

ANNEX IV

FINANCIAL CONTROL OF FAROESE PARTICIPANTS IN THE PROGRAMMES COVERED BY THIS AGREEMENT

I. Direct Communication

The Commission shall communicate directly with the participants in the Programme established in the Faroes and with their subcontractors. They may submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of the grant agreements and/or contracts concluded to implement them.

II. Audits

1. In accordance with European Parliament and Council Regulation (EU, Euratom) No 966/2012⁷ and to Commission Delegated Regulation (EU) No 1268/2012⁸ (hereinafter referred to as the 'Rules of Application') and with the other rules referred to in this Agreement, the grant agreements and/or contracts concluded with participants in the Programme established in the Faroes shall provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the participants and of their subcontractors by Commission agents or by other persons mandated by the Commission.
2. Commission agents, the European Court of Auditors and other persons mandated by the Commission shall have appropriate access to sites, works and documents (both electronic and paper versions) and to all the information required in order to carry out such audits on- the-spot subject to the inclusion of this right of access that shall be stated explicitly in the grant agreements and/or contracts concluded to implement the instruments referred to in this Agreement with participants from the Faroes. The non-provision of such rights would be regarded as a failure to substantiate costs and, consequently, as a potential breach of the grant agreements.
3. The audits may be conducted after the Programme or this Agreement expire, on the terms laid down in the grant agreements and/or contracts in question.

⁷ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012)

⁸ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012)



III. On-The-Spot Checks

1. Within the framework of this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections in the premises of participants and their subcontractors from the Faroes, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96⁹.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the National Audit Office (Landsgrannskoðanin). The latter shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that they can provide assistance. To that end, the officials of the competent Faroese authorities may participate in the on-the-spot checks and inspections.
3. If the Faroese authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and them.
4. Where the participants in the Programme resist an on-the-spot check or inspection, the Faroese authorities, acting in accordance with national rules and regulations, shall assist the Commission inspectors, to a reasonable extent as needed to allow them to fulfil their duty in carrying out an on-the-spot check or inspection.
5. The Commission shall report as soon as possible to the competent Faroese authority any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any case the Commission shall be required to inform the abovementioned authority of the result of such checks and inspections.

IV. Information and Consultation

1. For the purposes of proper implementation of this Annex, the competent Faroese and Union authorities shall regularly exchange information, unless forbidden or unauthorised by national rules and regulations and, at the request of one of the Parties, shall conduct consultations.
2. The competent Faroese authorities shall inform the Commission within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the grant agreements and/or contracts concluded in application of the instruments referred to in this Agreement.

⁹ OJ L292, 15.11.1996, p. 2.



V. Confidentiality

Information communicated or acquired in any form under this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Faroese law and by the corresponding provisions applicable to the Union's institutions. Such information may not be communicated to persons other than those within the Union's institutions or in the Member States or the Faroes whose functions legally require them to know it, nor may it be used for purposes other than to ensure effective protection of the Parties' financial interests.

VI. Administrative Measures and Penalties

Without prejudice to application of Faroese criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulations (EU, Euratom) No 966/2012, (EU) No 1268/2012 and (EC, Euratom) No 2988/95¹⁰.

VII. Recovery and Enforcement

Decisions taken by the Commission under Horizon 2020 covered by this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in the Faroes. If so requested by the Commission, the authority designated by the Government of the Faroes shall commence proceedings for the enforcement of the decision on behalf of the Commission. In this case, the decision of the Commission shall be submitted to the Faroese Court, without other formality than verification of the authenticity of the decision, by the authority designated for this purpose by the Government of the Faroes, which shall inform the Commission thereof. Enforcement shall take place in accordance with the Faroese law and rules of procedure. The relevant enforcement provisions shall be incorporated in the grant agreements and/or contracts with participants from the Faroes. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission and suspend its enforcement. Moreover, the Faroese Court shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

¹⁰ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995).

