



LIFE Model Grant Agreement Amendments, suspension and termination

Adrien Bullier, CINEA D1

Nadia Lamhandaz, CINEA D2



LIFE21 projects – Financial and contractual details meeting

Amendments



Articles in the Model Grant Agreement

- **Article 39 - Amendment** states conditions and procedure for amendments
- **Article 5.5 – Budget flexibility:** budget shifts between beneficiaries and budget categories is allowed without amendment (if it does not imply significant changes in the description of the action in annex 1)
- Amendment always needed for changes to the budget category for volunteers, categories with lump sums, categories with budget ceilings (e.g. financial support to third parties) always require an amendment
- Addition of amounts for subcontracts not provided for in Annex 1 either require an amendment or simplified approval



A few principles

- **!!No retroactivity by default!!** Retroactivity is not accepted automatically because we need to assess its relevance and possible impact. So any retroactive application of the amendment clause shall be justified in the request. Prior communication on the deviation is thus important as this will be taken into account when assessing a request of retroactivity.
- **Deadline to submit the amendment:** nothing is mentioned in the grant agreement. However we do not wish to sign amendments after the project end date. Therefore a general good practice is to submit the amendment at the latest 3 months before the end date.
- **If you don't know: ask your monitor or Project Adviser**



Cases which don't need approval - A few examples

- Changes in budget of items/activities foreseen that do not imply any substantive or important change to the description of the action
- Changes in deliverables titles/description that do not change the objective of the work package
- Delays (tasks, deliverables) that do not change the expected results and impacts and which will not require a change to the end date of the project
- Changes in the context that may have an impact on deliverables or milestones without changing the objective of the related work packages

What to do?

- Mention them in your periodic report, section 3.1 (work packages)
- If you are not sure ask !



Changes which require simplified approval - A few examples

- New subcontract for a task which was foreseen to be done by consortium staff – provided this does not change essential aspects of the project
- Budget increase for a subcontract >10% AND >50k€
- !! As long as the total of subcontracting stays below 30% no amendment is required !!

What to do?

- Keep your monitor / Project Adviser informed as early as possible
- Report it in the next periodic report



The simplified approval procedure

- Beneficiaries report the deviation in the periodic report (i.e. under point 4.3 – Budget)
- CINEA assesses the report
 - best case scenario: the deviation is approved together with the report. The associated costs are approved in principle – pending acceptance with the final report.
 - CINEA may also reject the costs if the deviation is not justified or would have required an amendment.
- It is your interest to inform CINEA of any potential issue as early as possible!



Cases which require an amendment (examples)

- Change in partnership: amendment as only beneficiaries can claim costs
- Change in reporting periods/duration/EU contribution: amendment as GA is modified (DataSheet)
- Changes to an essential aspect of the project, e.g. change of technology, change of habitats/species targeted, change of target groups, subcontracting instead of doing yourself... which could call into question the initial award of the grant
- New strand of work which was not foreseen in the proposal, but becomes necessary and represents a significant part of the project
- Budget shifts between beneficiaries and budget categories that imply significant changes in the description of the action in annex 1
- Changes that would result in exceeding the threshold (30%) for the “limited” subcontracting (if that clause is applicable to your GA see article 6.2.b)



What to do? Follow the amendment procedure



Article 19: obligation to inform

- Beneficiaries must provide any information in order to verify eligibility of costs, proper implementation and compliance with all obligation
- Beneficiaries must keep – at all time during the action and afterwards – their information stored in the Portal Participant Register updated
- Beneficiaries must immediately inform the granting authority (and the other beneficiaries):
 - **events** likely to affect or delay the implementation of the action or affect the EU financial interest, in particular changes in their legal, financial, technical, organisational or ownership situation (including changes linked to one of the exclusion grounds listed in the declaration of honour signed before grant signature)
 - **circumstances** affecting the decision to award the grant or compliance with requirements under the Agreement



Change of legal data: automated amendments

- **Information procedures** related to the change of legal data **are** amendments generated by the system following data changes done in the Participant Register Portal.
- Those changes are applicable to the beneficiary organisations but may have a subsequent impact on the grant agreement and therefore may require an amendment:
 - if the name or address of a beneficiary, linked third party or coordinator changes
 - if a universal takeover (UTRO) results in a change of beneficiary
- Changes are assessed by Central Services
- Latest Legal Data are updated
- Depending on the type of information procedures PA may be informed (e.g. in case of UTRO)



Suspension and Termination



Articles in the Model Grant Agreement

- **Article 31 – Grant agreement suspension**
- **Article 32 – Grant Agreement or beneficiary termination**
- ***Article 35 – Force majeure***

Suspension and termination may be requested either by beneficiaries or by CINEA.

Prior communication with your monitor/project adviser is necessary



Grant agreement suspension



GA suspension requested by consortium - why and how?

- Procedure to be used when **exceptional** circumstances make project implementation **impossible or excessively difficult** e.g. *Force majeure* as set in Article 35.
- Example: catastrophic weather conditions, modifications in legislations which alter the frame of a project, death/serious illness of key project staff, new and unexpected conditions discovered through the actions of a LIFE project,...
- Via the coordinator, the consortium request the suspension by **requesting an amendment** specifying the reasons, the date of suspension and the date where the activities will resume (potentially)



GA suspension requested by consortium – what next?

- When possible to resume the activities, coordinator must immediately request another amendment to set the suspension end and other changes necessary (extension etc).
- **During the suspension, no additional prefinancing will be paid. Costs incurred for activities implemented during suspension are not eligible (see Article 6.3).**



GA suspension – CINEA initiated

- Procedure used in exceptional cases when a beneficiary committed/ is suspected of having committed fraud or substantial error, irregularities or serious breach of obligation for the grant or in other EU grants awarded to it under similar conditions.
- CINEA send a **pre-information letter** notifying the intentions and the reasons and requesting observation within 30 days. After assessing the observation, CINEA either discontinues the procedure or sends a **confirmation letter**.
- Once the conditions for resuming the implementation of the action are met, e.g. measures taken by the beneficiaries, CINEA sends a **lifting of suspension letter** inviting the coordination to request an **amendment** to set the resumption date and make other changes necessary to adapt the action to the new situation.
- **During the suspension, no additional prefinancing will be paid. Costs incurred for activities implemented during suspension are not eligible (see Article 6.3).**



Beneficiary Termination requested by consortium



Beneficiary Termination: why?

- Required when a beneficiary (wishes to) stop(s) its participation in the project
- For instance: non-acceding beneficiary, change in the context that makes the beneficiary participation irrelevant, decision to withdraw due to new business orientation, issues/disagreement in the partnership, bankruptcy.
- Request is done by the coordinator on request of the beneficiary concerned or on behalf of the other beneficiaries
- Urgency of the request depends on the case ; both always to be requested with diligence
- **Shall not question the decision to award the grant and always be justified or this may lead to a termination of the GA**



Beneficiary Termination: how?

- In most cases one amendment is enough to request the termination and present all the modifications linked to this termination
- If termination is urgent, best to have two amendments:
 - the initial limited to the termination
 - the second with the other amendments required e.g. reallocation of the tasks and the estimated budget of the terminated beneficiary; addition of a new beneficiary to replace the terminated beneficiary; change of coordinator



Beneficiary Termination: important

- If the termination concerns the coordinator and is done without its agreement, the amendment request must be submitted by another beneficiary (acting on behalf of the consortium).
- The opinion of the beneficiary concerned (or proof that this opinion has been requested in writing) is mandatory
- Two dates: date the beneficiary ends work on the action ('end of work date') and the date the termination takes effect ('termination date'); this date must be after the date of the submission of the amendment request.
- Improper termination e.g. no justification or the impact on the project questions the award, may lead to a reduction of the grant (see Article 31) or grant termination (see Article 32).



Beneficiary Termination: what next?

CINEA calculates the amount due to the terminated beneficiary until the end of work date. So within 60 days :

- The coordinator must submit a report on distribution of payment. Failure to submit it, CINEA will consider no payment was distributed to the beneficiary
- The terminated beneficiary must submit a termination report covering the open reporting until termination, financial statement and certificate on the financial statements (if applicable). Failure to submit, CINEA will consider that no costs were incurred.
- A second request of amendment (if the initial one did not include all the modifications needed). Failure to submit or rejection may lead to a GA termination.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).



Grant agreement termination requested by consortium



Grant Agreement termination: why and how?

- Required when the beneficiaries consider that the project implementation should stop before its end date! When submitted it is irrevocable so it should be the last resort.
- For instance: change in the context that makes irrelevant to implement the action, impossibility for the beneficiaries to implement the activities as awarded due to refusal of permits or change of legislation, termination of an essential beneficiary that cannot be replaced
- Requested by an amendment: <https://webgate.ec.europa.eu/funding-tenders-opportunities/pages/viewpage.action?pagelId=19693573>
- **If no reasons are given or if the granting authority considers the reasons do not justify termination, it may consider the grant terminated improperly (Article 28)**



Grant Agreement termination: what next?

CINEA calculates the final grant amount and final payment due until the end of work date. So within 60 days :

- The coordinator must submit a periodic report covering the open reporting until termination. And financial statement and certificate on the financial statements (if applicable) for all the costs not yet submitted.
- Failure to submit, CINEA will consider only costs that were submitted. If only pre-financing payments were made, this means that no costs were approved.



Grant agreement or beneficiary termination requested by CINEA



Why and how ?

- CINEA may also request GA or beneficiary termination if one of the conditions listed under the articles 32.3.1 is identified and if the consortium is not requesting the termination.
- CINEA send a **pre-information letter** notifying the intentions and the reasons and requesting observation within 30 days. After assessing the observation, CINEA either discontinues the procedure or sends a **confirmation letter**.
- **For beneficiary terminations, CINEA will send the letter to the beneficiary concerned and at the end of the procedure CINEA will also inform the coordinator.**



What next?

Effects of the GA termination

CINEA calculates the final grant amount and final payment due until the end of work date. So within 60 days :

- The coordinator must submit a periodic report covering the open reporting until termination, a financial statement and certificate on the financial statements (if applicable) for all the costs not yet submitted.
- Failure to submit it, CINEA will consider only costs that were submitted. If only pre-financing payments were made, this means that no costs were approved.

If the grant is terminated for breach of the obligation to submit reports, the coordinator may not submit any report after termination.



What next ?

Effects of the beneficiary termination

CINEA calculates the amount due to the terminated beneficiary until the end of work date. So within 60 days :

- The coordinator must submit a report on distribution of payment. Failure to submit it, CINEA will consider no payment was distributed to the beneficiary.
- The terminated beneficiary must submit a termination report covering the open reporting until termination, a financial statement and certificate on the financial statements (if applicable). Failure to submit it, CINEA will consider that no costs were incurred.
- A second request of amendment (if the initial one did not include all the modifications needed). Failure to submit it or rejection may lead to a GA termination.

The information in the termination report must also be included in the periodic report for the next reporting period (see Article 21).



Important

- Termination does not affect the granting authority's right to reduce the grant (see Article 28) or to impose administrative sanctions (see Article 34).
- The beneficiaries may not claim damages due to termination by the granting authority (see Article 33).
- After termination, the beneficiaries' obligations (in particular Articles 13 (confidentiality and security), 16 (IPR), 17 (communication, dissemination and visibility), 21 (reporting), 25 (checks, reviews, audits and investigations), 26 (impact evaluation), 27 (rejections), 28 (grant reduction) and 42 (assignment of claims) continue to apply.



Keep in touch with us



30 years of bringing green ideas to LIFE



https://cinea.ec.europa.eu/life_en



[LIFE Programme](#)



[@LIFEprogramme](#)



[LIFE Programme](#)



[LIFE Programme](#)



[@LIFEprogramme](#)