

GRANT AGREEMENT NO 2022/ /ECRET

(hereinafter referred to as "the Agreement")

European Border and Coast Guard Agency

Plac Europejski 6, 00-844 Warsaw, Poland

(hereinafter referred to as "Frontex")

represented for the purposes of signature of the Agreement by {{FXAuthorisingOfficer}},
on the one part,

and

{{BeneficiaryName}}

{{BeneficiaryAddress}}

(hereinafter referred to as "Beneficiary")¹

represented for the purposes of signature of the Agreement by {{BeneficiaryAuthorisedRepresentative}},
on the other part,

HAVE AGREED

On the **Special Conditions** and the following Annexes:

Annex I	EURLO General Conditions
Annex II	Estimated budget
Annex III:	Eligibility and Accountability Rules
Annex IV:	Financial Statement
Annex V:	EURLO Implementation Plan
Annex VI:	EURLO Final Operational Report template
Annex VII:	Request for pre-financing and final payment

which form an integral part of this Agreement, "the Agreement".

The terms set out in the Special Conditions shall take precedence over those set out in the other parts of the Agreement.
The terms of the EURLO General Conditions shall take precedence over the other Annexes.

Following the entry into force of the European Border and Coast Guard Regulation² (hereinafter the EBCG Regulation), Frontex together with the national authorities of the Member States which are responsible for border management, including coast guards to the extent that they carry out border control tasks, constitute the European Border and Coast Guard (EBCG). The main task of this new EBCG is to implement European integrated border management as a shared responsibility of the Agency and the national authorities.

¹ For the purposes of this agreement the term "Beneficiary" includes national authorities of the Member States (MS) or the Schengen Associated Countries (SAC).

² Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295/1, 14.11.2019, p.1).

SPECIAL CONDITIONS

ARTICLE 1 - SUBJECT MATTER

The subject matter of the Agreement are the deployments of (a) full-time European Return Liaison Officer(s) ("EURLO") to {{host third country}} ("the activity"), under the terms and conditions set out in the present Agreement and its Annexes

ARTICLE 2 - OPERATIONAL SITUATION OF THE EURLO

1. The Beneficiary shall undertake everything in its power to carry out the activity as described in this Agreement, including its annexes, acting on its own responsibility.
2. The EURLO deployed by the Beneficiary will operate within the national structures and under national responsibilities/command. To this end, he/she will be posted to the embassy of the Beneficiary [Deploying Member State] in [City of Deployment].
3. The EURLO will carry out his/her duties according to the national regulations that are applicable to the functioning of liaison officers of the Beneficiary - Deploying Member State.
4. The EURLO will support EU Member States and Schengen Associated Countries (hereinafter "Member States"), Frontex, and EU institutions according to the EURLO Implementation Plan (Annex V).
5. The EURLO shall report on the activities undertaken as indicated in the EURLO Implementation Plan (Annex V).

ARTICLE 3 - ENTRY INTO FORCE AND DURATION

1. This Agreement enters into force on the date on which the last party signs it.
2. The Agreement is concluded for the activity in the period from {{GASStartDate}} ("the start date") until {{GAEndDate}} ("the end date") and related travel days.
3. The period of implementation of the activity shall determine the period of eligibility for Frontex financial support.

ARTICLE 4 - MAXIMUM AMOUNT AND FORM OF GRANT

1. The total eligible cost of the activity is estimated at EUR {{TotalEligibleCost}}, as shown in the estimated budget in Annex II.
2. The total eligible cost includes overheads of 1% of the eligible direct costs in accordance with the EURLO General Conditions.
3. The maximum total amount to be paid by Frontex under this Agreement is EUR {{FXCoFinancing}} (in words: {{AmountInWords}}), equivalent to 100% of the estimated total eligible cost indicated in paragraph 1.
4. The final amount of the grant shall be determined in accordance with the EURLO General Conditions and EURLO Eligibility and Accountability Rules without prejudice to Article I.21 of the EURLO General Conditions.

ARTICLE 5 - BANK ACCOUNT

Payments shall be made to the Beneficiary's bank account or sub-account denominated in Euro, as indicated below:

Name of bank: {{BeneficiaryBankName}}

Address of branch: {{BeneficiaryBankAddress}}

Precise denomination of the account holder: {{BeneficiaryBankAccountHolder}}

Full account number (including bank codes):

IBAN account code: {{BeneficiaryBankIBAN}}

Any change of the bank account by the Beneficiary shall be communicated in writing to Frontex.

ARTICLE 6 - COMMUNICATION DETAILS

Any communication in connection with the Agreement shall be made in writing (in paper or electronic format), shall bear the number of the Agreement and shall be sent to the following addresses:

Frontex:

Plac Europejski 6

00-844 Warsaw, Poland

E-mail addresses: [REDACTED]

Requests for payment and the documents accompanying them are to be sent to [REDACTED]

Beneficiary:

{{BeneficiaryData}}

ARTICLE 7 - OTHER SPECIFIC CONDITIONS

1. In order to monitor the expenditure of the budget, the Beneficiary shall provide the following financial statements:
 - a. a mid-term financial statement covering the period from [date] to [date] - to be submitted to Frontex within 30 days from the end of the reported period (i.e. by DD Month YYYY);
 - b. a final financial statement covering the entire implementation period specified in this Agreement - to be submitted to Frontex within 75 days from the end of the implementation of this Agreement (i.e. by end-date).

Both financial statements shall be done by means of the dedicated 'EURLO Financial Statement' template (Annex IV).

2. EURLO final financial reporting will be subject to ex-ante controls, where supporting documentation will be requested covering at least 50% of the aggregated costs claimed.

Based on the EURLO Estimated Budget the supporting documentation for the category/categories [CHOOSE THE APPLICABLE] mentioned below shall be subject to ex-ante control:

[TO BE LISTED THE CATEGORIES (Y) THAT CONSTITUTE TO 50% OF THE AGGREGATED COSTS CLAIMED.]

a.

b.

SIGNATURES

For the Beneficiary

{{BeneficiaryPerson}}

For Frontex

{{FXPerson}}

[signature]

Done at [place], [date]

[signature]

Done at Warsaw, [date]

ANNEX I. EURLO GENERAL CONDITIONS

ARTICLE I.1 - DEFINITIONS

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

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

‘Default costs’: any type of cost resulting from the alteration, suspension or termination of a scheduled or ongoing operational activity, in particular booking fees, charges, cancellation fees, rebooking fees.

‘European partner’: Any European entity that is not a MS return authority and whose work is relevant for the implementation of EURLOs’ activities, e.g. European Return and Reintegration Network (ERRIN) and other EU-funded programmes on return, EU Delegation in the host TC, European organisation implementing reintegration programmes in the host TC.

‘Flat rate’: simplified form of cost calculation in a grant, based on a percentage applied to other categories of costs, applicable to overheads.

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

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

‘Notification’ (or ‘notify’): form of communication between the parties made in writing including by electronic means;

‘Operational activity’ (‘activity’): any type of Frontex coordinated activity within the scope of Articles 2 and 10 of the EBCG Regulation where members of the teams, other relevant staff and technical equipment are deployed or technical and operational assistance is provided, such as joint operation, rapid border intervention, return operation, return intervention other return related activities or in a deployment of a migration management support team.

‘Service standard car’: costs related to use and maintenance of the service car (fuel, car washing, parking fees, tolls, full insurance);

‘Simplified forms of funding’: reimbursement on the basis of unit costs or flat-rate financing;

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

‘Unit cost’: simplified form of cost reimbursement in a grant, based on an amount per unit, determined on the basis of statistical data or similar objective means, certified or auditable historical data of the Beneficiary, or the usual cost accounting practices of the Beneficiary, authorised by MB Decision.

ARTICLE I.2 - GENERAL OBLIGATIONS AND ROLES OF THE BENEFICIARY

1. The Beneficiary shall:

- a. carry out the activity in accordance with the terms and conditions of the Agreement;

- b. comply with its legal obligations under applicable EU, international and national law;
- c. inform Frontex immediately of any events or circumstances of which the Beneficiary is aware that are likely to affect or delay the implementation of the activity;
- d. immediately inform Frontex:
 - i. of any change in its name, address, legal representative;
 - ii. of any change in its legal, financial, technical, or organisational situation;
 - iii. of any events or circumstances likely to affect or delay the implementation of the activity;
- e. be responsible for supplying Frontex with all documents and information required under the Agreement, in particular in relation to the reports and requests for payment;
- f. be responsible, in the event of checks and audits as provided for in the General Conditions, for providing all the necessary documents in accordance with Article I.18.
- g. the Beneficiary agrees to respond to operational requests of Member States³.
- h. if a Member State would request the EURLO to implement activities outside the scope of the EURLO Implementation Plan, then a prior agreement shall be requested from Frontex.

ARTICLE I.3 - COMMUNICATIONS BETWEEN THE PARTIES

1. Form and means of communications

Any communication relating to the Agreement or to its implementation shall be made in writing (in paper or electronic format), shall bear the number of the Agreement and shall be made using the communication details identified in the Special Conditions.

Electronic communications shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

Formal notifications shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

2. Date of communications

Any communication is deemed to have been made when it is received by the receiving party, unless the Agreement refers to the date when the communication was sent.

Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in Article 6 of the Special Conditions. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in Article 6 of the Special Conditions. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline.

Mail sent to Frontex using the postal services is considered to have been received by Frontex on the date on which it is registered by Frontex.

³ For the purposes of this Agreement the term "Member States" includes also the Schengen Associated Countries.

Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

ARTICLE I.4 - LIABILITY

1. The present Agreement shall not affect the sole responsibility of the Beneficiary for complying with any legal obligations incumbent on it.
2. Frontex cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or caused to the property of the Beneficiary while the activity is being carried out or as a consequence of the activity. Likewise Frontex cannot under any circumstances or for any reason whatsoever be held liable for damage or injury caused by the staff to the property of the Beneficiary while the activity is being carried out or as a consequence of the activity. Frontex cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
3. Except in cases of force majeure, the Beneficiary shall make good any damage sustained on equipment owned by Frontex as a result of the execution or faulty execution of an activity.
4. The Beneficiary shall discharge Frontex of all liability associated with any claim or activity brought as a result of an infringement by the Beneficiary or the Beneficiary's employees or individuals for which the Beneficiary or an individual employee of the Beneficiary is responsible.

ARTICLE I.5 - CONFLICTS OF INTEREST

1. The Beneficiary undertakes to take all the necessary measures to prevent any risk of conflict of interest which could affect the impartial and objective implementation of the Agreement and shall inform Frontex without delay of any situation constituting or likely to lead to any such conflict.
2. There is a conflict of interests where the impartial and objective exercise of the functions of the Beneficiary under the Agreement is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with Frontex or any other party related to the subject matter of the Agreement.

ARTICLE I.6 - OWNERSHIP/USE OF THE RESULTS

Due to specific nature of law enforcement activities, Frontex acquires irrevocably worldwide ownership of the reports submitted by the Beneficiary and of all related intellectual and industrial property rights. The intellectual property rights so acquired include any rights, such as copyright and other intellectual or industrial property rights, to any of the reports and other documents related to it. Frontex may freely exploit and use the acquired rights as it deems fit.

ARTICLE I.7 - CONFIDENTIALITY

1. During implementation of the action and for five years after the payment of the balance, the parties must treat with confidentiality any confidential information and documents.
2. The parties may only use confidential information and documents for a reason other than to fulfil their obligations under the Agreement if they have first obtained the prior written agreement of the other party.

The confidentiality obligations do not apply if:

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

ARTICLE I.8 - PROCESSING OF PERSONAL DATA

1. Processing of personal data by Frontex

- a. Any personal data included in the Agreement must be processed by Frontex in accordance with Regulation (EU) No 2018/1725⁴.
- b. Such data must be processed by the data controller identified in Article 6 solely for implementing, managing and monitoring the Agreement or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article I.26. The beneficiaries have the right to access, rectify or erase their own personal data and the right to restrict or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, they must send any queries about the processing of their personal data to the data controller identified in Article 6.
- c. The beneficiaries may have recourse at any time to the European Data Protection Supervisor.

2. Processing of personal data by beneficiaries

- a. The beneficiaries must process personal data under the Agreement in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).
- b. The beneficiaries may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement. The beneficiary must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.
- c. The beneficiaries must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned. This is in order to ensure, as appropriate:
 - i. the pseudonymisation and encryption of personal data;
 - ii. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - iii. the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
 - iv. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
 - v. measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.
- 3. Where the agreement requires the processing of personal data by the EURLO, the EURLO may act only under the supervision of the national rules applicable, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

4. When the use of the information sent by a Member State or European partner is limited in another way than the national rules applicable to the EURLO, then the most stringent rules are applicable.

ARTICLE I.9 - PUBLICITY/VISIBILITY

Unless Frontex requests otherwise, any external communication or publication by the Beneficiary about an operational activity, including conferences or seminars, shall indicate that this activity has received funding from the Union and was coordinated or otherwise supported by Frontex. Any such communication or publication by the Beneficiary, in any form and medium, shall indicate that sole responsibility lies with the author and that Frontex is not responsible for any use that may be made of the information contained therein.

ARTICLE I.10 - AWARD OF CONTRACTS

The Beneficiary that is a 'contracting authority' within the meaning of Directive 2014/24/EU⁵ or 'contracting entity' within the meaning of Directive 2014/25/EU⁶ must comply with the applicable national public procurement rules and principles of sound financial management.

ARTICLE I.11 - FORCE MAJEURE

1. Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the Agreement, not attributable to error or negligence on their part, and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure by the defaulting party.
2. A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.
3. The parties shall take the necessary measures to limit any damage due to force majeure. They shall do their best to resume the implementation of the activity as soon as possible.
4. The party faced with force majeure shall not be held to be in breach of its obligations under the Agreement if it has been prevented from fulfilling them by force majeure.

ARTICLE I.12 - ASSIGNMENT

The assignment, i.e. the transfer of rights and obligations from the Beneficiary to a third party, is not authorised under the Agreement. Claims for payments of the Beneficiary against Frontex may not be transferred.

ARTICLE I.13 - TERMINATION AND SUSPENSION

1. Termination and suspension of the operational activity

The Beneficiary and/or Frontex may postpone, suspend or terminate partially or fully the implementation of an operational activity. They shall inform each other without delay, giving all the necessary reasons and details and, where appropriate, the foreseeable date of resumption.

⁵ 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 (OJ L 94, 28.3.2014, p. 65).

⁶ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Where Frontex decides to postpone, suspend or terminate the implementation of a scheduled operational activity, Frontex shall reimburse the default costs of the Beneficiary if the postponement, suspension or termination has been notified no more than 60 days before the scheduled implementation of the operational activity.

Where Frontex decides to postpone, suspend or terminate the implementation of an ongoing operational activity, Frontex shall reimburse the eligible costs of the Beneficiary for fulfilled operational activities, as well as the default costs of the Beneficiary related to the period of maximum 60 days from the notification of Frontex' decision. The Beneficiary shall make its best effort to prevent or minimise the costs.

Where the Beneficiary decides to postpone, suspend or terminate the implementation of an ongoing operational activity, Frontex shall reimburse the eligible costs of the Beneficiary for fulfilled operational activities. The default costs shall be borne by the Beneficiary.

Where the Beneficiary decides to postpone, suspend or terminate the implementation of a scheduled operational activity, Frontex shall not reimburse any costs of the Beneficiary.

In addition, if postponement, suspension or termination is due to the reasons on the part of the Beneficiary, the default costs shall always be borne by the Beneficiary.

2. Termination of the Agreement by the Beneficiary

In duly justified cases the Beneficiary may terminate the Agreement by formally notifying Frontex thereof, stating clearly the reasons. The termination shall take effect one month after notification to Frontex.

If no reasons are given or if Frontex considers that the reasons exposed cannot justify the termination, it shall formally notify the beneficiary, specifying the grounds thereof, and the Agreement shall be deemed to have been terminated improperly, with the consequences set out in Article I.13.5.

3. Termination of the Agreement by Frontex

Frontex may decide to terminate the Agreement in the following circumstances:

- a. in the event of a change to the Beneficiary's legal, financial, technical, organisational or ownership situation that is liable to affect the Agreement substantially or to call into question the decision to award the financing;
- b. if the Beneficiary fails to fulfil a substantial obligation incumbent on him under the terms of the Agreement, including its annexes;
- c. if the Beneficiary has been guilty of grave professional misconduct proven by any means;
- d. if the Beneficiary has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;
- e. if the Beneficiary is acting as economic operator and subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f. if the Beneficiary has made false declarations or submits reports inconsistent with reality to obtain the financing provided for in the Agreement;
- g. if the operational activity has been suspended or terminated as a result of a serious or persistent violation of fundamental rights.

4. Procedure of termination of the Agreement by Frontex

The procedure is initiated by registered letter with advice of delivery or equivalent.

Before terminating the Agreement, Frontex shall formally notify the Beneficiary of its intention to terminate, specifying the reasons thereof and inviting the Beneficiary, within 30 calendar days from receipt of the notification, to submit observations and to inform Frontex about the measures taken to ensure that it continues to fulfil its obligations under the Agreement.

If, after examination of the observations submitted by the Beneficiary, Frontex decides to stop the termination procedure, it shall formally notify the Beneficiary thereof.

If no observations have been submitted or if, despite the observations submitted by the Beneficiary, Frontex decides to pursue the termination procedure, it may terminate the Agreement by formally notifying the Beneficiary thereof, specifying the reasons for the termination.

Where notice is given in the cases referred to in points (a) and (b) of paragraph 3 above, termination shall take effect one month after notification to the Beneficiary. The Beneficiary shall make its best effort to prevent or minimise the costs during the period of notice.

If notice is not given in the cases referred to in points (c), (d), (e), (f), and (g) of paragraph 3 above, termination shall take effect on the day following the date on which notification of Frontex' decision to terminate the financing is received.

5. Effects of termination of the Agreement

In the event of termination, payments by Frontex shall be limited to the eligible costs actually incurred by the Beneficiary or calculated for simplified forms of funding up to the date when termination takes effect, in accordance with the Agreement. Costs relating to current commitments that are to be executed after the termination takes effect shall not be reimbursed.

The Beneficiary shall have 60 days from the date when termination takes effect, as notified by Frontex, to produce a balance payment request in accordance with the Agreement. If no request for payment of the balance is received within this time limit, Frontex shall not reimburse the expenditure incurred by the Beneficiary up to the date of termination and it shall recover any amount whose use is not substantiated by the operational reports and financial statements approved by Frontex.

Where Frontex is terminating the Agreement on the grounds that the Beneficiary has failed to produce the final operational report and financial statement within the deadline stipulated in the Agreement, and the Beneficiary has still not complied with this obligation within two months (following the written reminder sent by Frontex by registered letter with acknowledgment of receipt or equivalent), Frontex shall not reimburse the expenditure incurred by the Beneficiary up to the date on which the activity ended. Frontex shall also recover any amount whose use is not substantiated by the operational reports and financial statements approved by it.

If the Agreement is terminated improperly by the Beneficiary, as indicated in Article I.13.2, Frontex may require the partial or total repayment of sums already paid under the Agreement on the basis of operational reports and financial statements approved by Frontex, in proportion to the gravity of the failings in question and after allowing the Beneficiary to submit its observations.

ARTICLE I.14 - PENALTIES

The provisions of Article 138 of the Financial Regulation⁷ shall apply.

ARTICLE I.15 - AMENDMENTS TO THE AGREEMENT

1. Any amendment to the Agreement shall be made in writing. No oral agreement may bind the parties to this effect.
2. The amendment may not have the purpose or the effect of making changes which might call into question the basic justification for awarding the specific financing or result in unequal treatment.
3. If the request for amendment is made by the Beneficiary, it shall send it to Frontex 15 calendar days before it is due to take effect and 10 calendar days before the end date of the Agreement except in cases duly substantiated by the Beneficiary and accepted by Frontex.
4. By way of derogation from the above provisions, the Beneficiary may, when carrying out the operational activity, agreed with Frontex to adjust the estimated budget by transfers between items of eligible costs, provided that this adjustment of expenditure does not affect implementation of the operational activity. Any transfer between categories of direct costs are not treated as amendments to the Agreement as long as the overall estimated budget remains the same.
5. The budget established for the deployment is based on the normal national rules applied for the deployment of liaison officers from the Beneficiary.
6. The ceilings on salary, travel and subsistence costs, as well as some Other eligible costs as defined in the Eligibility and Accountability Rules may not be exceeded.
7. Content of the EURLO Implementation Plan (Annex V) might be updated without observing the procedure described in points 1-3, as long as it is agreed on between Frontex and the Beneficiary.

ARTICLE I.16 - APPLICABLE LAW AND SETTLEMENT OF DISPUTES

1. The Agreement is governed by the applicable Union law, complemented, where necessary, by the law of the Member State concerned.
2. Pursuant to Article 272 TFEU, the General Court or, on appeal, the Court of Justice, shall have sole jurisdiction to hear any dispute between Frontex and the Beneficiary concerning the interpretation, application or validity of this Agreement, if such dispute cannot be settled amicably.

ARTICLE I.17 - ELIGIBLE COSTS

1. To be considered as eligible costs of the operational activity, costs must satisfy the following general criteria:
 - a. they must be connected with the subject of the Agreement;
 - b. they must be necessary for carrying out the operational activity covered by the Agreement;
 - c. they must be reasonable and justified and they must comply with the principles of sound financial management, in particular in terms of value for money and cost-effectiveness;

⁷Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.07.2018, p.1).

- d. they must relate to the activities implemented in the period of eligibility as specified in the Agreement;
 - e. they must be identifiable and verifiable, in particular be recorded in the Beneficiary's accounts in accordance with the applicable accounting principles or established according to the Beneficiary's usual cost accounting practices;
 - f. they must be declared in accordance with the requirements of the applicable tax and social legislation.
2. Funding of eligible costs may take the following forms, according to the categories of costs and in accordance with the provisions laid down in the Agreement:
- a. reimbursement of the eligible costs actually incurred;
 - b. reimbursement on the basis of unit costs;
 - c. flat-rate financing.
3. The eligible direct costs for the operational activity are those costs which, with due regard for the conditions of eligibility set out in paragraph 1, are identifiable as specific costs directly linked to performance of the operational activity and which can therefore be booked to it directly.
4. Frontex may finance up to 100% of eligible costs. The co-financing by the Beneficiary cannot be provided from other EU funded resources.
5. The eligible indirect costs ('overheads') for the operational activity are those costs which, with due regard for the conditions of eligibility described in Article I.17.1, are not identifiable as specific costs directly linked to performance of the operational activity and which could be booked to it directly, but which can be identified and justified by the Beneficiary using its accounting system as having been incurred in connection with the eligible direct costs for the operational activity. They include all the structural and support costs of an administrative, technical and logistical nature which are common to the Beneficiary's various activities, such as: water/gas/electricity, maintenance, office supplies, communication and postal costs, documentation, horizontal services such as IT, human resources, administrative and financial management. They may not include any eligible direct costs. In case of grants covering only the deployment of officers/experts and/or light technical equipment indirect costs are not eligible.
6. By way of derogation from Article I.17.1, the indirect costs incurred in carrying out the operational activity may be eligible for flat-rate funding fixed at not more than 1% of the total eligible direct costs. The agreed level of indirect costs should be specified in the Agreement. If provision is made in the Agreement for flat-rate funding in respect of indirect costs, they do not need to be supported by accounting documents.

ARTICLE I.18 - INELIGIBLE COSTS

In addition to any other costs which do not fulfil the conditions set out in Article 17, the following costs shall not be considered eligible:

- a. VAT paid in relation to activities carried out as a public authority of a MS;
- b. Foreign currency exchange losses;
- c. Costs of bank transfers executed from Frontex bank account which are charged by the Beneficiary's bank ;
- d. Credit/debit card charges;
- e. Bank fees, including ATM fees;
- f. Costs declared by the Beneficiary but covered by another Frontex/EU/EU body grant;
- g. Debts and debt service charges;
- h. Excessive and reckless expenditure;
- i. Contributions in kind;
- j. Return on capital;
- k. Provisions for losses and debts.

ARTICLE I.19 - IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED

1. Reimbursement of actual costs

Where the grant takes the form of the reimbursement of actual costs, the Beneficiary must declare as eligible costs the costs it actually incurred for the activity.

If requested to do so in the context of the checks or audits, the Beneficiary must be able to provide adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records. In addition, the Beneficiary's usual accounting and internal control procedures must permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements as well as with the amounts indicated in the supporting documents.

2. Reimbursement of pre-determined unit costs

Where the grant takes the form of the reimbursement of unit costs, the Beneficiary must declare as eligible costs the amount obtained by multiplying the amount per unit by the actual number of units used or produced.

If requested to do so in the context of the checks or audits, the Beneficiary must be able to provide adequate supporting documents to prove the number of units declared. However, the Beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, notably accounting statements, to prove the amount declared per unit.

3. Reimbursement of pre-determined flat-rate costs

Where the grant takes the form of the reimbursement of flat-rate costs, the Beneficiary must declare as eligible costs the amount obtained by applying the defined flat rate to direct costs on which it must be calculated.

If requested to do so in the context of the checks or audits, the Beneficiary must be able to provide adequate supporting documents to prove the eligible costs to which the flat rate applies. However, the Beneficiary does not need to identify the actual eligible costs covered or to provide supporting documents, notably accounting statements, for the flat rate applied.

4. Conditions to determine the compliance of cost accounting practices

In the case of points (2) and (3) of Article I.19, the beneficiary does not need to identify the actual eligible costs covered, but it must ensure that, if applicable, the cost accounting practices used for the purpose of declaring eligible costs are in compliance with the following conditions:

- a. the cost accounting practices used constitute its usual cost accounting practices and are applied in a consistent manner, based on objective criteria independent from the source of funding;
- b. the costs declared can be directly reconciled with the amounts recorded in its general accounts; and
- c. the categories of costs used for the purpose of determining the costs declared are exclusive of any ineligible cost or costs covered by other forms of grant as provided for in Article I.19.

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

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

- a. produced by an approved auditor or, if the beneficiary is a public body, by a competent and independent public officer.
- b. The certificate must certify that the beneficiary's cost accounting practices used for the purpose of declaring eligible costs comply with the conditions laid down in Article I.19.4 and with the additional conditions that may be laid down in the Special Conditions.

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

- a. the practices actually used comply with those approved by Frontex; and
- b. the beneficiary did not conceal any information for the purpose of the approval of its cost accounting practices⁸.

ARTICLE I.20 - REPORTING AND MONITORING

1. The Beneficiary reports on the performance and costs under the Agreement using the reporting tool provided by Frontex.
2. Frontex validates the reports within 30 days from the established deadlines unless clarification is needed and further communication with the Beneficiary takes place. Validation is a process that includes a cross-checking of reported data with Frontex' internal records, in case of discrepancies a notification to the Beneficiary on corrections to be introduced and a final confirmation of the report.
3. Fulfilling the reporting obligations is as a pre-condition for any amendment to the Agreement and balance payments.
4. The Beneficiary and Frontex ensure timely completion and updates of data on resources deployed.
5. Specific requirements on reporting and monitoring are regulated in Article 6 of the Special Conditions.

ARTICLE I.21 - PAYMENT ARRANGEMENTS

1. Pre-financing

The pre-financing is intended to cover the Beneficiary's future expenditures related to the implementation of the Agreement.

Following the signature of the Agreement by the last party and its receipt by Frontex, the Beneficiary may send to Frontex a request for the pre-financing of 60% of the cost referred to in Article 4.3 of the Special Conditions.

A request for pre-financing has to be submitted at the latest 30 calendar days before the end date of the Agreement or at the latest 15 calendar days before the end date of the Agreement for the activities not exceeding 1 month.

Frontex shall assess the payment requests and, if approved, pay within 30 days from receipt of the request for pre-financing, notwithstanding any suspension periods in accordance with Article I.22.

2. Payment of the balance

Payment of the balance, which may not be repeated, is intended to cover the remaining costs of the Beneficiary on the basis of a detailed statement of the costs incurred, after the end of the operational activity. It clears any outstanding pre-financing.

Payment of the balance may take the form of a recovery order, if previous payments exceed the amount of the final financing determined in accordance with the Agreement.

The Beneficiary shall send a request for payment of the balance within 75 days after the end date of the Agreement, accompanied by the following:

- a. Final operational report on the implementation of the operational activity;
- b. Final financial statement showing the final cost, based on templates provided by Frontex;
- c. supporting evidence documenting claimed expenses from the categories of costs indicated in Article 7 point 2 of the Special Conditions (cost categories subject to ex-ante control).

⁸ Article 185 of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.07.2018, p.1).

The Beneficiary itself shall certify that the financial documents submitted to Frontex comply with the financial provisions of the Agreement and that the request for payment is substantiated by adequate supporting documents that can be checked.

Upon receipt of the request for payment of the balance and the accompanying documents, Frontex shall:

- a. approve the request; or
- b. ask the Beneficiary for supporting documents or any additional information it deems necessary to allow the approval of the request; or
- c. reject the request and ask for the submission of a new request.

Approval of the documents accompanying the request for payment shall not imply recognition of the regularity or the authenticity, completeness and correctness of the declarations and information it contains.

Frontex shall assess any submitted documents and, if approved, pay within 60 days from receipt of the request for payment of the balance, notwithstanding any suspension periods in accordance with Article I.22.

ARTICLE I.22 - GENERAL PROVISIONS ON PAYMENTS

1. Payments shall be made by Frontex in Euros. The Beneficiary shall submit the payment requests, including the underlying financial statements, in Euro. Any conversion of actual costs into Euro shall be made by the Beneficiary at the monthly accounting rate established by the Commission and published on its website⁹ applicable on the day when the cost was incurred¹⁰.
2. Payments by Frontex shall be deemed to be effected on the date when they are debited to Frontex' account.
3. Frontex may suspend the period for payment laid down in the Agreement at any time by notifying the Beneficiary that its request for payment cannot be met, either because it does not comply with the provisions of the Agreement, or because appropriate supporting documents must be produced or because there is a suspicion that some of the expenses in the financial statement are not eligible and additional checks are being conducted.
4. Frontex may also suspend its payments at any time if the Beneficiary is found or presumed to have infringed the provisions of the Agreement, in particular in the wake of the check and audits provided for in the General Conditions.
5. Frontex shall inform the Beneficiary of any such suspension by letter or by electronic mail. Suspension shall take effect on the date when notice (letter or electronic mail) is sent by Frontex. The Beneficiary shall have 15 days to submit additional information or corrections or a new version of the documents if Frontex requires it. If additional information is requested, the time limit for payment shall be extended by the time it takes to obtain this information. In the event of renewed rejection, Frontex reserves the right to terminate the financing.
6. The remaining payment period shall start to run again from the date when a properly constituted request for payment is registered, or when the supporting documents requested or missing information are received.
7. On expiry of the payment periods specified in Article I.21, the Beneficiary is entitled to interest on late payment in accordance with Article 116 of the Financial Regulation.

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

⁹ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/index_en.cfm

¹⁰ In accordance with accrual accounting standards, the date when the cost was incurred means the date of issuance of the supporting document (invoice, bill, or other equivalent document).

Suspension of the payment period as provided for in this Article is not considered as giving rise to late payment. Interest on late payment covers the period running from the day following the due date for payment up to and including the date of payment as defined in this Article. However, when the calculated interest is EUR 200 or less, it must be paid to the Beneficiary only if it requests it within two months of receiving late payment.

8. The Beneficiary shall have two months from the date of notification by Frontex of the final amount of the financing determining the amount of the payment of the balance or the recovery order, or failing that of the date on which the payment of the balance was received, to request information in writing on the determination of the final financing, giving reasons for any disagreement. After this time, such requests will no longer be considered. Frontex undertakes to reply in writing within two months following the date on which the request for information is received, giving reasons for its reply. This procedure is without prejudice to the Beneficiary's right to appeal against Frontex' decision. Under the terms of Union legislation in this matter, such appeals must be lodged within two months following the notification of the decision to the Beneficiary or, failing that, following the date on which the Beneficiary learned of the decision.

ARTICLE I.23 - APPLICABILITY OF THE NO-PROFIT PRINCIPLE

The no-profit principle applies to the action in accordance with Article 192 of the EU Financial Regulation 2018/1046.

ARTICLE I.24 - DETERMINING THE FINAL AMOUNT OF THE GRANT

1. Determining the final eligible amount of grant is conducted according to Frontex policy on ex-ante control (ED Decision R-ED-2020-56)¹¹.
2. Without prejudice to information obtained subsequently pursuant to Article I.26, Frontex shall adopt the total amount of the payment to be granted to the Beneficiary on the basis of the documents referred to in Article I.21 which it has approved. The final amount of the balance payment would represent a difference between the (i) total amount and (ii) all the amount that were already paid (pre-financing).
3. The total amount paid to the Beneficiary by Frontex may not in any circumstances exceed the maximum amount of the financing laid down in the Agreement, even if the total actual eligible costs exceed the estimated total eligible costs specified in the estimated budget annexed to the Agreement.
4. Where the aggregate amount of the payments already made exceeds the amount of the final grant, Frontex shall issue a recovery order for the surplus.
5. Reduction due to the no-profit rule

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

The profit must be calculated as follows:

- a. calculate the surplus of the total receipts of the action, over the total eligible costs of the action, as follows:

{ receipts of the action
minus
the consolidated total eligible costs and contributions approved by Frontex }

The receipts of the action are calculated as follows:

¹¹ ED Decision No R-ED-2020-56 of 23/03/2020 on ex-ante policy.

{ the revenue generated by the action for the beneficiary and its affiliated entities other than non-profit organisations
plus
the amount obtained following points 1 and 2 }

The revenue generated by the action is the consolidated revenue established, generated or confirmed for the beneficiary and its affiliated entities other than non-profit organisations on the date on which the request for payment of the balance is drawn up by the beneficiary.

The following are not considered receipts:

- i. in kind and financial contributions made by third parties,
- ii. in case of an operating grant, amounts dedicated to the building up of reserves.

b. If the amount calculated under (a) is positive, this amount will be deducted from the balance payment.

6. Frontex may reduce the maximum amount of the grant if the action has not been implemented properly (i.e. if it has not been implemented or has been implemented poorly, partially or late), or in case of irregularity, fraud or breach of an obligation under the Agreement.

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

Before Frontex reduces the grant, it must send a formal notification to the beneficiary:

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

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

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

ARTICLE I.25 - RECOVERY

1. If any amount is unduly paid to the Beneficiary or if recovery is justified under the terms of the Agreement, the Beneficiary undertakes to repay Frontex the sum in question on whatever terms and by whatever date it may specify.
2. If the Beneficiary fails to repay by the due date, the sum due shall bear interest at the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first day of the month in which payment was due, increased by three and a half percentage points. The interest shall be payable for the period elapsing from the day following expiry of the time limit for payment up to the day of payment. Any partial payment shall first cover the interest.

3. Amounts to be repaid to Frontex shall be offset against amounts of any kind due to the Beneficiary, after informing it accordingly. The Beneficiary's prior consent is not required. This shall not affect the Parties' option to agree on payment in instalments.
4. Bank charges incurred by the repayment of amounts due to Frontex shall be borne entirely by the Beneficiary.

ARTICLE I.26 - CHECKS, INSPECTIONS, AUDITS AND EVALUATIONS

1. Technical and financial checks and inspections, audits, interim and final evaluations

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

Information and documents provided as part of activities listed before must be treated on a confidential basis.

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

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

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

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

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

2. Duty to keep documents

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

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

The periods set out in the first and second subparagraphs are longer if there are ongoing audits, appeals, litigation or pursuit of claims concerning the grant, including in the cases referred to in Article I.26.7. In such cases, the beneficiary must keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

3. Obligation to provide information

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

If the beneficiary does not comply with the obligation set out in the first subparagraph, Frontex may consider:

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

- b. unit cost, lump sum or flat-rate contribution insufficiently substantiated by information provided by the beneficiary as undue.

4. On-the-spot visits

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

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

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

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

5. Contradictory procedure

The procedure would be conducted in accordance with the Frontex policy on ex-post control (ED decision No R-ED-2020-176 ⁻¹²⁾, subject to possible amendments.

6. Effects of findings

On the basis of the final findings, Frontex may take the measures it considers necessary, including recovery of all or part of the payments made by it, as provided for in Article I.25.

In the case of final findings after the payment of the balance, the amount to be recovered corresponds to the difference between the final amount of the grant, determined in accordance with Article I.24, and the total amount paid to the beneficiary under the Agreement for the implementation of the *action*.

7. Correction of systemic or recurrent irregularities, fraud or breach of obligations

Frontex may extend audit findings from other grants to this grant if:

- a. the beneficiary is found to have committed systemic or recurrent *irregularities, fraud or breach of obligations* in other EU or Euratom grants awarded under similar conditions and such *irregularities, fraud or breach of obligations* have a material impact on this grant; and
- b. the final audit findings are sent to the beneficiary through a *formal notification*, together with the list of grants affected by the findings within the period referred to in Article I.26.

The extension of findings may lead to:

- (a) the rejection of costs as ineligible;
- (b) reduction of the grant as provided for in Article I.24;
- (c) recovery of undue amounts as provided for in Article I.25;
- (d) suspension of payments as provided for in Article I.22;
- (e) suspension of the action implementation as provided for in Article I.13;
- (f) termination as provided for in Article I.13.

Frontex must send a *formal notification* to the beneficiary informing it of the systemic or recurrent irregularities, *fraud* or *breach of obligations* and of its intention to extend the audit findings, together with the list of grants affected.

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

Step 1 – The *formal notification* must include:

- (i) an invitation to submit observations on the list of grants affected by the findings;
- (ii) a request to submit revised financial statements for all grants affected;
- (iii) where possible, the correction rate for extrapolation established by Frontex to calculate the amounts to be rejected on the basis of the systemic or recurrent *irregularities, fraud or breach of obligations*, if the beneficiary:
 - considers that the submission of revised financial statements is not possible or practicable; or
 - will not submit revised financial statements.

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

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

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

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

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

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

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

- (i) the revised final amount of the grant, determined in accordance with Article 1.24 on the basis of the revised eligible costs declared by the beneficiary and approved by Frontex or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the beneficiary under the Agreement for the implementation of the action;

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

Step 1 – The *formal notification* must include:

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

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

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

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

Otherwise Frontex must send a formal notification to the beneficiary informing it:

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

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

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

8. Rights of OLAF

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

Under Council Regulation (Euratom, EC) No 2185/96¹³ and Regulation (EU, Euratom) No 883/2013¹⁴ OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against *fraud* and other *irregularities*.

Where appropriate, OLAF findings may lead to Frontex recovering amounts from the beneficiary.

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

9. Rights of the European Court of Auditors and EPPO

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

¹³ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

¹⁴ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

