

INTPA Companion to financial and contractual procedures
applicable to external actions financed from the general
budget of the EU and from the 11th EDF



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR DEVELOPMENT AND
COOPERATION

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19 The implementation of grant contracts – A users' guide

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19.1 Introduction

This users' guide is designed to support staff of the European Commission when implementing grant contracts in the context of External Actions. It is neither an official interpretation of the contract documents nor does it create any rights or obligations. It is **not legally binding, nor can it be relied upon to challenge a contracting authority's decision, judicially or otherwise.**

The general conditions contain the basic essential articles governing the implementation phase for grants contracts.

They are complemented and may be subject to modification by the special conditions that are part of the grant contract (hereinafter referred to as the 'contract') and that also include any necessary supplementing clauses or derogations to the general conditions, taking into account the specific circumstances of the action or work programme to which the contract relates.

These special and general conditions, together with the other annexes to the contract, are the legally binding documents that govern the parties' rights and obligations under the contract. The special conditions prevail over the general conditions.

The information contained in this users' guide is of general guidance; specific rules may be set for each call for proposals and will have to be respected.

This users' guide does not deal with each and every article of the general conditions and does not cover all the provisions in the articles of the contract. Nor does it cover all of the call documents and contract annexes. It deals with issues that are considered essential or complex and that may require some further explanations.

For reference made in this users' guide, the following documents are annexed to the special conditions and form an integral part of the contract:

- Annex I: Description of the action (Section 2.1 of Part B of Annex e3b), including the logical framework (Annex e3d) and the concept note (Section 1 of Part A of Annex e3b)
- Annex II: General conditions applicable to European Union-financed grant contracts for external actions (Annex e3h2)
- Annex III: Budget for the action/operating budget (worksheets 1, 2 and 3) (Annex e3c)
- Annex IV: Contract-award rules (Annex e3h3)
- Annex V: Standard request for payment and financial identification form (Annex e3h4 and Annex e3f)
- Annex VI: Model narrative and financial reports (Annex e3h5, Annex e3h6, Annex e3h7)
- Optional:
 - Annex VII: Terms of reference for an expenditure verification of a Union financed grant

contract for external actions and model report of factual findings (Annex e3h8)

Annex VIII: Model financial guarantee (Annex e3h9)

Annex IX: Standard template for transfer of asset ownership (Annex e3h10)

NB: In this Users' Guide, the term 'beneficiary(ies)' refers collectively to all beneficiaries, including the coordinator. The rules applicable to the beneficiary(ies) especially with regard to the eligibility of costs and rights of checks and audits by the Commission, the European Anti-Fraud Office (OLAF), and the Court of Auditors, apply also to the affiliated entity(ies) identified in the special conditions.

19.2 General and administrative provisions

19.2.1 Article 1 - General provisions

19.2.1.1 General principles

Text of the article	Guidelines
1(1) The beneficiary(ies) and the contracting authority are the only parties to this contract. Where the European Commission is not the contracting authority, it is not party to this contract, which confers on the European Commission only the rights and obligations explicitly mentioned in this contract.	This provision refers particularly to indirect management with partner countries, where the contracting authority is not the European Commission but instead, for instance, the national authorising officer or the regional authorising officers or a line ministry of the partner country. This provision is also relevant where this standard grant contract is signed by a contracting authority from a partner country within programme estimates.
1(2) This contract and the payments attached to it may not be assigned to a third party in any manner whatsoever without the prior written consent of the contracting authority.	Third parties may not receive funds directly from the contracting authority under the contract instead of the beneficiaries and/or affiliated entities without the prior written consent of the contracting authority. Article 1(2) does not restrict the internal division of labour between several beneficiaries or the payments provided for in the contract (i.e. the payments by the coordinator to co-beneficiaries or affiliated entities or payments to contractors or recipients of financial support).

19.2.1.2 Data protection

Text of the article	Guidelines
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<p>1(3) Any personal data will be processed solely for the purposes of the performance, management and monitoring of this contract by the contracting authority and may also be passed to the bodies charged with monitoring or inspection tasks under European Union law. Beneficiaries will have the right of access to their personal data and the right to rectify any such data. If the beneficiary(ies) have any queries concerning the processing of personal data, they shall address them to the contracting authority. The beneficiary(ies) will have right of recourse at any time to the European Data Protection Supervisor.</p>	
<p>1(4) The beneficiary(ies) must process personal data under this contract in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).The beneficiary(ies) shall limit access and use of personal data to that strictly necessary for the performance, management and monitoring of this contract and shall adopt all appropriate technical and organisational security measures necessary to preserve the strictest confidentiality and limit access to this data.</p>	

19.2.1.3 Role of the beneficiary(ies)

Text of the article	Guidelines
<p>1(5) The beneficiary(ies) shall:</p> <p>a) carry out the action jointly and severally vis-a-vis the contracting authority taking all necessary and reasonable measures to ensure that the action is carried out in accordance with the description of the action in Annex I and the terms and conditions of this contract.</p> <p>To this purpose, the beneficiary(ies) shall implement the action with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field.</p> <p>b) be responsible for complying with any</p>	<p>This standard grant contract is used for:</p> <p>(i) all modalities of action grants: mono-beneficiary with/without affiliated entities and multi-beneficiary with/without affiliated entities,</p> <p>(ii) in case of operating grants.</p> <p>Note that operating grants may cover a maximum period of one year. By nature operating grants are always mono-beneficiary, supporting the Work Programme of only one beneficiary. Furthermore, the participation of affiliated entities is not possible under operating grants.</p> <p>As of 2015 this standard grant contract is</p>

obligation incumbent on them from this contract jointly or individually;

c) forward to the coordinator the data needed to draw up the reports, financial statements and other information or documents required by this contract and the annexes thereto, as well as any information needed in the event of audits, checks, monitoring or evaluations, as described in Article 16;

d) ensure that all information to be provided and requests made to the contracting authority are sent via the coordinator;

e) agree upon appropriate internal arrangements for the internal coordination and representation of the beneficiary(ies) vis-à-vis the contracting authority for any matter concerning this contract, consistent with the provisions of this contract and in compliance with the applicable legislation(s).

1(5) bis. Grant beneficiaries and contractors must ensure that the subcontractors and all natural persons linked to the contract, including participants to workshops and/or trainings and recipients of financial support to third parties, do not include entities/persons included in the lists of EU restrictive measures.

not used where the coordinator (or the only beneficiary) is an organisation (in particular international organisation or EU Member State agency) whose pillars have been positively assessed by the Commission. The organisation will instead sign a Contribution Agreement (previously Pillar Assessment Grant Agreement based on the PAGoDA template). For EU external actions, this applies both to direct awards and grants awarded through calls for proposals. Note that the Contribution Agreement only caters for action grants. Operating grants are generally not awarded to pillar-assessed organisations.

For further information on grants with pillar assessed organisations, see Chapter 5 of the INTPA Companion.

The term 'beneficiaries' refers collectively to all beneficiaries of the action, i.e. all entities signatory to the contract (either because they signed the contract directly or because the coordinator signed the contract also on their behalf, as provided in the mandate attached to the application form. By default, the coordinator signs on behalf of all beneficiaries. However, the contract may instead be signed by all beneficiaries if they request so (without the need for a derogation). This has no impact whatsoever on the rights and obligations of the beneficiaries under the contract.

All beneficiaries must be listed in the special conditions (Annex e3h1).

a) All beneficiaries are jointly responsible to ensure that the action is carried out in accordance with the description of the action in Annex I and the terms and conditions of the contract (operational responsibility). However, vis-à-vis the contracting authority, the financial responsibility for the implementation of the entire action including the parts implemented by co-beneficiaries and affiliated entities rests with the coordinator (see Article 1(6)(g)). This means that the contracting authority will, where necessary, recover funds only from the coordinator.

Definition of sound financial management is provided in the INTPA Companion.

	<p>e) This provision does not refer to the mandate conferred to the coordinator included in the application form (Annex e3b) that needs to be submitted to the contracting authority during the application phase. These arrangements are an internal agreement between the beneficiaries and, as such, do not need to be submitted to the contracting authority. The European Commission does not provide a template for such internal arrangements.</p> <p>1(5) bis. For the purpose of the verification of the EU restrictive measures, the evaluation committee before the signature of the contract must verify that no detection of a recommended grant applicant, co-applicants, affiliated entities in the list of EU restrictive measures by checking the composition of the CEO, or the executive board of the company.</p>
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19.2.1.4 Role of the coordinator

Text of the article	Guidelines
<p>1(6) The coordinator shall:</p> <p>a) monitor that the action is implemented in accordance with this contract and ensure coordination with all beneficiary(ies) in the implementation of the action;</p> <p>b) be the intermediary for all communications between the beneficiary(ies) and the contracting authority;</p> <p>c) be responsible for supplying all documents and information to the contracting authority which may be required under this contract, in particular in relation to the narrative reports and the requests for payment. Where information from the beneficiary(ies) is required, the coordinator shall be responsible for obtaining, verifying and consolidating this information before passing it on to the contracting authority.</p> <p>Any information given, as well as any request made by the coordinator to the contracting authority, shall be deemed to</p>	<p>Where there is only one beneficiary, this beneficiary will assume — by nature — the role of the coordinator.</p> <p>h) Given that the financial responsibility vis-à-vis the contracting authority is on the coordinator, any eventual financial guarantee must therefore be made on the name of the coordinator.</p> <p>k) This only relates to the obligations vis-à-vis the contracting authority and is without prejudice to the internal arrangements between the beneficiaries.</p>

<p>have been given in agreement with all beneficiary(ies);</p> <p>d) inform the contracting authority of any event likely to affect or delay the implementation of the action;</p> <p>e) inform the contracting authority of any change in the legal, financial, technical, organisational or ownership situation of any of the beneficiary(ies), as well as, of any change in the name, address or legal representative of any of the beneficiary(ies);</p> <p>f) be responsible in the event of audits, checks, monitoring or evaluations, as described in Article 16 for providing all the necessary documents, including the accounts of the beneficiary(ies), copies of the most relevant supporting documents and signed copies of any contract concluded according to Article 10;</p> <p>g) have full financial responsibility for ensuring that the action is implemented in accordance with this contract;</p> <p>h) make the appropriate arrangements for providing the financial guarantee, when requested, under the provisions of Article 4(2) of the special conditions;</p> <p>i) establish the payment requests in accordance with the contract;</p> <p>j) be the sole recipient, on behalf of all of the beneficiary(ies), of the payments of the contracting authority. The coordinator shall ensure that the appropriate payments are then made to the beneficiary(ies) without unjustified delay;</p> <p>k) not delegate or subcontract any, or part of, these tasks to the beneficiary(ies) or other entities.</p>	
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19.2.2 Article 2 - Obligation to provide financial and narrative reports

Text of the article	Guidelines
2(1) The beneficiary(ies) shall provide the contracting authority with all required	The coordinator is the sole interlocutor of the contracting authority and is responsible

information on the implementation of the action. The report shall describe the implementation of the action according to the activities envisaged, difficulties encountered and measures taken to overcome problems, eventual changes introduced, as well as the degree of achievement of its results (impact, outcomes or outputs) as measured by corresponding indicators. The report shall be laid out in such a way as to allow monitoring of the objective(s), the means envisaged or employed and the budget details for the action. The level of detail in any report should match that of the description of the action and of the budget for the action. The coordinator shall collect all the necessary information and draw up consolidated interim and final reports. These reports shall:

- a) cover the action as a whole, regardless of which part of it is financed by the contracting authority;
- b) consist of a narrative and a financial report drafted using the templates provided in Annex VI;
- c) provide a full account of all aspects of the action's implementation for the period covered, including in case of simplified cost options the qualitative and quantitative information needed to demonstrate the fulfilment of the conditions for reimbursement established in this contract;
- d) include the current results within an updated table based on the logical framework matrix including the results achieved by the action (impact, outcomes or outputs) as measured by their corresponding indicators; agreed baselines and targets, and relevant sources of verification;
- e) determine if the intervention logic is still valid and propose any relevant modification including regarding the logical framework matrix;
- f) be drafted in the currency and language of this contract;
- g) include any update on the communication plan, if such a plan has

for collecting all the necessary information for drawing up consolidated reports. The coordinator is therefore responsible for obtaining, verifying and consolidating this information before passing it on to the contracting authority. All beneficiaries agree that any information given, as well as any request made by the coordinator to the contracting authority, must be deemed in agreement with all beneficiaries. The coordinator may not justify shortcomings in reporting by invoking mistakes of co-beneficiaries and has full responsibility for the reports or information submitted to the contracting authority (ref. Article (1)(6)(c)).

The reporting templates (narrative & financial, interim & final) attached to the contract as Annex VI have to be used.

The period covered by the narrative report must match with the period covered by the financial report. The period must be clearly stated in the reports.

These reports, both narrative and financial, (as well as audits, expenditure verifications and detailed breakdown of expenditure, where applicable) must cover the whole action as it was presented in the application and accepted by the contracting authority, not only the share financed by the EU contribution.

The final agreed and binding version of the action is described in Annexes I and III that form an integral part of the contract.

The purpose of reports is to explain:

- the results achieved and the related costs identified in the financial report
- the deviations that may have occurred (possibly subject to an amendment in accordance with Article 9) as compared to the initial proposal with regards to results and to means and costs.

Each narrative report has to include an updated logical framework matrix.

The following definitions are included in Annex e3d (logical framework to be submitted with full application):

'Impact' means the primary and secondary, long term effects produced by the action.

'Outcome' means the likely or achieved

been requested by the European Commission, as provided by Article 6(2);

h) include any relevant reports, publications, press releases and updates related to the action;

i) include any update on the self-evaluation questionnaire on sexual exploitation, abuse and harassment (SEA-H) or on the related list of envisaged measures indicated therein and submitted during the award procedure.

short-term and medium-term effects of an action's outputs.

'Output' means the products, capital goods and services that result from an action's activities.

'Indicator' is the quantitative and/or qualitative factor or variable that provides simple and reliable means to measure the achievement of the results of an action.

'Baseline' means the starting point or current value of the indicators.

'Target' (or results goal) means the quantitatively or qualitatively measurable level of expected output, outcome or impact of an action.

A 'logical framework matrix' (or 'logframe matrix') is a matrix in which results, assumptions, indicators, targets, baselines, and sources of verification related to an action are presented.

The results chain tells how, in a given context, the activities will lead to the outputs, the outputs to the outcome(s) and the outcome(s) to the expected impact. The most significant assumptions developed in this thinking process are to be included in the logframe matrix.

The logframe matrix presented for the description of an action will be updated for reporting purpose by adding one column providing the actual value of the results indicators for each relevant level of the chain of the results. Any necessary update/modification of the targets, baselines, sources of verification related to these indicators should be made in the same logframe matrix with due consideration to the rules for amendments.

If it is not clear to the contracting authority that results have been achieved or how the activities reported are related to the results of the action, additional information and clarification may be requested.

It is important that this 'focus on results' be kept in mind when preparing the reports, in order to provide information on the type of costs incurred and to understand their relation with the results/activities of the action (example: to justify significant amounts featuring in the financial report, to demonstrate the fulfilment of the conditions for reimbursement in case of simplified cost

options).

The narrative report may contain sensitive information, for instance on the beneficiaries' evaluation of the collaboration with local authorities. When the contracting authority is not the European Commission and if some information needs to be kept confidential, the coordinator must request it as soon as possible and come to an arrangement with the contracting authority on the parts concerned.

Moreover, with regard to the self-evaluation questionnaire on sexual exploitation, abuse and harassment (SEA-H), there is no obligation to submit the updated report if no changes occurred in the state-of-play of SEA-H policy or the envisaged measures of the entity.

The financial reports must have at least the same level of detail as the budget annexed to the contract. Any relevant variation from the budget initially submitted must be explained. Minor changes do not necessarily need to be systematically explained, but beneficiaries must be able to justify them upon request.

The financial reports must be consistent with the records, accounts, and ledgers of the beneficiaries and affiliated entities.

A detailed breakdown of expenditure (for example a nominal ledger) or an expenditure verification report has to be attached, where required in accordance with Article 15(7).

Language and supporting documents.

The reports need to be presented in the language in which the contract was drawn up.

The coordinator may, prior to the signature of the contract, ask for a derogation to be inserted in the special conditions. If justified it may be granted on a case-by-case basis by the contracting authority.

As a general rule, in the case of local languages, no systematic translation of supporting documents (purchase orders, invoices, etc.) is needed. Nevertheless, the intelligibility and translation of key parts of

	<p>relevant documents should be envisaged to ensure comprehensive internal control and supervision at Commission headquarters or coordination level, as the case may be.</p> <p>For reporting purposes, when the headings of the financial tables or statements originating directly from the internal reporting are written in another language than the one of the contract (i.e. the language in which the contract was drawn up), a translation in the language of the contract should be provided. This can be done globally in an annex, if it is more convenient for the beneficiaries or improves the readability of the report or document.</p> <p>No originals or copies of invoices, contracts or order forms have to be attached to the reports. The only exceptions are copies of studies, evaluation or audit reports, or press releases etc. in case the respective costs are being claimed under the direct costs. However, when deemed necessary for assessing the eligibility of costs, the contracting authority may always ask for more specific information (for example copies of supporting documents — no certified copies are usually needed, however originals may be requested during audits or expenditure verifications).</p>
<p>2(2) Additionally the final report shall:</p> <p>a) cover any period not covered by the previous reports</p> <p>b) include the proofs of the transfers of ownership as referred to in Article 7(5).</p>	<p>The final report has to give an overview of last year's implementation and of the action as a whole for all its duration.</p> <p>The final report must always include a detailed breakdown of expenditure covering the whole action and, in addition, an expenditure verification report if requested in accordance with Article 15(7).</p> <p>The information on transfers of ownership (where applicable) has to be provided using the template in Annex IX. The copies of the proofs of transfers have to be attached according to Article 7(5).</p>
<p>2(3) The special conditions may set out additional reporting requirements.</p>	<p>The standard reporting period is intended as a 12-month period, unless specified otherwise.</p>

	<p>According to the nature of the action, different reporting requirements (financial or narrative) may be requested by the contracting authority at contract preparation stage. Once agreed upon, they are included in Article 7(2) of the special conditions.</p> <p>If the different reporting requirements are already known at an earlier stage, the relevant requirements should be included in the special conditions template published with the guidelines for applicants.</p>
<p>2(4) The contracting authority may request additional information at any time. The coordinator shall provide this information within 30 days of the request, in the language of the contract.</p>	<p>The contracting authority has the right to ask for more information on the basis of a justified request, for instance if the submitted reports are not detailed enough.</p> <p>The contracting authority is entitled to request any additional information it considers necessary throughout the execution period.</p> <p>Following receipt of such a request the coordinator has 30 days to collect all the necessary information and draw up a consolidated reply.</p> <p>The additional information, explanations, and contextual information, has to be presented in the language of the contract (i.e. the language in which the contract was drawn up), or in another language accepted by the contracting authority, but the original supporting documents may be in the local language. In the latter case, a translation of the main elements in the language of the contract has to be provided upon request of the contracting authority, globally in an annex or in the documents, whichever is more convenient for the beneficiaries and improves the readability of the document.</p> <p>Article 2(4) should not be used to impose additional reporting obligations on beneficiaries. Those are covered by Article (2)(3).</p>
<p>2(5) Reports shall be submitted with the payment requests, according to Article 15. If the coordinator fails to provide any report or fails to provide any additional</p>	<p>The coordinator has to inform the contracting authority of any delay it may have in submitting the reports. If a report is submitted late without justification, the</p>

<p>information requested by the contracting authority within the set deadline without an acceptable and written explanation of the reasons, the contracting authority may terminate this contract according to Article 12(2) (a) and (f).</p>	<p>contracting authority has the right to terminate the contract and ask for the reimbursement of the amounts unduly paid.</p> <p>General rules for submission of reports:</p> <ul style="list-style-type: none"> - interim reports: within 60 days following the end of the reporting period - final reports: within 3 months after the end of the implementation period (as defined in Article 2 of the special conditions) or 6 months if the coordinator does not have its headquarters in the country where the action is implemented. <p>See Article 15 for more details and specific cases. The special conditions may also set out additional reporting requirements.</p>
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19.2.3 Article 3 – Liability

Text of the article	Guidelines
<p>3(1) The contracting authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the beneficiary(ies) while the action is being carried out or as a consequence of the action. The contracting authority cannot, therefore, accept any claim for compensation or increases in payment in connection with such damage or injury.</p>	<p>The fact that the EU (via the contracting authority from the partner country in indirect management) is financially supporting the action does not transfer any responsibility for circumstances resulting from the implementation of the action to the EU or the contracting authority (where the EU is not the contracting authority). This responsibility rests entirely on the beneficiaries.</p> <p>Where a beneficiary is an international organisation, the liability under Article 3 is subject to the rules governing the organisation's privileges and immunities (see annex e3h11).</p> <p>Beneficiaries have to ensure that Articles 3(1) and 3(2) also apply to affiliated entities (see Article 14(12)).</p>
<p>3(2) The beneficiary(ies) shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the action is being carried out or as a consequence of the action. The beneficiary(ies) shall discharge the contracting authority of all liability arising from any claim or action brought as</p>	<p>The beneficiaries must indemnify and hold harmless the contracting authority against claims, damages, losses and expenses arising out of or resulting from the negligence or misconduct of the beneficiaries in the context of the implementation of the action. Where the rights of employees of the beneficiaries are</p>

<p>a result of an infringement of rules or regulations by the beneficiary(ies) or the beneficiary(ies)'s employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights. For the purpose of this Article 3 employees of the beneficiary(ies) shall be considered third parties.</p>	<p>violated the beneficiaries must be obliged to discharge the contracting authority as well.</p>
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19.2.4 Article 4 - Conflict of interests and Code of Conduct

Text of the article	Guidelines
<p>4(1) The beneficiary(ies) shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of this contract. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.</p>	<p>According to Article 61 of the EU budget Financial Regulation (FR)¹ there is a conflict of interest in circumstances where the impartial and objective exercise of the functions of a party responsible for the implementation of the budget, including national authorities at any level or an internal auditor, is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other direct or indirect interest with the beneficiaries. In other words, a conflict of interest arises where the beneficiary(ies) has the opportunity to put private interests before his professional duties, or merely any event influencing the capacity of the beneficiaries to give an objective and impartial professional opinion.</p> <p>The rules on prevention and prohibition of conflicts of interest are entirely applicable to implementation contracts and to financial support awarded within the grant.</p> <p>Beneficiaries have to ensure that Articles 4(1) to 4(11) also apply to affiliated entities (see Article 14(12)).</p> <p>Regarding the applicability of this article to contractors see also Article 10(2).</p>

¹ 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 (OJ L 193, 30.7.2018, p.1).

<p>4(2) Any conflict of interests which may arise during performance of this contract must be notified in writing to the contracting authority without delay. In the event of such conflict, the coordinator shall immediately take all necessary steps to resolve it.</p>	<p>During the performance of the contract, the beneficiary(ies) must immediately inform the contracting authority of any arising conflict of interests and measures should be adopted to address situations that may objectively be perceived as a conflict of interest. These measures may include the termination of the contract.</p>
<p>4(3) The contracting authority reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken if necessary.</p>	<p>Where a co-beneficiary is an international organisation whose pillars have been positively assessed, Articles 4(3) and 4(4) must be applied according to the organisation's rules and regulations positively assessed in the pillar assessment (see Annex e3h11).</p>
<p>4(4) The beneficiary(ies) shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under this contract, the beneficiary(ies) shall replace, immediately and without compensation from the contracting authority, any member of its staff in such a situation.</p>	
<p>4(5) The beneficiary(ies) shall at all-time act impartially and as a faithful adviser in accordance with the code of conduct of its profession as well as with appropriate discretion. It shall refrain from making any public statements concerning the action or the services without the prior approval of the contracting authority. It shall not commit the contracting authority in any way whatsoever without its prior consent, and shall make this obligation clear to third parties.</p>	
<p>4(6) Physical abuse or punishment, or threats of physical abuse, sexual abuse or</p>	<p>The European Commission applies a zero tolerance policy regarding all forms of</p>

exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited. The beneficiary(ies) shall also inform the contracting authority of any breach of ethical standards or code of conduct as set in the present article. In case the beneficiary(ies) is aware of any violations of the abovementioned standards it shall report in writing within 30 days to the contracting authority.

misconduct including sexual exploitation, abuse and harassment by its staff and those of partner organisations receiving EU funds.

In this respect, Article 4(6) covers any form of physical, sexual and psychological conduct as well as any form of verbal and no-verbal abuse and intimidation, including harassment and sexual harassment.

Beneficiary(ies) must immediately report to the contracting authority any allegation of misconduct involving sexual exploitation, abuse and harassment. If the contracting authority is an EU delegation, it must also inform the relevant 'Finance and Contracts' unit as well as the central contact point in Headquarters (DG INTPA Director R. Security Coordinator).

As a minimum this notification should include the following information about the report/allegation e.g. misconduct category, type and short description. It is for the contracting authority to assess the gravity of the misconduct, taking into account possible remedial measures taken.

These remedial measures may include for instance:

- the active collaboration with the investigating authorities;
- the implementation of safeguarding procedures to prevent, respond and manage the harassment/sexual harassment and sexual exploitation and abuse situations, such as: creating internal procedures to address the risk of sexual exploitation and abuse in the beneficiary staff programme, developing a code of conduct with standards that include the sexual exploitation and abuse principles, developing complaints procedures for the staff and other personnel to report incidents, developing internal investigation procedures, ensuring disciplinary actions and sanctions, establishing and implementing a victim assistance mechanism;
- the evidence of appropriate staff reorganisation measures following the misconduct, such as the dismissal of the employee responsible of the infringement.

	<p>Investigations should be completed within an acceptable time frame and the contracting authority should update DG INTPA Directorate R and the appropriate geographical directorate on outcomes and actions taken.</p> <p>If the contracting authority considers the remedial measures to be not sufficient, it must inform the beneficiary.</p> <p>These procedures should take into consideration all relevant data protection and confidentiality related requirements. The contracting authorities must treat the related information as 'special categories of personal data' and in doing so ensure appropriate confidential storage and handling. To this end, the contracting authorities must have in place appropriate safeguards for the rights of the data subjects concerned, in particular adequate technical and organisational measures to ensure the security and confidentiality of such categories of data, to prevent accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted stored or otherwise processed. Where the contracting authority is a EU Delegation the measures may, among other, take the form of secure transmission of data via Secure Electronic Mail (SECEM), definition of access rights strictly on a need to know basis, secure storage of paper files in locked cupboards, restricted access to relevant Ares files, secured electronic documents stored in common drives.</p>
<p>4(7) The beneficiary(ies) and its/their staff shall respect human rights and environmental legislation applicable in the country(ies) where the action is taking place and internationally agreed core labour standards, e.g. the International Labour Organisation core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.</p>	<p>Beneficiaries must respect applicable rules, procedures and policies. These should include, but are not limited to, the respect for fundamental human rights, social justice and human dignity, respect for the equal rights of men and women, prohibition of forced labour and child labour, preservation of the environment, respect of all laws of proper jurisdiction including the principles of transparency, non-discrimination, anti-corruption and ethics, avoidance of conflicts of interest, fraud and corruption, etc.</p>

<p>4(8) The beneficiary(ies) or any related person shall not abuse of its entrusted power for private gain. The beneficiary(ies) or any of its subcontractors, agents or staff shall not receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from performing any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The beneficiary(ies) shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption.</p>	
<p>4(9) The payments to the beneficiary(ies) under the contract shall constitute the only income or benefit it may derive in connection with the contract, with the exception of revenue generating activities. The beneficiary(ies) and its/their staff must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.</p>	
<p>4(10) The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The contracting authority and the European Commission may carry out documentary or on-the-spot checks they deem necessary to find evidence in case of suspected unusual commercial expenses.</p>	<p>The contracting authority could declare ineligible any abnormal high price charged to the action while buying goods or contracting services. In this situation, the overprice paid could be considered ineligible if the beneficiaries does not provide a justified reason.</p>
<p>4(11) The respect of the code of conduct set out in the present Article constitutes a contractual obligation. Failure to comply with the code of conduct is always deemed to be a breach of the contract under Article 12 of the general conditions. In addition,</p>	<p>The grave professional misconduct covers not only the misconduct related to offensive behaviours as defined in the 'zero tolerance' clause (Article 4(6)), but also any wrongful conduct that has an impact on the professional credibility of the contractor</p>

<p>failure to comply with the provision set out in the present Article can be qualified as grave professional misconduct that may lead either to suspension or termination of the contract, without prejudice to the application of administrative sanctions, including exclusion from participation in future contract award procedures. In case of breach of Article 4.6, the contracting authority will take into consideration, amongst others, the information contained in the self-evaluation questionnaire on sexual exploitation, abuse and harassment (SEA-H) and in the related list of envisaged measures indicated therein and submitted during the award procedure.</p>	<p>and denoting a wrongful intent or gross negligence. In practical terms, the contracting authority may invoke the grave professional misconduct for all wrongful conduct that implies a breach of the obligations stated in the code of conduct/ethical obligations by contractors that the contracting authority can demonstrate with any means. In this respect, the grave professional misconduct may lead to suspension or termination of the contract, without prejudice to the application of administrative sanctions, including exclusion from participation in future contract award procedures. Article 136 (1)(c) FR provides a non-exhaustive list of cases, such as:</p> <ul style="list-style-type: none"> - fraudulently or negligently misrepresenting information required for the verification of absence of grounds for exclusion or the fulfilment of eligibility or selection criteria or in the implementation of the legal commitment; - entering into agreement with other persons or entities with the aim of distorting competition; - violating intellectual property rights; - attempting to influence the decision-making of the authorising officer responsible during the award procedure; - attempting to obtain confidential information that may confer upon it undue advantages in the award procedure.
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19.2.5 Article 5 – Confidentiality

Text of the article	Guidelines
<p>5(1) Subject to Article 16, the contracting authority and the beneficiary(ies) undertake to preserve the confidentiality of any information, notwithstanding its form, disclosed in writing or orally in relation to the implementation of this contract and identified in writing as confidential until at least 5 years after the payment of the balance.</p>	<p>Beneficiaries have to ensure that articles 5(1) to 5(3) also apply to affiliated entities (see Article 14(12)).</p>

5(2) The beneficiary(ies) shall not use confidential information for any aim other than fulfilling their obligations under this contract unless otherwise agreed with the contracting authority.	
5(3) Where the European Commission is not the contracting authority it shall still have access to all documents communicated to the contracting authority and shall maintain the same level of confidentiality.	

19.2.6 Article 6 – Visibility

Text of the article	Guidelines
<p>6(1) Unless the European Commission agrees or requests otherwise, the beneficiary(ies) shall take all necessary steps to publicise the fact that the European Union has financed or co-financed the action. Such measures shall comply with the latest Communication and Visibility requirements for EU-funded external action, laid down and published by the European Commission or with any other guidelines agreed between the European Commission and the beneficiary(ies).</p>	<p>The general purpose of these Requirements for Visibility and Communication is to ensure that any communication on EU-funded external actions is consistent with the Union’s values and political priorities and with other EU-related communication activities and events.</p> <p>The Requirements for Visibility and Communication can be found at: Communication and Visibility Requirements for EU External Actions International Partnerships (europa.eu) This document describes the partners’ legal obligations and the mandatory elements of the communication and visibility measures that must accompany all EU-financed external actions. Unless the agreements and contracts concerned explicitly provide otherwise, it therefore constitutes a contractually binding framework applicable to all contracts (including those concluded with subcontractors) that refer to the Requirements, irrespective of the</p>

	<p>contracting authority.</p> <p>The text includes links to accompanying documents that provide additional guidance</p> <p>Beneficiaries must make sure to publicise the fact that the EU has funded the Action.</p> <p>Beneficiaries can request a derogation from the visibility and, if applicable, communication obligations in special circumstances and notably in situations where a high profile could put the staff employed in the action at risk. Any request for derogation from the visibility obligations listed in Article 6 must be agreed with the contracting authority in the special conditions and included in the communication plan, where the latter has been requested by the European Commission. For indirect management: In order to apply a derogation the contracting authority has to obtain the European Commission's prior authorisation. This authorisation is generally granted by endorsing the respective contract including the special conditions with the modifications.</p> <p>Different guidelines have, for example, been agreed with the UN and the World Bank.</p> <p>Where a beneficiary is an international organisation, additional rules on the use of logos and emblems apply (see Annex e3h11).</p> <p>Beneficiaries have to ensure that Articles 6(1) to 6(5) also apply to affiliated entities (see Article 14(12)).</p>
<p>6(2) Upon request of the European Commission, the coordinator shall submit a communication plan for the approval of the European Commission and report on its implementation in accordance with Article 2.</p>	<p>The visibility and communication plan has to be submitted for the approval of the project manager at the latest during the inception phase. Guidance can be found in Section 2(3) of the Communication and Visibility Requirements or, where applicable, in other guidelines agreed upon between the beneficiaries and the European Commission.</p> <p>The communication plan has to contain a budget for the visibility, even for small projects.</p> <p>A section on the visibility and communication activities has to be included</p>

	in all interim and final reports.
<p>6(3) In particular, the beneficiary(ies) shall mention the action and the European Union's financial contribution in information given to the final recipients of the action, in its internal and annual reports, and in any dealings with the media. It shall display the European Union logo wherever appropriate.</p>	<p>The use of the EU's logo is encouraged as often as possible. The EU's contribution should also be mentioned in internal reports, annual reports, and to the media, where appropriate.</p> <p>The logo and the sentence mentioned in Article 6(4) must be included in all publications produced in the framework of the action supported by the EU: that is to say both if the publications are paid with the EU grant money or if they are produced using the beneficiary's own funds or co-financing funds provided by third parties.</p> <p>The logo information can be found at the Communication and Visibility Requirements website:</p> <p>Communication and Visibility Requirements for EU External Actions International Partnerships (europa.eu)</p>
<p>6(4) Any notice or publication by the beneficiary(ies) concerning the action, including those given at conferences or seminars, shall specify that the action has received European Union funding. Any publication by the beneficiary(ies), in whatever form and by whatever medium, including the internet, shall include the following statement: 'This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of < beneficiary(ies)'s name > and can under no circumstances be regarded as reflecting the position of the European Union.</p>	<p>All publications financed by the EU must contain the standard disclaimer set out in Article 6(4). More details can be found in Section 5.3 of the Communication and Visibility Requirements or, where applicable, in other guidelines agreed upon between the beneficiaries and the European Commission.</p>
<p>6(5) The beneficiary(ies) authorises the contracting authority and the European Commission (where it is not the contracting authority) to publish its name and address, nationality, the purpose of the grant, duration and location as well as the maximum amount of the grant and the rate of funding of the action's costs, as laid down in Article 3 of the special conditions. Derogation from publication of this information may be granted if it could endanger the beneficiary(ies) or harm their</p>	<p>In order to obtain a derogation from the publication of this information, the coordinator must submit a justified written request to the contracting authority <u>before</u> the signature of the contract.</p>

interests.	
6(6) The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the visibility and, if applicable, communication requirements set out in this Article and in the special conditions. Failure to perform the obligations set out in this Article and in the special conditions can constitute a breach of contractual obligations, and can lead to corresponding measures taken by the Contracting Authority, including suspension of payment as stated in Article 15.5. and/or a reduction of the final payment as stated in Article 17.2.	Failure to follow the contractual provisions on visibility and, if applicable, communication may be a ground for termination according to Article 12.2, suspension of the period for payments in accordance with Article 15.5(g) or reduction of the grant in accordance with Article 17.2.

19.2.7 Article 7 - Ownership/use of results and assets

Text of the article	Guidelines
7(1) Unless otherwise stipulated in the special conditions, ownership of, and title and intellectual and industrial property rights to, the action's results, reports and other documents relating to it will be vested in the beneficiary(ies).	By default, the beneficiaries own any intellectual or industrial right developed in the course of the action such as patents, trademarks, copyright etc. However, the contracting authority and the Commission must be granted a non-exclusive right to use, free of charge, all of the results, reports and other documents produced in the course of the action.
7(2) Without prejudice to Article 7(1), the beneficiary(ies) grant the contracting authority (and the European Commission or the Partner country where it is not this contracting authority) the right to use freely and as it sees fit, and in particular, to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the action whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.	Where material includes existing rights of third parties that might limit the contracting authority's (and, where applicable, the European Commission's and the Partner country's) right to use the material, the coordinator must inform the contracting authority without delay. Notwithstanding the foregoing, beneficiaries have to ensure that they have the necessary rights to implement the action (see Article 7(3) below).
7(3) The beneficiary(ies) shall ensure that it has all rights to use any pre-existing intellectual property rights necessary to	

<p>implement this contract.</p>	
<p>7(4) In case natural, recognizable persons are depicted in a photograph or film, the coordinator shall, in the final report to the contracting authority, submit a statement of these persons giving their permissions for the described use of their images. The above does not refer to photographs taken or films shot in public places where random members of the public are identifiable only hypothetically and to public persons acting in their public activities.</p>	
<p>7(5) Unless otherwise clearly specified in the description of the action in Annex I, the equipment, vehicles and supplies paid for by the budget for the action shall be transferred to the final beneficiaries of the action, at the latest when submitting the final report.</p> <p>If there are no final beneficiaries of the action to whom the equipment, vehicles and supplies can be transferred, the beneficiary(ies) may transfer these items to:</p> <ul style="list-style-type: none"> - local authorities - local beneficiary(ies) - local affiliated entity(ies) - another action funded by the European Union - or, exceptionally, retain ownership of these items. <p>In such cases, the coordinator shall submit a justified written request for authorisation to the contracting authority, with an inventory listing the items concerned and a proposal concerning their use, in due time and at the latest with the submission of the final report.</p> <p>In no event may the end use jeopardize the sustainability of the action or result in a profit for the beneficiary(ies).</p>	<p>The principle to keep in mind is to transfer the items procured with the budget of the action (and therefore also with co-financing funds) to the entities that are in the best position to use them efficiently for the sustainability of the action once it ends, or for any other purpose agreed with the contracting authority.</p> <p>The preferred option is a transfer to the final beneficiaries of the action who, as a requisite, must be identifiable and have legal personality (as for example a school or a hospital).</p> <p>If the above option is not feasible, the items may be transferred to the other entities mentioned in the second paragraph of Article 7(5) or to another action funded by the EU. There is no order of preference in this regard. The transfer must occur at the latest when submitting the final report.</p> <p>Only where none of the aforementioned options is available, may the items exceptionally be kept by non-local beneficiaries or non-local affiliated entities themselves.</p> <p>Any item that is not transferred by the beneficiaries before the end of the action must be considered as ineligible expenditure.</p> <p>The information on transferring ownership of the aforementioned items must be provided in accordance with the templates provided for in Annex IX of the special conditions. Where the items are transferred to another action funded by the</p>

EU the beneficiaries must provide the relevant information in the final report.

If a transfer of the items is not possible or feasible and the further use of the items by the concerned beneficiary does not help to achieve a EU policy objective, the eligible expenses to be reimbursed must be reduced pro rata taking into account the depreciation of the items in the course of the implementation of the action (see also Article 14(2)(d)).

If the beneficiaries and the contracting authority agree to transfer the items to another action supported by EU funds the beneficiaries must be reimbursed all costs incurred for the transfer.

When the equipment is transferred to another project financed by the EU, two options are possible in terms of costs:

1) The full cost is supported by the 1st project and no cost of purchase can be charged on the 2nd project;

2) The cost for the purchase is reduced under the 1st project (depreciation cost only) and the residual is charged on the 2nd project.

Where the description of the action already foresees that items will be transferred to other entities than final beneficiaries or may be kept by the beneficiaries/affiliated entities the contracting authority has approved this approach by signing the contract and a separate written request is not necessary. In this case also, if the further use of the items does not help to achieve a EU policy objective, the eligible expenses to be reimbursed must be reduced pro rata taking into account the depreciation of the items in the course of the implementation of the action.

If the need for modification arises later (i.e. after the signature of the contract it turns out that a transfer to the final beneficiaries is not feasible), a justified written request for prior authorisation has to be submitted to the contracting authority. An amendment to the contract is not necessary in this case.

Where a beneficiary is an international organisation, and the action funded by the

	<p>EU contributes to a larger action, the organisation may transfer the equipment, vehicles and supplies paid by the budget of the action to this larger action. In such case, the organisation must submit an inventory listing the items concerned and their use with the submission of the final report. The visibility requirements regarding the equipment, vehicles and supplies must continue to apply at least until the end of the larger action (see Annex e3h11).</p> <p>Where a beneficiary is an international organisation, proofs of transfer of any equipment and goods transferred by the organisation must not be attached to the final report but kept for verification according to Article 16 (see Annex e3h11).</p> <p>Where a beneficiary may retain ownership of the items, the beneficiary must apply the visibility obligations under the contract as long as the items are used.</p>
<p>7(6) Copies of the proofs of transfer of any equipment and vehicles for which the purchase cost was more than EUR 5 000 per item, shall be attached to the final report. Proofs of transfer of equipment and vehicles whose purchase cost was less than EUR 5 000 per item shall be kept by the beneficiary(ies) for control purposes.</p>	

19.2.8 Article 8 – Monitoring and evaluation of the action

Text of the article	Guidelines
<p>8(1) Annex I shall describe in detail the monitoring and evaluation arrangements that the beneficiary(ies) will put in place.</p>	<p>The beneficiary has to include all the monitoring and evaluation arrangements in Annex I: Description of the action.</p>
<p>8(2) If the European Commission carries out an interim or <i>ex post</i> evaluation or a monitoring exercise, the coordinator shall undertake to provide it and/or the persons authorised by it with the documents or information necessary for the evaluation or monitoring exercise.</p> <p>Representatives of the European Commission shall be invited to participate</p>	<p>The beneficiaries must provide access to the European Commission or its external monitors to any documents or information relating to the action. This can also be requested after the end of the implementation period.</p>

<p>in the main monitoring and in the evaluation exercises relating to the performance of the action performed by the beneficiary(ies). The European Commission shall be invited to comment the evaluation(s) terms of reference before the exercise is launched as well as the draft report(s) before they are finalised.</p>	
<p>8(3) If either the beneficiary(ies) or the European Commission carries out or commissions an evaluation or monitoring exercise in the course of the action, it shall provide the other with a copy of the related report. All the evaluation and monitoring reports, including final values for each of the indicators in the logical framework, shall be submitted to the European Commission with the final narrative report (annex VI).</p>	<p>All mid-term and final evaluation reports produced by the beneficiaries throughout the action have to be shared with the European Commission.</p>

19.2.9 Article 9 - Amendment of the contract

Text of the article	Guidelines
<p>9(1) Any amendment to this contract, including the annexes thereto, shall be set out in writing. This contract can be modified only during its execution period.</p>	<p>Any amendment of the contract must be done in writing according to the procedures provided for in Articles 9(3) and 9(4). Oral arrangements or an exchange of emails must never legally bind the parties in this regard.</p> <p>In case of exchanges of emails having contractual implications, staff of the contracting authority should use systematically a disclaimer indicating that the contract can only be modified through an addendum duly signed by both parties.</p> <p>Execution period as set forth in Article 2(4) of the special conditions means the period during which the contract is legally valid i.e. from contract signature until final payment, and in no event later than 18 months after the end of the implementation period (unless postponed in accordance with Article 12(5) of the general conditions).</p> <p>Implementation period means the period during which the action is implemented (as</p>

	<p>defined in Article 2(3) of the special conditions).</p>
<p>9(2) The amendment may not have the purpose or the effect of making changes to this contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 3(2) of the special conditions shall not be increased.</p>	<p>No amendment to the grant contract (either unilateral or by addendum) may call into question the initial award of the grant or the equal treatment of applicants.</p> <p>Unequal treatment of the applicants means different treatment of beneficiary(ies) that are in the same situation. For this reason, the conditions of the call for proposals must be strictly followed when making amendments, thus avoiding situations where unequal conditions are applied to grants awarded under the same call.</p> <p>The maximum EU contribution and percentage of eligible or accepted costs financed by the contracting authority may never be increased.</p>
<p>9(3) If an amendment is requested by the beneficiary(ies), the coordinator shall submit a duly justified request to the contracting authority thirty days before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated and accepted by the contracting authority.</p>	<p><u>Amendment by addendum</u></p> <p>Contracts cannot be amended after the end of the execution period. Note that the execution period of the contract is longer than the implementation period.</p> <p>In exceptional circumstances, the amendment may have a retroactive effect provided the execution period has not expired.</p> <p>The beneficiary bears the financial risk of any costs incurred before the addendum has been issued, because the contracting authority has the right to refuse to sign the addendum. Only once the addendum enters into force may the beneficiary claim payment for the costs.</p> <p>An amendment request must be duly substantiated and, in particular, must include all information necessary for the contracting authority to take an informed decision on this matter including (but not limited to): the reasons behind the amendment, and, the impact of the amendment on the implementation of the action (i.e. and most notably on the activities and budget of the action).</p> <p>The coordinator must present together with its request, or in response to a demand for clarification by the contracting authority,</p>

	<p>any document available relating to the proposed amendment.</p> <p>An amendment must be requested at least 30 days before it occurs. However, whenever possible, as the contracting authority may take longer to assess the amendment, it is recommended to send a request for amendment as early as possible.</p> <p>The amendment to the contract must be signed by the same parties who signed the initial contract, i.e. the coordinator and the contracting authority.</p> <p><u>Extension of the implementation period (see Article 11(1))</u></p> <p>This applies when the duration of the Action is extended. A request extending the implementation period of the action may not entail an increase of the EU contribution (no cost extension) and always requires an addendum in accordance with Article 9(1). and a proper justification, which must not be limited to using the unspent budget balance.</p>
<p>9(4) Where the amendment to the budget does not affect the expected results of the action (i.e. impact, outcomes, outputs), and the financial impact is limited to a transfer between items within the same main budget heading including cancellation or introduction of an item, or a transfer between main budget headings involving a variation of 25% or less of the amount originally entered (or as modified by addendum) in relation to each concerned main heading for eligible costs, the coordinator may amend the budget and must inform the contracting authority accordingly, in writing and at the latest in the next report. This method may not be used to amend the headings for indirect costs, for the contingency reserve, for in-kind contributions or the amounts or rates of simplified cost options defined in the contract.</p> <p>Changes in description of the action and the logical framework that affect the expected results (impact, outcomes, outputs) shall be agreed with the contracting authority before the</p>	<p><u>Unilateral amendments</u></p> <p>The coordinator must inform in writing the contracting authority of any amendment according to Article 9(4) in writing and <u>at the latest</u> in the next report.</p> <p>However, it is in the interest of the coordinator who bears the financial responsibility for changes that the contracting authority might refuse (see below paragraph) to inform the contracting authority as soon as the need for amendment is identified and if possible prior to any intended changes taking effect to avoid incurring ineligible costs.</p> <p>Where the amendment to the budget is fully compliant with the conditions listed in Article 9(4), the letter /report sent by the coordinator informing the contracting authority of the amendment is, in itself, sufficient for amending the budget. A specific approval from the Contracting Authority is therefore not necessary.</p> <p>However, if the contracting authority finds that the conditions listed in Article 9(4)</p>

modification takes place. Approved changes must be explained in the next report .

have not been respected, it must inform the coordinator by letter (possibly within 30 days from the receipt of the letter or report of the coordinator) of its decision to refuse the amendment. In such cases the proposed amendment must have no effect and any cost relating to this amendment must be considered as ineligible.

There are generally two kinds of unilateral amendments:

1) Unilateral amendment: budget amendment

The budget attached to the contract must be respected. However, beneficiaries can benefit from a certain flexibility within the budget, as long as the 'expected results of the action' are not affected and the change does not call into question the initial award of the grant or the equal treatment of applicants.

The term 'results' includes: overall objective (impact), specific objective (outcome), other outcomes and outputs.

In case of doubt, it is strongly recommended to check beforehand with the contracting authority that the proposed modifications do not impact the expected results of the action. As long as the expected results of the action is not affected, beneficiaries can:

- make transfers between items or cancel or introduce new items within the same main budget heading. The term 'main budget heading' has to be understood as the numbered budget headings, i.e. the headings number 1 (human resources), 2 (travel), 3 (equipment and supplies), 4 (local offices), 5 (other costs, services) and 6 (other).

- transfer part of the budget from one main budget heading to another (from 1 to 6 for instance) as long as this transfer does not imply a variation (both increase and decrease) of more than 25% of the headings concerned by such transfer.

Unilateral amendments cannot be used to amend the indirect costs, the contingency reserve, in-kind contributions, or the amounts or rates of simplified cost options.

To calculate the amount of the variation it should be noted that:

- the 25% variation is calculated on both the original value of the heading where the funds are taken from and the original value of the heading where the funds are to be added. If a main budget heading has a provision of 100, and it is sought to transfer the maximum allowed amount to another heading, i.e. 25, this will only be possible if the other heading had also a provision of 100 or more. If this other heading had only a provision of 90, it cannot receive a transfer of 25 as this would constitute an increase of more than 25%. In other words, the limit of 25% applies not only to the heading where the money is taken from, but also to the heading intended to receive the transferred amount.

- successive unilateral modifications to the budget must be taken into account in a cumulative way. This means for instance that, if a budget heading was already increased with an unilateral modification by 20% of its initial value (as set out in the original budget of the action or as modified by an addendum), that heading can be further increased by no more than 5% of its initial value (thus reaching in total the limit of 25% of its initial value).

When the cumulative variations of a given budget heading exceed 25% of the budget heading's value, it is necessary to process a formal budget revision (through an addendum according to Article 9(3)). Without such addendum (to regularize the modification that leads to exceeding the 25%) all costs exceeding the threshold related to that modification would be ineligible.

When informing the contracting authority, a comparative version of the budget with the cumulative changes already made must also be submitted.

Caution should always be used in making any modification to the human resources allocated to the action. In this case and in all doubtful cases, it is advisable to discuss and, if possible, agree in writing with the contracting authority beforehand.

2) Unilateral amendment: changes in the

	<p><u>description of the action</u></p> <p>Again, unilateral changes in the description of the action and the logical framework that do not affect the expected results (impact, outcomes, outputs) are allowed as long as they do not call into question the initial award of the grant or the equal treatment of applicants.</p> <p>Unilateral amendments affecting the Description of the Action and the Logical Framework that affect the expected results (impact, outcomes, outputs) are not possible and may lead to a termination of the contract by the contracting authority in accordance with Article 12(2). To avoid termination on this ground an amendment can be agreed on, but only as long as such amendment would not call into question the award decision or violate the principle of equal treatment (see above).</p>
<p>9(5) Changes of address, bank account or auditor may simply be notified by the coordinator. However, in duly substantiated circumstances, the contracting authority may oppose the coordinator's choice.</p>	<p>Such notification must be done in writing.</p> <p>A confirmation letter from the contracting authority is not necessary to officialise a change of address, bank account, or auditor. The contracting authority may however oppose the coordinator's choice for justified reasons notified to the coordinator (where possible) within 30 days from the receipt of the letter of the coordinator.</p>
<p>9(6) The contracting authority reserves the right to require that the auditor referred to in Article 5(2) of the special conditions be replaced if considerations which were unknown when this contract was signed cast doubt on the auditor's independence or professional standards.</p>	

19.2.10 Article 10 – Implementation

19.2.10.1 Implementation contracts

Text of the article	Guidelines
<p>10(1) If the implementation of the action requires the beneficiary(ies) to procure goods, works or services, it shall respect</p>	<p>Annex IV describes the principles to be observed by beneficiaries and affiliated entities concerning the procurement</p>

the contract-award rules and rules of nationality and origin set out in Annex IV of this contract.

needed for the implementation of the action. It has to be stressed that Chapters 3, 4 and 5 of the PRAG, do not apply to procurement within the contract (as stated in the introduction of the Practical Guide), unless a beneficiary explicitly and voluntarily decides to apply them along with PRAG's templates.

The general principles mentioned in section 1 of Annex IV have to be respected in the award and conclusion of any procurement contract within a grant contract.

The *ex post* checks to be carried out by the contracting authority (and the European Commission where it is not the contracting authority) are a very useful tool to see whether procurement rules are being applied properly by the beneficiaries. Such checks become even more relevant at early stages of implementation because they will allow correcting potential deviations from Annex IV, preventing potential ineligible expenditure during the rest of the lifespan of the contract. Beneficiaries are of course expected to contribute to these checks by providing all the necessary information as per Article 16(4). The existing methodology on the monitoring of projects (with emphasis on the procurement on the basis of Annex IV) may be followed.

Beneficiaries may use a central buying office as service provider or a humanitarian procurement centre recognised as such by the European Commission. In this case the relevant office or centre will have to comply with the requirements set forth in Annex IV.

Rules of nationality and origin

The rules of nationality and origin (section 2 of Annex IV), where applicable, have to be respected rigorously by beneficiaries. Annex IV makes reference to Annex a2a to the Practical Guide that contains detailed information on eligible countries for actions funded by both the EU budget and the EDF.

Even if the basic principles described in section 1 of Annex IV have been observed, a deviation from the rules of nationality and origin (for the latter, where applicable) will

	<p>render the expenditure ineligible.</p> <p>The nationality rule refers to the nationality of the service providers, suppliers, and works contractors. It applies to all service, works, and supply contracts to be concluded within the grant contract. The rule of nationality does not apply to experts proposed by service providers for service contracts financed by the grant but it does apply to the service provider itself. The rule of origin refers to the origin of goods and equipment. It applies to supplies and works contracts, but only under MFF 2014-2020.</p> <p>For contracts financed by a basic act under the Multiannual Financial Framework 2021-2027 (irrespective of the value), all supplies and material may originate in any country and no declaration of origin is required. .For further information on the rules on nationality and origin, see section 2.3.1 of the PRAG.</p> <p>For contracts financed by a basic act under the Multinational Financial Framework (MFF) 2014-2020 only:</p> <p>Under the Common Implementing Rules (CIR)² (i.e. not Instrument for Pre-accession Assistance I) and the European Development Fund, supplies may originate in any country if the amount of the supplies to be procured is below EUR 100 000 per purchase. Where several categories of items are purchased under the same call for tenders and consequently lots are used, the threshold of EUR 100 000 applies per lot. In the same tender, we can therefore have lots above EUR 100 000 applying the rule of origin and lots below this amount where supplies are untied.</p> <p>No artificial splitting of the market is allowed to circumvent the rule of origin. The procurement plan within the contract and the division into lots of a tender must be legitimate.</p> <p>See also section 2.3.1 of the PRAG.</p> <p>If the basic act or the other instruments applicable to the programme under which</p>
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² Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15.3.2014, p. 95).

the grant is financed contain rules of origin for supplies acquired by the beneficiary in the context of the grant, the tenderer must be requested to state the origin of the supplies, and the selected contractor will always have to prove the origin of the supplies.

For equipment and vehicles of a unit cost on purchase of more than EUR 5 000, contractors must present proof of origin to the beneficiary(ies) at the latest when the first invoice is presented. The certificate of origin must be issued by the competent authorities of the country of origin of the supplies and must comply with the rules laid down by the relevant Union legislation. Failure to comply with this condition may result in the termination of the contract and/or suspension of payment.

The certificate of origin must be issued by the competent authorities of the country of declared origin of the supplies or supplier (for example the chambers of commerce). However, the certificate of origin should not be regarded as a legal proof of the origin, but as useful element for determination of the origin, which may, in case of doubts, facilitate further checks. In this case the contracting authority may request, additional documentation on the origin of goods (including a cost breakdown prepared by the beneficiary for each item in question), including on-the-spot checks at the place of declared origin if the origin could not be proved successfully by other means.

Both the nationality and origin rules (for the latter, only under MFF 2014-2020) must be complied with when making any purchases of goods or equipment as part of a project co-financed by the EU, even for the goods that are not covered by the EU co-financing in the project's accounts (EC rules apply to the entire action, no matter the co-financing level).

In exceptional and well justified cases, the coordinator, on behalf of all beneficiaries, may seek a derogation from the contracting authority on the nationality and/or origin rules. These requests have to be made in writing and accompanied by the necessary justification. The derogation has to be

	<p>granted in advance and before the procurement procedure is launched (otherwise the amount involved would be considered as ineligible). Where the contracting authority is not the European Commission, it must obtain the prior authorisation of the Commission before agreeing on such derogation.</p> <p>For actions within the scope of the CIR (only MFF 2014-2020): where a beneficiary is an international organisation or a Member State agency and the organisation/agency provides co-financing to the action, participation in procedures for the award of procurement contracts must be open to all natural and legal persons eligible according to the rules of the authorisation/agency in addition to the countries eligible under the applicable CIR. The same rules apply to supplies and materials. Where no co-financing is provided, only the rules on nationality and origin included in the CIR apply.</p> <p>For actions funded under the EDF (MFF 2014-2020): Where a beneficiary is an international organisation or a member state agency, participation in procedures for the award of procurement contracts must be open to all natural and legal persons eligible according to the rules of the organisation/agency in addition to the rules of Annex IV to the Cotonou Agreement³. The same rules apply to supplies and materials. Where no co-financing is provided, only the rules on nationality and origin included in Annex IV to the Cotonou Agreement apply.</p> <p>In all cases, beneficiaries must keep all documents related to procurement (procurement notices, tender dossiers, bids received, any derogation obtained, evaluation/negotiation reports, proofs of origin provided by contractors, if applicable, etc.) in order to prove compliance with Annex IV.</p>
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³ Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (OJ 2000 L 317, 15.12.2000, p. 3).

10(2) To the extent relevant, the beneficiary(ies) shall ensure that the conditions applicable to them under Articles 3, 4, 6 and 16 of the general conditions are also applicable to the contractors awarded an implementation contract.

In all the implementation contracts awarded, it is important for beneficiaries to insert the relevant clauses to ensure the respect of the obligations stemming from these articles (liability, conflict of interest and code of conduct, confidentiality, visibility and, if applicable, communication, accounts and technical and financial checks).

These obligations for the contractors concerns only the implementation contracts concluded with beneficiaries in the context of the grant contract.

The 'visibility obligation' is to be intended as a reminder for the beneficiary — when needed — to insert the necessary requirements in the terms of reference of the contract.

Example: in the framework of a contract for the printing of 1 000 booklets to be distributed, the beneficiary has to require that they display the appropriate visibility.

'To the extent relevant' means that not all of the listed articles of the general conditions will be transferred to the contracts with the contractors.

Article 3 applies in full, which means that the contractor must indemnify and hold harmless the contracting authority against claims, damages, losses and expenses arising out of or resulting from the contractor's involvement in the action.

Article 4 applies in full. Where the contractor has to provide information it will provide this information to the beneficiaries who must then forward it to the contracting authority.

For contractors, Article 6(1) means that they have to comply with the rules applicable to contractors as stipulated in latest Communication and Visibility Requirements ([Communication and Visibility Requirements for EU External Actions | International Partnerships \(europa.eu\)](#)) Article 6(2): the contractors do not have to provide a communication plan but they have to assist — where this forms part of the services to be provided — the beneficiary to produce its communication plan, if such a plan has been requested by

	<p>the European Commission.</p> <p>Article 6(3) applies in full.</p> <p>Article 6(4) only applies to contracts for services and supplies.</p> <p>Article 6(5) applies except for the references to the purpose and amount of the grant.</p> <p>Articles 16(1) to 16(9) apply in full.</p>
<p>10(3) The coordinator shall provide in its report to the contracting authority a comprehensive and detailed report on the award and implementation of the contracts awarded under Article 10(1), in accordance with the reporting requirements in Section 2 of Annex VI.</p>	<p>In each interim narrative report (Article 2(4)) and in the final narrative report (Article 2(10)), beneficiaries have to list all contracts (works, supplies, services) above EUR 60 000 awarded for the implementation of the action during the reporting period, giving for each contract the amount, the name of the contractor and a brief description on how the contractor was selected.</p>

19.2.10.2 Subcontracting

Text of the article	Guidelines
<p>10(4) Beneficiary(ies) may subcontract tasks forming part of the action. If it does so, it must ensure that, in addition to the conditions specified in Article 10(1), 10(2) and 10(3), the following conditions are also complied with:</p> <ul style="list-style-type: none"> - subcontracting does not cover core tasks of the action; - recourse to subcontracting is justified because of the nature of the action and what is necessary for its implementation; - the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex III; - any recourse to subcontracting, if not provided for in Annex I, is communicated by the beneficiary and approved by the contracting authority. 	

19.2.10.3 Financial support to third parties

Text of the article	Guidelines
<p>10(5) In order to support the achievement of the objectives of the action, and in particular where the implementation of the action requires financial support to be given to third parties, the beneficiary(ies) may award financial support if so provided by the special conditions.</p>	<p>It may happen that the implementation of the action involves the award by beneficiaries of financial support to third parties (FSTP).</p> <p>FSTP may be a 'grant in cascade' not necessarily following a call for proposals, or a financial contribution of a different nature (see further details below). The persons/entities receiving FSTP are the final recipients of the EU funds.</p> <p>This is allowed provided that the objectives or results to be obtained are clearly detailed in the description of the action and that all the following conditions are fulfilled:</p> <ol style="list-style-type: none"> 1) The contracting authority has verified that the coordinator offers adequate guarantees as regards the recovery of amounts due. Indeed, in the event of a recovery order at the end of the action, the contracting authority exclusively turns to the coordinator, who then may be asked to reimburse amounts that beneficiaries or affiliated entities have unduly transferred as FSTP. A thorough assessment of the coordinator's financial capacity is therefore recommended prior to awarding a contract involving FSTP. 2) Beneficiaries may not exercise any discretionary power in granting FS to third parties. In order to ensure this, the guidelines for applicants require that the proposals include: <ul style="list-style-type: none"> - a fixed and exhaustive list of the different types of activities for which a third party may receive FS, - the definition of the persons or categories of persons that may receive FS, - the criteria for awarding FS, - the maximum amount to be granted to each third party and the criteria for determining it. <p>In all events, these elements have to be specified in the contract (notably in the description of the action).</p> <p>For further information on FS to third parties see section 6.9.2 of the Practical Guide.</p>

	<p>3) Beneficiaries must ensure that recipients of FS allow the contracting authority, the Commission, OLAF, and the Court of Auditors to exercise their powers of control on documents, information, even stored on electronic media, or in the recipient's premises (see Article 10(9)).</p> <p>For FSTP, the beneficiaries are fully responsible for the implementation of the action in compliance with the contract. This does not mean however that the beneficiaries must recover funds unduly paid to a third party recipient. Nor does it mean that the FS to third parties must take the form of reimbursement of certain costs (with associated eligibility conditions). It is possible, but not compulsory.</p> <p>It only means that if the conditions set out in the contract for FSTP are not fulfilled, the corresponding costs incurred by the beneficiaries will not be eligible.</p> <p><i>Example: FS is, in accordance with the contract, to be given to local NGOs for teaching activities. The funds received as FS are used by local NGOs for their own promotion. The FS given by the beneficiary is ineligible, the funds incorrectly used will be recovered by the contracting authority from the coordinator (regardless of who is at fault and of whether the coordinator decides to recover that money from the local NGOs or not).</i></p> <p>Finally, beneficiaries cannot be exempted from their responsibility on the basis of the argument that the action was not properly implemented due to a failure by the recipients of FS.</p>
<p>10(6) The maximum amount of financial support shall be limited to EUR 60 000 per each third party, except where achieving the objectives of the actions would</p>	<p>In former Financial Regulation⁴, the maximum amount of financial support must be limited to EUR 60 000 per each third party, except where the main purpose of</p>

⁴ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<p>otherwise be impossible or overly difficult.</p>	<p>the action is to redistribute the grant.</p> <p>With the new 2018 FR, this threshold may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult.</p> <p>FSTP is an activity carried out within the contract, and may be implemented by all beneficiaries, as well as affiliated entities, provided that the mandatory conditions stated in the contract are fulfilled. Indeed, the cost eligibility conditions applicable to affiliated entities are the same as those applicable to the beneficiaries. So they may award FS to third parties under the same conditions as beneficiaries (i.e. on the condition that all the minimum elements required in the Description of the Action are respected).</p> <p>When a beneficiary pays FS on the basis of a 'global amount' this amount is not to be considered as simplified cost options in the contract (for the beneficiaries vis-à-vis the contracting authority it is just like any other actual cost incurred — see Article 10(6)).</p> <p>The guidelines for applicants of the call for proposals may further restrict the conditions for providing FSTP, for instance setting a lower maximum amount.</p> <p>The guidelines may also foresee limitations or requirements (such as principles for the award procedures for FSTP) that will apply to FSTP under the specific call. For further information, see Section 6.9.2 of the PRAG.</p>
<p>10(7) The description of the action, in conformity with the relevant instructions given in this regard by the contracting authority, shall define the types of entities eligible for financial support and include a fixed list with the types of activity which may be eligible for financial support. The criteria for the selection of the third parties recipient of this financial support, including the criteria for determining its exact amount, shall also be specified.</p>	<p>It is essential for the eligibility of FS, that all these mandatory conditions are strictly defined in the contract (notably in Annex I), in compliance with the guidelines for applicants and with any conditions or restrictions set out regarding:</p> <ul style="list-style-type: none"> (i) the objectives and results to be obtained with the financial support (ii) the different types of activities eligible for financial support, on the basis of a fixed list (iii) the types of persons/entities or categories of persons/entities that may receive financial support

(iv) the criteria for selecting these persons/entities and giving the financial support

(v) the criteria for determining the exact amount of financial support for each third party, and

(vi) the maximum amount that may be given.

The eligible categories of persons/entities are not necessarily those eligible under the call for proposals with regard to beneficiaries and affiliated entities: usually the basic acts do not impose any specific nationality rule on recipients of FS. In fact it is the guidelines for a specific call for proposals and/or the contract that will set the relevant criteria, if needed. It may be the case where a nationality restriction is desirable/appropriate to achieve the results, or it may be not.

The modalities through which the FSTP is granted (e.g. following a call for proposals, direct award, etc.) must also be specified.

It is advised to agree with the beneficiaries in the description of the action on unit or lump sum amounts, together with the criteria for payment of those amounts, rather than on reimbursement of costs, unless justified by the nature of the FSTP (e.g. where the financial support targets a specific activity to be implemented by the third party).

The FSTP may take the form of 'unconditional cash transfer' where no specific activities are supported: this should be set forth in the guidelines for applicants.

'Unconditional', means that FSTP is given without anything in return, i.e. without any specific result other than helping the final recipients, e.g. support to human right defenders, scholarships to facilitate mobility, allowances to refugees, unemployed, etc. FSTP may even be the primary aim of the action and represent the core activity per se. It is not an issue provided the objective of the action clearly requires this type of financial support to third parties. Cash transfers are allowed provided the beneficiaries can prove

	<p>payment (for example a paper from the recipient acknowledging receipt of the cash amount), since the costs must be verifiable to be eligible.</p> <p>NB. 'Unconditional' does not mean that the conditions for giving financial support are not established in the contract. This would not be acceptable.</p> <p>'Conditional' transfers are also possible (e.g. seed money to a micro-enterprise subject to establishment of favourable working conditions or recruitment of women).</p>
<p>10(8) The coordinator shall provide in its report to the contracting authority a comprehensive and detailed report on the award and implementation of any financial support given. These reports should provide, amongst other, information on the award procedures, on the identities of the recipient of financial support, the amount granted, the results achieved, the problems encountered and solutions found, the activities carried out as well as a timetable of the activities which still need to be carried out. .</p>	<p>Keep in mind that the FSTP is justified if given to support the achievement of the objectives of the action.</p> <p>The FSTP has to be necessary for the implementation of the action, and embedded in its design.</p> <p>Refer to Article 16(9) on supporting documents.</p> <p>The FSTP must be clearly identifiable in the budget under Heading 6 'Other'.</p>
<p>10(9) To the extent relevant, the beneficiary(ies) shall ensure that the conditions applicable to them under Articles 3, 4(1)-4(4), 6 and 16 of these general conditions are also applicable to third parties awarded financial support.</p>	<p>The third parties receiving financial support from the beneficiaries are not subject to the same eligibility criteria as those applicable to beneficiaries and affiliated entities under the call for proposals.</p> <p>Likewise, the FS granted to those third parties is not subject to the general principles applicable to grants, and the conditions for calculating the exact amount do not necessarily encompass the no-profit principle (i.e. there may be a case where the no-profit check is appropriate, or it may be not: this has to be specified in the call for proposals and/or the contract).</p> <p>FSTP should be conceived in such a way as to be an efficient and easy tool for the achievement of the purpose of the action.</p> <p>This does not exempt the need to define in the contract the categories of persons or entities who may receive FS from the beneficiaries and the maximum amount of FS together with the way the exact amount</p>

is calculated (see above Article 10(5)).

'To the extent relevant' in Article 10(9) means that not all of the listed Articles of the general conditions will be transferred exactly to the contracts with all recipients. As a general rule, recipients of FS that implement part of the project and manage the funds in a similar way as the beneficiaries will have to comply with all provisions that have to be 'forwarded' by the beneficiaries:

Article 3 applies in full, which means that the recipients must indemnify and hold harmless the contracting authority against claims, damages, losses and expenses arising out of or resulting from the recipient's involvement in the action.

Articles 4(1) to 4(4) apply in full. Where the recipient has to provide information it will provide this information to the beneficiaries who must then forward it to the contracting authority. However, Article 4(5) does not apply to recipients of FS.

Article 6(1) applies in full.

Article 6(2): The recipients do not have to provide a communication plan but they have to assist - where necessary - the beneficiary to produce its communication plan.

Articles 6(3) and 6(4) apply in full.

Article 6(5) applies except for the reference to Article 3.

Articles 16(1) to 16(2) must not apply to recipients unless expressly required in the relevant guidelines for applicants and/or the contract.

Articles 16(3) to 16(6) apply in full.

Articles 16(7) to 16(9) apply to the extent that the relevant documents need to be kept for the period stipulated in Article 16(7). However, only those documents need to be kept that are necessary to verify that the funds have been used for the purpose and in line with the contract. For further information on the documents to be kept see Article 16(9).

On the other hand, for example refugees who receive a general support to their living do not have to comply with the

	aforementioned provisions.
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19.2.11 Article 11 – Extension and suspension

19.2.11.1 Extension

Text of the article	Guidelines
<p>11(1) The coordinator shall inform the contracting authority without delay of any circumstances likely to hamper or delay the implementation of the action. The coordinator may request an extension of the action's implementation period as laid down in Article 2 of the special conditions in accordance with Article 9. The request shall be accompanied by all the supporting evidence needed for its appraisal.</p>	<p>The implementation period of an action is defined in the special conditions. Any extension of the implementation period must be requested during the implementation period, it must be the object of a contract addendum according to Article 9(3) and it must not entail any increase in the EU contribution.</p> <p>This extension may also exceed the maximum planned duration as allowed by the guidelines for applicants:</p> <p>The coordinator may request an extension of the implementation period in accordance with Article 9. In Article 9(2) it is stated that the amendment may not have the purpose or the effect of making changes to the contract that would call into question the grant award decision or be contrary to the equal treatment of applicants.</p> <p>A violation of the principle that such an extension/amendment may not affect the award decision could only be assumed if the applicant was already aware of the circumstances that necessitated the extension when she/he submitted the application, i.e. she/he submitted the application with a shorter implementation period (to be compliant with the guidelines) — knowing that an extension (beyond the allowed maximum duration) would then be necessary at a later stage.</p>

19.2.11.2 Suspension by the coordinator

Text of the article	Guidelines
<p>11(2) The coordinator may suspend implementation of the action, or any part</p>	<p>The implementation of the action may become temporarily impossible or</p>

thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. The coordinator shall inform the contracting authority without delay, stating the nature, probable duration and foreseeable effects of the suspension.

undesirable due to exceptional circumstances, most notably of force majeure.

In order to qualify as exceptional the event or situation in question must not be part of or be attributable to the usual risks accompanying the beneficiaries' activities. What is considered as exceptional circumstances depends on a case by case assessment: however, it is likely that the vast majority of cases qualifying as exceptional circumstances according to Article 11(2) fall within the broader concept of force majeure. A definition of force majeure is provided in Article 11(8).

Under exceptional / force majeure circumstances, the coordinator is entitled to suspend the implementation of the action or parts thereof unilaterally. The suspension of the implementation of the action implies that the beneficiaries stop carrying out the action for a specific period of time.

During the suspension period the beneficiaries may only request the reimbursement of the minimum costs necessary for a possible resumption of the action. The coordinator and the contracting authority must agree in writing on such costs, including the reimbursement of legal commitments entered into for implementing the contract before the notification of the suspension was received that the beneficiaries cannot reasonably suspend, reallocate or terminate on legal grounds. This is without prejudice to any amendments to the contract that may be necessary to adapt the action to the new implementing conditions, including, if possible, the extension of the implementation period.

The coordinator must inform the contracting authority as soon as possible without unjustified delays in case it intends to suspend the implementation of the action or a part hereof. The coordinator must provide to the contracting authority all information necessary for taking an informed decision on this matter including but not limited to: a detailed description of the circumstances in question and their impact on the implementation of the action,

	<p>the measures taken to minimise damages (including their nature, probable duration etc.) and the foreseeable date of resumption of the implementation of the action, etc.</p> <p>Such information should be submitted in writing through a registered letter with an acknowledgement of receipt or an equivalent. Using such a means of communication ensures there is evidence of the receipt by the other party, and thus a certainty regarding the period within which beneficiaries are entitled to incur eligible costs.</p> <p>In case of doubts, the contracting authority must request any proof deemed necessary to show that such exceptional / force majeure circumstances indeed exist. Nevertheless, the suspension of the implementation period of the action takes effect from the moment the contracting authority is informed about the suspension and not after such a verification exercise has been completed.</p>
<p>11(3) The coordinator or the contracting authority may then terminate this contract in accordance with Article 12(1). If the contract is not terminated, the beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow, informing the contracting authority accordingly.</p>	<p>During the suspension, beneficiaries must take all possible measures for minimising the damage due to the exceptional/force majeure circumstances.</p> <p>When an exceptional / force majeure circumstance stops hindering the implementation of the action, and therefore it is possible for the beneficiaries to resume implementation, the coordinator must inform the contracting authority as soon as possible, without any unjustified delay.</p> <p>If it is practically impossible to resume the implementation of the action as initially planned, then the possibility to modify the action in light of the new implementing conditions must be explored. In this assessment, it must be carefully checked to what extent an amendment of the contract is possible without putting into question the award decision or the equality of treatment. If an amendment goes against the main principles for amendments, the contract should be terminated.</p> <p>If the implementation can no longer be resumed or it cannot be resumed</p>

	effectively or appropriately, then the contract should be terminated in accordance with Article 12(1).
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19.2.11.3 Suspension by the contracting authority

Text of the article	Guidelines
<p>11(4) The contracting authority may request the beneficiary(ies) to suspend implementation of the action, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. To this purpose, the contracting authority shall inform the coordinator stating the nature and probable duration of the suspension. .</p>	<p>In exceptional / force majeure circumstances, the contracting authority must decide whether to request the coordinator to suspend the implementation of the action.</p> <p>The suspension of the implementation of the action implies that the beneficiaries will stop carrying out the action for a specific period of time.</p> <p>Regarding the eligibility of costs incurred during the suspension period, see comments on Article 11(2).</p>
<p>11(5) The coordinator or the contracting authority may then terminate this contract in accordance with Article 12(1). If the contract is not terminated, the beneficiary(ies) shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow and after having obtained the approval of the contracting authority</p>	<p>During the suspension, the beneficiaries must take all possible measures for minimising the damage due to exceptional/force majeure circumstances.</p> <p>Beneficiaries must resume timely the implementation of the action, as soon as the exceptional/force majeure circumstances allow it. The coordinator must, however, first have received a written prior approval by the contracting authority for resuming the implementation of the action.</p> <p>If it is practically impossible to resume the implementation of the action as initially planned then the possibility to modify the action in light of the new implementing conditions must be explored. In this assessment, it must be carefully checked to what extent an amendment of the contract is possible without putting into question the award decision or the equality of treatment. If an amendment goes against these main principles for amendments, the contract should be terminated.</p> <p>If the implementation can no longer be resumed or it cannot be resumed effectively or appropriately, then the</p>

	contract should be terminated in accordance with Article 12(1).
<p>11(6) The contracting authority may also suspend this contract or the participation of a beneficiary(ies) in this contract if the contracting authority has evidence that, or if, for objective and well justified reasons, the contracting authority deems necessary to verify whether presumably:</p> <p>a) the grant award procedure or the implementation of the action have been subject to breach of obligations, irregularities or fraud;</p> <p>b) the beneficiary(ies) have breached any substantial obligation under this contract.</p>	<p>The contracting authority may suspend the contract or the participation of a beneficiary in the contract if it has evidence that the circumstances in points a) or b) have occurred.</p> <p>In addition, the contracting authority may suspend the contract if, for objective and well justified reasons, it deems necessary to verify whether, presumably, the circumstances in points a) or b) have occurred.</p> <p>In this latter case, however, in light of the burdensome consequences of a suspension, the contracting authority must preferably, whenever possible, first give notice to the coordinator indicating its intention to suspend the contract, as well as, of the specific grounds/reasons motivating the suspension. The contracting authority must then leave the coordinator a reasonable time (30 days) to react and present its comments/objections to the intended suspension. Without prejudice to the right of the contracting authority to confirm its intention to suspend, the coordinator's observations must be given a thorough consideration before taking the final decision for suspension.</p> <p>Such pre-information should not however impact the need for a timely suspension of the contract.</p> <p>The means of communication used must provide clear evidence of the fact that the coordinator was informed and the date on which this happened (a registered letter with acknowledgment of receipt or equivalent).</p> <p>Costs incurred during a suspension in accordance with Article 11(6) are not eligible.</p> <p>However, if after verification the contracting authority finds out that the circumstances in a) and b) have not occurred, the costs incurred during the suspension and for the resumption of the action will become eligible.</p>

<p>11(7) The coordinator shall provide any requested information, clarification or document within 30 days of receipt of the requests sent by the contracting authority. If, notwithstanding the information, clarification or document provided by the coordinator, the award procedure or the implementation of the grant prove to have been subject to breach of obligations, irregularities, fraud, or breach of obligations, then the contracting authority may terminate this contract according to Article 12(2)(h).</p>	
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19.2.11.4 Force majeure

Text of the article	Guidelines
<p>11(8) The term force majeure, as used herein covers any unforeseeable events, not within the control of either party to this contract and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosion. A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspending funding under this contract.</p>	<p>This article defines the elements necessary for circumstances to be considered as 'force majeure': i.e. the event of force majeure could not have been foreseen by the concerned party, it is beyond its control, it is not attributable to error or negligence on its part and it could not have been avoided even with all due diligence by the concerned party.</p> <p>In most cases, such circumstances are related to natural disasters like: flooding, mass fire, volcanic eruption, earthquake, hurricane, etc. However not every external force could lead to force majeure: a heavy rain that prevented an outdoor activity might have been foreseeable or might not have had a significant impact on the implementation of the action as a whole. Force majeure may also be man-made, e.g. war, revolution, rebellion, terrorist activities, etc.</p> <p>Note that the above-mentioned circumstances of force majeure must also have an impact on the implementation of the action by preventing, at least for a given period of time, the beneficiaries from fulfilling their obligations as initially envisaged. Without such impact, any circumstances, even if they are per se exceptional, unforeseeable, insurmountable, and beyond the control of</p>

	<p>the concerned party, must not qualify as relevant for the suspension of the implementation.</p> <p>Defects in equipment or material or delays in making them available, or financial difficulties cannot be invoked as force majeure.</p> <p>Strikes or labour disputes may be invoked if they are beyond the control of the party concerned. E.g. if the employees of a party go on strike that will in most cases not be considered as force majeure as this strike is directly linked to the party. However, if e.g. the employees of the national railway agency go on strike and this strike hinders the implementation of the action, such strike could be invoked as a force majeure event.</p>
<p>11(9) The beneficiary(ies) shall not be held in breach of its contractual obligations if it is prevented from fulfilling them by circumstances of force majeure</p>	<p>If prevented from fulfilling its obligations due to force majeure, the beneficiaries will not be considered in breach of their obligations, thus excluding any of the possible negative consequences from such breach (such as termination of the contract on this ground and/or reduction of the amount of the grant due to breach of contract).</p> <p>The beneficiaries must therefore not be held responsible for not completing the action due to such circumstances.</p> <p>In any event, if the action is only partially implemented, the contracting authority must reduce the grant in line with its actual implementation and the specific costs incurred.</p>

19.2.11.5 Extension of the implementation period following a suspension

Text of the article	Guidelines
<p>11(10) In case of suspension according to Articles 11(2), 11(4) and 11(6), the implementation period of the action shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the contract that may be necessary to adapt the action to the new implementing conditions. This Article 11(10) does not apply in case of an</p>	<p>Suspension according to Articles 11(2), 11(4), and 11(6), must lead to an extension of the duration of the action of a period equivalent to the length of the suspension (provided that the implementation can be resumed).</p>

operating grant.	
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19.2.12 Article 12 – Termination of the contract

19.2.12.1 Termination in case of force majeure

Text of the article	Guidelines
<p>12(1) In the cases foreseen in Article 11(2) and 11(4), if the coordinator or the contracting authority believes that this contract can no longer be executed effectively or appropriately, it shall duly consult the other. Failing agreement on a solution, the coordinator or the contracting authority may terminate this contract by serving two months written notice, without being required to pay indemnity.</p>	<p>The exceptional circumstances (including but not limited to force majeure events) can make it impossible to continue with the implementation of the action. This could be established immediately after the exceptional/force majeure circumstances occurred or also at a later stage during or after the suspension of the implementation of the action.</p> <p>If either the coordinator or the contracting authority believes that the implementation of the action can no longer be executed effectively or appropriately they must consult each other in order to determine whether and how to continue the implementation of the action. Failing an agreement, the coordinator or the contracting authority may unilaterally terminate the contract by serving two months written notice, without being required to pay indemnity.</p> <p>In this case, as stated in Article 11(9), neither the beneficiaries nor the contracting authority are responsible for not finalising the implementation of the action and therefore must not be considered in breach of their contractual obligations under the contract.</p> <p>In case the action is only partially implemented, the contracting authority will reduce the grant in line with its actual implementation and the costs incurred by the beneficiaries.</p>

19.2.12.2 Termination by the contracting authority

Text of the article	Guidelines
<p>12(2) Without prejudice to Article 12(1), in the following circumstances the</p>	<p>The contracting authority will terminate the contract or the participation of a beneficiary</p>

contracting authority may, after having duly consulted the coordinator, terminate this contract or the participation of any beneficiary(ies) in this contract without any indemnity on its part when:

a) a beneficiary(ies) fails, without justification, to fulfil any substantial obligation incumbent on them individually or collectively by this contract and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of receipt of the letter;

b) a beneficiary(ies) or any person that assumes unlimited liability for the debts of the beneficiary(ies) is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulations relevant to the beneficiary(ies);

c) a beneficiary(ies), or any related entity or person, have been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;

d) it has been established by a final judgment or a final administrative decision or by proof in possession of the contracting authority that the beneficiary(ies) has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose;

e) a change to a beneficiary(ies)'s legal, financial, technical, organisational or ownership situation or the termination of the participation of a beneficiary(ies) substantially affects the implementation of this contract or calls into question the decision awarding the grant;

f) a beneficiary(ies) or any related person,

in any of the cases foreseen in Article 12(2).

However, whenever possible, the termination of the contract should be preceded by an adversarial procedure. In such a case, the contracting authority must first send a pre-information letter explaining its intention to terminate the contract and the specific grounds and reasons for the termination and must leave the coordinator a reasonable time to react and present its comments/objections to the termination (30 days).

The contracting authority must use a method of communication that provides clear evidence of the fact that the coordinator was informed and the date of receipt of the information (a registered letter with acknowledgment of receipt or its equivalent). Without prejudice to the right of the contracting authority to confirm its intention to suspend, the coordinator's observations must be given a thorough consideration before taking the final decision on termination.

In light of the impact of the termination of a contract, the contracting authority must decide in full consideration of all the facts and might send a further request for clarification and/or information. In deciding whether to terminate the contract or only the participation of certain beneficiaries, the contracting authority must make a case by case analysis, taking into account the specific role of the beneficiaries involved, the gravity/extent of the circumstances/behaviour, the need to ensure the full and timely implementation of the action as described in the description of action, and the respect for the principle of proportionality, good financial management and equality of treatment of the beneficiaries.

a) A breach of the contract is committed where beneficiaries individually or collectively fail to properly discharge any substantial obligations under the contract. As a general rule, the contracting authority should first give notice – through a pre-information letter – to the coordinator indicating the reasons why it believes that the beneficiaries have failed to carry out

<p>are guilty of misrepresentation in supplying the information required in the award procedure or in the implementation of the action or fail to supply – or fail to supply within the deadlines set under this contract - any information related to the action required by the contracting authority;</p> <p>g) a beneficiary(ies) has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;</p> <p>h) the contracting authority has evidence that a beneficiary(ies), or any related entity or person, has committed breach of obligations, irregularities or fraud in the award procedure or in the implementation of the action;</p> <p>i) a beneficiary(ies) is subject to an administrative penalty referred to in Article 12(8);</p> <p>j) the contracting authority has evidence that a beneficiary(ies) is subject to a conflict of interests;</p> <p>k) the European Commission has evidence that a beneficiary(ies) has committed systemic or recurrent errors or irregularities, fraud, or serious breach of obligations under other grants financed by the European Union and awarded to that specific beneficiary(ies) under similar conditions, provided that those errors, irregularities, fraud or serious breach of obligations have a material impact on this grant.</p> <p>The cases of termination under points (b), (c), (d), (h), (j) and (k) may refer also to persons who are members of the administrative, management or supervisory body of the beneficiary(ies) and/or to persons having powers of representation, decision or control with regard to the beneficiary(ies).</p>	<p>their tasks in accordance with the contract and must leave the beneficiaries (via the coordinator) a reasonable time to react and present comments/objections or to correct this neglect or failure.</p> <p>If the beneficiaries (via the coordinator) still fail to comply or to furnish a satisfactory explanation within 30 days of receipt of the letter, the contracting authority will terminate the contract or the participation of the relevant beneficiaries in the contract.</p> <p>A breach of the visibility and, if applicable, communication obligations under Article 6 will generally be considered a substantial breach of the contract and trigger the right to terminate in accordance with point a).</p>
<p>12(3) In the cases referred to in points (c), (f) (h) and (k) above, any related person means any physical person with powers of</p>	

<p>representation, decision-making or control in relation to the beneficiary(ies). Any related entity means, in particular, any entity which meets the criteria laid down by Article 1 of the Seventh Council Directive No 83/349/EEC of 13 June 1983.</p>	
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19.2.12.3 Termination of a beneficiary(ies) participation by the coordinator

Text of the article	Guidelines
<p>In duly justified cases, the participation of a beneficiary(ies) in this contract may be also terminated by the coordinator. To this purpose, the coordinator shall communicate to the contracting authority the reasons for the termination of its participation and the date on which the termination shall take effect, as well as a proposal on the reallocation of the tasks of the beneficiary(ies) whose participation is terminated, or on its possible replacement. The proposal shall be sent in good time before the termination is due to take effect. If the contracting authority agrees, the contract shall be amended accordingly in conformity with Article 9.</p>	<p>Such requests must be very well justified, and the contracting authority must be provided with any information and/ or any supporting documents proving, justifying, and supporting the request.</p> <p>It is not possible to provide an exhaustive list of cases, which might lead the coordinator to request the termination of the participation of a beneficiary. In circumstances where such termination is requested, due account should be taken to ensure the full and timely implementation of the action as outlined in the description of the action, as well as the respect of the principles of proportionality and sound financial management, the respect of the award decision, and the equality of treatment of beneficiaries.</p> <p>If the contracting authority agrees to the coordinator's request, then an amendment to the contract according to Article 9(3) introducing the necessary modifications must be made in order to officialise the termination of the participation of the beneficiaries concerned. The general limitations to amendments as set forth in Article 9(2) apply.</p> <p>Any termination of a beneficiary's participation in the contract by the coordinator without the prior consent of the contracting authority constitutes a breach of the contract and may result in the termination by the contracting authority of the whole contract according to Article 12(2)(a).</p>

19.2.12.4 End date

Text of the article	Guidelines
<p>12(5) The payment obligations of the European Union under this contract shall end 18 months after the implementation period laid down in Article 2 of the special conditions, unless this contract is terminated according to Article 12.</p> <p>The contracting authority shall postpone this end date, so as to be able to fulfil its payment obligations, in all cases where the coordinator has submitted a payment request in accordance with contractual provisions or, in case of dispute, until completion of the dispute settlement procedure provided for in Article 13. The contracting authority shall notify the coordinator of any postponement of the end date.</p>	<p>It is therefore imperative that the coordinator submits the final payment request in a timely fashion.</p>
<p>12(6) This contract will be terminated automatically if it has not given rise to any payment by the contracting authority within two years of its signature.</p>	

19.2.12.5 Effects of termination

Text of the article	Guidelines
<p>12(7) Upon termination of this contract the coordinator shall take all immediate steps to bring the action to a close in a prompt and orderly manner and to reduce further expenditure to a minimum.</p> <p>Without prejudice to Article 14, the beneficiary(ies) shall be entitled to payment only for the part of the action carried out, excluding costs relating to current commitments that are due to be executed after termination.</p> <p>To this purpose, the coordinator shall introduce a payment request to the contracting authority within the time limit set by Article 15(2) starting from the date of termination.</p> <p>In the event of termination according to Article 12(1), the contracting authority may</p>	<p>In case of termination in accordance with Article 12(1), provided the first paragraph of Article 12(7) has been properly executed, the contracting authority will in principle accept to reimburse the unavoidable residual expenditures (i.e. costs related to the closure of the action) incurred during the notice period, meaning the costs necessary for the closure of the activities financed under the contract claimed by the beneficiaries.</p>

<p>agree to reimburse the unavoidable residual expenditures incurred during the notice period, provided, the first paragraph of this Article 12(7) has been properly executed.</p> <p>In the cases of termination foreseen in Article 12(2) a), c), d), f), h) and k) the contracting authority may, after having properly consulted the coordinator and depending on the gravity of the failings, request full or partial repayment of amounts unduly paid for the action.</p>	
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19.2.12.6 Administrative sanctions

Text of the article	Guidelines
<p>12(8) Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after an adversarial procedure in line with the applicable Financial Regulation, upon the beneficiary(ies) who, in particular,</p> <p>a) is guilty of grave professional misconduct, has committed irregularities or has shown significant deficiencies in complying with the main obligations in the performance of the contract or has been circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;</p> <p>b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years;</p>	<p>In addition to the remedies that have their origin in the contract, the European Commission may also impose statutory sanctions on beneficiaries who have been found to have seriously failed to meet their contractual obligations or who have made false declarations, substantial errors, irregularities and fraud. These statutory penalties may consist of:</p> <ul style="list-style-type: none"> - administrative penalties: exclusion from future contract award procedures financed by the EU for a maximum period of 5 years, - financial penalties: fines representing up to 10% of the total value of the contract. <p>Contract value in this context means the maximum amount of EU contribution set forth under Article 3(2) of the special conditions.</p> <p>Such financial penalties are to be distinguished from the damages, liquidated or general, which are intended to be a compensation for the injury caused to a party by a contract breach committed by the other party. They are the expression of the administrative powers of the European Commission in the execution of the budget to sanction the conduct of economic operators detrimental to the EU financial interests.</p> <p>According to the current Internal Rules on the implementation of the EU budget, the decision to impose regulatory penalties is</p>

<p>12(9) In the situations mentioned in Article 12(8), in addition or in alternative to the sanction of exclusion, the beneficiary(ies) may also be subject to financial penalties up to 10% of the contract value.</p> <p>12(10) Where the contracting authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the beneficiary(ies) or call on the appropriate guarantee.</p> <p>12(11) The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the beneficiary(ies).</p>	<p>to be adopted by the authorising officer by delegation after prior adversarial proceedings with the affected beneficiaries in which they are allowed to present their observations vis-à-vis the alleged facts and intended penalty. The authorising officer by delegation must also take a decision on the duration of the exclusion and/or the amount of the financial penalty in accordance with the principle of proportionality.</p> <p>In contracts under indirect management, where the commission is not the contracting authority, the contracting authority must inform the European Commission when a beneficiary has been guilty of making false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations. This information might be used by the European Commission to exclude an entity from participation in procurement procedures or calls for proposals according to Articles 131(4), 109 of the budget Financial Regulation or the corresponding EDF provisions.</p> <p>Without prejudice to the European Commission's right to impose the aforementioned penalties, financial penalties may also be imposed on beneficiaries by the contracting authority if this is allowed by its national law.</p> <p>For international organisations, the application of Articles 12(8) and 12(11) is subject to the privileges and immunities of the organisation (see Annex e3h11).</p>
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19.2.13 Article 13 – Applicable law and dispute settlement

Text of the article	Guidelines
<p>13(1) This contract shall be governed by the law of the country of the contracting authority or, where the contracting authority is the European Commission, by the applicable European Union law complemented where necessary by the law of Belgium.</p> <p>13(2) The parties to this contract shall do</p>	<p>In cases where disputes between the beneficiaries and the contracting authority cannot be settled amicably (see template S1 and – as a follow-up – template S2), they may be brought to court.</p> <p>Where the contracting authority is the EC headquarters in Brussels or an EU delegation, the dispute has to be settled</p>

everything possible to settle amicably any dispute arising between them during the implementation of this contract. To that end, they shall communicate their positions in writing, and meet each other at either's request. The coordinator and the contracting authority shall reply to a request sent for an amicable settlement within 30 days. Once this period has expired, or if the attempt to reach amicable settlement has not produced an agreement within 120 days of the first request, the coordinator or the contracting authority may notify the other part that it considers the procedure to have failed.

before the Brussels courts in Belgium.

On the other hand, where the contracting authority is the national authorising officer (for instance in case of EDF funds) or another entity from the partner country the case has to be brought to court in the country of the contracting authority and is governed by the laws of that country.

However, before bringing the case to court, the Commission should do its utmost to settle amicably any dispute that arises between it and beneficiaries of a grant contract, including by holding meetings with the beneficiaries, if they so request. The Commission should also reply to requests for meetings, made with a view to settling disputes, promptly, according to the procedure provided for in Article 13(2).

Other available legal remedies in the context of contracts are listed in Section 2.12 of the Practical Guide.

Where the beneficiary concerned is an international organisation, Article 13 does not apply. Instead, in default of amicable settlement, the parties may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of conclusion of the Agreement. The appointing authority must be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The arbitrator's decision must be binding on all parties and there must be no appeal (see Annex e3h11).

<p>13(3) In the event of failure to reach an amicable agreement, the dispute may by common agreement of the coordinator and the contracting authority be submitted for conciliation by the European Commission if it is not the contracting authority. If no settlement is reached within 120 days of the opening of the conciliation procedure, each party may notify the other that it considers the procedure to have failed.</p>	
<p>13(4) In the event of failure of the above procedures, each party to this contract may submit the dispute to the courts of the country of the contracting authority, or to the Brussels courts where the contracting authority is the European Commission.</p>	

19.3 Financial provisions

19.3.1 Article 14 - Eligible costs

19.3.1.1 Cost eligibility criteria

Text of the article	Guidelines
<p>14(1) Eligible costs are actual costs incurred by the beneficiary(ies) which meet all the following criteria:</p>	<p>Eligible costs are actual costs incurred by the beneficiaries, which meet all the eligibility criteria at the same time, and do not fall under the category of ineligible costs in Article 14(9). Furthermore, they must be in line with the specifications included in the call for proposals, which may provide for specific instructions and/or limitations to the general rules set in the general conditions (if appropriate, specific clauses will also be included in the special conditions).</p> <p>Costs have to be related to and generated by activities carried out within the implementation period of the action (as defined in Article 2 of the special conditions) and in accordance with the</p>

	<p>contract.</p> <p>To be considered eligible, costs must be actually incurred by the beneficiaries, and must have generated a debt to be paid directly by an entity, which is party to the contract with the contracting authority (i.e. the coordinator or a co-beneficiary).</p> <p>Costs incurred by affiliated entities that are identified in the special conditions will also be accepted as eligible. In this case, the affiliated entities concerned have to abide by the same rules applicable to the beneficiaries under the contract with regard to the eligibility of costs and the rights of checks and audit by the Commission, OLAF and the Court of Auditors.</p> <p>The coordinator is responsible for monitoring the correct implementation of the contract and for verifying and consolidating the information that will be provided to the contracting authority; therefore the coordinator should also make sure that the conditions for the eligibility of costs are met, through accurate supervision of the co-beneficiaries and the affiliated entities, and appropriate internal arrangements.</p> <p>It is worth reminding that costs that might have been deemed eligible at a first glance in the reports may be declared ineligible following an audit or verification carried out according to Article 16.</p> <p>The coordinator should keep in mind that it bears the ultimate responsibility (including financial) for the entire action and must reimburse to the contracting authority any cost declared ineligible (see Article 18(4)).</p>
<p>a) they are incurred during the implementation of the action as specified in Article 2 of the special conditions. In particular:</p> <p>(i) costs relating to services and works shall relate to activities performed during the implementation period. Costs relating to supplies shall relate to delivery and installation of items during the implementation period. Signature of a contract, placing of an order, or entering</p>	<p>As a rule, payments after the implementation period would typically relate to costs that by their nature would only be paid after the implementation period and possibly after the submission of the final report. This could for example include:</p> <ul style="list-style-type: none"> - payments for activities carried out towards the end of the implementation period but where payment takes place later, e.g. because of warranty periods;

into any commitment for expenditure within the implementation period for future delivery of services, works or supplies after expiry of the implementation period do not meet this requirement. Cash transfers between the coordinator and/or the other beneficiary(ies) and/or affiliated entity(ies) may not be considered as costs incurred;

(ii) costs incurred should be paid before the submission of the final reports. They may be paid afterwards, provided they are listed in the final report together with the estimated date of payment;

(iii) an exception is made for costs relating to final reports, including expenditure verification, audit and final evaluation of the action, which may be incurred after the implementation period of the action;

(iv) procedures to award contracts, as referred to in Article 10, may have been initiated and contracts may be concluded by the beneficiary(ies) before the start of the implementation period of the action, provided the provisions of Annex IV have been respected.

- payments linked to costs for the closure of the action (audit, reports and publications, dissemination of results etc.).

NB. Any amount above EUR 500 that is unpaid on the date of submission of the final reports has to be clearly listed in the 'List of Pending payments' in the final financial report (Annex e3h7 - worksheet 'Final sources of funding'). The following details should be provided: Name of the provider, object of the contract (final audit, works execution guarantee...), amount in EUR, due date, reference document (date and number of invoice/contract), explanation and comments (why still not paid?).

(iii) Costs related to the submission of final reports (including the costs of the staff preparing the final report) and the winding up of the action, including expenditure verification, audit and the final evaluation of the action, may be incurred after the implementation period of the action, but in any event before the submission of the final reports.

These costs may be considered eligible to the extent that these costs are reasonable and necessary for the action, and that it was not possible to incur them during the implementation period. They may not consist of a mere extension of the activities of the action. The closing up activities and related costs must be finally accepted by the contracting authority in order to be eligible; therefore it is suggested to present them clearly in the budget (including the 'justification sheet') or, as appropriate, in the description of the action. If these costs were not foreseeable at proposal stage, it is advisable that the coordinator agrees them beforehand with the contracting authority, insofar as possible.

(iv) Contract-award procedures may be initiated before the start of the implementation period, in accordance with the rules set forth in Annex IV. This allows for instance for the signature of a procurement contract before the start of the action in order to be already operational when the action starts. However, the respective costs will have to be generated (i.e. incurred) during the

	<p>implementation period of the action in order to be eligible.</p> <p>Example: signature of a rental contract on 15/12/n-1. Action starts 01/01/n. The rental will be eligible only for the period starting as of 01/01/n, but the contract can be signed beforehand.</p> <p>Stocks are not eligible costs as such. Any procurement under the contract must follow Annex IV and costs must be in line with Article 14.</p> <p>In case of stringent operational needs of initiating the procurement of goods, services or works before the start of the implementation period of the action, where significant amounts are involved, it is advisable to clearly explain and substantiate it in the description of the action.</p> <p>This is without prejudice to the fact that, in any event, the beneficiaries bear the risk for any contract signed or commitment entered into before the signature of the contract (exceptional case), or during the implementation period. This means that they will not be entitled to any compensation or indemnity if — for whatever reason — the contract does not materialise.</p>
<p>b) they are indicated in the estimated overall budget for the action;</p>	<p>In principle, only those cost items that have been approved in the budget and the description of the action are eligible, although it is possible to remove a budget item or introduce a new one. A request for amendment to the contract may have to be submitted by the coordinator according to Article 9.</p> <p>Caution should always be used in making any modification to increase the human resources allocated to the action. In this case and in all doubtful cases, it is advisable to discuss and, if possible, agree in writing with the contracting authority beforehand.</p>
<p>c) they are necessary for the implementation of the action;</p>	<p>It is important to pay particular attention to explain which specific resources and related costs are needed for the implementation of the action, in order to</p>

	<p>justify their link with the action (activities, results and objectives) and therefore their funding. Costs for items charged that were not necessary for the project purposes are a frequent source of cost ineligibility.</p> <p>This can be implicitly done in the description of the action, but more specifically it also has to be included in the budget, in Worksheet 2, in the column 'Clarification of the budget items'.</p> <p>This condition is also strictly linked with letter f) below.</p>
<p>d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary(ies) and determined according to the accounting standards and the usual cost accounting practices applicable to the beneficiary(ies);</p>	<p>All the costs incurred – corresponding to the entire budget of the action and not only to the EU grant — must be recorded in the accounts of the beneficiaries or, as the case may be, of the affiliated entities. The supporting documents (tenders, orders, vouchers, invoices, receipts etc.) must be in place and tally with the recorded costs. (see also Article 16 for more details)</p> <p>The coordinator is responsible for verifying and consolidating the information that will be provided to the contracting authority; therefore it should as well make sure that the conditions for the eligibility of costs are met, through accurate supervision of the other beneficiaries and affiliated entities and appropriate internal arrangements.</p> <p>It is strongly advisable for the coordinator to keep (electronic) copies of all relevant documents and accounts and to carry out <i>ex ante</i> and constant checks to ensure that supporting and accounting documents are available, correct, and duly filed and recorded.</p> <p>The coordinator should keep in mind that it bears the ultimate responsibility (especially financial) for the entire action and must reimburse to the contracting authority any cost declared ineligible. (see Article 18(4))</p> <p>The 'accounting standards and the usual cost accounting practices applicable to the beneficiaries' refer either to International accounting standards or to the rules to which the beneficiaries or affiliated entities are subject to by law. If the concerned beneficiary or affiliated entity is not governed by any national accounting rules,</p>

	the usual accounting practices of the beneficiary are to be respected provided that they conform to international accounting standards.
e) they comply with the requirements of applicable tax and social legislation;	The beneficiaries and the affiliated entities are fully responsible for the coordination and execution of all activities and have to ensure compliance with local, national and other applicable legislation.
f) they are reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.	<p>It is important to pay particular attention to explain how costs are calculated and budgeted.</p> <p>This is particularly true for those costs that are not easily justifiable because, for instance, they are especially high (compared to other similar items) and/or are purchased in high quantity.</p> <p>The explanation has to be provided at proposal stage in the budget, worksheet 2, in the column 'justification of the estimated costs', and/or as appropriate in the description of the action and the reports to understand their relationship with the results/activities of the action.</p>

19.3.1.2 Eligible direct costs

Text of the article	Guidelines
14.2. Subject to Article 14(1) and, where relevant, to the provisions of Annex IV being respected, the following direct costs of the beneficiary(ies) shall be eligible:	<p>Article 14(2) lists some categories of direct eligible costs that may be eligible subject to specific conditions, without prejudice to the general criteria set out in Article 14(1).</p> <p>The eligibility of costs is also determined by compliance with the procurement principles set out in Annex IV. If the beneficiaries or the affiliated entities do not follow these principles, the EU will not approve the costs incurred and may reduce the final amount of the grant accordingly.</p> <p>NB. Lack of documentation in tendering procedures, i.e. insufficient evidence that the procurement process managed by the beneficiaries conforms to the requirements of</p>

	<p>the legal framework, is one of the most recurrent sources of ineligibility of costs.</p>
<p>a) the cost of staff assigned to the action, corresponding to actual gross salaries including social security charges and other remuneration-related costs (excluding bonuses); salaries and costs shall not exceed those normally borne by the beneficiary(ies), unless it is justified by showing that it is essential to carry out the action;</p>	<p>Staff costs are eligible provided that the staff are essential to the implementation of the Action and are explicitly mentioned in the project proposal.</p> <p>The eligible costs are constituted by gross salaries or wages in respect of the actual time devoted to the project and include income taxes, social security etc., and other statutory costs included in the remuneration, provided they are standard human resources policy of the beneficiary and can be proved by supporting documents of the beneficiary (or affiliated entity).</p> <p>For example, medical insurance, repatriation, relocation, visa costs, housing allowance, salary adjustments, other benefits etc. may only be eligible if they respect all applicable legislation, constitute a standard practice of the organisation and are actually paid.</p> <p>As a general rule ‘provisions’ in the beneficiary’s accounting cannot be considered as actual costs, but some exceptions can be agreed on a case-by-case basis where they constitute an obligation under applicable law and a certain future disbursement (refer to Article 14(1)(a) ii) for the requirement of costs not yet paid at the submission of the final report).</p> <p>They should be traceable to payroll records (e.g. salary slips), and to human resources records (e.g. employment contracts).</p> <p>NB. An apportionment (pro-rata system based on calculation/apportionment keys) can be used to declare direct costs, since such a system represents actual costs shared based on a reasonable and justifiable method described in an extra sheet of the Budget. See Companion Users guide on Article 14.2 j)</p> <p><u>Headquarters staff</u></p> <p>As a starting point, costs of Headquarters staff should be covered by indirect costs.</p> <p>However, with due consideration to the description and the functional organisation of the action and of the beneficiaries, they may be charged as direct costs in the following</p>

circumstances:

- they relate to the achievement of the action's operational results and have accordingly been identified as an operational activity in the description of the action; and/or

- they cover the actual presence of Headquarters staff in the field (e.g. specific monitoring missions, needs assessment, etc.).

- They relate to staff performing the tasks listed in the description of the action directly assigned to the operation of the project office in Headquarters if any.

They must be well justified in the framework of the action and accepted by the contracting authority.

In all other cases, the related Headquarters staff costs cannot be charged to the action as direct costs either in whole or on a pro rata basis.

Consultants (v. employees)

As a general rule, tasks performed by consultants, experts and/or other service providers (e.g. accountants, lawyers, translators, external IT staff, etc...) are to be considered as resulting from implementation contracts (Article 10). Consequently, beneficiaries must award these contracts in accordance with Annex IV.

These costs are thus not considered as human resources (budget heading 1) but as other costs/services (notably budget heading 5 or 6).

Specific case: 'in-house consultants'

In house / 'intra muros' consultants are natural persons working on the basis of a service contract as opposed to employees hired on the basis of a labour contract. They join a beneficiary's project team and deliver 'external services'. The costs arising from these in-house consultants are in principle to be considered as costs relevant to implementing contracts.

However, as an exception to the rule, these costs may be considered as personnel costs regardless of whether the consultants are self-employed or employed by a third party, if the following cumulative conditions are fulfilled in accordance with the terms of the

call for proposals and subject to the eligibility of costs:

(a) a beneficiary has a contract to engage the consultant to work for it and (some of) that work involves tasks to be carried out under the action funded by the grant;

(b) the consultant must work under the instructions/supervision of the beneficiary;

(c) the consultant must work in the premises of the beneficiary as a member of the project team;

(d) the output of the work belongs to the beneficiary;

(e) the costs of employing the consultant are reasonable, are in accordance with the normal practices of the beneficiary and are not significantly different from the personnel costs of employees of the same category working under a labour contract for the beneficiary;

(f) travel and subsistence costs related to such consultants' participation in project meetings or other travel relating to the action is directly paid by the beneficiary or in any case according to the beneficiary's own staff procedures.

(g) the consultant uses the beneficiary's infrastructure (i.e. user of the 'indirect costs').

These conditions describe a de facto situation of subordination, as in a traditional labour contract (regardless of the legal form). Therefore in these cases, if the national applicable legislation allows for a de facto employee to be hired under a service contract, and provided that all the conditions stated above (similar costs, property of results, subordination, etc.) are satisfied, these service contracts may be assimilated to staff costs in the budget and for all useful purposes (for instance procurement principles set out in Annex IV would not apply).

This is to be evaluated by the contracting authority on a case by case basis, so it is strongly suggested to discuss it as soon as possible with the contracting authority to avoid any problems.

Note also that if these conditions are not met, a service contract may still be awarded

	<p>through the applicable procurement rules.</p> <p>Unless otherwise specified in the guidelines for applicants, service contracts meeting these criteria may be charged to heading 1 - human resources.</p>
<p>b) travel and subsistence costs for staff and other persons taking part in the action, provided they do not exceed those normally borne by the beneficiary(ies) according to its rules and regulations. In addition, the rates published by the European Commission at the time of contract signature may never be exceeded;</p>	<p>Travel and subsistence costs of any person taking part in the action are eligible, including staff of the beneficiaries, associates, affiliated entities and the final beneficiary(ies). Travel and subsistence costs should not exceed:</p> <ul style="list-style-type: none"> - those costs normally borne by the beneficiary(ies) according to its rules and regulations - the per diem rates published by the European Commission at the time of contract signature. <p>Per diem rates published by the European Commission cover accommodation, meals, tips, local travel, and sundry expenses. The European Commission per diem rates are published at Per diem rates (europa.eu).</p> <p>Per diems should be traceable to supporting schedules (number and names of staff, number of times the per diem was paid, per diem rates and countries concerned) and in the beneficiaries' records (accounting, payroll, human resources).</p> <p>In the budget of the action:</p> <p>1.3.1 Abroad (staff engaged in the action): the per diem for staff based in the country where the beneficiary is based, going to another country for the action;</p> <p>1.3.2 Local (staff engaged in the action): the per diem for staff who move within their country of assignment (e.g. based in Nairobi and going to Mombasa for the action);</p> <p>1.3.3 Participants in seminars/conferences: the per diems for any participant in the project activities who is not part of the project staff (including associates), independently of where they come from.</p> <p>The budget must indicate the countries where the per diems have taken place, the applicable amounts, the number of participants, and the number of nights spent at the event.</p>

	<p>Beneficiaries must reimburse these costs (accommodation, meals, tips, local travel, and sundry expenses) to their staff according their rules and regulations. These rules and regulations may state that the reimbursement is based on any of the following options:</p> <ul style="list-style-type: none">-on the basis of real costs incurred by the staff,- on the basis of per diems (daily allowances). <p>There may be different rates even within the same country, depending for instance on the profile of the person receiving the per diems or, in any case, according to the rules and procedures of the beneficiaries. Therefore, a student accommodated in a hostel would possibly receive a lower compensation than a person who is supposed to be accommodated in a hotel.</p> <p>In any case, if according to the rules and regulations of the beneficiary, the reimbursement of travel and subsistence exceeds the per diem rates published by the European Commission, the amount exceeding the European Commission per diem rates will be considered ineligible.</p> <p>‘Per diems’ are not considered a simplified cost option for the purposes of EU financing when a beneficiary reimburses a fixed amount to its staff in accordance with its staff rules and requests the reimbursement of that same amount in the budget of the action. Such per diems are considered actual costs.</p> <p>When according to its rules and regulations, a beneficiary reimburses a fixed amount for travel and subsistence costs, not all supporting documents are required (restaurant’s bills, taxi slips...), but only those to prove that the travel actually took place, for instance. The beneficiary should indicate these per diems (daily allowances) in the budget of the action which the contracting authority will reimburse according to procedures and conditions set out in the contract.</p>
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Example:

Expenses	Unit	# of unit s	Unit cost (in EUR)	Cost (in EUR)
Seminar No1 (France): 7 nights x 12 persons = 84 nights	Per diem	84	130	10 920

<p>c) purchase costs for equipment and supplies (new or used) specifically dedicated to the purposes of the action, provided that ownership is transferred at the end of the action when required in Article 7(5);</p>	
<p>d) depreciation, rental or leasing costs for equipment (new or used) and supplies specifically dedicated to the purposes of the action;</p>	<p>Where the beneficiaries' own equipment (proof of property and payment may be requested) is provided for an action, the running costs may be charged as direct costs, but the cost of use is normally considered to be covered within indirect costs.</p> <p>The cost of use (in the form of depreciation) can be accepted by the contracting authority as direct cost, when at least these basic conditions have been considered:</p> <ul style="list-style-type: none"> - It is so accepted by the contracting authority because justified by the concrete situation and type of equipment. - No transfer to the final beneficiaries, local beneficiaries or local affiliated entities at the end of the action is foreseen: the equipment is not necessary for the sustainability of the action or the transfer will not be possible. - Such use is more effective than the rental or purchase of new equipment. - The costs are not higher than the corresponding costs on the local market. - The equipment is in good condition and suitable for the proper implementation of the action. - It does not imply double-financing or profit for the beneficiary (the equipment must not have been paid entirely by the EU in a previous project or by any other donor. Depreciation is never eligible when the equipment is a contribution in kind). - The value of the equipment must have a price-tag entered in the beneficiary's accounting system. - The costs pass the test for direct eligible

	<p>costs (with special attention to the direct link with the implementation of the action), except for the specific procurement rules of Annex IV.</p> <p>Only the portion of the equipment's depreciation, rental or lease costs corresponding to the implementation period and the rate of actual use for the purposes of the action may be taken into account.</p> <p>Only the costs relating to the unexpired depreciation period and to the implementation period of the action can be charged. Once fully depreciated, no costs can be charged or reimbursed, other than running costs.</p>
<p>e) costs of consumables specifically dedicated to the action;</p>	
<p>f) costs of service, supply and work contracts awarded by the beneficiary(ies) for the purposes of the action referred to in Article 10; this includes the costs for mobilising expertise to improve the quality of the logical framework (e.g. accuracy of baselines, monitoring systems, etc.), both at the beginning and during the implementation of the action.</p>	<p>This refers to the costs of supply, service or work contracts awarded in line with the procurement rules set out in Annex IV. Financial support given to third parties does not have to follow the rules of Annex IV.</p>
<p>g) costs deriving directly from the requirements of the contract (dissemination of information, evaluation specific to the action, audits, translation, reproduction, insurance, etc.) including financial service costs (in particular the cost of transfers and financial guarantees where required according to the contract);</p>	
<p>h) duties, taxes and charges, including VAT, related to the purposes of the action, paid and not recoverable by the beneficiary(ies), unless otherwise provided in the special conditions:</p>	<p>As a general rule beneficiaries have to apply for tax (including VAT) exemption whenever possible.</p> <p>This clause refers to indirect taxes such as VAT and customs/import duties and not to direct taxes such as the income tax of staff working on the project, which are part of the gross salary. The rules on taxes apply to affiliated entities as well as to the beneficiaries.</p> <p>The call for proposals, notably in the</p>

guidelines for applicants and its Annex J (Annex e3a1 of the PRAG), state the eligibility of taxes. Charging of VAT or taxes is a frequent source of cost ineligibility; therefore particular attention has to be paid to understand the correct treatment of taxes.

When duties, taxes and charges are eligible under a call for proposals (refer to the guidelines for applicants and its Annex J, Annex e3a1 to the PRAG) they may be treated as any other cost, and may be included in the relevant budget heading.

NB. Note that VAT is not eligible where it is paid by a public body (i.e. a body governed by public law) of a Member State in relation to activities it carries out as a public authority of a Member State. These activities are strictly limited to the exercise of sovereign powers or prerogatives of a Member State (for instance police, justice and public domain management). Therefore in principle, VAT on activities such as training, capacity building, technical assistance, policy support etc. is usually eligible.

Specific rules stemming from applicable basic acts and other regulations may apply, but in this case this information has to be provided by the contracting authority in the call for proposals or directly to the organisation, and must be reflected in the special conditions.

Accepted cost system

As concerns taxes, the call for proposals might state the non-eligibility of taxes, particularly when basic acts or other regulations or financing agreements with partner countries exclude the financing of taxes (including VAT), even if the beneficiary cannot reclaim them. These costs would therefore be ineligible for EU-financing, and may not be included in the eligible costs of the action.

When taxes are not eligible, the call for proposals may provide for the 'accepted cost system', introducing a second percentage to be respected when determining EU funding. This allows the acknowledgment of the payment by beneficiaries of ineligible and non-recoverable taxes: the EU-contribution to the eligible costs may be increased while at the same time the co-financing requirement will be fulfilled by the beneficiaries' payment

of such taxes.

To be able to do this, two (maximum) co-financing rates must be specified in the guidelines for applicants:

- One percentage applicable to **eligible costs**. This is used to calculate the actual amount of the EU-contribution as usual; and
- One percentage applicable to the total accepted costs = total eligible costs (including volunteers' work) + in kind contributions (other than volunteers 'work) + non-eligible taxes, etc.

This is used to calculate the required amount of co-financing by the beneficiaries. If the amount of co-financing does not reach the minimum percentage fixed in the contract, then the EU-contribution will be reduced proportionately.

Note that the guidelines for applicants will specify the maximum rates. The rates that will be fixed in the contracts will depend on the contribution asked by the applicant(s). Refer to worksheet 3 of Annex e3c (budget) for the calculation of the two co-financing rates (eligible costs and accepted costs).

The final amount of the grant will be subject to the maximum amount laid down in the contract, and the co-financing rates will be based on actual costs that are only known at the time of the approval of the final report.

Provided they are necessary, directly related to the action and incurred during the implementation period, these costs can therefore be considered as part of the co-financing of the beneficiaries. The taxes can only be considered to fall within the share of co-financing of the beneficiaries if they have been clearly identified in the budget of the action following the submission of the proposal and if the beneficiaries can prove that they cannot recover them, unless one of the exceptions in Annex J/e3a1 applies.

They are ineligible costs, to be entered in the budget under heading 12 'taxes' and form part of the total accepted costs.

However, if a beneficiary fails to show that it cannot reclaim such taxes, these taxes will be declared simple ineligible costs, which are ignored when checking the co-financing by

	<p>the beneficiary.</p> <p><u>Evidence that taxes may not be recovered</u></p> <p>Taxes that can be reclaimed or refunded in full or in part (even some years later) may not be considered either as eligible or accepted costs.</p> <p>Refer to Annex J/e3a1 'Information on the tax regime applicable to grant contracts' for guidelines on the evidence that the beneficiaries and affiliated entities are not tax-exempt and cannot recover taxes. Additionally, Annex J sets out clearly situations in which beneficiaries may report taxes as project expenditure but do not need to prove that they cannot get tax exemption or recover the taxes. It is advisable to seek the advice of the contracting authority if unsure whether a particular situation of exemption applies to a specific action.</p> <p>In some countries the tax authorities do not operate efficiently or simply do not reply to correspondence. In such cases, beneficiaries are recommended to seek advice from the contracting authority and keep as much evidence as possible of the steps undertaken.</p> <p>This proof does not have to be submitted to the contracting authority but must be available upon request or to auditors during the expenditure verification reports/audits.</p>
<p>i) overheads, in the case of an operating grant.</p>	<p>In fact, the purpose of an operating grant is to cover the running costs of the beneficiary based on an approved work programme, including its general administrative costs.</p>
<p>j) Project office costs:</p> <p>Costs actually incurred in relation to a project office used for the action or a portion of these costs may be accepted as eligible direct costs if:</p> <ol style="list-style-type: none"> 1. the need for setting up or using a project office is recognised by the Contracting Authority in the Special Conditions; 2. the description of the project office, the services or resources it makes available, its overall capacity and (where 	<p>Eligible direct costs for a project office can be shared actual costs for an input to the Action. The input concerned is necessary for carrying out the Action.</p> <p>Shared actual costs:</p> <ol style="list-style-type: none"> a) Actual costs booked in accordance with their actual use <ul style="list-style-type: none"> - The amount corresponding to the actual use of the input concerned is booked to the Action; - The actual use of the input concerned is backed up by supporting evidence (e.g.

<p>applicable) the distribution key are provided in the Description of the Action and the Budget;</p> <p>3. (where applicable) the distribution key reasonably reflects the portion of the resources or services needed by and actually used for the Action;</p> <p>4. the costs concerned comply with the cost eligibility criteria referred to in Article 14.1;</p> <p>5. they fall within one of the following categories:</p> <ul style="list-style-type: none"> i) costs of staff directly assigned to the operations of the project office; ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the project office; iii) depreciation costs, rental costs or lease of building, equipment and assets; iv) costs of maintenance and repair contracts; v) costs of consumables and supplies; vi) costs of IT and telecommunication services; vii) costs of facility management contracts including security fees and insurance costs; viii) duties, taxes and charges, including VAT, related to the purposes of the action, paid and not recoverable by the beneficiary(ies), unless otherwise provided in the special conditions. 	<p>timesheets);</p> <ul style="list-style-type: none"> - An exact amount that includes the costs for the input booked to the Action is backed by supporting evidence. b) Apportioned actual costs <ul style="list-style-type: none"> - The portion of the costs for the input concerned is determined by a distribution key indicated in the Budget and used in the financial reports; <p>NB. Shared costs are not necessarily considered as indirect costs. Depending on the link they have with the action, they may be direct or indirect.</p>
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19.3.1.3 Performance-based financing

Text of the article	Guidelines
<p>14.3. The payment of the EU contribution may be partly or entirely linked to the achievement of results measured by reference to previously set milestones or through performance indicators. Such performance-based financing is not subject</p>	<p>Guidelines will be published in the coming months.</p>

<p>to other sub-articles of Article 14. The relevant results and the means to measure their achievement shall be clearly described in Annex I.</p> <p>The amount to be paid per achieved result shall be set out in Annex III. The method to determine the amount to be paid per achieved result shall be clearly described in Annex I, take into account the principle of sound financial management and avoid double financing of costs.</p> <p>The organisation shall not be obliged to report on costs linked to the achievement of results. However the organisation shall submit any necessary supporting documents, including where relevant accounting documents, to prove that the results triggering the payment as defined in Annex I and III have been achieved.</p> <p>Articles 15(1) (schedule of payment), 15(7) (expenditure verification), 17(3) (no profit) do not apply to the part of the action supported by way of result-based financing.</p>	
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19.3.1.4 Simplified cost options

Text of the article	Guidelines
<p>14(4) In accordance with the detailed provisions in Annex III and Annex K, eligible costs may also be constituted by any or a combination of the following cost options:</p> <ul style="list-style-type: none"> a) unit costs; b) lump sums; c) flat-rate financing; 	<p>Refer to Annex K / Annex e3a2 for further information on simplified cost options.</p>
<p>14(5) The methods used by the beneficiary(ies) to determine unit costs, lump sums, flat-rates shall be clearly described and substantiated in Annex III and shall ensure compliance with the principle of co-financing and no double funding. Where possible and appropriate, lump sums, unit costs or flat-rates shall be</p>	<p>The amounts of unit costs and lump sums or the rate (%) of flat-rates set out in Annex III may not be amended unilaterally. However the number of units in the case of unit costs may vary (according to the rules and limits set in the Contract), as may the amount produced by applying the% rate in the case of flat-rates (as it happens</p>

determined in such a way as to allow their payment upon achievement of concrete outputs and/or results.

If a result entails several outputs or sub-results, it should be broken down into sub budget lines and each output or sub-result should be attributed a portion of the amount stated for the result to allow partial payments in case the result is not achieved.

Costs declared under simplified cost options shall satisfy the eligibility criteria set out in Article 14(1) and 14(2). They do not need to be backed by accounting or supporting documents, save those necessary to demonstrate the fulfilment of the conditions for reimbursement established in Annex I, III and K to the Guidelines for grant applicants.

These costs may not include ineligible costs as referred to in Article 14 or costs already declared under another costs item or heading of the budget of this contract.

The amounts or rates of unit costs, lump sums or flat-rates set out in Annex III may not be amended unilaterally and may not be challenged by *ex post* verifications.

similarly for the indirect costs).

14(6) Simplified cost options embedded in the cost accounting practices of the beneficiary and that are not result based can be authorized only if they have been accepted by national authorities under comparable funding schemes in accordance with Annex K to the Guidelines for grant applicants.

Simplified cost options (SCOs) are of two types: 'output or result based SCOs', and 'other/ SCOs'.

The first category covers costs linked to outputs, results, activities, deliverables in the framework of a specific project (i.e. determination of a lump sum for the organisation of a conference or for the realisation of a specific activity). Where possible and appropriate, lump sums or unit costs shall be determined in such a way to allow their payment upon achievement of concrete outputs and/or results. Flat-rates cannot be used for output or result based SCOs. Output based SCO can be proposed by the beneficiary (the threshold of EUR 60 000 no longer applies) at proposal's stage (Grant application form – Full application). They will be authorised by the relevant authorising officer.

	<p>The second category, called ‘other SCOs’, entails simplified cost options embedded in the cost accounting practices of the beneficiary. This category is only applicable to pillar assessed entities when receiving a grant awarded directly without a call for proposals, for which an ex-ante assessment is deemed necessary⁵ to ensure coherence across services, considering the need for a consistent application of the conditions required. In order for the contracting authority to allow the use of these SCOs, the beneficiary's cost accounting practices need to have been positively assessed by an independent external auditor.</p>
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19.3.1.5 Contingency reserve

Text of the article	Guidelines
<p>14(7) A reserve for contingencies and/or possible fluctuations in exchange rates not exceeding 5% of the direct eligible costs may be included in the budget for the action, to allow for adjustments necessary in the light of unforeseeable changes of circumstances on the ground. It can be used only with the prior written authorisation of the contracting authority, upon duly justified request by the coordinator.</p>	<p>A reserve for contingencies and/or exchange rate fluctuations not exceeding 5% of the direct eligible costs may be included in the budget for EU External Actions given the specificity and the higher level of unpredictability of external actions.</p> <p>As a consequence, the contingency reserve should only be included in the initial total budget, and not budgeted in the requests for pre-financing.</p> <p>This is meant to provide some flexibility if there are <u>unforeseen</u> circumstances, as the contracting authority's contribution to the action may never be increased (neither the maximum amount nor the percentage of co-financing).</p> <p>NB: note that the use of the contingency reserve is subject to the prior <u>written authorisation</u> of the contracting authority, who will make an evaluation and take a decision on a case-by-case basis.</p> <p>The budget template has been modified following the logic that in normal conditions the reserve is not used and stands aside of</p>

⁵ Other SCOs need to be always ex-ante assessed independently of their amount.

the total estimated cost of the action.

When the use of the reserve is authorised, the corresponding amount will be split and allocated to the concerned budget headings according to the specific needs of the action. As the total amount of direct costs will be higher, the indirect costs will also consequently increase. This should be kept into consideration when using the contingency reserve because in any case the maximum amount of the grant as set in Article 3 of the special conditions cannot be changed.

Exchange rate fluctuation

This case would just be one of the possible reasons justifying the use of the contingency reserve, for which the beneficiaries are not responsible and have already adopted all the possible risk mitigating measures according to the best practices in the sector.

There is no clear-cut definition of 'unforeseeable' circumstances: this would entail a sudden, completely unforeseen and drastic change in the situation — for example a sharp devaluation decided by the government unexpectedly or uncommon cases of hyperinflation, etc.

For exchange rates, the historical fluctuation of the currency could be a prime baseline indicator. The performance of the economy is also an element taken into consideration when drawing up a budget and estimating the possible fluctuation of a currency. All these elements have to be taken into consideration at proposal stage, and during the implementation of the action the conversion of funds into local currencies (or a currency other than the contract's currency) has to be handled according to the principle of sound financial management.

Situations produced by poor management by the beneficiaries may not be accepted as a reason to justify the use of the contingency reserve.

An exchange rate fluctuation (that has a similar effect to inflation) has to be distinguished from an exchange rate difference (losses or gains, as determined

in the accounting), the latter not being eligible as per Article 14(9). An unfavourable exchange rate fluctuation will basically result in 'increased' cost of the activities of the action that will be reflected in various budget lines.

Additionally, in the case of exceptional exchange rate fluctuations, Article 15(9) states that the action may have to be restructured to lessen the impact of such fluctuations or – if it will no longer be possible to implement the action in view of the missing funds — the contract may even be terminated.

In considering whether the action should be restructured or whether the contract should be terminated, the contracting authority must make a case-by-case assessment taking into account the options provided by the contract, and considering aspects like sound financial management, the interest of the action and final beneficiaries, and the capacity of the beneficiaries to raise additional funding etc. If the decision will be to allow the use of contingencies, these will not finance an 'exchange rate difference' per se. They will finance eligible costs that have increased compared to the original estimate (because of the currency exchange). Therefore, the funds will be distributed to the concerned eligible costs heading(s) of the budget.

Beneficiaries should — as a rule — or are at least strongly advised to submit requests to use the contingency reserve in advance to avoid the risk that its use will be considered as non-eligible by the contracting authority.

However, especially in cases where sudden, unforeseeable events lead to an increase in costs beneficiaries may not be able to first formally request. However, if they act and incur extra costs they do so at their own risk.

Furthermore, the fact that beneficiaries incur additional costs does not imply a 'use' of the contingency reserve. The contingency reserve may only be 'used', i.e. the relevant funds may be used to cover the additional costs after the contracting authority has issued a

	respective authorisation.
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19.3.1.6 Indirect costs

Text of the article	Guidelines
<p>14(8) The indirect costs for the action are those eligible costs which may not be identified as specific costs directly linked to the implementation of the action and may not be booked to it directly according to the conditions of eligibility in Article 14(1). However, they are incurred by the beneficiary(ies) in connection with the eligible direct costs for the action. They may not include ineligible costs as referred to in Article 14(9) or costs already declared under another costs item or heading of the budget of this contract.</p> <p>To the extent that it would not generate a profit within the framework of the action, a fixed percentage of the total amount of direct eligible costs of the action not exceeding the percentage laid down in Article 3 of the special conditions may be claimed to cover indirect costs for the action. Indirect costs shall not be eligible under a grant for an action awarded to a beneficiary who already receives an operating grant financed from the European Union budget during the period in question.</p> <p>This Article 14(7) does not apply in the case of an operating grant.</p>	<p><u>Direct eligible costs v. indirect eligible costs</u></p> <p>As regards action grants, a distinction is made between direct and indirect eligible costs:</p> <ul style="list-style-type: none"> - Direct eligible costs: direct costs are action-specific costs directly linked to the performance of the action and that can therefore be booked to it directly. Direct costs are identifiable and verifiable costs, for which concrete supporting documents can be submitted as evidence. They are expenses strictly related to the implementation of the action, and exist only by consequence of its implementation. The eligibility of direct costs is mainly defined in Article 14(1): the listed criteria have to be respected at all times for all costs. - Indirect eligible costs: these are not identifiable as specific costs directly linked to the performance of the action. Indirect costs may not include any eligible direct costs included in other headings of the budget. They mainly represent a small proportion of the beneficiary's overheads. Overheads are all the structural and support costs of an administrative, technical and logistical nature that are cross cutting for the operation of the beneficiary body's various activities and cannot therefore be booked in full to the action for which the contract is awarded because this action is only one part of the beneficiary's activities. <p><i>Example: costs connected with infrastructure and the general operation of the beneficiary at headquarter level and costs such as administrative and financial management, training, legal advice, documentation, IT, maintenance of buildings, water, gas, electricity, insurance, office supplies, communications, human resources, accounting fees, depreciation,</i></p>

telephone bills, travel and other utilities costs, etc.

Indirect eligible costs relate to the functioning and general activities of the beneficiary: they cannot be attributed entirely to the action, but are still partially generated by it.

These costs may be funded either **on a flat-rate basis or on a real costs basis**. Note that the **two options are exclusive** and that the same indirect costs can never be covered by both real costs reimbursement and a flat-rate, in order to prevent any double funding of the same costs.

Given the difficulty of justifying each of these costs separately, the flat-rate funding of indirect costs is meant to simplify the administrative charge of the beneficiaries by facilitating the management and reporting of these indirect costs. The use of flat-rate funding is encouraged, since no supporting documents are required for these costs once agreed in the contract.

This means that when proposing the budget, the applicants may (unless otherwise stated in the call for proposals) decide to consider a portion of these indirect costs as direct costs or opt for a flat-rate reimbursement. In the latter case a percentage (not exceeding 7%) will be laid down in Article 3 of the special conditions. The applicants may be asked to justify the percentage requested before the contract is signed.

Example: total direct eligible costs: EUR 100 000 + 7% = EUR 7 000 indirect costs = EUR 107 000 total costs. Note that 7% is a maximum, i.e. if it is not justified a smaller percentage has to be envisaged.

The basis for the calculation of the indirect costs does not include ineligible (but accepted) taxes and in kind contributions (heading 12).

The final amount of indirect costs that can be claimed depends on the amount of total direct costs reported in the final financial report and approved by the contracting authority (the unused contingency reserve is therefore not included in the direct

costs).

Depending on the characteristics of the action and the organisational and cost structure of the beneficiary, it may happen that some costs can be considered either direct or indirect costs (e.g. depreciation costs, consumables, Headquarters staff), but in all events costs cannot be taken into account twice as a direct cost and an indirect cost.

The distinction between direct and indirect costs is also based on the capacity of the beneficiaries' accounting system to assign costs to specific activities when they are incurred.

Example: if the costs of printing and copying are assigned to a particular action: when this copying and printing occurs, these costs are direct. If, by contrast, these costs are assigned ex post using an approximation (or an indicative cost driver) (e.g. the number of hours worked for each action during the year), these costs are indirect.

NB. If a beneficiary of an action grant is also in receipt of an operating grant financed from the EU, no indirect costs may be claimed on its share of incurred costs. This applies only to the costs incurred by the beneficiaries or affiliated entities in receipt of the operating grant. The other beneficiaries and affiliated entities may still claim indirect costs on their incurred costs under the same contract.

Shared costs

If the beneficiary shares out certain costs to different actions according to a cost allocation system, the related costs may be eligible provided that they are linked to the action and comply with Article 14.

In terms of allocation of staff, the staff specifically assigned by the labour contract to spend a defined share of its working time on a project may be considered as a shared direct cost actually incurred. Assignment of a cost share on the basis of daily or weekly timesheets can be accepted as a shared direct cost actually incurred; by contrast, assignment on the

	<p>basis of annual timesheets or estimation cannot be realistic and verifiable and cannot be accepted as an actually incurred cost.</p> <p>The implementation of the action may require significant deployment of staff to manage operations in the field or set up an office at another location. Reimbursement of those costs may be justified.</p> <p>Where an office is used for several projects in parallel, shared office costs (such as cost of staff working on different projects, rent, electricity, security etc.) can be declared as following:</p> <p>a) Costs that can be directly attributed to an action (e.g. local staff working part time on a project and providing time sheets or shared office costs) can be declared as costs actually incurred without invoking a simplified cost option by applying the apportionment for office costs. Office apportionment costs, if to be applied, must be agreed by the contracting authority at the contracting phase. They must be duly reflected in the action and budget documents.</p> <p>b) As part of the indirect costs (7%)</p>
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19.3.1.7 In kind contributions

	Guidelines
<p>14(9) Any contributions in kind, which shall be listed separately in Annex III, do not represent actual expenditure and are not eligible costs. Unless otherwise specified in the special conditions, contributions in kind may not be treated as co-financing by the beneficiary(ies).</p> <p>If contributions in kind are accepted as co-financing, the beneficiary(ies) shall ensure they comply with national tax and social security rules.</p> <p>Notwithstanding the above, if the description of the action provides for contributions in kind, such contributions have to be provided.</p>	<p>In-kind contributions are constituted by non-financial resources (such as goods, equipment or services) provided to the beneficiaries or affiliated entities free of charge <u>by a third party</u>. Contributions in kind do not involve any expenditure for the beneficiaries during the implementation of the Action and are not entered in their accounts as a cost for reporting purposes related to the action. Consequently, contributions in kind can never appear in the budget of the action as an eligible cost, except in the case of volunteers' work.</p> <p>Example: medicines or a car donated to an action by another donor.</p> <p>However they may be accepted as co-financing when considered necessary or</p>

appropriate (e.g.: small grants targeted for community based organisations that have no possibility to provide financial contributions).

Contributions in kind may only be treated as co-financing if the guidelines of the particular call for proposals allow contributions in kind and the contributions in kind are explicitly mentioned in the special conditions.

In such a case, the call for proposals will have to provide for the 'accepted cost system', in order to take into account the co-financing provided in kind or adapt accordingly the co-financing percentage of eligible costs, except in the case of volunteers 'work that are considered eligible cost.

It may be difficult to calculate the financial value of such contributions and to assess whether they have effectively been provided.

The unit rate or the global amount of contributions in kind is evaluated as proposed in the budget (heading 12 and expected sources of funding) and, once approved, it may not be subject to subsequent changes.

In case of variable numbers of units, the fixed unit rate together with the estimated number of units must be defined in the justification sheet of the budget.

Example: rough figures may be generated by calculating volunteering time and allocating to this, the value established for the country in question.

Example: in the case of the use of free venues, figures may be calculated according to the equivalent market cost.

When in-kind contributions are necessary and accepted for the action, if the beneficiaries incur actual costs in relation to their distribution, handling, use or acceptance the related costs may be eligible (subject to the respect of the eligibility criteria laid down in Article 14). These costs can therefore be entered in the budget of the action.

Example: the fuel and maintenance costs

	<i>for a car given as an in-kind contribution for use in an action.</i>
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19.3.1.8 Volunteers' work

Text of the article	Guidelines
<p>14(10) The value of the work provided by volunteers can be recognised as eligible cost of the action and may be treated as co-financing by the beneficiary(ies).</p> <p>Where the estimated eligible costs include costs for volunteers' work, the EC contribution shall not exceed the estimated eligible costs other than the costs for volunteers' work.</p> <p>Beneficiaries shall declare personnel costs for the work carried out by volunteers on the basis of unit costs authorised in accordance with Article 14(4) and following.</p> <p>Volunteers' work may comprise up to 50% of the co-financing.</p>	<p>Where the relevant call for proposals allows for the work performed by volunteers to be considered as acceptable co-financing, such co-financing must be considered as eligible personnel costs in accordance with articles 181, 186 and 190 FR, and must take the form of unit costs.</p> <p>These unit costs will be fixed by the contracting authority and provided in the call for proposal.</p> <p>As volunteers' work is a work provided by third parties without a remuneration being paid to them by the beneficiary, the limitation avoids reimbursing costs that the beneficiary did not incur. In addition, the value of the volunteers' work may comprise up to 50% of the co-financing, the latter corresponding to the part not financed by the EU contribution.</p> <p>This type of costs must be presented separately from other eligible costs in the estimated budget. The value of the volunteer's work must always be excluded from the calculation of indirect costs.</p> <p>This will not have an adverse impact on the beneficiary since the unit costs are not reimbursing costs incurred. Any eligible costs incurred by the beneficiary linked to the work of the volunteer, for example travel and accommodation, may be claimed separately as eligible costs.</p>

19.3.1.9 Non-eligible costs

Text of the article	Guidelines
14(11) The following costs shall not be	This article identifies the costs that, even if

considered eligible:

- a) debts and debt service charges (interest);
- b) provisions for losses, debts or potential future liabilities;
- c) costs declared by the beneficiary(ies) and financed by another action or work programme receiving a European Union grant (including through the European Development Fund);
- d) purchases of land or buildings, except where necessary for the direct implementation of the action and according to the conditions specified in the special conditions; in all cases the ownership shall be transferred in accordance with Article 7.5, at the latest at the end of the action;
- e) currency exchange losses;
- f) credits to third parties, unless otherwise specified in the special conditions;
- g) in kind contributions;
- h) salary costs of the personnel of national administrations, unless otherwise specified in the special conditions and only to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the action were not undertaken;
- i) bonuses included in costs of staff;
- j) Negative interest charged by banks or other financial institutions.

satisfying the above mentioned criteria, cannot be considered eligible.

e) Exchange rate losses are not eligible costs and will not be compensated. It is confirmed that just as exchange rate losses are not eligible costs, exchange rate gains are not considered as action revenue and will not be deducted in the final liquidation process (nor do they have to be reported for). These rules also apply for the gains/losses resulting from currency conversion at the reporting stage and those resulting from conversion between accounting currency and other currencies used for the action (see Article 15(9)).

h) Salary costs of personnel of national administrations may only be considered as eligible costs, to the extent that they relate to the cost of activities that the relevant public authority would not carry out if the action was not undertaken. However, EU funding of salary costs corresponding to activities that the public administration had already undertaken before the launching of the action, is not possible. Indeed, it would generate a profit for the beneficiary since these costs are already funded by the budget of the member state/partner country (or the regional or local authorities) in the framework of their normal activities. Salary costs of personnel of national administrations cannot be considered an in-kind contribution since they are not provided by a third party to the beneficiary free of charge (see comments to Article 14(8)).

i) For the avoidance of doubt, a bonus is to be understood as a payment of an amount triggered by the participation of a staff member in the EU funded Action or that is in any way linked to the performance of the person in the Action or the performance of the Action itself; as such it is not an eligible cost. However, there are payments that might be called in a similar way and which could still be considered as a part of the normal salary package and therefore eligible (i.e. variable parts of the salary). Those payments have to be paid independently of the participation of the staff member in the EU funded Action and have to be part of

	<p>the general salary policy of the beneficiary irrespective of the source of funding.</p> <p>j) Negative interests are not eligible unless there is an avoidance strategy in place. INTPA contracts by definition do not include avoidance strategies.</p>
<p>Affiliated entities</p> <p>14(12) Where the special conditions contain a provision on entities affiliated to a beneficiary, costs incurred by such entity may be eligible, provided that they satisfy the same conditions under Articles 14 and 16, and that the beneficiary ensures that articles 3, 4, 5, 6, 8, 10 and 16 are also applicable to the entity.</p>	<p>Only the lead applicant and co-applicants will become beneficiaries and parties to the contract.</p> <p>Their <u>affiliated entities</u> are neither beneficiaries of the action nor parties to the contract. However, they participate in the design and in the implementation of the action and the costs they incur (including those incurred for implementation contracts and financial support to third parties) may be eligible, provided they comply with all the relevant rules already applicable to the beneficiaries under the contract. Affiliated entities must satisfy the same eligibility criteria as the coordinator and the co-beneficiaries.</p> <p>For further information on the notion of affiliated entities see Section 6.1.2 of the Practical Guide.</p> <p>'Family organisations'</p> <p>Family organisations comprise a network of entities operating within a confederation, federation or alliance, such as an international NGO family, with shared systems, structure and expertise and an integrated operational presence (field offices/ country offices). Examples are PLAN International, WWF or CARE.</p> <p>Whether or not the members of the relevant network have a link that would allow them to apply as affiliated entities has to be assessed on a case by case basis. Whereas the field offices of some family organisations lack legal personality (that means that the field office could neither participate in an action as affiliated entity nor as beneficiary) organisations such as Médecins Sans Frontiers (where 24 associations are members of MSF International) have a structure that would allow for their members to participate as affiliated entities.</p>

19.3.2 Article 15 - Payment and interest on late payment

19.3.2.1 Payment procedures

Text of the article	Guidelines
<p>15(1) The contracting authority must pay the grant to the coordinator following one of the payment procedures below, as set out in Article 4 of the special conditions.</p> <p>Option 1: Actions with an implementation period of 12 months or less or grant of EUR 100 000 or less</p> <p>(i) an initial pre-financing payment of 80% of the maximum amount referred to in Article 3(2) of the special conditions (excluding contingencies);</p> <p>(ii) the balance of the final amount of the grant.</p> <p>Option 2: Actions with an implementation period of more than 12 months and grant of more than EUR 100 000</p> <p>(i) an initial pre-financing payment of 100% of the part of the estimated budget financed by the contracting authority for the first reporting period (excluding contingencies). The part of the budget financed by the contracting authority is calculated by applying the percentage set out in Article 3(2) of the special conditions;</p> <p>(ii) further pre-financing payments of 100% of the part of the estimated budget financed by the contracting authority for the following reporting period (excluding not authorised contingencies):</p> <ul style="list-style-type: none"> - the reporting period is intended as a twelve-month period unless otherwise provided for in the special conditions. When the remaining period to the end of the action is up to 18 months, the reporting period shall cover it entirely; - within 60 days following the end of the reporting period, the coordinator shall present an interim report or, if unable to do so, it shall inform the contracting 	<p>The frequency with which pre-financing payments are made depends on the duration of the action and on the total amount of the grant. The option applicable to the action in question will therefore be stated in Article 4 of the special conditions of the contract.</p> <p>The contingency reserve is not considered in the payments until, and unless, approved, as it will not be disbursed if not needed. This means that it should not be budgeted in the requests for pre-financing. Once approved it will be reflected in the budget lines (headings 1 to 6) and therefore treated like the other budgeted/eligible costs.</p> <p><u>Option 2</u></p> <p>For actions that last more than 12 months and where the contracting authority's contribution is more than EUR 100 000, the pre-financing will be split on the basis of several reporting periods (by default 12 months, unless otherwise provided for in the special conditions).</p> <p><u>An initial pre-financing payment</u> will be prepared in parallel with the Contract signature and it should be processed as soon as the contract is signed by both parties (and after a financial guarantee has been submitted, if required). This payment will cover 100% of the EU contribution to budgeted costs for the first year. For the payment of the first pre-financing it is not necessary to receive a request for payment as the signed contract serves as payment request.</p> <p><i>Example: the EU is contributing to 50% of the total eligible costs of a project. The budget for the first year is EUR 100 000, after deduction of the contingency reserve. The first instalment will be EUR 50 000, which is 100% of the foreseen EU contribution.</i></p>

<p>authority of the reasons and provide a summary of progress of the action;</p> <ul style="list-style-type: none"> - if at the end of the reporting period the part of the expenditure actually incurred which is financed by the contracting authority is less than 70% of the previous payment (and 100% of any previous payments), the further pre-financing payment shall be reduced by the amount corresponding to the difference between the 70% of the previous prefinancing payment and the part of the expenditure actually incurred which is financed by the contracting authority; - the coordinator may submit a request for further pre-financing payment before the end of the reporting period, when the part of the expenditure actually incurred which is financed by the contracting authority is more than 70% of the previous payment (and 100% of any previous payments). In this case, the following reporting period starts anew from the end date of the period covered by this payment request; - in addition, for grants of more than EUR 5 000 000, a further pre-financing payment may be made only if the part financed by the contracting authority of the eligible costs approved is at least equal to the total amount of all the previous payments excluding the last one; - the total sum of pre-financing payments may not exceed 90% of the amount referred to in Article 3(2) of the special conditions, excluding not authorised contingencies; <p>(iii) the balance of the final amount of the grant.</p> <p>Option 3: all actions</p> <p>(i) the final amount of the grant.</p>	<p><u>Further pre-financing payments</u> are intended to be split among the reporting periods. However they are presented as a single global amount in the special conditions, as the actual pre-financing payments are based on the updated budget forecast for the following reporting period, presented using the Forecast Budget and Follow-up template in Annex VI (financial reporting formats).</p> <p>The contracting authority's percentage contribution to the forecast budget corresponds to its percentage contribution to the eligible costs as set out in Article 3(2) of the special conditions. Note that for actions where the 'accepted cost system' is used, the contracting authority's percentage contribution to total 'accepted costs' and total 'eligible costs' will be different. The adjustment to ensure co-financing will be done at the end of the action, with the final payment, in accordance with Article 17.</p> <p><i>Example: the maximum EU contribution under a particular call is 80% of accepted costs. The total 3-year project budget is EUR 300 000. Indirect taxes, which are accepted but not eligible costs, account for 5% of the total budget - EUR 15 000 – so total eligible costs are EUR 285 000. The EU is contributing EUR 240 000 to the project, which is 80% of total accepted costs but 84.21% of total eligible costs. If for instance, the total second year budget estimate is EUR 112 000, including EUR 4 480 (4%) indirect taxes, which are not an eligible cost, the EU will pay 84.21% of eligible costs i.e. EUR 112 000 - EUR 4 480 = EUR 107 520 x 84.21% = EUR 90 543. The adjustment to ensure co-financing will be done at the end of the action. At this moment, the EU contribution will be limited to the lowest amount obtained by respectively applying the percentages to the final total eligible and accepted costs.</i></p> <p>The coordinator has 60 days following the end of the reporting period to present an interim report (narrative and financial, covering the elapsed reporting period).</p> <p>If at the end of the reporting period eligible costs incurred are less than 70% of the last payment (and 100% of the preceding</p>
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payments), the further pre-financing payment may not be paid in full. If the coordinator presents a payment request, the payment is reduced by the amount corresponding to the difference between the 70% of the last pre-financing payment (and 100% of the preceding payments) and the part of the eligible costs incurred that is financed by the contracting authority.

Alternatively, the coordinator may present a summary of the progress of the action, and present a payment request later when the 70% threshold is reached (the narrative and financial report have then to cover the elapsed period since the last payment request). The following reporting period starts anew from the end date of the period covered by the payment request.

Example: an NGO has received an initial instalment of EUR 96 000 and submits a first interim report stating that EUR 60 000 of this – 62.5% - has been incurred. The forecast budget for the following period for the second year of the project is EUR 87 000. However, the difference between the 70% threshold – (EUR 96 000 x 70%) = EUR 67 200 and the amount actually incurred - EUR 60 000 – is EUR 7 200. So the second instalment will be reduced by EUR 7 200 to EUR 79 800.

For grants of more than EUR 5 000 000, there is an additional condition (beyond the 70% rule) to be respected to be able to make a further pre-financing payment: The part of the total amount of eligible costs approved that is financed by the contracting authority must be at least equal to the total amount of all the previous payments except the last one. Therefore in order to make a further pre-financing payment, all the previous payments, except the last one, must be matched by an equivalent amount of eligible expenditure approved by the contracting authority. The last one can still be (partially) open (i.e. not entirely backed by approved expenditure). In principle, this situation should not materialize, given the presence of the 70% rule. In the substance, it is therefore a precautionary clause for exceptional extreme situations that should not have a substantial impact

on payments.

As a general rule, when the remaining period to the end of the action is less than 18 months, the forecast budget (and the pre-financing payment) will cover that remaining period; the next report will be the final report covering the whole action.

The total sum of pre-financing payments may not exceed 90% of the amount in Article 3(2) of the special conditions excluding non-authorised contingencies. Therefore the pre-financing payments must be limited consequently when approaching the end of the action.

The balance of the final amount of the grant will only be payable after the end of the implementation period, when the final report together with a request for payment has been approved by the contracting authority (refer to Article 15(4) for payment delays). As a reminder, in case a beneficiary needs to borrow money, the interest on the pending balance is not eligible for EU funding (see Article 14(9)(a)); therefore the beneficiary must be able to pre-finance it or will have to bear the costs for the advance.

If total final approved expenditure is less than originally foreseen and/or the reserve has not been used, the balance to be paid will be less than the amount stated in Article 4 of the special conditions, as the contracting authority's contribution is limited to the percentage of eligible or accepted costs, as stated in Article 3 of the special conditions (see also Article 7(1) of the special conditions and Article 17(1) of the general conditions).

The maximum EU contribution and percentage of eligible or accepted costs financed by the contracting authority may never be increased, i.e. a new grant contract would have to be signed instead.

Option 3. The final amount of the grant is paid at the end of the implementation period in one single final payment. This option is used for very short actions fully pre-financed by the beneficiary.

19.3.2.2 Submission of final reports

Text of the article	Guidelines
<p>15(2) The coordinator shall submit the final report to the contracting authority no later than three months after the implementation period as defined in Article 2 of the special conditions. The deadline for submission of the final report is extended to six months where the coordinator does not have its headquarters in the country where the action is implemented</p>	<p>In multi-country/regional actions managed by a coordinator that has its headquarters in one of the countries of operation, the coordinator may request the deadline of the final report to be extended to 6 months. This should be agreed at the contracting phase or, as a general rule, at the latest 1 month prior to the end of the implementation period, upon request by the coordinator.</p>

19.3.2.3 Payment request

Text of the article	Guidelines
<p>15.3. The payment request shall be drafted using the model in Annex V and shall be accompanied by:</p> <ul style="list-style-type: none"> a) a narrative and financial report in line with Article 2; b) a forecast budget for the following reporting period in case of request of further pre-financing; c) an expenditure verification report or a detailed breakdown of expenditure if required under Article 15(7); <p>For the purposes of the initial pre-financing payment, the signed contract serves as payment request . A financial guarantee shall be attached if required in the special conditions.</p> <p>Payment shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information provided.</p>	<p>The initial pre-financing payment will be made after the contracting authority has received the signed contract accompanied by a financial guarantee, if required in the special conditions. It is no longer necessary to submit a payment request with the signed contract.</p> <p>The further pre-financing payments will only be made if the payment request is accompanied by a narrative and financial report, a forecast budget for the following reporting period, and a detailed breakdown of expenditure or an expenditure verification report if required (see Article 15(7)).</p> <p>Payments must not imply recognition of the authenticity, completeness and correctness of the declarations and information provided. Audits or verifications of actions and accounts may be done after the final payment was made and may entail a reimbursement of a part of the grant, if some costs are found to be ineligible (see Article 18).</p>

19.3.2.4 Payment deadlines

Text of the article	Guidelines
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<p>15(4) The initial pre-financing payment shall be made within 30 days of receipt of the payment request by the contracting authority.</p> <p>Further pre-financing payments and payments of the balance shall be made within 60 days of receipt of the payment request by the contracting authority.</p> <p>However, further pre-financing payments and payments of the balance shall be made within 90 days of receipt of the payment request by the contracting authority in any of the following cases:</p> <p>a) one beneficiary with affiliated entity(ies);</p> <p>b) if more than one beneficiary is party to this contract;</p> <p>c) if the commission is not the contracting authority</p> <p>d) for grants exceeding EUR 5 000 000</p> <p>The payment request is deemed accepted if there is no written reply by the contracting authority within the deadlines set above.</p>	<p>The initial pre-financing will be paid in all cases within 30 days after the contracting authority has received a signed contract accompanied by a financial guarantee, if required. No especial payment request is demanded for the first pre-financing. The further pre-financing payments and payments of the balance will be made according to the cases set, with no distinction between further pre-financing payments and payments of the balance.</p> <p>As a general rule there are no separate periods for the approval of the report and for the payment, unless otherwise specified in Article 7 of the special conditions.</p> <p>The payment is due at the end of the time-limit for payment if there hasn't been any written reaction by the contracting authority, notifying the suspension of the payment deadline.</p>
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19.3.2.5 Suspension of the period for payments

Text of the article	Guidelines
<p>15(5) Without prejudice to Article 12, the time-limits for payments may be suspended by notifying the coordinator that:</p> <p>a) the amount indicated in its request of payments is not due, or;</p> <p>b) proper supporting documents have not been supplied, or;</p> <p>c) clarifications, modifications or additional information to the narrative or financial reports are needed, or;</p> <p>d) there are doubts on the eligibility of expenditure and it is necessary to carry out additional checks, including on-the-spot checks or an audit to make sure that the expenditure is eligible, or;</p>	<p>The suspension is stopped on the day the reply/clarification is recorded, i.e. the payment period starts running again as normal, even if the contracting authority does not look into the reply/clarification immediately (on the day of the recording). If this reply/clarification is not sufficient, the suspension can be prolonged or started again, but it has to be explicitly notified to the coordinator.</p> <p>The suspension by the contracting authority and the submission of new clarifications/documents can be done via exchange of e-mails (no formal exchange of letters is necessary in the majority of the cases).</p> <p>Note that since 2014 it is clarified that a</p>

<p>e) it is necessary to verify, including through an OLAF investigation, whether presumed breach of obligations, irregularities or fraud have occurred in the grant award procedure or the implementation of the action, or;</p> <p>f) it is necessary to verify whether the beneficiary(ies) have breached any substantial obligations under this contract, or;</p> <p>g) the visibility and, if applicable, communication obligations set out in Article 6 or in the special conditions are not complied with.</p> <p>The suspension of the time-limits for payments starts when the above notification is sent to the coordinator. The time-limit starts running again on the date on which a correctly formulated request for payment is recorded. The coordinator shall provide any requested information, clarification or document within 30 days of the request.</p> <p>If, notwithstanding the information, clarification or document provided by the coordinator, the payment request is still inadmissible, or if the award procedure or the implementation of the grant proves to have been subject to irregularities, fraud, or breach of obligations, then the contracting may suspend payments, and in the cases foreseen in Article 12, terminate accordingly this contract.</p> <p>In addition, the contracting authority may also suspend payments as a precautionary measure without prior notice, prior to, or instead of, terminating this contract as provided for in Article 12.</p>	<p>breach of the visibility obligations under Article 6 constitutes a substantial breach of the contract allowing for a suspension in accordance with Article 15(5).</p> <p>Note that the last two paragraphs of Article 15(5) refer to the suspension of payments and not to the suspension of the time-limit for a specific payment. The suspension of the time-limit for payments notably might be needed where it was decided to request e-copies of relevant supporting documents in line with the instructions on sample checks under grants (see annex I20i).</p>
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19.3.2.6 Interest on late payment

Text of the article	Guidelines
<p>15(6) If the contracting authority pays the coordinator after the time limit, it shall pay default interest as follows:</p> <p>a) at the rediscount rate applied by the central bank of the country of the</p>	<p>Interest on late payment is paid usually by default by the contracting authority, if it amounts to more than EUR 200. Where the contracting authority is not the European Commission but from a partner country (i.e.</p>

<p>contracting authority if payments are in the currency of that country;</p> <p>b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in euro;</p> <p>c) on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest will be payable for the time elapsed between the expiry of the payment deadline and the date on which the contracting authority's account is debited.</p> <p>By way of exception, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, it will be paid to the coordinator only upon demand submitted within two months of receiving late payment.</p> <p>The default interest is not considered as income for the purposes of Article 17.</p> <p>This Article 15(6) does not apply if the coordinator is a European Union Member State, including regional and local government authorities or other public body acting in the name and on behalf of the Member State for the purpose of the contract.</p>	<p>under indirect management), the coordinator has to submit a claim within two months of receiving late payment.</p> <p>The coordinator makes the calculation and presents the request, and the contracting authority at that point will then verify the calculation and pay the appropriate amount. Note that the interest is payable for the time elapsed between the expiry of the payment deadline and the date on which the contracting authority's account is debited.</p>
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19.3.2.7 Expenditure verification report

Text of the article	Guidelines
<p>15(7) The coordinator must provide an expenditure verification report for:</p> <p>a) any request for further pre-financing payment in case of grants of more than EUR 5 000 000;</p> <p>b) any final report in the case of a grant of more than EUR 100 000.</p> <p>The expenditure verification report shall conform to the model in Annex VII and shall be produced by an auditor approved or chosen by the contracting authority. The auditor shall meet the requirements set out in the terms of reference for expenditure</p>	<p><u>Expenditure verification report (EVR)</u></p> <p>The terms of reference and template for the expenditure verification report set out in Annex VII of the contract are compulsory for all actions, where an EVR is requested.</p> <p>When the grant is more than EUR 5 000 000, an expenditure verification report, covering the entire project accounts (EU, other donors and the beneficiaries' contributions) and produced by an approved external auditor, must be submitted together with each payment request. Each expenditure verification</p>

verification in Annex VII.

The auditor shall examine whether the costs declared by the beneficiary(ies) and the revenue of the action are real, accurately recorded and eligible under this contract. The expenditure verification report shall cover all expenditure not covered by any previous expenditure verification report.

If no expenditure verification is required with requests for pre-financing payments, a detailed breakdown of expenditure covering the preceding reporting periods not already covered, shall be provided for every other request for further pre-financing payment and starting with the second request for further pre-financing payment (i.e. 3rd, 5th, 7th... pre-financing payment).

The detailed breakdown of expenditure shall provide the following information for each cost heading in the financial report and for all underlying entries and transactions: amount of the entry or transaction, accounting reference (e.g. ledger, journal or other relevant reference) description of the entry or transaction (detailing the nature of the expenditure) and reference to underlying documents (e.g. invoice number, salary slip or other relevant reference), in line with Article 16(1). It shall be provided in electronic form and spreadsheet format (excel or similar) whenever possible.

The detailed breakdown of expenditure shall be supported by a declaration of honour by the coordinator that the information in the payment request is full, reliable and true and that the costs declared have been incurred and can be considered as eligible in accordance to this contract.

The final report shall in all cases include a detailed breakdown of expenditure covering the whole action.

When the grant takes the form of reimbursement of eligible costs actually incurred and is only expressed in terms of an absolute value (and not as a percentage of the EU contribution to the total eligible costs), verification can be limited to the

report must cover all expenses incurred since the end of the previous reporting period and not covered by the previous expenditure verification report.

For the avoidance of doubt, 'grant' refers to the amount of the EU contribution and not to the total eligible costs of the action.

As a general rule, it is up to the Coordinator to contract the audit firm (in accordance with Annex IV), which must be a member of an internationally recognised supervisory body of statutory auditors (for more details refer to Annex VII). The name of the auditor is indicated in Article 5 of the special conditions of the contract, and may be changed through a written notification (not a formal amendment request) to the contracting authority, who reserves the right to oppose this change (see Article 9(5)). Therefore the name of the auditor should be communicated prior to contract signature, during contract preparation stage.

However, in some cases the contracting authority might have its own audit and/or verification system, in order to ensure an appropriate degree of quality and reliability of the verification. For instance, for the EVR they could require the coordinator to use one specific audit firm (or one out of a pool) that has been previously selected in conformance with the applicable procurement rules. If this is the case, specific instructions are inserted in Section 2.1.5 of the guidelines for applicants (e.g. name or list of auditors, pre-negotiated prices, details for the verification etc.).

When the expenditure verification is required by the contract, the related expenditure constitutes an eligible cost of the action.

The verification may also be done directly by the contracting authority's own staff, by the Commission, or by a body authorised to do so on their behalf. This option is specified in Section 2.1.5 of the guidelines for applicants and formalised in Article of 5(2) of the special conditions.

The auditors should not limit themselves to vague declarations that they have verified the eligibility of the costs, they have to

amount paid by the Commission for the action concerned (i.e. it does not need to cover the whole action).

Where the coordinator is a government department or a public body, the contracting authority may accept to substitute the expenditure verification with a detailed breakdown of expenditure.

The expenditure verification report shall not be provided by the coordinator if the verification is directly done by the contracting authority's own staff, by the Commission or by a body authorised to do so on their behalf, according to Article of 5.2 of the special conditions.

declare explicitly that they certify that these costs are 'real, accurate and eligible', i.e. adopt a stricter, specific and not ambiguous formulation.

Detailed breakdown of expenditure (DBE)

For grants up to EUR 5 000 000 and above EUR 100 000, an expenditure verification report covering the entire implementation period and project accounts (EU, other donors and the beneficiary's contributions) is only required to be submitted along with the final report but a detailed breakdown of expenditure has to be provided with the 3rd, 5th, 7th... pre-financing payments.

There is no standard template for the detailed breakdown of expenditure. However, the information should be presented enough detailed for the underlying transaction to be easily understood. In addition it should be classified per budget line and allow an easy traceability of the related documents (audit trail). The addition of the amounts for each line should be equal to the related amount in the financial report presented. The total addition of the transaction list should be equal to the total direct cost claimed.

The coordinator has the obligation to provide a transaction list unified. She/he must present a single transaction list in cases where each co-beneficiary keep the accounts for the expenditures related to the actions or activities under their responsibility.

This information should be easily derived from the accounting documents (ex. nominal ledger or T accounts). Therefore, when derived directly from the accountancy, amounts may be in the currency of the accountancy. When the amounts are expressed in a currency other than EUR the exchange rate has to be specified. It must be provided in electronic form and spread sheet format (excel or similar) whenever possible.

The declaration of honour supporting the DBE is already included in the payment request (Annex V). By signing this the coordinator declares on its honour that all the information provided is full, reliable and true and that the costs declared have been

incurred and can be considered as eligible in accordance to the provisions of the contract.

In case no payment request is presented with the final report, a declaration of honour supporting the DBE and all reports has to be provided separately.

(See table below)

Where the coordinator is a government department or a public body, the contracting authority may accept to substitute the EVR with a DBE, though it must ensure conformance with the same frequency prescribed above for the EVR.

Example: Public body and grant of EUR 6 000 000: the DBE has to be presented with every payment request.

Where a co-beneficiary is an international organisation that has successfully passed a pillar assessment it may decide to substitute the expenditure verification report and/or the detailed breakdown of expenditure for the part of incurred expenditure of the action that is implemented by it by a management declaration that during the period covered by the report the contribution has been used and accounted for in compliance with the systems and rules positively assessed in the pillar assessment and with the obligations laid down in the contract (see Annex e3h11).

The coordinator retains full financial responsibility for ensuring that the action is implemented in accordance with the contract. This means that she/he remains indeed responsible for the implementation and reporting but within the limits set in the contract. If a co-beneficiary is entitled to provide a management declaration instead of an EVR or a detailed breakdown of expenditure, the coordinator's responsibility does not go beyond collecting such document.

	2 nd	3 rd	4 th	5 th	Final Report
	pre-financing payment	pre-financing payment	pre-financing payment	pre-financing payment	pre-financing payment	
Grant	EVR	EVR	EVR	EVR	EVR	EVR
> EUR 5 Mil	covering the preceding reporting periods not already covered	covering the preceding reporting periods not already covered	covering the preceding reporting periods not already covered	covering the preceding reporting periods not already covered	covering the preceding reporting periods not already covered	covering the preceding reporting periods not already covered
						+ DBE
						covering entire action
Grant	-	DBE	-	DBE	-	EVR covering entire Action
<= EUR 5 Mil		covering the preceding reporting periods not already covered		covering the preceding reporting periods not already covered		DBE covering entire Action
and						
> EUR 100 k						
Grant	-	-	-	-	-	DBE covering entire Action
<= EUR 100 k						

19.3.2.8 Financial guarantee

Text of the article	Guidelines
<p>15(8) If the grant exceeds EUR 60 000 the contracting authority may request a financial guarantee for the amount of the initial pre-financing payment.</p> <p>The guarantee shall be denominated in euro or in the currency of the contracting authority, conforming to the model in Annex VIII. The guarantee shall be provided by an approved bank or financial institution established in one of the Member States of the European Union. Where the coordinator is established in a third country, the contracting authority may agree that a bank or financial institution established in that third country may provide the guarantee if the contracting authority considers that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in a Member State of the European Union. This guarantee shall remain in force until its release by the contracting authority when the payment of the balance is made.</p> <p>During the execution of the contract, if the natural or legal person providing the</p>	<p>In most cases a financial guarantee will no longer be required, unless it brings a clear added value to the protection of the EU budget.</p> <p>The contracting authority may, if it considers it appropriate on the basis of its risk assessment, require the coordinator to lodge a guarantee to limit the risks linked with the payment of pre-financing.</p> <p>In such a case, when the guarantee is not required in the call for proposals, and it is requested only before signature of the contract by the contracting authority, the related estimated costs are to be added as estimated direct eligible cost in the budget (as they were not included in the budget as submitted by the applicants).</p> <p>The amount of the guarantee is at most equal to the amount of the initial pre-financing payment and will not be adjusted during the action, although the contracting authority may decide to reduce it, or release it, pursuant to its risk assessment. Otherwise, as a general rule it will remain in force until its release by the contracting authority when the payment of the balance</p>

<p>guarantee (i) is not able or willing to abide by its commitments, (ii) is not authorised to issue guarantees to contracting authorities, or (iii) appears not to be financially reliable, or the financial guarantee ceases to be valid, and the coordinator fails to replace it, either a deduction equal to the amount of the pre-financing may be made by the contracting authority from future payments due to the coordinator under the contract, or the contracting authority shall give formal notice to the coordinator to provide a new guarantee on the same terms as the previous one. Should the coordinator fail to provide a new guarantee, the contracting authority may terminate the contract.</p> <p>This provision shall not apply if the coordinator is a non-profit organisation, an organisation which has signed a framework partnership agreement with the European Commission, a government department or public body, unless otherwise stipulated in the special conditions.</p>	<p>is made.</p> <p>There are no more automatic triggering thresholds in terms of the value of pre-financing or its share in the total amount of the grant. The contracting authority has to be able to justify the request for guarantee, which is an administrative charge, against the risk to the EU budget in the payment of pre-financing.</p> <p>A financial guarantee may not be requested (in addition to the exceptions mentioned in Article 15(8) paragraph 3) for grants up to EUR 60 000.</p> <p>When the financial guarantee is required by the contract, the related expenditure constitutes an eligible cost of the action. The cost for issuing and maintaining a bank guarantee complying with the requirements of the contract is considered to be incurred with relation to the implementation period of the contract, even if maintained in place after the end of the implementation period.</p> <p>In some cases a bank guarantee may be avoided by agreeing with the contracting authority at the contract preparation stage to adjust the amount of pre-financing.</p>
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19.3.2.9 Rules for currency conversion

Text of the article	Guidelines
<p>15(9) The contracting authority shall make payments to the coordinator to the bank account referred to in the financial identification form in Annex V, which allows the identification of the funds paid by the contracting authority. The contracting authority shall make payments in the currency set in the special conditions.</p> <p>Reports shall be submitted in the currency set out in the special conditions, and may be drawn from financial statements denominated in other currencies, on the basis of the beneficiary(ies)'s applicable legislation and applicable accounting standards. In such case and for the purpose of reporting, conversion into the currency set in the special conditions shall be made using the rate of exchange at which each contracting authority's</p>	<p>The coordinator has to provide details of the bank account or sub-account into which the EU funds will be paid. It is not necessary to open a project-specific account provided the contracting authority's contribution and the project financial flows can be traced.</p> <p>There is no obligation to open interest-bearing accounts for projects financed by the EU budget and the EDF, nor to report on or repay any interest earned.</p> <p>See guidance for exchange rates.</p> <p>Exchange rate for reporting</p> <p>NB. This provision applies only to beneficiaries having their accounting in a currency different from the one of the contract (usually EUR, but not in all cases:</p>

contribution was recorded in the beneficiary(ies)'s accounts, unless otherwise provided for in the special conditions. If at the end of the action, a part of the expenses is pre-financed by the beneficiary(ies) (or by other donors), the conversion rate to be applied to this balance is the one set in the special condition according to the beneficiary(ies)'s usual accounting practice. If no specific provision is foreseen in the special conditions, the exchange rate of the last instalment received from the contracting authority will be applied.

15(10) Unless otherwise provided for in the special conditions, costs incurred in other currencies than the one used in the beneficiary(ies)'s accounts for the action shall be converted according to its usual accounting practices, provided they respect the following basic requirements: (i) they are written down as an accounting rule, i.e. they are a standard practice of the beneficiary, (ii) they are applied consistently, (iii) they give equal treatment to all types of transactions and funding sources, (iv) the system can be demonstrated and the exchange rates are easily accessible for verifications.

In the event of an exceptional exchange-rate fluctuation, the parties shall consult each other with a view to amending the action in order to lessen the impact of such a fluctuation. Where necessary, the contracting authority may take additional measures such as terminating the contract.

refer to the special conditions). In the other cases, there is no need to convert currencies as the books of account and the financial report are already in the currency of the contract.

In order to reduce exchange rate differences and for reporting purposes only, in the case of books of account in a currency other than the one of the contract, the costs have to be converted using the same exchange rate as that used when each of the contracting authority's pre-financing payment was recorded in the beneficiary's(ies)' accounts. This means that when the EU's contribution is paid in several pre-financing payments, the expenditure incurred will be reported using the exchange rate at which each pre-financing payment was recorded, using the First In First Out (FIFO) method.

There are cases in which the beneficiary, working with a local currency, holds two accounts: one in the currency of the pre-financing (into which the payment of the pre-financing instalment is executed) and one in local currency

Throughout the general conditions, the term 'beneficiary(ies)' refers to the coordinator, the co-beneficiaries and the affiliated entities. The same approach should thus apply when interpreting Article 15(9).

- The logic that applies when the coordinator receives funds from the EU also applies to the co-beneficiaries and the affiliated entities when they receive funds from the coordinator. In case where the coordinator and the co-beneficiaries use different currencies, there will be a double conversion using the same rule. For example:

1) EUR are converted in e.g. USD by the coordinator's bank, and reported back in EUR using the rate of exchange at which the EUR transfer was recorded in the coordinator's account;

2) USD are converted in e.g. RUB or DKK by the co-beneficiaries' bank, and reported back using the rate of exchange at which the USD transfer was recorded in the bank accounts.

For 2) there are two possibilities for reporting, with exactly the same effect:

- Co-beneficiaries report back to the coordinator in their own accounting currency (RUB or DKK) and the coordinator converts them in USD using the rate at which the funds initially transferred by the coordinator were recorded in the co-beneficiaries accounts. Co-beneficiaries report back to the coordinator in the coordinator accounting currency (USD) after having converted in USD their expenditure incurred in their own accounting currency (RUB or DKK), using the rate at which the USD received from the coordinator were recorded in their accounts.

The coordinator remains responsible for the financial report and must ensure that conversions are done according to the rules.

Article 15(9) does not oblige the beneficiaries to convert the whole amount of pre-financing received in one go into the local currency account.

Therefore, as long as this can be regarded as the beneficiary's normal practice (and as long as it would not contradict any applicable legislation), the beneficiary could transfer the amount received and recorded in the EUR account to the account held in local currency in bits, in relation to the level of implementation of the action.

Where the local currency is volatile, proceeding this way could be, in fact, considered more appropriate.

When the pre-financing instalments are converted in bits into local currency, FIFO remains the method to be used for reporting in EUR. The rate of exchange at which each bit of contribution was converted into local currency will have to be used for the application of the FIFO method.

In the case described, there will be several different exchange rates, corresponding to the exchange rate of conversion of each bit of the EUR pre-financing into local

currency.

The reporting for the expenditure incurred in local currency should thus use those successive different exchange rates following the FIFO method.

In other terms, more flexibility for coping with e.g. volatility of currencies is 'paid' by a more complex financial reporting due to several successive exchange rates.

If the coordinator prefers to apply another currency approach, this must be agreed during contract preparation stage and reflected in the special conditions.

At the time of reporting, this exchange rate will then be used to convert all expenses in the reporting period into the currency of the contract.

The conversion does not have to be done individually for each foreign currency in the accounting nor directly from the currency of expenditure. The rate is applied to the total of each budget line as resulting by the balance of the accounts, and the unit values may be derived accordingly.

Example: pre-financing payment of EUR 100 000 recorded as USD 120 000 in the beneficiary's accounts.

At the end of the reporting period, the financial report drawn from financial statements denominated in USD amounts to USD 90 000. The report sent to the contracting authority will amount to EUR 75 000.

If there is a carry-over balance from a prior pre-financing, the expenditure is first converted into Euro using the exchange rate used when this prior pre-financing was recorded, until exhaustion of this balance. Then, the exchange rate of the following instalment will be used.

Toward the end of the action it often happens that the beneficiary(ies) incurs costs with its own money i.e. not related to any of the instalment of pre-financing received by the EC (that have been already fully used). When converting this amount (amount pre-financed by the beneficiary(ies)) into EUR for reporting, the beneficiary(ies) will use a conversion rate

previously established in the special conditions according to its accounting practice. If no specific provision has been established, the exchange rate of the last instalment received from the contracting authority will be applied also to the amount pre-financed by the beneficiary(ies).

Exchange rate for accounting

This rule has to be applied to convert costs incurred in other currencies than the one used in the beneficiaries' or affiliated entities' accounts for the action.

In order to further reduce exchange rate differences and to align as much as possible to the beneficiaries and/or affiliated entity(ies)'s accounting practices, they may use their usual accounting practices, provided they respect the conditions listed in Article 15(10). As a general rule, the accounting practices of the beneficiaries for the conversion have to respect the following basic requirements:

- they are written down as an accounting rule, i.e. they are a standard practice of the beneficiaries or affiliated entities
- they are applied consistently
- they give equal treatment to all types of transactions and funding sources
- the system can be demonstrated and the exchange rates are easily accessible for verifications

For verification purposes, the exchange rate used for recording expenses in the accounts, together with the generated value, should be stamped on the original documents. In any case the beneficiaries must be able to demonstrate it and the accounting system allow for easy verification of the rates used and how the conversion is operated.

In case the accounting practices of any of the beneficiaries or affiliated entities do not comply with the above conditions (Article 15(10)), a conversion rate has to be established using the specific clause in the special conditions.

There is no specific definition of an exceptional exchange rate fluctuation.

Depending on the impact of the fluctuation on the implementation of the action, different remedial actions may be envisaged:

	<p>a) restructuring of the action — for example, one project component could be removed/modified</p> <p>b) suspension or termination of the contract</p> <p>c) use of the contingency reserve</p> <p>Refer also to Article 14(7) for the use of the contingency reserve.</p>
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19.3.3 Article 16 - Accounts and technical and financial checks

19.3.3.1 Accounts

Text of the article	Guidelines
<p>16(1) The beneficiary(ies) shall keep accurate and regular accounts of the implementation of the action using an appropriate accounting and double-entry book-keeping system.</p> <p>The accounts:</p> <p>a) may be an integrated part of or an adjunct to the beneficiary(ies)'s regular system;</p> <p>b) shall comply with the accounting and bookkeeping policies and rules that apply in the country concerned;</p> <p>c) shall enable income and expenditure relating to the action to be easily traced, identified and verified.</p>	<p>The beneficiaries and affiliated entity(ies) should follow professional and recognised standards for book-keeping and accounting systems and must use double entry book-keeping systems to manage EU funds.</p> <p>There is no obligation to translate all the supporting documents in the language of the contract or in any European Union language (see Article 2(4) for more information).</p> <p><u>Reconciliation of information in the financial report and audit / accounting trail</u></p> <p>Expenditure relating to the action must be easily identifiable and verifiable. This can be done by using separate accounts for the action concerned or by ensuring that expenditure for the action concerned can be easily identified and traced to, and within the beneficiaries' accounting and bookkeeping systems. For old grant contracts (pre-2013 grant contracts), when interest reporting is required by the contract conditions, the accounts must provide details of interest accruing on funds paid by the contracting authority.</p> <p>The coordinator must put in place the relevant control instruments and agreements with the co-beneficiaries and/or affiliated entities to be able to ensure that the financial reports (both interim and final) as required under Article 2 can be properly and easily reconciled to each one's accounting and book-keeping systems and to the underlying accounting and other relevant records. For this purpose the coordinator, in cooperation with the co-beneficiaries and the affiliated entities must prepare and keep appropriate reconciliations, supporting schedules, analyses, and breakdowns for inspection and verification.</p>
<p>16(2) The coordinator shall ensure that any financial report as required under Article 2 can be properly and easily reconciled to the accounting and book-keeping system and to the underlying accounting and other relevant records. For</p>	

<p>this purpose the beneficiary(ies) shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.</p>	<p>The commission provides a 'Financial Management Toolkit' for recipients of EU funds for external actions. This toolkit aims to help recipients of EU funds to comply with the conditions for financial management set out in contracts for EU-financed external actions. Module 8 of this toolkit provides guidance and support with regard to financial reporting (it also includes a financial reporting checklist). Beneficiaries are strongly recommended to refer to this Module: http://ec.europa.eu/europeaid/work/procedures/financial-management-toolkit_en.htm</p> <p>Please note: the toolkit is not part of the contract and has no legal value. It merely provides general guidance and may in some details differ from the signed contract. In order to ensure compliance with their contractual obligations beneficiaries and affiliated entities should not exclusively rely on the toolkit but always consult their individual contract documents.</p>
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19.3.3.2 Right of access

Text of the article	Guidelines
<p>16(3) The beneficiary(ies) shall allow verifications to be carried out by the European Commission, the European Anti-Fraud Office, the European Public Prosecutor's Office, the European Court of Auditors and any external auditor authorised by the contracting authority.</p> <p>The beneficiary(ies) has to take all steps to facilitate their work.</p>	<p>All beneficiaries, affiliated entities, contractors, and recipients of financial support receiving funds from the European Commission, have to allow easy access to all documents and systems used to manage the action to personnel from the European Commission, the OLAF, the European Public Prosecutor's Office, the European Court of Auditors and any external auditor carrying out verifications/audits of the action.</p> <p>They will require access to documents in the country where the action is operational, and at the head office, as appropriate.</p> <p>The coordinator, co-beneficiaries, affiliated entities, contractors and third parties receiving financial support have to take all measures possible to facilitate the verifications and promptly provide the required information.</p>
<p>16(4) The beneficiary(ies) shall allow the above entities to:</p> <p>a) access the sites and locations at which the action is implemented;</p>	

<p>b) examine its accounting and information systems, documents and databases concerning the technical and financial management of the action;</p> <p>c) take copies of documents;</p> <p>d) carry out on the-spot-checks;</p> <p>e) conduct a full audit on the basis of all accounting documents and any other document relevant to the financing of the action;</p>	
<p>16(5) Additionally the European Anti-Fraud Office shall be allowed to carry out on-the-spot checks and inspections in accordance with the procedures laid down by the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.</p> <p>Where appropriate, the findings may lead to recovery by the European Commission.</p>	
<p>16(6) Access given to agents of the European Commission, European Anti-Fraud Office, the European Public Prosecutor's Office and the European Court of Auditors and to any external auditor authorised by the contracting authority carrying out verifications as provided for by this Article as well as by Article 15(7) shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject.</p>	<p>The information provided to the Commission, OLAF, the European Public Prosecutor's Office, the Court of Auditors or authorized external auditor will be treated confidentially and not shared openly with other organisations, without prejudice to the obligations of public law to which the agents are subject to.</p>

19.3.3.3 Record keeping

Text of the article	Guidelines
<p>16(7) The beneficiary(ies) shall keep all records, accounting and supporting documents related to this contract for five years following the payment of the balance and for three years in case of grants not exceeding EUR 60 000, and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim has been disposed of.</p> <p>They shall be easily accessible and filed so</p>	<p>All the relevant information has to be kept for 5 (or 3 if the grant amount is up to EUR 60 000) years after the payment of the balance, the repayment (Article 18(4)), or the offsetting (Article 18(6)), whichever occurs last, and even if it's not a requirement of the country where the activities are implemented.</p> <p>This applies to the beneficiaries, affiliated entities, contractors, and recipients of</p>

as to facilitate their examination and the coordinator shall inform the contracting authority of their precise location.

financial support that participate in the action or receive funds from the EU-funded action.

The beneficiaries have to ensure that affiliated entities, contractors, and recipients of financial support are made aware of this obligation by including in the relevant agreements provisions for the record-keeping which also authorise audits and verifications in accordance with Article 16.

Location of supporting documents

This is often an important issue in audits/verifications, particularly in cases where activities are dispersed over various and sometimes remote locations within the same country or in various countries.

Many national regulations may require any legal entity to maintain originals of accounting documents (e.g. invoices and tax documentation) in the country where the entity is registered.

The coordinator bears the financial responsibility towards the contracting authority in case adequate supporting documents are not provided (in a timely manner) and/or costs are declared ineligible, including with regards to co-beneficiaries, affiliated entities, contractors, and/or recipients of financial support. The coordinator has to put in place control systems to ensure that costs are eligible according to the contract.

It is thus recommended that copies of the supporting documentation related to disperse activities be kept by the coordinator at a central location (without prejudice to the fact that the contracting authority or auditors may request to consult the original documentation). Data stored in electronic form in computerised information systems should be accessible from this location.

The coordinator must inform the contracting authority in the final report (Annex VI, point 5) of the location(s) of the above mentioned systems and documents. This is to plan and carry out efficiently subsequent audits or verifications, and to avoid costs being declared ineligible simply

	<p>because the documentation is not available in a reasonable time.</p> <p>The coordinator should inform the contracting authority of any changes in the location(s) at a later stage, and must update this information if necessary, as soon a request for audit is sent. The unavailability of the supporting documents at the declared location(s) may per se entail the ineligibility of costs.</p> <p>Where local legislation requires beneficiaries, affiliated entities, contractors, or recipients of financial support to retain original documentation on their premises, the coordinator must be able to check this, and should ensure in advance the existence of established internal control systems to ensure that costs are eligible according to the contract.</p> <p>The coordinator remains responsible for the eligibility of all project expenditure reported in the financial report(s).</p> <p>If necessary, the contracting authority may request the coordinator to make the above mentioned systems and documents available for inspection at one central location (for example the coordinator's headquarters) inside or outside the country where the action is implemented. The coordinator should duly inform the contracting authority about any legal or other restrictions that apply or may apply to the transfer of the above mentioned systems and documents.</p>
<p>16(8) All the supporting documents shall be available either in the original form, including in electronic form, or as a copy.</p>	<p>The beneficiaries must maintain information systems and accounts and accounting records, and keep all supporting documents, both financial and technical, relating to the action.</p> <p>Records, and accounting and supporting documents, must be available in documentary form, whether paper, electronic or another medium (e.g. a written record of a meeting is more reliable than an oral presentation of the matters discussed).</p> <p>Electronic documents can be accepted only where:</p> <ul style="list-style-type: none"> - the documentation was first

	<p>received or created (e.g. an order form or confirmation) by the beneficiaries in electronic form; or</p> <p>- the auditor is satisfied that the beneficiary uses an electronic archiving system which meets established standards (e.g. a certified system that complies with national law).</p>
<p>16(9) In addition to the reports mentioned in Article 2, the documents referred to in this article include:</p> <p>a) Accounting records (computerised or manual) from the beneficiary(ies)'s accounting system such as general ledger, sub-ledgers and payroll accounts, fixed assets registers and other relevant accounting information;</p> <p>b) Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;</p> <p>c) Proof of commitments such as contracts and order forms;</p> <p>d) Proof of delivery of services such as approved reports, time sheets, transport tickets, proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates) etc;</p> <p>e) Proof of receipt of goods such as delivery slips from suppliers;</p> <p>f) Proof of completion of works, such as acceptance certificates;</p> <p>g) Proof of purchase such as invoices and receipts;</p> <p>h) Proof of payment such as bank statements, debit notices, proof of settlement by the contractor;</p> <p>i) Proof that taxes and/or VAT that have been paid cannot actually be reclaimed;</p> <p>j) For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;</p> <p>k) Staff and payroll records such as contracts, salary statements and time sheets. For local staff recruited on fixed-</p>	<p>This article provides the minimum requirements and examples of the types of documents that need to be kept. However, it is the responsibility of the beneficiaries to provide any other necessary or relevant evidence in support of expenditure, according to applicable standards.</p> <p><u>The list is not exhaustive</u>, and documents referring to the proper functioning of the beneficiaries (related laws and contracts, authorisation of signatures, minutes of board meetings, accounting and staff policies etc.) may also be requested for inspection.</p> <p>It is strongly advised that the coordinator verifies the compliance and completeness of these documents continuously during the implementation of the action, and keeps relevant copies. The turnover of staff and the time elapsing until the end of the action or the occurrence of an audit, can make it difficult — sometimes impossible — to retrieve the necessary missing information and justify eligible expenditure.</p> <p><u>Procurement</u></p> <p>All paperwork related to procurement undertaken for all work, supply and service contracts (Article 10) have to be available to verify that all the purchases have been done following the applicable procurement rules.</p> <p>The beneficiaries must keep sufficient and appropriate documentation with regard to the procedures applied and that justify the decision on the pre-selection of tenderers (where an open tender procedure is not used) and the award decision.</p> <p><u>Staff costs</u></p> <p>Make sure that clear records of all local staff and expatriate staff costs that relate to</p>

term contracts, details of remuneration paid, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or European-based staff (if the action is implemented in Europe) analyses and breakdowns of expenditure per month of actual work, assessed on the basis of unit prices per verifiable block of time worked and broken down into gross salary, social security charges, insurance and net salary.

the action are kept. Information that should be kept includes the labour contract and the details of calculation from gross salary to net salary including relevant social security and insurance contributions.

All these costs must be documented for the beneficiaries and affiliated entities. Lack of documentation and/or access to payroll information is a frequent source of cost ineligibility.

Note that for expatriate (based in country) or Headquarters-based staff, and in addition to the above information, a more detailed record of how much time the person has spent working on the action per month must be kept. Signed and approved time-sheets are the soundest way to demonstrate the distribution of a person along the different projects he/she worked for.

In the case of a consultant hired for a specific period of time for the action, the contract should give all the relevant information concerning their participation in the action. NB. The hiring of consultants is usually a type of service contract and therefore, in order to recruit them, the rules described in Annex IV apply (see Article 14(2)(a) for further guidance).

Taxes

In all cases (whether taxes are eligible or ineligible), beneficiaries (and their affiliated entities if applicable) must document the fact that they cannot recover taxes nor obtain an exemption under the applicable national law. This proof does not need to be submitted by default to the contracting authority but must be available on request, and must be available to auditors during the expenditure verification report or audit. Refer to Annex J for further information on required evidence.

A 'self-certification' would not be sufficient to demonstrate impossibility to get exempted or reimbursed, an 'external' confirmation is needed: extract of law, notification by tax authorities, etc.

Boarding passes

Air fares must be substantiated by the passenger receipt and proof of payment.

Exceptionally, for circumstances where 'traditional' original boarding passes are not provided by the airline company, other adequate alternative and/or corroborative evidence may be accepted (attendance list of a conference, hotel bills, credit card accounts, copy of passport entry/exit stamps, declaration on honour, etc.) provided that the person concerned declares not to have been refunded by any other means of this expense.

Financial support to third parties (including sub-granting)

The supporting documents for FS depend on the purpose of the FS, the type of FS chosen (unit costs, lump-sum, flat-rate, reimbursement of actual incurred costs etc.) as explained in the description of the action.

As a general indication this should include the agreement or contract, and proof that the funds have been received and that the activity for which the FS is given (in cases where the FS is linked to a specific activity) has been implemented.

Any other supporting document as agreed in the contract is acceptable; it does not necessarily have to be the usual 'grant' supporting documents (invoices, pay slips etc), since the same cost eligibility rules that cover beneficiaries do not necessarily apply (this is also why it is better to make use of the correct terminology of 'financial support' instead of sub-granting, when the FS does not take the form of a sub-grant). The contracting authority and the beneficiaries should determine what is more appropriate.

It is strongly recommended to describe this in detail as much as possible in the contract, so that at the end of the action or reporting period the contracting authority is satisfied and, the beneficiaries and affiliated entities, do not subsequently have problems with auditors. It is best practice, during information sessions, to suggest to potential applicants to already come up with proposals for justifying the FS given.

Example: the FS was established to pay an amount following the realisation of a specific event, or to returnees just to return

	<p><i>to their country. In these cases, the accomplishment of the event or the settling back to the place of origin may be proved other than with invoices.</i></p> <p>----</p> <p>This article indicates which type of supporting documents might be accepted in accordance with a purpose of harmonisation and clarity. If, for duly justified reasons, such documents cannot be produced, an explanation should be provided and a reasoned decision will be taken on a case-by-case basis by the contracting authority, with the advice of the auditors as appropriate.</p>
<p>16(10) Failure to comply with the obligations set forth in Article 16(1) to 16(9) constitutes a case of breach of a substantial obligation under this contract. In this case, the contracting authority may in particular suspend the contract, payments or the time-limit for a payment, terminate the contract and/or reduce the grant.</p>	

19.3.4 Article 17 – Final amount of the grant

19.3.4.1 Final amount

Text of the article	Guidelines
<p>17(1) The grant may not exceed the maximum ceiling in Article 3(2) of the special conditions either in terms of the absolute value or the percentage stated therein.</p> <p>If the eligible costs of the action at the end of the action are less than the estimated eligible costs as referred to in Article 3(1) of the special conditions, the grant shall be limited to the amount obtained by applying the percentage laid down in Article 3(2) of the special conditions to the eligible costs of the action approved by the contracting authority.</p>	<p>The special conditions define a maximum grant amount (in absolute terms) that can never be exceeded, and a contribution (in percentage) to the eligible costs (as well as to the ‘accepted costs’ when the accepted cost system has been introduced in the guidelines for applicants and in the special conditions. The percentage contribution stems from the principle of co-financing, which requires that the resources necessary for the implementation of the action are not entirely provided by the EU.</p> <p>Accordingly, these funds from other sources may take the form of:</p> <ul style="list-style-type: none"> - the beneficiaries’ or affiliated entities’ own

	<p>contribution</p> <ul style="list-style-type: none">- income generated by the action (if relevant an estimate should be provided at proposal stage; it must be confirmed when the request for payment of the balance is submitted)- financial or in-kind contributions by other donors <p>In order to avoid double funding of the same costs, the coordinator must indicate the sources and amounts of EU funding received or applied for the same action or part of the action or for its functioning during the same financial year, as well as any other funding received or applied for the same action.</p> <p>The coordinator has to declare the co-financing actually provided in the final report, but no evidence is needed.</p> <p>The determination of the final amount of the grant is based on the final reports approved by the contracting authority.</p> <p>The first step to be undertaken is the validation of these reports and the verification of the compliance with the provisions of the contract.</p> <p>The final amount of the grant will depend on the approved eligible costs.</p> <p>The verification of the eligibility of costs is done mainly on the basis of Article 14, but also taking into account other provisions set out in the call for proposals, the special conditions or other relevant annexes to the contract.</p> <p>If applicable, for eligible costs reimbursed on the basis of simplified cost options defined in the contract, the eligible costs are determined solely on the qualitative and quantitative evidence necessary to verify compliance with the conditions for the payment defined in the contract (notably the justification sheet of the budget, but also the description of the action). In the case of partial fulfilment of the conditions, a pro rata may be applied to the final payment in accordance with the effective realisation.</p> <p>When funding is determined on the basis of unit costs the adjustment is automatic, and</p>
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is calculated simply by multiplying the unit cost by the number of units consumed or produced. For lump sums or flat-rates, the correction applied may be more difficult to determine.

Therefore, to avoid conflicts and litigation, it is strongly recommended to agree during the contract preparation stage and then to specify clearly in the contract:

- the conditions for the payment
- how reductions will be applied when only partial fulfilment of these conditions is attained.

It is important that the review of the narrative report and final financial statement occurs in a coordinated manner because to be eligible the costs reported must correspond to the actual implementation of the action, as provided by the contract, and notably in Annex I.

In addition, regardless of the costs incurred, the grant may be reduced in case of non-implementation or poor, partial or late execution (Article 17(2)).

The provisional final amount of EU funding is calculated by application of the set percentage of co-financing of eligible costs specified in Article 3(2) of the special conditions to the eligible costs declared with the request for payment of the balance and approved by the contracting authority.

If a clause in the special conditions (Article 7) provides for the 'accepted cost system', the grant is further limited to a percentage of the total accepted cost of the action and not only to a percentage of eligible costs (i.e. the smaller of the two values obtained by application of both percentages apply).

The maximum amount of the grant might also be limited to the maximum EU contribution expressed in terms of the absolute value in Article 3(2) of the special conditions. If the approved eligible costs exceed the estimated costs as referred to in Article 3(1) of the special conditions, the beneficiaries will have to bear the exceeding costs.

Example:

If the total final expenditure is less than

	<p>originally foreseen, the final payment could be less than the amount stated in Article 4 of the special conditions, as the contracting authority contribution will be limited to the percentage of eligible costs (and accepted costs if applicable) stated in Article 3(2) of the special conditions (see also Article 17(2) of the general conditions).</p> <p><i>Example: total budgeted costs are EUR 500 000 of which the contracting authority has agreed to contribute to 80% - i.e. EUR 400 000 in absolute value. It is stated in the special conditions that a final instalment of EUR 40 000 will be paid as the balance. However, at the end of the action, total reported expenditure is only EUR 475 000. The maximum EU contribution will be 80% of this, i.e. EUR 380 000. The beneficiaries have already received EUR 360 000, so the balance to be paid is only EUR 20 000.</i></p> <p>The maximum EU contribution and percentage of eligible or accepted costs financed by the contracting authority may never be increased.</p>
<p>17.2. In addition and without prejudice to its right to terminate this contract pursuant to Article 12, if the action is implemented poorly or partially - and therefore not in accordance with the description of the action in Annex I - or late, the contracting authority may, by a duly reasoned decision and after allowing the beneficiary(ies) to submit its observations, reduce the initial grant in line with the actual implementation of the action and in accordance with the terms of this contract. This applies as well with regards to the visibility and, if applicable, communication obligations set out in Article 6 and in the special conditions. In case of breach of obligations, fraud or irregularities the contracting authority may also reduce the grant in proportion of the seriousness of breach of obligations, fraud or irregularities. The measures described in the last paragraph may equally be adopted by the European Commission in pursuance of its administrative powers under the Financial Regulation (Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July</p>	<p>If only part of the action has been implemented, the contracting authority may reduce the grant proportionally and taking into due consideration the observations of the beneficiaries.</p> <p>Proportionally does not simply and only refer to a mere financial value or execution of activities: if the missing parts of the action were crucial to its overall implementation, the contracting authority may decide to reduce its contribution beyond the mere financial value of these missing parts.</p> <p>It is fundamental to set clear and realistic indicators and results in the initial proposal/ contract and to subsequently:</p> <ol style="list-style-type: none"> 1 - inform the contracting authority immediately about any problems in the implementation of the action or any delays that might jeopardise the achievement of the results; 2 - make sure to get contracting authority's approval before making changes that may affect the basic purpose of the action, and make sure that these are duly reflected in

<p>2018, OJ-L 193/30.07.2018, p.1).</p>	<p>the amended contract (see also Article 9).</p> <p>Continuous dialogue and pro-active feedback should take place throughout the project's implementation. Such exchanges facilitate a better understanding of the difficulties encountered during the implementation and facilitate prompt decisions on mitigating measures (e.g. possible amendments to agreement/strategy, etc.).</p> <p>Note that a breach of the visibility obligations under Article 6 may also justify a reduction of the grant.</p>
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19.3.4.2 No profit

Text of the article	Guidelines
<p>17(3) The grant may not produce a profit for the beneficiary(ies), unless specified otherwise in Article 7 of the special conditions. Profit is defined as a surplus of the receipts over the eligible costs approved by the contracting authority when the request for payment of the balance is made.</p>	<p>The final amount of the contracting authority's contribution must also take into account the non-profit principle, i.e. the financial contribution is limited to the amount required to balance the receipts and the approved eligible costs of the action.</p> <p>The application of the no-profit principle is made globally, at action level (consolidated), and not for each beneficiary/affiliated entity in the event of a multi-beneficiary contract.</p>
<p>17(4) The receipts to be taken into account are the consolidated receipts on the date on which the payment request for the balance is made by the coordinator which fall within one of the two following categories:</p> <p>a) EU grant;</p> <p>b) income generated by the action; unless otherwise specified in the special conditions.</p>	<p>At the time of the request for payment of the balance the coordinator must also declare all the receipts of the action.</p> <p>The receipts to be taken into account for the purpose of the no-profit rule are the revenue established (revenue collected and recorded in the accounts), or the revenue generated or confirmed (revenue not yet received but for which the generating event has already occurred or for which the recipient has a commitment or a written confirmation) on the date on which the request for payment of the balance is made. Notably:</p> <p>a) income generated by the action, (unless the special conditions state otherwise, i.e. where the purpose of the action is to generate an income or where the action is</p>

implemented by beneficiaries who are non-profit organisations, see Article 17(7)). NB. If revenue is generated by the action, it is not deducted from the approved eligible costs, but it is considered on the side of receipts for the purposes of the application of the non-profit rule.

Therefore, the following sources are not taken into account for the purposes of the no-profit rule:

- the beneficiaries' or affiliated entities' own resources, without prejudice to any provision in the call for proposals (usually deriving from the basic act) requiring a minimum financial contribution from the beneficiaries;

- the revenue generated by the action after the date of the request for payment of the balance;

- financial contributions specifically assigned by the donors to the financing of the same eligible costs declared as actual costs and financed by the contract or which the donors allow for the reassignment to similar actions or other activities in the case of surplus or non-consumption after the implementation of the initial action;

- any interest generated by pre-financing paid to the beneficiaries as well as any interest paid to the beneficiaries as a result of late payment of amounts owed by the contracting authority;

- exchange rate gains;

- in the case of operating grants, the amounts allocated to the establishment of reserves (see Article 17(5));

- in-kind contributions.

Financial contributions of other donors are not to be taken into account for the application of the no-profit rule.

At the time of submission of the request for final payment, the coordinator must comprehensively declare and certify the income generated by the action.

The certificates that may be requested in support of the request for payment of the balance and in case of controls or audits will be based on the agreements signed with the donors, and the criteria above, to

	<p>check the nature of the amounts reported as receipts by the coordinator.</p> <p><u>Beneficiaries' own contributions</u></p> <p>In the absence of specific provisions imposing a minimum contribution from the beneficiary's own funds, the beneficiary retains an interest to look for other types of external financing and to promote any revenue from its operations throughout the implementation period.</p> <p>Therefore, if the beneficiaries have provided in the forecast budget a certain amount of their own resources in order to balance costs and receipts, and ultimately the revenue generated by the action or the contributions provided by other donors are more than expected, it is possible to replace the amount of their own resources which have been paid in full, or partially.</p>
<p>17(5) In case of an operating grant, amounts dedicated to the building up of reserves shall not be considered as a receipt.</p>	<p>Operating grants are not subject to a special treatment for the purposes of the no-profit rule.</p> <p>Nevertheless, some difficulties of interpretation remain, especially when it comes to distinguishing the beneficiary's own resources from income generated by the implementation of the Work Programme, part of its normal operation and performance of its statutory duties.</p> <p>To reduce the risk of dependence vis-à-vis the EU funds it is advisable to adopt a restrictive approach to the concept of 'revenue generated by the programme of work' and to take into account only the revenues directly attributable to activities specifically listed in the Work Programme (e.g. entrance fees at conferences organised by the beneficiary under its awareness-raising mission).</p> <p>Conversely, contributions to the beneficiary by its members or supporters, and the proceeds of its fundraising campaigns may be treated as the beneficiary's own resources, and will thus fall outside the scope of the revenue to be used for the application of the principle of no-profit.</p>

<p>17(6) Where the final amount of the grant determined in accordance with the contract would result in a profit, it shall be reduced by the percentage of the profit corresponding to the final European Union contribution to the eligible costs actually incurred approved by the contracting authority.</p>	<p>When the subsidised action generates a surplus (profit), the contracting authority recovers the surplus pro rata of the final EU contribution to the financing of the eligible costs actually incurred approved by the contracting authority (thus excluding other eligible costs declared on a Simplified Cost Option basis). In fact, given that the amounts used in the Simplified Cost Option should be determined on the basis of the respect a-priori of the no profit principle, they should be neutralized in the formula for calculating profit (see at this regard Chapter 7(4) of the Vademecum on Grants of DG BUDG).</p> <p>The amount to be deducted from the contracting authority contribution (established according to Article 17(1)) is calculated by applying the actual rate of reimbursement of eligible costs actually incurred to the surplus, as determined at the time of payment of the balance. The rate of recovery of the profit may be less than the percentage of reimbursement of eligible costs conventionally fixed. This is also the case when the provisional grant amount, after applying double ceiling, reaches the maximum contribution in absolute value established in the special conditions.</p>
<p>17(7) The provisions in Article 17(3) shall not apply to:</p> <ul style="list-style-type: none"> a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary, if specified in Article 7 of the special conditions; b) actions which generate an income to ensure their continuity beyond the end of this contract, if specified in Article 7 of the special conditions; c) actions implemented by non-profit organisations; d) study, research or training scholarships paid to natural persons; e) other direct support paid to natural persons in most need, such as unemployed persons and refugees, if specified in Article 7 of the special conditions; 	<p>The exemptions stated in letter a) b) and e) of Article 17(7) are only applicable if clearly stated in Article 7 of the special conditions.</p> <p>In the event of a non-profit organisation holding a grant contract with a for-profit entity as co-beneficiary, the exemption stated in letter c) would only apply to the non-profit organisation and, therefore, the profit made by for-profit organisations will be taken into account for applying the no-profit rule.</p> <p>When the no-profit rule does not apply, the contracting authority will not check whether there is a profit or not. It will just calculate the final amount of the grant according to Articles 17(1) and 17(2).</p>

f) grants of EUR 60 000 or less.	
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19.3.5 Article 18 - Recovery

19.3.5.1 Recovery

Text of the article	Guidelines
18(1) If any amount is unduly paid to the coordinator, or if recovery is justified under the terms of this contract, the coordinator undertakes to repay the contracting authority these amounts.	The coordinator has the sole financial responsibility for the entire contract. The coordinator is liable for any undue funds received, even if the ineligible costs were incurred by other beneficiaries or by affiliated entities. The contracting authority will also recover from the coordinator funds that have been unduly paid to or incorrectly used by contractors and/or third parties receiving financial support irrespective of the fact that the coordinator and/or beneficiary(ies) recovered the funds from the third party recipient or not.
18(2) In particular, payments made do not preclude the possibility for the contracting authority to issue a recovery order following an expenditure verification report, an audit or further verification of the payment request.	Although the main aim of audit and verifications is to enforce and obtain assurance and understanding of the control systems in place, if it is found that certain costs are not in line with the eligibility criteria that have been set, the underlying costs will be deemed ineligible, including after the final payment. In such cases the contracting authority will reduce the final amount of the grant and recover the funds unduly paid.
18(3) If a verification reveals that the methods used by the beneficiary(ies) to determine unit costs, lump sums or flat-rates are not compliant with the conditions established in this contract, the contracting authority shall be entitled to reduce the final amount of the grant proportionately up to the amount of the unit costs, lump sums or flat-rate financing.	
18(4) The coordinator undertakes to repay any amounts paid in excess of the	If the amount of the pre-financing payments and/or of the balance exceeds

<p>final amount due to the contracting authority within 45 days of the issuing of the debit note, the latter being the letter by which the contracting authority requests the amount owed by the coordinator.</p>	<p>the final amount of the grant (as calculated on the basis of approved eligible costs according to Article 17) the coordinator will have to reimburse the difference. In this case a recovery order will be issued by the contracting authority, or the amount can be offset against any other pending payment due to the coordinator (see Article 18(6)).</p>
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19.3.5.2 Interest on late payments

Text of the article	Guidelines
<p>18(5) Should the coordinator fail to make repayment within the deadline set by the contracting authority, the contracting authority may increase the amounts due by adding interest:</p> <p>a) at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country;</p> <p>b) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euros;</p> <p>on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the contracting authority, and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.</p>	<p>If the coordinator fails to reimburse amounts due to the contracting authority within the deadline set following the issue of a debit note (or recovery order), the contracting authority may add late payment interest, similarly to the case described in Article 15(6).</p>

19.3.5.3 Offsetting

Text of the article	Guidelines
<p>18(6) Amounts to be repaid to the contracting authority may be offset against amounts of any kind due to the coordinator, after informing it accordingly. This shall not affect the parties' right to agree on payment in instalments.</p>	<p>The contracting authority may recover amounts due by offsetting them against any other payment due to the coordinator (even for another/different contract, or even under a different budget line).</p> <p>The contracting authority must not do this</p>

	automatically, but will inform the coordinator in advance. In case of difficulties, the contracting authority may agree on re-payment or offsetting through instalments.
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19.3.5.4 Other provisions

Text of the article	Guidelines
18(7) The repayment under Article 18(4) or the offsetting under Article 18(6) amount to the payment of the balance.	
18(8) Bank charges incurred by the repayment of amounts due to the contracting authority shall be borne entirely by the coordinator.	Once the final amount of the grant has been established and the total pre-financed by the contracting authority is higher than the amount due, the coordinator bears the cost for returning these undue funds to the contracting authority.
18(9) The guarantee securing the pre-financing may be invoked in order to repay any amount owed by the beneficiary(ies), and the guarantor shall not delay payment nor raise objections for any reason whatsoever.	Guarantees may be called in as a mean to recover undue funds paid to the coordinator, even if the ineligible costs were incurred by co-beneficiaries or affiliated entities.
18(10) Without prejudice to the prerogative of the contracting authority, if necessary, the European Union may, as donor, proceed itself to the recovery by any means.	The EU reserves the right to substitute the contacting authority if it does not take action to recover amounts unduly paid.

19.4 List of annexes

S	The implementation of grant contracts – A users' guide	
S1	Letter to request amicable settlement – template LS	Letter to request amicable settlement – template LS.docx
S2	Letter to convene amicable settlement meeting – template LS	Letter to convene amicable settlement meeting - template LS.docx

