from the exemption *(e.g. the ERIC)* and the distributed research infrastructure *(e.g. ERIC)* must be a beneficiary. Beneficiaries must keep evidence that the access to these installations or to their services are part of the offer of the distributed infrastructure *(e.g. service level agreements, other agreements)*.

With regard to related installations operated by another legal entity *(e.g. local/national node of an ERIC)*, this legal entity participate as:

- an affiliated entity to the research infrastructure
- another beneficiary if also carrying out other tasks in the project not under the umbrella of the research infrastructure
- a third party to which the research infrastructure is purchasing access services excluding any profit margin *(see Article 6.2.C)*
- a third party providing in-kind contributions free of charge

  depending on the statutes of the research infrastructure, the agreements with its nodes, the expected level of use of the concerned installations and any other relevant implementation aspects.

5. Selection procedure with a selection panel (transnational access) *(HE)*

For transnational access, access providers must set up a common selection panel that regularly evaluates the applications for access and recommends a shortlist of the user groups that will benefit from access.

If justified, access providers may use several different selection sub-panels.

> ***Example:*** *Different thematic selection sub-panels could be set up for a set of analytical facilities serving multidisciplinary communities.*

6. Extension of obligations under the Grant Agreement to users — Controls, impact evaluation (transnational access) *(HE)*

The beneficiaries must ensure that users comply with the terms and conditions of the Grant Agreement.

It is the beneficiaries' responsibility to ensure that these obligations are respected by the users *(e.g. through the agreement for the use of the research infrastructure, i.e. Terms and conditions for use).*

They cover in particular the obligations regarding controls and assessment. Thus, the beneficiaries must ensure that the granting authority, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to carry out checks, reviews, audits

and investigations on the users *(see Article 25)*, and in particular to audit proper implementation of action tasks. If access is denied by the user, the costs will be rejected.

They must also ensure that the granting authority has the right to make an evaluation of the impact of the action under Article 26.

7. Extension of obligations under the Grant Agreement to users — Conflicts of interest, confidentiality, visibility, liability (transnational access) *(HE)*

For transnational access, the beneficiaries must also ensure that the users comply with certain other obligations under the Grant Agreement.

Obligations that must be extended to users:

- Avoiding conflicts of interest *(see Article 12)*
- Maintaining confidentiality *(see Article 13)*
- Promoting the action and give visibility to the EU funding *(see Article 17)*
- Liability for damages *(see Article 33)*.

It is the beneficiaries' responsibility to ensure that these obligations are accepted by the users.

8. Virtual access to research infrastructure *(HE)*

Virtual access applies to digital resources and services needed for research that are available through communication networks.

Grants including this type of activity usually reimburse — for the provision of virtual access— the following types of costs:

- 'access costs' (i.e. the operating costs of the installation during the course of the action and costs related to technological and scientific support for users access *(e.g. a helpdesk)*
- costs of advertising virtual access offered under the action
- costs related to the assessment carried out by the board of international experts *(e.g. costs of organising a board meeting)*
- costs of preparing the detailed access activity information that must be included in the periodic technical reports and the assessment report *(see below point 3)*.

The access costs (first indent) may be declared as unit costs, actual costs or — under certain conditions — as a combination of the two *(see HE RI authorising decision[39])*, while the other costs in this list (users' travel and subsistence, advertisement, selection, reporting, etc) must be declared as actual costs *(see Article 6)*.

If the access costs are declared as *unit cost*, they must be declared under the budget category 6.2.D.4 Virtual access to research infrastructure unit costs. They must fulfil the general eligibility conditions and the specific conditions for that budget category *(see Article 6.2.D.4)*.

[39] Decision of 19 April 2021 authorising the use of unit costs for the costs of providing transnational and virtual access in Research Infrastructure actions.

If they are declared as *actual costs*, they must be declared under the other budget categories *(see Article 6)*. They must fulfil the general eligibility conditions and the specific conditions for the type of cost in question *(e.g. costs for other goods and services must also fulfil the specific eligibility conditions for the cost category C.3 Other goods, works and services)*.

Capital investments *(i.e. costs of renting, leasing, purchasing depreciable equipment, infrastructure or other assets)* will NOT be reimbursed, unless provided for in the HE work programme/call conditions *(see also Article 6.2.D.4)*. In this case only the portion used to provide virtual access under the project is eligible.

Virtual access must be measured (in 'units of access').

The units of access for the various installations be specified in Annex 1 of the Grant Agreement. A unit of access will always be specified for each installation (regardless whether the access costs are declared as unit cost or actual costs).

When allowed by the call conditions and in well justified cases, the grant proposal can also define objective eligibility criteria *(e.g. affiliation to a research or academic institution)* for the users to whom access will be provided under the grant.

Detailed information on the provision of access activity must be described in the periodic technical reports, including statistics on all users in the reporting period compiled through web analytical tools.

9. Virtual access which must be provided *(HE)*

Since virtual access applies to digital resources and services available through communication networks (i.e. resources that are unlimited available), the users do NOT have to undergo a formalised selection procedure (this, together with the transnationality of users, is the main difference between virtual and transnational access).

Access provided must be free of charge for users.

Example: *Access to a database available on the internet*.

10. Periodic assessment by a board of international experts (virtual access) *(HE)*

For virtual access, the access services must be regularly assessed by a board of international experts, at least half of whom must be independent from the consortium (unless otherwise specified in Annex 1).

At least two assessments are usually carried out during the course of an action.

The assessment reports must already be foreseen in the proposal (as deliverables; *see HE RI application form*) and be included in Annex 1 of the Grant Agreement.

Specific rules for PCP and PPI procurements *(HE)*

[OPTION for HE PCP-PPI: **Specific rules for PCP and PPI procurements**

When implementing procurements in Pre-commercial Procurement (PCP) or Public Procurement of Innovative Solution (PPI) actions,the beneficiaries must respect the following conditions:

- avoid any conflict of interest and comply with the principles of transparency, non-discrimination, equal treatment, sound financial management,proportionality and competition rules
- assign the ownership of the intellectual property rights under the contracts to the contractors (for PPI procurements: unless there are exceptional overriding public interests which are duly justified in Annex 1), with the right of the buyers to access results —on a royalty-free basis—for their own use and to grant (or to require the contractors to grant) non-exclusive licences to third parties to exploit the results for them —under fair and reasonable conditions —without any right to sub-license
- allow for all communications to be made in English (and any additional languages chosen by the beneficiaries)
- ensure that prior information notices, contract notices and contract award notices contain information on the EU funding and a disclaimer that the EU is not participating as contracting authority in the procurement
- allow for the award of multiple procurement contracts within the same procedure (multiple sourcing)
- for procurements involving classified information: apply the security rules set outin Annex 5 mutatis mutandis to the contractors and the background and results of the contracts
- where the call conditions restrict participation or control due to strategic assets, interests, autonomy or security reasons: apply the restrictions set out inAnnex 5 mutatis mutandis to the contractors and the results under the contracts
- where the call conditions impose a place of performance obligation: ensure that the part of the activities that is subject to the place of performance obligation is performed in the eligible countries or target countries set out in the call conditions
- to ensure reciprocal level of market access: where the WTO Government Procurement Agreement (GPA) does not apply, ensure that the participation in tendering procedures is open onequal terms to bidders from EU Member States and all countries with which the EU has an agreement in the field of public procurement under the conditions laid down in that agreement, including all Horizon Europe associated countries. Where the WTO GPA applies, ensure that tendering procedures are also open to bidders from states that have ratified this agreement, under the conditions laid down therein. *]*

1. Specific rules for PCP and PPI procurements *(HE)*

These specific provisions apply to HE PCP and PPI types of action (i.e. calls with PCP/PPI ToA).

They summarise the key requirements from General Annex H of the HE Work Programme for the beneficiaries that are part of the buyers group (procurers).

⚠ Formally speaking, the **Annex 5** provisions apply ONLY for calls that run as PCP/PPI type of action (i.e. where also the specific cost category in Article 6.2.D.5 applies).

⚠ Other types of calls *(RIA, IA, CSA, etc)* are NOT subject to Annex 5 (nor to Article 6.2.D.5) — even if projects should include PCP or PPI activities. For them, the PCP/PPI activities must be handled as subcontracting in accordance with Article 6.2.B and Article 9.3.

⚠ However, for BOTH groups, the detailed provisions in General Annex H of the HE Work Programme apply. If you plan to implement PCP or PPI activities in a Horizon Europe action, you should therefore always first look at the General Annex.

ℹ For general guidance on PCP/PPI types of action in HE, *see How to set up and manage HE PCP and PPI grants, HE Programme Guide > Innovation Procurement* and *General Annexes B and H of the HE Work Programme*.

2. Conflict of interest *(HE)*

The beneficiaries must avoid potential conflicts of interest in the preparation and implementation of **PCP/PPI procurements**.

'Conflict of interests' means any situation where the impartial and objective implementation of the Agreement could be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect interest *(*see *Article 12)*.

Therefore, entities that could have a potential conflict of interest with the PCP/PPI procurement should in principle NOT be involved in the EU grant.

Thus, for instance potential providers of solutions can NOT participate as beneficiaries, affiliated entities or associated partners in the EU grant. They can also NOT be used as external experts, consultants or subcontractors for tasks to help prepare and/or manage the PCP/PPI procurement *(e.g. tasks for preparing the open market consultation and/or tender specifications, evaluation of tenders, management of the procurement procedure)*.

Entities that are not potential providers, but which represent such providers *(e.g. industry / research associations or funding agencies, standardisation fora / bodies)* can participate but must take specific measures to ensure avoidance of conflict of interest. They must, for instance, ensure that:

- the activities are performed in an impartial, independent way by their own staff (not by staff of the providers)
- any interactions with providers are done in a non-discriminatory way (ensuring equal treatment of 'all' providers, without giving any preferential treatment to those providers that are represented by the entity).

3. Transparency — Communications in English — Equal treatment and non-discrimination of tenderers and providers *(HE)*

The beneficiaries must comply with the principles of transparency, non-discrimination and equal treatment.

⚠ Additional transparency requirements (including timing and exceptions) are set out in General Annex H of the HE Work Programme.

Note: Regarding deadlines for publication of notices, we will consider as the 'date of publication' the date when you submitted the notice to the OJEU Publication Office.

The transparency requirements apply both before, during and after the end of the **PCP/PPI procurement**. They aim to ensure that all potentially interested providers are informed well

in advance to be able to make an offer and to disseminate the results of the PCP/PPI procurement in line with the Horizon Europe policy on dissemination.

The public procurers must, in particular:

- publish prior information notices for the open market consultation (PINs), contract notices and contract award notices in the OJEU (TED)
- at the end of the PCP/PPI tender evaluation (for PCP, also for each phase) provide to the granting authority:
  - information on the total number of bids received, winning tenderer(s) and abstracts of their project(s) (template) — *public deliverable; will be published by the granting authority*
  - final ranking list of the selected projects, final scores and qualitative assessment per criterion for each bid received, minutes of the evaluation meeting — *non-public deliverable*
- at the end of the action:
  - give a demonstration to the granting authority of the tested solutions (PCP), respectively the deployed innovative solution(s) (PPI)
  - assessment by the procurers of the results achieved by each tenderer (for PCPs, also after each phase) (template) — *public deliverable; will be published by the granting authority*

⚠ Additional requirements for the PINs, contract notice and contract award notices (including timing and exceptions) are set out in the General Annex H of the HE Work Programme.

In order to foster wide participation of potential providers from across Europe, the procurement procedure must be done at least in English. In addition to English, you can also choose to allow other languages.

⚠ This obligation applies not only to the language(s) used by the public procurers for publication of the PINs, contract notice and contract award notice, the tender specifications and contracts, but also to the language(s) that tenderers are allowed to use for the submission of questions and offers.

The beneficiaries must ensure non-discrimination and equal treatment of all tenderers, throughout the preparation and implementation of the procurement.

They must pay particular attention to:

- keep market consultations open to all tenderers
- evaluate all offers according to the same objective criteria, regardless of the geographical location, size of organisation or governance structure of the tenderers

⚠ It is therefore NOT possible to **restrict the access** or **give preferential access** to:

- tenderers from your specific country, region or city

- startups or SME type solution providers

- tenderers with a specific governance structure *(e.g. stock listed vs non-stocklisted companies, foundations, NGOs, research organisations, etc).*

- not to provide information in a discriminatory manner that may give some tenderers/providers an advantage over others
- not to reveal confidential information communicated by a tenderer/provider without their explicit agreement.

⚠ This can be ensured by including appropriate provisions for communication and confidentiality of information in the open market consultation and call for tender documents.

For more guidance and templates for the tender documents to be used in HE, *see How to set up and manage HE PCP and PPI grants*.

4. Intellectual property rights *(HE)*

Results generated by the beneficiaries follow the standard rules on IPR in Article 16 and Annex 5.

For results generated by **PCP/PPI procurement** providers, the ownership of the IPR must be assigned to the providers (for PPI procurements: unless there are exceptional overriding public interests which are duly justified in the DoA Annex 1).

For **PCP procurements**, the beneficiaries must reserve the rights to:

- enjoy royalty-free access rights to the R&D results for their own use
- grant themselves (or to require the providers to grant) non-exclusive licences to third parties, to exploit the results for them under fair and reasonable market conditions, without any right to sub-license

  This right serves as a safeguard to ensure continuity of service and a competitive supply chain (during or after the action). It does NOT mean that every PCP provider will always and automatically be obliged to grant licences to third parties to exploit the results.

  Example (licences needed): *Other providers working for the procurers need access to the IPR to work for the procurers. A PCP provider abuses its monopoly situation in the commercialisation of products resulting from the PCP and, in order to ensure a competitive supply chain, the procurers need another provider on the market to be able to supply them the products.*

  The right is only allocated to the procurers (not to third parties directly) and only applies to cases when licensing to third parties is needed to exploit the results 'for the procurers' (not for other potential customers). Therefore, the provision does NOT give competitors of the PCP providers any rights to require the procurers and/or PCP providers to grant them licences to exploit the results. The provision also does NOT give the procurers any rights to grant (or require the PCP providers to grant) licences to third parties to exploit the results for 'other markets' beyond the procurers. The licensing must ensure also that the PCP provider is financially compensated under fair and reasonable market conditions.
- require the provider to transfer ownership of the results to them, if the provider uses the results to the detriment of the public interest (including security interests) or fails to commercially exploit the results within a given period after the PCP as fixed in the PCP contract (call back provision)

  This right serves as a safeguard to prevent abuse of results and ensure commercial exploitation of results in the public interest, in case the PCP providers fail to do so themselves. It can be exercised after consultation with the PCP on the reasons for why this happened. By obtaining the IPR ownership, the public procurers can ensure

commercial exploitation of the results in line with the public interest. It will be for exceptional cases.

Example (call-back needed): *A PCP provider is winding up its business or decides to stop the production line that commercialises the PCP results. A PCP provider abuses security related results, for example to hack public services.*

- to publish public summaries of the results of the PCP procurement, including information about key R&D results attained and lessons learnt *(e.g. on the feasibility of the solution approaches to meet the requirements and lessons learnt for potential future deployment of solutions)*.

  Details that would be contrary to the public interest, would harm legitimate business interests *(e.g. regarding IPR-protected specificities of their individual approaches to solutions)* or could distort fair competition may not be disclosed.

  To see what is normally published, *see the templates for PCP-PPI Contractor details and abstracts and End of phase and end of project results and conclusions for PCP-PPI.*

This allows to optimise the conditions for the PCP providers to pursue wide exploitation of results and for the procurers to use the results without supplier lock-in, while ensuring that the PCP procurement complies with the conditions for its exemption from the EU Public Procurement Directives and from the international procurement agreements between the EU and third countries.

If additional exploitation obligations apply, the beneficiaries must moreover ensure that the **PCP/PPI procurement** call for tender documents comply with these obligations.

Example:

1. *Due to strategic assets, interests, autonomy or security reasons, the call conditions may require that PCP/PPI providers commercialise the majority of the results in EU Member States.*

2. *Due to strategic assets, interests, autonomy or security reasons, the call conditions may restrict the participation to the action to entities that are established in (and controlled from) EU Member States. Annex 5, stipulates that in the case, the beneficiaries (in particular the procurers carrying out the PCP/PPI) as well as the PCP/PPI providers may NOT transfer ownership of their results or grant licences to third parties which are not established (and, if applicable, are not controlled from) EU Member States — unless they have requested and received prior approval by the granting authority.*

Finally, for all **PCP/PPI procurements**, the allocation of the IPR to the providers must be factored into the tender price. This will allow to obtain the best value for money price according to market conditions (and rule out State aid).

For more guidance and templates for the tender documents to be used in HE, *see How to set up and manage HE PCP and PPI grants.*

5. Multiple sourcing *(HE)*

For **PCP procurements**, the use of multiple sourcing is obligatory, because pre-commercial is per definition a procurement approach that awards multiple procurement contracts for R&D services to multiple tenderers within the same procedure, in order to compare and test potential alternative solution approaches from different providers in parallel.

For **PPI procurements**, the use of multiple sourcing is optional, unless the call conditions explicitly require it. Although multiple sourcing requires higher upfront investment from the buyers in terms of procurement budget and effort needed to monitor the contracts, multiple sourcing can be useful for the deployment of solutions in PPIs for a number of reasons:

- security reasons: multiple sourcing can be needed to guarantee the required security levels and assurances in the supply of goods or services

- security of supply: multiple sourcing removes the dependency on only one supplier to deliver all solutions and can guarantee that there is at all times security of supply of sufficient solutions. This may be vital where a steady, reliable supply of products/services is needed but the supply chain is fragile and the risk is too big to rely on one supplier only to deliver all required solutions *(e.g. supply of COVID vaccines)*

- strategic autonomy: multiple sourcing can reduce the dependency on non-European providers for example by awarding the same contracts to both European and non-European providers. This can be vital in situations of geopolitical tensions or uncertainty

- continuity of service: solution/technology redundancy guarantees that if one solution of one provider crashes/fails, another can immediately take over

  Example: *Since so many public services run these days on digital networks, ICT networks typically install nodes from different competing providers and load balancing ensures that if there is a technical failure in nodes from one provider, nodes from other providers that are implemented differently can immediately take over the task and there is no service disruption.*

- complementarity of solutions: when none of the solutions of different providers works on its own in all circumstances, and the simultaneous deployment of different solutions from different providers is needed to cover all the possible situations that may occur

  Example: *If a harbour wants to track goods across the full supply route, solutions based on sensors, camera's, optical scanners, satellite images can all detect movement of goods in different situations, but none of them covers all situations (indoor versus outdoor, short versus long range, high versus low accuracy). If there is no provider on the market with and end-to-end solution that can address all situations and requirements, the best way forward may be to buy and install simultaneously different solutions that use alternative technologies from different providers.*

- better value for money: by awarding the same contract to multiple providers, the level of competition is maximised. If the performance of one of the providers drops significantly, the public buyer will immediately notice and there is no hurdle for him to switch immediately to one of the other providers. If the performance of one provider significantly increases, the buyer can immediately ask the other providers why they are not performing at the same level. This competition can incentivize providers to continue to improve their level of performance and reduce their prices over time in order to remain among the best of the pack.

6. Extension of obligations under the Grant Agreement to providers — Security related obligations *(HE)*

Actions that involve security issues must apply the security rules set out in Annex 5 mutatis mutandis to the **PCP/PPI procurement** providers, the background and results of the PCP/PPI contracts.

These security rules will impact the preparation and implementation of the PCP/PPI. The procurers must ensure that the whole process *(market consultation, preparation of the tender documents, evaluation of tenders, award and performance of the contracts)* respects the security rules.

For PCP/PPIs involving classified information, the beneficiaries need to ensure that throughout the whole process all involved staff on the side of the participating providers, subcontractors and procurers and other involved beneficiaries have the required security clearances, and that all communications and deliverables are submitted and handled according to the applicable rules for handling classified information.

In addition, the security rules may impact the procurement procedures in terms of limiting the information that be disclosed (both in terms of IPR, deliverables of the procurement, dissemination activities), limiting the providers that can participate (both to the market consultation and the call for tenders) and limiting the allowed subcontracting. All these aspects require also prior written explicit approval of the EU granting authority.

PCPs/PPIs involving dual-use goods or dangerous materials and substances must comply with applicable EU, national and international law on handling these items, and the procurers must ensure that PCP/PPI providers deliver them the required export or transfer licences.

In case the Grant Agreement includes security recommendations that affect the PCP/PPI procurement, the beneficiaries must ensure that the open market consultation and tender documents comply with the recommendation.

For more guidance and templates for the tender documents to be used in HE, *see How to set up and manage HE PCP and PPI grants*.

7. Extension of obligations under the Grant Agreement to providers — Restrictions on participation and/or control *(HE)*

If, due to strategic assets, interests, autonomy or security reasons, the call conditions restrict the participation to beneficiaries that are established in (and controlled from) eligible countries, for example EU Member States only, , only procurers established in (and controlled from) EU Member States are allowed to carry out the **PCP/PPI procurement**. Procurers established in (and controlled from) third countries are NOT allowed to participate in the action.

For such calls, the beneficiaries must apply the restrictions also to the contractors. For this, the procurers must ensure that the PCP/PPI call for tender documents restrict participation to bidders/providers established in the eligible countries. Other bidders/providers cannot participate.

> ***Example:*** *Due to security reasons, the call conditions may require that the participation to the PPI grants under the call is restricted to procurers from EU Member States (e.g. because the call concerns solutions with potentially security sensitive products/solutions. The buyers group must then incorporate provisions in its PPI call for tender documents that ensure that for the lots of the PPI procurement that are concerned (i.e. involve the deployment of security sensitive products/solution components), the participation is limited to bidders/providers that are established in and controlled from EU Member States. For lots that are not concerned (i.e. do not involve the deployment of security sensitive products/solution components), the participation should remain open to providers from all countries with which the EU has an international agreement on public procurement under the conditions provided by that agreement.*

8. Place of performance obligation *(HE)*

Where the call conditions impose a place of performance obligation, the beneficiaries must ensure that the part of the **PCP/PPI procurement** activities that is subject to the place of performance obligation is performed (by the providers and their subcontractors) in the eligible countries or target countries set out in the call conditions

⚠ For **PCP**, a more general **minimum condition** regarding place of performance is also set out in the General Annex H of the HE Work Programme, i.e. That the majority (i.e. at least 50%) of the activities performed for the PCP contract as well as the principle R&D staff must be located in EU Member States or HE associated countries.

The 'activities performed for the PCP contract' include R&D and operational activities (e.g. research, development, testing, certifying solutions, etc).

The 'principal R&D staff' are the main researchers, developers and testers responsible for leading the R&D activities covered by the contract.

For **PPI**, the minimum condition doesn't apply since PPI procurements are typically subject to the WTO GPA and other international procurement agreements.

Example (PCP): *For projects in the field of security, the call conditions may specific for example that 100% of the R&D work performed for the PCP contract on security components of the solution as well as all the principle R&D staff working on security components must be located in the EU Member States. The EU Member States are then the target countries for this additional place of performance obligation. The procurers in the action must then ensure that their PCP call for tender documents include not only the minimum place of performance obligation but also include the above additional place of performance obligation. This will ensure that PCP providers and their subcontractors implement minimum 50 % of all activities — including the non-security activities — of the PCP in the EU Member States and HE associated countries and 100% of the R&D work for the security components of the solution in the EU Member States.*

Example (PPI): *For projects in the field of security, the call conditions may specific for example that 100% of the work for the PPI contract must be performed — and all the staff working on the PPI contract must be located — in the EU Member States (or even in certain specific EU Member States). The EU Member States listed in this obligation are then the target countries of this place of performance obligation.*

If a place of performance obligation applies, the beneficiaries must require PCP/PPI providers to comply with it, including when they subcontract work.

The PCP/PPI call for tender documents and the procurement contract must clearly set out this obligation and must require that it is passed on to subcontractors.

9. Market access for bidders from non EU countries — WTO GPA — International agreements on public procurement *(HE)*

To ensure reciprocal level of market access, beneficiaries must ensure that where the WTO Government Procurement Agreement (GPA) does not apply, the participation in tendering procedures is open on equal terms to bidders from EU Member States and all countries with which the EU has an agreement in the field of public procurement under the conditions laid down in that agreement, including all HE associated countries. Where the WTO GPA applies, ensure that tendering procedures are also open to bidders from states that have ratified this agreement, under the conditions laid down therein.

PCP procurements are generally exempt from the WTO GPA and all other agreements on public procurement between the EU and third countries because they are for R&D services contracts (i.e. contracts with the objective to provide R&D services). Access to PCP procurements can therefore be limited to PCP providers from the EU Member States and HE associated countries (— and even restricted further in case of restricted calls due to strategic assets, interests, autonomy or security reasons).

PPI procurements are generally not exempt from the WTO GPA and the other agreements on public procurement between the EU and third countries. Access to PPI procurements must therefore normally be open also to tenderers from third countries that are parties to the WTO GPA or with whom the EU has an agreement on public procurement, under the conditions specified in those agreements (— except for calls that are restricted due to strategic assets, interests, autonomy or security reasons, provided that the restriction also falls under a

specific exemption in those agreements, *e.g. exemptions for public security and public health*).

International agreements on public procurement usually also contain non-discrimination obligations. Country of origin and other local content restrictions are thus only allowed in PCP/PPI procurements if they fall under an exception/exemption of these agreements *(e.g. for PCPs: all PCPs are exempted, for PPIs: only limited exemptions exist, e.g. for security and public health)*.

Example:

1. *Due to the exceptional situation on public health created by the corona pandemic, COVID-19 vaccine procurement contracts may currently contain provisions requiring that vaccine production takes place in the EU Member States and that essential components are sourced from the EU Member States.*

2. *Due to exemptions for the utilities sector, public buyers in the utilities sector can reject tenders for supply contracts when more than 50% of the products come from third countries with which the EU does not have an international (WTO GPA or bilateral) agreement on public procurement.*

3. *Due to the exemption for PCP procurements, PCP procurements can require that essential components for developing, testing and commercialising the solution are sourced from the EU Member States and the countries associated to Horizon Europe as well as that the PCP providers locate minimum 50% of the production of products and/or the provisioning of services that result from the PCP in the EU Member States and the countries associated to Horizon Europe. If required, e.g. due to security or public health reasons, this requirement could be restricted to EU Member States.*

Specific rules for Co-funded Partnerships *(HE)*

[OPTION for HE and Euratom Programme Cofund actions: **Specific rules for Co-funded Partnerships**

When implementing financial support to third parties in Co-funded Partnerships, the beneficiaries must respect the following conditions:

- avoid any conflict of interest and comply with the principles of transparency, non-discrimination and sound financial management
- for the types of activity and categories of persons that will be supported:
    - for multi-beneficiary projects (including multi-participant projects): the projects supported must be transnational, involving at least two independent legal entities from two different EU Member States or Horizon Europe associated countries as recipients of the financial support and may also include legal entities established in a non-associated third countries not receiving financial support
    - for mono-beneficiary projects (multi-participant projects): the projects supported must be transnational, involving one legal entity established in an EU Member State or Horizon Europe associated country as recipient of the financial support and one legal entity established in a non-associated third country not receiving financial support
- for the selection procedure and criteria:
    - publish open calls widely (including on the Funding & Tenders Portal and the beneficiaries' websites)
    - keep open calls open for at least two months
    - inform recipients of call updates (if any) and the outcome of the call (list of selected projects, amounts and names of selected recipients)
    - measures to avoid potential conflicts of interest or unequal treatment of applicants must be ensured (notably through appropriate communication/exchange of information channels and independent and fair complaints procedures)
    - use the following selection criteria: the standard Horizon Europe award criteria
    - use the following selection procedures:
        - projects must be selected following a joint transnational call for proposals
        - beneficiaries must make the selection through a **two-step procedure**:
            - Step 1: review at national or transnational level (including national eligibility checks)
            - Step 2: single international peer review

            and in Step 2:

            - proposals must be evaluated with the assistance of at least three independent experts
            - proposals must be ranked according to the evaluation results and the selection must be made on the basis of this ranking
            - the selection procedure must be followed by an independent expert observer, who must make a report.

Where the financial support is implemented through implementing partners, the beneficiaries must:

- ensure that the partners comply with the same rules, standards and procedures for implementing the financial support
- implement effective monitoring and oversight arrangements towards the partners, covering all aspects relating to the action
- ensure effective and reliable reporting by the partners, covering the activities implemented, information on indicators, as well as the legality and regularity of the expenditure claimed
- ensure that the partnersprovide that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the final recipients
- where the call conditions restrict participation or control due to strategic assets, interests, autonomy or security reasons: apply the restrictions set out in Annex 5 mutatis mutandis to the final recipients and their results.]

1. Specific rules for Co-funded Partnerships *(HE)*

The specific rules (such as the participation of beneficiaries/affiliated entities as recipients of FSTP) for Co-funded Partnerships apply to certain HE Programme Co-fund types of action (i.e. calls with COFUND ToA). They replace the former Joint programming initiatives (JPIs), European research area networks (ERA-NETs) and European Joint programmes (EJPs) Cofund actions in Horizon 2020.

⚠ The **Annex 5** provisions focus ONLY on the cascading scenario (i.e. where beneficiaries provide financial support to third parties (FSTP); so-called 'co-funded calls'). For transnational projects implemented by the beneficiaries themselves (as part of the action), the standard rules of the Grant Agreement apply.

⚠ Co-funded Partnerships are ALSO subject to the rules for recipients of financial support (FSTP) in Article 9.4.

2. Providing financial support vs implementation of transnational projects by the beneficiaries *(HE)*

A core part of Co-funded Partnerships is to provide financial support to third parties *(i.e. pass on the EU support they receive via the Co-funded Partnerships grant to recipients that are not party to the Grant Agreement, also called 'cascade funding')*.

In this case, the beneficiaries' activity consists in providing the financial support, while it is the final recipients ('third parties receiving financial support') that actually implement the projects.

Specific cases:

FSTP between beneficiaries — Beneficiaries to the EU grant can in principle NOT also be final recipient (since that is not the purpose of a cascading grant).

However, if explicitly permitted by the call conditions/Grant Agreement and included and justified in the DoA Annex 1, there are cases where exceptions are permitted (i.e. where the co-funded call can be opened also for entities that are also beneficiaries of the EU grant or other departments of the beneficiary). In this case, the consortium will be asked during grant preparation to:

- -propose a clear list of beneficiaries (or which department of a beneficiary, where applicable) that will have the responsibility of drafting call texts, and managing the award procedure
- -identify the beneficiaries (or other departments of the same beneficiary) which can apply for funding under the co-funded call for proposals
- -explain the measures to mitigate (potential) conflict of interest or unequal treatment of applicants *(see information barriers below)* and
- -reflect this fully in their DoA Annex 1, both in the context of the description of the co-funded call and in relation to the monitoring of the transnational projects.

If needed, beneficiaries must set up information barriers ('firewalls') to prevent exchanges or communication that could lead to conflicts of interest or unequal treatment of applicants and ensure independent and fair complaints procedures.

Costs can be declared ONLY by the beneficiary providing the financial support, NOT by the final recipient receiving the financial support (even if it is at the same time beneficiary of the grant and can therefore declare other costs).

3. Calls for transnational projects *(HE)*

The projects financed under the co-funded calls must be transnational, i.e. for Horizon co-funded partnerships, they must involve:

- for multi-beneficiary projects (including multi-participant projects): at least two independent legal entities from two different EU Member States or HE associated countries which implement the project receiving financial support; in addition the projects may also include legal entities from non-associated third countries not receiving any financial support from the EU grant

OR

- for mono-beneficiary projects (multi-participant projects): one legal entity from an EU Member State or HE associated country which implements the project with financial support; in addition, to ensure their transnational nature, the projects must include at least one legal entity established in a non-associated third country not receiving any financial support from the EU grant.

Note that additional eligibility conditions may apply in specific cases concerning the minimum number of independent entities (including entities from third countries).

For Euratom Co-funded Partnerships, references to 'associated countries' must be understood as Euratom associated countries (not HE associated countries).

4. Award criteria *(HE)*

The evaluation in the co-funded calls must be done on the basis of the same award criteria that are used for Horizon Europe calls, i.e.:

(a) Excellence

(b) Impact

(c) Quality and efficiency of the implementation.

The aspects to be taken into account for each award criterion should also be the same used for Horizon Europe proposals. Depending on the type of action, General Annex D of the HE Work Programme should be applied.

5. Two-step selection procedure *(HE)*

The selection procedure of the co-funded calls must follow a two-step procedure, ensuring for:

Step 1: review at national or transnational level (including national eligibility checks)

Step 2: single international peer review

and that in Step 2:

- proposals must be evaluated with the assistance of at least three independent experts
- proposals must be ranked according to the evaluation results and the selection must be made on the basis of this ranking
- the selection procedure must be followed by an independent expert observer, who must make a report.

Only entities/consortia that are eligible for funding under BOTH Horizon Europe rules and national funding rules should be invited to Step 2.

⚠ The co-funded calls and projects must in principle comply BOTH with the applicable Horizon Europe and with the **national funding rules** of the beneficiaries.

Best practice: Where possible, the beneficiaries are however encouraged to harmonise the national rules and implementation modalities for their transnational calls *(e.g. by using only Horizon Europe rules as common rules)*.

Consortia should be allowed to adjust the budget between Steps 1 and 2, in order to balance the requested funding and available funding per participating EU Member State and HE associated country.

6. Independent experts — Observers *(HE)*

In addition to using expert evaluators for the evaluation of the co-funded calls, the beneficiaries must appoint, for each call, an independent expert as an observer to verify that the selection procedure meets the requirements (in particular, for the peer review evaluation and the ranking).

The observer's report must be submitted by the coordinator, as part of the periodic report *(see Article 21.2)*.

7. Ranking list — Joint selection list *(HE)*

The beneficiaries must base their selection (joint selection list) on the order of the ranking list (or the ranking lists, if there are different topics).

If proposals have identical scores, the proposals coming from participating EU Member States or HE associated countries with still available funding can be given precedence, in order to maximise the number of selected projects.

The ranking list(s) and the joint selection list must be submitted by the coordinator, as part of the periodic report *(see Article 21.2)*.

8. Project implementation — Extension of obligations under the Grant Agreement to final recipients *(HE)*

The implementation of the transnational projects by final recipients will follow in principle the rules of the cascade grant agreements they sign with the beneficiaries *(e.g. usually national rules, but they can also decide to use Horizon Europe rules as common rules for those agreements)*.

In all cases, the beneficiaries must ensure that the users comply with certain obligations from the EU grant *(see Article 9.4)*.

Obligations that must be extended to recipients:

- Avoiding conflict of interest *(see Article 12)*
- Confidentiality and security obligations *(see Article 13)*
- Ethics *(see Article 14)*
- Give visibility to the EU funding as appropriate *(see Article 17.2)*
- Respect specific rules for the action implementation *(see Article 18)*
- Information obligations *(see Article 19)*
- Record-keeping *(see Article 20)*.

It is the beneficiaries' responsibility to ensure that these obligations are respected by the final recipients *(e.g. through the cascade grant agreement)*.

Moreover, the beneficiaries must ensure that the bodies mentioned in Article 25 *(e.g. granting authority, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF))* have the right to carry out checks, reviews, audits and investigations on the recipients, and in particular to audit the payments received. If access is denied by the recipient, the costs will be rejected.

Specific rules for ERC Grants *(HE)*

[OPTION for HE ERC Grants: **Specific rules for ERC Grants**

When implementing ERC Grants, the beneficiaries must ensure that the action tasks described in Annex 1 are performed under the guidance of the principal investigator.

In accordance with Article 21, beneficiaries must submit progress reports (scientific reports) and periodic reports according to the schedule and modalities set out in the Data Sheet (see Points 4.1 and 4.2). Reports must be prepared using the templates available in the Portal (ERC scientific and periodic reports).

The internal arrangements set out in Article 7 must cover the decision making procedures for scientific and grant management issues, the distribution of the EU contribution, internal dispute settlement and division of responsibilities for cases of rejection of costs or reduction of the grant.

In addition to the obligations set out in Article 17, communication and dissemination activities as well as infrastructure, equipment or major results funded by the grant mustmoreover display the following special logo:

In addition, the beneficiaries must respect the following conditions for the principal investigator and their team:

- host and engage the principal investigator for the whole duration of the action
- take all measures to implement the principles set out in the European Charter for Researchers — in particular regarding working conditions, transparent recruitment processes based on merit and career development — and ensure that the principal investigator, researchers and third parties involved in the action are aware of them
- enter — before grant signature — into a Supplementary Agreement with the principal investigator, that specifies:
    - the obligation of the beneficiary to meet its obligations under the Grant Agreement
    - the obligation of the principal investigator to supervise the scientific and technological implementation of the action
    - the obligation of the principal investigator to assume the responsibility for the scientific reporting for the beneficiary and contribute to the periodic reporting
    - the obligation of the principal investigator to meet the time commitments for implementing the action and for working in an EU Member State or Horizon Europe associated country, as set out in Annex 1
    - the obligation of the principal investigator to apply the beneficiary's usual management practices

- the obligation of the principal investigator to inform the beneficiary immediately of any events or circumstances likely to affect the Grant Agreement, such as:
  - a planned portability of the grant (or part of it) to a new beneficiary (see Articles 32.2, 39, 40, 41)
  - any personal grounds affecting the implementation of the action
  - any changes in the information that was used as a basis for signing the supplementary agreement
  - any changes in the information that was used as a basis for awarding the grant
- the obligation of the principal investigator to ensure the visibility of EU funding in communications or publications and in applications for the protection of results (see Article 16 and 17)
- the arrangements related to the intellectual property rights — during the implementation of the action and afterwards —, in particular, the obligation of the principal investigator to uphold the intellectual property rights of the beneficiary and full access — on a royalty-free basis — for the principal investigator to background and results needed for their activities under the action
- the obligation of the principal investigator to maintain confidentiality (see Article 13)
- for portability of the grant to a new beneficiary (see Articles 32.2, 39, 40, 41):
  - the right of the principal investigator to request the portability of the grant, provided that the objectives of the action remain achievable
  - the obligation of the principal investigator to:
    - propose to the coordinator (in writing) to what extent the action will be transferred and the details of the transfer arrangement
    - provide a statement to the coordinator with the detailed results of the research up to the time of transfer
- the right of the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) to exercise their rights also towards the principal investigator
- the applicable law and the dispute settlement forum

- provide the principal investigator with a copy of the signed Agreement
- guarantee the principal investigator scientific independence, in particular for the:
  - use of the budget to achieve the scientific objectives
  - authority to publish as senior author and invite as co-authors those who have contributed substantially to the work
  - preparation of scientific reports for the action
  - selection and supervision of the other team members, in line with the profiles needed to conduct the research and in accordance with the beneficiary's usual management practices
  - possibility to apply independently for funding
  - access to appropriate space and facilities for conducting the research
- provide — during the implementation of the action — research support to the principal investigator and the team members (regarding infrastructure, equipment, access rights, products and other services necessary for conducting the research)
- support the principal investigator and provide administrative assistance, in particular for the:
  - general management of the work and their team
  - scientific reporting, especially ensuring that the team members send their scientific results to the principal investigator

- periodic reporting, especially providing timely and clear financial information (for actual costs)
- application of the beneficiary's usual management practices
- general logistics of the action
- access to the electronic exchange system

- inform the principal investigator immediately (in writing) of any events or circumstances likely to affect the Agreement
- ensure that the principal investigator enjoys adequate:
  - conditions for annual, sickness and parental leave
  - occupational health and safety standards
  - insurance under the general social security scheme, such as pension rights
- allow (for both mono and multi-beneficiary actions) the portability of the grant to a new beneficiary, if requested by the principal investigator and provided that the objectives of the action remain achievable (see Articles 32.2, 39, 40, 41). The beneficiary may object only on the basis that the portability of the grant is not possible under national law. In particular, the beneficiary must:
  - agree with the principal investigator and the new beneficiary on a plan for the transfer of the intellectual property rights under the Agreement to the new beneficiary
  - transfer to the new beneficiary any part of the pre-financing received which is not covered by an approved periodic report, if requested by the granting authority
  - transfer to the new beneficiary the equipment purchased and used exclusively for the action — against reimbursement of the costs that have not yet been depreciated (for actual cost grants) or under fair and reasonable conditions agreed among the concerned beneficiaries (for lump sum grants) — if requested by the principal investigator and the granting authority, and unless the transfer is not possible under national law.

For ERC Grants with more than one principal investigator, the above-mentioned obligations must be ensured by each beneficiary towards their principal investigators and their teams (and by each principal investigator towards their beneficiary, the coordinator and the other principal investigators). Moreover, the following specificities must be observed:

- for the implementation of the action: the corresponding principal investigator bears the overall responsibility for the supervision of the scientific and technological implementation of the action, while the other principal investigators must contribute to the overall implementation and supervise each one their parts
- for the reporting: the corresponding principal investigator assumes the primary responsibility for the scientific reporting and contribution to the periodic reporting, while the other principal investigators must contribute to both the scientific and periodic reporting
- for events or circumstances likely to affect the Agreement: each principal investigator must inform the coordinator, their beneficiary and the other principal investigators
- for portability of the grant by one of the principal investigators (Articles 32.2, 39, 40, 41):
  - the corresponding principal investigator must verify that the beneficiary of the principal investigator and the coordinator were informed
  - the principal investigator concerned must provide the coordinator and their beneficiary with a statement on the detailed results of the research up to the time of transfer
- for the internal arrangements (Article 7): they must also cover settlement of disputes between the principal investigators and between them and the beneficiaries).

For ERC Proof of Concept Grants, the specific rules on reporting (scientific and periodic reporting) and the special conditions for the principal investigator and their team do not apply.]

1. Specific rules for ERC Grants *(HE)*

The specific rules for ERC Grants apply to all HE ERC types of action (i.e. calls with ERC ToA, including ERC SyG and ERC PoC).

⚠ ERC types of action that use actual costs also have **two special cost categories** in Article 6.2.D.7 and 6.2.D.8.

For more information on participation and funding and successful projects, *see the ERC website, ERC Work Programme and the call and topics pages of the ERC calls*.

2. Actions under the guidance of the principal investigator (PI) *(HE)*

ERC Grants are designed to attract excellence in fundamental research and focus on principal investigators (PIs).

PIs do not become party to the Grant Agreement, but they are the key actors, in charge of the research activities. The host institution which hosts and engages the PI is the one that must apply for the ERC Grant (and will act as coordinator, in case of multi-beneficiary grants).

⚠ For ERC Synergy Grants (SyG), there might be several host institutions (beneficiaries hosting and engaging a PI). In this case, the coordinator will be the entity hosting and engaging the corresponding PI, who will be the administrative contact point for the group of PIs.

The host institution becomes the signatory of the Grant Agreement and formally subscribes to the legal and financial obligations under it.

The hosting institution must ensure that the action is performed under the guidance of the PI. Due to the key role of the PI, they can NOT be replaced by any other researcher during the action. Requests for amendments to change the PI will be rejected.

⚠ **Combining ERC & other EU grants —** ERC grants do NOT prevent **PIs** from applying independently (i.e. in their own name) for further EU funding for other actions or for the same action, but for costs that are not eligible (or not declared) under the ERC grant.

⚠ The fact that the **funding rate** for ERC grants is 100% does not mean that the grant pays for 100% of the costs of the ERC action. Therefore, cost items not declared under the ERC grant may be covered by other EU funding.

2. Scientific and financial reporting *(HE)*

The ERC Grant Agreements set out different reporting periods for the financial and scientific reporting.

⚠ The financial reporting corresponds to the periodic reporting in standard EU grants. The **scientific reporting** is a special form of progress reporting.

The scientific reporting is done separately from the periodic reporting (i.e. in addition to the financial reports which are needed to receive interim and final payments).

Normally, the two types of reports alternate between them. At the end of the action, they are submitted together in a single periodic report, in order to receive the final payment.

For ERC Starting Grants, Consolidator Grants and Advanced Grants, where the usual duration is 60 months, the first scientific report is submitted after 24 months, while the first periodic (financial) report is submitted after 30 months. Depending on the overall duration of the action the periodicity may change.

For ERC Synergy Grants, where the normal duration is 72 months, the scientific reports are expected at month 24, 48 and 72, whereas the periodic (financial) reports are expected at month 18, 36, 54 and 72.

Scientific reports (progress reports):

The scientific reports must be submitted through the Portal (Scientific Reporting tool).

These scientific reports include:

- information about the scientific progress of the work
- the achievements and results of the action
- information on whether and how open access has been provided to the results
- information on how the results have been disseminated
- a summary of the achievements of the action, for publication by the granting authority.

Financial reports (periodic reports):

The financial reports are available directly through the Portal (Periodic Reporting tool).

These financial reports include:

- an overview of the action implementation indicating in particular any significant deviation in relation to the DoA Annex 1
- a narrative containing information on the eligible costs, including an explanation on the use of resources (or detailed cost reporting table, if required)
- an individual financial statement
- a consolidated financial statement, created automatically by the IT system (on the basis of all financial statements submitted by the beneficiaries and affiliated entities for the reporting period), which counts as the request of payment
- the certificates on the financial statements (CFS) (when required by the Grant Agreement; see Article 24.2 and Data Sheet, Point 4.3).

3. Host and engage the PI *(HE)*

The principal investigator must be hosted and engaged by the host institution, for the whole duration of the action.

⚠ This obligation is also an eligibility criterion for ERC actions. Like all eligibility criteria, it must be **fulfilled for the entire duration of the action** *(see Article 7)* — otherwise the action may have to be terminated *(see Article 32)*.

Normally the PI will be employed by the host institution, but there may be cases where the PI's employer is a third party who makes the PI available to work for the host institution,

where the PI is self-employed, or where the PI has a particular status in the HI *(e.g. 'emeritus')*.

The specific conditions of engagement (which normally should be similar to those of an employee of the host institution) will be subject to clarification and approval by the granting authority during the grant preparation (or in case of an amendment request).

4. Supplementary agreement *(HE)*

The host institution must — before grant signature — conclude a supplementary agreement (SA) with the principal investigator.

The 'Supplementary Agreement (SA)' is an agreement between the host institution and the principal investigator to set out their internal arrangements for implementing the grant and govern their relationship during the ERC action.

The supplementary agreement is NOT intended to replace the employment/engagement contract.

It should cover all the practical issues that may arise in the context of the grant implementation and must remain in place at least for the action duration (— without any interruptions). For ERC Synergy grants *(i.e. ERC frontier research grants with several PIs)*, each host institution must conclude a supplementary agreement with the PI(s) it engages.

The supplementary agreement must be concluded before grant signature (or in case of portability before submission of the amendment request) and have the following minimum content:

Main obligations (towards the PI):

- Host and engage the PI for the whole duration of the action
- Scientific independence, to achieve the action's objectives under the best possible conditions, and within the time agreed
- Research support, to conduct the research as described in the Grant Agreement
- Access to and protection of intellectual property rights
- Adequate working conditions, always in accordance with national law and institutional rules
- Administrative support, to manage the legal and financial aspect of the action
- Grant portability, allowing and facilitating the transfer of the grant to another host institution.

Main obligations (of the PI):

- Supervision of the scientific and technological implementation of the action
- Responsibility for the scientific reporting and contribution to the financial reporting
- Meeting the time commitment for implementing the action *(see below")*
- Applying the host institution's usual management practices (in particular, regarding the way the work is organised, the premises where it is carried out, and the manner in which it is supervised)
- Informing the host institution immediately of any events or circumstances likely to affect the Grant Agreement

- Ensure the visibility of EU funding
- Upholding the intellectual property rights of the beneficiaries

  This obligation is not limited to *respecting* the host institution's intellectual property rights (IPRs). The PI must *actively* inform it, if they become aware of any violations.

  Example: *The PI reads a research article and discovers a violation of the host institution's project IPRs. They are obliged to inform the host institution.*

- Maintaining confidentiality.

A template for a model supplementary agreement is available on the ERC website. The model is not mandatory; beneficiaries may use other clauses, provided they benefit the research action and do not contradict the Grant Agreement *(e.g. if the supplementary agreement contains additional provisions concerning intellectual property, they must allow the host institution to comply with its obligations under Article 16 of the Grant Agreement)*.

⚠ The granting authority is NOT party to the supplementary agreement and has NO responsibility for it (nor for any adverse consequences).

⚠ It must NOT contain any provisions contrary to the Grant Agreement. Contradicting provisions are considered void and cannot be opposed to the granting authority.

5. PI time commitments *(HE)*

The host institution must make sure that the principal investigator ensures a sufficient time commitment and presence throughout the action, to guarantee its proper implementation.

The host institution must in particular make sure that the PI complies with the minimum requirements set out in the DoA Annex 1 regarding working time on the action and working time in an EU Member State or HE associated country.

These two time commitment obligations are as follows:

- % of working time that the PI must work on the action
- % of working time that the PI must work in an EU Member State or HE associated country.

To be operational, these two percentages must be translated into working days, i.e.:

- minimum number of days that the PI must work in the action over its duration
- minimum number of days that the PI must work in an EU Member State or HE associated country over the duration of the action.

The calculation should be done as follows:

Step 1 — For each year of the action, the percentages of PI commitment are applied to 215 fixed annual days.

The 215 fixed annual days work as a ceiling: they apply even if the PI works in total more days (i.e. has other parallel affiliations, freelance activities or work-related obligations or works more days on the action). In this case, the time commitment is capped at 100% and the days are calculated on the 215 fixed annual days.

By contrast, if the PI works in total less days than the 215 fixed annual days, the time commitment obligation will be reduced proportionally *(e.g. in cases of part-time employment, maternity leave, sick leave…)*.

The total work of the PI will be determined by adding up all their days of remunerated work, including under contracts with entities other than the host institution.

Example: *The % of PI commitment to the ERC action is 50%. The PI works 129 annual days at the host institution and has another contract with a different entity to work 35 days over the year. The days that the PI works in total are 164 days (129 + 35). Since this amount is lower than the 215 fixed annual days, the time commitment obligation will be: 164 x 50 % = 82 days*

Step 2 — Sum up the results for each year of Step 1 to get the total number of days over the action duration.

The percentages must be reached for the overall action duration (NOT annually or per reporting period).

⚠ The PI's time commitments obligations **must ALWAYS be fulfilled** — even if no personnel costs are charged for them to the project.

6. Transfer of the GA (portability) *(HE)*

Portability means that the PIs have a right to request the transfer of their grant to a new host institution — provided that the objectives of the action remain achievable and that the new host institution meets the eligibility criteria set out in the ERC work programme/call conditions.

Portability allows the PI to request the transfer of the entire grant or part of it, and it applies both in case of mono-beneficiary grants and multi-beneficiary grants. In ERC Synergy Grants *(i.e. ERC frontier research grants with several PIs)*, each PI has the right to transfer their part of the action. They must inform and consult the other PIs, to ensure that the action's objectives can still be achieved.

ERC grants can thus be transferred to a new host institution ('new beneficiary') — at any time during the action.

⚠ Transfers without a formal amendment are **void** and may result in grant termination. The former host institution remains fully responsible until the granting authority has approved the amendment.

The transfer may be based on any ground that is beneficial for the PI and does not affect the achievement of the action's objectives.

The transfer may be refused, if the objectives of the action do not remain achievable or if there is an issue with eligibility (*e.g. if the PI requests a transfer to an institution established in a non-associated third country).* In this case the Grant Agreement may be terminated *(see Article 32)*. Exceptions, in line with the applicable ERC work programme/call conditions, may apply for ERC Synergy Grants.

In addition, the former host institution ('former beneficiary') may oppose a transfer if it is not allowed under national law.

The transfer conditions *(including transfer of team members, intellectual property rights and equipment)* should be negotiated with the new host institution, taking into account the views of the PI.

Amendment procedure:

Portability transfers are done directly in the Portal Amendment tool as in/out amendment (AT4 beneficiary termination is combined with AT1 Addition of a new beneficiary; *see Article 39*; new for 2021-2027).

The procedure is therefore in principle the one for consortium-initiated partner terminations *(see Article 32)*.

The PI should first contact the host institution that signed the Grant Agreement (i.e. the former host institution).

Best practice: Both the beneficiaries and the PI should keep records of the consultation and decision-making process for each portability case.

The former host institution must submit a request for amendment to the granting authority *(see Article 39)*. The amendment should normally cover both the termination of the old host institution and the addition of the new host institution.

⚠ The termination/addition may exceptionally (and in duly justified cases) not be necessary, if the old host institution remains in the action as normal beneficiary (and the action becomes a multi-beneficiary action), but in this case the amendment will have to do a change of coordinator to change the roles (AT11).

The transfer date must be indicated in the amendment request. If the new host institution joins the action, the transfer date must be the same date as the accession date. Retroactive dates may be accepted only in exceptional cases, if duly justified.

In addition, the financial reporting periods may be adapted to match the transfer date (can be done in the same amendment). The scientific reporting periods will usually remain unchanged (since the transfer normally has no effect on the scientific implementation of the action).

ℹ For more guidance on amendments, *see the Amendment Guide and the Online Manual > Amendments*.

Effects:

The effects are also those of consortium-initiated partner terminations *(see Article 32)*

The host institution must — within 60 days from either the transfer date or the date of signature of the amendment whichever is the latest — submit:

- a report on the distribution of payments to the beneficiary concerned (only in case of multi-beneficiary grants)
- a termination report from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; *see Articles 21 and 24.2 and Data Sheet, Point 4.3*)

The documents will be used for calculating the next payment due to the former beneficiary. The granting authority will moreover instruct the former host institution to transfer the remaining pre-financing to the new host institution.

If the PI requests it, the granting authority may also require the former host institution to transfer equipment that was purchased and used exclusively for the action.

The former host institution may oppose this only if it is not possible under national law. It may however negotiate transfer conditions with the new host institution, taking into account the views of the PI.

Thus, the new host institution should make its best effort to buy the equipment fully used for the project. If it does so, it may declare the costs of this purchase (and any other related costs, *i.e. dismantling, transfer and installation*), if they fulfil the eligibility conditions set out

in Article 6. In particular, the purchase price should not be higher than the net accounting value of the equipment at the former host institution (i.e. initial value of the asset minus depreciation incurred until the transfer).

Specific cases (ERC):

PI employed by a third party — The PI may be employed not by the host institution but by a third party (from an EU Member State or HE associated country), i.e.:

- a third party that provides the PI as in-kind contribution or
- an affiliated entity.

This must be specifically justified in the proposal (or amendment request) and included in the DoA Annex 1.

In this case, the supplementary agreement should be signed by the PI, the host institution and the third party employing the PI.

Retired PI — The PI may be retired. In this case, there must still be an 'engagement' relationship, comparable to an employment relationship, between the PI and the host institution, ensuring that the PI will have the scientific independence and the necessary rights to supervise the research and the team, and comply with the rights and obligations specified in the Grant Agreement.

PI who is also the representative of the host institution— If the PI is at the same time the representative of the host institution entitled to sign the supplementary agreement on behalf of the host institution (because of their position in the institution), the supplementary agreement must be counter-signed by another person empowered by the institution. The PI can NOT sign their own supplementary agreement for both sides.

Portability — If the Grant Agreement is transferred to another host institution, a new supplementary agreement must be signed with the new host institution. The new supplementary agreement must take effect from the grant transfer date (or before). The Grant Agreement cannot be amended before the new supplementary agreement has been provided to the granting authority.

Former host institution remains beneficiary — If certain team members (or equipment) stay with the former host institution, while the PI moves to a new host institution, the Grant Agreement is transferred and changed into a multi-beneficiary grant (allowing both the former host institution and the new host institution to participate in the grant). The former host institution stays on as beneficiary, the organisation that hosts and engages the PI is the new host institution.

If the former host institution remains only for a limited time *(e.g. to ensure a smooth handover)*, it can then be terminated at a later stage *(see Article 32)*.

Recruitment costs — The host institution must guarantee the PI scientific independence to select the other team members. Thus, for ERC actions, recruitment costs, if clearly attributable to the action, are eligible as 'other direct costs', even for the unsuccessful candidates (because recruitment is part of the action activities).

Purchase of scientific publications — The host institution must provide research support to the PI regarding any equipment, products or services necessary for conducting the research. Consequently, costs related to the purchase of scientific publications *(e.g. books, manuscripts, articles, digital copies, etc)* may be eligible, if their direct link to the action and their necessity for the action is demonstrated.

Costs for 'teaching buy-outs' — The host institution must support the PI and provide administrative assistance. However, if the host institution hires substitutes to perform some

of the PI’s duties that are not linked to the ERC grant *(e.g. teaching)*, these costs are NOT eligible.

ISSUES APPLICABLE TO PARTICULAR COUNTRIES

For countries for which the EU services have carried out a formal assessment of specific situations/legal framework, the official position is recorded.

For a consolidated list of eligibility issues relating to specific situations/legal framework in individual countries, see *AGA — List of country-specific issues*.