

# Regulation on the implementation of the European Economic Area (EEA) Financial Mechanism 2014-2021

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adopted by the EEA Financial Mechanism Committee  
pursuant to Article 10.5 of Protocol 38c to the EEA Agreement on 8 September 2016  
and confirmed by the Standing Committee of the EFTA States on 22.09.2016

## Table of contents

<b>Chapter 1 General provisions</b> .....	<b>6</b>
Article 1.1 Subject matter .....	6
Article 1.2 Objectives.....	6
Article 1.3 Principles of implementation .....	6
Article 1.4 Principle of co-operation.....	6
Article 1.5 The legal framework .....	6
Article 1.6 Definitions.....	6
Article 1.7 Visibility.....	8
Article 1.8 Financial contribution .....	8
Article 1.9 Costs of the Donor States .....	8
Article 1.10 Management costs of the Beneficiary State .....	8
Article 1.11 Resources for the reserve .....	8
Article 1.12 Completion of specific projects selected within the EEA Financial Mechanism 2009-2014 .....	8
<b>Chapter 2 Strategic approach</b> .....	<b>8</b>
Article 2.1 Priority sectors .....	8
Article 2.2 Funding for Donor Programme Partners.....	9
Article 2.3 Funding for International Partner Organisations.....	9
Article 2.4 Fund for regional cooperation .....	9
Article 2.5 Memorandum of Understanding .....	9
Article 2.6 Strategic Report.....	9
Article 2.7 Annual meeting .....	10
<b>Chapter 3 Information and Communication</b> .....	<b>10</b>
Article 3.1 General provisions .....	10
Article 3.2 Responsibilities of the National Focal Point.....	10
Article 3.3 Responsibilities of the Programme Operator .....	11
<b>Chapter 4 Bilateral relations</b> .....	<b>11</b>
Article 4.1 General principles .....	11
Article 4.2 Joint Committee for Bilateral Funds .....	11
Article 4.3 Donor partnership programmes.....	11
Article 4.4 Cooperation Committee .....	12
Article 4.5 Donor partnership projects .....	12
Article 4.6 Fund for bilateral relations .....	12
Article 4.7 Use of funds for bilateral relations at programme level.....	13

<b>Chapter 5 Management and control systems .....</b>	<b>13</b>
Article 5.1 General principles of the management and control systems .....	13
Article 5.2 Designation of national entities.....	13
Article 5.3 National Focal Point.....	13
Article 5.4 Certifying Authority.....	14
Article 5.5 Audit Authority .....	14
Article 5.6 Programme Operator.....	15
Article 5.7 Setting up of management and control systems .....	16
<b>Chapter 6 Programmes .....</b>	<b>17</b>
Article 6.1 Preparation of programmes .....	17
Article 6.2 Concept note .....	17
Article 6.3 Programme agreement .....	18
Article 6.4 Grant rates and minimum size of project grants .....	18
Article 6.5 Selection of pre-defined projects .....	19
Article 6.6 Small grant schemes within a programme .....	19
Article 6.7 Financial Instruments .....	19
Article 6.8 Programme implementation agreement .....	19
Article 6.9 Modification of programmes.....	20
Article 6.10 Screening by the European Commission .....	21
Article 6.11 Annual programme report .....	21
Article 6.12 Final programme report.....	21
<b>Chapter 7 Selection of projects .....</b>	<b>22</b>
Article 7.1 Modes of selection .....	22
Article 7.2 Eligibility of Project Promoters and project partners.....	22
Article 7.3 Calls for proposals .....	22
Article 7.4 Project evaluation and award of grants .....	23
Article 7.5 Conflict of interest.....	23
Article 7.6 Project contract.....	23
Article 7.7 Project partners and partnership agreements.....	24
<b>Chapter 8 Eligibility of expenditures .....</b>	<b>24</b>
Article 8.1 Eligible expenditures of a programme .....	24
Article 8.2 General principles on the eligibility of expenditures .....	25
Article 8.3 Eligible direct expenditures in a project.....	25
Article 8.4 Standard scales of unit costs .....	26
Article 8.5 Indirect costs in projects (overheads).....	26
Article 8.6 Purchase of real estate and land .....	27

Article 8.7 Excluded costs.....	27
Article 8.8 Eligible expenditures under the fund for bilateral relations .....	28
Article 8.9 Scholarships and mobility programmes .....	28
Article 8.10 Eligibility of management cost incurred by Programme Operator .....	28
Article 8.11 Technical assistance to the Beneficiary State .....	29
Article 8.12 Proof of expenditure.....	30
Article 8.13 Period of eligibility of expenditures in projects .....	31
Article 8.14 Durability of projects .....	31
Article 8.15 Procurement .....	31
Article 8.16 State Aid.....	32
<b>Chapter 9 Financial management .....</b>	<b>32</b>
Article 9.1 Common rules for payments .....	32
Article 9.2 Advance payments .....	32
Article 9.3 Interim payments.....	32
Article 9.4 Payment of the final balance.....	33
Article 9.5 Forecast of likely payment applications.....	33
Article 9.6 Use of the euro .....	33
Article 9.7 Interest.....	34
Article 9.8 Transparency and availability of documents.....	34
<b>Chapter 10 Evaluations .....</b>	<b>34</b>
Article 10.1 Responsibilities of Beneficiary States.....	34
Article 10.2 Role of the FMC .....	34
<b>Chapter 11 External monitoring and audits.....</b>	<b>35</b>
Article 11.1 External monitoring .....	35
Article 11.2 EFTA Board of Auditors.....	35
Article 11.3 Audits and on-the-spot verifications arranged by the FMC .....	35
Article 11.4 Access .....	35
<b>Chapter 12 Irregularities.....</b>	<b>35</b>
Article 12.1 Responsibilities related to irregularities .....	35
Article 12.2 Definition of irregularities.....	35
Article 12.3 Entities responsible for reporting .....	36
Article 12.4 Irregularities Register.....	36
Article 12.5 Reporting on irregularities .....	36
Article 12.6 Reporting on progress regarding already reported irregularities.....	36
Article 12.7 Complaint mechanism.....	36

<b>Chapter 13 Suspension of payments, financial corrections and reimbursement .....</b>	<b>37</b>
Article 13.1 Suspension of payments .....	37
Article 13.2 Financial corrections .....	37
Article 13.3 Criteria for financial corrections .....	38
Article 13.4 Procedure .....	38
Article 13.5 Reimbursement .....	38
Article 13.6 General suspension of payments to a Beneficiary State.....	39
<b>Chapter 14 Final provisions .....</b>	<b>39</b>
Article 14.1 Language .....	39
Article 14.2 Liability .....	39
Article 14.3 Applicable law and jurisdiction .....	39
Article 14.4 Amendments .....	39
Article 14.5 Waiver .....	40
Article 14.6 Entry into force .....	40

## ANNEXES

Annex 1	Eligible Priority Sectors and Programme Areas
Annex 2	Template for MoU
Annex 3	Information and Communication Requirements
Annex 4	Template for Bilateral Fund Agreement
Annex 5	Template for Programme Concept Note
Annex 6	Template for Programme Agreement
Annex 7	Template for Technical Assistance Agreement Template for the Technical Assistance budget
Annex 8	Template for a forecast of likely payment applications
Annex 9	Template for irregularities report

## **Chapter 1**

### **General provisions**

#### **Article 1.1**

##### **Subject matter**

1. This Regulation applies to the implementation of the EEA Financial Mechanism 2014-2021 and was adopted in accordance with Article 10 of Protocol 38c to the EEA Agreement.

2. This Regulation lays down the general rules governing the EEA Financial Mechanism 2014-2021 without prejudice to the provisions laid down in Protocol 38c to the EEA Agreement.

#### **Article 1.2**

##### **Objectives**

The overall objectives of the EEA Financial Mechanism 2014-2021 are to contribute to the reduction of economic and social disparities in the European Economic Area and to strengthen bilateral relations between the Donor States and the Beneficiary States through financial contributions in the priority sectors listed in paragraph 1 of Article 2.1.

#### **Article 1.3**

##### **Principles of implementation**

1. All programmes and activities funded by the EEA Financial Mechanism 2014-2021 shall be based on the common values of respect for human dignity, freedom, democracy, equality, the rule of law and the respect for human rights, including the rights of persons belonging to minorities.

2. All programmes and activities funded by the EEA Financial Mechanism 2014-2021 shall follow the principles of good governance; they shall be participatory and inclusive, accountable, transparent, responsive, effective and efficient. There shall be zero-tolerance towards corruption.

3. All programmes and activities funded by the EEA Financial Mechanism 2014-2021 shall be consistent with sustainable development, long-term economic growth, social cohesion and environmental protection.

4. All programmes and activities funded by the EEA Financial Mechanism 2014-2021 shall follow a results and risk management approach.

#### **Article 1.4**

##### **Principle of co-operation**

The objectives of the EEA Financial Mechanism 2014-2021 shall be pursued in the framework of close co-operation between the Donor States and the Beneficiary States.

#### **Article 1.5**

##### **The legal framework**

1. This Regulation shall be read in conjunction with the following documents which, together with the Regulation and its annexes, constitute the legal framework of the EEA Financial Mechanism 2014-2021:

- (a) Protocol 38c to the EEA Agreement on the EEA Financial Mechanism 2014-2021;
- (b) the Memorandum of Understanding on the Implementation of the EEA Financial Mechanism 2014-2021 (hereinafter referred to as the MoU), entered into between the Donor States and the Beneficiary State;
- (c) the programme agreements; and
- (d) any guidelines adopted by the FMC after consultation with the Beneficiary States.

2. The Beneficiary State shall ensure that any additional provisions applicable to the implementation of the EEA Financial Mechanism 2014-2021 are kept to a minimum. The legal framework mentioned in paragraph 1 takes precedence over any such provisions.

#### **Article 1.6**

##### **Definitions**

For the purposes of this Regulation, the following terms shall have the meanings assigned to them here:

- (a) “Audit Authority”: a national public entity, functionally independent of the National Focal Point, the Certifying Authority and the Programme Operator, designated by the Beneficiary State and responsible for verifying the effective functioning of the management and control system.
- (b) “Certifying Authority”: a national public entity, functionally independent of the Audit Authority and the Programme Operator, designated by the Beneficiary State to certify financial information.
- (c) “Donor partnership project”: a project implemented in close cooperation with a project partner whose primary location is in one of the Donor States.
- (d) “Donor Programme Partner”: a public entity in a Donor State designated by the FMC advising on the preparation

and/or implementation of a programme, and/or participating in the implementation of a programme.

- (e) "Donor States": Iceland, Liechtenstein and Norway.
- (f) "EEA Financial Mechanism Committee" (hereinafter referred to as the FMC): The committee established by the Standing Committee of the EFTA States to manage the EEA Financial Mechanism 2014-2021.
- (g) "Evaluation": a systematic, objective and independent assessment of the design, implementation and/or results achieved in programmes and projects with the aim of determining the relevance, coherence and consistency effectiveness, efficiency, impacts and sustainability of the financial contribution.
- (h) "Financial Mechanism Office" (hereinafter referred to as the FMO): the office assisting the FMC in managing the EEA Financial Mechanism 2014-2021. The FMO, which is administratively a part of the European Free Trade Association, is responsible for the day-to-day implementation of the EEA Financial Mechanism 2014-2021 on behalf of the FMC and serves as a contact point.
- (i) "International Partner Organisation" (hereinafter referred to as IPO): international organisation or body or an agency thereof, involved in the implementation of the EEA Financial Mechanism 2014-2021, designated by the FMC.
- (j) "Irregularities Authority": a national public entity designated by the Beneficiary State to be responsible for the preparation and submission of irregularities reports on behalf of the Beneficiary State.
- (k) "Joint Committee for Bilateral Funds": a committee established by the Beneficiary State to discuss matters of bilateral interest, decide on the use of the fund for bilateral relations and review progress in the implementation of the EEA Financial Mechanism 2014-2021 towards reaching the objective of strengthened bilateral relations.
- (l) "Monitoring": the observation of programme and project implementation in order to ensure that agreed procedures are followed, to verify progress towards agreed outcomes and outputs and to identify potential problems in a timely manner so as to allow for corrective action.
- (m) "National Focal Point": a national public entity designated by the Beneficiary State to have the overall responsibility for reaching the objectives of the EEA Financial Mechanism 2014-2021 and implementing the MoU.
- (n) "Non-governmental organisation" (hereinafter referred to as NGO): a non-profit voluntary organisation established as a legal entity, having a non-commercial purpose, independent of local, regional and central government, public entities, political parties and commercial organisations. Religious institutions and political parties are not considered NGOs.
- (o) "Programme": a structure setting out a development strategy with a coherent set of measures to be carried out through projects with the support of the EEA Financial Mechanism 2014-2021 and aimed at achieving agreed objectives and outcomes.
- (p) "Programme agreement": an agreement between the FMC and the National Focal Point regulating the implementation of a particular programme.
- (q) "Programme grant": the financial contribution from the Donor States to a programme.
- (r) "Programme Operator": a public or private entity, commercial or non-commercial, as well as non-governmental organisations, having the responsibility for preparing and implementing a programme.
- (s) "Programme partner": a public or private entity, commercial or non-commercial, as well as non-governmental organisations, international organisations or agencies or bodies thereof, actively involved in, and effectively contributing to, the implementation of a programme.
- (t) "Project": an economically indivisible series of works fulfilling a precise technical function and with clearly identifiable aims related to the programme under which it falls. A project may include one or more sub-projects. Without prejudice to Article 6.5, projects are selected by the Programme Operator.
- (u) "Project contract": an agreement between the Programme Operator and the Project Promoter regulating the implementation of a particular project.
- (v) "Project grant": a grant awarded by a Programme Operator to a Project Promoter to implement a project.
- (w) "Project partner": a natural or legal person actively involved in, and effectively contributing to, the implementation of a project. It shares with the Project Promoter a common economic or social goal which is to be realised through the implementation of that project.
- (x) "Project Promoter": a natural or legal person having the responsibility for initiating, preparing and implementing a project.
- (y) "Social partners": representatives of employers' organisations and trade unions.

**Article 1.7**  
**Visibility**

The contribution of the EEA Financial Mechanism 2014-2021 to the overall objectives set out in Article 1.2 shall be brought to the attention of the general public of the European Economic Area. All entities involved in the implementation of the EEA Financial Mechanism 2014-2021 share responsibility for carrying out information and communication activities, in accordance with the principle of proportionality, to ensure the widest possible dissemination of information, raise awareness and strengthen transparency of information about funding opportunities, beneficiaries and achievements.

**Article 1.8**  
**Financial contribution**

1. In accordance with Article 2 of Protocol 38c, the financial contribution from the EEA Financial Mechanism 2014-2021 shall be € 1,548.1 million, to be made available for commitment in annual tranches of € 221.16 million over the period running from 1 May 2014 to 30 April 2021, inclusive.
2. Annual commitment tranches refers to funds that may during its respective year and onwards be made available for projects, management costs, technical assistance, and other costs related to the implementation of the EEA Financial Mechanism 2014-2021.

**Article 1.9**  
**Costs of the Donor States**

1. The following costs of the Donor States shall be covered by the financial contribution:
  - (a) the costs of running the FMO;
  - (b) the costs linked to the functions of the FMC;
  - (c) the costs of audits performed by or on behalf of the EFTA Board of Auditors;
  - (d) the costs related to appraisal, monitoring, evaluation, reporting, and auditing performed by or on behalf of the FMC;
  - (e) costs related to communication activities and events;
  - (f) funding for Donor Programme Partners, as referred to in Article 2.2;
  - (g) funding for IPOs, as referred to in Article 2.3;
  - (h) Any other costs decided by the FMC.
2. The costs referred to in paragraph 1 are fixed at 7.5% of the total amount of the financial contribution.

**Article 1.10**  
**Management costs of the Beneficiary State**

General administrative costs incurred by the Beneficiary State in relation to the implementation of the EEA Financial Mechanism 2014-2021 shall not be covered by the EEA Financial Mechanism 2014-2021. Specific costs which are necessary, clearly identifiable, and directly and exclusively related to the management of the EEA Financial Mechanism 2014-2021 can be covered through technical assistance. The eligibility of such costs is set in Article 8.11.

**Article 1.11**  
**Resources for the reserve**

The Donor States and the Beneficiary States shall in the MoU set aside a reserve, consisting of a minimum of 5% of the Beneficiary State's total allocation. Not later than 31 December 2020, the Beneficiary State shall submit to the FMC a proposal on the allocation of the reserve within the framework of the EEA Financial Mechanism 2014-2021, either in the form of a new programme or as an addition to an existing programme or programmes. The FMC shall decide on the allocation of the reserve in accordance with Article 6.3 or paragraph 6 of Article 6.9, as appropriate. The Donor States may waive the requirement for a reserve according to this paragraph.

**Article 1.12**  
**Completion of specific projects selected within the EEA Financial Mechanism 2009-2014**

The Donor States and the Beneficiary States may agree to set aside a maximum of 10% of the total contribution from the EEA Financial Mechanism 2014-2021 to fund the completion of specific projects selected within the framework of the EEA Financial Mechanism 2009-2014. The total amount of such a reserve and the projects to be funded from this reserve shall be confirmed in the MoU. The rules of the EEA Financial Mechanism 2009-2014 shall apply to the implementation of such projects and the final date of eligibility shall be no later than 30 April 2017.

**Chapter 2**  
**Strategic approach**

**Article 2.1**  
**Priority sectors**

1. With the view of achieving the objectives set out in Article 1.2, the financial contributions are available in the following priority sectors:
  - (a) Innovation, research, education and competitiveness;



- (b) Social inclusion, youth employment and poverty reduction;
- (c) Environment, energy, climate change and low carbon economy;
- (d) Culture, civil society, good governance, and fundamental rights and freedoms;
- (e) Justice and home affairs.

2. In order to ensure efficient and targeted use of the financial contribution from the EEA Financial Mechanism 2014-2021, its implementation shall be in line with Annex 1.

#### **Article 2.2**

##### **Funding for Donor Programme Partners**

Funding shall be made available for the involvement of Donor Programme Partners in the implementation of the EEA Financial Mechanism 2014-2021. The FMO shall manage the funding.

#### **Article 2.3**

##### **Funding for International Partner Organisations**

Funding shall be made available for the involvement of IPOs in the implementation of the EEA Financial Mechanism 2014-2021. The FMO shall manage the funding.

#### **Article 2.4**

##### **Fund for regional cooperation**

The global fund for regional cooperation as referred to in Protocol 38c shall be operated by the FMO in accordance with rules adopted by the FMC.

#### **Article 2.5**

##### **Memorandum of Understanding**

1. In order to ensure efficient and targeted implementation the Donor States shall conclude an MoU with each Beneficiary State.

2. The MoU shall establish a framework for cooperation and contain the following elements:

(a) the designation of national entities involved in the implementation of the EEA Financial Mechanism 2014-2021 and identification of their functions in the national management and control structures (Annex A to the MoU).

(b) an implementation framework (Annex B to the MoU) consisting of the following financial and substantive parameters:

- (i) a list of agreed programmes, the financial contribution from the EEA Financial Mechanism 2014-2021 and from the Beneficiary State;
- (ii) identification of programmes, their objective, their main focus, as appropriate, the grant amount and amount of co-financing by programme, the bilateral ambitions as well as any specific concerns relating to target groups, geographical areas or other issues;
- (iii) identification of programme operators, as appropriate;
- (iv) identification of Donor Programme Partners, as appropriate;
- (v) identification of IPOs, as appropriate;
- (vi) identification of pre-defined projects to be included in relevant programmes.

3. Annexes A and B may be amended through an exchange of letters between the FMC and the National Focal Point.

4. The provisions of the MoU shall be interpreted in a manner consistent with this Regulation.

5. A template for the MoU is provided in Annex 2.

#### **Article 2.6**

##### **Strategic Report**

1. The National Focal Point shall submit to the FMC an annual strategic report on its implementation of the EEA Financial Mechanism 2014-2021 and Norwegian Financial Mechanism 2014-2021 covering all programmes and bilateral activities implemented in the Beneficiary State, except for programmes operated by the FMO, inter-governmental organisations or Donor State entities in accordance with Article 6.13. The Strategic Report shall form the basis of discussions at the annual meeting, and shall be subject to approval by the FMC.

2. The Strategic Report shall follow the template provided by the FMC and provide an assessment of the contribution of the EEA Financial Mechanism 2014-2021 towards the achievement of the two overall objectives as described in Article 1.2, information on how common values as referred to in Article 1.3 have been addressed in the programmes, the main trends that may have affected the context where the programmes are implemented, and a summary of the main risks and mitigating actions taken to address these risks.

3. The Strategic Report shall be written in English and submitted to the FMC at least two months before the annual meeting unless otherwise agreed. The FMC may request additional information when the report submitted is incomplete or unclear. The National Focal Point shall provide

the information requested within one month and, where appropriate, revise the report.

4. The final Strategic Report shall be submitted within six months of the submission of the last final programme report but not later than 31 August 2025.

5. The approved Strategic Report shall be published on the website of the National Focal Point within one month of the approval by the FMC.

### **Article 2.7** **Annual meeting**

1. An annual meeting shall be held between the FMC and the National Focal Point. The National Focal Point is responsible for organising the meeting and shall, when appropriate, arrange for site visits.

2. By way of derogation from paragraph 1, the FMC and the National Focal Point may agree not to organise an annual meeting.

3. The annual meeting shall allow the FMC and the National Focal Point to examine progress achieved over the previous reporting periods and agree on any necessary measures to be taken. The annual meeting shall provide a forum for discussion of issues of bilateral interest.

4. The timing of the annual meeting shall be agreed by FMC and the National Focal Point at least four months prior to the meeting.

5. Representatives of the Audit Authority, Certifying Authority, Programme Operators, programme partners and members of the Joint Committee for Bilateral Funds, may be invited to attend the meeting.

6. The National Focal Point is responsible for preparing the draft agenda, which shall reflect the main issues set out in the Strategic Report. The agenda's final version shall be agreed upon between the FMC and the National Focal Point at least one week before the meeting.

7. Decisions taken at the annual meeting shall be set out in the agreed minutes. The National Focal Point is responsible for the drafting of the minutes from the meeting, summarising the main points and the action points discussed at the meeting and following the structure of the agenda. These minutes shall be decision oriented, follow-up oriented and task oriented.

8. The minutes shall be published on the website of the National Focal Point within one month of the agreement of the final version of the minutes between the FMC and the National Focal Point.

## **Chapter 3** **Information and Communication**

### **Article 3.1** **General provisions**

1. Beneficiary States, Programme Operators, Project Promoters and entities acting as partners in the preparation and/or implementation of the EEA Financial Mechanism 2014-2021, shall widely and effectively disseminate to the public information on the EEA Financial Mechanism 2014-2021, its programmes and projects using tools and communication methods at the appropriate level.

2. Information and communication measures shall be implemented in accordance with this Regulation and the Information and Communication Requirements in Annex 3.

### **Article 3.2** **Responsibilities of the National Focal Point**

1. The National Focal Point shall provide information to the public on the existence in the Beneficiary State of the EEA Financial Mechanism 2014-2021, its objectives, its implementation and overall impact, as well as on cooperation with, *inter alia*, Donor State entities. This will be provided in accordance with the Information and Communication Requirements in Annex 3.

2. The National Focal Point shall as a minimum:

- (a) draw up and implement a communication strategy for the EEA Financial Mechanism 2014-2021;
- (b) organise at least three major information activities on the implementation of the EEA Financial Mechanism 2014-2021;
- (c) establish a dedicated website on the EEA and Norwegian Financial Mechanisms 2014-2021 in the language(s) of the Beneficiary State and in English; and
- (d) designate one person to be responsible for information and communication who shall coordinate the implementation of the information and communication activities in the Beneficiary State. This person shall support and act as coordinator for the Programme Operators' information and communication activities.

3. The National Focal Point shall ensure that the Programme Operators fulfil their information and communication obligations in accordance with this Regulation and the Information and Communication Requirements in Annex 3.

4. The National Focal Point shall ensure that all entities involved in the preparation and/or implementation of the EEA Financial Mechanism 2014-2021 in the Beneficiary State,

contribute, as appropriate, to the dissemination of the information referred to in paragraph 1.

### **Article 3.3**

#### **Responsibilities of the Programme Operator**

1. The Programme Operator shall comply with the Information and Communication Requirements in Annex 3. It shall provide information to the public on the existence, the objectives, the implementation and achievements of the programme, as well as on the cooperation with, *inter alia*, Donor State entities.

2. The Programme Operator shall as a minimum:

(a) draw up and implement a communication plan for the programme;

(b) organise at least two major information activities on progress in the programme and its projects; and

(c) establish a dedicated website or webpage in the programme in the language(s) of the Beneficiary State and in English.

3. The Programme Operator shall ensure that the Project Promoters and their partners fulfil their information and communication obligations in accordance with this Regulation and the Information and Communication Requirements in Annex 3.

## **Chapter 4**

### **Bilateral relations**

#### **Article 4.1**

##### **General principles**

1. In order to contribute to the overall objective of strengthening the relations between the Donor States and the Beneficiary States, the preparation and implementation of the EEA Financial Mechanism 2014-2021 shall, where appropriate, be carried out in partnership.

2. Partnership may, *inter alia*, take the form of donor partnership programmes and/or donor partnership projects.

3. The relations between the Donor States and the Beneficiary States shall also be strengthened through the implementation of activities aiming at increased strategic cooperation, networking and exchange of knowledge between entities in the Donor States and in the Beneficiary States, and through other joint initiatives beyond the programmes aiming at strengthening the relations between the Donor States and the Beneficiary States.

### **Article 4.2**

#### **Joint Committee for Bilateral Funds**

1. The National Focal Point shall establish a Joint Committee for Bilateral Funds as soon as possible after the signature of the MoU. Its tasks shall, *inter alia*, include:

- (a) discussing matters of bilateral interests, identifying initiatives and reviewing the overall progress towards reaching the objective of strengthened bilateral relations;
- (b) adopting the Work Plan for the fund for bilateral relations to be discussed at the annual meeting; and
- (c) identifying and allocating bilateral funds to programmes of bilateral interest.

2. Any comments to the Work Plan made at the annual meeting shall be taken into account by the Joint Committee for Bilateral Funds.

3. The Joint Committee for Bilateral Funds shall be chaired by the National Focal Point and composed of representatives from the Donor States and from the Beneficiary States, including the respective ministry of foreign affairs.

4. The Joint Committee for Bilateral Funds shall meet at least once a year, prior to the annual meeting.

5. The composition, role and functioning of the Joint Committee for Bilateral Funds shall be further defined in the Bilateral Fund Agreement between the FMC and the National Focal Point. The Bilateral Fund Agreement template is provided in Annex 4.

6. The National Focal Point shall, within two months of the last signature of the MoU, submit to the FMC a proposal on the composition, role and functioning of the Joint Committee for Bilateral Funds. If the Beneficiary State receives support under both the EEA and the Norwegian Financial Mechanisms, the two months shall count from the date of the last signature of whichever of the two MoUs is signed last.

### **Article 4.3**

#### **Donor partnership programmes**

1. The purpose of donor partnership programmes is to facilitate networking, exchange, sharing and transfer of knowledge, technology, experience and good practices between public entities in the Donor States and the Beneficiary States.

2. The Donor States shall through the MoU designate one or more Donor Programme Partners for each programme identified according to paragraph 2(b)(iv) of Article 2.5. Donor Programme Partners can also be agreed upon by the FMC and the National Focal Point through an exchange of letters.

3. The Donor Programme Partner(s) shall be invited to advise on the preparation and implementation of the donor partnership programme.

#### **Article 4.4 Cooperation Committee**

1. The Programme Operator of a donor partnership programme or a programme implemented in partnership with an IPO, shall establish a Cooperation Committee consisting of representatives from the Programme Operator and representatives from the Donor Programme Partner(s) and/or the IPO(s), as applicable. The Cooperation Committee shall be established as soon as possible after the designation of the Programme Operator and shall provide advice on the preparation and implementation of the programme. The Cooperation Committees shall be chaired by a representative of the Programme Operator. Representatives of the FMC and the National Focal Point shall be invited to participate as observers.

2. All documents presented to and produced by the Cooperation Committee shall be in English. The Committee meetings shall be conducted in English.

3. The tasks of the Cooperation Committee include:

- (a) advising on stakeholder consultations;
- (b) advising on the preparation of the concept note;
- (c) advising on bilateral activities and possible project partners in the Donor States, as appropriate;
- (d) advising on selection criteria and the texts for call(s) for proposals;
- (e) reviewing progress made towards achieving the outputs, outcome(s) and objective of the programme;
- (f) reviewing progress made towards strengthening bilateral relations, as appropriate;
- (g) examining the results of the implementation of the programme;
- (h) reviewing the draft annual programme reports;
- (i) advising the Programme Operator of any modification of the programme affecting the achievement of the programme's expected outcome(s) and objective; and
- (j) advising on the use of the funds for bilateral relations, where relevant.

4. The Cooperation Committee shall keep minutes of its meetings in English.

#### **Article 4.5 Donor partnership projects**

Projects may be prepared and implemented in cooperation with one or more legal entity in the Donor States. With reference to the objectives of the EEA Financial Mechanism 2014-2021 related to bilateral relations, the Programme Operator shall encourage and facilitate the establishment of such partnerships.

#### **Article 4.6 Fund for bilateral relations**

1. The Beneficiary State shall set aside a minimum of 2% of the Beneficiary State's total allocation for a fund to strengthen bilateral relations between the Donor States and the Beneficiary States. The amount shall be fixed in the MoU. The eligibility of expenditures to be covered by the fund under this paragraph is detailed in Article 8.8.

2. The National Focal Point shall be responsible for the use of the funds mentioned in paragraph 1 and report on the use of them in the Strategic Report. The first date of eligibility for support under this article shall be the date of the last signature of the MoU with the respective Beneficiary State. If support under this Article is received under both the EEA and the Norwegian Financial Mechanisms, the first date of eligibility shall be the date of the last signature of whichever MoU is signed first. The final date of eligibility for support under this Article shall be 30 April 2025.

3. Payments of the funds for bilateral relations shall take the form of an advance payment, interim payments and payment of the final balance and shall be made in accordance with Articles 9.2, 9.3 and 9.4. The advance payment shall be made upon signature of the Bilateral Fund Agreement. In exceptional cases, extraordinary advance payments may be made prior to the signing of the Bilateral Fund Agreement.

4. For the purpose of covering the costs of the activities referred to in Article 8.8 during the development of programmes, the FMC can make an advance payment directly to the Programme Operators not exceeding € 50,000. Such payment shall be made in agreement with the National Focal Point, following the designation of the Programme Operator.

5. In exceptional cases, the FMC may in agreement with the National Focal Point decide to make payments from the fund for bilateral relations directly to a final recipient. The National Focal Point shall be promptly informed when such payments have been made. Payments by the FMC in accordance with this paragraph do not affect the responsibilities of the Beneficiary State for the management and reporting on the funds for bilateral relations.

#### **Article 4.7**

##### **Use of funds for bilateral relations at programme level**

The National Focal Point shall as appropriate ensure the availability and timely disbursement of funds for bilateral relations upon request from the Programme Operators.

### **Chapter 5**

#### **Management and control systems**

##### **Article 5.1**

##### **General principles of the management and control systems**

1. The Beneficiary State shall be responsible for the management and control of programmes. The management and control systems established by the Beneficiary State for the EEA Financial Mechanism 2014-2021 shall ensure the respect of the principles of accountability, economy, efficiency and effectiveness.

2. The management and control systems shall provide for:

- (a) the definition of the functions of the entities concerned in management and control and the allocation of functions within each entity;
- (b) compliance with the principle of separation of functions between and within such entities;
- (c) procedures for ensuring the correctness and regularity of expenditure;
- (d) reliable accounting, monitoring and financial reporting systems in computerised form;
- (e) a system of reporting and monitoring where the responsible entity entrusts the execution of tasks to another entity;
- (f) arrangements for auditing the functioning of the systems;
- (g) systems and procedures to ensure an adequate audit trail; and
- (h) reporting and monitoring procedures for irregularities and for the recovery of amounts unduly paid.

3. The Beneficiary State shall comply with the requirements defined by the FMC for submitting information electronically.

##### **Article 5.2**

##### **Designation of national entities**

1. The Beneficiary State shall in the MoU designate the following entities for the implementation of the EEA Financial Mechanism 2014-2021:

- (a) a National Focal Point;
- (b) a Certifying Authority;
- (c) an Audit Authority; and
- (d) an Irregularities Authority.

2. The Donor States and the Beneficiary State may in the MoU decide that the National Focal Point, in addition to its tasks referred to in Article 5.3, takes on the tasks of the Certifying Authority under Article 5.4. Such arrangements shall nevertheless ensure the adequate functional separation of tasks related to payments from other tasks within the National Focal Point. If such arrangements are agreed upon, the National Focal Point shall not be designated as Irregularities Authority and paragraph 4 shall not apply.

3. Without prejudice to Articles 2.5 and 6.13, the National Focal Point shall, in consultation with the FMC, designate a Programme Operator for each programme. The Programme Operator shall have strong ties to the sector within which the programme belongs. For programmes under the programme area 'Civil Society', the Programme Operator shall be autonomous of national, regional and local governmental institutions. Should such an autonomous Programme Operator be unattainable, the FMC may in exceptional cases waive this requirement but only to the extent necessary.

4. In exceptional cases, the FMC may approve that the National Focal Point takes the role of a Programme Operator for one or more programmes.

5. If the National Focal Point takes the role of a Programme Operator, the National Focal Point shall not be designated as Irregularities Authority.

##### **Article 5.3**

##### **National Focal Point**

1. The National Focal Point shall have the overall responsibility for ensuring that programmes contribute to the objectives of the EEA Financial Mechanism 2014-2021 as well as for ensuring that the implementation of the EEA Financial Mechanism 2014-2021 in the Beneficiary State is in line with Article 1.3. It shall serve as a contact point and be responsible and accountable for the implementation of the MoU.

2. The National Focal Point represents the Beneficiary State in its relations with the FMC regarding the implementation of the EEA Financial Mechanism 2014-2021 in the Beneficiary State.

3. The National Focal Point shall ensure that the programmes are implemented in accordance with the legal framework of the EEA Financial Mechanism 2014-2021 and monitor the progress and quality of their implementation. To this end, the

National Focal Point shall continuously and in a structured manner assess the risks to the implementation of the EEA Financial Mechanism 2014-2021 and may take the action it deems necessary and compatible with this Regulation, including to verify the quality and content of any documents provided to the FMC through the National Focal Point and request the necessary modification to such documents. The National Focal Point shall take any necessary steps to ensure that Programme Operators are fully aware of their responsibilities under the legal framework of the EEA Financial Mechanism 2014-2021.

4. The National Focal Point shall carry out regular monitoring of the programmes with regards to their progress towards the programme outputs, outcome(s) and objective(s) according to agreed indicators and financial requirements specified for the programme. Results of the monitoring shall be reported in the Strategic Report.

5. The role of the National Focal Point may be further specified in the MoU.

#### **Article 5.4 Certifying Authority**

1. The Certifying Authority shall be responsible in particular for:

- (a) submitting to the FMC certified interim financial reports and final programme reports referred to in Articles 9.3 and 6.12, respectively, certifying that:
  - (i) the summary of eligible expenditure submitted by the Programme Operator is in full conformity with the supporting documents;
  - (ii) the supporting documents have been examined and found to be authentic, correct and accurate;
  - (iii) the summary of eligible expenditure is based on verifiable accounting which is in compliance with generally accepted accounting principles and methods;
  - (iv) the summary of eligible expenditure falls within eligible expenditure under this Regulation;
  - (v) the summary of expenditure is incurred as part of the implementation of the Programme in accordance with the programme agreement;
  - (vi) sufficient audit trail exists; and
  - (vii) co-financing committed to the programme has been paid.
- (b) submitting to the FMC a forecast of likely payment applications as referred to in Article 9.5;

- (c) declaring to the FMC any interest earned as referred to in Article 9.7;
- (d) taking account for certification purposes of the results of all audits carried out by or under the responsibility of the Audit Authority;
- (e) maintaining accounting records in electronic form of expenditure declared to the FMC;
- (f) ensuring that funds are made available to the Programme Operators according to paragraph 2 of Article 9.1; and
- (g) ensuring that amounts recovered and amounts withdrawn following cancellation of all or part of the financial contribution for a programme or project are reimbursed to the FMC prior to the closure of the programme.

2. Subject to contrary provision of the national law of the Beneficiary State, the Certifying Authority shall ensure the establishment and maintenance of a separate interest-bearing bank account dedicated to the EEA Financial Mechanism 2014-2021.

#### **Article 5.5 Audit Authority**

1. The Audit Authority shall be responsible in particular for:

- (a) ensuring that audits are carried out to verify the effective functioning of the management and control system at the level of the Beneficiary State;
- (b) ensuring that at least one audit is carried out of each programme to verify the effective functioning of its management and control system;
- (c) ensuring that audits are carried out on projects on the basis of an appropriate sample to verify expenditure declared;
- (d) preparing within nine months of the approval of the last programme an audit strategy. The audit strategy may cover more than one programme. The audit strategy shall set out the audit methodology, the sampling method for audits on projects and the indicative planning of audits to ensure that audits are spread evenly throughout the programming period. The audit strategy shall be updated annually as appropriate. The Audit Authority shall submit the audit strategy to the FMC in English upon request within one month. The FMC may provide comments;
- (e) by 15 February each year from 2019 to 2025:
  - (i) submitting to the FMC an annual audit report setting out the findings of the audits carried out during the previous 12 month-period ending on 31 December of the year concerned in accordance with the audit strategy of the programme and reporting any shortcomings found in the systems for the

management and control. The first report to be submitted by 15 February 2019 shall cover the period up to 31 December 2018. The information concerning the audits carried out after 1 January 2025 shall be included in the final audit report supporting the closure declaration referred to in point (f);

- (ii) issuing an opinion to the FMC, on the basis of the controls and audits that have been carried out under its responsibility, as to whether the management and control system functions effectively, so as to provide a reasonable assurance that statements of actual expenditure incurred presented to the FMC are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular;
- (f) submitting to the FMC at the latest by 31 December 2025 a closure declaration assessing the validity of the application for payment of the final balance claimed in the final programme report.

2. Where the Audit Authority chooses not to carry out the audits according to paragraphs 1(a) through (c), it shall appoint an independent and certified auditor to perform these tasks.

3. The Audit Authority shall ensure that the audit complies with internationally accepted audit standards.

4. For the purposes of point (c) of paragraph 1, declared expenditure shall be audited based on a representative sample and, as a general rule, on statistical sampling methods.

In such cases, the size of the sample shall be sufficient to enable the Audit Authority to draw up a valid audit opinion in accordance with point (e) of paragraph 1.

A non-statistical sampling method may be used on the professional judgment of the Audit Authority, in duly justified cases, in accordance with internationally accepted audit standards and in any case where the number of projects for a year is insufficient to allow the use of a statistical method.

The non-statistical sample method shall cover a minimum of 10% of projects for which expenditure has been declared during a year and a minimum of 15% of the expenditure which has been declared during a year.

### **Article 5.6 Programme Operator**

1. The Programme Operator shall be responsible for preparing and implementing the programme in accordance

with the principles described in Article 1.3 and in particular for:

- (a) ensuring that projects contribute to the overall objectives of the EEA Financial Mechanism 2014-2021 and the specific programme outputs, outcome(s) and objective(s) and that they comply with this Regulation, the programme agreement as well as applicable national and European Union law in all implementation phases;
- (b) ensuring that the appropriate level of expertise to design the programme and develop the results framework is available;
- (c) collecting applications, selecting projects to be funded and signing project contracts for each project;
- (d) facilitating bilateral cooperation, where relevant;
- (e) verifying that the expenditure declared by the Projects Promoters has actually been incurred and complies with this Regulation, the programme agreement as well as applicable national and European Union law;
- (f) ensuring that payments of the project grant are made in a timely manner;
- (g) ensuring the quality of the implementation of the programme and verifying the project outputs and the projects' progress towards expected programme's outcomes, inter alia through monitoring, including where appropriate, on-the-spot verification of projects carried out on a sample basis;
- (h) assessing the risks to the effective implementation of the programme and its results and taking appropriate action;
- (i) conducting annual monitoring of a sample of projects, selected based on risk assessment and including random samples;
- (j) ensuring that the financial contribution is used exclusively for the purpose of the programme and its projects and according to the programme agreement and that all assets forming part of the programme are used only for such purposes as provided for in the programme agreement;
- (k) ensuring that there is a system for recording and storing in computerised form accounting records for each project under the programme and that the data on implementation necessary for financial management, reporting, monitoring, verifications, audits and evaluation are collected;
- (l) establishing an organisational structure of the Programme Operator that ensures independence and functional separation of the division responsible for verification of incurred expenditure and approval of payments from other divisions responsible for the implementation of the programme;

- (m) subject to contrary provisions of the national law of the Beneficiary State, establishing and maintaining a separate interest-bearing bank account dedicated to the funds intended for granting;
- (n) ensuring that Project Promoters maintain either a separate accounting system or an adequate accounting code for all transactions relating to the project without prejudice to national accounting rules;
- (o) ensuring transparency and availability of documents in accordance with the requirements of Article 9.8;
- (p) ensuring that the Certifying Authority receives all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;
- (q) drawing up and submitting the interim financial reports, the annual programme report, the final programme report and reports on interests earned in accordance with Articles 6.11, 6.12, 9.3, 9.4 and 9.7;
- (r) submitting to the Certifying Authority a forecast of likely payment applications necessary for the Certifying Authority to fulfil its obligations in accordance with Article 9.5;
- (s) ensuring entry of project-specific statistical data to maintain the reporting database;
- (t) ensuring that the FMC and the National Focal Point is upon request, and within reasonable time, provided with all documents and information related to the implementation of the programme and its projects;
- (u) ensuring that the Project Promoters are fully committed and able to implement their projects;
- (v) ensuring that all necessary and appropriate measures are taken to prevent, detect and nullify any cases of suspected or actual irregularities, that they are investigated promptly and efficiently and properly reported and remedied, including making any financial corrections that may be appropriate;
- (w) ensuring that all relevant European Union, national and local, legislation (including, but not limited to, legislation on the environment, public procurement and state aid) are complied with; and
- (x) complying with any other obligations stipulated in the programme agreement.

2. Verifications to be carried out by the Programme Operator shall cover administrative, financial, technical and physical aspects of projects, as appropriate and in accordance with the principle of proportionality.

Verifications shall include the following procedures:

- (i) administrative verifications in respect of incurred expenditure reported by Project Promoters;
- (ii) on-the-spot verifications of projects.

Examination of proof of expenditure related to the administrative verifications under point (i) and on-the spot verifications under point (ii) may be carried out on a sample basis. The Programme Operator shall keep records describing and justifying the sampling method and identifying the project or transactions selected for verification.

The Programme Operator shall determine the size of the sample in order to obtain reasonable assurance as to the legality and regularity of the underlying transactions, having regard to the level of risk identified by the Programme Operator for the type of Project Promoters and projects concerned and audits by the Audit Authority.

The Programme Operator shall establish written standards and procedures for the verifications carried out and shall keep records for each verification, stating the work performed, the date and the results of the verification, and the measures taken in respect of irregularities detected.

3. The Programme Operator shall comply with the requirements defined by the FMC for submitting information electronically.

### **Article 5.7**

#### **Setting up of management and control systems**

1. The National Focal Point shall, within six months of the date of the last signature of the MoU, submit to the FMC a detailed description of the management and control systems, covering in particular the organisation and procedures of:

- (a) the National Focal Point, the Certifying Authority and any other national entities involved in the implementation of the EEA Financial Mechanism 2014-2021 according to the MoU;
- (b) the Audit Authority and any other entities carrying out audits under its responsibility.

2. Within six months from the approval of the programme by the FMC the Programme Operator shall submit to the National Focal Point for approval a detailed description of the management and control systems of the Programme Operator, covering in particular:

- (a) the systems for verification, audit and monitoring;
- (b) the system for preventing, mitigating, detecting, reporting on and remedying irregularities; and
- (c) the system established to maintain an audit trail of all supported activities.



The National Focal Point shall inform the FMC of the approval of the description of the management and control systems of the Programme Operator within three months of its submission to the National Focal Point. Severe deficiencies should be reported to the FMC should it not be possible to rectify these within a reasonable time frame.

3. The detailed descriptions referred to in paragraphs 1 and 2 shall be accompanied by a report and an opinion by the Audit Authority confirming that the implementation system of the Beneficiary State and the Programme Operator complies with this Regulation and generally accepted accounting principles. The report shall assess the proportionality of the management and control systems' requirements in relation to the effectiveness of achieving the objectives of the programmes. The report and the opinion referred to in this paragraph shall be drawn up by the Audit Authority. Where the Audit Authority chooses not to carry out audits itself, it shall appoint an independent and certified auditor to perform these tasks.

4. The National Focal Point shall, upon request, submit to the FMC the detailed description of the management and control systems of the Programme Operator in English, accompanied by the documents referred to in paragraph 3. The National Focal Point shall submit these documents within two months of the request. The FMC may provide comments within two months after receipt of the documents.

5. Prior to disbursing the first payment to any programme, Technical Assistance or the fund for bilateral relations, the FMC shall determine whether the detailed description of the management and control systems submitted in accordance with paragraph 1 of this Article meets the minimum requirements. This paragraph shall not apply to payments in accordance with paragraph 4 of Article 4.6 and to extraordinary advance payments in respect of costs related to the preparation of programmes approved by the FMC, in accordance with paragraph 8 of Article 8.10.

## **Chapter 6 Programmes**

### **Article 6.1 Preparation of programmes**

1. The EEA Financial Mechanism 2014-2021 is implemented in the Beneficiary States through programmes. A programme shall contribute to the objective of the respective programme area agreed in the MoU, to the overall objectives of the EEA Financial Mechanism 2014-2021, and shall comply with the legal framework of the EEA Financial Mechanism 2014-2021, national and European Union law.

2. A programme may combine a number of programme areas, provided all measures under the programme contribute to one programme area objective.

### **Article 6.2 Concept note**

1. The Programme Operator shall, on the basis of the MoU and within the programmes identified therein, develop a concept note defining the scope and planned results for each programme. The concept note shall be prepared in cooperation with the FMO and in consultation with relevant stakeholders, in particular Donor Programme Partners and IPOs where applicable.

2. The Programme Operator shall, through the National Focal Point, submit the concept note for each programme to the FMC within six months from the date of the designation of the Programme Operator according to Article 5.2.

3. The concept note shall briefly describe:

- (a) the justification and main features of the programme;
- (b) the expected contribution towards the two overall objectives and the programme's objective, including planned outcome(s) and outputs, indicators, risks and target group(s);
- (c) how special concerns from the MoU and where relevant, the common values identified in paragraph 1 of Article 1.3, will be integrated in the planning and implementation of the programme;
- (d) the tentative overall budget;
- (e) any small grant schemes;
- (f) any pre-defined projects,
- (g) any financial instruments.

4. The FMC shall assess the concept note and shall make comments. Any comments made by the FMC shall be taken into account in the programme's further preparation.

5. The FMC may decide to reject the concept note. In such cases, the Programme Operator may, through the National Focal Point, resubmit once a revised concept note within two months from the date of the rejection. The National Focal Point may, as an alternative and within the same deadline, propose different use of the funds. If funds are to be used for another programme and the receiving programme has already been approved, such reallocation of funds shall comply with paragraph 6 of Article 6.9.

6. The concept note template is provided in Annex 5.

### **Article 6.3** **Programme agreement**

1. On the basis of the concept note and the comments of the FMC on the concept note, the FMO shall prepare a draft programme agreement setting out the terms and conditions of the operation of the programme as well as the roles and responsibilities of the parties. The Beneficiary State shall provide any supplementary information requested, including but not limited to, a risk assessment and mitigation analysis, information related to the management of the programme and a communication plan. The FMO and the Beneficiary State shall endeavour to finalise the draft programme agreement within six months of the date of the submission of the concept note in accordance with Article 6.2.
2. The FMC may decide to approve or reject support to the programme. When approving a programme, the FMC may set conditions and/or require modifications to the draft programme agreement.
3. For each approved programme a programme agreement shall be concluded between the FMC and the National Focal Point.
4. The programme agreement template is provided in Annex 6.

### **Article 6.4** **Grant rates and minimum size of project grants**

1. The contribution from the EEA Financial Mechanism 2014-2021 shall not exceed 85% of eligible expenditure of the programme, except for:
  - (a) programmes under the programme area “Civil Society”;
  - (b) programmes operated by the FMO, inter-governmental organisations or Donor State entities in accordance with Article 6.13; and
  - (c) other programmes of special interest,where the FMC may set a higher programme grant rate.
2. The maximum project grant rate shall be calculated as a percentage of the total eligible expenditure of the project, proposed in the concept note and determined in the programme agreement. It shall take into account the need to ensure Project Promoters’ commitment and ownership, as well as sustainability of the project. When setting the project grant rate, the Programme Operator shall further take into account any economic benefit, e.g. cost savings or increased profit, which is a result from receiving a financial contribution. Economic benefits shall be used in a manner which supports the objectives of the project. The applicable rules on state aid, procedural and substantive, shall be complied with.

3. In case of support to NGOs and social partners the project grant rate may be up to 90% of eligible expenditure of the project.
4. Co-financing under paragraphs 1 to 3 shall be in the form of cash, including electronic transfers.
5. In case of projects where the project promoter is an NGO or a social partner, in-kind contribution in the form of voluntary work may constitute up to 50% of the co-financing required by the programme for the project. In exceptional cases, and subject to approval by the FMC, in-kind contribution in the form of voluntary work may constitute up to 100% of the co-financing required.
6. The in-kind contribution referred to in paragraph 5 may be provided only by the project promoter and/or any NGO or social partner acting as project partner. The Programme Operator shall specify the appropriate unit prices for voluntary work which shall be in accordance with salary normally paid for such work in the Beneficiary State, including the required social security contributions. The prices may vary depending on region in which the work is performed or the type of voluntary work, and may be adjusted during the implementation of the Programme in order to take into account changes in salaries.
7. In case of projects under programmes falling under the programme area “Research”, in-kind contribution in the form of labour may constitute up to 100% of the co-financing required for the project. The Programme Operator shall specify the appropriate unit prices for the labour which shall be in accordance with salary normally paid for such labour in the Beneficiary State, including the required social security contributions. The prices may vary depending on region in which the labour is performed or the type of labour, and may be adjusted during the implementation of the Programme in order to take into account changes in salaries.
8. The amount of grant assistance applied for within a programme shall normally not be less than € 1,000,000 and, without prejudice to paragraph 9, not less than € 200,000.
9. The Programme Operator may propose a lower threshold in the following cases:
  - (a) programme areas “Education, Scholarships, Apprenticeships and Youth Entrepreneurship”, “Cultural Entrepreneurship, Cultural Heritage and Cultural Cooperation”, “Civil Society” and “Asylum and Migration”;
  - (b) small grants referred to in Article 6.6, fund for bilateral relations referred to in Article 4.6;
  - (c) scholarships; and
  - (d) projects targeting Roma inclusion.

### **Article 6.5**

#### **Selection of pre-defined projects**

1. In addition to any pre-defined project identified in the MoU, the Programme Operator may propose any pre-defined projects to be implemented within programmes. Pre-defined projects shall, where possible, be identified in the concept note.
2. The following information on the pre-defined projects shall be provided in the concept note:
  - (a) background and justification for the project including reference to relevant national priorities;
  - (b) objective and expected outcome(s) of the project;
  - (c) information on the Project Promoter and project partner(s);
  - (d) the results of feasibility studies when applicable;
  - (e) a timetable for implementing the project; and
  - (f) budget outline showing the total planned financial resources and the planned contribution from the EEA Financial Mechanism 2014-2021.
3. The Programme Operator shall, prior to signing a project contract for a pre-defined project, appraise the project in order to verify its quality and contribution to the objectives of the Programme as well as compliance with EU and national legislation. The National Focal Point shall notify the FMC of the positive appraisal of pre-defined projects.

### **Article 6.6**

#### **Small grant schemes within a programme**

1. The Programme Operator may in the concept note suggest the establishment of one or more small grant schemes within a programme.
2. The combined allocation to the small grant scheme(s) shall not be more than 20 % of the eligible expenditure of the programme.
3. The amount of grant assistance applied for within a small grant scheme shall not be less than € 5,000 and not more than € 200,000. Scholarships to natural persons may be for less than € 5,000.
4. The small grant scheme(s) shall normally be managed and implemented by the Programme Operator. The Programme Operator may sub-contract to one or more public or private entities, commercial or non-commercial, as well as non-governmental organisations, the management and implementation of small grant schemes. The sub-contracted entity shall have strong ties to the sector within which the

programme belongs. Such sub-contracting shall be without prejudice to the responsibility of the Programme Operator for the programme. The management costs of a small grant scheme shall be counted as part of the management costs of the Programme Operator in respect of the ceiling referred to in paragraph 2 of Article 8.10.

5. In cases where the Programme Operator sub-contracts the management and implementation of a small grant scheme, the selection of the small grant scheme operator by the Programme Operator shall be made in compliance with public procurement rules. The small grant scheme operator shall provide guarantees of its solvency and competence in the domain concerned as well as in administrative and financial management.

6. The provisions of this Regulation applicable to the Programme Operator shall be applicable *mutatis mutandis* to the small grant scheme operator, with the exception that reports of the latter shall be incorporated into the reporting structures of the Programme Operator.

### **Article 6.7**

#### **Financial Instruments**

1. With the agreement of the FMC, financial instruments may be used to contribute to the achievement of the specific objectives of a Programme, to support activities which are expected to be financially viable but do not give rise to sufficient funding from market sources.
2. Support of financial instruments shall be based on an ex ante assessment which has established evidence of market failures or suboptimal investment situations, and the estimated level and scope of public investment needs, including types of financial instruments to be supported. Financial instruments should be provided through structures set up at national, regional, transnational or cross-border level.
3. Where financial instruments are used, the provisions of this Regulation and primarily those relating to the selection of projects and eligibility of expenditure, may not apply. Any proposal to use financial instruments shall be identified in the concept note. All relevant modalities describing the implementation of financial instruments shall be specified in the programme agreement.

### **Article 6.8**

#### **Programme implementation agreement**

1. For each approved programme a programme implementation agreement shall be concluded between the National Focal Point and the Programme Operator.

2. In cases where a programme implementation agreement cannot, due to provisions in the national legislation, be made between the National Focal Point and the Programme Operator, the Beneficiary State may instead issue a legislative or administrative act of similar effect and content.

3. The programme implementation agreement shall set out the terms and conditions of the operation of the programme as well as the roles and responsibilities of the parties. It shall in particular include provisions that ensure that the Programme Operator undertakes to comply fully with the provisions of the legal framework of the EEA Financial Mechanism 2014-2021 referred to in Article 1.5 that are relevant for the operation of the programme, including any obligations that are valid after the programme has been completed. The programme implementation agreement shall contain an explicit reference to the programme agreement and this Regulation and, as a minimum, provisions on the following:

- (a) obligations regarding reporting that enables the National Focal Point to comply with its reporting obligations to the FMC;
- (b) obligations related to the Programme Operator's reporting obligations to the FMC and the Certifying Authority and its duty to provide documents upon request;
- (c) the maximum amount of the programme grant and its breakdown between the items listed in Article 8.1;
- (d) the eligibility of expenditures;
- (e) the first and final dates of eligibility of expenditures;
- (f) modifications of the programme;
- (g) ensuring that the access requested in relation to monitoring, audits and evaluations is provided without delay;
- (h) ensuring that obligations regarding information and communication are complied with;
- (i) the right of the National Focal Point to suspend payments and request reimbursement from the Programme Operator in case decision on such actions is taken by the FMC or the National Focal Point;
- (j) that termination of the programme agreement referred to in Article 6.3 may result in a termination of the programme implementation agreement; and
- (k) a reference to programme partnerships, if relevant.

4. The National Focal Point shall warrant that the obligations of the Programme Operator under the programme implementation agreement are valid and enforceable under the applicable national law of the Beneficiary State. In case of any inconsistency between the programme implementation

agreement and the legal framework of the EEA Financial Mechanism 2014-2021 as defined in Article 1.5 of this Regulation, the latter shall prevail.

5. Before any payment is made to the Programme, the National Focal Point shall notify the FMC of the signature of the programme implementation agreement. This paragraph shall not apply to payments in accordance with paragraph 4 of Article 4.6 and extraordinary advance payments in respect of costs related to the preparation of programmes approved by the FMC, in accordance with paragraph 8 of Article 8.10.

### **Article 6.9** **Modification of programmes**

1. Unless otherwise explicitly stipulated in the programme agreement, any modification of the programme is subject to prior approval by the FMC.

2. Programmes may be modified, in particular in one or more of the following cases:

- (a) in order to respond to unforeseen events in the Beneficiary States;
- (b) in order to take into account the conclusions of the review of the implementation framework at an annual meeting;
- (c) in order to take into account conclusions from an evaluation referred to in Chapter 10;
- (d) when changes are necessary to enhance the impact of the programme; or
- (e) in order to mitigate risks and/or implementation difficulties.

3. The Programme Operator shall describe and justify the modification, as well as the likely impact on the financial figures, risk assessment, outputs and outcomes of the programme. The National Focal Point shall provide its provisional approval to the modification proposal.

4. The FMC shall assess the proposed modification and provide a formal response no later than two months following the receipt of all relevant documents and necessary information.

5. The modification shall be formalised through an amendment of the programme agreement referred to in Article 6.3, where necessary.

6. Should a modification of a programme result in a reduction of the programme grant, the National Focal Point may allocate the amount that becomes available to other approved programmes within the Beneficiary State, the fund for bilateral relations and/or Technical Assistance. A prior approval of the FMC and of the Programme Operator of the programme receiving the funds shall be required. The modification shall be in compliance with the MoU. Any such

allocation to programmes must be completed and formalised no later than 30 April 2023.

**Article 6.10**  
**Screening by the European Commission**

On explicit request from the Donor States or the Beneficiary State, the European Commission shall undertake a screening of the concept note for a specific programme before its adoption, to ensure compatibility with the European Union's cohesion policy.

**Article 6.11**  
**Annual programme report**

1. The Programme Operator shall submit an annual programme report to the FMC and the National Focal Point using a template provided by the FMC. The main purpose of the report is:

(a) to provide key information on implementation of the programme including the achieved outputs and outcomes and their link to the programme objective, the overall objectives of the EEA Financial Mechanism 2014-2021, and Article 1.3, as relevant;

(b) to identify any issues which affect the implementation of the programme and the measures taken to address them, a risk assessment and planned mitigating actions.

2. The reporting periods for the annual programme reports shall be the calendar year. The report shall be submitted not later than 15 February each year. The first annual reports for programmes approved by the FMC in the first half of the year shall be submitted in the following year; first annual reports from other programme shall be submitted in the second year following their approval.

3. The FMC shall inform the National Focal Point and the Programme Operator of its opinion on the annual programme report within two months of the date of receipt. If the FMC does not respond within the time limit laid down, the report shall be considered to have been accepted.

**Article 6.12**  
**Final programme report**

1. The Programme Operator shall, through the Certifying Authority, submit a final programme report to the FMC and the National Focal Point using a template provided by the FMC. The main purpose of the report is to provide:

(a) an assessment of the programme's contribution to the overall objectives of the EEA Financial Mechanism

2014-2021, the objective and outcome(s) of the programme as well as Article 1.3, as relevant ;

(b) synthesis of findings of relevant evaluations;

(c) an overall assessment of the implementation of the programme, including comparison to the plans set out in the programme and any lessons learned;

(d) overview of irregularities and measures taken to remedy these;

(e) specific details in respect of meeting and/or adapting financial plans; and

(f) financial information, including a calculation of the final balance referred to in Article 9.4.

2. The final programme report shall be forwarded to the FMC by the Certifying Authority, which shall certify the financial annex to the report in accordance with Article 5.4, not later than four months after the final date of eligibility of programme management costs.

3. The FMC shall review the final programme report in order to determine whether it fulfils its formal and substantive requirements. The FMC shall approve the report no later than two months following the receipt of the report and all relevant documents and necessary information.

4. The approved final programme reports, including the summary for the general public shall be published on the website of the National Focal Point within one month from the approval of the report by the FMC.

**Article 6.13**  
**Programmes operated by the FMO, inter-governmental organisations or Donor State entities**

1. Unless otherwise agreed in the MoU, the FMO shall be responsible for the operations of programmes falling under the programme area "Civil Society".

2. The National Focal Point, with the consent of the FMC, may entrust the operations of a programme to the FMO, inter-governmental organisations or Donor State entities.

3. In cases referred to in paragraphs 1 and 2, the provisions of this Regulation do not apply. The Programme Operator shall apply specific rules in this regard, which shall to the extent possible follow the provisions of this Regulation and in all cases ensure implementation in line with the principles stated in Article 1.3.

4. When the FMO acts as a Programme Operator, the implementation of the programme shall normally be performed by a fund operator, appointed and contracted by the FMO. The roles and responsibilities of the FMO and the fund operator shall be governed by an implementation

agreement between the FMO and the fund operator. The implementation agreement shall contain provisions on reporting to the National Focal Point.

5. When the operation of a programme has been entrusted to an inter-governmental organisation or a Donor State entity, its roles and responsibilities shall be governed by a programme implementation agreement between the FMC and the Programme Operator.

6. The funds for regranting within a programme referred to in this article as well as the costs of the Programme Operator and/or the fund operator shall be covered by the financial contribution to the respective Beneficiary State.

7. When a programme is being operated by the FMO, an inter-governmental organisation or a Donor State entity according to this article, the Beneficiary State bears no responsibility for the implementation of the programme, financially or otherwise, except as provided for in paragraph 6.

## **Chapter 7**

### **Selection of projects**

#### **Article 7.1**

##### **Modes of selection**

1. Projects shall be selected through calls for proposals organised in accordance with this Chapter.
2. By way of derogation from paragraph 1, pre-defined projects may be identified without a call for proposals. Such projects shall be identified in accordance with paragraph 2(b)(vi) of Article 2.5 and Article 6.5. Information on such projects shall be provided in the concept note in accordance with Article 6.5.

#### **Article 7.2**

##### **Eligibility of Project Promoters and project partners.**

1. Any entity, public or private, commercial or non-commercial and non-governmental organisations, established as a legal person in the respective Beneficiary State are considered eligible project promoters. Where explicitly stipulated in the programme agreement, international organisations or bodies or agencies thereof, may be eligible project promoters.
2. Any public or private entity, commercial or non-commercial, as well as non-governmental organisations established as a legal person either in the Donor States, Beneficiary States or a country outside the European Economic Area that has a common border with the respective Beneficiary State, or any international organisation or body or agency thereof, actively involved in, and effectively contributing to, the implementation of a project, are considered eligible project partners.

3. Natural persons who are legal residents of the Donor States or of the respective Beneficiary State are eligible project promoters and eligible project partners under the programme areas “Education, Scholarships, Apprenticeships and Youth Entrepreneurship” and “Cultural Entrepreneurship, Cultural Heritage and Cultural Cooperation”, and scholarship components under any programme .

4. Taking into account the overall objectives of the EEA Financial Mechanism 2014-2021 and of the programme, and with the aim of ensuring targeted implementation, limitations to the eligibility of Project Promoters and project partners may, if approved by the FMC, be explicitly stipulated in the programme agreement.

#### **Article 7.3**

##### **Calls for proposals**

1. Calls for proposals shall be organised by the Programme Operator. Their content, form and publication shall be in accordance with the programme agreement and this Regulation.
2. Calls for proposals shall as a minimum comply with the following:
  - (a) they shall be widely publicised with a view to reach all potential applicants. All appropriate media, at national, regional and local levels, as well as specialised publications and web based tools, shall be used as relevant. Any limitation on the publication shall be set out in the programme agreement;
  - (b) they shall include a clear and reasonable deadline, which shall be at least two months from the date of the publication of the announcement, and an address for submission. The announcement shall specify the hour when the call expires, whether the deadline refers to a post stamp or actual delivery time to the office of the Programme Operator and the permissible method(s) of delivery. The announcement must specify whether one or more copies of the application are required;
  - (c) they shall clearly specify the eligible Project Promoters and partners and any restrictions, limitations or exclusions that they may be subject to;
  - (d) they shall contain detailed selection criteria as well as a scoring chart;
  - (e) they shall clearly address what kind of activities and expenditure are eligible, including any restrictions to unit costs mentioned in Article 8.4;
  - (f) they shall provide a description of the selection process and the decision-making structure;

- (g) they shall provide a clear reference or a link to the application form and user guide;
- (h) they shall clearly state the total amount available through the call, as well as the minimum and maximum amount of each project grant applied for;
- (i) they shall contain provisions on the payment model;
- (j) they shall clearly state the co-financing requirements;
- (k) they shall require the disclosure of any consultant involved in the preparation of the project application;
- (l) they shall provide clear references to further information, including a reference to this Regulation and relevant guidelines adopted by the FMC as well as other documentation prepared by the Programme Operator that is relevant to the call; and
- (m) they shall provide contact information for queries and the timeframe for answering such queries.

3. The call shall be published on the website of the Programme Operator in the national language(s) and in English.

4. The National Focal Point shall warrant that the call for proposals fully complies with the legal framework of the EEA Financial Mechanism 2014-2021 as defined in Article 1.5 of the Regulation.

5. The FMC shall be informed of all calls for proposals at least two weeks in advance of their announcement, and, at the same time, be provided with an English translation of the text of each call.

#### **Article 7.4**

##### **Project evaluation and award of grants**

1. The Programme Operator shall be responsible for project evaluation and the award of grants. The principles of good governance, transparency, equality, efficiency and zero tolerance towards corruption shall be applied.

2. The Programme Operator shall verify that the selection process has been conducted in accordance with the Regulation and that grant award decisions comply with the rules and objectives of the Programme. Following such verification, the Programme Operator shall make a decision on which projects shall be supported.

3. The Donor Programme Partner(s) and/or the IPO(s), as applicable, shall be invited to participate in the selection process. The FMC and the National Focal Point shall be invited to participate in the selection procedure as observers. The FMC and the programme partner(s) shall be provided with the relevant documents in English.

4. The Programme Operator shall provide interpretation assistance during the selection process when necessary.

5. In calls for proposals dedicated exclusively to donor partnership projects, the selection procedures shall be agreed with the Donor Programme Partner. The working language, as well as the language of project applications and other relevant documents, shall be English.

6. The Programme Operator shall provide the FMC with the list of selected projects no later than two weeks after the decision on the award of grants. The FMC shall be provided with any relevant documents in English upon request.

7. The programme agreement may include specific provisions with respect to the selection process.

8. This Article shall apply *mutatis mutandis* to decisions to award additional funds to already approved projects.

#### **Article 7.5**

##### **Conflict of interest**

1. A conflict of interest situation is deemed to be present when a person involved in the selection process has direct or indirect interests that are or appear to be incompatible with the impartial and/or objective exercise of the functions related to the selection process. Such interests may be related to economic interests, political or national affinities, family or emotional ties, other shared interests with the applicant or its partner, or any other interests liable to influence the impartial and objective performance of the person involved in the selection of projects.

2. The Programme Operator shall take every reasonable measure to prevent a conflict of interest situation from occurring. If a conflict of interest situation nevertheless occurs, the Programme Operator shall take all the necessary measures to prevent that such a situation affects the integrity of the selection process.

#### **Article 7.6**

##### **Project contract**

1. For each approved project a project contract shall be concluded between the Programme Operator and the Project Promoter.

2. In cases where a project contract cannot, due to provisions in the national legislation, be made between the Programme Operator and the Project Promoter, the Beneficiary State may instead issue a legislative or administrative act of similar effect and content.

3. The project contract sets out the terms and conditions of grant assistance as well as the roles and responsibilities of the

parties. It shall in particular include provisions that ensure that the Project Promoter undertakes to comply fully with the provisions of the legal framework of the EEA Financial Mechanism 2014-2021 referred to in Article 1.5 that are relevant for the implementation of the project, including any obligation that is valid after the project has been completed. The project contract shall contain an explicit reference to the programme agreement and this Regulation and, as a minimum, provisions on the following:

- (a) obligations regarding reporting that enables the Programme Operator to comply with its reporting obligations to the FMC and the National Focal Point;
- (b) the maximum amount of the project grant in euro and the maximum project grant rate;
- (c) the eligibility of expenditures and requirements regarding the submission of proof of expenditure;
- (d) the method of calculating indirect costs and their maximum amount;
- (e) the first and final dates of eligibility of expenditures;
- (f) modifications of the project;
- (g) ensuring that the access requested in relation to monitoring, audits and evaluations is provided without delay;
- (h) ensuring that obligations regarding information and communication are complied with;
- (i) the right of the Programme Operator to suspend payments and request reimbursement from the Project Promoter in case decision on such actions is taken by the FMC, Programme Operator or the National Focal Point;
- (j) resolution of disputes and jurisdiction;
- (k) a detailed budget, which may allow for up to 5% contingency; and
- (l) a reference to partnership agreements or letters of intent, if relevant.

4. The project contract shall include provisions that ensure that project partners are informed sufficiently in advance of modifications to the project that affect them.

5. The obligations of the Project Promoter under the project contract shall be valid and enforceable under the applicable national law of the Beneficiary State. In case of any inconsistency between the project contract and the legal framework of the EEA Financial Mechanism 2014-2021 as defined in Article 1.5 of this Regulation, the latter shall prevail.

## **Article 7.7**

### **Project partners and partnership agreements**

1. A project may be implemented in partnership with project partners as defined in point (w) of Article 1.6. If a project is implemented in such a partnership, the Project Promoter shall sign a partnership agreement with the project partners.
2. The partnership agreement shall contain the following:
  - (a) provisions on the roles and responsibilities of the parties;
  - (b) provisions on the financial arrangements between the parties, including, but not limited to, which expenditure the project partners can get reimbursed from the project budget;
  - (c) provisions on the method of calculating indirect costs and their maximum amount;
  - (d) currency exchange rules for such expenditure and its reimbursement;
  - (e) provisions on audits on the project partners;
  - (f) a detailed budget; and
  - (g) provisions on dispute resolution.
4. The partnership agreement shall be in English if one of the parties to the agreement is an entity from the Donor States.
5. The eligibility of expenditures incurred by a project partner is subject to the same limitations as would apply if the expenditures were incurred by the Project Promoter.
6. The creation and implementation of the relationship between the Project Promoter and the project partner shall comply with the applicable national and European Union law on public procurement as well as Article 8.15 of this Regulation.
7. A draft partnership agreement or letter of intent shall be submitted to the Programme Operator before the signing of the project contract. The Programme Operator shall verify that the partnership agreement complies with this article.

## **Chapter 8**

### **Eligibility of expenditures**

#### **Article 8.1**

##### **Eligible expenditures of a programme**

Eligible expenditures of a programme are:

- (a) management costs of the Programme Operator in accordance with Article 8.10;



- (b) payments to projects within the programme in accordance with this Regulation, the programme agreement and the project contract;

## **Article 8.2**

### **General principles on the eligibility of expenditures**

1. The principles set forth in this article shall apply mutatis mutandis to all eligible expenditures unless otherwise explicitly stated in this Regulation.
2. Eligible expenditures of projects are those actually incurred within the project, which meet the following criteria:
  - (a) they are incurred between the first and final dates of eligibility of a project as specified in the project contract;
  - (b) they are connected with the subject of the project contract and they are indicated in the detailed budget of the project;
  - (c) they are proportionate and necessary for the implementation of the project;
  - (d) they must be used for the sole purpose of achieving the objective(s) of the project and its expected outcome(s), in a manner consistent with the principles of economy, efficiency and effectiveness;
  - (e) they are identifiable and verifiable, in particular through being recorded in the accounting records of the Project Promoter and/or project partner and determined according to the applicable accounting standards of the country where the Project Promoter and/or project partner is established and according to generally accepted accounting principles; and
  - (f) they comply with the requirements of applicable tax and social legislation.
3. Expenditures are considered to have been incurred when the cost has been invoiced, paid and the subject matter delivered (in case of goods) or performed (in case of services and works). Exceptionally, costs in respect of which an invoice has been issued in the final month of eligibility are also deemed to be incurred within the dates of eligibility if the costs are paid within 30 days of the final date for eligibility. Overheads and depreciation of equipment are considered to have been incurred when they are recorded on the accounts of the Project Promoter and/or project partner.
4. Where new or second hand equipment is purchased, only the portion of the depreciation corresponding to the duration of the project and the rate of actual use for the purposes of the project may be considered eligible expenditure.
5. The Project Promoter's internal accounting and auditing procedures must permit direct reconciliation of the

expenditures and revenue declared in respect of the project with the corresponding accounting statements and supporting documents.

6. In case of projects implemented by an international organisation or body or an agency thereof, the programme agreement may include specific provisions with regard to the eligibility of expenditure.

## **Article 8.3**

### **Eligible direct expenditures in a project**

1. The eligible direct expenditures for a project are those expenditures which are identified by the Project Promoter and/or the project partner, in accordance with their accounting principles and usual internal rules, as specific expenditures directly linked to the implementation of the project and which can therefore be booked to it directly. The following direct expenditures are eligible provided that they satisfy the criteria set out in Article 8.2:
  - (a) the cost of staff assigned to the project, comprising actual salaries plus social security charges and other statutory costs included in the remuneration, provided that this corresponds to the Project Promoter's and project partner's usual policy on remuneration. The corresponding salary costs of staff of national administrations are eligible to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the project concerned were not undertaken;
  - (b) travel and subsistence allowances for staff taking part in the project. Having regard to the principle of proportionality, travel costs, including subsistence allowance, may be calculated as a lump sum, on the basis of defined rules approved by the Programme Operator;
  - (c) cost of new or second hand equipment. In case the Programme Operator determines that the equipment is an integral and necessary component for achieving the outcomes of the project, the entire purchase price of that equipment may, by way of exception from the rule contained in paragraph 4 of Article 8.2, be eligible;
  - (d) purchase of land and real estate under the conditions set in Article 8.6;
  - (e) costs of consumables and supplies, provided that they are identifiable and assigned to the project;
  - (f) costs entailed by other contracts awarded by a Project Promoter for the purposes of carrying out the project, provided that the awarding complies with the applicable rules on public procurement and this Regulation; and

(g) costs arising directly from requirements imposed by the project contract for each project.

2. Where the entire purchase price of equipment is eligible in accordance with point (c) of paragraph 1, the Programme Operator shall ensure that the Project Promoter:

- (a) keeps the equipment in its ownership for a period of at least five years following the completion of the project and continues to use that equipment for the benefit of the overall objectives of the project for the same period;
- (b) keeps the equipment properly insured against losses such as fire, theft or other normally insurable incidents both during project implementation and for at least five years following the completion of the project; and
- (c) sets aside appropriate resources for the maintenance of the equipment for at least five years following the completion of the project.

The specific means for the implementation of this obligation shall be specified in the project contract. The Programme Operator may release any Project Promoter from the above obligations with respect to any specifically identified equipment where the Programme Operator is satisfied that, having regard to all relevant circumstances, continued use of that equipment for the overall objectives of the project would serve no useful economic purpose.

3. In exceptional and duly justified cases, the Programme Operator may suggest additional expenditures to be eligible or exclude certain expenditure listed in paragraph 1. Such deviations, if approved by the FMC, shall be explicitly stipulated in the programme agreement.

#### **Article 8.4** **Standard scales of unit costs**

1. The project grant may take the form of standard scales of unit costs. In such case the amount shall be established in one of the following ways:

- (a) in accordance with the rules for application of corresponding scales of unit costs applicable in European Union policies for similar types of project and entities involved;
- (b) in accordance with the rules for application of corresponding scales of unit costs applied under schemes for grants funded entirely by the Beneficiary State where the Project Promoter or partner is located, or the Donor State where the donor project partner is located, for similar types of project and entities involved.

2. The use of standard scales of unit costs, their amount and the way they are established shall be determined in the project contract. The use of standard scales of unit costs, their amount

and the way they are calculated for a project partner shall be stipulated in the partnership agreement between the Project Promoter and the project partner.

3. The provisions of this article shall apply *mutatis mutandis* to all eligible expenditures unless otherwise explicitly stated in this Regulation.

#### **Article 8.5** **Indirect costs in projects (overheads)**

1. Indirect costs are all eligible costs that cannot be identified by the Project Promoter and/or the project partner as being directly attributed to the project but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project. They may not include any eligible direct costs. Indirect costs of the project shall represent a fair apportionment of the overall overheads of the Project Promoter or the project partner. Project promoters and project partners may identify their indirect costs according to one of the following methods:

- (a) based on actual indirect costs for those Project Promoters and project partners that have an analytical accounting system to identify their indirect costs as indicated above;
- (b) a flat rate of up to 25% of total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the Project Promoter or project partner;
- (c) a flat rate of up to 15% of direct eligible staff costs without there being a requirement for the Programme Operator to perform a calculation to determine the applicable rate; or
- (d) a flat rate applied to direct eligible costs based on existing methods and corresponding rates applicable in European Union policies for similar types of project and Project Promoter;
- (e) in the case of Project Promoters or project partners that are international organisations or bodies or agencies thereof, indirect costs may, in line with specific provisions in the programme agreement, be identified in accordance with the relevant rules established by such organisations.

2. The application of the method described in point (b) of paragraph 1 is subject to the calculation of the rate on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Beneficiary State for similar types of Project and Project Promoter.

3. The method of calculating the indirect costs and their maximum amount shall be determined in the project contract. The method of calculation of indirect costs of a project partner shall be stipulated in the partnership agreement between the Project Promoter and the project partner.

4. In duly justified cases, the Programme Operator may suggest restricting the eligibility of indirect costs. Such restrictions, if approved by the FMC, shall be explicitly stipulated in the programme agreement.

#### **Article 8.6**

##### **Purchase of real estate and land**

1. The cost of purchase of real estate and land not built on may be eligible under the following conditions, without prejudice to the application of stricter national rules:

- (a) there shall be a direct link between the purchase and the objectives of the project;
- (b) purchase of real estate and/or land may not represent more than 10% of the total eligible expenditure of the project, unless a higher percentage is explicitly authorised in the programme agreement and set in the decision to award the project grant;
- (c) a certificate shall be obtained prior to the purchase from an independent qualified evaluator or duly authorised official entity confirming that the purchase price does not exceed the market value and that it is free of all obligations in terms of mortgage and other liabilities, particularly in respect of damage related to pollution. In case of purchase of real estate the certificate must either confirm that the building in question is in conformity with national regulations, or specify what is not in conformity with national regulations but which is to be rectified by the Project Promoter under the project;
- (d) the real estate and/or the land shall be used for the purpose and for the period specified in the decision to award the project grant. The ownership must be transferred to the Project Promoter, or those explicitly designated by the Project Promoter in the project application as recipients of the real estate and/or the land, prior to the completion of the project. The real estate and/or the land cannot be sold, rented, or mortgaged within five years of the completion of the project, or longer if stipulated in the project contract. The FMC may waive this restriction if it would result in an unreasonable burden on the Project Promoter;
- (e) the real estate and/or land may only be used in conformity with the objectives of the project. In particular, buildings may be used to accommodate public

administration services only where such use is in conformity with the objective of the project; and

- (f) the purchase of real estate and/or land shall be explicitly approved by the Programme Operator prior to the purchase, either in the project contract or by a later decision.

2. Real estate shall mean buildings constructed or under development and the appropriate rights to the land on which they are built.

3. The restrictions referred to in paragraph 1(d) apply also to buildings that are constructed, reconstructed or renovated through a financial contribution from the EEA Financial Mechanism 2014-2021.

4. The mortgage restriction referred to in paragraph 1(d) does not apply to a mortgage taken in favour of the Programme Operator or the National Focal Point when its purpose is solely to ensure compliance with the said paragraph.

5. Expenditure on site preparation and construction which is essential for the implementation of the project may be eligible.

6. The cost of real estate and/or land already owned, directly or indirectly, by the Project Promoter, or purchase of real estate and/or land owned, directly or indirectly, by the project partner or a public administration, shall not be eligible. Under no circumstances shall real estate and/or land be purchased for speculative purposes. The real estate and/or the land shall not have received a national or external donor grant in the last 10 years which would give rise to a duplication of funding.

#### **Article 8.7**

##### **Excluded costs**

1. This article shall apply *mutatis mutandis* to all costs unless otherwise explicitly stated in this Regulation.

2. The following costs shall not be considered eligible:

- (a) interest on debt, debt service charges and late payment charges;
- (b) charges for financial transactions and other purely financial costs, except costs related to accounts required by the FMC, the National Focal Point or the applicable law and costs of financial services imposed by the project contract;
- (c) provisions for losses or potential future liabilities;
- (d) exchange losses;
- (e) recoverable VAT;
- (f) costs that are covered by other sources;

- (g) fines, penalties and costs of litigation, except where litigation is an integral and necessary component for achieving the outcomes of the project; and
- (h) excessive or reckless expenditure.

#### **Article 8.8**

##### **Eligible expenditures under the fund for bilateral relations**

1. Expenditure related to the following activities are eligible for the fund referred to in Article 4.6:

- (a) activities aiming at strengthening bilateral relations between the Donor States and the Beneficiary States;
- (b) the search for partners for donor partnership projects prior to or during the preparation of a project application, the development of such partnerships and the preparation of an application for a donor partnership project;
- (c) networking, exchange, sharing and transfer of knowledge, technology, experience and best practice between entities in Beneficiary States and entities in the Donor States and/or international organisations;
- (d) activities aiming at strengthening cooperation and exchanging experiences and best practices between the Programme Operators and similar entities within the Beneficiary States and Donor States, as well as international organisations, provided at least one entity within the Donor States is involved in the activity.

2. Having regard to the principle of proportionality, travel costs, including subsistence allowance, may be calculated as a lump sum, on the basis of defined rules approved by the National Focal Point.

#### **Article 8.9**

##### **Scholarships and mobility programmes**

1. Grants to natural persons from a programme under the programme area “Education, Scholarships, Apprenticeships and Youth Entrepreneurship” or from the scholarship component under any programme, may be calculated as a lump sum. Eligible items are:

- (a) monthly stipend;
- (b) allocation for study material;
- (c) travel costs, insurance and conference fees; and
- (d) tuition fees.

2. The Programme Operator responsible for a programme under the programme area “Education, Scholarships, Apprenticeships and Youth Entrepreneurship” or a

scholarship component within any programme shall specify any unit amounts. The determination of the amounts shall take into account the reasonable costs in the area of the host institution.

#### **Article 8.10**

##### **Eligibility of management cost incurred by Programme Operator**

1. The management cost of a Programme Operator up to a ceiling set in paragraph 2 may be considered as eligible costs. The first date of eligibility of expenditures of management cost of a Programme Operator shall be the date when the National Focal Point, in accordance with paragraph 3 of Article 5.2, designates the Programme Operator. The final date of eligibility shall be the 31 December 2024 unless an earlier date is specified in the programme agreement.

2. The maximum management cost of a programme shall be calculated as a percentage of the total eligible expenditures of the programme. It shall be the sum of the following amounts:

- (a) 10% of the first € 10 million;
- (b) 7% of the next € 40 million;
- (c) 5% of the next € 50 million;
- (d) 4% of the remaining total eligible expenditures of the programme.

3. In exceptional and duly justified cases, the FMC may, for programmes with total eligible expenditures up to € 5 million, approve a higher ceiling.

4. The following categories of expenditure are eligible as management costs, provided that the expenditure is proportionate and necessary:

- (a) expenditures directly related to the preparation of the programme, including the development of the programme design, the results framework and stakeholder consultations;
- (b) preparation of the implementation of the programme, including the development of procedures for project selection and financial flows;
- (c) assisting possible applicants and Project Promoters in complying with the requirements set by the Programme Operator for project applications and/or the implementation of projects;
- (d) selection of projects, including costs of experts and meetings, and appeals;
- (e) verification of incurred expenditure, approval of payments and transfer of payments to Project Promoters;
- (f) monitoring of projects and reviews;

- (g) audits and on-the-spot verification of projects;
- (h) promotional and information activities, including calls for proposals and information work during the application period as well as information events to share experiences and evaluate the impact of the programme;
- (i) expenditures related to reporting obligations to the FMC, the National Focal Point, the Certifying Authority and/or the Irregularities Authority;
- (j) charges related to the establishment and operation of bank accounts required under this Regulation or the programme agreement, including costs of incoming and outgoing transfers;
- (k) overheads, calculated in accordance with paragraphs 1(a), (b) or (c) of Article 8.5, as appropriate, and subject to the requirements in paragraph 6 of Article 8.12;
- (l) expenditures related to the operation of the Cooperation Committee in the case of donor partnership programmes and expenditures related to the operation of the Programme Committee, when required within programmes falling under the programme area “Research”;
- (m) expenditures related to the strengthening of bilateral relations; and
- (n) activities aimed at strengthening cooperation and exchanging experience and best practices between the Programme Operators and similar entities within the Beneficiary States and/or Donor States, and/or international organisations.

5. Programme Operators within programme area “Civil Society” may, in order to meet obligations related to capacity building of the sector, suggest a higher ceiling for the management costs but never more than 30% above the ceiling stipulated in paragraph 2. Such a ceiling, if approved by the FMC, shall be explicitly stipulated in the programme agreement.

6. In cases where the selection of the Programme Operator in the Beneficiary State is conducted through a competitive tendering procedure, the FMC can in the programme agreement, decide that the contract value shall be accepted as management costs *in lieu* of actually incurred expenditures. The ceilings set out in paragraphs 2 and 5 shall apply.

7. The eligibility of costs under this article is conditional on the approval of the programme by the FMC.

8. In justified cases of budgetary constraints and at the discretion of the FMC, extraordinary advance payments towards costs related to the preparation of programmes may be disbursed to the Beneficiary States.

## Article 8.11

### Technical assistance to the Beneficiary State

1. Costs incurred by Beneficiary States in relation to the implementation of the EEA Financial Mechanism 2014-2021 are ineligible, except as provided for in this article and falling within the categories set out in paragraph 2.
2. The following categories of expenditure may be eligible costs for technical assistance under the conditions and limits set out in paragraphs 3-10, provided that the expenditure is proportionate and necessary:
  - (a) in the case of additional management systems specifically established for the EEA Financial Mechanism 2014-2021, expenditure relating to the preparation, evaluation, financial flow, and monitoring of the assistance, programmes and the fund for bilateral relations;
  - (b) expenditure on preparation of and participation in annual meetings with the Donor States, and other meetings with the Donor States relating to the implementation of the assistance. This expenditure may also include the costs of experts and other participants, including third-country participants, where the chairperson considers their presence essential to the effective implementation of the assistance;
  - (c) expenditure on meetings and conferences organised by the National Focal Point, the Audit Authority, the Irregularities Authority or the Certifying Authority to share experience related to the implementation, monitoring, evaluation, reporting and auditing of projects funded by the EEA Financial Mechanism 2014-2021, including expenditure related to travel and accommodation of participants. The Donor States shall be invited to participate in such meetings or conferences;
  - (d) expenditure related to promotional and information activities;
  - (e) expenditure related to audits referred to in Article 5.5 and paragraph 3 of Article 5.7;
  - (f) expenditure related to on-the-spot verifications of programmes and projects;
  - (g) expenditure related to reviews and evaluations;
  - (h) expenditure related to technical assistance for the implementation of the EEA Financial Mechanism 2009-2014 incurred during the 12 months following the final date of eligibility for that technical assistance; and
  - (i) expenditure related to the preparation of the implementation of the EEA Financial Mechanism 2014-2021.

3. Expenditure in the Beneficiary State on salaries, social security contributions and other statutory costs, is eligible only in the following cases:

- (a) civil servants or other public officials temporarily assigned, by duly documented decision of the competent authority, to carry out tasks referred to in paragraph 2 on an exclusive and additional basis;
- (b) other staff employed to carry out tasks referred to in paragraph 2.

4. Contributions from the EEA Financial Mechanism 2014-2021 to the expenditure under paragraph 2 shall not exceed 1.5% of the total contribution to the respective Beneficiary State, except for Beneficiary States receiving 2% or less of the total financial contribution from the EEA Financial Mechanism 2014-2021 where the FMC may approve a higher amount.

5. The amount shall be fixed in an agreement on technical assistance between the FMC and the National Focal Point. The technical assistance agreement template is provided in Annex 7.

6. The National Focal Point shall coordinate the use of the technical assistance. It shall as soon as possible after the signing of the MoU, provide the FMC with a budget for the whole implementation period, including a detailed budget for the first calendar year. Where the National Focal Point receives support for technical assistance under both the EEA and Norwegian Financial Mechanisms, it shall prepare one budget covering the technical assistance from both mechanisms.

7. The first date of eligibility for support under this article shall be the date of the last signature of the MoU with the respective Beneficiary State. If support for technical assistance is received under both the EEA and the Norwegian Financial Mechanisms, the first date of eligibility of any funding for technical assistance shall be the date of the last signature of whichever MoU is signed first.

8. Notwithstanding paragraph 1, expenditure under point (i) of Article 8.11.2 may be eligible as of the date when the FMC is notified of the designation of the authority responsible for the negotiations of the MoU by the Beneficiary State. Eligibility of incurred expenditure shall be conditional on the signature of the MoU.

9. The final date of eligibility of expenditure under technical assistance shall be 31 August 2025.

10. Articles 6.11 and 6.12 and Chapter 9 shall apply *mutatis mutandis* to technical assistance. The final programme report for technical assistance shall be submitted no later than 15 November 2025.

## **Article 8.12** **Proof of expenditure**

1. Costs incurred by Programme Operators, Project Promoters and project partners shall be supported by receipted invoices, or alternatively by accounting documents of equivalent probative value.

2. Where activities are implemented in the framework of competitive tendering procedures, payments by Programme Operators, Project Promoters and project partners shall be supported by receipted invoices based on the signed contracts. In all other cases, payments by Programme Operators, Project Promoters and project partners shall be justified by expenditure actually paid by the entities concerned in implementing the project.

3. In line with the responsibility of the Programme Operator to verify expenditure declared, requirements for the submission of proof of expenditure shall be set in the project contract and the partnership agreement where relevant. Proof of expenditure to be submitted may take the form of receipted invoices or accounting documents of equivalent probative value. Alternatively, project promoters and project partners may opt to submit proof of expenditure by way of the reports described in paragraph 4. The Programme Operator may limit this option to international organisations or bodies or agencies thereof and project partners whose primary location is outside the Beneficiary State.

4. A report by an independent auditor qualified to carry out statutory audits of accounting documents, certifying that the claimed costs are incurred in accordance with this Regulation, the national law and relevant national accounting practices, shall, subject to paragraph 3, be accepted as sufficient proof of expenditure incurred. A report issued by a competent and independent public officer recognised by the relevant national authorities as having a budget and financial control capacity over the entity incurring the costs and who has not been involved in the preparation of the financial statements, certifying that the claimed costs are incurred in accordance with this Regulation, the relevant law and national accounting practices, shall, subject to paragraph 3, also be accepted as sufficient proof of expenditure incurred.

5. Upon request by the FMC or the EFTA Board of Auditors, the Project Promoter or project partner shall grant access to the supporting documents on the basis of which the report referred to in paragraph 4 was issued. Upon request by the Audit Authority, a Project Promoter or project partner located within the respective Beneficiary State, shall grant access to the supporting documents on the basis of which the report referred to in paragraph 4 was issued.

6. Overheads identified according to paragraphs 1(b), (c), and (d) of Article 8.5, do not need to be supported by proof of expenditure.

7. Where the project grant takes the form of a lump sum or standard scales of unit costs, proof of expenditure is limited to proof of the relevant units.

#### **Article 8.13**

##### **Period of eligibility of expenditures in projects**

1. Unless a later date is provided in the programme agreement, programme implementation agreement, or the project contract, expenditure incurred shall be eligible for assistance as of the date on which the Programme Operator decides to award the project grant. The Programme Operator shall in the same decision fix the final date of eligibility which shall be no later than either one year after the scheduled completion of the project or the date referred to in paragraph 3, whichever is earlier.

2. The first and final dates of eligibility of each project shall be stated in the project contract for that project. The first date of eligibility of any pre-defined project shall be no earlier than the date on which the National Focal Point notifies the FMC of a positive appraisal of the pre-defined project by the Programme Operator in accordance with paragraph 3 of Article 6.5.

3. Expenditures incurred after 30 April 2024 shall not be eligible.

4. If a project has not been completed on its final date of eligibility, the Programme Operator shall ensure that funds are made available to complete the project in a timely manner. If such funds cannot be guaranteed, the Programme Operator shall reimburse to the FMC its financial contribution to the project. If, at the date of the final date of eligibility, clearly identifiable and viable components of the projects have been completed, the FMC may waive, in full or in part, its right to reimbursement.

#### **Article 8.14**

##### **Durability of projects**

1. The Programme Operator shall ensure that projects that involve investment in real estate and/or land (including renovation) are operational for at least five years after the Programme Operator's approval of the project completion report and that the real estate and/or land is used for the purpose of the project as described in the project contract.

2. For other projects, the period of minimum post-completion operation shall be determined by the Programme Operator, described in the call for proposals and included in the project

contract. The determination of this period shall be guided by the aim of promoting the sustainability of the project and of ensuring that the financial support provided to the project generates the maximum benefits to its target group and final beneficiaries.

3. The Beneficiary State and the Programme Operator shall ensure that the Project Promoter retains the contribution from the EEA Financial Mechanism 2014-2021 only if the project is in compliance with paragraphs 1 and 2.

#### **Article 8.15**

##### **Procurement**

1. Applicable national and European Union law on public procurement shall be complied with at any level in the implementation of programmes and projects.

2. A Project Promoter that receives 50% or more of the eligible expenditure of the project as a project grant from a programme under the EEA Financial Mechanism 2014-2021 shall conduct its procurement for that project in compliance with the national public procurement law as though the Project Promoter were a contracting authority under point 1 of Article 1 of 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, where the amount of the contract is at or above European Union thresholds set for public procurement. This paragraph applies *mutatis mutandis* to project partners.

3. In cases where contracts concluded as part of the implementation of the Programme fall below the European Union thresholds set for public procurement or outside the scope of the applicable public procurement laws, the awarding of such contracts (including the procedures prior to the awarding) and the terms and conditions of such contracts shall, in line with the principle of proportionality, comply with best economic practices, including accountability, allow a full and fair competition between potential providers, for example by way of effective price comparison, and ensure the optimal use of resources from the EEA Financial Mechanism 2014-2021.

4. The highest ethical standards, as well as the avoidance of any conflict of interests, shall be observed during the procurement and execution of contracts. The Programme Operator shall ensure the application of adequate and effective means to prevent illegal or corrupt practices. No offer, gifts, payments or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted.

5. The Programme Operator shall ensure that records of the awarding and execution of contracts are kept for at least three years from the closure of the programme and provided upon request to the FMC.

#### **Article 8.16** **State Aid**

The National Focal Point shall ensure that any public support under the EEA Financial Mechanism 2014-2021 complies with the procedural and substantive state aid rules applicable at the time when the public support is granted. The National Focal Point shall, by way of the programme implementation agreement, ensure that the Programme Operator maintains written records of all assessments concerning compliance with state aid rules, in particular decisions to award grants and set grant rates, and provides such records to the FMC upon request. In no case shall any act or omission by the FMC be taken as to imply a positive assessment of such compliance.

### **Chapter 9** **Financial management**

#### **Article 9.1** **Common rules for payments**

1. Payments to programmes shall be made when all relevant conditions for payments stipulated in the programme agreement and this Regulation have been fulfilled. Extraordinary advance payments in respect of costs related to the preparation of programmes may be approved by the FMC, in accordance with paragraph 8 of Article 8.10.

2. Payments to programmes shall take the form of advance payments, interim payments and payments of the final balance. Without prejudice to paragraph 3, they shall be made to the designated account of the Beneficiary State. Subject to contrary provisions in national law, the Beneficiary State shall ensure that payments received from the FMC are made available to the Programme Operator within 15 working days from reception of the payment.

3. The FMC and the National Focal Point may agree to transfer payments directly from the FMC to the designated account of the Programme Operator.

4. The FMC may retain up to 10% of the management cost allocation to the programme. The retained amount shall not be paid until the final programme report has been approved by the FMC.

5. Payments to programmes shall be calculated by applying the co-financing rate laid down in the programme agreement. The principle of pro rata financing shall apply, meaning that the payments of the programme grant from the FMC shall be

matched within one month by payment from the entity or entities responsible for providing the co-financing.

6. In case of discrepancies in payments which are due to rounding errors and which cumulatively do not exceed € 50, the relevant amounts shall be taken into account in the calculation of the final balance referred to in Article 9.4.1.

7. Payments of the project grant to the Project Promoters may take the form of advance payments, interim payments and payments of the final balance. The level of advance payments and their off-set mechanism shall be set in the programme agreement.

#### **Article 9.2** **Advance payments**

Advance payments are the part of the programme grant necessary to cover its share of justified estimated programme expenditure until the first interim payment referred to in paragraph 1 of Article 9.3 is due. The maximum advance payment shall be set in the programme agreement. The advance payment shall be made when the relevant conditions in the programme agreement and this Regulation have been fulfilled.

#### **Article 9.3** **Interim payments**

1. The reporting periods in each calendar year shall be as follows:

- (a) 1 January - 30 June for actual expenditure incurred and 1 November - 30 April for proposed expenditure;
- (b) 1 July - 31 December for actual expenditure incurred and 1 May - 31 October for proposed expenditure.

2. Interim payments shall be paid based on an interim financial report submitted by the Programme Operator in a format provided by the FMC, certified by the Certifying Authority in accordance with Article 5.4, and approved by the FMC.

3. Without prejudice to paragraph 10 and subject to budgetary appropriations of the Donor States, interim payments from the FMC shall be made by the following payment dates: 15 April and 15 October. Should a payment date land on a weekend or an EFTA public holiday, the payment shall be made on the next EFTA working day.

4. Interim financial reports shall be received by the FMC according to the following schedule:

- (a) on, or before, 15 March for payments to be made by 15 April;



(b) on, or before, 15 September for payments to be made by 15 October.

5. Payment based on an interim financial report received after its due date but on, or before, the following due date referred to in paragraph 4 shall be due as the report would have been received on its following due date. If an interim financial report has not been received within twelve months from the end of the reporting period in which expenditure has been incurred by the Programme Operator, the expenditure for that period shall be declared ineligible and cancelled.

6. Interim financial reports shall include:

- (a) a statement of actual expenditure incurred during the reporting period preceding the payment date; and
- (b) a statement of proposed expenditure for the reporting period immediately following the payment date.
- (c) information on progress towards achieving outputs and outcomes, as appropriate.

7. The actual incurred expenditure for the last reporting period shall be reported in the final programme report.

8. When the interim financial report has been provided, the FMC shall verify that it is in the correct form and that the conditions for payment have been met. If that verification is positive, interim payments shall be transferred no later than on the payment dates referred to in paragraph 3.

9. Interim payments shall in principle consist of the proposed expenditure for the respective reporting period less the expected cash balance at the start of that period for the proposed expenditure. The FMC may modify the amount of the interim payment if the proposed expenditures are considered to be unjustified. The FMC shall provide the National Focal Point, Certifying Authority and the Programme Operator with a justification of the modification without delay.

10. Should verification according to paragraph 8 be negative, the FMC, the National Focal Point and the Programme Operator shall closely cooperate to remedy the deficiencies. The FMC may provisionally hold interim payments until such deficiencies have been remedied. When the FMC, after receiving all necessary information, has positively verified interim financial report, it shall at the first possible payment date or when it deems it necessary following that verification release the payment due, unless the FMC decides to make use of remedies provided in Chapter 13.

#### **Article 9.4**

##### **Payment of the final balance**

1. The final balance is:

- (a) the total reported eligible expenditure of the programme, taking into account any previous reimbursements and the amounts referred to in paragraph 6 of Article 9.1,
- (b) less the following amounts:
  - (i) the total advance and interim payments to the programme from the FMC;
  - (ii) any co-financing from sources other than the EEA Financial Mechanism 2014-2021;
  - (iii) total interest earned until the date of the final programme report ;and
  - (iv) any funds reimbursed from Project Promoters to the Programme Operator, not paid to other projects or reimbursed to the FMC.

2. The EEA Financial Mechanism 2014-2021 share of the final balance is the final balance according to paragraph 1 multiplied by the programme grant rate.

3. The final balance shall be calculated and reported in the financial annex to the final programme report in accordance with guidelines adopted by the FMC).

4. Any final balance payable to the Programme Operator shall be transferred by the FMC no later than one month after FMC's approval of the final programme report.

5. Any final balance payable to the FMC shall be reimbursed to the FMC within the same deadline. Any interest earned on the bank account of the Programme Operator between the date of the final programme report and the reimbursement date shall be included in the reimbursement.

#### **Article 9.5**

##### **Forecast of likely payment applications**

At the latest by 20 February, 20 April, 20 September and 20 November each year, the Certifying Authority shall send to the FMC, in a format provided by the FMC (Annex 8), a justified forecast of likely payment applications from the Beneficiary State.

#### **Article 9.6**

##### **Use of the euro**

1. Amounts set out in programmes, interim financial reports, annual programme reports and final programme reports shall be denominated in euro. Programme grants and payments from the FMC to entities in the Beneficiary State, shall be denominated and carried out in euro. The amounts shall be rounded to the nearest euro.

2. Programme Operators in Beneficiary States that have not adopted the euro as their currency on the date of an

application for payment shall convert into euro the amounts of expenditure incurred in their national currency. This amount shall be converted into euro using the monthly accounting exchange rate of the European Commission in the month during which the expenditure was registered in the accounts of the Programme Operator of the programme concerned.

3. When the euro becomes the currency of a Beneficiary State, the conversion procedure set out in paragraph 2 shall continue to apply to all expenditure recorded in the accounts by the Programme Operator before that date.

4. Neither the Donor States nor the FMC are responsible for losses resulting from exchange rate fluctuations.

#### **Article 9.7** **Interest**

1. Any interest generated on the following bank accounts shall be regarded as a resource for the FMC:

- (a) accounts held in the Beneficiary State on which funds from the FMC are kept until they are transferred to the Programme Operators; and
- (b) accounts established by the Programme Operator according to paragraph 1(m) of Article 5.6 for funds intended for granting.

2. The Certifying Authority shall annually as part of the interim financial report referred to in Article 9.3.1(b), declare to the FMC any interest earned on the accounts referred to in point (b) of paragraph 1. In the case of Technical Assistance, the Certifying Authority shall also annually declare to the FMC as part of the interim financial report referred to in Article 9.3.1(b) any interest earned on the accounts referred to in point (a) of paragraph 1. The Certifying Authority shall verify the correctness of the declared interest. The interest earned shall be taken into account for the calculation of the final balance referred to in Article 9.4.1.

3. Beneficiary States that have not adopted the euro as their currency and use accounts held in the national currency shall convert the interest earned into euros using the average of the monthly accounting exchange rates of the European Commission.

#### **Article 9.8** **Transparency and availability of documents**

1. The Beneficiary State shall ensure an audit trail for financial contributions from the EEA Financial Mechanism 2014-2021 that permits:

- (a) reconciliation of the expenditure certified by the Certifying Authority in the interim financial reports and the final programme report and original supporting documents held at the various administrative levels and/or by the Programme Operator, the Project Promoter and its partners; and
- (b) verification of the allocation and transfer of the available EEA Financial Mechanism 2014-2021's and national financial contributions.

2. The Beneficiary State shall ensure that all the supporting documents regarding expenditure and audits on the programme concerned are kept either in the form of originals or in versions certified to be in conformity with the originals on commonly accepted data carriers.

3. The documents shall be kept available for the FMC and the EFTA Board of Auditors for a period of at least three years following the FMC's approval of the final programme report.

### **Chapter 10** **Evaluations**

#### **Article 10.1** **Responsibilities of Beneficiary States**

1. The Beneficiary State shall carry out evaluations of all programmes. It shall present its evaluation plan in the first Strategic Report.

2. Beneficiary States shall ensure that the resources necessary for carrying out evaluations are available, and shall ensure that procedures are in place to produce and collect the necessary data.

3. Evaluation shall be carried out by experts or entities independent of the National Focal Point, the Certifying Authority and the Programme Operator in accordance with guidelines adopted by the FMC.

4. The evaluation report shall be prepared in accordance with guidelines issued by the FMC. The final report and a summary for the general public shall be published.

#### **Article 10.2** **Role of the FMC**

1. The FMC may carry out evaluations related to the overall objectives of the EEA Financial Mechanism 2014-2021, objectives of programme areas or evaluations of the overall contribution of the EEA Financial Mechanism 2014-2021 to a specific Beneficiary State.

2. The FMC may, in consultation with the Beneficiary State concerned, carry out evaluations of on-going or completed programmes to assess actual and/or expected effects at

outcome level, in accordance with guidelines adopted by the FMC.

3. The evaluation report shall be prepared in accordance with guidelines issued by the FMC. The final report and a summary for the general public shall be published

## **Chapter 11**

### **External monitoring and audits**

#### **Article 11.1**

##### **External monitoring**

Without prejudice to the monitoring carried out by the National Focal Point or the Programme Operator, the FMC may select programmes for external monitoring. The FMC shall inform the National Focal Point and the Programme Operator about any planned monitoring two weeks in advance.

#### **Article 11.2**

##### **EFTA Board of Auditors**

1. The EFTA Board of Auditors may conduct audits of all programmes and projects funded by the EEA Financial Mechanism 2014-2021 as well as the management of the EEA Financial Mechanism 2014-2021 in the Beneficiary State. The Beneficiary States' representatives shall, upon request, accompany the auditors and provide them with all the necessary assistance.

2. The EFTA Board of Auditors shall, except in urgent cases, give two weeks' notice to the FMC and the National Focal Point concerned before an audit is carried out.

#### **Article 11.3**

##### **Audits and on-the-spot verifications arranged by the FMC**

1. Without prejudice to the audits carried out by the Audit Authority, the FMC may arrange audits and on-the-spot verifications of programmes and projects, and to verify the effective functioning of the management and control systems in the Beneficiary State. The National Focal Point's representatives shall, upon request, accompany the authorised representatives of the FMC and provide them with all necessary assistance.

2. The FMC shall, except in urgent cases, give two weeks' notice to the National Focal Point and the Programme Operator concerned before an audit or on-the-spot verification is carried out.

3. The National Focal Point and the Programme Operator shall be given an opportunity to provide comments to an audit report before it is finalised.

#### **Article 11.4**

##### **Access**

The persons performing audits or on-the-spot verifications according to this chapter shall upon request be granted prompt, full, and unimpeded access to all information, documents, persons, locations and facilities, public or private, relevant to the audit or the verification. Such access shall be subject to the applicable limitations under national legislation of the Beneficiary State. The auditors shall enjoy the same rights as those extended to equivalent authorities of the Beneficiary State itself.

## **Chapter 12**

### **Irregularities**

#### **Article 12.1**

##### **Responsibilities related to irregularities**

1. The Beneficiary State and the Programme Operator shall make every effort possible to prevent, detect, and nullify the effect of any cases of irregularities. Similarly, any suspected and actual cases of irregularities shall be investigated promptly and efficiently, and properly remedied, including making any financial corrections that may be appropriate.

2. Unduly paid amounts shall be recovered and reimbursed in accordance with the programme agreements and this Regulation.

#### **Article 12.2**

##### **Definition of irregularities**

An irregularity shall mean an infringement of:

- (a) the legal framework of the EEA Financial Mechanism 2014-2021 referred to in Article 1.5;
- (b) any provision of European Union law; or
- (c) any provision of the national law of the Beneficiary State,

which affects or prejudices any stage of the implementation of the EEA Financial Mechanism 2014-2021 in the Beneficiary State, in particular, but not limited to, the implementation and/or the budget of any programme, project or other activities financed by the EEA Financial Mechanism 2014-2021.

### **Article 12.3**

#### **Entities responsible for reporting**

1. The Irregularities Authority shall be designated and agreed upon in the MoU.
2. Irregularities, as well as any measures taken by competent national authorities to prevent, detect, investigate, or remedy irregularities, shall be reported by the Irregularities Authority to the FMC in accordance with this Regulation and in a format provided by the FMC (Annex 9).
3. The Programme Operator shall report to the Irregularities Authority on all irregularities, their investigation and any remedies taken. The Programme Operator shall closely cooperate with the Irregularities Authority to ensure rapid, accurate and complete reporting of irregularities to the FMC.

### **Article 12.4**

#### **Irregularities Register**

The Irregularities Authority shall keep a register of all irregularities, and shall, upon request from the FMC, provide information on irregularities within one month.

### **Article 12.5**

#### **Reporting on irregularities**

1. The Irregularities Authority shall immediately report to the FMC all suspected and actual cases of irregularities when any of the following applies:
  - (a) they involve allegations of an act or omission which constitutes a criminal offence under the national legislation of the Beneficiary State, such as corruption, fraud, bribery or embezzlement;
  - (b) they indicate the presence of serious mismanagement affecting the use of the financial contribution from the EEA Financial Mechanism 2014-2021; or
  - (c) they pose an immediate threat to the successful completion of the project, due to the amounts in proportion to the total project cost, their gravity or any other reason.
2. For irregularities other than those referred to in paragraphs 1 and 3, the Irregularities Authority shall within two months of the end of each quarter, submit to the FMC a report, describing any suspected and actual cases of irregularities discovered during that quarter. Should there be no irregularities to report on during the quarter, the Irregularities Authority shall inform the FMC of this fact.

3. Unless requested by the FMC, the following cases of irregularities in projects need not be reported:

- (a) cases, where the irregularity consists solely in the failure to implement a project, in whole or in part, owing to the bankruptcy of the Project Promoter;
- (b) cases, which are detected and corrected by the Programme Operator, National Focal Point or Certifying Authority in the course of the verification of the expenditure declared;
- (c) cases, which relate to an amount below EUR 2,000 in contribution from the EEA and the Norwegian Financial Mechanisms. In the case of irregularities related to non-compliance with public procurement rules, this amount refers to the overall value of the contract which is affected by the irregularity.

4. Paragraph 3 shall apply, *mutatis mutandis*, to activities financed from the fund for bilateral relations.

5. Paragraph 3 does not apply to irregularities that shall be reported immediately according to paragraph 1, or irregularities preceding a bankruptcy.

### **Article 12.6**

#### **Reporting on progress regarding already reported irregularities**

1. Together with each report on new irregularities referred to in paragraph 2 of Article 12.5, the Irregularities Authority shall report to the FMC on the progress made in the investigation and remedy of previously reported irregularities.
2. Should there be no progress to report on under this article, the Irregularities Authority shall inform the FMC of this fact within the time limit set in paragraph 2 of Article 12.5.

### **Article 12.7**

#### **Complaint mechanism**

1. The Beneficiary State shall establish a complaint mechanism that shall be capable of effectively processing and deciding on complaints about suspected non-compliance with the principles of good governance in relation to the implementation of the EEA Financial Mechanism 2014-2021 in the respective Beneficiary State. The Beneficiary State shall, upon request by the FMC, examine complaints received by the FMC. The Beneficiary State shall inform the FMC, upon request, of the results of those examinations.
2. Information on how to submit a complaint shall be prominently placed on the website of the National Focal Point referred to in paragraph 2(c) of Article 3.2.

3. The Beneficiary State shall without delay report to the FMC on any complaints involving suspected irregularities referred to in paragraph 1 of Article 12.5. Complaints involving suspicion of other irregularities shall be reported to the FMC in the reports referred to in paragraph 2 of Article 12.5 and Article 12.6. The FMC shall, when relevant, be consulted on the appropriate response.

## **Chapter 13**

### **Suspension of payments, financial corrections and reimbursement**

#### **Article 13.1**

##### **Suspension of payments**

1. The FMC may decide to suspend payments if one or more of the following applies:

- (a) the conditions for payments in accordance with Chapter 9 have not been met;
- (b) credible information indicates that the progress of the programme is not in accordance with the programme agreement;
- (c) reports referred to in Article 6.11 and Chapter 12 or any other information requested has not been provided or include incomplete information;
- (d) access required under Chapter 11 and the programme agreement is restricted;
- (e) the financial management of the programme has not been in accordance with generally accepted accounting principles;
- (f) it becomes aware of suspected or actual cases of irregularities, or such cases have not been adequately reported, investigated or remedied;
- (g) the implementation of the programme is deemed to be in violation of national or European Union law;
- (h) a fundamental change of circumstances occurs and said circumstances constitute an essential basis for the financial contribution from the EEA Financial Mechanism 2014-2021 to the programme;
- (i) it becomes aware of any misrepresentation of facts in any information given by or on behalf of the National Focal Point, Certifying Authority or the Programme Operator affecting, directly or indirectly, the implementation of the programme agreement;
- (j) the procedure under Article 13.4 has been opened; or
- (k) any other obligation stipulated in the programme agreement or this Regulation is not complied with by the

National Focal Point, the Certifying Authority or the Programme Operator.

2. The FMC may decide to suspend payments to a programme if any of the conditions in points (b), (d), (e), (f) or (g) of paragraph 1 apply *mutatis mutandis* to any of the projects under that programme and the Programme Operator has not taken the appropriate and necessary measures to investigate and, when appropriate, remedy such deficiencies or prevent loss of funds. Suspension due to deficiencies in projects shall be proportionate to the scope and extent of the breach.

3. Except for urgent cases, the National Focal Point and the Programme Operator shall be given an opportunity to provide their views before the FMC takes a decision to suspend payments. The decision to suspend payments shall be reasoned and immediately effective. The National Focal Point and the Programme Operator shall be notified no later than seven working days from the date of the decision.

4. The National Focal Point and/or the Programme Operator can at any time present documents or other relevant evidence and request that the FMC reviews its decision to suspend payments.

5. When the FMC finds that the conditions for suspension no longer apply, it shall take a decision to continue payments.

#### **Article 13.2**

##### **Financial corrections**

1. The FMC may make financial corrections based on the criteria in Article 13.3 consisting of cancelling all or part of the financial contribution of the EEA Financial Mechanism 2014-2021 to the programme or the Beneficiary State in question.

2. When a financial correction is made on a project in accordance with paragraph 1 or with Article 12.1, the financial contribution may not be reused for that project. The cancelled financial contribution may be reused under the programme for projects other than those that were the subject of the correction.

3. Financial contributions cancelled in accordance with paragraph 1 or with Article 12.1 relating to the fund for bilateral relations, technical assistance or programme management costs, may be reused within the same budget heading for costs other than those that were the subject of the correction.

4. When a financial correction is made for a systemic irregularity or an irregularity related to management or control systems within a programme, the financial contribution may not be reused for that programme.

5. Financial contributions that may, according to paragraph 4, not be used for the same programme, shall be allocated in accordance with paragraph 6 of Article 6.9.

6. Financial contributions cancelled and not reallocated according to paragraph 5 within the relevant timeline shall be reimbursed to the FMC. Paragraph 5 of Article 13.5 shall apply to late reimbursements.

### **Article 13.3**

#### **Criteria for financial corrections**

1. The FMC may make financial corrections according to Article 13.2 if one or more of the following applies:

- (a) a serious deficiency exists in the management and control systems established by the Beneficiary State for the EEA Financial Mechanism 2014-2021 which puts at risk the financial contribution from the EEA Financial Mechanism 2014-2021;
- (b) a serious breach of the programme agreement has occurred;
- (c) a serious deficiency exists in the management and control system of the programme which puts at risk the financial contribution from the EEA Financial Mechanism 2014-2021;
- (d) expenditure reported in a certified interim financial report or in a final programme report is irregular and has not been corrected by the National Focal Point or the Programme Operator prior to the sending of the notification according to paragraph 1 of Article 13.4; or
- (e) the National Focal Point and/or the Programme Operator have not complied with its obligations to investigate and/or to appropriately remedy irregularities under Article 12.1 prior to the sending of the notification according to paragraph 1 of Article 13.4.

2. The FMC shall base its financial corrections on individual cases of irregularity identified, taking account of the systemic nature of the irregularity to determine whether a flat-rate or extrapolated correction should be applied, or whether the corrected amount can be based on an actual amount detected as irregular.

3. The FMC shall, when deciding the amount of a correction, take account of the nature and gravity of the irregularity and the extent and financial implications of the deficiencies found.

### **Article 13.4**

#### **Procedure**

1. Prior to making a decision referred to in paragraph 1 of Article 13.2, the FMC shall notify the National Focal Point of

its intention to make such a decision. The notification shall outline the reasons for the decision and indicate the relevant amounts. The National Focal Point can within two months from the sending of the notification provide any comments relevant to the intended decision.

2. Where the FMC proposes a financial correction on the basis of extrapolation or at a flat rate, the National Focal Point shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of the irregularity was less than the FMC's assessment. In agreement with the FMC, the National Focal Point may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1.

3. The FMC shall take account of any evidence supplied by the National Focal Point within the time limits referred to in paragraphs 1 and 2. At any time prior to the decision on financial corrections, the National Focal Point and the FMC can enter into a dialogue with a view to ensuring that the decision is based on accurate and correct facts.

4. The National Focal Point shall be notified of a decision referred to in paragraph 1 of Article 13.2 no later than seven working days from the date of the decision. The notification shall outline the reasons for the decision.

### **Article 13.5**

#### **Reimbursement**

1. The Beneficiary State shall reimburse the amount requested to the FMC within three months of the decision referred to in Article 13.2.

2. Reimbursement from the Beneficiary State to the FMC is not contingent upon reimbursement from the Programme Operator or the Project Promoter.

3. The FMC may waive any claim for reimbursement from the Beneficiary State of funds that were lost due to irregularities in a project if the National Focal Point shows that the loss and the circumstances related thereto are not due to negligent performance or non-performance of duties of entities referred to in paragraph 1 of Article 5.2 and of the Programme Operator's duties, and the National Focal Point and the Programme Operator have taken all reasonable measures to seek recovery of such funds.

4. If the Programme Operator is a private entity and the National Focal Point shows that it has and is taking appropriate measures to recover the funds from the Programme Operator, the FMC may decide to give the Beneficiary State up to one year to reimburse the requested

funds. In such a case, the FMC may also decide to contribute up to 50% of reasonable legal fees related to the recovery of the funds from the Programme Operator. For the purpose of this paragraph, a Programme Operator is considered to be a private entity when less than the majority of the votes at its managerial board meetings is controlled by public entities, such as public authorities, public agencies or companies fully owned by such authorities or agencies.

5. Any delay in reimbursement shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

#### **Article 13.6**

##### **General suspension of payments to a Beneficiary State**

1. The FMC may, after having consulted the National Focal Point with a view to reaching a solution, suspend all payments to the Beneficiary State if:

- (a) information or documents obtained by or provided to the FMC indicate the presence of systemic or widespread shortcomings regarding the management of the financial contribution from the EEA Financial Mechanism 2014-2021 in the Beneficiary State; or
- (b) a demand for reimbursement related to any type of assistance in the Beneficiary State financed by the EEA Financial Instrument 1999-2003, the EEA or Norwegian Financial Mechanisms 2004-2009, the EEA or Norwegian Financial Mechanisms 2009-2014 or the EEA or Norwegian Financial Mechanisms 2014-2021 has not been complied with by the Beneficiary State.

2. The procedures referred to in paragraphs 1, 3 and 4 of Article 13.4 shall apply mutatis mutandis to suspension of payments under this article.

## **Chapter 14**

### **Final provisions**

#### **Article 14.1**

##### **Language**

1. All communications between the FMC and the Beneficiary State shall be in English.

2. Original documents (in languages other than English) sent to the FMC shall be accompanied by translations into English. The Beneficiary State shall bear full responsibility for the accuracy of the translation.

#### **Article 14.2**

##### **Liability**

1. The responsibility of the Donor States with regard to the EEA Financial Mechanism 2014-2021 is limited to providing financial contributions in accordance with the relevant programme agreements.

2. No liability to the Beneficiary State, Programme Operators, Project Promoters, other recipient of grants, or any third parties is or will be assumed by the Donor States, the FMC, or the European Free Trade Association, including the FMO.

#### **Article 14.3**

##### **Applicable law and jurisdiction**

1. The laws of the Kingdom of Norway shall govern the co-operation between the EEA Financial Mechanism 2014-2021 and the Beneficiary States as well as the interpretation of the programme agreement and this Regulation.

2. The FMC and the National Focal Point waive their rights to bring any dispute related to the programme agreement before any national or international court, and agree to settle such a dispute in an amicable manner.

3. If a demand for reimbursement to the FMC is not complied with by the Focal Point, or a dispute related to a demand for reimbursement arises that cannot be solved in accordance with paragraph 2, the Parties may bring the dispute before Oslo Tingrett.

4. The FMC may claim execution of judgement or court order obtained in accordance with paragraph 3 in any court or appropriate authority within the territory of the Beneficiary State or within another country where the Beneficiary State has assets.

5. The Beneficiary State shall vest its National Focal Point with the authority to receive services of process on its behalf.

#### **Article 14.4**

##### **Amendments**

1. This Regulation may be amended by decision of the FMC, subject to subsequent confirmation by the Standing Committee of the EFTA States.

2. Annexes to this Regulation may be amended by decision of the FMC.

3. The FMC may adopt additional guidelines as necessary after consultation with the Beneficiary States.

4. Any substantive amendment to the documents referred to in paragraphs 1-3 shall be subject to the prior consultation with the Beneficiary States. The FMC shall as soon as

possible inform the National Focal Points about any changes made to these documents.

**Article 14.5**  
**Waiver**

1. The FMC may, in specific cases and in response to exceptional circumstances, waive the application of particular provisions of this Regulation, its Annexes or any guidelines adopted by the FMC, where this is necessary for the achievement of the results of the Financial Mechanism and/or a particular Programme. No waiver shall be granted with respect to the deadline referred to in paragraph 3 of Article 8.13.

2. Prior to making a decision to apply a waiver, the FMC will examine whether an amendment of the concerned provision would be more appropriate.

**Article 14.6**  
**Entry into force**

This Regulation shall enter into force on the day following its confirmation by the Standing Committee of the EFTA States