



## **European Maritime, Fisheries and Aquaculture Fund (EMFAF)**

**Specific Grant Agreement SI2.918553 under  
Framework Partnership Agreement  
MARE/2023/ICES**

ACU  
29/9/2024



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES  
Fisheries Policy Atlantic, North Sea, Baltic and Outermost Regions  
Scientific Advice and Data Collection

## **GRANT AGREEMENT**

**Project SI2.918553 — FPA MARE/2023/ICES**

### **PREAMBLE**

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

**on the one part,**

the **European Union** ('EU'), represented by the European Commission ('European Commission' or 'granting authority'), represented for the purposes of signature of this Specific grant agreement by Director Fisheries Policy Atlantic, North Sea, Baltic and Outermost regions, **Mr Fabrizio Donatella**,

**and**

**on the other part,**

'the beneficiary':

**ICES -International Council on the Exploration of the Sea**

Intergovernmental organization with legal personality

Entity registration number: 12063814

PIC 997629190

Established in H.C. Andersen Boulevard 44-46, 1553 Copenhagen V, Denmark,

represented for the purposes of signature of this Specific agreement by the ICES General Secretary, **Mr Alan Haynie**.

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

By signing the Agreement and the accession forms, the beneficiary accepts the grant and agrees to implement the action under its own responsibility and in accordance with the Agreement, with all the obligations and terms and conditions it sets out.

The Agreement is composed of:

Preamble

Terms and Conditions (including Data Sheet)

Annex 1	Description of the action
Annex 2	Estimated budget for the action and budget assumptions
<i>Annex 2a</i>	<i>Additional information on unit costs and contributions - Not applicable</i>
<i>Annex 3</i>	<i>Accession forms - Not applicable</i>
<i>Annex 3a</i>	<i>Declaration on joint and several liability of affiliated entities - Not applicable</i>
<i>Annex 4</i>	<i>Model for the financial statements- Not applicable</i>
Annex 5	Specific rules
Annex 6	Stock list of advices

## TERMS AND CONDITIONS

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## DATA SHEET

### 1. General data

Project summary:

Project summary
Advisory deliverables provided by the International Council for the Exploration of the Sea (ICES)
This action outlines the annual advisory products provided to the EC, DG MARE from ICES related to Ecosystem Based Fisheries Management

Keywords: Not defined

Project number: SI2.918553

Project name Specific Grant Agreement SI2.918553 under the Framework Partnership Agreement between DG MARE and ICES – 2023-2026

Project acronym: SGA SI2.918553

Call: Not applicable

Topic: Not applicable

Type of action: Specific Action grant under Framework Partnership Agreement

Granting authority: European Commission – EU

Grant managed through EU Funding & Tenders Portal: No

Framework Partnership Agreement No MARE/2023/ICES

Project starting date: fixed date: 01/01/2024

Project end date: 31/12/2024

Project duration: 12 months

### 2. Participants

List of participants:

Number	Role	Short name	Legal name	Country	PIC	Total eligible costs	Maximum grant amount	Entry date	Exit date
1	BEN	ICES	International Council for the Exploration of the Sea	Denmark				01/01/2024	01/01/2024

Beneficiary:

- ICES: from 01/01/2024 to 31/12/2024

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### **3. Grant**

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

Total eligible costs	Funding rate (%)	Maximum grant amount (Annex 2)	Maximum grant amount (award decision)
xxxxxxxxxxx	xxxxxxx	xxxxxxxxxxxxx	xxxxxxxxxxxxx

**Grant form:** Budget-based

**Grant mode:** Action grant

**Budget categories/activity types**

- 1. Personnel costs
  - 1.1 Personnel recurring advice,
  - 1.2 Administrative and support personnel,
  - 1.3 Regional Database and Specific DG MARE management,
  - 1.4 Personnel Data Collection Framework
  - 1.5 Personnel Special Requests
  - 1.6 Honorarium Special Requests
- 2. Travel and Meetings
  - 2.1 Travel recurring advice
  - 2.2 Travel DCF and Regional Database
  - 2.3 Travel Special Requests
  - 2.4 Meeting facilities
- 3. Other related costs
  - 3.1 IT for Expert groups and Process Infrastructure
  - 3.2 Audit fees
- 4. Indirect eligible costs

**Cost eligibility options:**

- Standard supplementary payments
- Limitation for subcontracting
- Travel and subsistence:
  - Travel: Actual costs
  - Accommodation: Actual costs
  - Subsistence: Actual costs
- Equipment: Depreciation only
- Indirect cost flat-rate: 7% of the eligible direct costs (categories 1-3), except volunteers costs and exempted specific cost categories, if any
- VAT: Yes

**Budget flexibility:** Yes (with flexibility cap)

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#### 4. Reporting, payments and recoveries

##### 4.1 Continuous reporting (art 21)

Standard deliverables:

**Progress reports (Technical report on progress):** Yes (deadline for submission, 60 days after end of period)

Progress report No	Month from	Month to
1	1	6
2	7	12

**Reports on cumulative expenditure incurred:** Yes (deadline for submission: 60 days after end of the 2<sup>nd</sup> reporting period)

##### 4.2 Periodic reporting and payments

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

Reporting					Payments	
Reporting periods			Type	Deadline	Type	Deadline (time to pay)
RP No	Month from	Month to				
					Initial pre-financing	30 days from entry into force
1	1	6	Additional pre-financing report	60 days after end of reporting period	Additional pre-financing	60 days from receiving additional pre-financing report
2	7	12	Periodic report	60 days after end of reporting period	Final payment	90 days from receiving periodic report

**Pre-financing payments and guarantees:**

Pre-financing payment		Pre-financing guarantee		
Type	Amount	Guarantee amount	Division per participant	
Pre-financing 1 (initial)	xxxxxxxxxx	n/a	1 – [short name]	n/a
Pre-financing 2 (additional)	xxxxxxxxxx	n/a	1 – [short name]	n/a

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

Mutual Insurance Mechanism (MIM): Not applicable

Interim payment ceiling (if any): Not applicable

No-profit rule: Yes

Late payment interest: ECB + 3.5 %

Bank account for payments:

IBAN account number and SWIFT/BIC, DK3054700001326337; NYKBDKKK

Conversion into euros: Double conversion

Reporting language: Language of the Agreement

**4.3 Certificates (art 24)**

Certificates on the financial statements (CFS):

Conditions:

Schedule: only at final payment, if threshold is reached

Standard threshold (beneficiary-level):

- financial statement: requested EU contribution to costs  $\geq$  EUR XXXX

**4.4 Recoveries (art 22)****First-line liability for recoveries:**

Beneficiary termination: Beneficiary

Final payment: Beneficiary

After final payment: Beneficiary

**Joint and several liability for enforced recoveries (in case of non-payment):** Not applicable

**5. Consequences of non-compliance, applicable law & dispute settlement forum****Applicable law (art 43):**

Standard applicable law regime: EU law + law of Belgium

Special applicable law regime: Not applicable

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

Standard dispute settlement forum:

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

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

Special dispute settlement forum: Not applicable

**6. Other****Specific rules (Annex 5):** Yes

- Confidentiality and security
- Ethics
- IPR, results and background, access rights and rights of use
  - Rights of use on results
- Communication, dissemination and visibility
- Communication and dissemination plan

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- Additional communication and dissemination activities
- Specific rules for carrying out the action
- Grants managed outside the funding & tenders portal

**Standard time-limits after project end:**

Confidentiality (for X years after final payment): 5

Record-keeping (for X years after final payment): 5

Reviews (up to X years after final payment): 5

Audits (up to X years after final payment): 5

Extension of findings from other grants to this grant (no later than X years after final payment): 5

Impact evaluation (up to X years after final payment): 5

## **CHAPTER 1    GENERAL**

### **ARTICLE 1 — SUBJECT OF THE AGREEMENT**

This Agreement sets out the rights and obligations and terms and conditions applicable to the grant awarded SI2.918553 under Framework Partnership Agreement No MARE/2023/ICES for the implementation of the action set out in Chapter 2.

### **ARTICLE 2 — DEFINITIONS**

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

- Action —            The project which is being funded in the context of this Agreement.
- Grant —             The grant awarded in the context of this Agreement.
- EU grants —        Grants awarded by EU institutions, bodies, offices or agencies (including EU executive agencies, EU regulatory agencies, EDA, joint undertakings, etc.).
- Participants —     Entities participating in the action as beneficiaries, affiliated entities, associated partners, third parties giving in-kind contributions, subcontractors or recipients of financial support to third parties.
- Beneficiaries (BEN) — The signatories of this Agreement (either directly or through an accession form).
- Affiliated entities (AE) — Entities affiliated to a beneficiary within the meaning of Article 187 of EU Financial Regulation 2018/1046<sup>1</sup> which participate in the action with similar rights and obligations as the beneficiaries (obligation to implement action tasks and right to charge costs and claim contributions).
- Associated partners (AP) — Entities which participate in the action, but without the right to charge costs or claim contributions.
- Purchases —        Contracts for goods, works or services needed to carry out the action (e.g. equipment, consumables and supplies) but which are not part of the action tasks (see Annex 1).

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<sup>1</sup> For the definition, see Article 187 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 ('EU Financial Regulation') (OJ L 193, 30.7.2018, p. 1): "affiliated entities [are]:

- (a) entities that form a sole beneficiary [(i.e. where an entity is formed of several entities that satisfy the criteria for being awarded a grant, including where the entity is specifically established for the purpose of implementing an action to be financed by a grant)];
- (b) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Article 136(1) and 141(1) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation".

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

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

Fraud — Fraud within the meaning of Article 3 of EU Directive 2017/1371<sup>2</sup> and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995<sup>3</sup>, as well as any other wrongful or criminal deception intended to result in financial or personal gain.

Irregularities — Any type of breach (regulatory or contractual) which could impact the EU financial interests, including irregularities within the meaning of Article 1(2) of EU Regulation 2988/95<sup>4</sup>.

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

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

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

## **CHAPTER 2 ACTION**

### **ARTICLE 3 — ACTION**

The grant is awarded for the action ICES scientific advice – SI2.918553 ('action'), as described in Annex 1.

### **ARTICLE 4 — DURATION AND STARTING DATE**

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

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<sup>2</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

<sup>3</sup> OJ C 316, 27.11.1995, p. 48.

<sup>4</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

## **CHAPTER 3 GRANT**

### **ARTICLE 5 — GRANT**

#### **5.1 Form of grant**

The grant is an action grant<sup>5</sup> which takes the form of a budget-based mixed actual cost grant (i.e. a grant based on actual costs incurred, but which may also include other forms of funding, such as unit costs or contributions, flat-rate costs or contributions, lump sum costs or contributions or financing not linked to costs).

#### **5.2 Maximum grant amount**

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

#### **5.3 Funding rate**

The funding rate for costs is 60,66 % of the action's eligible costs. Contributions are not subject to any funding rate.

#### **5.4 Estimated budget, budget categories and forms of funding**

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

It contains the estimated eligible costs and contributions for the action, broken down by budget category.

Annex 2 also shows the types of costs and contributions (forms of funding)<sup>6</sup> to be used for each budget category.

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

#### **5.5 Budget flexibility**

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

However:

- changes to the budget category for volunteers (if used) always require an amendment
- changes to budget categories with lump sums costs or contributions (if used; including financing not linked to costs) always require an amendment

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<sup>5</sup> For the definition, see Article 180(2)(a) EU Financial Regulation 2018/1046: '**action grant**' means an EU grant to finance "an action intended to help achieve a Union policy objective".

<sup>6</sup> See Article 125 EU Financial Regulation 2018/1046.

- changes to budget categories with higher funding rates or budget ceilings (if used) always require an amendment
- addition of amounts for subcontracts not provided for in Annex 1 either require an amendment or simplified approval in accordance with Article 6.2
- other changes require an amendment or simplified approval, if specifically provided for in Article 6.2
- flexibility caps: transfers between budget categories of more than 20% of the total costs and contributions set out in Annex 2 require an amendment

## **ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS AND CONTRIBUTIONS**

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

### **6.1 General eligibility conditions**

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

(a) for actual costs:

- (i) they must be actually incurred by the beneficiary
- (ii) they must be incurred in the period set out in Article 4 (with the exception of costs relating to the submission of the final periodic report, which may be incurred afterwards; see Article 21)
- (iii) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2
- (iv) they must be incurred in connection with the action as described in Annex 1 and necessary for its implementation
- (v) they must be identifiable and verifiable, in particular recorded in the beneficiary's accounts in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary's usual cost accounting practices
- (vi) they must comply with the applicable national law on taxes, labour and social security and
- (vii) they must be reasonable, justified and must comply with the principle of sound financial management, in particular regarding economy and efficiency

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

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

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- be actually used or produced by the beneficiary in the period set out in Article 4 (with the exception of units relating to the submission of the final periodic report, which may be used or produced afterwards; see Article 21)
  - be necessary for the implementation of the action and
- (iii) the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 20)
- (c) for flat-rate costs or contributions (if any):
- (i) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2
  - (ii) the costs or contributions to which the flat-rate is applied must:
    - be eligible
    - relate to the period set out in Article 4 (with the exception of costs or contributions relating to the submission of the final periodic report, which may be incurred afterwards; see Article 21)
- (d) for lump sum costs or contributions (if any):
- (i) they must be declared under one of the budget categories set out in Article 6.2 and Annex 2
  - (ii) the work must be properly implemented by the beneficiary in accordance with Annex 1
  - (iii) the deliverables/outputs must be achieved in the period set out in Article 4 (with the exception of deliverables/outputs relating to the submission of the final periodic report, which may be achieved afterwards; see Article 21)
- (e) for unit, flat-rate or lump sum costs or contributions according to usual cost accounting practices (if any):
- (i) they must fulfil the general eligibility conditions for the type of cost concerned
  - (ii) the cost accounting practices must be applied in a consistent manner, based on objective criteria, regardless of the source of funding
- (f) for financing not linked to costs (if any): the results must be achieved or the conditions must be fulfilled as described in Annex 1.

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

## 6.2 Specific eligibility conditions for each budget category

For each budget category, the **specific eligibility conditions** are as follows:

### Direct costs

#### **A. Personnel costs**

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

They must be limited to salaries, social security contributions, taxes and other costs linked to the remuneration, if they arise from national law or the employment contract (or equivalent appointing act) and be calculated on the basis of the costs actually incurred, in accordance with the following method:

*The personnel costs are based on estimates of percentage of time spent on the action. The actual costs reported will be based on the number of hours registered on the action in the ICES timekeeping system, Agresso, multiplied by an actual hourly salary rate based on salary, pension, social costs, health insurance.*

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

The total number of day-equivalents declared in EU grants, for a person for a year, cannot be higher than 215.

The personnel costs may also include supplementary payments for personnel assigned to the action (including payments on the basis of supplementary contracts regardless of their nature), if:

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

**A.2 and A.3 Costs for natural persons working under a direct contract** other than an employment contract and costs for **seconded persons by a third party against payment** are also eligible as personnel costs, if they are assigned to the action, fulfil the general eligibility conditions and:

- (a) work under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed) and
- (b) the result of the work belongs to the beneficiary (unless agreed otherwise).

They must be calculated on the basis of a rate which corresponds to the costs actually incurred for the direct contract or secondment and must not be significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

## B. Subcontracting costs

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

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

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

## C. Purchase costs

**Purchase costs** for the action (including related duties, taxes and charges, such as non-deductible or non-refundable value added tax (VAT)) are eligible, if they fulfil the general eligibility conditions and are bought using the beneficiary's usual purchasing practices — provided these ensure purchases with best value for money (or if appropriate the lowest price) and that there is no conflict of interests (see Article 12).

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

### C.1 Travel and subsistence

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

- travel: on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel
- accommodation: on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel
- subsistence: on the basis of the costs actually incurred and in line with the beneficiary's usual practices on travel

### C.2 Equipment

Purchases of **equipment, infrastructure or other assets** used for the action must be declared as depreciation costs, calculated on the basis of the costs actually incurred and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

Only the portion of the costs that corresponds to the rate of actual use for the action during the action duration can be taken into account.

Costs for **renting or leasing** equipment, infrastructure or other assets are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

### **C.3 Other goods, works and services**

Purchases of **other goods, works and services** must be calculated on the basis of the costs actually incurred.

Such goods, works and services include, for instance, consumables and supplies, promotion, dissemination, protection of results, translations, publications, certificates and financial guarantees, if required under the Agreement.

### **D. Other cost categories**

Not applicable

### **Indirect costs**

### **E. Indirect costs**

**Indirect costs** will be reimbursed at the flat-rate of 7% of the eligible direct costs (categories A-D, except volunteers costs and exempted specific cost categories, if any).

### **Contributions**

Not applicable

## **6.3 Ineligible costs and contributions**

The following costs or contributions are **ineligible**:

- (a) costs or contributions that do not comply with the conditions set out above (Article 6.1 and 6.2), in particular:
  - (i) costs related to return on capital and dividends paid by a beneficiary
  - (ii) debt and debt service charges
  - (iii) provisions for future losses or debts
  - (iv) interest owed
  - (v) currency exchange losses
  - (vi) bank costs charged by the beneficiary's bank for transfers from the granting authority
  - (vii) excessive or reckless expenditure
  - (viii) deductible or refundable VAT (including VAT paid by public bodies acting as public authority)

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- (ix) costs incurred or contributions for activities implemented during grant agreement suspension (see Article 31)
- (x) in-kind contributions by third parties
- (b) costs or contributions declared under other EU grants (or grants awarded by an EU Member State, non-EU country or other body implementing the EU budget), except for the following cases:
  - (i) Synergy actions: not applicable
  - (ii) if the action grant is combined with an operating grant<sup>7</sup> running during the same period and the beneficiary can demonstrate that the operating grant does not cover any (direct or indirect) costs of the action grant
- (c) costs or contributions for staff of a national (or regional/local) administration, for activities that are part of the administration's normal activities (i.e. not undertaken only because of the grant)
- (d) costs or contributions (especially travel and subsistence) for staff or representatives of EU institutions, bodies or agencies
- (e) other:
  - (i) country restrictions for eligible costs: not applicable
  - (ii) other ineligible costs: not applicable

#### **6.4 Consequences of non-compliance**

If a beneficiary declares costs or contributions that are ineligible, they will be rejected (see Article 27).

This may also lead to other measures described in Chapter 5.

### **CHAPTER 4 GRANT IMPLEMENTATION**

#### **SECTION 1 CONSORTIUM: BENEFICIARIES, AFFILIATED ENTITIES AND OTHER PARTICIPANTS**

##### **ARTICLE 7 — BENEFICIARIES**

The beneficiaries, as signatories of the Agreement, are fully responsible towards the granting authority for implementing it and for complying with all its obligations.

They must implement the Agreement to their best abilities, in good faith and in accordance with all the obligations and terms and conditions it sets out.

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<sup>7</sup> For the definition, see Article 180(2)(b) EU Financial Regulation 2018/1046: ‘**operating grant**’ means an EU grant to finance “the functioning of a body which has an objective forming part of and supporting an EU policy”.

They must have the appropriate resources to implement the action and implement the action under their own responsibility and in accordance with Article 11. If they rely on affiliated entities or other participants (see Articles 8 and 9), they retain sole responsibility towards the granting authority and the other beneficiaries.

They are jointly responsible for the *technical* implementation of the action. If one of the beneficiaries fails to implement their part of the action, the other beneficiaries must ensure that this part is implemented by someone else (without being entitled to an increase of the maximum grant amount and subject to an amendment; see Article 39). The *financial* responsibility of each beneficiary in case of recoveries is governed by Article 22.

The beneficiaries (and their action) must remain eligible under the EU programme funding the grant for the entire duration of the action. Costs and contributions will be eligible only as long as the beneficiary and the action are eligible.

The **internal roles and responsibilities** of the beneficiaries are divided as follows:

(a) Each beneficiary must:

- (i) keep information stored in the Portal Participant Register up to date (see Article 19) – Not applicable
- (ii) inform the granting authority (and the other beneficiaries) immediately of any events or circumstances likely to affect significantly or delay the implementation of the action (see Article 19)
- (iii) submit to the coordinator in good time:
  - the pre-financing guarantees (if required; see Article 23)
  - the financial statements and certificates on the financial statements (CFS) (if required; see Articles 21 and 24.2 and Data Sheet, Point 4.3)
  - the contribution to the deliverables and technical reports (see Article 21)
  - any other documents or information required by the granting authority under the Agreement
- (iv) submit via the Portal data and information related to the participation of their affiliated entities. – Not applicable

(b) The coordinator must:

- (i) monitor that the action is implemented properly (see Article 11)
- (ii) act as the intermediary for all communications between the consortium and the granting authority, unless the Agreement or granting authority specifies otherwise, and in particular:
  - submit the pre-financing guarantees to the granting authority (if any)

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- request and review any documents or information required and verify their quality and completeness before passing them on to the granting authority
  - submit the deliverables and reports to the granting authority
  - inform the granting authority about the payments made to the other beneficiaries (report on the distribution of payments; if required, see Articles 22 and 32)
- (iii) distribute the payments received from the granting authority to the other beneficiaries without unjustified delay (see Article 22).

The coordinator may not delegate or subcontract the above-mentioned tasks to any other beneficiary or third party (including affiliated entities).

However, coordinators which are public bodies may delegate the tasks set out in Point (b)(ii) last indent and (iii) above to entities with ‘authorisation to administer’ which they have created or which are controlled by or affiliated to them. In this case, the coordinator retains sole responsibility for the payments and for compliance with the obligations under the Agreement.

Moreover, coordinators which are ‘sole beneficiaries’<sup>8</sup> (or similar, such as European research infrastructure consortia (ERICs)) may delegate the tasks set out in Point (b)(i) to (iii) above to one of their members. The coordinator retains sole responsibility for compliance with the obligations under the Agreement.

The beneficiaries must have **internal arrangements** regarding their operation and co-ordination, to ensure that the action is implemented properly.

If required by the granting authority (see Data Sheet, Point 1), not applicable for ICES, these arrangements must be set out in a written **consortium agreement** between the beneficiaries, covering for instance:

- the internal organisation of the consortium
- the management of access to the Portal
- different distribution keys for the payments and financial responsibilities in case of recoveries (if any)
- additional rules on rights and obligations related to background and results (see Article 16)
- settlement of internal disputes

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<sup>8</sup> For the definition, see Article 187(2) EU Financial Regulation 2018/1046: “Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the **sole beneficiary**, including where it is specifically established for the purpose of implementing the action financed by the grant.”

- liability, indemnification and confidentiality arrangements between the beneficiaries.

The internal arrangements must not contain any provision contrary to this Agreement.

## **ARTICLE 8 — AFFILIATED ENTITIES**

Not applicable

## **ARTICLE 9 — OTHER PARTICIPANTS INVOLVED IN THE ACTION**

### **9.1 Associated partners**

Not applicable

### **9.2 Third parties giving in-kind contributions to the action**

Other third parties may give in-kind contributions to the action (i.e. personnel, equipment, other goods, works and services, etc. which are free-of-charge), if necessary for the implementation.

Third parties giving in-kind contributions do not implement any action tasks. They may not charge costs or contributions to the action and the costs for the in-kind contributions are not eligible.

The third parties and their in-kind contributions should be set out in Annex 1

### **9.3 Subcontractors**

Subcontractors may participate in the action, if necessary for the implementation.

Subcontractors must implement their action tasks in accordance with Article 11. The costs for the subcontracted tasks (invoiced price from the subcontractor) are eligible and may be charged by the beneficiaries, under the conditions set out in Article 6. The costs will be included in Annex 2 as part of the beneficiaries' costs.

The beneficiaries must ensure that their contractual obligations under Articles 11 (proper implementation), 12 (conflict of interest), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping) also apply to the subcontractors.

The beneficiaries must ensure that the bodies mentioned in Article 25 (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the subcontractors.

### **9.4 Recipients of financial support to third parties**

Not applicable

## **ARTICLE 10 — PARTICIPANTS WITH SPECIAL STATUS**

### **10.1 Non-EU participants**

Participants which are established in a non-EU country (if any) undertake to comply with their obligations under the Agreement and:

- to respect general principles (including fundamental rights, values and ethical principles, environmental and labour standards, rules on classified information, intellectual property rights, visibility of funding and protection of personal data)
- for the submission of certificates under Article 24: to use qualified external auditors which are independent and comply with comparable standards as those set out in EU Directive 2006/43/EC<sup>9</sup>
- for the controls under Article 25: to allow for checks, reviews, audits and investigations (including on-the-spot checks, visits and inspections) by the bodies mentioned in that Article (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.).

Special rules on dispute settlement apply (see Data Sheet, Point 5).

## **10.2 Participants which are international organisations**

Participants which are international organisations (IOs; if any) undertake to comply with their obligations under the Agreement and:

- to respect general principles (including fundamental rights, values and ethical principles, environmental and labour standards, rules on classified information, intellectual property rights, visibility of funding and protection of personal data)
- for the submission of certificates under Article 24: to use either independent public officers or external auditors which comply with comparable standards as those set out in EU Directive 2006/43/EC
- for the controls under Article 25: to allow for the checks, reviews, audits and investigations by the bodies mentioned in that Article, taking into account the specific agreements concluded by them and the EU (if any).

For such participants, nothing in the Agreement will be interpreted as a waiver of their privileges or immunities, as accorded by their constituent documents or international law.

Special rules on applicable law and dispute settlement apply (see Article 43 and Data Sheet, Point 5).

## **10.3 Pillar-assessed participants**

Pillar-assessed participants (if any) may rely on their own systems, rules and procedures, in so far as they have been positively assessed and do not call into question the decision awarding the grant or breach the principle of equal treatment of applicants or beneficiaries.

‘Pillar-assessment’ means a review by the European Commission on the systems, rules and procedures which participants use for managing EU grants (in particular internal control system, accounting system, external audits, financing of third parties, rules on recovery and

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<sup>9</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts or similar national regulations (OJ L 157, 9.6.2006, p. 87).

exclusion, information on recipients and protection of personal data; see Article 154 EU Financial Regulation 2018/1046).

Participants with a positive pillar assessment may rely on their own systems, rules and procedures, in particular for:

- record-keeping (Article 20): may be done in accordance with internal standards, rules and procedures
- currency conversion for financial statements (Article 21): may be done in accordance with usual accounting practices
- guarantees (Article 23): for public law bodies, pre-financing guarantees are not needed
- certificates (Article 24):
  - certificates on the financial statements (CFS): may be provided by their regular internal or external auditors and in accordance with their internal financial regulations and procedures
  - certificates on usual accounting practices (CoMUC): are not needed if those practices are covered by an ex-ante assessment

and use the following specific rules, for:

- recoveries (Article 22): in case of financial support to third parties, there will be no recovery if the participant has done everything possible to retrieve the undue amounts from the third party receiving the support (including legal proceedings) and non-recovery is not due to an error or negligence on its part
- checks, reviews, audits and investigations by the EU (Article 25): will be conducted taking into account the rules and procedures specifically agreed between them and the framework agreement (if any)
- impact evaluation (Article 26): will be conducted in accordance with the participant's internal rules and procedures and the framework agreement (if any)
- grant agreement suspension (Article 31): certain costs incurred during grant suspension are eligible (notably, minimum costs necessary for a possible resumption of the action and costs relating to contracts which were entered into before the pre-information letter was received and which could not reasonably be suspended, reallocated or terminated on legal grounds)
- grant agreement termination (Article 32): the final grant amount and final payment will be calculated taking into account also costs relating to contracts due for execution only after termination takes effect, if the contract was entered into before the pre-information letter was received and could not reasonably be terminated on legal grounds
- liability for damages (Article 33.2): the granting authority must be compensated for damage it sustains as a result of the implementation of the action or because

the action was not implemented in full compliance with the Agreement only if the damage is due to an infringement of the participant's internal rules and procedures or due to a violation of third parties' rights by the participant or one of its employees or individual for whom the employees are responsible.

Participants whose pillar assessment covers procurement and granting procedures may also do purchases, subcontracting and financial support to third parties (Article 6.2) in accordance with their internal rules and procedures for purchases, subcontracting and financial support.

Participants whose pillar assessment covers data protection rules may rely on their internal standards, rules and procedures for data protection (Article 15).

The participants may however not rely on provisions which would breach the principle of equal treatment of applicants or beneficiaries or call into question the decision awarding the grant, such as in particular:

- eligibility (Article 6)
- consortium roles and set-up (Articles 7-9)
- security and ethics (Articles 13, 14)
- IPR (including background and results, access rights and rights of use), communication, dissemination and visibility (Articles 16 and 17)
- information obligation (Article 19)
- payment, reporting and amendments (Articles 21, 22 and 39)
- rejections, reductions, suspensions and terminations (Articles 27, 28, 29-32)

If the pillar assessment was subject to remedial measures, reliance on the internal systems, rules and procedures is subject to compliance with those remedial measures.

Participants whose assessment has not yet been updated to cover (the new rules on) data protection may rely on their internal systems, rules and procedures, provided that they ensure that personal data is:

- processed lawfully, fairly and in a transparent manner in relation to the data subject
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed and
- processed in a manner that ensures appropriate security of the personal data.

Participants must inform the coordinator without delay of any changes to the systems, rules and procedures that were part of the pillar assessment. The coordinator must immediately inform the granting authority.

Pillar-assessed participants that have also concluded a framework agreement with the EU, may moreover — under the same conditions as those above (i.e. not call into question the decision awarding the grant or breach the principle of equal treatment of applicants or beneficiaries) — rely on the provisions set out in that framework agreement.

## **SECTION 2 RULES FOR CARRYING OUT THE ACTION**

### **ARTICLE 11 — PROPER IMPLEMENTATION OF THE ACTION**

#### **11.1 Obligation to properly implement the action**

The beneficiaries must implement the action as described in Annex 1 and in compliance with the provisions of the Agreement, the call conditions and all legal obligations under applicable EU, international and national law.

#### **11.2 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

### **ARTICLE 12 — CONFLICT OF INTERESTS**

#### **12.1 Conflict of interests**

The beneficiaries must take all measures to prevent any situation where the impartial and objective implementation of the Agreement could be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect interest ('conflict of interests').

They must formally notify the granting authority without delay of any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation.

The granting authority may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

#### **12.2 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28) and the grant or the beneficiary may be terminated (see Article 32).

Such breaches may also lead to other measures described in Chapter 5.

## ARTICLE 13 — CONFIDENTIALITY AND SECURITY

### 13.1 Sensitive information

The parties must keep confidential any data, documents or other material (in any form) that is identified as sensitive in writing ('sensitive information') — during the implementation of the action and for at least until the time-limit set out in the Data Sheet (see Point 6).

If a beneficiary requests, the granting authority may agree to keep such information confidential for a longer period.

Unless otherwise agreed between the parties, they may use sensitive information only to implement the Agreement.

The beneficiaries may disclose sensitive information to their personnel or other participants involved in the action only if they:

- (a) need to know it in order to implement the Agreement and
- (b) are bound by an obligation of confidentiality.

The granting authority may disclose sensitive information to its staff and to other EU institutions and bodies.

It may moreover disclose sensitive information to third parties, if:

- (a) this is necessary to implement the Agreement or safeguard the EU financial interests and
- (b) the recipients of the information are bound by an obligation of confidentiality.

The confidentiality obligations no longer apply if:

- (a) the disclosing party agrees to release the other party
- (b) the information becomes publicly available, without breaching any confidentiality obligation
- (c) the disclosure of the sensitive information is required by EU, international or national law.

Specific confidentiality rules (if any) are set out in Annex 5.

### 13.2 Classified information

The parties must handle classified information in accordance with the applicable EU, international or national law on classified information (in particular, Decision 2015/444<sup>10</sup> and its implementing rules).

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<sup>10</sup> Commission Decision 2015/444/EC, Euratom of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Deliverables which contain classified information must be submitted according to special procedures agreed with the granting authority.

Action tasks involving classified information may be subcontracted only after explicit approval (in writing) from the granting authority.

Classified information may not be disclosed to any third party (including participants involved in the action implementation) without prior explicit written approval from the granting authority.

Specific security rules (if any) are set out in Annex 5.

### **13.3 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 14 — ETHICS AND VALUES**

### **14.1 Ethics**

The action must be carried out in line with the highest ethical standards and the applicable EU, international and national law on ethical principles.

Specific ethics rules (if any) are set out in Annex 5.

### **14.2 Values**

The beneficiaries must commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities).

Specific rules on values (if any) are set out in Annex 5.

### **14.3 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 15 — DATA PROTECTION**

### **15.1 Data processing by the granting authority**

Any personal data under the Agreement will be processed under the responsibility of the data controller of the granting authority in accordance with and for the purposes set out in the Portal Privacy Statement.

For grants where the granting authority is the European Commission, an EU regulatory or executive agency, joint undertaking or other EU body, the processing will be subject to Regulation 2018/1725<sup>11</sup>.

## **15.2 Data processing by the beneficiaries**

The beneficiaries must process personal data under the Agreement in compliance with the applicable EU, international and national law on data protection (in particular, Regulation 2016/679<sup>12</sup>).

They must ensure that personal data is:

- processed lawfully, fairly and in a transparent manner in relation to the data subjects
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed and
- processed in a manner that ensures appropriate security of the data.

The beneficiaries may grant their personnel access to personal data only if it is strictly necessary for implementing, managing and monitoring the Agreement. The beneficiaries must ensure that the personnel is under a confidentiality obligation.

The beneficiaries must inform the persons whose data are transferred to the granting authority and provide them with the Portal Privacy Statement.

## **15.3 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

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<sup>11</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>12</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ('GDPR') (OJ L 119, 4.5.2016, p. 1).

## ARTICLE 16 — INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE

### 16.1 Background and access rights to background

The beneficiaries must give each other and the other participants access to the background identified as needed for implementing the action, subject to any specific rules in Annex 5.

‘Background’ means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that is:

- (a) held by the beneficiaries before they acceded to the Agreement and
- (b) needed to implement the action or exploit the results.

If background is subject to rights of a third party, the beneficiary concerned must ensure that it is able to comply with its obligations under the Agreement.

### 16.2 Ownership of results

The granting authority does not obtain ownership of the results produced under the action.

‘Results’ means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.

### 16.3 Rights of use of the granting authority on materials, documents and information received for policy, information, communication, dissemination and publicity purposes

The granting authority has the right to use non-sensitive information relating to the action and materials and documents received from the beneficiaries (notably summaries for publication, deliverables, as well as any other material, such as pictures or audio-visual material, in paper or electronic form) for policy, information, communication, dissemination and publicity purposes — during the action or afterwards.

The right to use the beneficiaries’ materials, documents and information is granted in the form of a royalty-free, non-exclusive and irrevocable licence, which includes the following rights:

- (a) **use for its own purposes** (in particular, making them available to persons working for the granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services)
- (b) **distribution to the public** (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes)

- (c) **editing or redrafting** (including shortening, summarising, inserting other elements (e.g. meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation)
- (d) **translation**
- (e) **storage** in paper, electronic or other form
- (f) **archiving**, in line with applicable document-management rules
- (g) the right to authorise **third parties** to act on its behalf or sub-license to third parties the modes of use set out in Points (b), (c), (d) and (f), if needed for the information, communication and publicity activity of the granting authority and
- (h) **processing**, analysing, aggregating the materials, documents and information received and **producing derivative works**.

The rights of use are granted for the whole duration of the industrial or intellectual property rights concerned.

If materials or documents are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the beneficiaries must ensure that they comply with their obligations under this Agreement (in particular, by obtaining the necessary licences and authorisations from the rights holders concerned).

Where applicable, the granting authority will insert the following information:

“© – [year] – [name of the copyright owner]. All rights reserved. Licensed to the [name of granting authority] under conditions.”

#### **16.4 Specific rules on IPR, results and background**

Specific rules regarding intellectual property rights, results and background (if any) are set out in Annex 5.

#### **16.5 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such a breach may also lead to other measures described in Chapter 5.

### **ARTICLE 17 — COMMUNICATION, DISSEMINATION AND VISIBILITY**

#### **17.1 Communication — Dissemination — Promoting the action**

Unless otherwise agreed with the granting authority, the beneficiaries must promote the action and its results by providing targeted information to multiple audiences (including the media and the public), in accordance with Annex 1 and in a strategic, coherent and effective manner.

Before engaging in a communication or dissemination activity expected to have a major media impact, the beneficiaries must inform the granting authority.

## 17.2 Visibility — European flag and funding statement

Unless otherwise agreed with the granting authority, communication activities of the beneficiaries related to the action (including media relations, conferences, seminars, information material, such as brochures, leaflets, posters, presentations, etc., in electronic form, via traditional or social media, etc.), dissemination activities and any infrastructure, equipment, vehicles, supplies or major result funded by the grant must acknowledge EU support and display the European flag (emblem) and funding statement (translated into local languages, where appropriate):



Funded by the  
European Union



Co-funded by the  
European Union



Co-funded by the  
European Union



Funded by the  
European Union

The emblem must remain distinct and separate and cannot be modified by adding other visual marks, brands or text.

Apart from the emblem, no other visual identity or logo may be used to highlight the EU support.

When displayed in association with other logos (e.g. of beneficiaries or sponsors), the emblem must be displayed at least as prominently and visibly as the other logos.

For the purposes of their obligations under this Article, the beneficiaries may use the emblem without first obtaining approval from the granting authority. This does not, however, give them the right to exclusive use. Moreover, they may not appropriate the emblem or any similar trademark or logo, either by registration or by any other means.

### **17.3 Quality of information — Disclaimer**

Any communication or dissemination activity related to the action must use factually accurate information.

Moreover, it must indicate the following disclaimer (translated into local languages where appropriate):

“Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or [name of the granting authority]. Neither the European Union nor the granting authority can be held responsible for them.”

### **17.4 Specific communication, dissemination and visibility rules**

Specific communication, dissemination and visibility rules (if any) are set out in Annex 5.

### **17.5 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 18 — SPECIFIC RULES FOR CARRYING OUT THE ACTION**

### **18.1 Specific rules for carrying out the action**

Specific rules for implementing the action (if any) are set out in Annex 5.

### **18.2 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such a breach may also lead to other measures described in Chapter 5.

## **SECTION 3 GRANT ADMINISTRATION**

## **ARTICLE 19 — GENERAL INFORMATION OBLIGATIONS**

### **19.1 Information requests**

The beneficiaries must provide — during the action or afterwards and in accordance with Article 7 — any information requested in order to verify eligibility of the costs or contributions declared, proper implementation of the action and compliance with the other obligations under the Agreement.

The information provided must be accurate, precise and complete and in the format requested, including electronic format.

### **19.2 Participant Register data updates**

The beneficiaries must keep — at all times, during the action or afterwards — their information stored in the Portal Participant Register up to date, in particular, their name, address, legal representatives, legal form and organisation type.

### **19.3 Information about events and circumstances which impact the action**

The beneficiaries must immediately inform the granting authority (and the other beneficiaries) of any of the following:

- (a) **events** which are likely to affect or delay the implementation of the action or affect the EU's financial interests, in particular:
  - (i) changes in their legal, financial, technical, organisational or ownership situation (including changes linked to one of the exclusion grounds listed in the declaration of honour signed before grant signature)
  - (ii) linked action information: not applicable
- (b) **circumstances** affecting:
  - (i) the decision to award the grant or
  - (ii) compliance with requirements under the Agreement.

### **19.4 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 20 — RECORD-KEEPING**

### **20.1 Keeping records and supporting documents**

The beneficiaries must — at least until the time-limit set out in the Data Sheet (see Point 6) — keep records and other supporting documents to prove the proper implementation of the action in line with the accepted standards in the respective field (if any).

In addition, the beneficiaries must — for the same period — keep the following to justify the amounts declared:

- (a) for actual costs: adequate records and supporting documents to prove the costs declared (such as contracts, subcontracts, invoices and accounting records); in addition, the beneficiaries' usual accounting and internal control procedures must enable direct reconciliation between the amounts declared, the amounts recorded in their accounts and the amounts stated in the supporting documents
- (b) for flat-rate costs and contributions (if any): adequate records and supporting documents to prove the eligibility of the costs or contributions to which the flat-rate is applied
- (c) for the following simplified costs and contributions: the beneficiaries do not need to keep specific records on the actual costs incurred, but must keep:
  - (i) for unit costs and contributions (if any): adequate records and supporting documents to prove the number of units declared

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- (ii) for lump sum costs and contributions (if any): adequate records and supporting documents to prove proper implementation of the work as described in Annex 1
- (iii) for financing not linked to costs (if any): adequate records and supporting documents to prove the achievement of the results or the fulfilment of the conditions as described in Annex 1
- (d) for unit, flat-rate and lump sum costs and contributions according to usual cost accounting practices (if any): the beneficiaries must keep any adequate records and supporting documents to prove that their cost accounting practices have been applied in a consistent manner, based on objective criteria, regardless of the source of funding, and that they comply with the eligibility conditions set out in Articles 6.1 and 6.2.

Moreover, the following is needed for specific budget categories:

- (e) for personnel costs: time worked for the beneficiary under the action must be supported by declarations signed monthly by the person and their supervisor, unless another reliable time-record system is in place; the granting authority may accept alternative evidence supporting the time worked for the action declared, if it considers that it offers an adequate level of assurance
- (f) additional record-keeping rules: not applicable.

The records and supporting documents must be made available upon request (see Article 19) or in the context of checks, reviews, audits or investigations (see Article 25).

If there are on-going checks, reviews, audits, investigations, litigation or other pursuits of claims under the Agreement (including the extension of findings; see Article 25), the beneficiaries must keep these records and other supporting documentation until the end of these procedures.

The beneficiaries must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. The granting authority may accept non-original documents if they offer a comparable level of assurance.

## **20.2 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 21 — REPORTING**

### **21.1 Continuous reporting**

The beneficiaries must continuously report on the progress of the action (e.g. **deliverables, milestones, outputs/outcomes, critical risks, indicators**, etc.; if any), in accordance with the timing and conditions it sets out (as agreed with the granting authority).

Standardised deliverables (e.g. progress reports not linked to payments, reports on cumulative expenditure, special reports, etc.; if any) may be submitted using the templates published on the Portal.

This grant is managed outside the funding & tenders portal and the specific rules are set out in Annex 5.

## **21.2 Periodic reporting: Technical reports and financial statements**

In addition, the beneficiaries must provide reports to request payments, in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2):

- for additional pre-financings (if any): an **additional pre-financing report**.
- for interim payments (if any) and the final payment: a **periodic report**.

The pre-financing and periodic reports include a technical and financial part.

The technical part includes an overview of the action implementation. It may be prepared using the template available in the Portal Periodic Reporting tool.

The financial part of the additional pre-financing report includes a statement on the use of the previous pre-financing payment.

The financial part of the periodic report includes:

- the financial statements (individual and consolidated; for all beneficiaries/affiliated entities)
- the explanation on the use of resources (or detailed cost reporting table, if required)
- the certificates on the financial statements (CFS) (if required; see Article 24.2 and Data Sheet, Point 4.3).

The **financial statements** must detail the eligible costs and contributions for each budget category and, for the final payment, also the revenues for the action (see Articles 6 and 22).

All eligible costs and contributions incurred should be declared, even if they exceed the amounts indicated in the estimated budget (see Annex 2). Amounts that are not declared in the individual financial statements will not be taken into account by the granting authority.

By signing the financial statements, the beneficiaries confirm that:

- the information provided is complete, reliable and true
- the costs and contributions declared are eligible (see Article 6)
- the costs and contributions can be substantiated by adequate records and supporting documents (see Article 20) that will be produced upon request (see Article 19) or in the context of checks, reviews, audits and investigations (see Article 25)
- for the final periodic report: all the revenues have been declared (if required; see Article 22).

Beneficiaries will have to submit also the financial statements of their affiliated entities (if any). In case of recoveries (see Article 22), beneficiaries will be held responsible also for the financial statements of their affiliated entities.

This grant is managed outside the funding & tenders portal and the specific rules are set out in Annex 5.

### **21.3 Currency for financial statements and conversion into euros**

The financial statements must be drafted in euro.

Beneficiaries with general accounts established in a currency other than the euro must convert the costs recorded in their accounts into euro, at the average of the daily exchange rates published in the C series of the *Official Journal of the European Union*, calculated over the corresponding reporting period.

If no daily euro exchange rate is published in the *Official Journal* for the currency in question, they must be converted at the average of the monthly accounting exchange rates published on the European Commission website (InforEuro), calculated over the corresponding reporting period.

Beneficiaries with general accounts in euro must convert costs incurred in another currency into euro according to their usual accounting practices.

### **21.4 Reporting language**

The reporting must be in the language of the Agreement, unless otherwise agreed with the granting authority (see Data Sheet, Point 4.2).

### **21.5 Consequences of non-compliance**

If a report submitted does not comply with this Article, the granting authority may suspend the payment deadline (see Article 29) and apply other measures described in Chapter 5.

If the coordinator breaches its reporting obligations, the granting authority may terminate the grant or the coordinator's participation (see Article 32) or apply other measures described in Chapter 5.

## **ARTICLE 22 — PAYMENTS AND RECOVERIES — CALCULATION OF AMOUNTS DUE**

### **22.1 Payments and payment arrangements**

Payments will be made in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2).

They will be made in euro to the bank account indicated by the coordinator (see Data Sheet, Point 4.2) and must be distributed without unjustified delay (restrictions may apply to distribution of the initial pre-financing payment; see Data Sheet, Point 4.2).

Payments to this bank account will discharge the granting authority from its payment obligation.

The cost of payment transfers will be borne as follows:

- the granting authority bears the cost of transfers charged by its bank
- the beneficiary bears the cost of transfers charged by its bank
- the party causing a repetition of a transfer bears all costs of the repeated transfer.

Payments by the granting authority will be considered to have been carried out on the date when they are debited to its account.

## **22.2 Recoveries**

Recoveries will be made, if — at beneficiary termination, final payment or afterwards — it turns out that the granting authority has paid too much and needs to recover the amounts undue.

The general liability regime for recoveries (first-line liability) is as follows: At final payment, the coordinator will be fully liable for recoveries, even if it has not been the final recipient of the undue amounts. At beneficiary termination or after final payment, recoveries will be made directly against the beneficiaries concerned.

Beneficiaries will be fully liable for repaying the debts of their affiliated entities.

In case of enforced recoveries (see Article 22.4):

- the beneficiaries will be jointly and severally liable for repaying debts of another beneficiary under the Agreement (including late-payment interest), if required by the granting authority (see Data Sheet, Point 4.4)
- affiliated entities will be held liable for repaying debts of their beneficiaries under the Agreement (including late-payment interest), if required by the granting authority (see Data Sheet, Point 4.4).

## **22.3 Amounts due**

### **22.3.1 Pre-financing payments**

The aim of the pre-financing is to provide the beneficiaries with a float.

It remains the property of the EU until the final payment.

For **initial pre-financings** (if any), the amount due, schedule and modalities are set out in the Data Sheet (see Point 4.2).

For **additional pre-financings** (if any), the amount due, schedule and modalities are also set out in the Data Sheet (see Point 4.2). However, if the statement on the use of the previous pre-financing payment shows that less than 70% was used, the amount set out in the Data Sheet will be reduced by the difference between the 70% threshold and the amount used.

Pre-financing payments (or parts of them) may be offset (without the beneficiaries' consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

### 22.3.2 Amount due at beneficiary termination — Recovery

In case of beneficiary termination, the granting authority will determine the provisional amount due for the beneficiary concerned. Payments (if any) will be made with the next interim or final payment.

The **amount due** will be calculated in the following step:

Step 1 — Calculation of the total accepted EU contribution

#### Step 1 — Calculation of the total accepted EU contribution

The granting authority will first calculate the ‘accepted EU contribution’ for the beneficiary for all reporting periods, by calculating the ‘maximum EU contribution to costs’ (applying the funding rate to the accepted costs of the beneficiary), taking into account requests for a lower contribution to costs and CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions (if any). The resulting amount is the ‘total accepted EU contribution’ for the beneficiary.

The **balance** is then calculated by deducting the payments received (if any; see report on the distribution of payments in Article 32), from the total accepted EU contribution:

$$\begin{aligned} & \{ \text{total accepted EU contribution for the beneficiary} \\ & \text{minus} \\ & \{ \text{pre-financing and interim payments received (if any)} \} \}. \end{aligned}$$

If the balance is **positive**, the amount will be included in the next interim or final payment to the consortium.

If the balance is **negative**, it will be **recovered** in accordance with the following procedure:

The granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to recover, the amount due, the amount to be recovered and the reasons why and
- requesting observations within 30 days of receiving notification.

If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered and ask this amount to be paid to the coordinator (**confirmation letter**).

The amounts will later on also be taken into account for the next interim or final payment.

### **22.3.3 Interim payments**

Interim payments reimburse the eligible costs and contributions claimed for the implementation of the action during the reporting periods (if any).

Interim payments (if any) will be made in accordance with the schedule and modalities set out the Data Sheet (see Point 4.2).

Payment is subject to the approval of the periodic report. Its approval does not imply recognition of compliance, authenticity, completeness or correctness of its content.

The **interim payment** will be calculated by the granting authority in the following steps:

Step 1 — Calculation of the total accepted EU contribution

Step 2 — Limit to the interim payment ceiling

#### Step 1 — Calculation of the total accepted EU contribution

The granting authority will calculate the ‘accepted EU contribution’ for the action for the reporting period, by first calculating the ‘maximum EU contribution to costs’ (applying the funding rate to the accepted costs of each beneficiary), taking into account requests for a lower contribution to costs, and CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions from beneficiary termination (if any). The resulting amount is the ‘total accepted EU contribution’.

#### Step 2 — Limit to the interim payment ceiling

The resulting amount is then capped to ensure that the total amount of pre financing and interim payments (if any) does not exceed the interim payment ceiling set out in the Data Sheet (see Point 4.2).

Interim payments (or parts of them) may be offset (without the beneficiaries’ consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

### **22.3.4 Final payment — Final grant amount — Revenues and Profit — Recovery**

The final payment (payment of the balance) reimburses the remaining part of the eligible costs and contributions claimed for the implementation of the action (if any).

The final payment will be made in accordance with the schedule and modalities set out in the Data Sheet (see Point 4.2).

Payment is subject to the approval of the final periodic report. Its approval does not imply recognition of compliance, authenticity, completeness or correctness of its content.

The **final grant amount for the action** will be calculated in the following steps:

Step 1 — Calculation of the total accepted EU contribution

Step 2 — Limit to the maximum grant amount

Step 3 — Reduction due to the no-profit rule

Step 1 — Calculation of the total accepted EU contribution

The granting authority will first calculate the ‘accepted EU contribution’ for the action for all reporting periods, by calculating the ‘maximum EU contribution to costs’ (applying the funding rate to the total accepted costs of each beneficiary), taking into account requests for a lower contribution to costs, CFS threshold cappings (if any; see Article 24.5) and adding the contributions (accepted unit, flat-rate or lump sum contributions and financing not linked to costs, if any).

After that, the granting authority will take into account grant reductions (if any). The resulting amount is the ‘total accepted EU contribution’.

Step 2 — Limit to the maximum grant amount

If the resulting amount is higher than the maximum grant amount set out in Article 5.2, it will be limited to the latter.

Step 3 — Reduction due to the no-profit rule

If the no-profit rule is provided for in the Data Sheet (see Point 4.2), the grant must not produce a profit (i.e. surplus of the amount obtained following Step 2 plus the action’s revenues, over the eligible costs and contributions approved by the granting authority).

‘Revenue’ is all income generated by the action, during its duration (see Article 4), for beneficiaries that are profit legal entities.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the eligible costs approved by the granting authority (as compared to the amount calculated following Steps 1 and 2 minus the contributions).

The **balance** (final payment) is then calculated by deducting the total amount of pre financing and interim payments already made (if any), from the final grant amount:

$$\begin{aligned} & \{ \text{final grant amount} \\ & \text{minus} \\ & \{ \text{pre financing and interim payments made (if any)} \} \}. \end{aligned}$$

If the balance is **positive**, it will be **paid** to the beneficiary.

The final payment (or part of it) may be offset (without the beneficiaries' consent) against amounts owed by a beneficiary to the granting authority — up to the amount due to that beneficiary.

For grants where the granting authority is the European Commission or an EU executive agency, offsetting may also be done against amounts owed to other Commission services or executive agencies.

Payments will not be made if the payment deadline or payments are suspended (see Articles 29 and 30).

If the balance is **negative**, it will be **recovered** in accordance with the following procedure:

The granting authority will send a **pre-information letter** to the coordinator:

- formally notifying the intention to recover, the final grant amount, the amount to be recovered and the reasons why
- requesting observations within 30 days of receiving notification.

If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered (**confirmation letter**), together with a **debit note** with the terms and date for payment.

If payment is not made by the date specified in the debit note, the granting authority will **enforce recovery** in accordance with Article 22.4.

#### **22.3.5 Audit implementation after final payment — Revised final grant amount — Recovery**

If — after the final payment (in particular, after checks, reviews, audits or investigations; see Article 25) — the granting authority rejects costs or contributions (see Article 27) or reduces the grant (see Article 28), it will calculate the **revised final grant amount** for the beneficiary concerned.

The **beneficiary revised final grant amount** will be calculated in the following step:

Step 1 — Calculation of the revised total accepted EU contribution

##### Step 1 — Calculation of the revised total accepted EU contribution

The granting authority will first calculate the 'revised accepted EU contribution' for the beneficiary, by calculating the 'revised accepted costs' and 'revised accepted contributions'.

After that, it will take into account grant reductions (if any). The resulting 'revised total accepted EU contribution' is the beneficiary revised final grant amount.

If the revised final grant amount is lower than the beneficiary's final grant amount (i.e. its share in the final grant amount for the action), it will be **recovered** in accordance with the following procedure:

The **beneficiary final grant amount** (i.e. share in the final grant amount for the action) is calculated as follows:

$$\left\{ \left\{ \begin{array}{l} \text{total accepted EU contribution for the beneficiary} \\ \text{divided by} \\ \text{total accepted EU contribution for the action} \end{array} \right\} \right. \\ \left. \begin{array}{l} \text{multiplied by} \\ \text{final grant amount for the action} \end{array} \right\}.$$

The granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to recover, the amount to be recovered and the reasons why and
- requesting observations within 30 days of receiving notification.

If no observations are submitted (or the granting authority decides to pursue recovery despite the observations it has received), it will confirm the amount to be recovered (**confirmation letter**), together with a **debit note** with the terms and the date for payment.

Recoveries against affiliated entities (if any) will be handled through their beneficiaries.

If payment is not made by the date specified in the debit note, the granting authority will **enforce recovery** in accordance with Article 22.4.

#### 22.4 Enforced recovery

If payment is not made by the date specified in the debit note, the amount due will be recovered:

- (a) by offsetting the amount — without the coordinator or beneficiary's consent — against any amounts owed to the coordinator or beneficiary by the granting authority.

In exceptional circumstances, to safeguard the EU financial interests, the amount may be offset before the payment date specified in the debit note.

For grants where the granting authority is the European Commission or an EU executive agency, debts may also be offset against amounts owed by other Commission services or executive agencies.

- (b) by drawing on the financial guarantee(s) (if any)
- (c) by holding other beneficiaries jointly and severally liable (if any; see Data Sheet, Point 4.4)
- (d) by holding affiliated entities jointly and severally liable (if any, see Data Sheet, Point 4.4) or
- (e) by taking legal action (see Article 43) or, provided that granting authority is the European Commission or an EU executive agency, by adopting an enforceable

decision under Article 299 of the Treaty on the Functioning of the EU (TFEU) and Article 100(2) of EU Financial Regulation 2018/1046.

The amount to be recovered will be increased by **late-payment interest** at the rate set out in Article 22.5, from the day following the payment date in the debit note, up to and including the date the full payment is received.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the beneficiary, unless Directive 2015/2366<sup>13</sup> applies.

For grants where the granting authority is an EU executive agency, enforced recovery by offsetting or enforceable decision will be done by the services of the European Commission (see also Article 43).

## **22.5 Consequences of non-compliance**

**22.5.1** If the granting authority does not pay within the payment deadlines (see above), the beneficiaries are entitled to **late-payment interest** at the reference rate applied by the European Central Bank (ECB) for its main refinancing operations in euros, plus the percentage specified in the Data Sheet (Point 4.2). The ECB reference rate to be used is the rate in force on the first day of the month in which the payment deadline expires, as published in the C series of the *Official Journal of the European Union*.

If the late-payment interest is lower than or equal to EUR XXX, it will be paid to the coordinator only on request submitted within two months of receiving the late payment.

Late-payment interest is not due if all beneficiaries are EU Member States (including regional and local government authorities or other public bodies acting on behalf of a Member State for the purpose of this Agreement).

If payments or the payment deadline are suspended (see Articles 29 and 30), payment will not be considered as late.

Late-payment interest covers the period running from the day following the due date for payment (see above), up to and including the date of payment.

Late-payment interest is not considered for the purposes of calculating the final grant amount.

**22.5.2** If the coordinator breaches any of its obligations under this Article, the grant may be reduced (see Article 29) and the grant or the coordinator may be terminated (see Article 32).

Such breaches may also lead to other measures described in Chapter 5.

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<sup>13</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

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## **ARTICLE 23 — GUARANTEES**

Not applicable

## **ARTICLE 24 — CERTIFICATES**

### **24.1 Operational verification report (OVR)**

Not applicable

### **24.2 Certificate on the financial statements (CFS)**

If required by the granting authority (see Data Sheet, Point 4.3), the beneficiaries must provide certificates on their financial statements (CFS), in accordance with the schedule, threshold and conditions set out in the Data Sheet.

The coordinator must submit them as part of the periodic report (see Article 21).

The certificates must cover the costs declared on the basis of actual costs and costs according to usual cost accounting practices (if any), and fulfil the following conditions:

- (a) be provided by a qualified approved external auditor which is independent and complies with Directive 2006/43/EC<sup>14</sup> (or for public bodies: by a competent independent public officer)
- (b) the verification must be carried out according to the highest professional standards to ensure that the financial statements comply with the provisions under the Agreement and that the costs declared are eligible.

The certificates will not affect the granting authority's right to carry out its own checks, reviews or audits, nor preclude the European Court of Auditors (ECA), the European Public Prosecutor's Office (EPPO) or the European Anti-Fraud Office (OLAF) from using their prerogatives for audits and investigations under the Agreement (see Article 25).

If the costs (or a part of them) were already audited by the granting authority, these costs do not need to be covered by the certificate and will not be counted for calculating the threshold (if any).

### **24.3 Certificate on the compliance of usual cost accounting practices (CoMUC)**

Not applicable

### **24.4 Systems and process audit (SPA)**

Not applicable

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<sup>14</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts or similar national regulations (OJ L 157, 9.6.2006, p. 87).

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## **24.5 Consequences of non-compliance**

If a beneficiary does not submit a certificate on the financial statements (CFS) or the certificate is rejected, the accepted EU contribution to costs will be capped to reflect the CFS threshold.

If a beneficiary breaches any of its other obligations under this Article, the granting authority may apply the measures described in Chapter 5.

## **ARTICLE 25 — CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS — EXTENSION OF FINDINGS**

### **25.1 Granting authority checks, reviews and audits**

#### **25.1.1 Internal checks**

The granting authority may — during the action or afterwards — check the proper implementation of the action and compliance with the obligations under the Agreement, including assessing costs and contributions, deliverables and reports.

#### **25.1.2 Project reviews**

The granting authority may carry out reviews on the proper implementation of the action and compliance with the obligations under the Agreement (general project reviews or specific issues reviews).

Such project reviews may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the coordinator or beneficiary concerned and will be considered to start on the date of the notification.

If needed, the granting authority may be assisted by independent, outside experts. If it uses outside experts, the coordinator or beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.

The coordinator or beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information and data in addition to deliverables and reports already submitted (including information on the use of resources). The granting authority may request beneficiaries to provide such information to it directly. Sensitive information and documents will be treated in accordance with Article 13.

The coordinator or beneficiary concerned may be requested to participate in meetings, including with the outside experts.

For **on-the-spot** visits, the beneficiary concerned must allow access to sites and premises (including to the outside experts) and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the review findings, a **project review report** will be drawn up.

The granting authority will formally notify the project review report to the coordinator or beneficiary concerned, which has 30 days from receiving notification to make observations.

Project reviews (including project review reports) will be in the language of the Agreement.

### **25.1.3 Audits**

The granting authority may carry out audits on the proper implementation of the action and compliance with the obligations under the Agreement.

Such audits may be started during the implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the beneficiary concerned and will be considered to start on the date of the notification.

The granting authority may use its own audit service, delegate audits to a centralised service or use external audit firms. If it uses an external firm, the beneficiary concerned will be informed and have the right to object on grounds of commercial confidentiality or conflict of interest.

The beneficiary concerned must cooperate diligently and provide — within the deadline requested — any information (including complete accounts, individual salary statements or other personal data) to verify compliance with the Agreement. Sensitive information and documents will be treated in accordance with Article 13.

For **on-the-spot** visits, the beneficiary concerned must allow access to sites and premises (including for the external audit firm) and must ensure that information requested is readily available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format.

On the basis of the audit findings, a **draft audit report** will be drawn up.

The auditors will formally notify the draft audit report to the beneficiary concerned, which has 30 days from receiving notification to make observations (contradictory audit procedure).

The **final audit report** will take into account observations by the beneficiary concerned and will be formally notified to them.

Audits (including audit reports) will be in the language of the Agreement.

### **25.2 European Commission checks, reviews and audits in grants of other granting authorities**

Where the granting authority is not the European Commission, the latter has the same rights of checks, reviews and audits as the granting authority.

### **25.3 Access to records for assessing simplified forms of funding**

The beneficiaries must give the European Commission access to their statutory records for the periodic assessment of simplified forms of funding which are used in EU programmes.

## **25.4 OLAF, EPPO and ECA audits and investigations**

The following bodies may also carry out checks, reviews, audits and investigations — during the action or afterwards:

- the European Anti-Fraud Office (OLAF) under Regulations No 883/2013<sup>15</sup> and No 2185/96<sup>16</sup>
- the European Public Prosecutor's Office (EPPO) under Regulation 2017/1939
- the European Court of Auditors (ECA) under Article 287 of the Treaty on the Functioning of the EU (TFEU) and Article 257 of EU Financial Regulation 2018/1046.

If requested by these bodies, the beneficiary concerned must provide full, accurate and complete information in the format requested (including complete accounts, individual salary statements or other personal data, including in electronic format) and allow access to sites and premises for on-the-spot visits or inspections — as provided for under these Regulations.

To this end, the beneficiary concerned must keep all relevant information relating to the action, at least until the time-limit set out in the Data Sheet (Point 6) and, in any case, until any ongoing checks, reviews, audits, investigations, litigation or other pursuits of claims have been concluded.

## **25.5 Consequences of checks, reviews, audits and investigations — Extension of findings**

### **25.5.1 Consequences of checks, reviews, audits and investigations in this grant**

Findings in checks, reviews, audits or investigations carried out in the context of this grant may lead to rejections (see Article 27), grant reduction (see Article 28) or other measures described in Chapter 5.

Rejections or grant reductions after the final payment will lead to a revised final grant amount (see Article 22).

Findings in checks, reviews, audits or investigations during the action implementation may lead to a request for amendment (see Article 39), to change the description of the action set out in Annex 1.

Checks, reviews, audits or investigations that find systemic or recurrent errors, irregularities, fraud or breach of obligations in any EU grant may also lead to consequences in other EU grants awarded under similar conditions ('extension to other grants').

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<sup>15</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

<sup>16</sup> Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

Moreover, findings arising from an OLAF or EPPO investigation may lead to criminal prosecution under national law.

### 25.5.2 Extension from other grants

Findings of checks, reviews, audits or investigations in other grants may be extended to this grant, if:

- (a) the beneficiary concerned is found, in other EU grants awarded under similar conditions, to have committed systemic or recurrent errors, irregularities, fraud or breach of obligations that have a material impact on this grant and
- (b) those findings are formally notified to the beneficiary concerned — together with the list of grants affected by the findings — within the time-limit for audits set out in the Data Sheet (see Point 6).

The granting authority will formally notify the beneficiary concerned of the intention to extend the findings and the list of grants affected.

If the extension concerns **rejections of costs or contributions**: the notification will include:

- (a) an invitation to submit observations on the list of grants affected by the findings
- (b) the request to submit revised financial statements for all grants affected
- (c) the correction rate for extrapolation, established on the basis of the systemic or recurrent errors, to calculate the amounts to be rejected, if the beneficiary concerned:
  - (i) considers that the submission of revised financial statements is not possible or practicable or
  - (ii) does not submit revised financial statements.

If the extension concerns **grant reductions**: the notification will include:

- (a) an invitation to submit observations on the list of grants affected by the findings and
- (b) the **correction rate for extrapolation**, established on the basis of the systemic or recurrent errors and the principle of proportionality.

The beneficiary concerned has **60 days** from receiving notification to submit observations, revised financial statements or to propose a duly substantiated **alternative correction method/rate**.

On the basis of this, the granting authority will analyse the impact and decide on the implementation (i.e. start rejection or grant reduction procedures, either on the basis of the revised financial statements or the announced/alternative method/rate or a mix of those; see Articles 27 and 28).

### 25.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, costs or contributions insufficiently substantiated will be ineligible (see Article 6) and will be rejected (see Article 27), and the grant may be reduced (see Article 28).

Such breaches may also lead to other measures described in Chapter 5.

## **ARTICLE 26 — IMPACT EVALUATIONS**

### **26.1 Impact evaluation**

The granting authority may carry out impact evaluations of the action, measured against the objectives and indicators of the EU programme funding the grant.

Such evaluations may be started during implementation of the action and until the time-limit set out in the Data Sheet (see Point 6). They will be formally notified to the coordinator or beneficiaries and will be considered to start on the date of the notification.

If needed, the granting authority may be assisted by independent outside experts.

The coordinator or beneficiaries must provide any information relevant to evaluate the impact of the action, including information in electronic format.

### **26.2 Consequences of non-compliance**

If a beneficiary breaches any of its obligations under this Article, the granting authority may apply the measures described in Chapter 5.

## **CHAPTER 5 CONSEQUENCES OF NON-COMPLIANCE**

### **SECTION 1 REJECTIONS AND GRANT REDUCTION**

## **ARTICLE 27 — REJECTION OF COSTS AND CONTRIBUTIONS**

### **27.1 Conditions**

The granting authority will — at beneficiary termination, interim payment, final payment or afterwards — reject any costs or contributions which are ineligible (see Article 6), in particular following checks, reviews, audits or investigations (see Article 25).

The rejection may also be based on the extension of findings from other grants to this grant (see Article 25).

Ineligible costs or contributions will be rejected.

### **27.2 Procedure**

If the rejection does not lead to a recovery, the granting authority will formally notify the coordinator or beneficiary concerned of the rejection, the amounts and the reasons why. The coordinator or beneficiary concerned may — within 30 days of receiving notification — submit observations if it disagrees with the rejection (payment review procedure).

If the rejection leads to a recovery, the granting authority will follow the contradictory procedure with pre-information letter set out in Article 22.

### **27.3 Effects**

If the granting authority rejects costs or contributions, it will deduct them from the costs or contributions declared and then calculate the amount due (and, if needed, make a recovery; see Article 22).

## **ARTICLE 28 — GRANT REDUCTION**

### **28.1 Conditions**

The granting authority may — at beneficiary termination, final payment or afterwards — reduce the grant for a beneficiary, if:

- (a) the beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed:
  - (i) substantial errors, irregularities or fraud or
  - (ii) serious breach of obligations under this Agreement or during its award (including improper implementation of the action, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics or security rules (if applicable), etc.), or
- (b) the beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings; see Article 25.5).

The amount of the reduction will be calculated for each beneficiary concerned and proportionate to the seriousness and the duration of the errors, irregularities or fraud or breach of obligations, by applying an individual reduction rate to their accepted EU contribution.

### **28.2 Procedure**

If the grant reduction does not lead to a recovery, the granting authority will formally notify the coordinator or beneficiary concerned of the reduction, the amount to be reduced and the reasons why. The coordinator or beneficiary concerned may — within 30 days of receiving notification — submit observations if it disagrees with the reduction (payment review procedure).

If the grant reduction leads to a recovery, the granting authority will follow the contradictory procedure with pre-information letter set out in Article 22.

### **28.3 Effects**

If the granting authority reduces the grant, it will deduct the reduction and then calculate the amount due (and, if needed, make a recovery; see Article 22).

## **SECTION 2   SUSPENSION AND TERMINATION**

### **ARTICLE 29 — PAYMENT DEADLINE SUSPENSION**

#### **29.1   Conditions**

The granting authority may — at any moment — suspend the payment deadline if a payment cannot be processed because:

- (a) the required report (see Article 21) has not been submitted or is not complete or additional information is needed
- (b) there are doubts about the amount to be paid (e.g. ongoing extension procedure, queries about eligibility, need for a grant reduction, etc.) and additional checks, reviews, audits or investigations are necessary, or
- (c) there are other issues affecting the EU financial interests.

#### **29.2   Procedure**

The granting authority will formally notify the coordinator of the suspension and the reasons why.

The suspension will **take effect** the day the notification is sent.

If the conditions for suspending the payment deadline are no longer met, the suspension will be **lifted** — and the remaining time to pay (see Data Sheet, Point 4.2) will resume.

If the suspension exceeds two months, the coordinator may request the granting authority to confirm if the suspension will continue.

If the payment deadline has been suspended due to the non-compliance of the report and the revised report is not submitted (or was submitted but is also rejected), the granting authority may also terminate the grant or the participation of the coordinator (see Article 32).

### **ARTICLE 30 — PAYMENT SUSPENSION**

#### **30.1   Conditions**

The granting authority may — at any moment — suspend payments, in whole or in part for one or more beneficiaries, if:

- (a) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed or is suspected of having committed:
  - (i) substantial errors, irregularities or fraud or
  - (ii) serious breach of obligations under this Agreement or during its award (including improper implementation of the action, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics or security rules (if applicable), etc.), or

- (b) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings; see Article 25.5).

If payments are suspended for one or more beneficiaries, the granting authority will make partial payment(s) for the part(s) not suspended. If suspension concerns the final payment, the payment (or recovery) of the remaining amount after suspension is lifted will be considered to be the payment that closes the action.

### 30.2 Procedure

Before suspending payments, the granting authority will send a **pre-information letter** to the beneficiary concerned:

- formally notifying the intention to suspend payments and the reasons why and
- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the suspension (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

At the end of the suspension procedure, the granting authority will also inform the coordinator.

The suspension will **take effect** the day after the confirmation notification is sent.

If the conditions for resuming payments are met, the suspension will be **lifted**. The granting authority will formally notify the beneficiary concerned (and the coordinator) and set the suspension end date.

During the suspension, no prefinancing will be paid to the beneficiaries concerned. For interim payments, the periodic reports for all reporting periods except the last one (see Article 21) must not contain any financial statements from the beneficiary concerned (or its affiliated entities). The coordinator must include them in the next periodic report after the suspension is lifted or — if suspension is not lifted before the end of the action — in the last periodic report.

## ARTICLE 31 — GRANT AGREEMENT SUSPENSION

### 31.1 Consortium-requested GA suspension

#### 31.1.1 Conditions and procedure

The beneficiaries may request the suspension of the grant or any part of it, if exceptional circumstances — in particular *force majeure* (see Article 35) — make implementation impossible or excessively difficult.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why

- the date the suspension takes effect; this date may be before the date of the submission of the amendment request and
- the expected date of resumption.

The suspension will **take effect** on the day specified in the amendment.

Once circumstances allow for implementation to resume, the coordinator must immediately request another **amendment** of the Agreement to set the suspension end date, the resumption date (one day after suspension end date), extend the duration and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the grant has been terminated (see Article 32). The suspension will be **lifted** with effect from the suspension end date set out in the amendment. This date may be before the date of the submission of the amendment request.

During the suspension, no prefinancing will be paid. Costs incurred or contributions for activities implemented during grant suspension are not eligible (see Article 6.3).

## 31.2 EU-initiated GA suspension

### 31.2.1 Conditions

The granting authority may suspend the grant or any part of it, if:

- (a) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed or is suspected of having committed:
  - (i) substantial errors, irregularities or fraud or
  - (ii) serious breach of obligations under this Agreement or during its award (including improper implementation of the action, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics or security rules (if applicable), etc.), or
- (b) a beneficiary (or a person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings; see Article 25.5)
- (c) other:
  - (i) linked action issues: not applicable
  - (ii) additional GA suspension grounds: not applicable.

### 31.2.2 Procedure

Before suspending the grant, the granting authority will send a **pre-information letter** to the coordinator:

- formally notifying the intention to suspend the grant and the reasons why and

- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the suspension (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

The suspension will **take effect** the day after the confirmation notification is sent (or on a later date specified in the notification).

Once the conditions for resuming implementation of the action are met, the granting authority will formally notify the coordinator a **lifting of suspension letter**, in which it will set the suspension end date and invite the coordinator to request an amendment of the Agreement to set the resumption date (one day after suspension end date), extend the duration and make other changes necessary to adapt the action to the new situation (see Article 39) — unless the grant has been terminated (see Article 32). The suspension will be **lifted** with effect from the suspension end date set out in the lifting of suspension letter. This date may be before the date on which the letter is sent.

During the suspension, no pre financing will be paid. Costs incurred or contributions for activities implemented during suspension are not eligible (see Article 6.3).

The beneficiaries may not claim damages due to suspension by the granting authority (see Article 33).

Grant suspension does not affect the granting authority's right to terminate the grant or a beneficiary (see Article 32) or reduce the grant (see Article 28).

## ARTICLE 32 — GRANT AGREEMENT OR BENEFICIARY TERMINATION

### 32.1 Consortium-requested GA termination

#### 32.1.1 Conditions and procedure

The beneficiaries may request the termination of the grant.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the date the consortium ends work on the action ('end of work date') and
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request.

The termination will **take effect** on the termination date specified in the amendment.

If no reasons are given or if the granting authority considers the reasons do not justify termination, it may consider the grant terminated improperly.

#### 32.1.2 Effects

The coordinator must — within 60 days from when termination takes effect — submit a **periodic report** (for the open reporting period until termination).

The granting authority will calculate the final grant amount and final payment on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before the end of work date (see Article 22). Costs relating to contracts due for execution only after the end of work are not eligible.

If the granting authority does not receive the report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

Improper termination may lead to a grant reduction (see Article 28).

After termination, the beneficiaries' obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 42 (assignment of claims)) continue to apply.

## **32.2 Consortium-requested beneficiary termination**

### **32.2.1 Conditions and procedure**

The coordinator may request the termination of the participation of one or more beneficiaries, on request of the beneficiary concerned or on behalf of the other beneficiaries.

The coordinator must submit a request for **amendment** (see Article 39), with:

- the reasons why
- the opinion of the beneficiary concerned (or proof that this opinion has been requested in writing)
- the date the beneficiary ends work on the action ('end of work date')
- the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request.

If the termination concerns the coordinator and is done without its agreement, the amendment request must be submitted by another beneficiary (acting on behalf of the consortium).

The termination will **take effect** on the termination date specified in the amendment.

If no information is given or if the granting authority considers that the reasons do not justify termination, it may consider the beneficiary to have been terminated improperly.

### **32.2.2 Effects**

The coordinator must — within 60 days from when termination takes effect — submit:

- (i) a **report on the distribution of payments** to the beneficiary concerned
- (ii) a **termination report** from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; see Articles 21 and 24.2 and Data Sheet, Point 4.3)

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- (iii) a second **request for amendment** (see Article 39) with other amendments needed (e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator, etc.).

The granting authority will calculate the amount due to the beneficiary on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before the end of work date (see Article 22). Costs relating to contracts due for execution only after the end of work are not eligible.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).

If the granting authority does not receive the termination report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

If the granting authority does not receive the report on the distribution of payments within the deadline, it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned and that
- the beneficiary concerned must not repay any amount to the coordinator.

If the second request for amendment is accepted by the granting authority, the Agreement is **amended** to introduce the necessary changes (see Article 39).

If the second request for amendment is rejected by the granting authority (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the grant may be terminated (see Article 32).

Improper termination may lead to a reduction of the grant (see Article 31) or grant termination (see Article 32).

After termination, the concerned beneficiary's obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 42 (assignment of claims)) continue to apply.

### **32.3 EU-initiated GA or beneficiary termination**

#### **32.3.1 Conditions**

The granting authority may terminate the grant or the participation of one or more beneficiaries, if:

- (a) one or more beneficiaries do not accede to the Agreement (see Article 40)
- (b) a change to the action or the legal, financial, technical, organisational or ownership situation of a beneficiary is likely to substantially affect the implementation of the action or calls into question the decision to award the grant (including changes linked to one of the exclusion grounds listed in the declaration of honour)

- (c) following termination of one or more beneficiaries, the necessary changes to the Agreement (and their impact on the action) would call into question the decision awarding the grant or breach the principle of equal treatment of applicants
- (d) implementation of the action has become impossible or the changes necessary for its continuation would call into question the decision awarding the grant or breach the principle of equal treatment of applicants
- (e) a beneficiary (or person with unlimited liability for its debts) is subject to bankruptcy proceedings or similar (including insolvency, winding-up, administration by a liquidator or court, arrangement with creditors, suspension of business activities, etc.)
- (f) a beneficiary (or person with unlimited liability for its debts) is in breach of social security or tax obligations
- (g) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has been found guilty of grave professional misconduct
- (h) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed fraud, corruption, or is involved in a criminal organisation, money laundering, terrorism-related crimes (including terrorism financing), child labour or human trafficking
- (i) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) was created under a different jurisdiction with the intent to circumvent fiscal, social or other legal obligations in the country of origin (or created another entity with this purpose)
- (j) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed:
  - (i) substantial errors, irregularities or fraud or
  - (ii) serious breach of obligations under this Agreement or during its award (including improper implementation of the action, non-compliance with the call conditions, submission of false information, failure to provide required information, breach of ethics or security rules (if applicable), etc.)
- (k) a beneficiary (or person having powers of representation, decision-making or control, or person essential for the award/implementation of the grant) has committed — in other EU grants awarded to it under similar conditions — systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings; see Article 25.5)
- (l) despite a specific request by the granting authority, a beneficiary does not request — through the coordinator — an amendment to the Agreement to end the participation of one of its affiliated entities or associated partners that is in one of the situations under points (d), (f), (e), (g), (h), (i) or (j) and to reallocate its tasks, or
- (m) other:

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- (i) linked action issues: not applicable
- (ii) additional GA termination grounds: not applicable.

### 32.3.2 Procedure

Before terminating the grant or participation of one or more beneficiaries, the granting authority will send a **pre-information letter** to the coordinator or beneficiary concerned:

- formally notifying the intention to terminate and the reasons why and
- requesting observations within 30 days of receiving notification.

If the granting authority does not receive observations or decides to pursue the procedure despite the observations it has received, it will confirm the termination and the date it will take effect (**confirmation letter**). Otherwise, it will formally notify that the procedure is discontinued.

For beneficiary terminations, the granting authority will — at the end of the procedure — also inform the coordinator.

The termination will **take effect** the day after the confirmation notification is sent (or on a later date specified in the notification; ‘termination date’).

### 32.3.3 Effects

#### (a) for **GA termination**:

The coordinator must — within 60 days from when termination takes effect — submit a **periodic report** (for the last open reporting period until termination).

The granting authority will calculate the final grant amount and final payment on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before termination takes effect (see Article 22). Costs relating to contracts due for execution only after termination are not eligible.

If the grant is terminated for breach of the obligation to submit reports, the coordinator may not submit any report after termination.

If the granting authority does not receive the report within the deadline, only costs and contributions which are included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

Termination does not affect the granting authority’s right to reduce the grant (see Article 28) or to impose administrative sanctions (see Article 34).

The beneficiaries may not claim damages due to termination by the granting authority (see Article 33).

After termination, the beneficiaries’ obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact

evaluation), 27 (rejections), 28 (grant reduction) and 42 (assignment of claims)) continue to apply.

(b) for **beneficiary termination**:

The coordinator must — within 60 days from when termination takes effect — submit:

- (i) a **report on the distribution of payments** to the beneficiary concerned
- (ii) a **termination report** from the beneficiary concerned, for the open reporting period until termination, containing an overview of the progress of the work, the financial statement, the explanation on the use of resources, and, if applicable, the certificate on the financial statement (CFS; see Articles 21 and 24.2 and Data Sheet, Point 4.3)
- (iii) a **request for amendment** (see Article 39) with any amendments needed (e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator, etc.).

The granting authority will calculate the amount due to the beneficiary on the basis of the report submitted and taking into account the costs incurred and contributions for activities implemented before termination takes effect (see Article 22). Costs relating to contracts due for execution only after termination are not eligible.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).

If the granting authority does not receive the termination report within the deadline, only costs and contributions included in an approved periodic report will be taken into account (no costs/contributions if no periodic report was ever approved).

If the granting authority does not receive the report on the distribution of payments within the deadline, it will consider that:

- the coordinator did not distribute any payment to the beneficiary concerned and that
- the beneficiary concerned must not repay any amount to the coordinator.

If the request for amendment is accepted by the granting authority, the Agreement is **amended** to introduce the necessary changes (see Article 39).

If the request for amendment is rejected by the granting authority (because it calls into question the decision awarding the grant or breaches the principle of equal treatment of applicants), the grant may be terminated (see Article 32).

After termination, the concerned beneficiary's obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact

evaluation), 27 (rejections), 28 (grant reduction) and 42 (assignment of claims)) continue to apply.

### **SECTION 3 OTHER CONSEQUENCES: DAMAGES AND ADMINISTRATIVE SANCTIONS**

#### **ARTICLE 33 — DAMAGES**

##### **33.1 Liability of the granting authority**

The granting authority cannot be held liable for any damage caused to the beneficiaries or to third parties as a consequence of the implementation of the Agreement, including for gross negligence.

The granting authority cannot be held liable for any damage caused by any of the beneficiaries or other participants involved in the action, as a consequence of the implementation of the Agreement.

##### **33.2 Liability of the beneficiaries**

The beneficiaries must compensate the granting authority for any damage it sustains as a result of the implementation of the action or because the action was not implemented in full compliance with the Agreement, provided that it was caused by gross negligence or wilful act.

The liability does not extend to indirect or consequential losses or similar damage (such as loss of profit, loss of revenue or loss of contracts), provided such damage was not caused by wilful act or by a breach of confidentiality.

#### **ARTICLE 34 — ADMINISTRATIVE SANCTIONS AND OTHER MEASURES**

Nothing in this Agreement may be construed as preventing the adoption of administrative sanctions (i.e. exclusion from EU award procedures and/or financial penalties) or other public law measures, in addition or as an alternative to the contractual measures provided under this Agreement (see, for instance, Articles 135 to 145 EU Financial Regulation 2018/1046 and Articles 4 and 7 of Regulation 2988/95<sup>17</sup>).

### **SECTION 4 FORCE MAJEURE**

#### **ARTICLE 35 — FORCE MAJEURE**

A party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.

‘Force majeure’ means any situation or event that:

- prevents either party from fulfilling their obligations under the Agreement,
- was unforeseeable, exceptional situation and beyond the parties’ control,

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<sup>17</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

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- was not due to error or negligence on their part (or on the part of other participants involved in the action), and
- proves to be inevitable in spite of exercising all due diligence.

Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

## **CHAPTER 6 — FINAL PROVISIONS**

### **ARTICLE 36 — COMMUNICATION BETWEEN THE PARTIES**

For grants which are not managed through the EU Funding & Tenders Portal (see Data Sheet, Point 1), the specific rules set out in Annex 5 apply.

### **ARTICLE 37 — INTERPRETATION OF THE AGREEMENT**

The provisions in the Data Sheet take precedence over the rest of the Terms and Conditions of the Agreement.

Annex 5 takes precedence over the Terms and Conditions; the Terms and Conditions take precedence over the Annexes other than Annex 5.

Annex 2 takes precedence over Annex 1.

### **ARTICLE 38 — CALCULATION OF PERIODS AND DEADLINES**

In accordance with Regulation No 1182/71<sup>18</sup>, periods expressed in days, months or years are calculated from the moment the triggering event occurs.

The day during which that event occurs is not considered as falling within the period.

‘Days’ means calendar days, not working days.

### **ARTICLE 39 — AMENDMENTS**

#### **39.1 Conditions**

The Agreement may be amended, unless the amendment entails changes to the Agreement which would call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

Amendments may be requested by any of the parties.

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<sup>18</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8/6/1971, p. 1).

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## 39.2 Procedure

The party requesting an amendment must submit a request for amendment signed directly in the Portal Amendment tool.

Specific grants managed outside the funding & tenders portal rules (if any) are set out in Annex 5

The coordinator submits and receives requests for amendment on behalf of the beneficiaries (see Annex 3). If a change of coordinator is requested without its agreement, the submission must be done by another beneficiary (acting on behalf of the other beneficiaries).

The request for amendment must include:

- the reasons why
- the appropriate supporting documents and
- for a change of coordinator without its agreement: the opinion of the coordinator (or proof that this opinion has been requested in writing).

The granting authority may request additional information.

If the party receiving the request agrees, it must sign the amendment in the tool within 45 days of receiving notification (or any additional information the granting authority has requested). If it does not agree, it must formally notify its disagreement within the same deadline. The deadline may be extended, if necessary for the assessment of the request. If no notification is received within the deadline, the request is considered to have been rejected.

An amendment **enters into force** on the day of the signature of the receiving party.

An amendment **takes effect** on the date of entry into force or other date specified in the amendment.

## ARTICLE 40 — ACCESSION AND ADDITION OF NEW BENEFICIARIES

### 40.1 Accession of the beneficiaries mentioned in the Preamble

The beneficiaries which are not coordinator must accede to the grant by signing the accession form (see Annex 3) directly in the Portal Grant Preparation tool, within 30 days after the entry into force of the Agreement (see Article 44).

Specific grants managed outside the funding & tenders portal rules (if any) are set out in Annex 5.

They will assume the rights and obligations under the Agreement with effect from the date of its entry into force (see Article 44).

If a beneficiary does not accede to the grant within the above deadline, the coordinator must — within 30 days — request an amendment (see Article 39) to terminate the beneficiary and make any changes necessary to ensure proper implementation of the action. This does not affect the granting authority's right to terminate the grant (see Article 32).

#### **40.2 Addition of new beneficiaries**

In justified cases, the beneficiaries may request the addition of a new beneficiary.

For this purpose, the coordinator must submit a request for amendment in accordance with Article 39. It must include an accession form (see Annex 3) signed by the new beneficiary directly in the Portal Amendment tool.

New beneficiaries will assume the rights and obligations under the Agreement with effect from the date of their accession specified in the accession form (see Annex 3).

Additions are also possible in mono-beneficiary grants.

Specific grants managed outside the funding & tenders portal rules (if any) are set out in Annex 5.

#### **ARTICLE 41 — TRANSFER OF THE AGREEMENT**

In justified cases, the beneficiary of a mono-beneficiary grant may request the transfer of the grant to a new beneficiary, provided that this would not call into question the decision awarding the grant or breach the principle of equal treatment of applicants.

The beneficiary must submit a request for **amendment** (see Article 39), with

- the reasons why
- the accession form (see Annex 3) signed by the new beneficiary directly in the Portal Amendment tool and
- additional supporting documents (if required by the granting authority).

The new beneficiary will assume the rights and obligations under the Agreement with effect from the date of accession specified in the accession form (see Annex 3).

Specific grants managed outside the funding & tenders portal rules (if any) are set out in Annex 5.

#### **ARTICLE 42 — ASSIGNMENTS OF CLAIMS FOR PAYMENT AGAINST THE GRANTING AUTHORITY**

The beneficiaries may not assign any of their claims for payment against the granting authority to any third party, except if expressly approved in writing by the granting authority on the basis of a reasoned, written request by the coordinator (on behalf of the beneficiary concerned).

If the granting authority has not accepted the assignment or if the terms of it are not observed, the assignment will have no effect on it.

In no circumstances will an assignment release the beneficiaries from their obligations towards the granting authority.

## ARTICLE 43 — APPLICABLE LAW AND SETTLEMENT OF DISPUTES

### 43.1 Applicable law

The Agreement is governed by the applicable EU law, supplemented if necessary by the law of Belgium.

Special rules may apply for beneficiaries which are international organisations (if any; see Data Sheet, Point 5).

### 43.2 Dispute settlement

If a dispute concerns the interpretation, application or validity of the Agreement, the parties must bring action before the EU General Court — or, on appeal, the EU Court of Justice — under Article 272 of the Treaty on the Functioning of the EU (TFEU).

For non-EU beneficiaries (if any), such disputes must be brought before the courts of Brussels, Belgium — unless an international agreement provides for the enforceability of EU court judgements.

For beneficiaries with arbitration as special dispute settlement forum (if any; see Data Sheet, Point 5), the dispute will — in the absence of an amicable settlement — be settled in accordance with the Rules for Arbitration published on the Portal.

If a dispute concerns administrative sanctions, offsetting or an enforceable decision under Article 299 TFEU (see Articles 22 and 34), the beneficiaries must bring action before the General Court — or, on appeal, the Court of Justice — under Article 263 TFEU.

For grants where the granting authority is an EU executive agency (see Preamble), actions against offsetting and enforceable decisions must be brought against the European Commission (not against the granting authority; see also Article 22).

## ARTICLE 44 — ENTRY INTO FORCE

The Agreement will enter into force on the day of signature by the granting authority or the coordinator, depending on which is later.

### SIGNATURES

For the beneficiary  
[function/forename/surname]

Done in [English]  
on

23 April 2024

For the granting authority  
[forename/surname]

Done in [English]  
on [electronic time stamp]

## **DESCRIPTION OF THE ACTION**

### **Objectives**

Under Article 26 of the Common Fisheries Policy, the Commission is mandated to consult appropriate scientific bodies. The results from such consultations, in the form of the best available scientific advice, are obtained in support of the establishment of measures under the CFP. To this purpose, the European Commission consults the International Council for the Exploration of the Sea (ICES) as one of the appropriated bodies.

### **The International Council for the Exploration of the Sea (ICES)**

ICES is a global, unique organisation, recognised as an independent, high-quality advisory body by all interested parties. It develops science and advice to support the sustainable use of the oceans. It is the oldest scientific organisation in Europe (established in 1902) created to support member countries to coordinate oceanic and coastal monitoring and research. ICES advises international commissions and governments on marine policy and management issues. ICES apply a quality assurance scheme for its advisory function and have procedures to ensure the full consideration of data from a wide range of stakeholders. ICES advice is produced in an ecosystem framework, including the effects of human activities and climatic and oceanographic conditions and frames advice in relation to fisheries management, considering the ecosystem context. ICES is a network of more than 5,000 scientists from over 690 marine institutes in 20 member countries and beyond. 1,500 scientists participate in ICES activities annually. Its goal is to provide the best available science for decision-makers to make informed choices on the sustainable use of the marine environment and ecosystems.

### **Deliverables**

The advisory deliverables to be provided by ICES are science-based products to support the implementation of policies adopted by the EU and its Member States with respect of management of activities that affect the marine biological resources and ecosystems. Advisory deliverables are, in particular, sought in respect of the implementation of the Common Fisheries Policy, assessment of multiannual plans, state and development of fish stocks and advice on exploitation levels and fishing opportunities, other data and marine scientific advice needs in support of the fisheries management in the EU. The deliverables have to be pertinent to relevant policy developments, such as the MSY objective and related ranges of fishing mortalities, multi-annual plans or fleet-based approaches to mixed-fisheries or multi-species management, and ecosystem-based fisheries management. The deliverables may also include advice on specific requests from the European Commission in support of its management under the CFP.

The advisory deliverables included so-called recurrent advice and non-recurrent advice. The recurrent advice refers mainly to advice on (bi-)annual exploitation rates and fishing opportunities and Fisheries, Aquaculture, and Ecosystem Overviews. The non-recurrent advice is provided in response to individual requests.

The advisory deliverables shall be independent of political influence and subject to best international quality procedures for research and research-based scientific advice. The technical basis for the advisory deliverables and the process through which it is produced is transparent. The quality of the technical basis will be ensured through internal and external peer-review. All deliverables are subject to best practices and shall only be considered as advice on behalf of ICES if they are approved by the ICES Advisory Committee.

ICES has developed a comprehensive framework for its advisory work consistent with the CFP objective as well as International Agreements under UN concerning governance of the Sea. The scientific advice depends on data provided through the data collection systems of the Member States as well as ICES member countries. ICES compiles and collates data, as well as performing quality control on these data, as part of the advisory process. ICES monitors data quality of the aggregated data used in developing the scientific basis for the advice deliverables; ICES shall decide on the use of data for the scientific deliverables.

## 1 DESCRIPTION OF THE ACTION

**Title: Advisory deliverables provided by the International Council for the Exploration of the Sea (ICES)**

**Reference: FPA/MARE/2023/ICES**

### a) Describe the general and specific objectives that the action aims to achieve:

ICES will develop advisory deliverables in the context of public policies mentioned in the Framework Partnership Agreement (FPA) between ICES and the European Commission. ICES will provide advisory deliverables which are independent of political influence and subject to best international quality procedures for science and science-based advisory deliverables. The technical basis for the advisory deliverables and the process through which it is produced will be transparent and impartial. The quality of the technical basis will be ensured through internal and external peer review. All advisory deliverables will contain reference to the relevant background analysis documentation, including expert reports, which include information about all the peer reviews undertaken and the result of such reviews.

Union funding will be displayed on the recurrent advice in a footer where all ICES' clients are mentioned and on non-recurrent advice in the description of the requested advice. The wording will be: *"ICES advice as adopted by its advisory committee (ACOM) is developed upon request by ICES' clients (the European Union, NASCO, NEAFC, Iceland, Norway and United Kingdom)."* This satisfies Article I.5 in the FPA between the Commission and ICES.

The advisory deliverables are in the following structured into 2 overarching work packages, recurrent advice and non-recurrent advice.

The deliverables will be delivered in accordance with the agreed timeline. If the agreed timeline cannot be achieved or postponing would result in deliverables of better quality, DG MARE will be consulted on the amendment of the timeline.

### **Work package 1: Recurrent advice**

This work package is split into 3 sub-work packages encompassing all recurrent advice deliverables (WP1.1), the quality assurance framework behind all advice products (WP1.2) as well as the data and information management part of the advisory work (WP1.3):

#### **WP 1.1 Advice deliverables**

- Del 1.1.1: Recurrent single stock advice deliverables
- Del 1.1.2: Mixed fisheries considerations
- Del 1.1.2: Fisheries, Aquaculture and Ecosystem Overviews
- Del 1.1.3: Advice on bycatch of ETP species
- Del 1.1.4: Re-opening procedure
- Del 1.1.5: Annual update of the VMEs
- Del 1.1.6: Presentation of advice to ACs and EU structures

#### **WP 1.2 Quality assurance of advice deliverables**

- Del 1.2.1: Web based stock status (SAG, SID)
- Del 1.2.2: Web based management of assessment processes (Transparency Assessment Framework - TAF)
- Del 1.2.3: Benchmark overview
- Del 1.2.4: RCG support and involvement
- Del 1.2.5: End user feedback to Liaison Meetings and STECF
- Del 1.2.6: Expert group reports and stock annexes

#### **WP 1.3 Data and Information Management of advisory deliverables**

- Del 1.3.1: Complete data records
- Del 1.3.2: Data calls

#### **Work package 2: Special Requests – non-recurrent advice**

This work package encompasses all non-recurrent advice requests from DG MARE. Each deliverable will thus be a specific special request, with the associated process and deliverables.

To address requests for advice, ICES is dependent on the clients having clearly defined the question(s) to be addressed along with the objectives and criteria to be considered so that the advice is appropriately developed. An important element of the advisory process is therefore the dialogue with the clients to achieve a common understanding on how to interpret the requests, the type of advice the clients expect and what ICES can deliver.

#### **b) Describe the work programme (on the basis of the main activities planned) and where it will be implemented**

##### **Work package 1: Recurrent advice**

##### **Work package 1.1 Advice deliverables**

The advisory deliverables are divided into specific deliverables as described below. Each deliverable is thus an advice product and underpinned by the deliverables in Work packages 1.2 and 1.3.

##### **Deliverable 1.1.1: Recurrent single stock advice deliverables**

DG MARE will receive: (i) advice on fishing opportunities and associated management measures (e.g. technical measures); and (ii) where relevant advice on anthropogenic pressures other than fishing and on associated management measures ('conservation considerations'). ICES will provide such advice both in relation to commercial fisheries and, where relevant, recreational fisheries. That advice will pertain to the stocks indicated in Annex III.

ICES will provide advice on fishing opportunities and conservation considerations on the basis of its approach

to advice on fishing opportunities ('ICES approach'), as set out in the relevant ICES documents and technical guidelines<sup>19</sup>. In addition, when providing such advice, ICES will take into account the EU policy basis, where relevant, in the manner set out below. The policy basis is Regulation (EU) No 1380/2013 ('CFP Basic Regulation'), which sets a general MSY target, and the relevant multiannual (management) plans (MAPs) agreed at EU level, notably the Baltic, North Sea and Western Waters MAPs<sup>20</sup>, specifying for certain stocks in these areas how to reach the MSY target when fixing fishing opportunities. Moreover, when providing such advice, ICES will take into account specific requirements of DG MARE, also set out below.

#### *Advice for all stocks*

The formal advice shall stand out on the front page of the advice document ('headline advice'). ICES will provide the headline advice based on the ICES approach, except in certain cases, as set out below. The headline advice will be expressed in catches. Where possible, ICES will provide information on the corresponding expected landings and discards. However, for stocks for which ICES advice is based on landings, ICES will provide the headline advice expressed in landings. Where possible, ICES will provide information on the corresponding expected catches and discards.

The catch scenarios table shall include the scenarios set out in point (d) and in specific cases additional scenarios, as set out below. For each scenario that table shall include, when the assessment conducted by ICES allows this: (i) catches; (ii) landings and discards, and when survival rates are considered the latter should be split into dead and surviving discards; (iii) fishing mortality; (iv) the projected SSB at the start of the year after the advice year, and the corresponding SSB change compared to the preceding year; (v) advice change compared to the advice and compared to the TAC, of the previous year; and (vi) in specific cases additional elements, as set out below.

When recreational fisheries take a significant part of the catches, the advice shall indicate this, and the catch scenarios table shall, when the assessment conducted by ICES allows this, also include: (i) total catches in commercial and recreational fisheries; (ii) catches in respectively commercial and recreational fisheries; and (iii) landings and discards in respectively commercial and recreational fisheries. In addition, ICES will incorporate, where possible, in its stock assessments recreational fisheries management measures agreed which are made known to ICES, following a request for information of ICES to DG MARE (e.g. for seabass in ICES divisions 8a and 8b).

In a dedicated table ICES will provide the landings and discards distribution by fleet, for the last year for which data is available. Moreover, in cases when recreational fisheries take a significant part of the catches, the gears responsible for significant recreational catches should be identified, and where possible, some estimate of the magnitude or relative proportion of their catches should be also provided.

For non-TAC regulated species, no specific catch advice is requested by DG MARE. The advice will thus be limited to the stock status and information on catches. The relevant stocks and exceptions to this approach are set out in Annex III.

For stocks for which ICES indicates that information is insufficient to carry out analytical assessments, ICES will inform DG MARE of the insufficiencies with the aim to enable ICES to carry out analytical assessments. This will include information on research needs or missing data. In such cases, ICES shall advise, where possible, on the remedial measures necessary to obtain the required information.

#### *Autonomous EU and Baltic Sea stocks*

For: (i) stocks listed as 'target stocks' in the EU MAPs; and (ii) for stocks listed as 'by-catch stocks' in the EU Baltic Sea MAP or stocks that are by-caught when fishing for stocks listed as targets stocks in the other EU

<sup>19</sup> In particular the ICES document "Advice on fishing opportunities", published on 9 March 2023, which can be accessed here: <https://doi.org/10.17895/ices.advice.22240624.v1>

<sup>20</sup> Regulation (EU) 2016/1139, Regulation (EU) 2018/973 and Regulation (EU) 2019/472.

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MAPs, the advice shall indicate that the relevant EU MAP applies. For by-catch stocks, for which adequate fleet-based data exists, the advice shall also indicate in which fisheries catching certain target stocks by-catches occur.

For all such target stocks, the headline advice will be for catches corresponding to ranges of  $F_{MSY}$  (i.e.  $F_{MSY\ lower}$ ,  $F_{MSY}$ ,  $F_{MSY\ upper}$ ), when such ranges are available and when the conditions for  $F_{MSY\ upper}$  set out in the MAPs are met. For such by-catch stocks, the headline advice will be based on the ICES approach. Moreover, for all such target stocks and when the assessment conducted by ICES allows this, ICES will provide in the catch scenarios table and for all scenarios the probability of  $SSB < B_{lim}$  at the start of the year after the advice year.

For stocks subject to an Advisory Council (AC) management plan that has been assessed by ICES and evaluated as consistent with the precautionary approach, the management plan scenario should be included in the catch scenarios table.

For ICES data categories 3 to 6 stocks, in accordance with the ICES approach and the ICES multiannual advice criteria<sup>21</sup>, advice shall be provided less frequently than yearly. For those stocks, the advice document will include headline advice and catch scenarios, for each of the years for which the advice is valid.

If ICES advises for a stock zero catches or catches at a low level, the advice document shall where possible include: (i) a catch scenario corresponding to the likely catches of those stocks in mixed fisheries; (ii) catch scenarios corresponding to catches at three equal intervals between those likely catches and the advised catches; (iii) for those scenarios, the probability of  $SSB < B_{lim}$  at the start of the year after the advice year; and (iv) an overview of the fisheries catching certain targets stocks in which by-catches of those stocks occur, including of the relative importance of by-catches in the different fisheries. And, an overview of the advice for those target stocks.

Catches at a low level here refer to advised catches of stocks below likely catches of those stocks in mixed fisheries. Such likely catches shall be estimated based on data on recent catches, and under the assumption that TACs for the target stocks are set in line with ICES advice, in line with the  $F_{MSY}$  point value, where available. Where possible, those estimates shall also address commercially available alternative gears or catching methods that would lead to lower catches.

#### *Shared stocks*

For stocks that are under shared management between the EU and third countries and for which the relevant management parties have agreed on a management plan and the plan has been evaluated by ICES to be consistent with the precautionary approach, ICES will provide the headline advice in accordance with that plan.

ICES will supply an overview of current known management plans by stock in early January for review by all requesters of advice. That overview shall address: (i) whether requesters consider to be a management party for a given stocks; and (ii) whether requesters in that case agree to those management plans. ICES will then communicate the results of that consultation.

For stocks under shared management that are also covered by an EU MAP, as target or as by-catch stock, ICES will include the following sentence in the headline advice: "ICES notes the existence of a precautionary management plan developed and adopted by one/some of the relevant management parties for this stock." For such stocks that are shared and target stocks under the EU MAPs, ICES will include in the catch scenarios table catches corresponding to the ranges of  $F_{MSY}$ , when such ranges are available and when the conditions for  $F_{MSY\ upper}$  set out in the MAPs are met.

<sup>21</sup> [ICES. 2023. EU request on identification of EU-only and Baltic Sea stocks eligible for a multiannual advice. In Report of the ICES Advisory Committee, 2023. ICES Advice 2023, sr.2023.16, <https://doi.org/10.17895/ices.advice.24679716>] <sup>22</sup>  
<http://ices.dk/marine-data/tools/Pages/Data-calls.aspx>

Supportive information to the assessment and advice will be the following:

- 1) Information about the level of confidence in the parameters underlying the scientific advisory deliverables and the origins and causes of the main uncertainties in the information available (e.g. data quality, data availability, gaps in methodologies and knowledge) which have been taken into account for the assessment and the advice;
- 2) Where possible a full methodological description of the biomass distribution when a stock is distributed in several management areas

Considering that ICES stock areas do not always match the management units, ICES will provide DG MARE with supplementary information on fishing opportunities being consistent with the advice in support of management. To this aim, ICES will apply the following guidelines:

- 3) If more than one stock is merged into one management unit, fishing opportunities computed for the management unit will be equal to the sum of the advice in support of management for individual stocks.
- 4) If the ICES stock area covers more than one management unit, the sum of fishing opportunities computed for each management unit and/or management species (or species group) should be based on the advice in support of management for the stock.
- 5) If the ICES stock areas and management units do not map in either way as described above, specific distributions of stocks relative to management units need to be identified.

For situations 3-5 above, ICES shall provide information regarding individual stocks and individual management units, provided that DG MARE, where relevant jointly with other management parties, has provided guidance on the principles to be used for such calculations in each case. If DG MARE is not in a position to provide such guidance, ICES shall provide that information assuming the same distribution of catches by stock and management unit as observed in recent years. Species and management areas where ICES is requested to provide this additional information on fishing opportunities are listed in table b of Annex III

#### **Deliverable 1.1.2 Mixed fisheries modelling**

ICES will conduct mixed fisheries modelling and will continue to develop the science and the outputs further in cooperation with advice requesters. For autonomous EU and Baltic Sea stocks, the results of that modelling will be included in the recurrent and non-recurrent advice where relevant. For shared stocks mixed fisheries considerations will be produced if requested by third countries and referenced accordingly.

Such development, where possible will: (i) consider, for example, changes in selectivity patterns and sensitivity of the advice to fleet and métier definitions; (ii) consider alternative fleet structures; (iii) describe spatial and temporal interactions between stocks and fleets (iv) expand to other sea basins, e.g. West of Scotland or Baltic Sea; and (v) consider increasing the scope of stocks included in the mixed fisheries scenarios and where not possible qualitative assessments of technical interactions. Furthermore, ICES will organise a stakeholder meeting to present the advances done in mixed fisheries modelling derived from the stakeholder meeting held in March 2023 and the joint EU-UK special request on mixed fisheries.

#### **Deliverable 1.1.2 Fisheries, Aquaculture and Ecosystem overviews**

Advice on fishing opportunities will be delivered in the context of an ecosystem approach that is consistent with the objectives as formulated in relevant EU policies (i.e. CFP, H&BDs and MSFD). The ecosystem approach is being implemented incrementally through the advice on fishing opportunities and will be supported by information and advice provided in Fisheries Overviews (FOs), Ecosystem Overviews (EOs) and Aquaculture Overviews (AOs).

Specifically, ICES will, to the extent possible:

- 1) Provide an updated web-based overview of the status of each assessed stock;

- 2) Advise DG MARE on any significant impact of factors and changes in the marine ecosystem structure or functioning that significantly impact fish and shellfish stocks and their long-term exploitation;
- 3) ICES will, to the extent possible, provide information regarding the impact of fisheries on ecosystems and habitats in FOs and EOs;
- 4) ICES will provide warnings of any serious threats (i.e. if there is at this moment, a threat to the abundance posing a risk so serious that it would be unwise to postpone action) from fishing activities alone or in conjunction with any other relevant activity to local ecosystems or species as soon as ICES is aware of such threats;
- 5) In the FOs, quantitatively and qualitatively describe the key spatial and temporal interactions between species by métier, including quantification of the strength of the interactions. In addition, for fisheries with catches of autonomous EU and Baltic Sea stocks, identify the targeted stock or stocks by métier.
- 6) Identify existing inter-species and intra-species interaction of relevance to the fisheries management and the existing management strategy (and consequently the advisory deliverables).;
- 7) Describe the biological interactions between fish stocks and with the marine ecosystem of relevance for management of the fisheries in the EOs;

#### **Deliverable 1.1.3 Advice on by-catch of ETP species**

ICES shall develop advice as a priority to provide, on the basis of data provided by Member States and any other relevant data sources, estimates of the annual total numbers of specimens of ETP species (sensitive species as defined in Article 6(8) of Regulation (EU) 2019/1241) taken as by-catch as appropriate and feasible, disaggregated by sea area and type of fishing gear. They shall be provided by December each year and shall cover incidental catches made until 31 December of the previous year. Where the precision of the estimates does not support the meaningful calculation of annual total by-catch of ETP species, ICES may instead deliver multiannual bycatch rates.”. These estimates shall be accompanied with evaluations or estimates of their precision where possible. ICES will prioritize delivering advice on the high-priority species as received from DG MARE in 2023 (Annex IIIc) ICES should include information on mitigation measures in place, where appropriate.

ICES shall strive progressively to accompany the bycatch estimates with markers of sustainability, such as potential biological removal (PBR) where appropriate.

For species with high extinction risk, where there is no near-term realistic prospect of estimating by-catch rates and associated markers of sustainability, ICES shall develop advice as a priority to highlight the types of fishing gears and activities which pose the greatest risk to these species of concern, taking account of available information on the species distribution area and seasonality. ICES shall also develop advice concerning mitigation measures appropriate for reducing these risks.

Where the available bycatch monitoring data and other information is not adequate to allow ICES to complete these tasks, ICES shall advise, where possible, on the remedial measures necessary to obtain the required information.

#### **Deliverable 1.1.4 Re-opening procedure**

When criteria for a re-opening procedure are met, ICES will provide in-year re-assessments for the following 3 North Sea stocks: Haddock in Subarea 4 and Division 6.a and Subdivision 20; Saithe in Subarea 4, 6 and Division 3.a; Whiting in Subarea 4 and Division 7.d;. These assessments will be provided as soon as possible, depending on the availability of the surveys.

The re-assessments will be carried out following procedures adopted by ICES (process procedure) including updates when ICES considers that newly available data will significantly change conclusions of the stock size or the advice on fishing possibilities. In the case that such updates may be relevant due to data from one or more countries not being available for the initial advice, there will be a specific agreement between ICES and the DG MARE on whether an update will be required.

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#### **Deliverable 1.1.5 Annual update of the VMEs**

As per article 9(4) Regulation (EU) 2016/2336, called the “Deep-sea access regulation”, ICES is requested to carry out an annual assessment of areas where VMEs are known to occur or are likely to occur in EU waters. Therefore, ICES will evaluate annually the applicability of the latest relevant advice. This recurring advice should be building on the advice provided on 5 January 2021, which established a list of VMEs occurrences and likely occurrences for regulatory purposes. Revision or update of this advice shall be made in light of new and updated science and data reported to ICES, methodological developments (latest benchmark), and further implementation of the FAO International Guidelines for the management of deep-sea fisheries in the high seas. (FAO, 2009).

ICES is requested to establish a process developing a general update for all sea-basins for which ICES provides advice.

#### **Deliverable 1.1.6 Presentation of advice to ACs and EU structures**

ICES will, on request, present the advice to EU institutions and committees including the Fisheries Committee of the European Parliament, ACs and stakeholder meetings organised by DG MARE. Presentations will be made by the Chair of ACOM or their designee. ICES will present an overview and matters relevant to the scientific advice, including the underlying scientific knowledge for the scientific advisory process (e.g. fish population dynamics, stock assessment and modelling approaches, concepts on reference points, developments on mixed fisheries considerations, multi-species advice and advice on data limited stocks, sensitive species and habitats advice and Ecosystem approaches and the link to Good Environmental Status). Presentations will be done by either physical or online attendance to the arranged meetings.

ICES will participate, on request, in an annual meeting/seminar on scientific advice, organised by DG MARE.

#### **Work package 1.2 Quality assurance of advice deliverables**

ICES quality assurance of advisory products covers the entire chain from data collection and reporting by ICES member countries to publication of advice. ICES and its reporting member countries have taken a large number of initiatives to quality assure the advisory products. In recent years, focus has been on data quality, transparency and enhancement of the advisory framework, mainly through the development of guidelines.

#### **Deliverable 1.2.1 Web based stock status (AdviceXplorer, SAG, SID, ASD)**

**AdviceXplorer**, SAG, SID and ASD online portals provide a comprehensive publicly accessible status of approximately 200 assessed stocks, including their historical performance, confidence intervals and with all supporting meta-data that ensure consistency and a means to generate new data calls based upon the most current available information. These portals also offer web services that are used by STECF/JRC.

#### **Deliverable 1.2.2 Web based management of assessment processes (Transparency Assessment Framework - TAF)**

ICES has developed the Transparency Assessment Framework – TAF to ensure reproducibility of its assessments. ICES is working with the community to increase routine use of TAF which contains a full description of the assessment, data used and advisory procedure for each advisory product is maintained and updated whenever significant changes are made. Documentation of each assessment, with information on the lineage of data used in assessment, will be adequate to allow recalculation of any assessment by an external expert, with reference to publicly available web-based system for the reproduction of the assessment and advice (TAF).

#### **Deliverable 1.2.3 Benchmark overview**

ICES will publish online and regularly update a description of the benchmarking process and of the

benchmark exercises prioritisation scheme, and an overview of the different benchmark exercises foreseen.

ICES will consult during the annual meeting with requesters of advice (MIRIA) to collect feedback on the benchmark exercises foreseen and on the benchmark prioritisation scheme.

#### **Deliverable 1.2.4 RCG support and involvement**

ICES will support the implementation of the DCF by facilitating planning expert group meetings related to data collection. In particular, ICES will assist DG MARE by implementing data collection community websites supporting exchange of information between scientific experts involved in the preparation for, the work during, and the follow-up after Regional Coordination Groups (RCGs) related to the DCF. In addition, ICES should participate in RCGs by presenting and discussing, among others, the ICES data needs for the relevant region and the work carried out by relevant ICES Expert Group (EGs).

#### **Deliverable 1.2.5 End-user feedback to Liaison Meetings and STECF**

ICES will communicate to DG MARE any problems encountered with data transmitted by Member States in the framework of data calls launched by ICES. This shall in particular apply to data collected through the DCF.

ICES will provide information on timeliness of submission, coverage and quality of collected data, relevant to the use for the advisory deliverables. The previous year's annual information will be provided through the data transmission IT platform of JRC in the first semester of each year. It will consist of an account of issues of DCF data transmitted to ICES. The issues should clearly identify the type of data, stock (if the data concerned is needed for fish stocks assessment, and Member State, using the above mentioned categorisation (timeliness, coverage, quality) and be self-explanatory. ICES will indicate the impact of these shortcomings on the provision and quality of scientific advice (severity). ICES should not only provide feedback on data transmission problems concerning Member States, but also provide assistance to DG MARE in clarifying the responses of Member States to these ICES comments to the extent that these responses relate to ICES' use of the data.

#### **Deliverable 1.2.6 Expert group reports and stock annexes**

ICES will publish online expert group reports of stock assessment working group meeting and this at the same time as the corresponding single-stock advice or as soon as possible thereafter. ICES will also publish online stock annexes and the expert group reports will include a list of relevant stock annexes with links to these.

### **Work package 1.3 Data and information Management of advisory deliverables**

Data collection is the responsibility of ICES Member Countries, and while ICES has a clear responsibility to quality assure data used in advice it relies on national processes on which ICES has very limited influence. ICES current work on databases, data submission standards and procedures, and data processing is crucial to assess the quality of data being provided by member countries and being used in the provision advice deliverables.

#### **Deliverable 1.3.1 Complete data records**

A number of databases and online data portals related to the preparation, quality control, ingestion and processing of input data to Advice deliverables are used by ICES in order to make available complete data records. These systems include Fisheries dependent and independent data sources, sampling design, detailed and aggregated output data and data products, and fisheries assessment results. Examples of these portals include (but are not limited to) DATRAS, RDBES, Acoustic portal, VME database, etc. Management of these portals includes maintenance, product development, vocabulary management, bug fixing, user helpdesk, attending and reporting to Advice related expert group meetings, support to the RCG's and STECF meetings, and the specification and processing of data calls to relevant parties.

#### **Deliverable 1.3.2 Data calls**

ICES data calls requesting data collected under the EU Regulation (EU) 2017/1004 will respect all

notification periods defined in article 17 of the Regulation, and where possible additional notice will be given to Member States. Data calls requesting data collected under the EU Regulation (EU) 2017/1004 should include a reference to guarantees on personal data protection, in accordance with the Article 2 of the Regulation (EC) 2017/1004.

ICES will inform the EC on data issues significantly affecting the scientific advisory process via the annual data transmission reporting. Review of survey input and settings for each stock assessment will be done in the benchmark process, which the EC will be briefed on (Deliverable 1.2.3).

ICES should inform the EC as to the optimal timing of scientific advice to be delivered, taking into consideration the time lag for data availability and subsequent data processing, in relation to the deadline of a data call. ICES publishes its data calls on a public web page<sup>22</sup>.

### **Work package 2: Special Requests – non-recurrent advice**

Non-recurrent advisory and other scientific or technical deliverables, training of EU institution officials and other stakeholders as agreed with DG MARE, or other activities may be requested by DG MARE. ICES will strive to fulfil such requests according to mutually satisfactory agreements between the Parties, which will specify the nature, the scope, the duration and the maximum associated costs.

Non-recurrent advisory deliverables may concern any request for advice from ICES in the context of the development and implementation of the CFP, of the MSFD (Directive 2008/56/EC) and of other EU legislation. The non-recurrent advisory deliverables are agreed with ICES and DG MARE when the need for these arise and are settled within the budget of the Specific Grant Agreement to the extent this is possible. Should non-recurrent requests arise which are estimated to exceed the remaining budget for these in this agreement, ICES and DG MARE will discuss on the possibility to enlarge the budget for non-recurrent advice products.

A few examples of non-recurrent advice requests:

1. the state of fish stocks and related data issues;
2. the state of the marine environment or specific themes relating to this question for which ICES can mobilise expertise;
3. for shared stocks for which ICES advises zero catches or catches at a low level, ICES will provide estimates of the likely catches of those stocks in mixed fisheries. Those estimates shall be based on data on recent catches, and under the assumption that TACs for the target stocks are set in line with ICES advice, in line with the  $F_{MSY}$  point value, where available. Moreover, ICES will provide an overview of the fisheries catching certain target stocks in which by-catches of those stocks occur, including of the relative importance of by-catches in the different fisheries. And, ICES will provide an overview of the advice for those target stocks;
4. development and evaluation of operational management options, like ranges of FMSY or technical conservation measures, considered for themselves and applied to multi-annual management of fish stocks and fisheries or as part of MAPs;
5. evaluations of multi-annual plans, in particular between the EU and other ICES members, whether for a single stock or species or for a multi-stock fishery; the deliverable should be complementary to the related development and evaluation process established under the STECF framework, taking into account the methods and standards established therein;
6. Economic and social impacts of offshore renewable energy on fisheries and methodologies to assess (ecological and cumulative) impacts in the Celtic Sea, Greater North Sea and Baltic Sea (ICES ecoregions) continued development of mixed fisheries science and mixed fisheries scenarios for mixed fisheries.
7. providing training support to the Commission (EU officials and interested stakeholders);
8. identification and mediation of access to independent experts to conduct reviews of scientific

<sup>22</sup> <http://ices.dk/marine-data/tools/Pages/Data-calls.aspx>

documents or to provide other assistance. ICES will be responsible for identifying experts, but the product provided is solely the responsibility of the experts;

9. Potentially, joint EU-UK special requests for non-recurrent advice to ICES, which could include in addition to the above, inter-stocks geographical flexibility, evaluation of technical measures.

### **c) Methodology to be followed/project implementation**

ICES has developed a comprehensive framework including a set of advice rules to be applied when addressing requests for advice on fishing opportunities. These conform to international agreements to which the EU is a signatory and to the objectives of the CFP. The ICES approach to advice on fishing opportunities integrates ecosystem-based management with the objective of achieving maximum sustainable yield (MSY). The aim is, in accordance with the aggregate of international guidelines, to inform policies for high long-term yields while maintaining productive fish stocks within healthy marine ecosystems. Annex 2 of the UN Fish Stocks Agreement (UN, 1995) contains guidelines for applying a precautionary approach within an MSY framework. In accordance with a precautionary approach, populations need to be maintained within safe biological limits to make MSY possible. However, within safe biological limits, an MSY approach is necessary to achieve MSY. A precautionary approach is a necessary, but not a sufficient condition for MSY.

MSY is a broad conceptual objective, aimed at achieving the highest yield over the long term. It is non-specific with respect to: (a) the biological unit to which it is applied; (b) the models used to provide scientific advice; (c) the definition of yields; and (d) the management methods used to achieve MSY. In theory, the MSY concept can be applied to an entire ecosystem, a fish community, or a single stock. ICES applies the MSY concept to single stocks, where stocks are caught together in a fishery. ICES interpretation of MSY is maximizing the average long-term yield from a given stock while maintaining productive fish stocks within healthy marine ecosystems. In relation to MSY, ICES defines yield to be maximised as the wanted part of the catch measured in weight, i.e. the part of the catch that is landed and above any agreed minimum conservation/reference size.

Many of the models (mathematical and conceptual) used to estimate MSY and associated parameters typically assume that factors not dynamically updated within the models remain constant or vary around a historical long-term mean. However, marine ecosystems are dynamic and fish stocks could change not only in response to the fisheries, but also to changes in fishing patterns and fishing pressures on their prey or their predators as well as climate or environmental change. ICES therefore considers MSY reference points to be valid only in the medium term and to be subject to regular reviews.

To support the stock by stock management system, ICES provides advice on fishing opportunities and stock status for individual stocks. In addition to the single stock advice, ICES also provides mixed fisheries considerations, fisheries and ecosystem overviews, which encapsulate the technical and biological interactions between stocks at an ecoregion scale.

The advice rule applied by ICES in generating the advice on fishing possibilities depends on management strategies agreed by relevant management bodies and the information and knowledge available for the concerned stocks. If all the relevant management authorities have agreed on a management plan or strategy and the plan/strategy has been evaluated by ICES to be consistent with the precautionary approach, ICES will provide advice in accordance with the plan/strategy. If no management plan/strategy has been agreed by all relevant management parties or the agreed plan/strategy has been evaluated by ICES not to be consistent with the precautionary approach, ICES will provide advice applying the ICES MSY advice rule if possible or the precautionary approach if the information on the stocks is insufficient to support the MSY rule.

ICES MSY advice rule requires a relative high level of data and knowledge on the dynamics of the stocks concerned. If the data and knowledge requirements to apply ICES MSY advice rule are not available ICES uses data limited methods based on abundance indices, life history parameters and or, catch or landings time series to provide advice. If the stock is long lived and enough data is available ICES can provide advice consistent with MSY using empirical methods; in the rest of the cases, ICES applies an advice rule that is only based on precautionary considerations.

For the purposes of identifying the advice rule to be applied when giving advice on fishing possibilities, ICES classifies the stocks into six main categories on the basis of available knowledge.

- Category 1 – stocks with quantitative assessments. Includes the stocks with full analytical assessments and forecasts as well as stocks with quantitative assessments based on production models.
- Category 2 – Stocks with analytical assessments and forecasts that are only treated qualitatively as well as stocks with surplus production models, e.g. SPiCT, JABBA, without an MSE; includes stocks with quantitative assessments and forecasts which, for a variety of reasons, are considered indicative of trends in fishing mortality, recruitment, and biomass.
- Category 3 – stocks for which survey-based assessments indicate trends. Includes stocks for which survey or other indices and life history information are available that provide reliable indications of trends in stock metrics, such as total mortality, recruitment, and biomass.
- Category 4 – *Nephrops* stocks where information on possible abundance can be inferred and stocks for which a reliable time-series of catch can be used to approximate MSY. This is where there are reasonable scientific grounds to use life-history and density information from functional units to provide advice..
- Category 5 – Stocks for which either only data on landings or a short time-series of catch are available.
- Category 6 – negligible landings stocks and stocks caught in minor amounts as bycatch. Includes stocks where landings are negligible in comparison to unwanted catches and stocks that are primarily caught as bycatch species in other targeted fisheries.

For category 1 and 2 stocks ICES provides advice in accordance with agreed management plans/strategies evaluated to be consistent with the precautionary approach. If such plans/strategies are not agreed or have been evaluated by ICES not to be precautionary, ICES will give advice on the basis of the ICES MSY approach. For category 3–6 stocks, the available knowledge is insufficient to apply the ICES MSY advice rule and alternative advice rules based on the MSY and precautionary approaches are used. However, ICES has developed an approach to determine proxies for MSY reference points for some stocks in categories 3 and 4. Based on these proxies, ICES will assess the state of the stocks and their exploitation relative to MSY criteria. ICES is in the process of developing MSY advice for all stocks that are listed as target stocks in the MAPs; the possibility for such advice for 2024 is indicated by stock in Annex III.

The reasons why MSY advice for target stocks (e.g. those described in the MAPs and pelagics) is not available will be summarised by ICES.

Limitations on fisheries may be required to achieve environmental objectives, especially regarding biodiversity, habitat integrity and food webs. This will not affect the catch that can be taken from a stock in accordance with the objectives of MSY and the precautionary approach and will therefore not affect ICES advice on fishing possibilities. However, the limitations may affect the possibilities for the fisheries to fully utilize the advised fishing possibilities. ICES may, if requested, advise on the likely impact of such limitations on the catch but will, as explained, not include such considerations in the advice on fishing opportunities.

To ensure ICES can provide the best possible advisory products, ICES science will continue to explore methodologies to assess the risks of the use of certain fishing gears and aquaculture techniques in order to minimise, to the extent possible, the negative impacts of fishing and aquaculture activities on the marine environment. ICES shall consult closely with DG MARE, and with all requesters of advice, when considering structural revisions to the ICES approach, in particular such revisions of definitions of reference points and such revisions of the ICES advice rule for stocks in ICES data categories 1 and 2. Such structural revisions will, where relevant, only be implemented by ICES in its advice for stocks listed in Annex III in 2024 after a discussion with all advice requestors. This is to ensure the continued utility of the advice to advice requestors, in the case of the EU the continued utility of the advice to the implementation of the CFP.

#### **d) Expected results and their use:**

In addition to the management advice detailed under 1.1.1 the main expected results are:

The advice should indicate the overall status of the stock in terms of biomass and exploitation rates relative to safe biological limits as defined in the CFP. Stock status in relation to MSY reference points should also be provided.

When the assessment allows this, catch scenarios shall include the following, in that order:

- a. Advice in line with the ICES approach;
- b.  $F = F_{pa}$ ;
- c.  $F = 0$ ;
- d.  $F = F_{lim}$ ;
- e.  $F = F$  in interim year / year before the advice year;
- f. SSB at start of year after advice year = MSY  $B_{trigger}$ ;
- g. SSB at start of year after advice year =  $B_{pa}$ ;
- h. SSB at start of year after advice year =  $B_{lim}$ ; and
- i. additional scenarios, as set out under deliverable 1.1.1.

Catch scenarios other than the above shall only be included in the advice following a consultation of DG MARE by ICES and agreement by DG MARE, where relevant jointly with other management parties.

#### **e) Arrangements for monitoring/supervision of the operation and risks involved in its implementation:**

ICES advisory process has several steps which all are agreed by the Advisory Committee and outlined in the Annual Work Programme (see section 2). The steps are the following for each advisory process:

- A request for advice is received from a client
- Data are provided to expert groups (including expert workshops) based on data calls and database contents, which then make assessments and draft a first scientific/technical response to the request
- Expert group reports are peer-reviewed by internal audits
- In cases of assessments where the benchmark (established assessment method to be used) has been agreed upon, the reviewing is carried out within the expert group and then followed by an advice drafting group
- The expert group report together with the review is used in the advice drafting group
- Draft advice prepared by the advice drafting group is discussed and finally approved by the Advisory Committee (ACOM)
- The advice is delivered to the client by electronic communication and made available on the ICES Website

Annex III provides a detailed timeline for the provision of advice by stock.

ICES aims at producing advice based on the best available science that is characterised by quality assurance, developed in a transparent process, unbiased, independent, and is recognised by all parties as being relevant to management. The scientific basis for the advice is developed by expert groups. An advice drafting group prepares the advice based on the findings of the expert groups. The advice prepared by the advice drafting group is finalised and adopted by ICES Advisory Committee (ACOM).

ICES operates a peer-review system. The scientific basis for responses to non-recurring requests for advice is subject to a peer-review process, before or in conjunction with the advice drafting group. For recurrent advice ICES has implemented a benchmark process in which the methods, including the data series to be used by the Expert Groups in addressing the requests, are developed. The results from the benchmarks are subjected to a

peer-review process similar to the process for non-recurrent requests.

The risks involved in the implementation are twofold: 1) late delivery of advice due to necessary updates or other reasons (i.e. corrections). Late delivery may imply that the Commission cannot use the advice for the development of its proposals. In these cases, ICES will inform the Commission as soon as a delay in the advice becomes apparent. 2) the results of the scientific stock assessment do not allow of the delivery of the advice corresponding to management needs (i.e. MSY advice) due to lack of data or other methodological issues. For stocks assessed at MSY, ICES will inform DG MARE as soon as it becomes apparent that this stock will lose its MSY status in the forthcoming advice.

#### **f) Sustainability of the project's achievements:**

The International Council for the Exploration of the Sea (ICES) is an intergovernmental [1] marine science organization headquartered in Copenhagen, Denmark. ICES coordinates and promotes research on oceanography, the marine environment and ecosystems and living marine resources in the North Atlantic and adjacent sea areas. The main objective of ICES is to increase the scientific knowledge of the marine environment and its living resources and to use this knowledge to provide unbiased, non-political advice. ICES supports its Member Countries and international governmental organization like the European Commission, NEAFC, NASCO, NAFO, NAMMCO, OSPAR and HELCOM by providing scientific information and knowledge and advice on ecosystem, fisheries and aquaculture issues.

ICES has established a formal cooperation structure to support its work, which also ensures that the advisory requests are answered including the best available science, data and information. This formal cooperation structure relies on the ICES legal framework established by the 1964 Convention, confirmed by the 2002 Copenhagen Declaration, and cooperation dating back to 1902 with the establishment of the organization.

While advice requesters are paying for the advisory services they request from ICES, according to the 100 % cost recovery principle, our member Countries pay annual contributions to support further development of science and data, taking into account exploratory findings, innovative methods, and international developments.

[1] ICES has 20 member countries: Belgium, Canada, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Russian Federation, Spain, Sweden, United Kingdom, and the United States of America.

2 PLANNED DURATION OF THE ACTION (in months):

Planned starting date: 12 months (starting date January 1<sup>st</sup> 2024)

**TIMETABLE FOR EACH STAGE OF THE [ACTION]/ [WORK PROGRAMME] SHOWING MAIN DATES AND EXPECTED RESULTS FOR EACH STAGE**

	Semester 1					Semester 2						
Activity	Month 1	2	3	4	5	6	7	8	9	10	11	12
Preparation Activity (Annual Work Programme establishment)	MIRIA meeting	Bilateral meeting	ACOM						ACOM		Bilateral meeting	
Implementation Activity (Benchmarks)		X										
Implementation Activity (Baltic Sea advice)					Other stocks							
Implementation Activity (North Sea advice)		Sandeel		Sprat		Other stocks			Norway Pout/re-opening			
Implementation Activity (Northern and Southern shelves stocks)				Sprat 7de		X						

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Implementation Activity (Bay of Biscay stocks)						X						
Implementation Activity (Deep-water stocks)						X						
Implementation Activity (Celtic Sea stocks)						X						
Implementation Activity (Mixed fisheries advice)											X	
Implementation Activity (Southern Horse mackerel, anchovy, sardine stocks)						Anchovy in 9a, Southern Horse mackerel						Bay of Biscay, other sardine and anchovy stocks
Implementation Activity (Data needs, quality, timeline, datacalls, end-user feedback)								X	X	X		
Implementation Activity (Bycatch advice)									X			

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Implementation Activity (Elasmobranch stocks)										X		
Implementation Activity (Widely distributed stocks)										X		
Implementation Activity (Nephrops stocks)										X		
Implementation Activity (Fisheries Overview)												X
Implementation Activity (Ecosystem Overview)												X
Implementation Activity (Aquaculture Overview)												X
Implementation Activity (Seabass tool)						X						

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## ANNEX 2

## ESTIMATED BUDGET

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**Budget assumptions ICES Grant Agreement Application January 1 – December 31, 2024**

**1. Personnel Costs:**

The personnel costs are based on estimates of percentage of time spent on the action. The actual costs reported will be based on the number of hours registered on the action in the ICES timekeeping system, Agresso, multiplied by an actual hourly salary rate based on salary, pension, social costs, health insurance

***1.1 Recurrent Advice:***

Personnel involved with the recurrent advice consists of the Head of Advice Department, the ACOM Leadership (Chair and Vice-Chairs) and other relevant staff within the Advice, Data and Science sections.

Head of Advice Department coordinates all advisory related work in the ICES Secretariat and is the main contact point for clients concerning requests for advice, clarifications, etc. The Head of Advice D outlines the framework for advice in collaboration with the Advisory Committee (ACOM) and is part of the ACOM Leadership.

ACOM Leadership consists of one full time chair and several vice-chairs each employed on part time corresponding to 38% of a full time equivalent. The salary costs for the ACOM Chair will be based on a full time position excluding the hours that are specifically registered on other projects and agreements. The salary costs for the Vice-Chairs will be based on the full remuneration in accordance with the employment contract as the Vice-Chairs dedicate all their time paid by ICES to the Advice process. The ACOM Leadership is the day-to-day operational management of ACOM and it outlines the suggested responds to requests for advice from ICES member countries, international commissions and organizations, and fisheries and ecosystem management bodies.

The staff in advice lead the advisory processes while ensuring that the advice is produced by experts following the framework set by ACOM. They audit and decides with experts on methods, approach etc. They facilitate QA of data input, assessments and is the link between ACOM and expert groups. They manage the advice processes from start to end.

The Advice staff also act as a link between experts, in particular expert group chairs as well as the groups and ACOM. They format all advice to the ICES standard, ensure timely delivery of advice and manage documents on Sharepoint and support the ACOM leadership. The Advice staff also secure the quality of the advice by proof-reading all advice before being delivered. The Advice staff develops the quantitative side of the Ecosystem Overviews and Fisheries Overviews and maintains the databases holding data on fish stocks.

***1.1.1. Sub-contracting Personnel Recurrent Advice:***

The ICES expert community have difficulties in prioritising ICES tasks and in these cases, ICES may pay institutes for making their staff available for ICES tasks. In these cases ICES pay a fee to the institute or the staff directly for providing consultant assistance to ICES

### *1.2 Administration and support:*

The Administrative and support staff consists of the administrative, communications and IT resources required to deliver in accordance with the purpose of the action. The administrative staff contribute with project management in relation to making sure the resources are spent in accordance with the intention of the budget and the Annex I of the Specific Grant Agreement. This covers amongst other tasks following up on total salary costs, managing travel costs for the different advice drafting-and expert groups and following up on other costs directly attributable to the action to make sure they comply with the financial regulations. Further, the administrative staff ensure that the required facilities are in place for meetings held in relation to the action such as making sure the relevant IT hardware and software facilities are available for the meetings and deliver technical support during meetings.

The IT Staff manage and maintain the Share Point sites for the relevant advice and working groups and manage and maintain the servers and storage facilities used to host data relevant to the agreement. The IT staff support IT software and hardware used in meetings relating to Advice together with the administrative staff.

The communications function manage advice and advisory related information on the ICES website and maintain the ICES library function facilitating traceability of past advice, manage advice expert group web pages and document repositories containing manuals and technical guidelines which are referred to and used in the advisory process, write and publish advice related news and advice explainers on the ICES website and share advice releases, advice related news and advice explainers on ICES social media channels.

Virtual meetings continue to substitute in-person meetings, and it is expected to continue to have an increased need for technical personnel to support virtual meetings in 2024. During 2020-2023 it has proven necessary to have increased personal costs in order to facilitate the online meetings.

### *1.3. Regional Database*

The data and advice staff manage a number of regional databases related to the preparation, quality control, ingestion and processing of input data to Advice. Further, staff establish tools facilitating quality assurance procedures, and other issues necessary to uphold the provision of ICES advice as transparent, legitimate, non-biased, and based on best available science

### *1.3. Specific DG MARE management*

Managing the DG MARE grant requires specific skills and time compared to other MoUs. The contribution to this end of the General Secretary consists of the overall managing of the Advice programme as well as representing the ICES advisory framework to outside stakeholders. Finance staff takes care of all specific management tasks related to budget, reporting to donor preparation, quality control and delivery of audit material for the external audit of the grant.

### *1.1-1.4 Quality Assurance:*

Quality assurance of the Advice is a continuous process, and relies on a number of technical systems as well as interactions with coordinating bodies to ensure Advice is delivered to an acceptable level of quality. The Data and Advice staff manage the Stock Assessment Graphs and Stock Information Database online portals to provide a comprehensive status of assessed stocks, with all supporting meta-data that ensure consistency and a means to generate new data calls based upon the most current available information. Confidence in the data and parameters used within an assessment are partly handled through the data systems (see next section), but in addition the Transparent Assessment Framework has been developed to have a more systematic and programmatic tool for recalculating an assessment, and also to making the modelling methods and assumptions more transparent to have a clearer labelling of the confidence in the Advice.

Further deliveries from Advice and Data staff under quality assurance include:

- Planning and executing benchmarks, which includes managing the setup of the data call, meetings and report of such a process
- Providing feedback to the Regional Coordination Groups (RCG), which involves compiling information from expert groups, databases and Advice, and then synthesizing this into documents and presentations delivered at the RCG meetings
- Collation and reporting on data transmission issues to JRC/STECF database

#### *1.1.-1.4 Data and Information Management:*

The data and advice staff manage a number of databases and online data portals related to the preparation, quality control, ingestion and processing of input data to Advice. These systems are integral to the Advice process, and include Fisheries dependent and independent data sources, sampling design, detailed and aggregated output data and data products, and fisheries assessment results. Examples of these portals include (but are not limited to) DATRAS, RDBES, Transparent Assessment Framework, Stock Assessment Graphs, Stock Information Database). Management of these portals includes maintenance, product development, vocabulary management, bug fixing, user helpdesk, attending and reporting to Advice related expert group meetings, support to the RCG's and STECF meetings, and the specification and processing of data calls to relevant parties.

#### *1.3 Equity fee included in Budget line "1.3 Regional Database and Specific DG MARE management"*

The equity fee is cost for development and maintenance of applications necessary to develop and maintain high-level advice for all advice requesters. The cost are approved by ICES Council, why recurrent advice requesters not being ICES members (paying National Contribution) shall contribute separately. According to previous correspondence and meetings in 2021, ICES have explained IGO's share of these costs are 45% of which DG MAREs share is 83%.

#### *2. Travel and meeting costs:*

The budget is based on the forecast pre Covid-19 restriction expecting to be back to more physical meetings.

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For physical meetings, ICES pays for travel and per diem costs for the ICES staff involved in Advice. ICES pays for travel and per diems for the participants in ACOM Advice Drafting Groups related to recurrent advice and for the ACOM Vice-Chairs and Chair as well as for the Chair and invited experts of the periodic Benchmark Groups. If physical meetings are required for Review Groups ICES pays for travel and per diem. Travel costs include travel for the ACOM Leadership in relation to dissemination among ACs and EU institutions.

All travel expenses claimed will be in accordance with the ICES Rules regarding Travel and Subsistence Allowances.

On rare occasions it is needed to rent outside meeting facilities and the costs for these will be based on the actual costs for renting the meeting facilities.

#### *1.5, 1.6 and 2.3 Special requests:*

The budget is split into personnel costs, honoraria and other costs. The number and scope of the special requests will vary from year to year. During the course of the year, this figure can be adjusted according to uptake of budget under all budget lines as done in previous agreements. The actual personnel costs reported for special requests will be based on the number of actual hours registered in the time keeping system for each request multiplied by the hourly salary rate. The actual costs for honoraria and travel will be based the total expenses incurred during the year in relation to the special requests. Travel expenses claimed will be in accordance with the ICES Rules regarding Travel and Subsistence Allowances.

The costs will be for both completed as well as ongoing requests during the budget period.

#### *3.1 Costs for IT infrastructure:*

The Advice activities are supported by the necessary IT infrastructure. The costs for IT infrastructure consist of costs for servers, storage facilities for SharePoint, network facilities, skype/webex facilities, backup facilities and printing facilities. The costs allocated to Advice is based on a share of the total costs. The share allocated to Advice will be based on the actual participants in meetings held for the printer facilities, the actual share of SharePoint sites dedicated to Advice and the actual number of conference participants on WebEx meetings relating to Advice.

#### *3.2 Audit:*

The budget includes estimated costs for an audit fee for the final grant audit.

## **SPECIFIC RULES**

### **CONFIDENTIALITY AND SECURITY (— ARTICLE 13)**

#### **EU classified information**

If EU classified information is used or generated by the action, it must be treated in accordance with the security classification guide (SCG) and security aspect letter (SAL) set out in Annex 1 and Decision 2015/444<sup>23</sup> and its implementing rules — until it is declassified.

Deliverables which contain EU classified information must be submitted according to special procedures agreed with the granting authority.

Action tasks involving EU classified information may be subcontracted only with prior explicit written approval from the granting authority and only to entities established in an EU Member State or in a non-EU country with a security of information agreement with the EU (or an administrative arrangement with the Commission).

EU classified information may not be disclosed to any third party (including participants involved in the action implementation) without prior explicit written approval from the granting authority.

### **ETHICS (— ARTICLE 14)**

#### **Ethics**

Actions involving activities raising ethics issues must be carried out in compliance with:

- ethical principles

and

- applicable EU, international or national law, including Directive 98/58<sup>24</sup>, Regulation 1099/2009<sup>25</sup>, and Regulation 889/2008<sup>26</sup>.

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<sup>23</sup> Commission Decision 2015/444/EC, Euratom of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

<sup>24</sup> Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)

<sup>25</sup> Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1)

<sup>26</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

The beneficiaries must pay particular attention to the principle of proportionality, the need to ensure protection of the environment and high levels of animal welfare and human health protection.

Before the beginning of an action task raising an ethical issue, the beneficiaries must have obtained all approvals or other mandatory documents needed for implementing the task, notably from any (national or local) ethics committee or other bodies.

The documents must be kept on file and be submitted upon request by the coordinator to the granting authority. If they are not in English, they must be submitted together with an English summary, which shows that the documents cover the action tasks in question and includes the conclusions of the committee or authority concerned (if any).

### **INTELLECTUAL PROPERTY RIGHTS (IPR) — BACKGROUND AND RESULTS — ACCESS RIGHTS AND RIGHTS OF USE (— ARTICLE 16)**

#### **List of background**

The beneficiaries must, where industrial and intellectual property rights (including rights of third parties) exist prior to the Agreement, establish a list of these pre-existing industrial and intellectual property rights, specifying the rights owners.

The coordinator must — before starting the action — submit this list to the granting authority

#### **Rights of use of the granting authority on results for information, communication, dissemination and publicity purposes**

The granting authority also has the right to exploit non-sensitive results of the action for information, communication, dissemination and publicity purposes, using any of the following modes:

- **use for its own purposes** (in particular, making them available to persons working for the granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services)
- **distribution to the public** in hard copies, in electronic or digital format, on the internet including social networks, as a downloadable or non-downloadable file
- **translation** (including inserting subtitles/dubbing) in all official languages of EU
- **storage** in paper, electronic or other form
- **archiving** in line with applicable document-management rules
- the right to authorise **third parties** to act on its behalf or sub-license to third parties, including if there is licensed background, any of the rights or modes of exploitation set out in this provision
- **processing**, analysing, aggregating the results and **producing derivative works**

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- **disseminating** the results in widely accessible databases or indexes (such as through 'open access' or 'open data' portals or similar repositories), whether free of charge or not.

The beneficiaries must ensure these rights of use for the whole duration they are protected by industrial or intellectual property rights.

If results are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the beneficiaries must ensure that they comply with their obligations under this Agreement (in particular, by obtaining the necessary licences and authorisations from the rights holders concerned).

## **COMMUNICATION, DISSEMINATION AND VISIBILITY (— ARTICLE 17)**

### **Additional communication and dissemination activities**

The beneficiaries must engage in the following additional communication and dissemination activities:

- **present the project** (including project summary, coordinator contact details, list of participants, European flag and funding statement and project results) on the beneficiaries' **websites or social media accounts**
- upload the public **project results** to the ICES online library.

## **SPECIFIC RULES FOR CARRYING OUT THE ACTION (— ARTICLE 18)**

### **EU restrictive measures**

The beneficiaries must ensure that the EU grant does not benefit any affiliated entities, associated partners, subcontractors or recipients of financial support to third parties that are subject to restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU).

## **GRANTS MANAGED OUTSIDE THE FUNDING & TENDERS PORTAL**

For grants managed outside the Funding & Tenders Portal (see Data Sheet, Point 1):

- communications (Article 36) must not be made through the Portal, but on paper or by e-mail to the following addresses:
  - for the beneficiary:

#### **ICES -International Council on the Exploration of the Sea**

Dr. Lotte Worsøe Clausen, Head of the Advice Department

H.C. Andersens Boulevard 44-46, 1553, Copenhagen V, Denmark

[lotte.worsoe.clausen@ices.dk](mailto:lotte.worsoe.clausen@ices.dk)

[advice@ices.dk](mailto:advice@ices.dk)

- for the granting authority : [MARE-SCIENTIFIC-ADVICE@ec.europa.eu](mailto:MARE-SCIENTIFIC-ADVICE@ec.europa.eu)  
[Agnieszka.SADOWSKA@ec.europa.eu](mailto:Agnieszka.SADOWSKA@ec.europa.eu)

- communications must be made in writing and clearly identify the grant agreement (project number and acronym)
- formal notifications must be either sent by:
  - o registered post with proof of delivery to the addresses above and will be considered to have been received either on the delivery date registered by the postal service or the deadline for collection at the post office,
  - o e-mail using qualified electronic signature within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation).
- standardised deliverables (Article 21.1) are not set out in the Portal Continuous Reporting tool, but in Annex 1; they must not be uploaded in this tool, but sent to the granting authority on paper or by e-mail using qualified electronic signature within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation)” (as formal notification)
- periodic reports and financial statements (Article 21.2) are not signed and submitted through the Portal Periodic Reporting tool, but must be sent to the granting authority on paper or by e-mail to the functional mailbox using qualified electronic signature within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation)” (as formal notification)
- amendments and supporting documents (Article 39) are not encoded and signed in the Portal Amendment tool, but must be signed on paper or using the qualified electronic signature within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) and sent to the granting authority (as formal notification); the same is true for accession forms (Articles 40 and 41).

However, the following rules still apply:

- \* information stored in the Participant Register must be kept up to date (Article 19.2)
- \* the templates published on Portal Reference Documents (Articles 21, 22 and 24) can be used
- \* data processing by the granting authority is subject to the Portal Privacy Statement (Article 15).

