

**ANNEX IV - ACCESSION FORM FOR BENEFICIARIES**

**TO THE GRANT AGREEMENT FISCALIS 2020 FOR 2018**

The Ministry of Finance of the Slovak Republic, public law body – budgetary organization, established in Štefanovičova 5, P. O. BOX 82, 817 82 Bratislava, ('the beneficiary'), represented for the purpose of signing this Accession Form by Mr Peter Kažimír, Deputy Prime Minister and Minister of Finance of the Slovak Republic,

hereby agrees

to become beneficiary in Grant Agreement No TAXUD/2018/DE/401 ('the Agreement') between the Coordinator, the Federal Public Service Finance of Belgium, and the European Union ('the EU'), represented by the European Commission ('the Commission') for the action entitled "2018 Joints Actions under Fiscalis 2020 programme" ('the action').

and mandates

the coordinator to submit and sign in its name and on its behalf any amendments to the Agreement, in accordance with Article II.13.

By signing this Accession Form, the beneficiary accepts the grant and agrees to implement the grant in accordance with the Agreement, with all the obligations and conditions it sets out.

Filled Financial Identification Form and Legal Entity Form are an integral part of this Accession Form.

Done in 3 copies, of which one shall be kept by the coordinator and one by the Ministry of Finance of the Slovak Republic, the third being sent to the Commission by the coordinator in accordance with Articles I.8 of the grant agreement.

**SIGNATURE**

For the beneficiary:

Deputy Prime Minister and Minister of Finance of the Slovak Republic Mr. Peter Kažimír

Done in English on

Stamp of the organisation

Attachment 1: Legal Entity Form

Attachment 2: Financial Identification Form



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
International and general affairs  
**Unit E1/E3**

## **GRANT AGREEMENT FOR AN ACTION WITH MULTIPLE BENEFICIARIES**

### **AGREEMENT NUMBER — TAXUD/2018/DE/401**

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

on the one part,

The European Union ('the Union'), represented by the European Commission ('the Commission'), represented for the purposes of signature of the Agreement by Mrs Sabine Henzler, Director of Directorate E "International and General Affairs" of the Taxation and Customs Union Directorate General,

and

on the other part,

1. 'the coordinator'

the Federal Public Service Finance of Belgium (SPF Finances)

represented for the purposes of signature of the Agreement by Mr Hans D'Hondt, President of the Management Committee

and the following other beneficiaries:

2. the national tax administrations of the other 27 Member States of the Union,

3. the national tax administrations of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey

duly represented for the signature of the Agreement by the coordinator by virtue of the accession form included in Annex IV.

Unless otherwise specified, references to 'beneficiary' and 'beneficiaries' include the coordinator.

The parties referred to above

HAVE AGREED

to the Special Conditions ('the Special Conditions') and the following Annexes:

Annex I Description of the action

Annex II General Conditions ('the General Conditions')

Annex III Estimated budget of the action

Annex IV Accession forms provided to the coordinator by the other beneficiaries

Annex V Reporting

Annex VI Financial modalities

1 - Unit costs for declaring daily allowances and accommodation costs (Table 1)

2 – Estimated amounts per beneficiary (Table 2)

which form an integral part of the Agreement.

The provisions in the Special Conditions of the Agreement take precedence over its Annexes.

The provisions in Annex II 'General Conditions' take precedence over the other Annexes.

## SPECIAL CONDITIONS

### TABLE OF CONTENTS

<b>SPECIAL CONDITIONS</b> .....	<b>4</b>
<b>TABLE OF CONTENTS</b> .....	<b>4</b>
Article I.1 — Subject matter of the agreement .....	5
Article I.2 — Entry into force and implementation period of the agreement .....	5
Article I.3 — Maximum amount and form of the grant.....	5
Article I.4 — Reporting — Requests for payment and supporting documents .....	6
I.4.1 Reporting periods .....	6
I.4.2 Request for second pre-financing and supplementary pre-financing payment and supporting documents .....	6
I.4.3 Request for interim payment and supporting documents .....	6
I.4.4 Request for payment of the balance and supporting documents .....	6
I.4.5 Information on cumulative expenditure incurred.....	7
I.4.6 Currency for requests for payment and financial statements and conversion into euro .....	7
I.4.7 Language of requests for payments, technical reports and financial statements .....	7
Article I.5 — Payments and Payment arrangements.....	7
I.5.1 Payments to be made.....	7
I.5.2 Pre-financing payments .....	8
I.5.3 Interim payment .....	8
I.5.4 Payment of the balance.....	8
I.5.5 Notification of amounts due .....	9
I.5.6 Interest on late payment .....	9
I.5.7 Currency for payments .....	9
I.5.8 Date of payment .....	9
I.5.9 Costs of payment transfers .....	9
I.5.10 Payments to the coordinator .....	10
Article I.6 — Bank account for payments.....	10
Article I.7 — Data controller, communication details of the parties .....	10
I.7.1 Data controller .....	10
I.7.2 Communication details of the Commission .....	10
I.7.3 Communication details of the beneficiaries .....	11
Article I.8 – Role of the beneficiaries .....	11
Article I.9 – Direct payments to the beneficiaries.....	12
Article I.10 — Special provisions on the financial responsibility for recoveries .....	12
Article I.11 — Ineligibility of value added tax .....	12
Article I.12 — Special provisions on budget transfers involving use of provisions for contingencies .....	12
Article I.13 — Settlement of disputes with non-EU beneficiaries.....	13

## ARTICLE I.1 — SUBJECT MATTER OF THE AGREEMENT

The Commission has decided to award a grant under the terms and conditions set out in the Special Conditions, the General Conditions and the other Annexes to the Agreement, for the *action* entitled "**2018 Joint Actions under the FISCALIS 2020 programme**", as described in Annex I.

By signing the Agreement or the Accession Form, the beneficiaries accept the grant and agree to implement the *action*, acting on their own responsibility.

## ARTICLE I.2 — ENTRY INTO FORCE AND IMPLEMENTATION PERIOD OF THE AGREEMENT

**I.2.1** The Agreement enters into force on the date on which the last party signs it.

**I.2.2** The *action* runs for **12 months** starting on 1 April 2018 until 31 March 2019.

## ARTICLE I.3 — MAXIMUM AMOUNT AND FORM OF THE GRANT

**I.3.1** The *maximum amount of the grant* is **EUR 4.470.000 (four million four hundred and seventy thousands euros)**

**I.3.2** The grant takes **the form of:**

- (a) the reimbursement of the eligible costs of the *action* ('reimbursement of eligible costs'), which are estimated at **EUR 4.470.000 (four million four hundred and seventy thousands euros)** and which are:
  - (i) actually incurred ('reimbursement of actual costs') for the following categories of costs:
    - (a) reimbursement of 100 % of the eligible costs actually incurred for the travel costs of the delegates of the beneficiaries,
    - (b) reimbursement of 100 % of the eligible costs actually incurred for the costs linked to the organisation of events in the framework of a given joint action;
    - (c) reimbursement of 50 % of the eligible costs actually incurred for direct personnel costs of officials of the beneficiaries participating as experts in eligible activities under Article 7 (1) a) vi) "Public administration capacity-building and supporting actions" of the Fiscalis 2020 Regulation<sup>1</sup>.

---

<sup>1</sup> *Fiscalis 2020: REGULATION (EU) No 1286/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20/12/2013, p. 25)*

- (ii) declared on the basis of unit costs ("reimbursement of unit costs") for daily allowances and accommodation costs for delegates of the beneficiaries, as referred to in Annex VI, Table 1.
  - (iii) reimbursement of lump sum costs: not applicable
  - (iv) reimbursement of flat-rate costs: not applicable
  - (v) reimbursement of costs declared on the basis of the beneficiary's usual cost accounting practices: not applicable
- (b) unit contribution: not applicable
  - (c) lump sum contribution: not applicable
  - (d) flat-rate contribution: not applicable

## **ARTICLE I.4 — REPORTING — REQUESTS FOR PAYMENT AND SUPPORTING DOCUMENTS**

### **I.4.1 Reporting periods**

The *action* has one reporting period from month 1 to month 12.

### **I.4.2 Request for supplementary pre-financing payment and supporting documents**

A request for supplementary pre-financing shall be made by a beneficiary, subject to having used at least 90% of the first pre-financing instalment and subject to having made a request for budget transfer according to Article I.12., concerning its budget allocation as specified in Annex VI, table 2.

The request shall be made at the latest before the 15 February 2019.

The request by the beneficiary must be accompanied by the supporting documents, as specified in Annex V.

### **I.4.3 Request for interim payment and supporting documents**

Not applicable

### **I.4.4 Request for payment of the balance and supporting documents**

Each beneficiary shall submit a request for payment of the balance for the sole reporting period set out in Article I.4.1.

This request must be accompanied by the annual financial report and the technical reports specified in Annex V.

By way of derogation from Article II.23, the annual financial reports shall be submitted by the beneficiary concerned at the latest on 30 June 2019. The technical reports shall be submitted as specified in Annex V.

As an exception, the beneficiaries and affiliated entities must not submit a certificate on the financial statements.

Each beneficiary must certify that the information provided in the request for payment of the balance is full, reliable and true.

Each beneficiary must also certify that the costs incurred can be considered eligible in accordance with the Agreement and that the request for payment is substantiated by adequate supporting documents that can be produced in the context of the checks or audits described in Article II.27.

#### **I.4.5 Information on cumulative expenditure incurred**

Not applicable

#### **I.4.6 Currency for requests for payment and financial statements and conversion into euro**

Requests for payment must be drafted in euros.

Beneficiaries and affiliated entities with general accounts in a currency other than the euro must convert costs incurred in another currency into euros at the monthly accounting rate established by the Commission and published on its website: [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)

The rate to be used shall be the rate applicable on the day when the event starts.

The starting dates of the events are indicated in ART2<sup>2</sup> and published monthly on PICS<sup>3</sup>.

For working visits, the rate to be used shall be the rate applicable on the day when the mission starts.

#### **I.4.7 Language of requests for payments, technical reports and financial statements**

All requests and reports must be submitted in English.

### **ARTICLE I.5 — PAYMENTS AND PAYMENT ARRANGEMENTS**

#### **I.5.1 Payments to be made**

The Commission must make the following payments to each of the beneficiaries:

- a first pre-financing payment;

---

<sup>2</sup> Activity Reporting Tool

<sup>3</sup> PICS: Programme Information and Collaboration Space

- a supplementary pre-financing payment, on the basis of the request for the pre-financing payment referred to in Article I.4.2;
- one payment of the balance, on the basis of the request for payment of the balance referred to in Article I.4.4.

### **I.5.2 Pre-financing payments**

The aim of the pre-financing is to provide the beneficiaries with a float. The pre-financing remains the property of the Union until it is cleared against interim payments or, if it is not cleared against interim payments, until the payment of the balance.

The Commission must make a first pre-financing payment to each of the beneficiaries of 95% of the estimated amount per beneficiary as specified in Table 2 of Annex VI, within 30 calendar days from the entry into force of the agreement in the case of the coordinator, and within 30 days after reception of the accession form (Annex IV) by the Commission in the case of the other beneficiaries, except if Article II.24.1 applies.

The Commission may make a supplementary pre-financing payment to each of the eligible beneficiaries within 30 calendar days from when the Commission receives the request for supplementary pre-financing payment referred to in Article I.4.2, except if Article II.24.1 or II.24.2 apply. The amount of the supplementary pre-financing corresponds to the difference between 95% of the revised budget allocation for the said beneficiaries, according to Article I.12., and the first pre-financing payments already received.

### **I.5.3 Interim payment**

Not applicable

### **I.5.4 Payment of the balance**

The payment of the balance reimburses or covers the remaining part of the eligible costs incurred by the beneficiaries for the implementation of the *action*.

If the total amount of earlier payments is greater than the final amount of the grant determined in accordance with Article II.25, the payment of the balance takes the form of a recovery as provided for by Article II.26.

If the total amount of earlier payments is lower than the final amount of the grant determined in accordance with Article II.25, the Commission must pay the balance within 90 calendar days from when it receives the documents referred to in Article I.4.4, except if Article II.24.1 or II.24.2 apply.

Payment is subject to the approval of the request for payment of the balance and of the accompanying documents. Their approval does not imply recognition of the compliance, authenticity, completeness or correctness of their content.

The Commission determines the amount due as the balance by deducting the total amount of pre-financing and interim payments (if any) already made from the final amount of the grant determined in accordance with Article II.25.



The amount to be paid may, however, be offset, without the beneficiary's consent, against any other amount owed by the beneficiary to the Commission or to an executive agency (under the EU or Euratom budget), up to the maximum contribution indicated for that beneficiary, in the estimated budget in Annex VI, table 2.

### **I.5.5 Notification of amounts due**

The Commission must send a *notification* to each of the beneficiaries:

- (a) informing it of the amount due; and
- (b) specifying whether the notification concerns a further pre-financing payment, an interim payment or the payment of the balance.

For the payment of the balance, the Commission must also specify the final amount of the grant determined in accordance with Article II.25.

### **I.5.6 Interest on late payment**

If the Commission does not pay within the time limits for payment, the beneficiaries are entitled to late-payment interest at the rate applied by the European Central Bank for its main refinancing operations in euros ('the reference rate'), plus three and a half points. The reference rate is the rate in force on the first day of the month in which the time limit for payment expires, as published in the C series of the *Official Journal of the European Union*.

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

If the Commission suspends the time limit for payment as provided for in Article II.24.2 or if it suspends an actual payments as provided for in Article II.24.1, these actions may not be considered as cases of late payment.

Late-payment interest covers the period running from the day following the due date for payment, up to and including the date of actual payment as established in Article I.5.8. The Commission does not consider payable interest when determining the final amount of grant within the meaning of Article II.25.

As an exception to the first subparagraph, if the calculated interest is lower than or equal to EUR 200, it must be paid to the beneficiary only if the beneficiary requests it within two months of receiving late payment.

### **I.5.7 Currency for payments**

The Commission must make payments in euros.

### **I.5.8 Date of payment**

Payments by the Commission are considered to have been carried out on the date when they are debited to its account.

### **I.5.9 Costs of payment transfers**

Costs of the payment transfers are borne as follows:

- (a) the Commission bears the costs of transfer charged by its bank;
- (b) the beneficiary bears the costs of transfer charged by its bank;
- (c) the party causing a repetition of a transfer bears all costs of repeated transfers.

#### **I.5.10 Payments to the coordinator**

Not applicable

### **ARTICLE I.6 — BANK ACCOUNT FOR PAYMENTS**

All payments shall be made directly to each beneficiary's bank account denominated in Euros, as indicated below for the coordinator, and as indicated in the financial identification form attached to Annex IV (Accession Forms) for the other beneficiaries.

Name of bank:

Banque de la Poste; Address of branch:  
Tour Brouckère, Bld Anspach 1, 1100 Brussels

Precise denomination of the account holder:

SPF (Service Public Fédéral) Finance (of Belgium)  
SPF Finances - Subsidies européens ; Bld Du Roi Albert II, 33 bte 789, 1030 Brussels

Full account number (including bank codes):

BIC: PCHQBEBB  
IBAN account code: BE21 6792 0040 2303

### **ARTICLE I.7 — DATA CONTROLLER, COMMUNICATION DETAILS OF THE PARTIES**

#### **I.7.1 Data controller**

The entity acting as a data controller as provided for in Article II.7 is: Head of Unit E1 – Human Resources and Finances of the Taxation and Customs Union Directorate General.

#### **I.7.2 Communication details of the Commission**

Any communication addressed to the Commission must be sent to the following address:

**Financial correspondence** must be addressed to:

To the attention of: Mr Stéphane Mail-Fouilleul  
European Commission

Directorate-General Taxation and Customs Union  
Directorate E - Unit E1 - Human Resources and Finances - J79 6/40  
B-1049 Brussels  
E-mail address: [taxud-grants@ec.europa.eu](mailto:taxud-grants@ec.europa.eu)

All **other correspondence** must be sent to:

To the attention of: Mrs Michèle Pérolat  
European Commission  
Directorate-General for Taxation and Customs Union  
Directorate E - Unit E3 - Management of programmes and EU training – J79 5/35  
BE-1049 Brussels  
E-mail address: [taxud-fiscalis@ec.europa.eu](mailto:taxud-fiscalis@ec.europa.eu)

### **I.7.3 Communication details of the beneficiaries**

Any communication from the Commission to the beneficiaries must be sent to the address(es) indicated in Annex IV (Accession form).

## **ARTICLE I.8 – ROLE OF THE BENEFICIARIES**

By way of derogation from Article II.2, the following provisions shall apply:

- (1) The co-ordinator shall:
  - a) be in charge of collecting the accession forms signed by the other beneficiaries;
  - b) send to the Commission one duly completed and signed accession form per beneficiary. The two remaining originals shall be kept, one by the co-ordinator to be made available for consultation at the request of any other beneficiary, and the other by the beneficiary concerned.
  - c) sign on behalf of all beneficiaries any amendments to this Agreement.
  
- (2) Each beneficiary shall:
  - a) communicate directly with the Commission in accordance with Article I.7.;
  - b) inform the Commission immediately of any change in its legal, financial, technical, organisational or ownership situation or of any change in its name, address, e-mail or legal representative;
  - c) be responsible for supplying all documents and information to the Commission which may be required under the agreement, in particular in relation to the requests for payment;
  - d) submit the financial reports and the payment requests in accordance with Articles I.4 and technical reports in accordance with Annex V;

- e) provide all the necessary documents in the event of audits, checks and evaluations, in accordance with Articles II.27.
- f) in the case of the national tax administrations being connected to the Common Communication Network/Common Systems Interface (CCN/CSI), be responsible for the correct and continuous insertion of data into the IT application called "Activity Reporting Tool" (hereinafter, ART2).

#### **ARTICLE I.9 – DIRECT PAYMENTS TO THE BENEFICIARIES**

Payments shall be made directly to each beneficiary in accordance with the provisions of Articles I.4 and I.5.

#### **ARTICLE I.10 — SPECIAL PROVISIONS ON THE FINANCIAL RESPONSIBILITY FOR RECOVERIES**

The financial responsibility of each beneficiary is limited to its own debt, including any amount unduly paid by the Commission as a contribution towards the costs incurred by its affiliated entities.

Point (c) of the third paragraph of Article II.26.3 does not apply.

#### **ARTICLE I.11 — INELIGIBILITY OF VALUE ADDED TAX**

As an exception to Article II.19.2(h), value added tax (VAT) paid by the beneficiaries of the Member States is not eligible under the Agreement.

#### **ARTICLE I.12 — SPECIAL PROVISIONS ON BUDGET TRANSFERS INVOLVING USE OF PROVISIONS FOR CONTINGENCIES**

As an exception to the first subparagraph of Article II.22, any use of the provisions for contingencies included in the estimated budget in Annex III must be approved by the Commission.

As an exception to the third subparagraph of Article II.22, any change, approved by the Commission, of the value of the contribution to which each of the beneficiary is entitled does not need an amendment as provided for in Article II.13.

Any request by a beneficiary for budget transfers leading to a revision (increase) of its budget allocation specified in Annex VI, table 2 shall be made at the latest before the 15 February 2019. It must be accompanied by the documents specified in Annex V. This request must be accepted by the Commission and shall not affect the implementation of the action.

**ARTICLE I.13 — SETTLEMENT OF DISPUTES WITH NON-EU BENEFICIARIES**

This provision applies where a beneficiary is legally established in a country other than a Member State of the European Union (the ‘non-EU beneficiary’).

As an exception to Article II.18.2, any of the parties (the Commission or the non-EU beneficiary) may bring before the Belgian Courts any dispute between them concerning the interpretation, application or validity of the Agreement, if such dispute cannot be settled amicably.

Where one party has brought proceedings before the Belgian Courts, the other party may not bring a claim arising from the interpretation, application or validity of the Agreement in any other court than the Belgian Courts before which the proceedings have already been brought.]

**SIGNATURES**

For the coordinator

For the Commission

Hans D'HONDT

Sabine HENZLER

[signature]

[signature]

Done at ....., on .....

Done at ....., on .....

In duplicate in English

## ANNEX I - DESCRIPTION OF THE ACTION

### **Joint Actions activities 2018 under Fiscalis 2020 programme for the period 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019 (Fiscalis 2020 projects pursued for 2018)**

#### **1. *Support the fight against tax fraud, tax evasion and aggressive tax planning***

In line with the EU's top political priorities<sup>45</sup>, EU coordinated action is essential to securing greater fairness and economic efficiency in the internal market. Tax fraud and tax evasion threaten the fairness and the economic efficiency and limit the capacity of EU countries to collect taxes and implement their economic and social policies. As the problem knows no borders, it can only be solved effectively with concerted and joint effort amongst Member States and coordinated approach in the administrative cooperation with third countries. The activities organised under this heading will support this cooperation amongst Member States to combat tax fraud and tax evasion<sup>6</sup>, by ensuring tax transparency to fight tax evasion and avoidance<sup>7</sup> and a fair and efficient corporate tax system in the EU<sup>8</sup> as well as by preventing aggressive tax planning, boosting transparency and creating a level playing field for all businesses<sup>9</sup>. Tackling fraud, helping digital economy and e-commerce<sup>10</sup> with regard to VAT also remain high priorities on the EU agenda and the projects herein aim at addressing these issues.

##### **1.1. *The fight against tax fraud, tax evasion and aggressive tax planning – Value Added Tax***

The Commission published in February 2014 two reports, which listed a number of recommendations to improve the administrative cooperation and the fight against fraud.

---

<sup>4</sup> Doc. EUCO 79/14 CO EUR 4 CONCL 2, point 2

<sup>5</sup> Doc. EUCO 237/14 CO EUR 16 CONCL 6, point 3

<sup>6</sup> COM (2012) 351 final - Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries and COM (2012) 722 final - Communication from the Commission to the European Parliament and the Council - An Action Plan to strengthen the fight against tax fraud and tax evasion

<sup>7</sup> COM (2015) 136 final - Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, 18.3.2015

<sup>8</sup> COM (2015) 302 final - Communication from the Commission to the European Parliament and the Council - A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action

<sup>9</sup> COM(2016) 23 final - Communication from the Commission to the European Parliament and the Council: Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, 28.1.2016

<sup>10</sup> COM(2016) 148 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT Towards a single EU VAT area - Time to decide, 7.4.2016

One report concerns the functioning of the administrative cooperation (the Article 59 Report<sup>11</sup>) and the other concerns the VAT collection and control procedures (the Article 12 Report)<sup>12</sup>. Together with the VAT gap study<sup>13</sup>, these reports gave an overview of the problem that VAT fraud continues to represent in the EU. They also looked at the way in which Member States tackle this cross-border problem with the tools offered to them through the Union legislation on administrative cooperation in the field of VAT and VAT collection and at the control procedures used in Member States. On 7 April 2016, the Commission adopted an Action Plan on VAT – Towards a single EU VAT area – Time to decide. The Action Plan sets out immediate and urgent actions to tackle the VAT gap. In this framework, the Commission proposed 20 measures to tackle the VAT gap by enhancing administrative cooperation, collectively improving the performance of European tax administrations and improving voluntary compliance. The action plan also sets out actions to adapt the VAT system to the digital economy and the needs of SMEs. It provides clear orientations towards a robust single European VAT area in relation to the definitive VAT system for cross-border supplies. In this context, the Commission is assessing and reviewing the instruments of administrative cooperation in the field of VAT provided for in the Council Regulation (EU) No 904/2010 and shall take further initiatives.

Furthermore, in the area of criminal law, Directive (EU) 2017/1317 on the fight against fraud to the Union's financial interests by means of criminal law was adopted on 5 July 2017 and provides for minimum rules on the definition of criminal offences against the Union's financial interests, including serious EU-wide VAT fraud. These criminal offences will be investigated and prosecuted by the European Public Prosecutor's Office (EPPO), in line with Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), adopted on 12 October 2017 by twenty Member States.

## 1.2. *The fight against tax fraud, tax evasion and aggressive tax planning – Excise duties*

Excise fraud is a growing issue costing Member States billions in un-collected taxes and, in certain cases, threatening the EU citizens' health and environment. Excise goods are particularly lucrative for organized crime groups due to potentially enormous profits that can be earned with fraud. Despite Member States having tools to monitor the movement of certain types of excise goods, excise fraud is still a major problem. The reason is that the tools can be abused and certain categories of products that could be put to excisable use are not moved under those tools. In addition, there is a different level of interest among different Member States towards excise fraud as different levels

---

<sup>11</sup> COM(2014) 71 final - Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax, 12.2.2014

<sup>12</sup> COM(2014) 69 final - Report from the Commission to the Council and the European Parliament - Seventh report under Article 12 of Regulation (EEC, Euratom) n° 1553/89 on VAT collection and control procedures, 12.2.2014

<sup>13</sup> [http://ec.europa.eu/taxation\\_customs/common/publications/studies/index\\_en.htm](http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm)

of taxation exist and, as a result, different perceptions of the problem. In addition, there are substantial differences in control practices and processes for granting authorisations among Member States. Therefore, there is room for improvement in gathering good practice and providing guidance on what is the essence of the problem and how it could be dealt with.

*1.3. The fight against tax fraud, tax evasion and aggressive tax planning – Direct taxes and other taxes*

In its Communication on tax transparency to fight tax evasion and avoidance<sup>14</sup>, the Commission listed six measures, i.e.: establishing transparency for tax rulings; streamlining legislation on the automatic exchange of information; assessing potential further transparency actions; reviewing the Code of Conduct on Business Taxation; working towards better quantification of the tax gap and promoting greater tax transparency internationally. This Communication was followed by a detailed Action Plan on corporate taxation which identifies 5 key areas where EU action would be the most effective way to tackle corporate tax challenges and to target particular types of abuse: the Common Corporate Tax Base (CCTB), ensuring fair taxation where profits are made, additional measures for a better business environment, further progress on tax transparency and EU tools for coordination. Furthermore, the Commission released a chapeau communication<sup>15</sup> to kick-off an anti-tax avoidance package for fairer, simpler and more effective corporate taxation. The overall package aims at preventing aggressive tax planning, boost tax transparency and create a level playing field for all businesses to ensure that companies pay tax in the country where profits are made. The key features of the package include legally-binding measures, recently adopted<sup>16</sup>, to block the most common methods used by companies to avoid paying tax; a recommendation to Member States on how to prevent tax treaty abuse; a proposal for Member States to share tax-related information on multinationals operating in the EU; actions to promote tax good governance internationally and a new EU process for listing third countries that refuse to play fair.

Finally, the global economic interdependence and the interaction of national tax rules can lead to double taxation or double non-taxation of multinationals. In the area of transfer pricing, multinational enterprises and tax administrations are confronted with practical problems in pricing cross-border transactions between associated enterprises for tax purposes. There is also empirical evidence of profit shifting to low tax jurisdictions through manipulation of the transfer pricing system. Therefore, programme initiatives are required to help identify solutions for cross-border tax problems such as

---

<sup>14</sup> COM (2015) 136 final - Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, 18.3.2015

<sup>15</sup> COM(2016) 23 final - Communication from the Commission to the European Parliament and the Council: Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, 28.1.2016

<sup>16</sup> Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, 19.7.2016, OJ L 193/1



double taxation and problems related to collecting taxes due by companies established in another Member State.

#### 1.4. *Risk management*

Improving risk management is an important element of an effective strategy to fight against tax fraud and tax evasion. Tax administrations have to deal with a wide scope and a high number of risks. This may concern *inter alia* risk of non-compliance including risk of tax fraud and risk of insolvency by the taxpayer. In order to achieve a higher level of risk management in all Member States and to assist Member States to reduce the tax gap, the Commission will further support the risk management area by sharing good administrative practices. Special focus should be put on risk management in relation to the automatic exchange of information further to the exchanges under the EU legislation on administrative cooperation. In order to enhance the effectiveness of both EU and Member State actions, as well as to limit the burden placed on Member States by the obligations to provide information and other forms of mutual assistance, it should be explored if and how all information exchanged between Member States can be used across all tax fields (registration, declaration, collection, enforcement). This will avoid Member States asking other Member States information that they already have received, but under a different legal base. At the same time, using all information available will improve quality of the risk management tools.

#### 1.5. *Cooperation between tax administrations and other administrations and authorities, including customs*

The primary goal of the tax authorities is to collect the taxes in accordance with the law and to fight VAT fraud with administrative measures. However, in some most serious cases criminal organisations establish sophisticated schemes to extort money from the national budgets at a bigger scale through MTIC fraud, reinvest the proceeds of tax fraud in other criminal activities or money laundering. This requires that, when collecting taxes and fighting fraud in a global economic environment, on the one hand, tax administrations cooperate and assist each other and on the other hand strong cooperation with other administrations and authorities.

The adoption of Directive (EU) 2017/1317 on the fight against fraud to the Union's financial interests by means of criminal law on 5 July 2017 and the adoption of Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') on 12 October 2017 by twenty Member States, are important for this purpose.

Tax administrations should make use of strategies and structures to cooperate with other national administrations and authorities and EU services such as to ensure that non-compliance with tax law or tax fraud is kept to the minimum possible. The VAT action plan - Towards a single EU VAT area - Time to decide - proposes actions to support a deeper cooperation between different authorities.

In particular, the cooperation between tax and customs authorities in specific areas of mutual concern should be enhanced in order to fight against tax fraud, tax evasion and aggressive tax planning and to facilitate legitimate trade. The European Court of Auditors also issued observations and recommendations on the necessity to address the lack of cooperation and overlapping competences of administrative, judicial and law

enforcement authorities to fight against VAT fraud<sup>17</sup> and the misuse of the customs 42 procedure<sup>18</sup>.

**2. *Support the implementation of Union law in the field of taxation by securing exchange of information via the European Information Systems building***

This heading includes projects that aim to support the development, maintenance and operation of European Information Systems (EIS). The EIS play a vital role in interconnecting tax authorities and thus facilitating the coexistence of 28 taxation systems in the Union. They allow information to be exchanged rapidly and in a common format that can be recognised by all Member States. A closed and secure Common Communication Network/Common Systems Interface (CCN/CSI) enables this information exchange. This heading also addresses the issue that tax EIS or national IT systems are often developed in isolation both from a geographical and reusability perspective for which alternative approaches are being put in place through the programme. To enhance the fight against in particular VAT fraud, smooth exchange of information, including by exploring interconnectivity possibilities with the European Public Prosecutor's Office, is vital and should be envisaged.

**2.1. *Development, operation and maintenance of and horizontal support to European Information Systems (EIS)***

To implement the EU tax policy, the development, operation and maintenance of and horizontal support to existing or new European Information Systems (EIS) should be carried out. The continuity, integrity and availability of the existing IT systems and their corrective maintenance and evolution should be ensured. An operational environment needs to be available which meets the EIS requirements.

Moreover, it is necessary to ensure that an overall quality of the EIS is achieved through maturity improvement. Efficient management of projects, timely deliverables and respect of the budget are to be achieved. The services should be delivered according to expectations within the framework of the TEMPO methodology. Security requirements should be fulfilled. The taxation EIS security policy should respect the taxation legal instruments. The use of standards and best practices, including for the security aspects of the development, deployment and operations of the EIS for taxation, needs to be further supported and enhanced.

Finally, a central application for e-forms will replace the current e-forms applications for which the development, operation and maintenance nationally imply heavy national costs and are time consuming. In addition, such IT platform could be used for other purposes such as the quick update of the information in country profiles or as a management and statistical tool.

---

<sup>17</sup> 2015 Special Report Tackling intra-Community VAT fraud: More action needed

<sup>18</sup> Customs procedure 4200 (warehousing) is referring to customs control for excisable goods. It covers the importation of goods followed by the intra-community transactions.

## 2.2. *IT collaboration*

Currently, the tax EIS are at national level mostly developed in isolation both from a geographical and reusability perspective. This practice impairs the capacity of IT to deliver in years to come. Closer collaboration across taxation domains and across Member States is expected to merge requirements and expertise and thereby significantly increase cost-effectiveness of tax EIS. A managed IT collaboration will allow increasing the number of IT activities shared between the Member States as well as increasing the number of reusable components across the taxation areas. This will reduce the costs for IT implementation, deployment and operation in the Member States while offering increased agility in responding to the EU policy expectation.

The Commission will initiate and trigger IT collaboration initiatives in a managed way, and act as a catalyst to make IT collaboration effective and efficient.

## 3. *Support the implementation of Union law in the field of taxation by supporting administrative cooperation*

In a global environment, tax fraud and tax evasion appear not only within a country but also across countries and beyond the EU. Uncoordinated, single national actions to fight against tax fraud and evasion and recover the tax due would not be effective. It is important that countries coordinate and exchange information with each other. This heading contains therefore projects that support the administrative cooperation amongst Member States and with third countries as provided for by the EU law.

### 3.1. *Administrative cooperation between Member States and with third countries – horizontal actions*

The Union legislation on administrative cooperation and fight against fraud in the field of indirect and direct taxes provides the Member States with the legal and practical instruments and tools to engage in effective administrative cooperation (Council Regulation (EU) No 904/2010<sup>19</sup>, Council Regulation (EU) No 389/2012<sup>20</sup> and Council Directive 2011/16/EU<sup>21</sup> (DAC1) and their amendments). In particular, in the area of direct taxation, the internal market requirements and the increased globalisation brought developments in the legal provisions governing the area. Firstly, Council Directive 2011/16/EU (DAC1) introduced the automatic exchange of information with regard to categories of income and capital. Secondly, as part of the intensified fight against tax

---

<sup>19</sup> Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast) (OJ L 268/1, 12.10.2010)

<sup>20</sup> Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121/1, 8.5.2012)

<sup>21</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64/1, 11.3.2011)

evasion, Directive 2014/107/EU<sup>22</sup> (DAC2) extended the automatic exchange of information to financial items between EU tax administrations. Thirdly, it appeared necessary within the EU to ensure a more systematic and binding approach to information exchange on advance cross-border rulings and advance pricing arrangements. Directive 2015/2376/EU<sup>23</sup> (DAC3) introduced the automatic exchange of information in this area. Directive 2016/881/EU (DAC4) introduces the country-by-country reporting on certain financial information, in line with the international developments in the OECD, i.e. Action 13 of the OECD's Action Plan on Base Erosion Profit Shifting (BEPS). Finally, the proposal COM(2017) 335 final introduces new transparency rules for intermediaries that design or sell potentially harmful tax schemes (DAC6).

At international level and given its long-standing experience in administrative cooperation, the EU tackles tax fraud and tax evasion by bringing its expertise and by taking an active part in the work carried out by the OECD Working Parties 2 and 10 and the Global Forum on Transparency and Exchange of Information for Tax Purposes ("the Global Forum"). Those fora are in charge of the implementation among their members of the international standards on transparency and exchange of information. Furthermore, as Member States work to coordinate their corporate tax policies within the Single Market, in order to counter-act abusive tax practices and ensure effective taxation, they also need to address their divergent approaches to tackling external base erosion threats. A Commission Communication<sup>24</sup> proposed in 2016 a framework for a new EU external strategy for effective taxation. In the Communication, key measures are identified that can help EU to promote tax good governance globally, tackle external base erosion threats and ensure a level playing field for all businesses.

### 3.2. *Administrative cooperation between Member States and with third countries – exchange of information*

Under the Union legislation on administrative cooperation, the Commission is assisting Member States in their efforts to engage in effective administrative cooperation by providing them with the practical tools and instruments they need, such as electronic formats for exchange of information and secure channels of communication. It is necessary to improve the existing instruments for exchange of information and develop new ones according to the evolution of the legislation, and promote the most effective use of practical IT tools.

In the field of direct taxation, administrative cooperation with third countries is also important, as taxpayers become more mobile, the number of cross-border transactions increase and capital markets become global. Therefore, many initiatives are taken on

---

<sup>22</sup> Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359/1, 16.12.2014)

<sup>23</sup> Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, 18.12.2015, OJ L 332/1

<sup>24</sup> COM(2016) 24 final, Communication from the Commission to the European Parliament and the Council on an External Strategy for Effective Taxation, 28.1.2016

the international scene, e.g. the Standard on the Automatic Exchange of Financial Account Information and BEPS. The Commission will assist the Member States in the proper and timely implementation of these actions in the EU.

In the field of indirect taxation, the report from the Commission concerning administrative cooperation and combating fraud in the field of VAT (COM (2014) 71)<sup>25</sup> highlighted that an approach coordinated at EU level to establish administrative cooperation with third countries in the area of VAT would be a response to the diverging manner in which the Member States arrange their contacts with third countries at present.

### 3.3. *Means of administrative cooperation other than exchange of information*

Besides the exchange of information, the Union legislation on administrative cooperation provides to Member States also other means of administrative cooperation, i.e. multilateral controls (MLC) and presences in administrative offices and participation in administrative enquiries (PAOE). The use of these means of administrative cooperation and their operation has to be enhanced by identifying and disseminating good practice as regards their organisation for all tax related areas, through better project management techniques, improved communication and enhanced use of risk criteria and success indicators.

### 3.4. *Mutual recovery assistance and national tax collection and recovery*

Since 1 January 2012, Member States apply Council Directive 2010/24/EU for mutual recovery assistance<sup>26</sup>. An evaluation report on the use of this Directive has been presented to the Council and the European Parliament in 2017. The conclusions of this report and the orientations provided by the debate in the Council and the European Parliament should help steering the Fiscalis 2020 activities developed in 2018 with regard to tax collection and recovery.

## 4. ***Support the implementation of Union law by enhancing administrative capacity of participating countries with a view to assisting in reducing administrative burden of tax authorities and compliance costs for taxpayers***

Tax administrations and tax systems of participating countries should be supported and improved on the one hand, to deliver the best results for the tax administrations and the tax payers, and on the other hand, to enhance the relationship between the tax authorities and the tax payers. This heading contains projects aiming at these purposes.

### 4.1. *Well-functioning tax systems in programme participating countries*

Tax systems should be made more growth-friendly to promote job creation and investment and to facilitate tax collection. It is important to reduce costs and complexity

---

<sup>25</sup> Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax

<sup>26</sup> Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84/1, 31.3.2010)

of tax systems, while making them more efficient. The Commission will encourage and support exchange of best practices amongst the countries in need of reinforcing their tax systems to boost growth friendly fiscal consolidation while increasing compliance and reducing costs for taxpayers and tax administrations. Coordination for the purpose of ensuring complementarity between Fiscalis 2020 and the Structural Reform Programme is regularly taking place to deal with the technical assistance requests from Member States in the tax field.

#### 4.2. *Well-functioning tax administrations in programme participating countries*

Effective and efficient tax administrations are key in collecting the taxes due. Tax administrations should be solid in terms of structural mechanisms and all should be brought on the same level playing field to ensure a smooth cooperation and the co-existence of diverse tax systems in the internal market. Furthermore, building trusted tax administrations and related systems is critical to ensure a good relationship with the taxpayers. It is important to remove tax disincentives to the exercise by EU citizens of their right to free movement within the internal market such as the absence of information that Union citizens often face when active across borders within the Union. Communicating effectively on the activities of tax administrations particularly in relation to information for citizens will be an important element in achieving these goals. Communication on new actions and developments will be of particular importance.

In the context of the reviews of the Economic Adjustment Programmes, the enlargement process and on request of a Member State, the Commission is providing technical assistance (TA) on tax administration. TA on tax administration focusses on the internal organisation of the revenue administration, the implementation of tax legislation and procedural aspects of collecting taxes. It aims to assist countries in improving the effectiveness of their tax administration and to increase tax compliance. In the last years, the programme is being used for several TA missions to participating countries. Specific support can also be provided to pool good practices to deal with the recommendations on revenue administration addressed to one or several Member States. Coordination for the purpose of ensuring complementarity between Fiscalis 2020 and the Structural Reform Programme is regularly taking place to deal with the technical assistance requests from Member States in the tax field.

#### 4.3. *Training and competency building*

Training and competence development for tax professionals in the European Union follow by nature specific national educational and human resource building concepts of individual national tax administrations and are in consequence highly fragmented across the European Union. From an EU perspective, the resulting difference in staff performance requires more common training and competency-building reference benchmarks to align levels of knowledge and skills of tax professionals and thus contribute to a more consistent tax performance level across the European Union.

As boosting education and training of public sector staff is today also in the field of taxation acknowledged as being an essential pillar of efficient and effective administrative capacity building within the EU, a multi-annual EU tax training & staff development action plan is put in place in cooperation between the Commission and national tax administrations for implementation from 2017 to 2020. It is the goal of this action plan to support the optimisation of current and future education and learning

capacity of the European Union's tax administrations, by providing a framework for a common training and education infrastructure that supports Member States in ensuring that their staff has the skills and knowledge sets they need to deliver optimal and more uniform tax services and to prepare the profession as well as their administrations for the future challenges that taxation is facing.

The EU Tax Training action plan (2017 - 2020) targets four key objectives:

- (1) Providing EU reference standards through European Competency Frameworks for the tax profession
- (2) Supporting common tax educational reference programmes (vocational, academic, leadership)
- (3) Fostering shared training and staff development
- (4) Enhancing common training infrastructure, networking and communication

Within this scope, the EU Training focus lies on developing integrated training and staff performance building concepts for EU tax administrations. This will be further supported by developing adequate and innovative common training support solutions (eLearning/ eBooks/webinars...) to support the consistent implementation of legislative and operational tax activities EU-wide in an effective and efficient way.

Priority training support in 2018 is given to tax subject areas, which are flagged (under the various subject matter projects) throughout this document, and which require further consistency in tax staff performance, implementation support for new or amended common legislation or enhanced need for union-wide sharing of national best practise and tools.

#### 4.4. *Operational procedures and working methods*

Common understanding and coordinated and improved application of working methods in operational procedures require intensive and systematic cooperation, exchange of information and sharing of good practices among the tax officials who carry out operational tasks. Among others, exchanging good practices on how to identify cross-border taxpayers in the context of the automatic exchange of information can lead to better tax administration and enforcement and to more efficient tax collection, thereby contributing to reduce the tax gap.

Modern technologies, concepts and approaches can facilitate tax administrations in performing everyday tasks to effectively meet their strategic challenges with available resources.

The administrative capacity of the Member States should be reinforced by encouraging the use of electronic audit techniques in the participating countries and identifying related good practices. It is intended to maintain and improve a permanent communication and exchange platform for the development of common approaches towards e-auditing.

## 5. *Support the implementation of Union law and legislation*

This heading of the Annual Work Programme contains projects that are aimed to enhance the understanding of EU tax law, in all taxation domains with a view to support its implementation and reform. Programme activities are organised in particular to address the constant developments in the area of tax legislation and evolution of the application of EU law by the courts of Member States and the Court of Justice of the European Union.

### 5.1. *Consistent implementation of Union law in the field of VAT*

The Commission supports a consistent understanding and implementation of the EU VAT legislation (i.e. Council Directive 2006/112/EC on the common system of value added tax<sup>27</sup>, and its implementing provisions) and case law of the Court of Justice of the European Union.

There is a genuine need to address in a systematic way all conflicts of law due to national divergences, in particular in the interpretation of the place of supply rules, and to provide for a dialogue between Member States and stakeholders on Union law in the field of VAT implementation and evolution.

In response to the action plan on VAT, adopted by the Commission on 7 April 2016<sup>28</sup>, that presented measures to modernise VAT in the EU, the following actions have already been taken in 2016 and 2017:

- A future definitive EU VAT system for cross-border trade to reduce opportunities for fraud
- Immediate measures to tackle VAT fraud under the current rules
- More autonomy for Member States to choose their own VAT rates policy
- Support for e-commerce and SMEs

Further steps will be necessary to improve the Union VAT system in order to achieve a single EU VAT area for which a dialogue with Member States and other stakeholders is needed.

### 5.2. *Consistent implementation of Union law in the field of excise duties*

Excise goods that are moved from one Member State to other Member States can be subject to different national procedures and differing interpretations of Union law. A

---

<sup>27</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

<sup>28</sup> COM (2016) 148 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide. 7.4.2016.



consistent implementation of Union law (including of Council Directive 2008/118/EC<sup>29</sup> – General arrangements for excise duties) in this area is needed, both in the interests of trade facilitation and to assist Member States to ensure the compliance of traders with the law.

A proposal for the revision of Directive 2008/118/EC, accompanied by an Impact Assessment Report will be presented to the Council and the Parliament in the first half of 2018. Measures will possibly be produced for the improvement of connections with customs procedures (import, export, transit, inward processing) as well as improvements particularly relevant to small businesses.

In the area of energy, in order to follow up on the correct implementation of the Council Directive 2003/96/EC – Energy Taxation Directive<sup>30</sup> (ETD) and increase its understanding in the Member States, it is necessary to ensure effective exchange of experience and know how in the area, especially tax exemptions/tax reductions and proper classification for certain energy products. This also includes the identification of the existing non-harmonised indirect taxes applied by Member States that cause disruptions to the functioning of the internal market. A number of practical issues might require further clarification via recommendations, or through discussions on technical level and possibly legislative proposals, taking stock as well of the findings of the ongoing evaluation of the Energy Taxation Directive that will be finalised by the end of 2018.

In the area of alcohol excise (regulated under Council Directive 92/83/EEC<sup>31</sup> - Structures of excise duties on alcohol and alcoholic beverages; Council Directive 92/84/EEC – Rates of excise duties on alcohol and alcoholic beverages), denatured alcohol is exempt from excise duty when it is denatured in accordance with the Article 27 (1) (a) and (b) of Council Directive 92/83/EEC. In the opinion of the Commission there exist still too many national formulations for partially denatured alcohol (PDA) with easy to remove components. For PDA the industry is very diverse with multi-sectors with differing needs and concerns to be addressed. Harmonization and clarification is needed in this area to both reduce the opportunities for fraud, and lessen the administrative burden for both Member States and the legitimate economic operators, noting that some Member States would like to ensure their flexibility in using different denaturing formulations. It is therefore important to scope, identify and analyse the existing denaturing formulations with the objective of removing as many of the weaker formulations as possible and developing harmonized denaturing formulations for alcohol used in the various manufacturing sectors across the EU. Moreover, an ongoing evaluation study for an impact assessment for a possible revision of the

---

<sup>29</sup> Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9/12, 14.1.2009)

<sup>30</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L283/51, 31.10.2003).

<sup>31</sup> Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992).

"structures" Directive has identified significant structural weaknesses in the definitions of excisable alcohol products and in the conditions for granting excise duty exemptions and reduced rates. The impact assessment work will conclude in Q1/2018.

In the area of excisable tobacco products, in December 2015, the Commission finalized the evaluation of Council Directive 2011/64/EU<sup>32</sup>. Following the request of the Council, the Commission prepares an impact assessment on the possible revision of Council Directive 2011/64/EU. Weaknesses have been identified in the definition of excisable tobacco products and in the conditions under which certain new products are not considered taxable tobacco products. Furthermore, in the light of the different interpretations across Member States, clarification may become necessary to allow Member States to make use of these provisions against low-price cigarettes in a more efficient manner.

For both, alcohol and tobacco taxation, the aim is to reduce administrative cost while obtaining a higher degree of compliance and security in imposing excise duties on alcohol and tobacco products.

### 5.3. *Consistent implementation of Union law in the field of direct taxes*

Most of the direct tax case law of the Court of Justice of the European Union, which creates a binding framework for policymaking, is driven and developed by means of references for preliminary ruling. It is therefore very important that national administrative (tax) law judges, who can make such references, have a thorough knowledge of the direct tax case law of the Court of Justice of the European Union in its broader policy context. Improving through programme activities the proper implementation of the EU direct tax case law by national administrative courts and tax administrations should eventually reduce the number of complaints addressed to the Commission in the field of direct taxation.

Other challenges will follow from the soon expected adoption of the Directive on Dispute Resolution Mechanisms, which lays down rules to resolve disputes between Member States on how to eliminate double taxation of income from business and the rights of taxpayers in this context. The implementation of this Directive raises various issues in which knowledge and good practice sharing will be necessary. The Directive also requires the setting up of an Advisory Commission made up of experts in international tax law and transfer pricing issues, including national tax law judges and representatives of the national tax administrations. The judges are involved at several stages of the procedure set up in the Directive at national courts' levels. Member States concerned have expressed a need for training of tax law judges and tax officials in order to ensure the proper implementation of the Directive. The creation of a pool of competent judges and tax officials who would be able to fulfil the role of a member of the Advisory Commission would clearly facilitate and support the application of the Directive on Dispute Resolution Mechanisms, once adopted and entered into force.

---

<sup>32</sup> Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification) (OJ L 176/24, 5.7.2011).

#### 5.4. *Implementation or adaptation of national taxes subject to present or potential Union legal initiatives*

In order to support the on-going work on the financial transaction tax (and in case of adoption of a Council Directive implementing the enhanced cooperation in this area to facilitate its implementation), the Commission will support discussions with administrations and markets representatives to look into the practical FTT implementation, among others collection of FTT. For the system to operate properly, Member States will be required to coordinate the functioning of the common FTT both inside the enhanced cooperation area and outside.

Programme activities may be organised in particular to address the constant developments in the area of EU law with regard to tax recovery.

Regarding the European agenda for the collaborative economy “peer-to-peer” or “sharing economy” is a fast growing business trend and a new business model which needs better understanding and a more flexible taxation regime. To create a common taxation approach identification of new business models and sharing related information and practices supports the better understanding of these market trends.

On 28 June 2017, the Commission adopted a proposal for a new PEPP Regulation (Pan-European Personal Pension Schemes) and a PEPP tax recommendation. The recommendation encourages Member States to exchange best practices regarding the taxation of PEPPs and Personal Pension Products (PPPs), with a view to aligning their national criteria for granting tax incentives as much as possible and facilitating the portability of such products. It would be up to Member States to inform the Commission on the measures taken, as well as on any changes made, in order to comply with said Recommendation.

## **OPERATIONAL IMPLEMENTATION REQUIREMENTS**

The Commission will assess the proposed activities organised under the programme on the basis of the following operational implementation requirements:

### **Nature of activity**

The proposed activities must be part of the activities provided for by Article 7 of the Fiscalis 2020 Regulation.

### **Relevance**

In terms of relevance, the proposed activities must be of value added to the tax policy as outlined at Union level and have an impact towards achieving the overall objective of the programme. They must also be complementary to past, present and future activities set up in the field. Moreover, the proposed activities must have a European dimension in that their expected outcomes should be beneficial to all participating countries or to at least two participating countries where the subject area is more targeted.

### **Conformity**

Activities must match the projects identified in this document and in the relevant Union strategic documents and/or action plans. Activities must demonstrate that their objectives reflect clearly identified need for action according to the Union's policy priorities in the field of tax and their European added value.

### **Quality**

The Commission will assess the proposed activities with regard to:  
their organisation, presentation, methodology, expertise, expected results and envisaged dissemination of outcomes, and  
the appropriateness of the activity to attain the desired results.

### **Value for money**

The Commission will assess the amount of requested financial support in terms of:  
its appropriateness as to the expected results,  
the availability of budgetary resources and  
overall cost effectiveness and value for money.

**ANNEX II — GENERAL CONDITIONS****TABLE OF CONTENT**

<b>ANNEX II — GENERAL CONDITIONS</b> .....	<b>29</b>
<b>TABLE OF CONTENT</b> .....	<b>29</b>
<b>PART A — LEGAL AND ADMINISTRATIVE PROVISIONS</b> .....	<b>31</b>
Article II.1 — Definitions .....	31
Article II.2 — General obligations and roles of the beneficiaries .....	32
II.2.1 General obligations and role of the beneficiaries.....	32
II.2.2 General obligations and role of each beneficiary.....	32
II.2.3 General obligations and role of the coordinator.....	33
Article II.3 — Communication between the parties .....	34
II.3.1 Form and means of communication .....	34
II.3.2 Date of communications.....	34
Article II.4 — Liability for damages.....	34
Article II.5 — Conflict of interests .....	35
Article II.6 — Confidentiality.....	35
Article II.7 — Processing of personal data .....	35
II.7.1 Processing of personal data by the Commission.....	35
II.7.2 Processing of personal data by the beneficiaries.....	36
Article II.8 — Visibility of Union funding .....	36
II.8.1 Information on Union funding and use of the European Union emblem .....	36
II.8.2 Disclaimers excluding Commission responsibility .....	37
Article II.9 — Pre-existing rights and ownership and use of the results (including intellectual and industrial property rights) .....	37
II.9.1 Ownership of the results by the beneficiaries .....	37
II.9.2 Pre-existing rights.....	37
II.9.3 Rights of use of the results and of pre-existing rights by the Union .	37
Article II.10 — Award of contracts necessary for the implementation of the action .....	38
Article II.11 — Subcontracting of tasks forming part of the action .....	39
Article II.12 — Financial support to third parties.....	40
Article II.13 — Amendments to the agreement .....	40
Article II.14 — Assignment of claims for payments to third parties.....	41
Article II.15 — <i>Force majeure</i> .....	41
Article II.16 — Suspension of the implementation of the action.....	42
II.16.1 Suspension of implementation by the beneficiaries .....	42
II.16.2 Suspension of implementation by the Commission .....	42
II.16.3 Effects of the suspension .....	43
Article II.17 — Termination of the agreement.....	44
II.17.1 Termination of the Agreement by the coordinator .....	44
II.17.2 Termination of the participation of one or more beneficiaries by the coordinator.....	44
II.17.3 Termination of the Agreement or the participation of one or more beneficiaries by the Commission .....	45
II.17.4 Effects of termination .....	46
Article II.18 — Applicable law, settlement of disputes and enforceable decisionS.	48
<b>PART B — FINANCIAL PROVISIONS</b> .....	<b>49</b>

Article II.19 — Eligible costs .....	49
II.19.1 Conditions for the eligibility of costs .....	49
II.19.2 Eligible direct costs .....	49
II.19.3 Eligible indirect costs .....	50
II.19.4 Ineligible costs.....	51
Article II.20 — Identifiability and verifiability of the amounts declared .....	51
II.20.1 Declaring costs and contributions.....	51
II.20.2 Records and other documentation to support the costs and contributions declared .....	52
II.20.3 Conditions to determine the compliance of cost accounting practices	52
Article II.21 — Eligibility of costs of entities affiliated to the beneficiaries.....	53
Article II.22 — Budget transfers.....	53
Article II.23 — Non-compliance with reporting obligations.....	54
Article II.24 — Suspension of payments and time limit for payment .....	54
II.24.1 Suspension of payments .....	54
II.24.2 Suspension of the time limit for payments .....	56
Article II.25 — Calculation of the final amount of the grant.....	56
II.25.1 Step 1 — Application of the reimbursement rate to the eligible costs and addition of the unit, flat-rate and lump sum contributions .....	57
II.25.2 Step 2 — Limit to <i>maximum amount of the grant</i> .....	57
II.25.3 Step 3 — Reduction due to the no-profit rule .....	57
II.25.4 Step 4 — Reduction due to improper implementation or breach of other obligations .....	58
Article II.26 — Recovery .....	59
II.26.1 Recovery at the time of payment of the balance .....	59
II.26.2 Recovery after payment of the balance .....	59
II.26.3 Recovery procedure.....	59
II.26.4 Interest on late payment .....	60
II.26.5 Bank charges .....	60
Article II.27 — Checks, audits and evaluationS .....	60
II.27.1 Technical and financial checks, audits, interim and final evaluations 60	
II.27.2 Duty to keep documents .....	61
II.27.3 Obligation to provide information .....	61
II.27.4 On-the-spot visits .....	61
II.27.5 Contradictory audit procedure.....	62
II.27.6 Effects of audit findings .....	62
II.27.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations .....	62
II.27.8 Checks and inspections by OLAF.....	64
II.27.9 Checks and audits by the European Court of Auditors .....	64

## PART A — LEGAL AND ADMINISTRATIVE PROVISIONS

### ARTICLE II.1 — DEFINITIONS

The following definitions apply for the purpose of the Agreement:

**‘Action’:** the set of activities or the project for which the grant is awarded, to be implemented by the beneficiaries as described in Annex I.

**‘Confidential information or document’:** any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Agreement that any of the parties has identified in writing as confidential. It does not include information that is publicly available.

**‘Conflict of interests’:** a situation where the impartial and objective implementation of the Agreement by a beneficiary is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with the Commission or any third party related to the subject matter of the Agreement.

**‘Direct costs’:** those specific costs which are directly linked to the implementation of the action and can therefore be attributed directly to it. They may not include any indirect costs;

**‘Force majeure’:** any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the Agreement, which is not attributable to error or negligence on their part or on the part of the subcontractors affiliated entities or third parties in receipt of financial support and which proves to be inevitable despite their exercising due diligence. The following cannot be invoked as *force majeure*: labour disputes, strikes, financial difficulties or any default of a service, defect in equipment or materials or delays in making them available, unless they stem directly from a relevant case of *force majeure*;

**‘Formal notification’:** form of communication between the parties made in writing which provides the sender with compelling evidence that the message was delivered to the specified recipient;

**‘Fraud’:** any intentional act or omission affecting the Union’s financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents, to non-disclosure of information in violation of a specific obligation;

**‘Implementation period’:** the period of implementation of the activities forming part of the action, as specified in Article I.2.2;

**‘Indirect costs’:** those costs which are not specific costs directly linked to the implementation of the action and which therefore cannot be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs;

**‘Irregularity’:** any infringement of a provision of Union law resulting from an act or omission by a beneficiary, which has or would have the effect of prejudicing the Union’s budget;

**‘Maximum amount of the grant’:** the maximum EU contribution to the action, as defined in Article I.3.1;

**‘Pre-existing material’:** any materials, document, technology or know-how which exists prior to the beneficiary using it for the production of a result in the implementation of the action;

**‘Pre-existing right’:** any industrial and intellectual property right on pre-existing material; it may consist in a right of ownership, a licence right and/or a right of use belonging to the beneficiary or any other third parties;

**‘Related person’:** any person who has the power to represent the beneficiary or to take decisions on its behalf;

**‘Starting date’:** the date on which the implementation of the action starts as provided for in Article I.2.2;

**‘Subcontract’:** a procurement contract within the meaning of Article II.10, which covers the implementation by a third party of tasks forming part of the action as described in Annex I;

**‘Substantial error’:** any infringement of a provision of an agreement resulting from an act or omission, which causes or might cause a loss to the Union’s budget.

## **ARTICLE II.2 — GENERAL OBLIGATIONS AND ROLES OF THE BENEFICIARIES**

### **II.2.1 General obligations and role of the beneficiaries**

The beneficiaries:

- (a) are jointly and severally liable for carrying out the *action* in accordance with the Agreement. If a beneficiary fails to implement its part of the *action*, the other beneficiaries become responsible for implementing this part (but without increasing the *maximum amount of the grant*);
- (b) must comply jointly or individually with any legal obligations they are bound by under applicable EU, international and national law;
- (c) must make appropriate internal arrangements to implement the *action* properly. The arrangements must be consistent with the terms of the Agreement. If provided for in the Special Conditions, those arrangements must take the form of an internal cooperation agreement between the beneficiaries.

### **II.2.2 General obligations and role of each beneficiary**

Each beneficiary must:

- (a) inform the coordinator immediately of any events or circumstances of which the beneficiary is aware, that are likely to affect or delay the implementation of the *action*;
- (b) inform the coordinator immediately:
  - (i) of any change in its legal, financial, technical, organisational or ownership situation and of any change in its name, address or legal representative;



- (ii) of any change in the legal, financial, technical, organisational or ownership situation of its affiliated entities and of any change in their name, address or legal representative;
- (c) submit in due time to the coordinator:
  - (i) the data needed to draw up the reports, financial statements and other documents provided for in the Agreement;
  - (ii) all the necessary documents required for audits, checks or evaluations as provided for in Article II.27.
  - (iii) any other information to be provided to the Commission under the Agreement, except if the Agreement requires such information to be submitted directly by the beneficiary.

### II.2.3 General obligations and role of the coordinator

The coordinator:

- (a) must monitor the implementation of the *action* in order to make sure that the *action* is implemented in accordance with the terms of the Agreement;
- (b) is the intermediary for all communications between the beneficiaries and the Commission, except if provided otherwise in the Agreement. In particular, the coordinator:
  - (i) must immediately inform the Commission:
    - of any change in the name, address, legal representative of any of the beneficiaries or of their affiliated entities;
    - of any change in the legal, financial, technical, organisational or ownership situation of any of the beneficiaries or of their affiliated entities;
    - of any events or circumstances of which the coordinator is aware, that are likely to affect or delay the implementation of the *action*.
  - (ii) is responsible for supplying the Commission with all documents and information required under the Agreement, except if provided otherwise in the Agreement itself. If information is required from the other beneficiaries, the coordinator is responsible for obtaining and verifying this information before passing it on to the Commission;
- (c) must make the appropriate arrangements for providing any financial guarantees required under the Agreement;
- (d) must draw up the requests for payment in accordance with the Agreement;
- (e) if it is designated as the sole recipient of payments on behalf of all of the beneficiaries, it must ensure that all the appropriate payments are made to the other beneficiaries without unjustified delay;

- (f) is responsible for providing all the necessary documents required for checks and audits initiated before the payment of the balance or documents required for evaluation as provided for in Article II.27.

The coordinator may not subcontract any part of its tasks to the other beneficiaries or to any other party.

## **ARTICLE II.3 — COMMUNICATION BETWEEN THE PARTIES**

### **II.3.1 Form and means of communication**

Any communication relating to the Agreement or to its implementation must:

- (a) be made in writing (in paper or electronic form);
- (b) bear the number of the Agreement; and
- (c) be made using the communication details identified in Article I.7.

If a party requests written confirmation of an electronic communication within a reasonable time, the sender must provide an original signed paper version of the communication as soon as possible.

### **II.3.2 Date of communications**

Any communication is considered to have been made when the receiving party receives it, unless the Agreement states that communication is considered to have been made on the date when the communication was sent.

Email is considered to have been received by the receiving party on the day of dispatch of that email, provided that it is sent to the email address indicated in Article I.7. The sending party must be able to prove the date of dispatch. If the sending party receives a non-delivery report, it must make every effort to ensure that the other party actually receives the communication by email or mail. In such a case, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

Mail sent to the Commission using the postal or courier services is considered to have been received by the Commission on the date on which it is registered by the department identified in Article I.7.2.

*Formal notifications* are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the message was delivered to the specified recipient.]

## **ARTICLE II.4 — LIABILITY FOR DAMAGES**

**II.4.1** The Commission may not be held liable for any damage caused or sustained by any of the beneficiaries, including any damage caused to third parties as a consequence of or during the implementation of the *action*.

**II.4.2** Except in cases of *force majeure*, the beneficiaries must compensate the Commission 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.

## **ARTICLE II.5 — CONFLICT OF INTERESTS**

**II.5.1** The beneficiaries must take all necessary measures to prevent any situation of *conflict of interests*.

**II.5.2** The beneficiaries must inform the Commission without delay of any situation constituting or likely to lead to a *conflict of interests*. They must take immediately all the necessary steps to rectify this situation.

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

## **ARTICLE II.6 — CONFIDENTIALITY**

**II.6.1** During implementation of the *action* and for five years after the payment of the balance, the parties must treat with confidentiality any *confidential information and documents*.

**II.6.2** The parties may only use *confidential information and documents* for a reason other than to fulfil their obligations under the Agreement if they have first obtained the prior written agreement of the other party.

**II.6.3** The confidentiality obligations do not apply if:

- (a) the disclosing party agrees to release the other party from those obligations;
- (b) the *confidential information or documents* become public through other means than a breach of the confidentiality obligations;
- (c) the disclosure of the *confidential information or documents* is required by law.

## **ARTICLE II.7 — PROCESSING OF PERSONAL DATA**

### **II.7.1 Processing of personal data by the Commission**

Any personal data included in the Agreement must be processed by the Commission in accordance with Regulation (EC) No 45/2001.<sup>33</sup>

Such data must be processed by the data controller identified in Article I.7.1 solely for implementing, managing and monitoring the Agreement or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article II.27.

The beneficiaries have the right to access and correct their own personal data. For this purpose, they must send any queries about the processing of their personal data to the data controller identified in Article I.7.1.

The beneficiaries may have recourse at any time to the European Data Protection Supervisor.

---

<sup>33</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

## II.7.2 Processing of personal data by the beneficiaries

The beneficiaries must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

The beneficiaries may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement.

The beneficiaries must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned. This is in order to:

- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
  - (i) unauthorised reading, copying, alteration or removal of storage media;
  - (ii) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
  - (iii) unauthorised use of data processing systems by means of data transmission facilities;
- (b) ensure that authorised users of a data processing system can access only the personal data to which their access right refers;
- (c) record which personal data have been communicated, when and to whom;
- (d) ensure that personal data processed on behalf of third parties can be processed only in the manner prescribed by the Commission;
- (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- (f) design their organisational structure in such a way that it meets data protection requirements.

## ARTICLE II.8 — VISIBILITY OF UNION FUNDING

### II.8.1 Information on Union funding and use of the European Union emblem

Unless the Commission requests or agrees otherwise, any communication or publication made by the beneficiaries jointly or individually that relates to the *action*, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form, etc.), must:

- (a) indicate that the *action* has received funding from the Union; and
- (b) display the European Union emblem.

When displayed in association with another logo, the European Union emblem must have appropriate prominence.

The obligation to display the European Union emblem does not confer on the beneficiaries a right of exclusive use. The beneficiaries may not appropriate the European Union emblem or any similar trademark or logo, either by registration or by any other means.

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the beneficiaries may use the European Union emblem without first obtaining permission from the Commission.

### **II.8.2 Disclaimers excluding Commission responsibility**

Any communication or publication that relates to the *action*, made by the beneficiaries jointly or individually in any form and using any means, must indicate:

- (a) that it reflects only the author's view; and
- (b) that the Commission is not responsible for any use that may be made of the information it contains.

## **ARTICLE II.9 — PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)**

### **II.9.1 Ownership of the results by the beneficiaries**

The beneficiaries retain ownership of the results of the *action*, including industrial and intellectual property rights, and of the reports and other documents relating to it, unless stipulated otherwise in the Agreement.

### **II.9.2 Pre-existing rights**

If the Commission sends the beneficiaries a written request specifying which of the results it intends to use, the beneficiaries must:

- (a) establish a list specifying all *pre-existing rights* included in those results; and
- (b) provide this list to the Commission at the latest with the request for payment of the balance.

The beneficiaries must ensure that they or their affiliated entities have all the rights to use any *pre-existing rights* during the implementation of the Agreement.

### **II.9.3 Rights of use of the results and of pre-existing rights by the Union**

The beneficiaries grant the Union the following rights to use the results of the *action*:

- (a) for its own purposes and in particular to make available to persons working for the Commission, other Union institutions, agencies and bodies and to Member States' institutions, as well as to copy and reproduce in whole or in part and in an unlimited number of copies;
- (b) reproduction: the right to authorise direct or indirect, temporary or permanent reproduction of the results by any means (mechanical, digital or other) and in any form, in whole or in part;
- (c) communication to the public: the right to authorise any display performance or communication to the public, by wire or wireless means, including making the results available to the public in such a way that members of the public may access them from a

- place and at a time individually chosen by them; this right also includes communication and broadcasting by cable or by satellite;
- (d) distribution: the right to authorise any form of distribution of results or copies of the results to the public;
  - (e) adaptation: the right to modify the results;
  - (f) translation;
  - (g) the right to store and archive the results in line with the document management rules applicable to the Commission, including digitisation or converting the format for preservation or new use purposes;
  - (h) where the results are documents, the right to authorise the reuse of the documents in conformity with Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents if that Decision is applicable and if the documents fall within its scope and are not excluded by any of its provisions. For the sake of this provision, the terms ‘reuse’ and ‘document’ have the meanings given to them by Decision 2011/833/EU.

The above rights of use may be further specified in the Special Conditions.

Additional rights of use for the Union may be provided for in the Special Conditions.

The beneficiaries must ensure that the Union has the right to use any *pre-existing rights* included in the results of the *action*. The *pre-existing rights* must be used for the same purposes and under the same conditions as applicable to the rights of use of the results of the *action*, unless specified otherwise in the Special Conditions.

Information about the copyright owner must be inserted in cases where the result is divulged by the Union. The copyright information must read: ‘© — year — name of the copyright owner. All rights reserved. Licenced to the European Union under conditions.’.

If the beneficiaries grant rights of use to the Commission, this does not affect its confidentiality obligations under Article II.6 or the beneficiaries’ obligations under Article II.2.1.

## **ARTICLE II.10 — AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE ACTION**

**II.10.1** If the implementation of the *action* requires the beneficiaries to procure goods, works or services, they must award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, they must avoid any *conflict of interests*.

The beneficiaries must ensure that the Commission, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.27 also towards the beneficiaries’ contractors.

**II.10.2** Beneficiaries that are ‘contracting authorities’ within the meaning of Directive 2014/24/EU<sup>34</sup> or ‘contracting entities’ within the meaning of Directive 2014/25/EU<sup>35</sup> must comply with the applicable national public procurement rules.

The beneficiaries must ensure that the conditions applicable to them under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractors.

**II.10.3** The beneficiaries remain solely responsible for carrying out the *action* and for compliance with the Agreement.

**II.10.4.** If the beneficiaries breach their obligations under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (c), (d) and (e).

If the beneficiaries breach their obligations under Article II.10.2 the grant may be reduced in accordance with Article II.25.4.

## **ARTICLE II.11 — SUBCONTRACTING OF TASKS FORMING PART OF THE ACTION**

**II.11.1** Beneficiaries may subcontract tasks forming part of the *action*. If they do so, they must ensure that, in addition to the conditions specified in Article II.10, the following conditions are also complied with:

- (a) subcontracting does not cover core tasks of the *action*;
- (b) recourse to subcontracting is justified because of the nature of the *action* and what is necessary for its implementation;
- (c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex III;
- (d) any recourse to subcontracting, if not provided for in Annex I, is communicated by the coordinator and approved by the Commission. The Commission may grant approval:
  - (i) before any recourse to subcontracting, if the beneficiaries request an amendment as provided for in Article II.13; or
  - (ii) after recourse to subcontracting if the subcontracting:
    - is specifically justified in the interim or final technical report referred to in Articles I.4.3 and I.4.4; and

---

<sup>34</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

<sup>35</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

- does not entail changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants;

- (e) the beneficiaries ensure that the conditions applicable to them under Article II.8 are also applicable to the subcontractors.

**II.11.2** If the beneficiaries breach their obligations under Article II.11.1 (a), (b), (c) or (d), the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (f).

If the beneficiaries breach their obligation under Article II.11.1 (e) the grant may be reduced in accordance with Article II.25.4.

## **ARTICLE II.12 — FINANCIAL SUPPORT TO THIRD PARTIES**

**II.12.1** If, while implementing the *action*, the beneficiaries have to give financial support to third parties, the beneficiaries must give such financial support in accordance with the conditions specified in Annex I. Under those conditions, the following information must be stated at least:

- (a) the maximum amount of financial support. This amount may not exceed EUR 60 000 for each third party except if the financial support is the primary aim of the *action* as specified in Annex I;
- (b) the criteria for determining the exact amount of the financial support;
- (c) the different types of activity that may receive financial support, on the basis of a fixed list;
- (d) the persons or categories of persons which may receive financial support;
- (e) the criteria for giving the financial support.

**II.12.2** As an exception to Article II.12.1, if the financial support takes the form of a prize, the beneficiaries must give such financial support in accordance with the conditions specified in Annex I. Under those conditions, the following information must at least be stated:

- (a) the conditions for participation;
- (b) the award criteria;
- (c) the amount of the prize;
- (d) the payment arrangements.

**II.12.3** The beneficiaries must ensure that the conditions applicable to them under Articles II.4, II.5, II.6, II.8, II.9 and II.27 are also applicable to the third parties receiving financial support.

## **ARTICLE II.13 — AMENDMENTS TO THE AGREEMENT**

**II.13.1** Any amendment to the Agreement must be made in writing.



**II.13.2** An amendment may not have the purpose or the effect of making changes to the Agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants.

**II.13.3** Any request for amendment must:

- (a) be duly justified;
- (b) be accompanied by appropriate supporting documents; and
- (c) be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the *implementation period*.

Point (c) does not apply in cases duly substantiated by the party requesting the amendment if the other party agrees.

**II.13.4** A request for amendment on behalf of the beneficiaries must be submitted by the coordinator. If a change of coordinator is requested without its agreement, the request must be submitted by all other beneficiaries and must be accompanied by the opinion of the coordinator or proof that this opinion has been requested in writing.

**II.13.5** Amendments enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

Amendments take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

## **ARTICLE II.14 — ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES**

**II.14.1** The beneficiaries may not assign any of their claims for payment against the Commission to any third party, except if approved by the Commission on the basis of a reasoned, written request by the coordinator made on behalf of the beneficiaries.

If the Commission does not accept the assignment or the terms of it are not complied with, the assignment has no effect on it.

**II.14.2** In no circumstances may an assignment release the beneficiaries from their obligations towards the Commission.

## **ARTICLE II.15 — FORCE MAJEURE**

**II.15.1** A party faced with *force majeure* must send a *formal notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.

**II.15.2** The parties must take the necessary measures to limit any damage due to *force majeure*. They must do their best to resume the implementation of the *action* as soon as possible.

**II.15.3** The party faced with *force majeure* may not be considered in breach of its obligations under the Agreement if it has been prevented from fulfilling them by *force majeure*.

## **ARTICLE II.16 — SUSPENSION OF THE IMPLEMENTATION OF THE ACTION**

### **II.16.1 Suspension of implementation by the beneficiaries**

The coordinator, on behalf of the beneficiaries, may suspend the implementation of the *action* or any part of it, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*.

The coordinator must immediately inform the Commission, stating:

- (a) the reasons for suspension, including details about the date or period when the exceptional circumstances occurred; and
- (b) the expected date of resumption.

Once the circumstances allow the beneficiaries to resume implementing the *action*, the coordinator must inform the Commission immediately and present a request for amendment of the Agreement as provided for in Article II.16.3. This obligation does not apply if the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.17.1, II.17.2 or points (c) or (d) of Article II.17.3.1.

### **II.16.2 Suspension of implementation by the Commission**

#### **II.16.2.1 Grounds for suspension**

The Commission may suspend the implementation of the *action* or any part thereof:

- (a) if the Commission has evidence that a beneficiary has committed *substantial errors, irregularities* or *fraud* in the award procedure or while implementing the Agreement or if a beneficiary fails to comply with its obligations under the Agreement;
- (b) if the Commission has evidence that a beneficiary has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the beneficiary under similar conditions and the errors, *irregularities, fraud* or breach have a material impact on this grant; or
- (c) if the Commission suspects *substantial errors, irregularities, fraud* or breach of obligations committed by a beneficiary in the award procedure or while implementing the Agreement and needs to verify whether they have actually occurred.

#### **II.16.2.2 Procedure for suspension**

**Step 1** — Before suspending implementation of the *action*, the Commission must send a *formal notification* to the coordinator:

- (a) informing it of:
  - (i) its intention to suspend the implementation;
  - (ii) the reasons for suspension;
  - (iii) the necessary conditions for resuming the implementation in the cases referred to in points (a) and (b) of Article II.16.2.1; and

- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

**Step 2** — If the Commission does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a *formal notification* to the coordinator informing it of:

- (a) the suspension of the implementation;
- (b) the reasons for suspension; and
- (c) the final conditions for resuming the implementation in the cases referred to in points (a) and (b) of Article II.16.2.1.; or
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.16.2.1.,.

The coordinator must immediately inform the other beneficiaries of the suspension. The suspension takes effect five calendar days after the *formal notification* is received by the coordinator or on a later date specified in the *formal notification*.

Otherwise, the Commission must send a *formal notification* to the coordinator informing it that it is not continuing the suspension procedure.

### **II.16.2.3 Resuming implementation**

In order to resume the implementation, the beneficiaries must meet the notified conditions as soon as possible and must inform the Commission of any progress made.

If the conditions for resuming the implementation are met or the necessary verifications are carried out, the Commission must send a *formal notification* to the coordinator:

- (a) informing it that the conditions for lifting the suspension are met; and
- (b) requiring it to present a request for amendment of the Agreement as provided for in Article II.16.3. This obligation does not apply if the Agreement or the participation of a beneficiary is terminated in accordance with Articles II.17.1, II.17.2 or points (c), (g) or (h) of Article II.17.3.1.

### **II.16.3 Effects of the suspension**

If the implementation of the *action* can be resumed and the Agreement has not been terminated, an amendment to the Agreement must be made in accordance with Article II.13 in order to:

- (a) set the date on which the *action* is to be resumed;
- (b) extend the duration of the *action*; and
- (c) make other changes necessary to adapt the *action* to the new situation.

The suspension is lifted with effect from the resumption date set out in the amendment. This date may be before the date on which the amendment enters into force.

Costs incurred during the period of suspension that relate to the implementation of the suspended *action* or the suspended part of it may not be reimbursed or covered by the grant.

Suspending implementation of the *action* does not affect the Commission's right to terminate the Agreement or to terminate the participation of a beneficiary in accordance with Article II.17.3, reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26.

Neither party may claim damages due to suspension by the other party.

## **ARTICLE II.17 — TERMINATION OF THE AGREEMENT**

### **II.17.1 Termination of the Agreement by the coordinator**

The beneficiaries may terminate the Agreement.

The coordinator must send a *formal notification* of termination to the Commission, stating:

- (a) the reasons for termination; and
- (b) the date on which the termination takes effect. This date must be set after the *formal notification*.

If the coordinator does not state the reasons for the termination or if the Commission considers that the reasons do not justify termination, the Agreement is considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

### **II.17.2 Termination of the participation of one or more beneficiaries by the coordinator**

The participation of one or more beneficiaries may be terminated by the coordinator at the request of the beneficiary concerned or on behalf of the other beneficiaries.

The coordinator must send a *formal notification* of termination to the Commission and inform the beneficiary concerned by termination.

If the coordinator's participation is terminated without its agreement, the *formal notification* must be submitted by another beneficiary (acting on behalf of the other beneficiaries).

The *formal notification* must include:

- (a) the reasons for termination;
- (b) the opinion of the beneficiary concerned by termination (or proof that this opinion has been requested in writing);
- (c) the date on which the termination takes effect. This date must be set after the *formal notification*; and
- (d) a request for amendment as provided for in Article II.17.4.2(a).

If the coordinator or beneficiary does not state the reasons for the termination or if the Commission considers that the reasons do not justify termination, the participation will be considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

## **II.17.3 Termination of the Agreement or the participation of one or more beneficiaries by the Commission**

### **II.17.3.1 Grounds for termination**

The Commission may terminate the Agreement or the participation of any one or several beneficiaries, if:

- (a) a change to the beneficiary's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Agreement substantially or calls into question the decision to award the grant;
- (b) following the termination of the participation of any one or several beneficiaries, the necessary modifications to the Agreement would call into question the decision awarding the grant or would result in unequal treatment of applicants;
- (c) the beneficiaries do not implement the *action* as described in Annex I or a beneficiary fails to comply with another substantial obligation incumbent on it under the Agreement;
- (d) the implementation of the *action* is prevented or suspended due to *force majeure* or exceptional circumstances and either:
  - (i) resumption is impossible; or
  - (ii) the necessary changes to the Agreement would call into question the decision awarding the grant or be contrary to the equal treatment of applicants;
- (e) a beneficiary or any person that assumes unlimited liability for the debts of that beneficiary comes under any of the situations provided for in points (a) or (b) of Article 106 (1) of the Financial Regulation;<sup>36</sup>
- (f) a beneficiary or any *related person* comes under any of the situations provided for in points (c), (d), (e) or (f) of Article 106 (1) or comes under Article 106 (2) of the Financial Regulation;
- (g) the Commission has evidence that a beneficiary or any *related person* has committed *substantial errors, irregularities* or *fraud* in the award procedure or while implementing the Agreement, including if that beneficiary or *related person* has submitted false information or failed to provide required information;
- (h) the Commission has evidence that a beneficiary has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other Union or Euratom grants awarded to it under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on this grant; or
- (i) the Commission has sent a beneficiary, through the coordinator, a *formal notification* asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (f), (g) or (h) and that beneficiary has failed to request an amendment ending the participation of the entity and reallocating its tasks.

### **II.17.3.2 Procedure for termination**

---

<sup>36</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.

**Step 1-** Before terminating the Agreement or participation of one or more beneficiaries, the Commission must send a *formal notification* to the coordinator:

- (a) informing it of:
  - (i) its intention to terminate;
  - (ii) the reasons for termination; and
- (b) requiring it, within 45 calendar days of receiving the formal notification;
  - (i) to submit observations on behalf of all beneficiaries; and
  - (ii) in the case of point (c) of Article II.17.3.1, to inform the Commission of the measures to ensure compliance with the obligations under the Agreement.

**Step 2** — If the Commission does not receive observations or decides to pursue the procedure despite the observations it has received, it will send a *formal notification* to the coordinator informing it of the termination and the date on which it takes effect. The coordinator must immediately inform the other beneficiaries of the termination.

Otherwise, the Commission must send a *formal notification* to the coordinator informing it that the termination procedure is not continued.

The termination takes effect:

- (a) for terminations under points (a), (b), (c) and (e) of Article II.17.3.1: on the day specified in the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above);
- (b) for terminations under points (d), (f), (g), (h) and (i) of Article II.17.3.1: on the day after the coordinator receives the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above).

## **II.17.4 Effects of termination**

### **II.17.4.1 Effects of terminating the Agreement:**

Within 60 calendar days from the day on which the termination takes effect, the coordinator must submit a request for payment of the balance as provided for in Article I.4.4.

If the Commission does not receive the request for payment of the balance by the above deadline, only costs which are included in an approved technical report and, where relevant, in an approved financial statement, are reimbursed or covered by the grant.

If the Agreement is terminated by the Commission because the coordinator has breached its obligation to submit the request for payment, the coordinator may not submit any request for payment after termination. In that case the second subparagraph applies.

The Commission calculates the final grant amount as referred to in Article II.25 and the balance as referred to in Article I.5.4 on the basis of the reports submitted. Only costs incurred before termination takes effect are reimbursed or covered by the grant. Costs relating to contracts due

for execution only after termination are not taken into account are not reimbursed or covered by the grant.

The Commission may reduce the grant in accordance with Article II.25.4 in case of:

- (a) improper termination of the Agreement by the coordinator within the meaning of Article II.17.1; or
- (b) termination of the Agreement by the Commission on any of the grounds set out in points (c), (f), (g), (h) and (i) of Article II.17.3.1.

Neither party may claim damages on the grounds that the other party terminated the Agreement.

After termination, the beneficiaries' obligations continue to apply, in particular those under Articles I.4, II.6, II.8, II.9, II.14, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions.

#### **II.17.4.2 Effects of terminating the participation of one or more beneficiaries:**

- a) The coordinator must submit a request for amendment including:
  - (i) a proposal to reallocate the tasks of the beneficiary or beneficiaries concerned by the termination; and
  - (ii) if necessary, the addition of one or more new beneficiaries to succeed the beneficiary or beneficiaries concerned in all their rights and obligations under the Agreement.

If the Commission terminates the participation of a beneficiary, the coordinator must submit the request for amendment within 60 calendar days from the day on which the termination takes effect.

If the coordinator terminates the participation of a beneficiary, the request for amendment must be included in the *formal notification* of termination referred to in Article II.17.2.

If termination takes effect after the end of the *implementation period*, no request for amendment must be provided unless the beneficiary concerned is the coordinator. In this case, the request for amendment must propose a new coordinator.

If the request for amendment is rejected by the Commission, the Agreement may be terminated in accordance with Article II.17.3.1 (b). The request for amendment may be rejected if it calls into question the decision awarding the grant or is contrary to the equal treatment of applicants.

- b) The beneficiary concerned by termination must submit to the coordinator:
  - (i) a technical report; and
  - (ii) a financial statement covering the period from the end of the last reporting period to the date when termination takes effect.

The coordinator must include this information in the payment request for the next reporting period.

Only costs incurred by the beneficiary concerned before termination takes effect are reimbursed or covered by the grant. Costs relating to contracts due for execution only after termination are not reimbursed or covered by the grant.

The Commission may reduce the grant in accordance with Article II.25.4. in case of:

- (a) improper termination of the participation of a beneficiary by the coordinator within the meaning of Article II.17.2 or
- (b) termination of the participation of a beneficiary by the Commission on any of the grounds set out in points (c), (f), (g), (h) or (i) of Article II.17.3.1.

Neither party may claim damages on the grounds that the other party terminated the participation of a beneficiary.

After termination, the concerned beneficiary's obligations continue to apply, in particular those under Articles I.4, II.6, II.8, II.9, II.14, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions.

## **ARTICLE II.18 — APPLICABLE LAW, SETTLEMENT OF DISPUTES AND ENFORCEABLE DECISIONS**

**II.18.1** The Agreement is governed by the applicable Union law, complemented, where necessary, by the law of Belgium.

**II.18.2** In accordance with Article 272 TFEU, the General Court or, on appeal, the Court of Justice of the European Union, has sole jurisdiction to hear any dispute between the Union and any beneficiary concerning the interpretation, application or validity of the Agreement, if such dispute cannot be settled amicably.

**II.18.3** In accordance with Article 299 TFEU, for the purposes of recovery within the meaning of Article II.26, the Commission may adopt an enforceable decision to impose pecuniary obligations on persons other than States.

An *action* may be brought against such decision before the General Court of the European Union in accordance with Article 263 TFEU.



## PART B — FINANCIAL PROVISIONS

### ARTICLE II.19 — ELIGIBLE COSTS

#### II.19.1 Conditions for the eligibility of costs

*Eligible costs* of the *action* are costs actually incurred by the beneficiary and which meet the following criteria:

- (a) they are incurred within the *implementation period*, with the exception of costs relating to the request for payment of the balance and the corresponding supporting documents referred to in Article I.4.4;
- (b) they are indicated in the estimated budget of the *action*. The estimated budget is set out in Annex III;
- (c) they are incurred in connection with the *action* as described in Annex I and are necessary for its implementation;
- (d) they are identifiable and verifiable, in particular they are recorded in the beneficiary's accounting records and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the beneficiary's usual cost accounting practices;
- (e) they comply with the requirements of applicable tax and social legislation; and
- (f) they are reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency.

#### II.19.2 Eligible direct costs

To be eligible, the *direct cost* of the *action* must comply with the eligibility conditions set out in Article II.19.1.

In particular, the following categories of costs are eligible *direct costs*, provided that they satisfy the eligibility conditions set out in Article II.19.1 as well as the following conditions:

- (a) the costs of personnel working under an employment contract with the beneficiary or an equivalent appointing act and assigned to the *action*, provided that these costs are in line with the beneficiary's usual policy on remuneration.

Those costs include actual salaries plus social security contributions and other statutory costs included in the remuneration. They may also comprise additional remunerations, including payments on the basis of supplementary contracts regardless of the nature of those contracts, provided that they are paid in a consistent manner whenever the same kind of work or expertise is required, independently from the source of funding used;

The costs of natural persons working under a contract with the beneficiary other than an employment contract or who are seconded to the beneficiary by a third party against payment may also be included under such personnel costs, provided that the following conditions are fulfilled:

- (i) the person works 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);

- (ii) the result of the work belongs to the beneficiary (unless exceptionally agreed otherwise); and
  - (iii) the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the beneficiary;
- (b) costs of travel and related subsistence allowances, provided that these costs are in line with the beneficiary's usual practices on travel;
- (c) the depreciation costs of equipment or other assets (new or second-hand) as recorded in the beneficiary's accounting statements, provided that the asset:
- (i) is written off in accordance with the international accounting standards and the beneficiary's usual accounting practices; and
  - (ii) has been purchased in accordance with Article II.10.1 if the purchase occurred within the *implementation period*;

The costs of renting or leasing equipment or other assets are also eligible, provided that these costs do not exceed the depreciation costs of similar equipment or assets and are exclusive of any finance fee;

Only the portion of the equipment's depreciation, rental or lease costs corresponding to the *implementation period* and the rate of actual use for the purposes of the *action* may be taken into account when determining the eligible costs. By way of exception, the full cost of purchase of equipment may be eligible under the Special Conditions, if this is justified by the nature of the *action* and the context of the use of the equipment or assets;

- (d) costs of consumables and supplies, provided that they:
- (i) are purchased in accordance with Article II.10.1; and
  - (ii) are directly assigned to the *action*;
- (e) costs arising directly from requirements imposed by the Agreement (dissemination of information, specific evaluation of the *action*, audits, translations, reproduction), including the costs of requested financial guarantees, provided that the corresponding services are purchased in accordance with Article II.10.1;
- (f) costs entailed by *subcontracts* within the meaning of Article II.11, provided that the conditions laid down in Article II.11.1 (a), (b), (c) and (d) are met;
- (g) costs of financial support to third parties within the meaning of Article II.12, provided that the conditions laid down in that Article are met;
- (h) duties, taxes and charges paid by the beneficiary, notably value added tax (VAT), provided that they are included in eligible *direct costs*, and unless specified otherwise in the Agreement.

### **II.19.3 Eligible indirect costs**

To be eligible, *indirect costs* of the *action* must represent a fair apportionment of the overall overheads of the beneficiary and must comply with the conditions of eligibility set out in Article II.19.1.

Eligible *indirect costs* must be declared on the basis of a flat rate of 7 % of the total eligible *direct costs* unless otherwise specified in Article I.3.2.

#### **II.19.4 Ineligible costs**

In addition to any other costs which do not fulfil the conditions set out in Article II.19.1, the following costs may not be considered eligible:

- (a) return on capital and dividends paid by a beneficiary;
- (b) debt and debt service charges;
- (c) provisions for losses or debts;
- (d) interest owed;
- (e) doubtful debts;
- (f) exchange losses;
- (g) costs of transfers from the Commission charged by the bank of a beneficiary;
- (h) costs declared by the beneficiary under another action receiving a grant financed from the Union budget. Such grants include grants awarded by a Member State and financed from the Union budget and grants awarded by bodies other than the Commission for the purpose of implementing the Union budget. In particular, beneficiaries receiving an operating grant financed by the EU or Euratom budget cannot declare indirect costs for the period(s) covered by the operating grant, unless they can demonstrate that the operating grant does not cover any costs of the action;
- (i) contributions in kind from third parties;
- (j) excessive or reckless expenditure;
- (k) deductible VAT.

### **ARTICLE II.20 — IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED**

#### **II.20.1 Declaring costs and contributions**

Each beneficiary must declare as eligible costs or as a requested contribution:

- (a) for actual costs: the costs it actually incurred for the *action*;
- (b) for unit costs or unit contributions: the amount obtained by multiplying the amount per unit specified in Article I.3.2(a)(ii) or (b) by the actual number of units used or produced;
- (c) for lump sum costs or lump sum contributions: the global amount specified in Article I.3.2(a)(iii) or (c), if the corresponding tasks or part of the *action* as described in Annex I have been implemented properly;
- (d) for flat-rate costs or flat-rate contributions: the amount obtained by applying the flat rate specified in Article I.3.2(a)(iv) or (d);
- (e) for unit costs declared on the basis of the beneficiary's usual cost accounting practices: the amount obtained by multiplying the amount per unit calculated in accordance with the beneficiary's usual cost accounting practices by the actual number of units used or produced;

- (f) for lump sum costs declared on the basis of the beneficiary's usual cost accounting practices: the global amount calculated in accordance with its usual cost accounting practices, if the corresponding tasks or part of the *action* have been implemented properly;
- (g) for flat-rate costs declared on the basis of the beneficiary's usual cost accounting practices: the amount obtained by applying the flat rate calculated in accordance with the beneficiary's usual cost accounting practices.

## **II.20.2 Records and other documentation to support the costs and contributions declared**

Each beneficiary must provide the following if requested to do so in the context of the checks or audits described in Article II.27:

- (a) for actual costs: adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records.

In addition, the beneficiary's usual accounting and internal control procedures must permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements and with the amounts indicated in the supporting documents;

- (b) for unit costs or unit contributions: adequate supporting documents to prove the number of units declared.

The beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared per unit;

- (c) for lump sum costs or lump sum contributions: adequate supporting documents to prove that the *action* has been properly implemented.

The beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, to prove the amount declared as a lump sum;

- (d) for flat-rate costs or flat-rate contributions: adequate supporting documents to prove the eligible costs or requested contribution to which the flat rate applies.

The beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, such as accounting statements, for the flat rate applied;

- (e) for unit costs declared on the basis of the beneficiary's usual cost accounting practices: adequate supporting documents to prove the number of units declared;
- (f) for lump sum costs declared on the basis of the beneficiary's usual cost accounting practices: adequate supporting documents to prove that the *action* has been properly implemented;
- (g) for flat-rate costs declared on the basis of the beneficiary's usual cost accounting practices: adequate supporting documents to prove the eligible costs to which the flat rate applies.

## **II.20.3 Conditions to determine the compliance of cost accounting practices**

**II.20.3.1** In the case of points (e), (f) and (g) of Article II.20.2, the beneficiary does not need to identify the actual eligible costs covered, but it must ensure that the cost accounting practices used for the purpose of declaring eligible costs are in compliance with the following conditions:

- (a) the cost accounting practices used constitute its usual cost accounting practices and are applied in a consistent manner, based on objective criteria independent from the source of funding;
- (b) the costs declared can be directly reconciled with the amounts recorded in its general accounts; and
- (c) the categories of costs used for the purpose of determining the costs declared are exclusive of any ineligible cost or costs covered by other forms of grant as provided for in Article I.3.2.

**II.20.3.2** If the Special Conditions so provide, the beneficiary may submit to the Commission a request asking it to assess the compliance of its usual cost accounting practices. If required by the Special Conditions, the request must be accompanied by a certificate on the compliance of the cost accounting practices ('certificate on the compliance of the cost accounting practices').

The certificate on the compliance of the cost accounting practices must be:

- (a) produced by an approved auditor or, if the beneficiary is a public body, by a competent and independent public officer; and

The certificate must certify that the beneficiary's cost accounting practices used for the purpose of declaring eligible costs comply with the conditions laid down in Article II.20.3.1 and with the additional conditions that may be laid down in the Special Conditions.

**II.20.3.3** If the Commission has confirmed that the beneficiary's usual cost accounting practices are in compliance, costs declared in application of these practices may not be challenged *ex post*, if:

- (a) the practices actually used comply with those approved by the Commission; and
- (b) the beneficiary did not conceal any information for the purpose of the approval of its cost accounting practices.

## **ARTICLE II.21 — ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE BENEFICIARIES**

If the Special Conditions contain a provision on entities affiliated to the beneficiaries, costs incurred by such an entity are eligible, if:

- (a) they satisfy the same conditions under Articles II.19 and II.20 as apply to the beneficiary; and
- (b) the beneficiary to which the entity is affiliated ensures that the conditions applicable to the beneficiary under Articles II.4, II.5, II.6, II.8, II.10, II.11 and II.27 are also applicable to the entity.

## **ARTICLE II.22 — BUDGET TRANSFERS**

Beneficiaries are allowed to adjust the estimated budget set out in Annex III by transfers between themselves and between the different budget categories, if the *action* is implemented as described in Annex I. This adjustment does not require an amendment of the Agreement as provided for in Article II.13.

However, the beneficiaries may not add costs relating to *subcontracts* not provided for in Annex 1, unless such additional *subcontracts* are approved by the Commission in accordance with Article II.11.1(d).

As an exception to the first subparagraph, if beneficiaries want to change the value of the contribution to which each of them is entitled, as referred to in point (c) of the third subparagraph of Article II.26.3, the coordinator must request an amendment as provided for in Article II.13.

The first three subparagraphs do not apply to amounts which, as provided for in Article I.3.2(a)(iii) or (c), take the form of lump sums.

## **ARTICLE II.23 — NON-COMPLIANCE WITH REPORTING OBLIGATIONS**

The Commission may terminate the Agreement as provided for in Article II.17.3.1(c) and may reduce the grant as provided for in Article II.25.4 if the coordinator:

- (a) did not submit a request for interim payment or payment of the balance accompanied by the documents referred to in Articles I.4.3 or I.4.4 within 60 calendar days following the end of the corresponding reporting period; and
- (b) still fails to submit such a request within further 60 calendar days following a written reminder sent by the Commission.

## **ARTICLE II.24 — SUSPENSION OF PAYMENTS AND TIME LIMIT FOR PAYMENT**

### **II.24.1 Suspension of payments**

#### **II.24.1.1 Grounds for suspension**

The Commission may at any moment suspend, in whole or in part, the pre-financing payment and interim payments for one or more beneficiaries or the payment of the balance for all beneficiaries:

- (a) if the Commission has evidence that a beneficiary has committed *substantial errors, irregularities or fraud* in the award procedure or while implementing the Agreement or if a beneficiary fails to comply with its obligations under the Agreement;
- (b) if the Commission has evidence that a beneficiary has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the beneficiary under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on this grant; or
- (c) if the Commission suspects *substantial errors, irregularities, fraud* or breach of obligations committed by a beneficiary in the award procedure or while implementing the Agreement and needs to verify whether they have actually occurred.

### **II.24.1.2 Procedure for suspension**

**Step 1** — Before suspending payments, the Commission must send a *formal notification* to the coordinator:

- (a) informing it of:
  - (i) its intention to suspend payments;
  - (ii) the reasons for suspension;
  - (iii) in the cases referred to in points (a) and (b) of Article II.24.1.1, the conditions that need to be met for payments to resume; and
- (b) inviting it to submit observations within 30 calendar days of receiving the *formal notification*.

**Step 2** — If the Commission does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a *formal notification* to the coordinator informing it of:

- (a) the suspension of payments;
- (b) the reasons for suspension;
- (c) the final conditions under which payments may resume in the cases referred to in points (a) and (b) of Article II.24.1.1;
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.24.1.1.

The coordinator must immediately inform the other beneficiaries of the suspension. The suspension takes effect on the day the Commission sends *formal notification* of suspension (Step 2).

Otherwise, the Commission must send a *formal notification* to the coordinator informing it that it is not continuing with the suspension procedure.

### **II.24.1.3 Effects of suspension**

During the period of suspension of payments the coordinator is not entitled to submit:

- (a) any requests for payments and supporting documents referred to in Articles I.4.2, I.4.3 and I.4.4; or
- (b) where the suspension concerns the pre-financing payments or interim payments for one or several beneficiaries only, any requests for payments and supporting documents relating to the participation of the concerned beneficiary or beneficiaries in the *action*.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments in accordance with the schedule laid down in Article I.4.1.

The suspension of payments does not affect the right of the coordinator to suspend the implementation of the *action* as provided for in Article II.16.1 or to terminate the Agreement or the participation of a beneficiary as provided for in Articles II.17.1 and II.17.2.

**II.24.1.4 Resuming payments**

In order for the Commission to resume payments, the beneficiaries must meet the notified conditions as soon as possible and must inform the Commission of any progress made.

If the conditions for resuming payments are met, the suspension will be lifted. The Commission will send a *formal notification* to the coordinator informing it of this.

**II.24.2 Suspension of the time limit for payments**

**II.24.2.1** The Commission may at any moment suspend the time limit for payment specified in Articles I.5.2, I.5.3 and I.5.4 if a request for payment cannot be approved because:

- (a) it does not comply with the Agreement;
- (b) the appropriate supporting documents have not been produced; or
- (c) there is a doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

**II.24.2.2** The Commission must send a *formal notification* to the coordinator informing it of:

- (a) the suspension; and
- (b) the reasons for the suspension.

The suspension takes effect on the day the Commission sends the *formal notification*.

**II.24.2.3** If the conditions for suspending the payment deadline are no longer met, the suspension will be lifted and the remaining period will resume.

If the suspension exceeds two months, the coordinator may request the Commission if the suspension will continue.

If the payment deadline has been suspended because the technical reports or financial statements do not comply with the Agreement and the revised report or statement is not submitted or was submitted but is also rejected, the Commission may terminate the Agreement or the participation of the beneficiary as provided for in Article II.17.3.1(c) and reduce the grant as provided for in Article II.25.4.

**ARTICLE II.25 — CALCULATION OF THE FINAL AMOUNT OF THE GRANT**

The final amount of the grant depends on the extent to which the *action* has been implemented in accordance with the terms of the Agreement.

The final amount of the grant is calculated by the Commission at the time of the payment of the balance. The calculation involves the following steps:

Step 1 — Application of the reimbursement rate to the eligible costs and addition of the unit, flat-rate and lump sum contributions

Step 2 — Limit to the *maximum amount of the grant*

Step 3 — Reduction due to the no-profit rule



Step 4 — Reduction due to improper implementation or breach of other obligations.

### **II.25.1 Step 1 — Application of the reimbursement rate to the eligible costs and addition of the unit, flat-rate and lump sum contributions**

This step is applied as follows:

- (a) If, as provided for in Article I.3.2(a), the grant takes the form of the reimbursement of eligible costs, the reimbursement rate specified in that Article is applied to the eligible costs of the *action* approved by the Commission for the corresponding categories of costs, beneficiaries and affiliated entities;
- (b) If, as provided for in Article I.3.2(b), the grant takes the form of a unit contribution, the unit contribution specified in that Article is multiplied by the actual number of units approved by the Commission for the corresponding beneficiaries and affiliated entities;
- (c) If, as provided for in Article I.3.2(c), the grant takes the form of a lump sum contribution, the Commission applies the lump sum specified in that Article for the corresponding beneficiaries and affiliated entities if it finds that the corresponding tasks or part of the *action* were implemented properly in accordance with Annex I;
- (d) If, as provided for in Article I.3.2(d), the grant takes the form of a flat-rate contribution, the flat rate referred to in that Article is applied to the eligible costs or to the contribution approved by the Commission for the corresponding beneficiaries and affiliated entities.

If Article I.3.2 provides for a combination of different forms of grant, the amounts obtained must be added together.

### **II.25.2 Step 2 — Limit to *maximum amount of the grant***

The total amount paid to the beneficiaries by the Commission may in no circumstances exceed the *maximum amount of the grant*.

If the amount obtained following Step 1 is higher than this maximum amount, the final amount of the grant is limited to the latter.

### **II.25.3 Step 3 — Reduction due to the no-profit rule**

The grant may not produce a profit for the beneficiaries, unless specified otherwise in the Special Conditions.

‘Profit’ means the surplus of the amount obtained following Steps 1 and 2 plus the total receipts of the *action*, over the total eligible costs of the *action*.

The total eligible costs of the *action* are the consolidated total eligible costs approved by the Commission for the categories of costs reimbursed in accordance with Article I.3.2(a).

The total receipts of the *action* are the consolidated total receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the coordinator.

The following are considered receipts:

- (a) income generated by the *action*;

- (b) financial contributions given by third parties to a beneficiary or to an affiliated entity, if they are specifically assigned by the third parties to the financing of the eligible costs of the *action* reimbursed by the Commission in accordance with Article I.3.2(a)(i).

The following are not considered receipts:

- (a) financial contributions by third parties, if they may be used to cover costs other than the eligible costs under the Agreement;
- (b) financial contributions by third parties with no obligation to repay any amount unused at the end of the *implementation period*.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the *action* approved by the Commission for the categories of costs referred to in Article I.3.2(a)(i). the deduction will be applied on the amount calculated following Steps 1 and 2.

#### **II.25.4 Step 4 — Reduction due to improper implementation or breach of other obligations**

The Commission may reduce the *maximum amount of the grant* if the *action* has not been implemented properly as described in Annex I (i.e. if it has not been implemented or has been implemented poorly, partially or late), or if another obligation under the Agreement has been breached.

The amount of the reduction will be proportionate to the degree to which the *action* has been implemented improperly or to the seriousness of the breach.

Before the Commission reduces the grant, it must send a *formal notification* to the coordinator:

- (a) informing it of:
  - (i) its intention to reduce the *maximum amount of the grant*;
  - (ii) the amount by which it intends to reduce the grant;
  - (iii) the reasons for reduction;
- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

If the Commission does not receive any observations or decides to pursue reduction despite the observations it has received, it will send a *formal notification* informing the coordinator of its decision.

If the grant is reduced, the Commission must calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation of the *action* or to the seriousness of the breach of obligations) from the *maximum amount of the grant*.

The final amount of the grant will be the lower of the following two:

- (a) the amount obtained following Steps 1 to 3; or
- (b) the reduced grant amount following Step 4.

## **ARTICLE II.26 — RECOVERY**

### **II.26.1 Recovery at the time of payment of the balance**

Where the payment of the balance takes the form of a recovery, the coordinator must repay the Commission the amount in question, even if it was not the final recipient of the amount due.

### **II.26.2 Recovery after payment of the balance**

Where an amount is to be recovered as provided for in Articles II.27.6, II.27.7 and II.27.8, the beneficiary concerned by the audit or OLAF findings must repay the Commission the amount in question. Where the audit findings do not concern a specific beneficiary (or its affiliated entities), the coordinator must repay the Commission the amount in question, even if it was not the final recipient of the amount due.

Each beneficiary is responsible for the repayment of any amount unduly paid by the Commission as a contribution towards the costs incurred by its affiliated entities.

### **II.26.3 Recovery procedure**

Before recovery, the Commission must send a *formal notification* to the beneficiary concerned:

- (a) informing it of its intention to recover the amount unduly paid;
- (b) specifying the amount due and the reasons for recovery; and
- (c) inviting the beneficiary to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the beneficiary, the Commission decides to pursue the recovery procedure, the Commission may confirm recovery by sending a *formal notification* to the beneficiary consisting of a debit note, specifying the terms and the date for payment.

If payment has not been made by the date specified in the debit note, the Commission will recover the amount due:

- (a) by offsetting it, without the beneficiary's prior consent, against any amounts owed to the beneficiary by the Commission or an executive agency (from the Union or the European Atomic Energy Community (Euratom) budget) ('offsetting');

In exceptional circumstances, to safeguard the financial interests of the Union, the Commission may offset before the due date.

An action may be brought against such offsetting before the General Court of the European Union in accordance with Article 263 TFEU;

- (b) by drawing on the financial guarantee where provided for in accordance with Article I.5.2 ('drawing on the financial guarantee');
- (c) by holding the beneficiaries jointly and severally liable up to the maximum EU contribution indicated, for each beneficiary, in the estimated budget (Annex III as last amended);
- (d) by taking legal action as provided for in Article II.18.2 or in the Special Conditions or by adopting an enforceable decision as provided for in Article II.18.3.

## **II.26.4 Interest on late payment**

If payment is not made by the date in the debit note, the amount to be recovered will be increased by late-payment interest at the rate set out in Article I.5.6 from the day following the date for payment in the debit note up to and including the date the Commission receives full payment of the amount.

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

## **II.26.5 Bank charges**

Bank charges incurred in the recovery process must be borne by the beneficiary concerned, unless Directive 2007/64/EC<sup>37</sup> applies.

## **ARTICLE II.27 — CHECKS, AUDITS AND EVALUATIONS**

### **II.27.1 Technical and financial checks, audits, interim and final evaluations**

The Commission may, during the implementation of the *action* or afterwards, carry out technical and financial checks and audits to determine that the beneficiaries are implementing the *action* properly and are complying with the obligations under the Agreement. It may also check the beneficiaries' statutory records for the purpose of periodic assessments of lump sum, unit cost or flat-rate amounts.

Information and documents provided as part of checks or audits must be treated on a confidential basis.

In addition, the Commission may carry out an interim or final evaluation of the impact of the *action*, measured against the objective of the Union programme concerned.

Commission checks, audits or evaluations may be carried out either directly by the Commission's own staff or by any other outside body authorised to do so on its behalf.

The Commission may initiate such checks, audits or evaluations during the implementation of the Agreement and during a period of five years starting from the date of payment of the balance. This period is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

The check, audit or evaluation procedures are considered to be initiated on the date of receipt of the letter of the Commission announcing it.

If the audit is carried out on an affiliated entity, the beneficiary concerned must inform that affiliated entity.

---

<sup>37</sup> Directive 2007/64/EC<sup>37</sup> of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

## **II.27.2 Duty to keep documents**

The beneficiaries must keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by their respective national law and under the conditions laid down therein, during a period of five years starting from the date of payment of the balance.

The period during which documents must be kept is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

The periods set out in the first and second subparagraphs are longer if there are ongoing audits, appeals, litigation or pursuit of claims concerning the grant, including in the cases referred to in Article II.27.7. In such cases, the beneficiaries must keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

## **II.27.3 Obligation to provide information**

Where a check, audit or evaluation is initiated before the payment of the balance, the coordinator must provide any information, including information in electronic format, requested by the Commission or by any other outside body authorised by the Commission. Where appropriate, the Commission may request that a beneficiary provides such information directly.

Where a check or audit is initiated after payment of the balance, the information referred to in the previous subparagraph must be provided by the beneficiary concerned.

If the beneficiary concerned does not comply with the obligations set out in the first and second subparagraphs, the Commission may consider:

- (a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the beneficiary as undue.

## **II.27.4 On-the-spot visits**

During an on-the-spot visit, the beneficiaries must allow Commission staff and outside personnel authorised by the Commission to have access to the sites and premises where the *action* is or was carried out, and to all the necessary information, including information in electronic format.

They must ensure that the information is readily available at the moment of the on-the-spot visit and that information requested is handed over in an appropriate form.

If the beneficiary concerned refuses to provide access to the sites, premises and information as required in the first and second subparagraphs, the Commission may consider:

- (a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the beneficiary as undue.

## **II.27.5 Contradictory audit procedure**

On the basis of the findings made during the audit, a provisional report ('draft audit report') must be drawn up. It must be sent by the Commission or its authorised representative to the beneficiary concerned, which must have 30 calendar days from the date of receipt to submit observations. The final report ('final audit report') must be sent to the beneficiary concerned within 60 calendar days of expiry of the time limit for submission of observations.

## **II.27.6 Effects of audit findings**

On the basis of the final audit findings, the Commission may take the measures it considers necessary, including recovery at the time of payment of the balance or after payment of the balance of all or part of the payments made by it, as provided for in Article II.26.

In the case of final audit findings after the payment of the balance, the amount to be recovered corresponds to the difference between the revised final amount of the grant, determined in accordance with Article II.25, and the total amount paid to the beneficiaries under the Agreement for the implementation of the *action*.

## **II.27.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations**

**II.27.7.1** The Commission may extend audit findings from other grants to this grant if:

- (a) the beneficiary concerned is found to have committed systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations in other EU or Euratom grants awarded under similar conditions and such errors, *irregularities*, *fraud* or breach have a material impact on this grant; and
- (b) the final audit findings are sent to the beneficiary concerned through a *formal notification*, together with the list of grants affected by the findings within the period referred to in Article II.27.1

The extension of findings may lead to:

- (a) the rejection of costs as ineligible;
- (b) reduction of the grant as provided for in Article II.25.4;
- (c) recovery of undue amounts as provided for in Article II.26;
- (d) suspension of payments as provided for in Article II.24.1;
- (e) suspension of the *action* implementation as provided for in Article II.16.2;
- (f) termination as provided for in Article II.17.3.

**II.27.7.2** The Commission must send a *formal notification* to the beneficiary concerned informing it of the systemic or recurrent errors and of its intention to extend the audit findings, together with the list of grants affected.

- (a) If the findings concern eligibility of costs the procedure is as follows:

**Step 1** — The *formal notification* must include:

- (i) an invitation to submit observations on the list of grants affected by the findings;
- (ii) a request to submit revised financial statements for all grants affected;

(iii) where possible, the correction rate for extrapolation established by the Commission to calculate the amounts to be rejected on the basis of the systemic or recurrent errors, *irregularities, fraud* or breach of obligations, if the beneficiary concerned:

- considers that the submission of revised financial statements is not possible or practicable; or
- will not submit revised financial statements.

**Step 2** — The beneficiary concerned has 60 calendar days from when it receives the *formal notification* to submit observations and revised financial statements or to propose a duly substantiated alternative correction method. This period may be extended by the Commission in justified cases.

**Step 3** — If the beneficiary concerned submits revised financial statements that take account of the findings the Commission will determine the amount to be corrected on the basis of those revised statements.

If the beneficiary proposes an alternative correction method and the Commission accepts it, the Commission must send a *formal notification* to the beneficiary concerned informing it:

- (i) that it accepts the alternative method;
- (ii) of the revised eligible costs determined by applying this method.

Otherwise the Commission must send a *formal notification* to the beneficiary concerned informing it:

- (i) that it does not accept the observations or the alternative method proposed;
- (ii) of the revised eligible costs determined by applying the extrapolation method initially notified to the beneficiary.

If the systemic or recurrent errors, *irregularities, fraud* or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant, determined in accordance with Article II.25 on the basis of the revised eligible costs declared by the beneficiary and approved by the Commission or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the beneficiaries under the Agreement for the implementation of the *action*;

(b) If the findings concern improper implementation or a breach of another obligation the procedure is as follows:

**Step 1** — The *formal notification* must include:

- (i) an invitation to the beneficiary to submit observations on the list of grants affected by the findings and
- (ii) the correction flat rate the Commission intends to apply to the *maximum amount of the grant* or to part of it, according to the principle of proportionality.

**Step 2** — The beneficiary concerned has 60 calendar days from receiving the *formal notification* to submit observations or to propose a duly substantiated alternative flat-rate.

**Step 3** — If the Commission accepts the alternative flat rate proposed by the beneficiary, it must send a *formal notification* to the beneficiary concerned informing it:

- (i) that it accepts the alternative flat-rate;
- (ii) of the corrected grant amount by applying this flat rate.

Otherwise the Commission must send a *formal notification* to the beneficiary concerned informing it:

- (i) that it does not accept the observations or the alternative flat rate proposed;
- (ii) of the corrected grant amount by applying the flat rate initially notified to the beneficiary.

If the systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant after flat-rate correction; and
- (ii) the total amount paid to the beneficiaries under the Agreement for the implementation of the *action*.

## **II.27.8 Checks and inspections by OLAF**

The European Anti-Fraud Office (OLAF) has the same rights as the Commission, particularly the right of access, for the purpose of checks and investigations.

Under Council Regulation (Euratom, EC) No 2185/96<sup>38</sup> and Regulation (EU, Euratom) No 883/2013<sup>39</sup> OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against *fraud* and other *irregularities*.

Where appropriate, OLAF findings may lead to the Commission recovering amounts from beneficiaries.

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

## **II.27.9 Checks and audits by the European Court of Auditors**

---

<sup>38</sup> Council Regulation (Euratom, EC) No 2185/96 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.

<sup>39</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).



The European Court of Auditors has the same rights as the Commission, particularly the right of access, for the purpose of checks and audits.

**ANNEX III : ESTIMATED BUDGET OF THE ACTION (FISCALIS 2020)**

Estimated eligible costs of the action and EU contribution (Table 1)	Estimated eligible actual costs	Estimated eligible costs declared on the basis of unit costs	Total estimated eligible costs	Reimbursement rate**	Estimated EU contribution reimbursing eligible costs
	(EUR)	Total (EUR)	(EUR)	%	(EUR)
	(a)	(b)	(c) = (a) + (b)	(d)	(e)=(c)*(d)
<b>Direct eligible costs</b>					
<b>1. Daily Allowance</b>					
Fight against fraud		325.000	325.000	100%	325.000
Exchange of Information		146.570	146.570	100%	146.570
Administrative cooperation		160.195	160.195	100%	160.195
Administrative capacity		137.340	137.340	100%	137.340
Implementation Union Law		113.390	113.390	100%	113.390
<b>Sub-total for category 1</b>	<b>0</b>	<b>882.495</b>	<b>882.495</b>		<b>882.495</b>
<b>2. Travel costs</b>					
Fight against fraud	728.605		728.605	100%	728.605
Exchange of Information	328.570		328.570	100%	328.570
Administrative cooperation	350.145		350.145	100%	350.145
Administrative capacity	307.890		307.890	100%	307.890
Implementation Union Law	243.615		243.615	100%	243.615
<b>Sub-total for category 2</b>	<b>1.958.825</b>	<b>0</b>	<b>1.958.825</b>		<b>1.958.825</b>
<b>3. Accommodation costs</b>					
Fight against fraud		416.595	416.595	100%	416.595
Exchange of Information		187.875	187.875	100%	187.875
Administrative cooperation		205.340	205.340	100%	205.340
Administrative capacity		176.045	176.045	100%	176.045
Implementation Union Law		145.345	145.345	100%	145.345
<b>Sub-total for category 3</b>	<b>0</b>	<b>1.131.200</b>	<b>1.131.200</b>		<b>1.131.200</b>
<b>4. Organisational costs</b>					
Fight against fraud	99.485		99.485	100%	99.485
Exchange of Information	41.630		41.630	100%	41.630
Administrative cooperation	69.120		69.120	100%	69.120
Administrative capacity	64.095		64.095	100%	64.095
Implementation Union Law	60.650		60.650	100%	60.650
<b>Sub-total for category 4</b>	<b>334.980</b>	<b>0</b>	<b>334.980</b>		<b>334.980</b>
<b>5. Direct personnel costs</b>					
Fight against fraud	0		0	50%	0
Exchange of Information	0		0	50%	0
Administrative cooperation	0		0	50%	0
Administrative capacity	5.000		5.000	50%	2.500
Implementation Union Law	0		0	50%	0
<b>Sub-total for category 5</b>	<b>5.000</b>	<b>0</b>	<b>5.000</b>		<b>2.500</b>
<b>Total direct eligible costs</b>	<b>2.298.805</b>	<b>2.013.695</b>	<b>4.312.500</b>		<b>4.310.000</b>
<b>6. Contingency</b>					
<b>Sub-total for category 6</b>	<b>160.000</b>		<b>160.000</b>		<b>160.000</b>
<b>7. Total costs</b>	<b>2.458.805</b>	<b>2.013.695</b>	<b>4.472.500</b>		
<b>8. Total EU contribution</b>					<b>4.470.000</b>
<b>Estimated expenditure of the action (Table 2)</b>			<b>Estimated revenue of the action (Table 3)</b>		
Expenditure	Amount		Revenue	Amount	
<b>1. Total eligible costs</b>	<b>4.472.500</b>		<b>Receipts</b>		
<b>2. Other costs of the action</b>			<b>Requested EU grant</b>	<b>4.470.000</b>	
<b>3. Value of contributions in kind (= 5 of Table 3)</b>			1. Income generated by the action		
<b>4. Total expenditure</b>	<b>4.472.500</b>		2. Financial contributions from third parties earmarked to the eligible costs		
			<b>Other revenue</b>		
			3. Financial contribution of the beneficiaries (own resources)	<b>2.500</b>	
			4. Other financial contributions from third parties		
			<b>Contributions in kind</b>		
			5. Contributions in kind		
			<b>Total revenue (= 4 of Table 2)</b>	<b>4.472.500</b>	

**ANNEX IV: ACCESSION FORM FOR BENEFICIARIES TO THE GRANT  
AGREEMENT FISCALIS 2020 - 2018**

[Full official name and legal form of the beneficiary] [*For Fiscalis only if relevant, insert: country acronym/VAT/EXC/DT*], established in [official address in full], ('the beneficiary'), represented for the purpose of signing this Accession Form by [forename and surname, function of the legal representative],

hereby agrees

to become beneficiary in Grant Agreement No TAXUD/2018/DE/401 ('the Agreement') between the Coordinator, the Federal Public Service Finance of Belgium, and the European Union ('the EU'), represented by the European Commission ('the Commission') for the action entitled "2018 Joints Actions under Fiscalis 2020 programme" ('the action').

and mandates

the coordinator to submit and sign in its name and on its behalf any amendments to the Agreement, in accordance with Article II.13.

By signing this Accession Form, the beneficiary accepts the grant and agrees to implement the grant in accordance with the Agreement, with all the obligations and conditions it sets out.

Filled Financial Identification Form and Legal Entity Form are an integral part of this Accession Form.

Done in 3 copies, of which one shall be kept by the coordinator and one by [name of the beneficiary][*For Fiscalis only if relevant, insert: country acronym/VAT/EXC/DT*], the third being sent to the Commission by the coordinator in accordance with Articles I.8 of the grant agreement.

**SIGNATURE**

For the beneficiary: [function/forename/surname]

Done in English on .....  
Stamp of the organisation

Attachment 1: Legal Entity Form  
Attachment 2: Financial Identification Form

**NOT TO BE PRINTED****Additional information****COMPULSORY DOCUMENTS TO BE ATTACHED TO THE ACCESSION FORM:**

Originals of the Financial Identification Form and Legal Entity Form filled in by the beneficiary concerned.

However, provided that the beneficiary confirms that the information mentioned in the legal entity form or in the financial identification form has not changed compared with previous year, copies of the financial identification form or legal entity form from the previous year can be accepted.

*Legal entity form:*

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

*Financial identification form:*

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

**Set of documents to be sent:**

**2 sets of the accession form and annexes shall be sent to the coordinator (address below) with an electronic copy to [taxud-grants@ec.europa.eu](mailto:taxud-grants@ec.europa.eu) and [taxud-fiscalis@ec.europa.eu](mailto:taxud-fiscalis@ec.europa.eu)**

**Postal address of the Co-ordinator where the accession form needs to be sent by each Beneficiary:**

*[Fiscalis 2020]*

*Federal Public Service FINANCE (FPS Finances )*

*General Administration of Taxes*

*International relations*

*Mr Erwin de Vlieger*

*Executive Fiscalis Co-ordinator*

*North Galaxy Tower A 24th floor*

*Koning Albert II laan, 33 bus 22*

*B-1030 Brussels*

*Belgium*

## ANNEX V: REPORTING

### 1. - Financial Reporting

- (a) Expenditure made by each beneficiary under the grant agreement shall be reported in ART2. Where a beneficiary is a national administration of a third country with no access to ART2, expenditures made by this beneficiary shall be reported in a specific financial report template available in PICS<sup>40</sup>.
- (b) In order to allow the Commission to closely monitor the implementation of the action and the consumption of the budget of the action, each beneficiary shall update any relevant information in ART2 (or in the specific financial report template) as soon as it becomes available and at least on a monthly basis.
- (c) To request a pre-financing instalment, each beneficiary has to provide a financial report. For those reporting under ART2, the financial report is composed of FR1 and FR2 (financial report 1 and 2) extracted at the time of the request. For those not using ART2, the financial report is the specific financial report in excel format extracted at the time of the request. For the supplementary pre-financing, additional documents concerning notably the budget allocation forecast may be added to the FR1 and FR2 to support the request for budget change.
- (d) At the end of the grant agreement, each beneficiary shall produce its annual financial report for the period stipulated in Article I.2, either via ART2 (under Reports, Programme team reports, financial report, FR1 and FR2) or using the specific financial report template for countries with no access to ART2. This annual financial report is to be signed and sent to the Commission by 30 June of the year following the start of the action.
- (e) Participating countries using more than one bank account to manage their participation in the programme shall submit a separate financial report for each of these bank accounts.

---

<sup>40</sup> Link in PICS to the excel financial report template: <https://webgate.ec.europa.eu/pics/group/73/wiki/5472> (in Fiscalis 2020 programme group in PICS)

## 2. - Technical reporting

Technical reports take the form of action follow-up forms (AFF)<sup>41</sup> and event assessment forms (EAF)<sup>42</sup> related to events undertaken during the grant agreement period, for the purpose of the grant agreement reporting.

They shall be submitted in accordance with the procedural arrangements and deadlines described in the documents of the programme performance measurement framework (PMF) available in PICS<sup>43</sup>.

The Commission will assess the compliance and appropriateness of the relevant technical reports submitted by each beneficiary of the grant, in due time for the purpose of the grant agreement reporting.

---

<sup>41</sup> The action follow-up form (AFF) is a form collecting feed-back from the action managers on the degree of achievement of expected results and their follow-up. The expected results are those as stipulated in the proposal form on ART or, for working visits, in the working visit application form. The AFF is sent to the action contact registered in ART to be filled-in. In the case of the working visits, the AFF is distributed by Working Visit Coordinators to the participants in the working visits.

<sup>42</sup> An event assessment form (EAF) is a form collecting feed-back from the participants on the relevance of the activity in which they participated; the dissemination of the outcomes of the activity in the national administration; the use made of the outcomes of the activity in the national administration and the change triggered in the national administration by their participation in the activity as well as the networking effect of their participation.

<sup>43</sup> Fiscalis 2020 programme group in PICS <https://webgate.ec.europa.eu/pics/filedepot/folder/3146>

## ANNEX VI: FINANCIAL MODALITIES

Table 1 - Unit costs for declaring daily allowances and accommodation costs

Table 2 –Estimated amounts per beneficiary

<b>TABLE 1.- Unit costs for declaring daily allowances and accommodation costs AMOUNTS IN EUR</b>			
<b>Country</b>	<b>Code</b>	<b>Unit costs for Accommodation in EUR</b>	<b>Unit costs for Daily Allowance in EUR</b>
<b>Albania</b>	AL	160	50
<b>Austria</b>	AT	132	102
<b>Bosnia-Herzegovina</b>	BA	135	65
<b>Belgium</b>	BE	148	102
<b>Bulgaria</b>	BG	135	57
<b>Cyprus</b>	CY	140	88
<b>Czech Republic</b>	CZ	124	70
<b>Germany</b>	DE	128	97
<b>Denmark</b>	DK	173	124
<b>Estonia</b>	EE	105	80
<b>Spain</b>	ES	128	88
<b>Finland</b>	FI	142	113
<b>France</b>	FR	180	102
<b>Greece</b>	GR	112	82
<b>Croatia</b>	HR	110	75
<b>Hungary</b>	HU	120	64
<b>Ireland</b>	IE	159	108
<b>Italy</b>	IT	148	98
<b>Lithuania</b>	LT	117	69
<b>Luxembourg</b>	LU	148	98
<b>Latvia</b>	LV	116	73
<b>Montenegro</b>	ME	140	80
<b>The former Yugoslav Republic of Macedonia*</b>	MK*	160	50
<b>Malta</b>	MT	138	88
<b>Netherlands</b>	NL	166	103
<b>Poland</b>	PL	116	67
<b>Portugal</b>	PT	101	83
<b>Romania</b>	RO	136	62
<b>Serbia</b>	RS	140	80
<b>Sweden</b>	SE	187	117
<b>Slovenia</b>	SI	117	84
<b>Slovakia</b>	SK	100	74
<b>Turkey</b>	TR	165	55
<b>United Kingdom</b>	UK	209	125

---

\* This Provisional Code does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations.



<b>TABLE 1. (continued) - <u>Unit costs for declaring daily allowances and accommodation costs</u> -- AMOUNTS IN EUR</b>		
<b>Other Countries</b>	<b>Accommodation Unit cost in EUR</b>	<b>Daily Allowance Unit cost in EUR</b>
Afghanistan	75	50
Algeria	85	85
American Samoa	135	70
Andorra *	126.57	68.89
Angola	175	105
Anguilla	140	75
Antigua and Barbuda	140	85
Argentina	210	75
Armenia	210	70
Aruba	185	80
Australia	135	75
Azerbaijan	200	70
Bahamas	115	75
Bahrain	195	80
Bangladesh	140	50
Barbados	140	75
Belarus	135	90
Belize	135	50
Benin	100	50
Bermuda	140	70
Bhutan	130	50
Bolivia	100	50
Bonaire	185	90
Botswana	135	50
Brazil	180	65
British Virgin Islands	140	75
Brunei	165	60
Burkina Faso	90	55
Burundi	115	50
Cambodia	115	50
Cameroon	105	55

---

\* geographically linked to Spain

Canada	165	65
Cape Verde	75	50
Cayman Islands	135	60
Central African Republic	80	60
Chad	145	65
Chile	175	70
China	155	55
Columbia	120	50
Comoros	85	50
Congo (Democratic Republic)	140	105
Congo (Republic)	115	70
Cooks Island	135	50
Costa Rica	140	50
Côte d'Ivoire	130	60
Cuba	150	75
Djibouti	170	65
Dominica	140	75
Dominican Republic	170	60
East Timor	110	50
East Timor	110	50
Ecuador	140	50
Egypt	140	65
El Salvador	125	55
Equatorial Guinea	85	60
Eritrea	80	50
Ethiopia	145	50
Fiji	120	50
French Guyana	140	55
French Polynesia	135	60
Gabon	115	75
Gambia	120	50
Georgia	215	80
Ghana	140	70
Grenada	140	75
Guadeloupe	115	65
Guam	135	60
Guatemala	125	50
Guinea Bissau	90	50
Guyana	160	50
Haiti	125	65

Honduras	125	50
Hong Kong	205	60
Iceland	160	85
India	195	50
Indonesia	145	50
Iran	145	55
Iraq	85	60
Israel	210	105
Jamaica	170	60
Japan	275	130
Jordan	135	60
Kazakhstan	175	70
Kenya	165	60
Kiribati	145	60
Kuwait	195	85
Kyrgyzstan	180	75
Laos	145	50
Lebanon	190	70
Lesotho	100	50
Liberia	150	85
Libya	175	50
Liechtenstein	95	80
Macao	95	55
Madagascar	105	50
Malaysia	160	50
Malawi	165	50
Maldives	135	50
Mali	95	60
Marshall Islands	135	50
Martinique	110	70
Mauritania	75	50
Mauritius	140	60
Mayotte	110	50
Mexico	185	70
Micronesia	135	55
Moldova	170	80
Monaco*	97.27	72.58

---

\* geographically linked to France

Mongolia	90	70
Montserrat	140	55
Morocco	130	75
Mozambique	140	60
Myanmar	75	50
Namibia	85	50
Nauru	135	50
Nepal	135	50
Netherlands Antilles	185	90
New Caledonia	135	55
New Zealand	125	60
Nicaragua	135	50
Niger	75	50
Nigeria	185	50
Niue	135	50
North Korea (P.D.R)	180	50
Northern Marianas	135	70
Norway	140	80
Oman	135	70
Pakistan	130	50
Palau	135	50
Panama	160	50
Papua New Guinea	135	55
Paraguay	140	50
Peru	135	75
Philippines	150	60
Puerto Rico	140	65
Qatar	135	65
Republic of Guinea	135	50
Réunion	90	60
Russia	275	90
Rwanda	160	65
Saint Lucia	140	75
Saint Vincent and the Grenadines	190	75
Samoa	135	50
San Marino*	114.33	60.34

---

\* geographically linked to Italy

São Tomé and Príncipe	95	60
Saudi Arabia	195	85
Senegal	135	65
Seychelles	140	85
Sierra Leone	135	55
Singapore	150	75
Solomon Islands	120	50
Somalia	125	50
South Africa	145	50
South Korea	200	100
Sri Lanka	105	50
St Kitts and Nevis	185	85
St Marteen	185	90
Sudan	215	55
Suriname	125	55
Swaziland	90	50
Switzerland	140	80
Syria	145	80
Taiwan	200	55
Tajikistan	110	75
Tanzania	200	50
Thailand	145	60
The Vatican	114.33	60.34
Togo	95	60
Tokelau Islands	135	50
Tonga	105	50
Trinidad and Tobago	115	60
Tunisia	85	60
Turkmenistan	150	80
Turks and Caicos Islands	135	55
Tuvalu	135	50
Uganda	180	55
Ukraine	190	80
United Arab Emirates	195	70
United States of America (except New York)	200	80
United States of America (New York)	275	100
Uruguay	160	55
US Virgin Islands	140	55

Uzbekistan	155	75
Vanuatu	110	60
Venezuela	125	85
Vietnam	205	50
Wallis and Futuna Islands	135	50
West Bank and Gaza	110	60
Yemen	165	60
Zambia	135	50
Zimbabwe	115	50
<b>Other countries</b>	145	60

**TABLE 2.- Estimated amounts per beneficiary (in EUR)**

<b>Fiscalis 2020 Teams</b>	<b>Estimated amount of EU grant (in EUR)</b>
<b>AL</b>	35,000
<b>AT</b>	120,000
<b>BA</b>	35,000
<b>BE</b>	125,000
<b>BG Exc</b>	40,000
<b>BG VAT</b>	120,000
<b>CY</b>	80,000
<b>CZ</b>	120,000
<b>DE</b>	200,000
<b>DK</b>	115,000
<b>EE</b>	130,000
<b>ES</b>	150,000
<b>FI</b>	215,000
<b>FR Exc</b>	70,000
<b>FR VAT</b>	105,000
<b>GR Exc</b>	12,500
<b>GR VAT</b>	120,000
<b>HR</b>	110,000
<b>HU</b>	155,000
<b>IE</b>	130,000
<b>IT Exc</b>	65,000
<b>IT VAT</b>	170,000
<b>LT</b>	125,000
<b>LU DT</b>	10,000
<b>LU Exc</b>	10,000
<b>LU VAT</b>	50,000
<b>LV</b>	145,000
<b>ME</b>	30,000
<b>MK<sup>44</sup></b>	45,000

---

<sup>44</sup> This Provisional Code does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations.

<b>MT</b>	90,000
<b>NL</b>	175,000
<b>PL</b>	130,000
<b>PT</b>	180,000
<b>R0</b>	125,000
<b>RS</b>	80,000
<b>SE</b>	210,000
<b>SI</b>	95,000
<b>SK</b>	110,000
<b>TR</b>	115,000
<b>UK</b>	160,000
<b>Estimated EU contribution for Direct Personnel costs</b>	2,500
<b>Estimated Contingency</b>	160,000
<b>Total Amount EU Grant for 2018 (Fiscalis 2020)</b>	4,470,000