



**Bridge2HE: A transition from
H2020 to HorizonEurope for NCPs**



BRIDGE2HE:

**WHY YOU NEED A CONSORTIUM
AGREEMENT IN HORIZON EUROPE
(NICOLE SCHRÖDER, DLR-PT)**

25th of April 2022 online

Top 10 questions to NCPs ...after a call publication

- What is a consortium agreement?
- What is the consortium agreement about?
- Is the consortium agreement mandatory?
- Who will sign the consortium agreement?
- When to sign..?
- What happens if the consortium agreement is not ready in time?
- When and how to be concluded?
- Are the costs related to drafting the consortium agreement eligible in Horizon Europe?
- Why is a consortium agreement important even if it is not mandatory in my call?
- Where to find more information, is there a model agreement?



What is a consortium agreement?

- Private contract
- Internal agreement between the members of the consortium
- COM is not a party
- An additional document to the Grant Agreement (GA) for the internal arrangement of the consortium
 - The GA does not contain provisions for all situations of a consortium
- The internal arrangements must not contain any provision contrary to the Grant Agreement.



What is a the consortium agreement about?

Art. 7 GA:

“The beneficiaries must have **internal arrangements** regarding their operation and coordination, to ensure that the action is implemented properly.”

- If required in an written consortium agreement



What is a the consortium agreement about?

(Art. 7) the content can cover for instance:

- the internal organisation of the consortium
- the management of access to the Portal
- different distribution keys for the payments and financial responsibilities in case of recoveries (if any)
- additional rules on rights and obligations related to background and results (see Article 16)
- settlement of internal disputes
- liability, indemnification and confidentiality arrangements between the beneficiaries.



Is the consortium agreement mandatory?

Art. 7 GA

The beneficiaries must have **internal arrangements** regarding their operation and coordination, to ensure that the action is implemented properly.

If required by the granting authority (see Data Sheet, Point 1), these arrangements must be set out in a written **consortium agreement** between the beneficiaries, covering for instance:



Is the consortium agreement mandatory?

DATA SHEET

1. General data

Project summary:

Project summary
Text from DoA Annex 1 Part A (same text as proposal abstract)

Keywords: [keywords from proposal]

Project number: [project number, e.g. 690853330]

Project name: [full title]

Project acronym: [acronym]

Call: [call ID, e.g. PROG-(SUBPROG)-YEAR-CALLABREV]

Topic: [topic ID, e.g. PROG-(SUBPROG)-YEAR-CALLABREV-NN/TOPICABBREV]

Type of action: [ToA, e.g. HORIZON TMA MCSA Doctoral Networks]

Granting authority: [European Commission – EU/ European Commission – Euratom/ [name of Executive Agency/ [name of EU funding body]]

Grant managed through EU Funding & Tenders Portal: Yes (eGrants)

[OPTION for SGAs: Framework Partnership Agreement No [insert number] — [insert acronym]]

Project starting date⁵: [OPTION 1 by default: first day of the month following the entry into force date] [OPTION 2 if selected for the grant: fixed date: [dd/mm/yyyy]]

Project end date: [dd/mm/yyyy]

Project duration: [number of months, e.g. 48 months]

[OPTION if selected for the grant: Linked action: Linked with other action:

- [insert linked action information, e.g. name, acronym, number, funded by (EU/name of other organisation), description (grant/ procurement/ prize/ equity investment/ repayable loan/etc)]
- [OPTION if selected for the grant: Linked action type: [Synergy]/Blended finance (linked action)]
- Collaboration agreement: [OPTION 1 by default: No] [OPTION 2 if selected for the call: Yes]

Consortium agreement: [OPTION 1 by default: Yes] [OPTION 2 if selected for the call: No]

2. Participants

List of participants:

⁵ This date must normally be the first day of a month and later than the entry into force of the agreement. The RAO can decide on another date, if justified by the applicants. However, the starting date may not be earlier than the submission date of the grant

[name of EU funding body]
Grant managed through EU Funding & Tenders Portal: Yes (eGrants)
[OPTION for SGAs: Framework Partnership Agreement No [insert number] — [insert acronym]]
Project starting date ⁵ : [OPTION 1 by default: first day of the month following the entry into force date] [OPTION 2 if selected for the grant: fixed date: [dd/mm/yyyy]]
Project end date: [dd/mm/yyyy]
Project duration: [number of months, e.g. 48 months]
[OPTION if selected for the grant: Linked action: Linked with other action:
- [insert linked action information, e.g. name, acronym, number, funded by (EU/name of other donor organisation), description (grant/ procurement/ prize/ equity investment/ repayable loan/etc)]
- [OPTION if selected for the grant: Linked action type: [Synergy]/Blended finance (linked action)]
- Collaboration agreement: [OPTION 1 by default: No] [OPTION 2 if selected for the call: Yes]
- ...]
Consortium agreement: [OPTION 1 by default: Yes] [OPTION 2 if selected for the call: No]
2. Participants



Is the consortium agreement mandatory?

“The participants **should conclude a consortium agreement** to ensure a smooth and successful project implementation (— **mandatory** if required in the call conditions). “

Annotated Model Grant Agreement (AGA) p. 94



Who will sign the consortium agreement?

- All beneficiaries (art. 7 GA)
- If wished associated partners, affiliated entities etc.
- The COM will not sign
- RES: „...Such written agreement **must be at least signed by the beneficiaries but other participants that are involved in the implementation of the action may be part of this consortium agreement, like for instance *associated partners, affiliated entities or participants with special status*. The beneficiaries are not prevented from inviting other participants to adhere and sign their consortium agreement, this is up to them to decide on this aspect.....“**



When to sign..?

“The consortium agreement **should be signed before the Grant Agreement**. For details, see AGA — Annotated Grant Agreement, art 7 and the [How to establish your H2020 consortium agreement](#).” ([Online manual](#) p. 47)

“..The consortium agreement **should in principle be negotiated and concluded before GA signature** (i.e. *each beneficiary should sign the consortium agreement before signing the Accession Form to accede to the Grant Agreement*)...” ([AGA S. 94](#))



What happens if the consortium agreement is not ready in time?

- Regarding the deadline when the consortium agreement has to be signed, please note that the Horizon Europe Model **Grant Agreement does not stipulate that this agreement has to be concluded before the grant agreement is signed.**
- However, we **recommend that the consortium agreement should in principle be negotiated and concluded before signature of the grant agreement** (i.e. each beneficiary should sign the consortium agreement before signing the Accession Form to accede to the grant agreement).
- **Otherwise, there is usually a serious risk that prolonged disagreement jeopardises the action.**



What happens if the consortium agreement is not ready in time?

RES:,,[...]..In view of the above, the Commission **will not stop the grant preparation phase if it should become aware that the applicants have not yet concluded a consortium agreement. However, if it is mandatory to have a consortium agreement and the consortium does not have one, this may be considered a breach of grant agreement obligations...**“



What happens if the consortium agreement is not ready in time?

„[...]..Finally, please note specific rules may apply, for example in the exceptional case where the work programme would stipulate for the call/topic that a consortium agreement must be concluded before the signature of the grant agreement, this would be an additional eligibility condition.

Consequently, if the Commission became aware of the absence of the conclusion of **a consortium agreement** it would not sign the grant agreement...“



When and how to be concluded?

- As soon as possible...
- Advisable to be concluded before the signature of the GA
 - Advisable because of the content (for possible deviations of the standard grant agreement)
- Maybe mandatory according to the respective call documents and the data sheet of the GA!
- paper version, not via Participant Portal



Are the costs related to drafting the consortium agreement eligible?

- ***Costs are not eligible because the consortium agreement should be signed before the action starts.***
- However, costs related to updating the consortium agreement are eligible if incurred during the action duration and in line with the general and specific eligibility conditions, in particular being necessary for the implementation of the action. “ (AGA p. 28)



Why is a consortium agreement important even if it is not mandatory in my call?

- If no deviations are written down in the consortium agreement the standard text of the GA is valid
- But deviations must not contain any provision contrary to the GA! In that case the deviations are invalid!
- Additional information on the consortium can be added



Why is it important?

Deviations of the standard rules

Deviations of the standard text of the grant agreement are possible where it is foreseen in the agreement

Example:

*Art. 7 b iii "the coordinator must...distribute the payments received from the granting authority to the other beneficiaries **without unjustified delay** (see Article 22)."*

*Art. 16 ..."**Unless otherwise agreed** in the joint ownership agreement or consortium agreement, each joint owner may grant non-exclusive licences to third parties to exploit the jointly-owned results..."*

*"...**Unless agreed otherwise in writing** with the beneficiary granting access, access rights do not include the right to sub-license...."*



Where to find more information...?

Model consortium agreement in
Horizon Europe: DESCA

<https://www.desca-agreement.eu/desca-model-consortium-agreement/>

COM Guidance: How to draw up your
consortium agreement (H2020)

http://ec.europa.eu/research/participants/data/ref/h2020/other/gm/h2020-guide-cons-a_en.pdf.



IPR Helpdesk

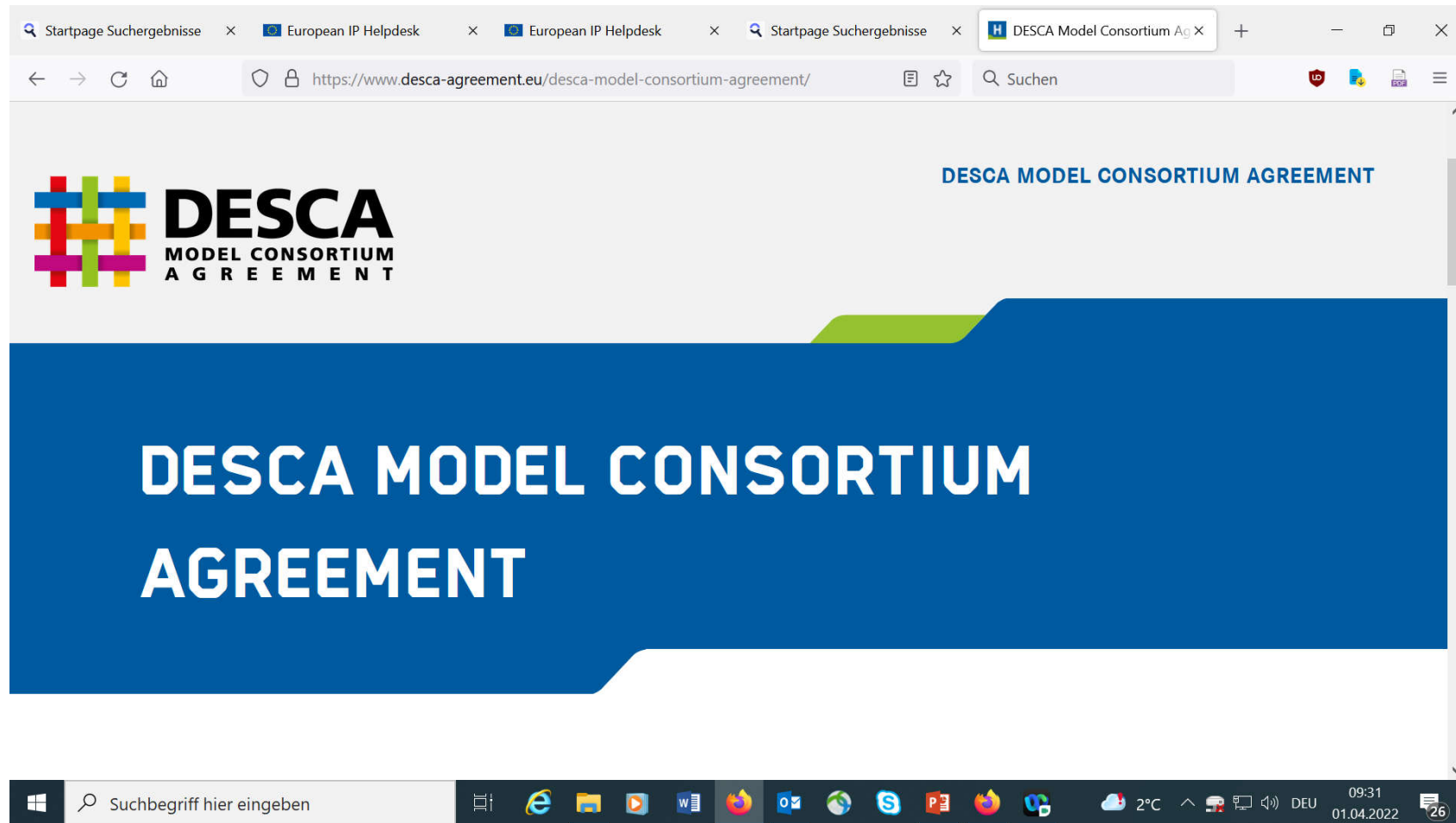
<https://www.iprhelphdesk.eu>

The screenshot shows a web browser window with the URL <https://intellectual-property-helpdesk.ec.europa.eu/regional-helpdesks/european-ip>. The page features a search bar and a navigation menu. Below the search bar, there is a link to "Learn more". The main content area is divided into three columns: "Webinars", "E-learning", and "Special Training offer". Below this, there is a section titled "IP resources library" with a descriptive paragraph: "In our IP resource library you will find a variety of hands-on, user friendly and easy-to-read publications such as guides, Bulletins, fact sheets or case studies tackling different topics from the multifaceted world of IP and IP management." Below the text, there is a grid of nine resource categories: "Fact sheets", "IP guides", "Case studies", "Infographics", "IP specials", "IP glossary", "Video clips", "Bulletins", and "Useful documents". The browser's taskbar at the bottom shows the Windows logo, a search bar with the text "Suchbegriff hier eingeben", and various application icons including Edge, File Explorer, Word, Firefox, Outlook, and PowerPoint. The system tray on the right shows the temperature (2°C), the date and time (09:28, 01.04.2022), and a notification icon with the number 26.



(26/04/2022)

<https://www.desca-agreement.eu/desca-model-consortium-agreement/>



(26/04/2022)



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4B1L17Y
70 4D4P7 70
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Thanks a lot for your
attention.