



ANNEX I – *General Conditions for EJM Plenary Meetings*

(Version 1/2022)

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 for which the grant is awarded, to be implemented by the beneficiary as described in Annex I;

‘Breach of obligations’: failure by the beneficiary to fulfil one or more of its contractual obligations;

‘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 the beneficiary is compromised for reasons involving family, emotional life, political or national affinity, economic interest, any other direct or indirect personal interest or any other shared interest with Eurojust 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*;

‘Notification’: form of communication between the parties made by e-mail which provides the sender with compelling evidence that the message was delivered to the specified recipient;

‘Fraud’: any act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget, the non-disclosure of information in violation of a specific obligation, with the same effect or the misapplication of such funds or assets for purposes other than those for which they were originally granted;

'Grave professional misconduct': a violation of applicable laws or regulations or ethical standards of the profession to which a person or entity belongs, or any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence;

'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 the 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;

'Related person': any natural or legal person who is a member of the administrative, management or supervisory body of the beneficiary or who has the powers of representation, decision or control with regard to the beneficiary;

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

ARTICLE II.2 – GENERAL OBLIGATIONS OF THE BENEFICIARY

The beneficiary:

- (a) is liable for carrying out the *action* in accordance with the Agreement;
- (b) must comply with any legal obligations it is bound by under applicable EU, international and national law;
- (c) must inform EJM/Eurojust immediately of any events or circumstances of which the beneficiary is aware, that are likely to affect or delay the implementation of the *action*;
- (d) must inform EJM/Eurojust 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 regarding the exclusion situations listed in Article 136 of Regulation (EU) 2018/1046

ARTICLE II.3 – COMMUNICATION BETWEEN 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) in the language of the Agreement;

- (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 EJM Secretariat/Eurojust using the postal or courier services is considered to have been received by EJM Secretariat/Eurojust on the date on which it is registered by Eurojust.

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 Eurojust may not be held liable for any damage caused or sustained by the beneficiary, 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 beneficiary must compensate Eurojust 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 INTEREST

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

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

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

ARTICLE II.6 – PROCESSING OF PERSONAL DATA

II.6.1 Processing of personal data by Eurojust

Any personal data included in the Agreement must be processed by Eurojust in accordance with Regulation (EU) No 2018/1725.¹

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.20.

The beneficiary has the right to request access, rectification or erasure of its own personal data and the right to restrict or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, it must send any queries about the processing of its personal data to the data controller identified in Article I.7.1.

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

II.6.2 Processing of personal data by the beneficiary

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

The beneficiary may grant its personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement. The beneficiary must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.

The beneficiary must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned. This is in order to ensure, as appropriate:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

- (e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

ARTICLE II.7 – VISIBILITY OF UNION FUNDING

II.7.1 Information on Union funding and use of the European Union emblem

Unless requested or agreed otherwise, any communication or publication made by the beneficiary 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 beneficiary a right of exclusive use. The beneficiary 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 beneficiary may use the European Union emblem without first obtaining permission.

ARTICLE II.8 – AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE ACTION

II.8.1 If the implementation of the *action* requires the beneficiary to procure goods, works or services, it may award the contract in accordance with their usual purchasing practices provided that the contract is awarded to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, it must avoid any *conflict of interests*.

The beneficiary must ensure that Eurojust, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.20 also towards the beneficiary' contractors.

II.8.2 The beneficiary that is a ‘contracting authority’ within the meaning of Directive 2014/24/EU² or ‘contracting entity’ within the meaning of Directive 2014/25/EU³ must comply with the applicable national public procurement rules.

The beneficiary must ensure that the conditions applicable to it under Articles II.4, II.5, are also applicable to the contractors.

II.8.3 The beneficiary remains solely responsible for carrying out the *action* and for compliance with the Agreement.

II.8.4. If the beneficiary breaches its obligations under Article II.8.1 the costs related to the contract concerned are considered ineligible.

If the beneficiary breaches its obligations under Article II.8.2 the grant may be reduced in accordance with Article II.18.3.

ARTICLE II.9 – AMENDMENTS TO THE AGREEMENT

II.9.1 Any amendment to the Agreement must be made in writing.

II.9.2 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 beneficiaries.

II.9.3 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.9.4 Amendments enter into force on the date on which the last party signs.

ARTICLE II.10 – FORCE MAJEURE

II.10.1 A party faced with *force majeure* must send a *notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.

² 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

³ 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

II.10.2 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.10.3 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.11 – SUSPENSION OF THE IMPLEMENTATION OF THE ACTION

II.11.1 Suspension of implementation by the beneficiary

The beneficiary 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 beneficiary must immediately inform Eurojust, 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 beneficiary to resume implementing the *action*, the beneficiary must inform Eurojust immediately and present a request for amendment of the Agreement as provided for in Article II.11.3. This obligation does not apply if the Agreement is terminated in accordance with Articles II.12.1 or points (b) or (c) of Article II.12.2.1.

II.11.2 Suspension of implementation by Eurojust

II.11.2.1 Grounds for suspension

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

- (a) if Eurojust has evidence that the beneficiary has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Agreement;
- (b) if Eurojust has evidence that the beneficiary has committed systemic or recurrent *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 *irregularities, fraud or breach of obligations* have a material impact on this grant; or
- (c) if Eurojust suspects *irregularities, fraud or breach of obligations* committed by the beneficiary in the award procedure or while implementing the Agreement and needs to verify whether they have actually occurred.

II.11.3 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.9 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 Eurojust's right to terminate the Agreement in accordance with Article II.12.2, reduce the grant or recover amounts unduly paid.

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

ARTICLE II.12 – TERMINATION OF THE AGREEMENT

II.12.1 Termination of the Agreement by the beneficiary

The beneficiary may terminate the Agreement.

The beneficiary must send a *notification* of termination to Eurojust, stating:

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

If the beneficiary does not state the reasons for the termination or if Eurojust 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 *notification*.

II.12.2 Termination of the Agreement by Eurojust

II.12.2.1 Grounds for termination

Eurojust may terminate the Agreement, 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, or a change regarding the exclusion situations listed in Article 136 of Regulation (EU) 2018/1046, that calls into question the decision to award the grant;
- (b) the beneficiary, any *related person* or any natural person who is essential for the award or for the implementation of the Agreement have committed serious *breach of obligations*, including improper implementation of the *action* as described in Annex I;
- (c) 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;

- (d) the beneficiary or a natural or legal person that assumes unlimited liability for the debts of the beneficiary:
 - (i) is declared bankrupt, is subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a Court, has entered into an agreement with creditors, has suspended business activities or is in any analogous situation arising from a similar procedure provided for under the Union or national law;
 - (ii) is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;
- (e) the beneficiary or any *related person* or any natural person who is essential for the award or for the implementation of the Agreement has committed:
 - (i) *grave professional misconduct* proven by any means;
 - (ii) *fraud*;
 - (iii) corruption;
 - (iv) conduct related to criminal organisations;
 - (v) money laundering;
 - (vi) terrorism-related crimes (including terrorism financing);
 - (vii) child labour or other offences concerning trafficking of human beings;
- (f) Eurojust has evidence that the beneficiary or any *related person* or any natural person who is essential for the award or for the implementation of the Agreement has committed *irregularities, fraud* or *breach of obligations* in the award procedure or while implementing the Agreement, including if the beneficiary or *related person* or natural person has submitted false information or failed to provide required information;
- (g) Eurojust has evidence that the beneficiary has committed systemic or recurrent *irregularities, fraud* or serious *breach of obligations* in other Union or Euratom grants awarded to it under similar conditions and such *irregularities, fraud* or *breach of obligations* have a material impact on this grant;
- (h) a beneficiary or any *related person* or any natural person who is essential for the award or for the implementation of the Agreement has created an entity under a different jurisdiction with the intend to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business;
- (i) a beneficiary or any *related person* has been created with the intend referred to in point (h)

II.12.3 Effects of termination

Within 30 calendar days from the day on which the termination takes effect, the beneficiary must submit a request for payment of the balance as provided for in Article I.4.1.

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

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

Eurojust calculates the final grant amount as referred to in Article II.18 on the basis of the reports submitted. Only activities undertaken before the date when the termination takes effect or the end date of the *implementation period* as specified in Article I.2.2, whichever is the earliest, must be taken into account. Where the grant takes the form of reimbursement of costs actually incurred as provided for in Article I.3.2, 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 and are not reimbursed or covered by the grant.

ARTICLE II.13 – APPLICABLE LAW, SETTLEMENT OF DISPUTES AND ENFORCEABLE DECISIONS

- II.13.1** The Agreement is governed by the applicable Union law, complemented, where necessary, by the law of the Kingdom of the Netherlands.
- II.13.2** 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.13.3** In accordance with Article 299 TFEU, for the purposes of recovery within the meaning of Article II.26, Eurojust 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.14 – ELIGIBLE COSTS

II.14.1 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.4.1.2 request for;
- (b) they are indicated in the estimated budget. The estimated budget is set out in Annex III;
- (c) they are incurred in connection with the *action* as described in Annex II 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.14.2 Eligible direct costs

To be eligible, the *direct costs* of the *action* must comply with the eligibility conditions set out in Article II.14.1.

In particular, the following categories of costs are eligible *direct costs*,

- i) the cost of accommodation for EJM CPs, **for speakers** (that are not EJM CP) and for persons that are directly contributing to the action (s) to the extent that they do not exceed the ceilings approved by Eurojust
- ii) travel costs **for speakers** (that are not EJM CP) may be reimbursed;
- iii) bus transfers for participants during the meeting days, including airport transfer;
- iv) the hire/lease cost of equipment (new or second-hand) corresponding to the duration of the action and the rate of actual use;
- v) costs of consumables and stationary, provided that they are identifiable and assigned to the action;
- vi) costs entailed by other contracts awarded by the beneficiary for the purposes of carrying out the action, provided that the conditions laid down in Article II.8 are met;
- vii) costs on interpretation and translations;
- viii) costs arising directly from requirements imposed by the agreement (dissemination of information, reproduction, etc.);
- ix) costs for meals and collations to the extent that they do not exceed the rates approved by Eurojust.

II.14.3 Ineligible costs

In addition to any other costs which do not fulfil the conditions set out in Article II.14.1, the following costs may not be considered eligible:

- (a) interest owed;
- (b) doubtful debts;
- (c) currency exchange losses;
- (d) costs of transfers from Eurojust charged by the bank of the beneficiary;
- (e) 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 Eurojust for the purpose of implementing the Union budget.

- (f) contributions in kind from third parties;
- (g) excessive or reckless expenditure;
- (h) deductible VAT.

ARTICLE II.15 – IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED

II.15.1 Declaring costs

The beneficiary must declare as eligible costs, the costs actually incurred for the *action* (i.e. actual costs) by submitting the final financial statement and report, following the template in Annex IV in addition to the documents indicated in article II.15.2

II.15.2 Records and other documentation to support the costs

The beneficiary must provide the following if requested to do so in the context of the checks or audits described in Article II.20: adequate supporting documents to prove the actual costs declared, such as contracts, invoices and accounting records. The supporting documents should be clear enough to allow the financial verification process.

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.

ARTICLE II.16 – BUDGET TRANSFERS

The beneficiary is allowed to adjust the estimated budget set out in Annex III by transfers between the different budget categories, if the *action* is implemented as described in Annex II. This adjustment does not require an amendment of the Agreement as provided for in Article II.9.

ARTICLE II.17 – SUSPENSION OF PAYMENTS AND TIME LINE FOR PAYMENT

II.17.1 Suspension of payments

II.17.1.1 Grounds for suspension

Eurojust may, at any time during the implementation of the Agreement, suspend the pre-financing payment, or payment of the balance:

- (a) if Eurojust has evidence that the beneficiary has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Agreement;
- (b) if Eurojust has evidence that the beneficiary has committed systemic or recurrent *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 *irregularities, fraud or breach of obligations* have a material impact on this grant; or

- (c) if Eurojust suspects *substantial irregularities, fraud or breach of obligations* committed by the beneficiary in the award procedure or while implementing the Agreement and needs to verify whether they have actually occurred.

II.17.1.2 Effects of suspension

During the period of suspension of payments the beneficiary is not entitled to submit any requests for payments and supporting documents referred to in Article I.4.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments.

The suspension of payments does not affect the right of the beneficiary to suspend the implementation of the *action* as provided for in Article II.11.1 or to terminate the Agreement as provided for in Article II.12.1.

II.17.2 Suspension of the time limit for payments

II.17.2.1 Eurojust may at any moment suspend the time limit for payment specified in Article I.5.2 and I.5.3 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.17.2.2 Eurojust must send a *notification* via e-mail to the beneficiary informing it of:

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

The suspension takes effect on the day Eurojust sends the *notification*.

II.17.2.3 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 payment deadline has been suspended because the report or financial statement do not comply with the Agreement and the revised report or statement is not submitted or was submitted but is also rejected, Eurojust may terminate the Agreement as provided for in Article II.12.2.1(b) and reduce the grant as provided for in Article II.18.3.

ARTICLE II.18 – 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 Eurojust 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

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

Step 3 — Reduction due to improper implementation, irregularities, fraud or breach of obligations.

ARTICLE II.19 – RECOVERY

II.19.1 Recovery

Where an amount is to be recovered under the terms of the Agreement, the beneficiary must repay Eurojust the amount in question.

For plenary meetings: where the amount of the prefinancing exceeds the total amount of the action.

II.19.2 Recovery procedure

Before recovery, Eurojust must send a *notification* to the beneficiary:

- (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, Eurojust decides to pursue the recovery procedure, Eurojust may confirm recovery by sending a *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, Eurojust will recover the amount due:

- (a) by offsetting it, without the beneficiary's prior consent, against any amounts owed to the beneficiary by Eurojust;

In exceptional circumstances, to safeguard the financial interests of the Union, Eurojust 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 taking legal action as provided for in Article II.13.2 or in the Special Conditions or by adopting an enforceable decision as provided for in Article II.13.3.

ARTICLE II.20 – CHECKS, AUDITS AND EVALUATIONS

II.20.1 Technical and financial checks, audits, interim and final evaluations

Eurojust may, during the implementation of the *action* or afterwards, carry out technical and financial checks and audits to determine that the beneficiary is implementing the *action* properly and is complying with the obligations under the Agreement.

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

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

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

Eurojust may initiate such checks, audits or evaluations during the implementation of the Agreement and during a period of 3 years starting from the date of payment of the balance.

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

II.20.2 Duty to keep documents

The beneficiary 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 3 years starting from the date of payment of the balance.

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.20.7. In such cases, the beneficiary must keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

II.20.3 Obligation to provide information

The beneficiary must provide any information, including information in electronic format, requested by Eurojust or by any other outside body authorised by Eurojust.

If the beneficiary does not comply with the obligation set out in the first subparagraph, Eurojust may consider any cost insufficiently substantiated by information provided by the beneficiary as ineligible.

II.20.4 On-the-spot visits

During an on-the-spot visit, the beneficiary must allow Eurojust staff and outside personnel authorised by Eurojust 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.

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

- (a) any cost insufficiently substantiated by information provided by the beneficiary as ineligible.

II.20.5 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 Eurojust or its authorised representative to the beneficiary, 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 within 30 calendar days of expiry of the time limit for submission of observations.

II.20.6 Effects of audit findings

On the basis of the final audit findings, Eurojust may take the measures it considers necessary, including recovery of all or part of the payments made by it, as provided for in Article II.19.

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.18, and the total amount paid to the beneficiary under the Agreement for the implementation of the *action*.

II.20.7 Correction of systemic or recurrent irregularities, fraud or breach of obligations

II.20.7.1 Eurojust may extend audit findings from other grants to this grant if:

- (a) the beneficiary is found to have committed systemic or recurrent *irregularities, fraud or breach of obligations* in other EU or Euratom grants awarded under similar conditions and such *irregularities, fraud or breach of obligations* have a material impact on this grant; and
- (b) the final audit findings are sent to the beneficiary through a *notification*, together with the list of grants affected by the findings within the period referred to in Article II.20.1

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.18.3;
- (c) recovery of undue amounts as provided for in Article II.19;
- (d) suspension of payments as provided for in Article II.17.1;
- (e) suspension of the *action* implementation as provided for in Article II.11.2;
- (f) termination as provided for in Article II.12.2.

II.20.7.2 Eurojust must send a *notification* to the beneficiary informing it of the systemic or recurrent irregularities, *fraud or breach of obligations* 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 *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 Eurojust to calculate the amounts to be rejected on the basis of the systemic or recurrent *irregularities, fraud* or *breach of obligations*, if the beneficiary:
 - considers that the submission of revised financial statements is not possible or practicable; or
 - will not submit revised financial statements.

Step 2 — The beneficiary has 30 calendar days from when it receives the *notification* to submit observations and revised financial statements or to propose a duly substantiated alternative correction method. This period may be extended by Eurojust in justified cases.

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

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

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

Otherwise Eurojust must send a *notification* to the beneficiary 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 *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.18 on the basis of the revised eligible costs declared by the beneficiary and approved by Eurojust or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the beneficiary 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 *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 Eurojust 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 has 30 calendar days from receiving the *notification* to submit observations or to propose a duly substantiated alternative flat-rate.

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

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

Otherwise Eurojust must send a *notification* to the beneficiary 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 *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 beneficiary under the Agreement for the implementation of the *action*.

II.20.8 Rights of OLAF

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

Under Council Regulation (Euratom, EC) No 2185/96⁴ and Regulation (EU, Euratom) No 883/2013⁵ 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 Eurojust recovering amounts from the beneficiary.

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

II.20.9 Rights of the European Court of Auditors and EPPO

The European Court of Auditors and the European Public Prosecutor's Office established by Council Regulation (EU) 2017/1939 ('the EPPO') have the same rights as Eurojust particularly the right of access, for the purpose of checks, audits and investigations.

⁴ 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.

⁵ 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).