

Nuclear Decommissioning Assistance Programme

Ignalina Programme

Work Programme 2021-2022

Annex 2

Detailed implementation procedures

Detailed implementation procedures for the nuclear decommissioning assistance programme for Lithuania

Section 1

Subject matter and scope

These detailed implementation procedures shall apply to activities and costs incurred for the advancement of the decommissioning programme of the Ignalina Nuclear Power Plant unit as defined in Annex 3.

Section 2

Definitions

For the purpose of this Decision, the following definitions shall apply:

- (a) ‘Final Beneficiary’ means the Republic of Lithuania that benefits from the outcome of the decommissioning programme.
- (b) ‘Beneficiary’ means a public sector entity of the Final Beneficiary receiving funding to meet costs incurred for the advancement of the implementation of the decommissioning programme.
- (c) ‘Entrusted entity’ means a body to which the European Commission (“the Commission”) has entrusted budget implementation tasks according to Article 62(1)(c) of the Financial Regulation by entering into a contribution agreement for this purpose.
- (d) ‘EU assistance programme funding’ means financial assistance provided in the frame of the Council Regulation (EU) 2021/101 of 25 January 2021 or dedicated predecessor programmes with the same purpose including Council Regulation (Euratom) 1369/2013 [OJ L346, 20.12.2013, p. 7 & OJ L8, 11.1.2014, p. 30 & OJ L121, 24.4.2014, p. 59], Council Regulation (EC) 1990/2006 [OJ L 411, 30.12.2006, p. 10], Act of accession protocol No 4 [OJ L236, 23.9.2003, p. 33 and p. 944].
- (e) ‘National and other funding’ means financial resources provided by the Final Beneficiary and additional sources other than the Union budget.
- (f) ‘Activity’ means a building block of the decommissioning programme that gives rise to a result or deliverable achieved through procurement or by the workforce of the beneficiary. Activities are typically identified in the work breakdown structure.
- (g) ‘Baseline’ means the scope, schedule and budget of the decommissioning programme as defined in the work programme in Annex 3.

Section 3

Principles of Implementation

Section 3.1

Implementation aims

The decommissioning plan submitted by the Final Beneficiary in accordance with Council Regulation (EU) 1369/2013 defined the scope of the decommissioning programme, as well as the decommissioning end state and end-date. With the constraints of safety, schedule, costs and required human resources, this delineates the frame of the implementation of the decommissioning programme.

In line with Council Regulation (EU) 2021/101, the decommissioning programme should:

- (a) be carried out with recourse to the best available technical expertise, and with due regard to the nature and technological specifications of the installations to be decommissioned;
- (b) ensure safety and the highest possible efficiency based on international best practices;
- (c) create knowledge and share experience with regard to the nuclear decommissioning process and the management of radioactive waste resulting from the decommissioning activities.

Section 3.2

Implementation scope

The scope of the decommissioning programme is limited to activities included in Annex 3.

Ongoing projects and the corresponding beneficiaries continue to be considered part of the decommissioning programme.

Section 4

Roles and responsibilities

Section 4.1

Final Beneficiary - Republic of Lithuania

The Final Beneficiary shall:

- (a) designate a Programme Coordinator in accordance with these detailed implementation procedures and notify the Commission of the designation in due time;
- (b) ensure appropriate and effective national structures for the management and regulatory supervision of activities included in the decommissioning programme;
- (c) adopt all measures to remove legal and administrative obstacles to efficient and effective implementation of the decommissioning programme;
- (d) provide in due time the national and other funding;
- (e) support the entrusted entities in the duties that they perform on behalf of the Commission for the administration of the EU funding.

Section 4.2

Programme Coordinator

The Programme Coordinator shall be designated from the national administration at Minister or Vice-Minister level to represent the Final Beneficiary on all matters related to the decommissioning programme.

The Programme Coordinator shall:

- (a) take overall responsibility for the programming of decommissioning programme activities at national level including preparation and submission to the European Commission of the draft decommissioning programme;
- (b) inform the Monitoring Committee of any proposed national legislation and/or institutional restructuring relevant to the decommissioning programme, without prejudice of Article 33 of Euratom Treaty;
- (c) ensure that potential synergies and overlaps with other Union, bilateral or national programmes and financial instruments are identified and addressed at national level;
- (d) inform the Commission concerning irregularities and fraud affecting the national and other funding to the decommissioning programme;
- (e) ensure effective and efficient arrangements for monitoring the decommissioning programme;

- (f) ensure the necessary control mechanism to establish the eligibility of costs covered by the national and other funding;
- (g) ensure that financial data concerning the national and other funding (commitments and disbursements) are presented in the monitoring report;
- (h) provide to the Commission with the monitoring report the Final Beneficiary's conclusions on whether progress of the decommissioning programme is satisfactory;
- (i) chair the Monitoring Committee together with the Commission representative;
- (j) arrange access to the sites involved in the decommissioning programme to allow representatives of the European institutions to monitor progress and perform on-the-spot checks and audits.

Section 4.3

Commission Representative

The Commission Representative shall represent the Commission on all matters related to the decommissioning programme.

The Commission Representative shall:

- (a) chair the Monitoring Committee together with the Programme Coordinator;
- (b) transmit approved monitoring reports and approved grant applications to the Nuclear Decommissioning Assistance Programme Committee.

Section 4.4

Entrusted entities

The entrusted entities are:

- the European Bank for Reconstruction and Development, an international organisation, as manager of the Ignalina International Decommissioning Support Fund;
- the Central Project Management Agency, a public law body in Lithuania.

The entrusted entities sign a Contribution Agreement with the Commission. Without prejudice to the institutional and functional independence of the entrusted entities, for the purposes of application of this Decision, they act for, and on behalf of, the Commission for the protection of the financial interests of the Union. For this purpose, they are accountable only to the Commission.

The entrusted entities shall:

- (a) support the beneficiaries with the preparation of grant applications for future activities attributed to them in the work programme;

- (b) provide an assessment to the Commission of the quality of grant applications, their compliance with the presentation requirements and propose any conditionalities it considers necessary for the implementation of the grant;
- (c) enter into a grant agreement with the beneficiaries upon approval of the grant application and, as required by the Contribution Agreement(s), transfer the obligations relevant for the beneficiary or the Final Beneficiary in the Grant Agreement(s);
- (d) manage grant agreements according to the provisions of these detailed implementation procedures and conditionalities set by the Commission representative;
- (e) supervise the performance of procurement by the beneficiary where the procurement is proposed for EU funding;
- (f) monitor the progress of activities and ensure that they are implemented in line with the grant agreement;
- (g) on the basis of the information available, decide upon the eligibility of costs for the receipt of EU assistance programme funding;
- (h) reimburse eligible costs incurred by the beneficiary;
- (i) prevent, detect and report to the Commission on irregularities and fraud affecting EU assistance programme funding and their correction;
- (j) recover any EU assistance programme funding paid to a beneficiary in respect of ineligible costs. The entrusted entity shall have the right to effect recovery by the reduction or withdrawal of EU assistance programme funding under the grant agreement concerned or to withhold payments of EU assistance programme funding under any other grant agreements entered into by the same beneficiary until the ineligible costs are repaid;
- (k) delegate a representative to participate in the Monitoring Committee;
- (l) make arrangements for expert technical guidance at the request of the Monitoring Committee;
- (m) contribute as requested to the drafting of monitoring reports.

Section 4.5

Beneficiaries

The main beneficiary is the State Enterprise Ignalina Nuclear Power Plant, the licence holder of the facilities under decommissioning and the facilities for radioactive waste management.

EU funding of any other entities shall be subject to prior agreement by the Commission representative.

The beneficiaries shall:

- (a) draft grant applications involving EU assistance programme funding and submit them to the entrusted entity for its assessment;
- (b) on approval of a grant application involving EU assistance programme funding, enter into a grant agreement with the entrusted entity;
- (c) act as the contracting authority for the performance of procurement in compliance with the national and EU law;
- (d) implement activities according to the grant agreement effectively (achieving its objectives and results) and efficiently (within its budget and schedule);
- (e) ensure the availability of human resources of appropriate competence and qualifications;
- (f) contribute as requested to the drafting of the monitoring reports;
- (g) report regularly on adherence to the baseline and issues arising that may delay progress of the decommissioning programme;
- (h) provide to the Monitoring Committee on request any other information or explanation concerning its decommissioning activities.

Section 5

Funding of the Decommissioning Programme

Section 5.1

Funding sources

The costs incurred for the advancement of the decommissioning programme shall be financed from:

- the EU assistance programme funding; and/or
- the national and other funding.

For the purpose of determining the co-financing rate:

- the EU assistance programme funding includes:
 - the resources of the Ignalina International Decommissioning Support Fund managed by the European Bank for Reconstruction and Development;
 - the resources of the Ignalina Programme managed by the Central Project Management Agency;
- the national and other funding includes all financial resources other than the Union budget declared as such by the Programme Coordinator.

All revenues earned by the beneficiary as a result of activities funded under the decommissioning programme (excluding from the sale of redundant equipment and dismantled materials) shall be used to finance the decommissioning programme without being accounted for in the determination of the co-financing rate.

Section 5.2

Principles of co-financing

In line with Article 8 of the Regulation, the overall maximum Union co-financing rate applicable to the eligible costs of decommissioning programme activities shall be 86%.

The co-financing rate shall be calculated from disbursement at decommissioning programme level and shall be verified for each elapsed calendar year until the funding allocated under the EU assistance programme is fully disbursed.

Disbursements made before 1 January 2021 shall not be taken into account.

Section 5.3

Calculation of co-financing rate

The co-financing rate shall be calculated for each elapsed calendar year and over the period since 1 January 2021 as the ratio of:

- disbursements of EU assistance programme funding from entrusted entities, to
- the sum of disbursements of EU assistance programme funding from entrusted entities plus those from national and other funding made in that year, minus the revenues earned by the beneficiary referred to in section 5.1

made in the relevant period.

Disbursements of EU assistance programme funding shall be verified as defined in the requirements for independent auditing set out in the respective Contribution Agreement. Disbursements from the national and other funding shall be as verified by the National Audit Office or an independent auditor.

Verified disbursements from the respective funding sources and the calculated co-financing rate for elapsed calendar years shall be presented in the regular monitoring reports. The elements supporting the verification shall be made available to the Monitoring Committee.

Section 5.4

Verification of co-financing rate

At least annually, the Monitoring Committee establishes a disbursement forecast, defining cost categories to be financed in priority from the EU assistance programme funding or from national and other funding.

On the basis of the regular monitoring reports, the Monitoring Committee determines the co-financing rate achieved in the elapsed calendar year concerned and over the period since 1 January 2021.

In the case that the co-financing rate over the period starting in 2021 has exceeded or risks to exceed the overall maximum Union co-financing rate, the payment forecast must be amended to meet the co-financing requirement.

Section 5.5

Costs to be covered in priority by the EU assistance programme funding

The following activities as defined in Annex 3, if eligible as defined in section 6, shall be financed from EU assistance programme funding in this order of priority:

Priority I

P.1 Decommissioning preparation

P.2 Facility dismantling/demolition and site restoration

P.4 Waste handling

Priority II

P.0 Enterprise activity organisation

P.3 Spent Nuclear Fuel handling

Priority III

P.5 Post-operation programme

Section 5.6

Costs to be covered in priority by the national and other funding

The following cost categories, if eligible as defined in section 6, should be financed from national and other funding. They may be financed from EU assistance programme funding if the entrusted entity determines it has adequate and competent resources to handle them.

- (a) activities subject to State secrecy laws of the Republic of Lithuania;
- (b) equipment, its installation and upkeep for the physical protection of facilities;
- (c) activities performed by technical support organisations involved in the public sector of the Republic of Lithuania;
- (d) social compensations associated with loss or reduction of employment;
- (e) low value procurement and negotiated procedures without publication of a contract notice and other exclusions as defined by the Public Procurement Law of the Republic of Lithuania;

- (f) service contracts the award of which is specifically excluded from the provisions of the Public Procurement Law of the Republic of Lithuania (except employment contracts in the context of Section 7.6);
- (g) activities in the financing of which an entrusted entity has previously established repeated irregularities;
- (h) performance-related pay, bonuses and *ex gratia* benefits for employees of the beneficiary;
- (i) contracts with entities having exclusive rights under national law to provide the goods, works and services concerned;
- (j) charges, fees and levies imposed by the law of the Republic of Lithuania.

Grant applications shall distinguish specific costs and/or the costs of specific activities that are not financed from EU assistance programme funding respecting, but not limited to, those listed above.

The beneficiary is responsible for identifying any use of the national and other funding for such costs.

Section 6

Eligibility

An eligible cost is one that is actually incurred, directly attributable to the activity performed, recorded in the accounting system of the beneficiary, identifiable and verifiable, and which meets all of the following criteria:

- (a) it finances an activity within the approved scope of the decommissioning programme;
- (b) it is incurred in compliance with the legal framework;
- (c) it complies with the principle of sound financial management;
- (d) it is not in an excluded cost category.

The eligibility criteria are applicable irrespectively of the funding source.

Where the cost of a decommissioning programme activity is proposed for financing from a particular funding source, decisions concerning eligibility shall rest solely with the institution(s) responsible for the administration of that funding source.

Entrusted entities are empowered to establish rules and guidelines for acceptable practice and/or set specific requirements to be fulfilled as conditions for the use of the EU assistance programme funding. No costs incurred for the advancement of the decommissioning programme are attributable to EU assistance programme funding unless and until they are accepted as eligible by the entrusted entity.

These eligibility rules do not apply to costs incurred by the beneficiary, which are not taken into consideration for the calculation of the co-financing rate.

Section 6.1

Approved scope of the decommissioning programme

Grant applications shall establish a link between the envisaged activities and the scope of the decommissioning programme as described in Annex 3.

Therefore, for an activity and the cost thereby incurred to be within the scope of the decommissioning programme, all of the following conditions must be fulfilled:

- (a) the activity must be clearly indicated and its cost budgeted in an approved grant application or equivalent;
- (b) the respective (grant) agreement deriving from the grant application or equivalent must be in force;
- (c) the activity must be performed or the cost incurred in the respective period(s) set out in the (grant) agreement.

On own initiative or on request of the Programme Coordinator, the Commission Representative may clarify the intended scope of the decommissioning programme and communicate the conclusion to the Monitoring Committee. This statement shall then be considered part of the decommissioning programme.

Section 6.2

Compliance with the legal framework

Documents provided by the beneficiary shall be sufficient to demonstrate to the entrusted entity that the performance of the activity and the cost thereby incurred are compliant with the legal framework. The entrusted entity may request additional information with a reasoned indication of the elements of legal framework to be considered.

To be compliant with the legal framework, the performance of the activity and the cost thereby incurred must comply with:

- Union law that is directly applicable; and
- National law of the Final Beneficiary relating to application of Union law.

Disputes between the beneficiary and the entrusted entity concerning compliance with the legal framework, where these cannot be settled amicably or by the dispute resolution procedure in Section 8.8, shall be settled according to the legal framework. The party initiating proceedings according to the legal framework shall inform the Commission Representative and the Programme Coordinator stating its reasons.

Neither the beneficiary nor the entrusted entity shall, in the frame of litigation concerning compliance with the legal framework, seek damages from the other party.

Section 6.3

Principle of sound financial management

As required by the Financial Regulation [Regulation (EU, Euratom) 2018/1046], funding for decommissioning programme activities and costs shall be used in accordance with the

principle of sound financial management. As expressed in Article 33 of this Regulation, the programme shall thus be implemented respecting the following principles and determined according to these detailed implementation procedures:

- (a) the principle of economy which requires that the resources used shall be made available in due time, in appropriate quantity and quality, and at the best price;
- (b) the principle of efficiency which concerns the best relationship between the resources employed, the activities undertaken and the achievement of objectives;
- (c) the principle of effectiveness which concerns the extent to which the objectives pursued are achieved through the activities undertaken.

In case of any dispute between the parties concerned on a particular application of the principle of sound financial management, they shall be resolved in accordance with the procedure established in Section 8.8.

Section 6.4

Excluded cost categories

The following cannot be considered eligible costs of the decommissioning programme irrespective of the funding source from which they are paid.

- (a) Value Added Tax;
- (b) Duties that are identifiable;
- (c) Taxes on property, assets, capital, capital gains or income of the beneficiary;
- (d) Fines and penalties imposed upon, damages to third parties awarded against, and sums owed to but not collected by, the beneficiary;
- (e) Bank charges, negative interest and foreign exchange losses incurred by the beneficiary;
- (f) Costs affected by irregularity and fraud attributable to the beneficiary;
- (g) Expenditure declared under another Union or Euratom funding instrument.

Section 7

Work programme

1. The competent authorities of the Final Beneficiary shall draw up a draft work programme, in close cooperation with the entrusted entities and involving all public authorities and other national entities concerned with aspects of the Programme, in accordance with national practice or legislation.

2. The draft work programme shall be consistent with the decommissioning plan and provide a basis for the programming of activities and financial assistance under the decommissioning programme.
3. The draft work programme shall include the following elements for the duration of the decommissioning programme:
 - (a) the objectives of the decommissioning programme;
 - (b) planned funding from the EU assistance programme and from national and other sources;
 - (c) expected results;
 - (d) performance indicators, including the performance baseline for ‘earned value management’;
 - (e) the exhaustive list of activities included in the decommissioning programme defined by the work breakdown structure, associated to their source(s) of funding and the proposed entrusted entity where the activity is funded from the EU assistance programme;
 - (f) details for the dissemination of knowledge.
4. For its duration, the draft work programme shall set out a detailed timetable of significant accomplishments, including grant applications and main procurements.
5. For as long as ongoing projects are receiving financial assistance from the Programme, the Programme Coordinator shall submit to the Commission, by 30 September of the year preceding expiry of the previous work programme, the draft work programme for the subsequent period.
6. Where the Commission representative considers that the draft work programme does not comply with this Decision, he/she shall require the Programme Coordinator to revise it as appropriate.

Section 8

Implementation of the Decommissioning Programme

All activities to be performed and costs to be incurred for the advancement of the decommissioning programme shall appear in grant applications for the prior approval or be presented in an equivalent format for the prior information of the Monitoring Committee.

The decommissioning programme shall be implemented by procurement contracts or by direct remuneration of the activities of the workforce of the beneficiary.

Each entrusted entity shall apply its own systems and procedures as assessed by the Commission in accordance with Article 154(4) of the Financial Regulation.

Section 8.1

Preparation and approval of new and amended grant applications

Grant applications shall be prepared in line with the work programme by grouping activities in a manner that allows to fulfil the presentation requirements set out below.

Where a grant application involves EU assistance programme funding, it shall be prepared in consultation with the entrusted entity making available to the entrusted entity all supporting documentation associated with the development of the foreseen activities and justification of their costs. If the beneficiary relies upon documents subject to nuclear regulatory approval, these shall be provided to the entrusted entity no later than to the regulatory body.

The presentation requirements for grant applications involving EU assistance programme funding are that they contain as a minimum:

- (a) the scope of the proposed activities, their method of implementation, their results and deliverables, and interfaces with other activities;
- (b) an appropriately detailed budget breakdown indicating the funding source(s) for the proposed activities and distinguishing EU assistance programme funding from the national and other funding;
- (c) references to the work programme and to the work breakdown structure describing, establishing and justifying the cost and schedule of the proposed activities relative to the work programme baseline;
- (d) appropriate criteria for monitoring progress: the baseline for ‘earned value management’ reporting (where applicable), milestones, and other performance indicators;
- (e) any risks associated with implementation and appropriate measures for their mitigation;
- (f) an explanation of regulatory involvement (if any) in authorising the performance and acceptance of the proposed activities;
- (g) the proposed arrangements for payment of the EU assistance programme funding and of the national and other funding;
- (h) the responsibilities (if any) of the Final Beneficiary in implementation.

Each entrusted entity shall adopt a template and detailed guidelines for grant applications and their amendments following the requirements here above.

The grant application shall be provided for approval to the Chairs of the Monitoring Committee. Where a grant application involves EU assistance programme funding, it shall be accompanied by the relevant entrusted entity’s assessment of the grant application.

The entrusted entity shall then process the documentation in accordance with its own procedures.

Activities and costs funded only from the national and other funding may be presented in an equivalent format agreed by the Monitoring Committee giving the Committee the

information to assess the coherence with the programme objectives and discuss the eligibility of the associated costs.

Section 8.2

Grant agreements

Grant agreements shall be based upon approved grant applications.

Section 8.3

Amendment, cancellation and closure of grants

Any significant changes to the subject matter of a grant agreement, where the beneficiary can justify that this is necessary or desirable, shall be presented as an amended grant application, subject to the same presentation requirements and entrusted entity assessment, for approval by the Chairs of the Monitoring Committee.

For grant agreements involving EU assistance programme funding, the entrusted entity shall:

- (a) oversee any necessary amendment of a grant agreement and, where the entrusted entity considers the amendment to be significant, submit an amended grant application for approval by the Chairs of the Monitoring Committee;
- (b) cancel grants for future activities that have been withdrawn from the work programme or for which the approval of the Chairs of the Monitoring Committee has been withdrawn;
- (c) close grant agreements on completion of their activities and financial implementation.

Section 8.4

Procurement

Where it is proposed under a grant agreement that the purchase of goods, works or services is to be financed from EU assistance programme funding, the procurement process shall be conducted according to the provisions of these detailed implementation procedures and of the grant agreement concerned, and supervised by the entrusted entity. The beneficiary shall take account of any rules and guidelines for acceptable practice, and other specific requirements set by the entrusted entity to be fulfilled as conditions for the receipt of EU assistance programme funding.

The entrusted entity shall examine and decide upon the compliance of the procurement procedure with the eligibility criteria of Section 6.

All procurement shall be subject to *ex ante* supervision by the entrusted entity, unless *ex post* supervision is agreed by the entrusted entity with the beneficiary for specific procurements or categories of procurement.

Ex ante supervision entails the involvement of the entrusted entity throughout the procurement process. *Ex post* supervision entails scrutiny of the procurement by the entrusted entity only after the contract is signed.

In case of any dispute between the parties concerned on the procurement procedure, they shall be resolved in accordance with the procedure established in Section 8.8.

8.4.1. *Ex ante supervision*

- (a) The beneficiary shall provide an annual procurement plan. Upon request of the entrusted entity, for each substantial procurement the beneficiary shall prepare the procurement/delivery strategy, including for each of them: (1) a description of its scope, budget and schedule; (2) a justification for the appropriate lawful method of tendering and form of contract (including additional language(s) and any other aspects of the tendering and/or contract that may affect effectiveness, transparency, competition or price). The entrusted entity may require the use of its own template documents or of the electronic systems for their preparation.
- (b) The entrusted entity shall receive and scrutinise the documents prepared by the beneficiary to be used for the procurement, seeking clarification from the beneficiary where necessary, and inform the beneficiary of its findings. Where the findings include:
 - the inability to establish eligibility and/or any grounds on which the procurement, or parts thereof, is deemed not eligible according to Section 6 of these procedures,
 - that the prepared documents or justification are not acceptable according to Section 8.4.1(a) and/or otherwise fail to meet the documented quality standards of the entrusted entity,

the entrusted entity shall notify the beneficiary thereof.

If remedy is possible, the entrusted entity may advise the beneficiary of the means by which such remedy can be performed, also including additional requirements which are a condition of EU assistance programme funding. The entrusted entity shall inform the beneficiary of its right to dispute such findings, by the beneficiary citing in writing within ten (10) calendar days the procedure set out Section 8.8.

The entrusted entity may, after ten (10) calendar days or otherwise on completion of the dispute resolution procedure, adopt a formal decision on ineligibility.

- (c) The entrusted entity shall have the right to provide observers to the beneficiary's tender evaluation committee.

8.4.2. *Ex ante or ex post supervision*

When exercising *ex ante* or *ex post* supervision, the entrusted entity shall examine the records of meetings of the beneficiary's tender evaluation committee and the tender proposals of suppliers, seeking clarification from the beneficiary where necessary, and shall inform the beneficiary of its findings. Where the findings include:

- the inability to establish eligibility and/or any grounds on which the procurement, or parts thereof, is deemed not eligible according to Section 6 of these procedures;

- that the entrusted entity is not satisfied that the records of the meetings are complete, accurate and correctly presented, and/or is not satisfied that the decisions of the tender evaluation committee are adequately justified in those records;

The entrusted entity shall notify the beneficiary thereof and, if remedy is possible, may advise the beneficiary of the means by which such remedy can be performed, also including additional requirements which are a condition of EU assistance programme funding. The entrusted entity shall inform the beneficiary of its right to dispute such findings, by the beneficiary citing in writing within ten (10) calendar days the procedure set out Section 8.8.

The entrusted entity may, after ten (10) calendar days or otherwise on completion of the dispute resolution procedure, adopt a formal decision on ineligibility.

The entrusted entity may, at its discretion, apply scrutiny procedures different to the above for procurement conducted through the electronic catalogue of a central purchasing body or where the price and conditions for procurement are regulated by national law.

Section 8.5

Contracts

The beneficiary shall administer contracts with due diligence and in accordance with the respective grant agreement.

The entrusted entity shall supervise activities where the grant agreement involves EU assistance programme funding. Therefore:

- the entrusted entity shall have right to take part in all meetings, and receive all documents exchanged, between the beneficiary and the contractor;
- the entrusted entity shall have the right to receive deliverable documents and to perform on-the-spot checks of goods and works delivered under contracts;
- the entrusted entity shall be informed in a timely manner of problems arising in contracts and the measures taken for their correction;
- any proposal of the beneficiary to amend or terminate a contract, or to enter into litigation against a contractor, shall be coordinated and/or agreed with the entrusted entity according to the provisions of the grant agreement;
- the entrusted entity shall have the right to require the beneficiary to seek damages for the failure to perform, or improper performance, of a contract in order to protect the financial interests of the Union.

Any dispute between the entrusted entity and beneficiary related to the above provisions shall be subject to the procedure established in Section 8.8.

Section 8.6

Direct remuneration of workforce activities of the beneficiary

Grants involving EU assistance programme funding for the direct remuneration of activities performed by the workforce of the beneficiary may take any of the forms provided for in Article 180(3) of the Financial Regulation.

Where the grant agreement involves EU assistance programme funding:

- the entrusted entity shall have right to receive relevant internal documents of the beneficiary and to perform on-the-spot checks of works and services performed;
- the beneficiary shall inform the entrusted entity in a timely manner of problems arising in the activities and the measures taken for their correction.

Section 8.7

Payments

Where a grant agreement involves EU assistance programme funding, the entrusted entity shall reimburse to the beneficiary its eligible costs incurred on presentation of a correct and complete declaration of expenditures, and with supporting documents required by the entrusted entity.

The entrusted entity shall examine and decide upon the compliance of the costs submitted for reimbursement with the eligibility criteria of Section 6 and, where compliance cannot be established or incompliance identified, inform the beneficiary of these findings. The entrusted entity shall make financial corrections in order to exclude from Union financing expenditure that does not comply with the eligibility criteria.

All payments shall be executed in Euros.

Any dispute between the entrusted entity and beneficiary related to the above provisions shall be subject to the procedure established in Section 8.8.

Section 8.8

Dispute resolution

- (a) The beneficiary and the entrusted entity shall endeavour to settle amicably any dispute or controversy between them arising out of application of this Decision or in connection therewith.
- (b) Any party indicated in paragraph (a), on concluding that an amicable settlement is not possible, shall inform the other party or parties in writing of the disputed or controversial matters to be resolved citing this dispute resolution procedure. The other party, or parties, shall meet promptly with the initiating party to discuss the dispute or controversy and, if requested by the initiating party in writing, shall reply in writing to any written submission made by the initiating party concerning the dispute or controversy.

- (c) If any such dispute or controversy, or any claim relating thereto, cannot be amicably settled within thirty (30) days from the date of citing this dispute resolution procedure, the initiating party shall in writing request the Chairs of the Monitoring Committee to establish a consultative panel, furnishing the relevant documentation and informing the other party(ies).
- (d) Where the Chairs of the Monitoring Committee agree to the establishment of a consultative panel to examine and opine upon the disputed or controversial matters, the panel shall consist of three members selected according to the issue(s) considered.
- (e) The panel members are appointed as follows: one proposed by the claimant party, the second by the respondent party and the third by the Commission Representative. No member shall be under the authority of the beneficiary, the entrusted entity, the Programme Coordinator or the Commission Representative. If, within fifteen days (15) after notice by the Chairs of the Monitoring Committee of the formation of a consultative panel, a party fails to appoint a member, such member shall be appointed by the Commission Representative on the party's behalf.
- (f) The consultative panel should deliver its conclusions within thirty (30) days from the appointment of its members to the Chairs of the Monitoring Committee. The conclusions of the consultative panel shall be binding on the disputing parties in matters regulated by these procedures (in particular, eligibility in compliance with the principle of sound financial management), and advisory to the disputing parties in matters otherwise regulated by EU law and national law of the Final Beneficiary relating to its application (such as eligibility in compliance with the legal framework).
- (g) The services of panel members appointed by the Commission Representative and by the entrusted entity may be paid from EU assistance programme funding.

Section 9

Monitoring Committee

A Monitoring Committee (“the Committee”) shall oversee the coordinated implementation of activities and funding of the decommissioning programme, irrespective of the funding source.

The Committee shall be chaired jointly by the Programme Coordinator and the Commission Representative. The Committee members shall consist of the chairs and a representative of each entrusted entity.

Representatives of the beneficiaries, institutions contributing to the financing of the decommissioning programme, national nuclear safety regulatory authorities and other competent national authorities, and external experts concerned may be invited by a committee member to attend meetings of the Committee in an advisory capacity.

The Committee shall contribute to the effectiveness and quality of the implementation of the decommissioning programme and financial assistance as follows:

- (a) it shall review the baseline of the decommissioning programme and the progress towards meeting its objectives;

- (b) it shall review progress towards securing the results and deliverables of the ongoing activities, with due consideration of the implementation schedule, milestones and/or other monitoring indicators;
- (c) it shall review monitoring reports in terms of completeness, correctness and compliance with the guidelines with a view to their approval;
- (d) it shall discuss co-financing in accordance with Section 5 with a view to approval of the co-financing rate;
- (e) it shall examine, on the basis of information presented by the beneficiary and advice of the entrusted entity and (where applicable) expert technical guidance, grant applications and their significant amendments, in terms of adherence to the principles of implementation and presentation requirements with a view to their approval;
- (f) its shall consider the findings, conclusions and recommendations of expert technical guidance engaged to opine upon technical, programming, cost, schedule, implementation risk or any other topical issue(s) arising from the implementation of the decommissioning programme;
- (g) it may propose amendment of a grant agreement;
- (h) it may advise the Programme Coordinator on future work programmes;
- (i) it may consider and decide upon any other issue relevant to the implementation of the decommissioning programme within the roles and responsibilities of its Chairs, and may commission expert technical guidance to this effect.

Decisions of the Committee shall be taken by consensus of its Chairs. The Committee shall, in particular, decide upon:

- the approval of monitoring reports;
- the approval of the effective co-financing rate;
- the approval of grant applications and amendments thereof;
- the establishment of consultative panels for dispute resolution;
- commissioning of expert technical guidance .

The Committee shall meet twice a year. *Ad hoc* meetings may be convened at the written request of any member. Decisions of the Committee may be taken at regular meetings, at *ad hoc* meetings or by written procedure.

The Committee shall ensure that its rules of procedure are consistent with this Decision.

Section 10

Monitoring reports

The reporting periods are January-June and July-December of each year.

The Programme Coordinator shall assemble the monitoring report from the contributions received from the stakeholders and check their consistency. The Programme Coordinator shall ensure that all Committee members have received a draft report at the latest two months after the end of the reporting period.

Each monitoring report shall include information on the following, updated to the last day of the monitoring period:

- (a) progress in achieving the objectives set out in the work programme, with a summary of the status of results, milestones, target dates and performance indicators;
- (b) progress within activities under the work programme, with a summary of the status of results and deliverables, the implementation schedule, the 'earned value' management indicators and other criteria for monitoring progress;
- (c) financial implementation of the decommissioning programme, for all funding sources, including committed amounts and payments;
- (d) financial implementation of ongoing grant agreement and amendments thereof;
- (e) an assessment of overall performance in relation to the baseline(s) decommissioning schedule, highlighting any deviation therefrom;
- (f) any problems and challenges with regard to activities during the monitoring period and measures taken or planned to address these;
- (g) follow-up of past decisions and recommendations made by the Committee.

On a proposal from the Commission representative, the Committee shall adopt a template and detailed guidelines for the monitoring report.

Section 11

Irregularities and Fraud

Section 11.1

Irregularity

An irregularity is any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the EU assistance programme funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.

Section 11.2

Fraud

Fraud affecting the financial interests of the Union shall consist of:

- (a) in respect of expenditure, of any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the Union,
 - non-disclosure of information in violation of a specific obligation, with the same effect,
 - the misapplication of such funds for purposes other than those for which they were originally granted;
- (b) in respect of revenue, any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
 - non-disclosure of information in violation of a specific obligation, with the same effect,
 - misapplication of a legally obtained benefit, with the same effect.

Section 11.3

Prevention, detection and requirement for notification

The Final Beneficiary, the beneficiaries, and the entrusted entities shall take appropriate measures to prevent and detect irregularities and fraud.

Concerning the implementation of EU assistance programme funding, the entrusted entity shall notify the Commission without delay of:

- (a) the identification of an irregularity where the funding is already disbursed; and/or
- (b) any investigation by the responsible authorities of possible irregularity, suspected fraud or other violations of the law; and
- (c) any actions taken by the entrusted entity in respect of (a) and/or (b).

The Programme Coordinator shall similarly notify the Commission concerning such issues in the implementation of the national and other funding to the decommissioning programme.

Section 11.4

Recovery

EU assistance programme funding affected by irregularity or fraud where that irregularity or fraud is not attributable to a beneficiary, recovered according to national legislation, shall be returned to the EU assistance programme.

Section 12

Transitional provisions

This Decision shall apply to ongoing activities the costs of which are financed from EU assistance programme funding in accordance with Decisions C(2007)5538, C(2010)6885, C(2014)5449 and C(2019)3073. Unless otherwise agreed with the Commission, any agreement between a beneficiary and an entrusted entity involving EU assistance programme funding entered into before the adoption of these detailed implementation procedures should be amended in line with the requirements set out herein which shall enter into effect when the amended grant agreement is signed. Until then Commission Decision C(2019)3073 shall continue to apply to all relevant agreements between the European Commission and the entrusted entities, and between the entrusted entities and the beneficiaries, and all respective grant applications on which they are based, that were concluded before entry into force of this Decision.