



Ministerium für Kinder, Familie, Flüchtlinge und Integration
des Landes Nordrhein-Westfalen, 40190 Düsseldorf

An den
Präsidenten des Landtags
Nordrhein-Westfalen
Herr André Kuper MdL
Platz des Landtags 1
40211 Düsseldorf

LANDTAG
NORDRHEIN-WESTFALEN
17. WAHLPERIODE

VORLAGE
17/6733

Alle Abg

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Dr. Edgar Voß
Telefon 0211 837-2370
Telefax 0211 837-2505
Edgar.voss@mkffi.nrw.de

Kooperationsvereinbarung zum RINA Handover

Zuleitung gemäß Parlamentsinformationsvereinbarung

Sehr geehrter Herr Landtagspräsident,

gemäß Abschnitt II. Ziffer 1, 3 der „Vereinbarung über die Unterrichtung des Landtags durch die Landesregierung“ übersenden wir Ihnen den Entwurf der Kooperationsvereinbarung zum RINA-Handover. Der Interministerielle Ausschuss für Verfassungsfragen hat keine verfassungsrechtlichen Bedenken gegen den Entwurf der Verwaltungsvereinbarung erhoben.

Die Kooperationsvereinbarung betrifft den Betrieb der IT-Anwendung RINA (Reference Implementation for National Applications) im Bereich des Elterngeldes. RINA dient dem EU-weiten Datenaustausch unter Sozialleistungsträgern.

In der EU können grenzüberschreitend Sozialleistungen beansprucht werden, u.a. das Elterngeld.

Zur Vermeidung von Doppelbezügen hat der europaweite Austausch von Sozialdaten unter den zuständigen Behörden in den EU-Mitgliedstaaten im Rahmen der Verordnungen (EG) Nrn. 883/2004 und 987/2009 elektronisch über das System „EESSI“ (Electronic Exchange of Social Security Information) zu erfolgen.

Dienstgebäude und
Lieferanschrift:
Völklinger Straße 4
40219 Düsseldorf
Telefon 0211 837-02
Telefax 0211 837-2200
poststelle@mkffi.nrw.de
www.mkffi.nrw

Öffentliche Verkehrsmittel:
Rheinbahn Linien
706, 709 (Haltestelle Stadttor)
707 (Haltestelle Wupperstraße)

Für den Zugang zum EESSI-System wird im Wesentlichen die von der Europäischen Kommission entwickelte und bislang kostenlos zur Verfügung gestellte Software RINA („Reference Implementation for National Applications“) genutzt. Für die Elterngeldstellen erfolgt der Zugang zum EESSI-System über einen sogenannten Access Point bei der Bundesagentur für Arbeit. RINA wird den anderen Ländern bzw. den dortigen Elterngeldstellen zentral vom Land Nordrhein-Westfalen (das hierfür IT.NRW beauftragt hat) bereitgestellt.

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Nach der Entwicklungsphase und dem Pilotbetrieb von RINA hat die Europäische Kommission entschieden, dass der weitere Betrieb von den Mitgliedstaaten übernommen werden soll („RINA Handover“). Seit Januar 2022 leistet die Kommission für RINA nur noch einen rudimentären Support. Italien hat ein Joint Procurement Agreement (JPA, vgl. Art. 39 der Richtlinie 2014/24/EU) erarbeitet, mit dem die Mitgliedstaaten entsprechende Leistungen gemeinsam beschaffen wollen (Anlage 1 zur Kooperationsvereinbarung).

Von deutscher Seite sind neben den Elterngeldstellen drei weitere deutsche Organisationen mit relativ geringen Fallzahlen (Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen e. V., Sozialversicherung für Landwirtschaft, Forsten und Gartenbau [SVLFG], Generalzolldirektion) darauf angewiesen, den RINA-Support über das JPA zu nutzen. Da für jeden Mitgliedstaat nur ein Rechtsträger das JPA unterzeichnen kann, ist vereinbart, dass die SVLFG diese Rolle übernimmt und sich in einer Kooperationsvereinbarung mit den anderen deutschen Trägern verpflichtet, diese an dem RINA-Support, der über das JPA beschafft wird, teilhaben zu lassen.

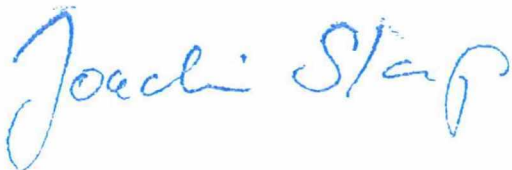
Das JPA ist auf eine Laufzeit von drei Jahren angelegt. Für das erste Jahr der Nutzung werden auf die deutschen Träger gemeinsam 90.000 Euro an Kosten entfallen; die Kosten für die Folgejahre werden vom Grad der Nutzung abhängen. Da die Kosten auf die deutschen Träger aufgeteilt werden und der auf das MKFFI entfallene Anteil (60.000 Euro) wiederum unter den Bundesländern nach dem Königsteiner Schlüssel verteilt wird, betragen die Kosten für das MKFFI für das erste Jahr der Nutzung 12.600 Euro. Auch im zweiten und dritten Jahr der Nutzung werden sie sich voraussichtlich im niedrigen fünfstelligen Bereich bewegen.

Die Elterngeldstellen sowohl in Nordrhein-Westfalen als auch in den anderen Bundesländern sind auf die Nutzung von RINA angewiesen. Diese wiederum erfordert technisch den Support und die Weiterentwicklung von RINA. Alternativen sind nicht ersichtlich: Die Entwicklung einer eigenen Software, die die Funktion von RINA übernehmen könnte, wäre aus wirtschaftlichen Gründen nicht vertretbar. Die Bundesagentur für Arbeit verfügt zwar über ein Parallelprodukt zu RINA, sieht aber keine Möglichkeit, anderen Trägern hierüber den Zugang zum Access Point zu gewähren. Durch die Teilnahme am JPA steht eine fachlich tragfähige und zudem kostengünstige Lösung zur Verfügung.

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Damit die Elterngeldstellen sowohl in Nordrhein-Westfalen als auch in den anderen Bundesländern an dem RINA-Support, der über das JPA beschafft wird, teilhaben können, hat MKFFI hat sich mit den drei anderen deutschen Trägern auf den beigefügten Entwurf einer Kooperationsvereinbarung geeinigt.

Mit freundlichen Grüßen



Dr. Joachim Stamp

Kooperationsvereinbarung zum RINA Handover

zwischen

**Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen e. V.,
Luisenstraße 17, 10117 Berlin, vertreten durch den Vorsitzenden des
Vorstandes sowie einen seiner Stellvertreter**

– im Folgenden: ABV –

und

**der Generalzolldirektion, Am Propsthof 78 a, 53121 Bonn, vertreten durch
die Präsidentin, diese vertreten durch den Direktionspräsidenten**

– im Folgenden: GZD –

und

**dem Land Nordrhein-Westfalen, vertreten durch das Ministerium für
Kinder, Familie, Flüchtlinge und Integration Nordrhein-Westfalen, dieses
vertreten durch die Leiterin der Abteilung Familie, LSBTIQ***

– im Folgenden: Land NRW –

und

**der Sozialversicherung für Landwirtschaft, Forsten und Gartenbau,
Weißensteinstraße 70 – 72, 34131 Kassel, vertreten durch die
Geschäftsführung**

– im Folgenden: SVLFG –

gemeinsam im Folgenden "Partner" genannt

**zur Teilnahme am sogenannten „Centralised Scenario“ des RINA
Handovers (Gemeinsame europaweite Vergabe zum Betrieb der RINA)**

Präambel

Gemäß Artikel 4 Absatz 2 Verordnung (EG) Nr. 987/2009 i. V. m. Artikel 95 Absatz 1 Satz 3 Verordnung (EG) Nr. 883/2004 i. V. m. dem Beschluss Nr. E7 der Verwaltungskommission für die Koordinierung der Systeme der sozialen Sicherheit vom 27. Juni 2019 über die praktischen Modalitäten der Zusammenarbeit und des Datenaustauschs bis zur vollständigen Umsetzung des elektronischen Austauschs von Sozialversicherungsdaten in den Mitgliedstaaten (Abl. EU vom 06. März 2020 C 73/5) hat der europaweite Austausch von Sozialdaten im Rahmen der Verordnungen (EG) Nrn. 883/2004 und 987/2009 elektronisch über das System „EESSI“ (Electronic Exchange of Social Security Information) zu erfolgen.

Die Partner nutzen hierfür die bislang von der Europäischen Kommission entwickelte und zunächst kostenlos zur Verfügung gestellte Software RINA (Reference Implementation for National Applications). Kurz nach dem Beginn des EESSI-Verfahrens beschloss die Kommission, die RINA nicht mehr weiter zu warten und den notwendigen Support einzustellen. Daher wurde zwischen mehreren betroffenen Stellen aus verschiedenen Mitgliedstaaten die Durchführung einer gemeinsamen europaweiten Ausschreibung nach Artikel 39 Richtlinie 2014/24/EU zur Sicherstellung des künftigen Betriebes der RINA vereinbart (Centralised Scenario). Das Nähere ist in einem Joint Procurement Agreement (JPA, Anlage 1) geregelt; soweit auf dieses im Folgenden verwiesen wird, bezieht sich dies auf die zum Zeitpunkt des Inkrafttretens dieser Vereinbarung vorliegende Fassung des JPA.

Mit dieser Vereinbarung wird das Ziel verfolgt, an dem Centralised Scenario teilzunehmen. Sie ist eine Vereinbarung i. S. v. Ziff. 4.1 Absatz 5 JPA und erforderlich, weil Ziff. 7.1 Buchstabe a Nr. 1 JPA vorsieht, dass pro Mitgliedstaat jeweils nur eine einzige Partei unterzeichnen und direkter Vertragspartner (Contracting Authority) werden kann. Zur Beteiligung weiterer Parteien aus einem Mitgliedstaat bedarf es gemäß Ziff. 1 JPA („Contracting Authority“) einer Vereinbarung auf nationaler Ebene zwischen der Contracting Authority und den weiteren zu beteiligenden Parteien („National Competent Institutions“ gemäß Definition in Ziff. 1 JPA).

Vor diesem Hintergrund wird Folgendes vereinbart:

§ 1 Gegenstand und Ziel der Kooperation

- (1) Die Partner schließen diese Vereinbarung mit dem Ziel, eine gemeinsame Teilnahme am Centralised Scenario zu ermöglichen. Hierzu unterzeichnet die Contracting Authority das JPA, ermöglicht allen Partnern eine Teilnahme am Centralised Scenario und räumt ihnen die im JPA beschriebenen Rechte einer National Competent Institution in Bezug auf die im Rahmen des Centralised Scenarios gewährten Leistungen ein, insbesondere zu Betrieb und Wartung der RINA sowie zu Trainings und Support (Service Desk). Die National Competent Institutions dürfen die im Rahmen des JPA beschafften Leistungen nur in dem Umfang nutzen, wie die Contracting Authority sie aufgrund des JPA erhält.
- (2) Durch die Vereinbarung wird keine Rechtsgemeinschaft, insbesondere keine eigenständige juristische Person, zwischen den Partnern gegründet.
- (3) Keiner der Partner wird zur rechtlichen Vertretung oder Verpflichtung eines der anderen Partner ermächtigt, soweit diese Vereinbarung nicht ausdrücklich etwas anderes vorsieht.

§ 2 Partner

- (1) Bei den Partnern handelt es sich um Stellen, die entweder selbst zur Nutzung von EESSI berechtigt sind und hierfür die RINA nutzen oder vertraglich verpflichtet sind, anderen Stellen die Nutzung von RINA zu ermöglichen.
- (2) Jeder Partner benennt in Textform einen Hauptansprechpartner („Single Person of Contact“ – SPOC) und stellt dessen Stellvertretung, insbesondere im Abwesenheitsfalle, sicher. Die SPOCs sind zur Vertretung ihrer jeweiligen Partner nach Maßgabe dieser Vereinbarung berechtigt. Sämtliche Kommunikation unter den Partnern und unter Einbezug der Contracting Authority soll grundsätzlich über die SPOCs erfolgen.

§ 3 Contracting Authority

- (1) Die SVLFG nimmt die Funktion der Contracting Authority wahr. Sie ist zugleich Partner im Sinne der Vereinbarung.

- (2) Die Contracting Authority ist zur Vertretung der Partner nach Maßgabe des JPA sowie dieser Vereinbarung berechtigt.
- (3) Die Aufgaben der Contracting Authority bestimmen sich nach dem JPA und dieser Vereinbarung. In diesem Rahmen macht sie insbesondere im Sinne des § 1 Absatz 1 allen Partnern die durch das Centralised Scenario gewährten Leistungen zugänglich.
- (4) Die Partner können einvernehmlich durch schriftliche Vertragsänderung eine andere Contracting Authority bestimmen, wenn dadurch die gemeinsame Teilnahme am Centralised Scenario nicht beeinträchtigt wird. Sie haben sich hierbei unter Einbezug der bisherigen Contracting Authority nach bestem Wissen und Gewissen zu unterstützen.
- (5) Die Partner stellen der Contracting Authority sowohl vor der Unterzeichnung des JPA als auch bei Änderungen rechtzeitig die gemäß JPA und dessen Annexen erforderlichen Daten zur Verfügung. Dies betrifft insbesondere die Angabe der nach § 1 Absatz 1 zu vertretenden Institutionen.

§ 4 Board Members

- (1) Die Partner bestimmen einen Vertreter sowie dessen Stellvertreter für das Management Board (Management Board Member) nach Ziff. 6.3 JPA; sie können zudem, soweit erforderlich, einen Vertreter für das Technical Board (Technical Board Member) nach Ziff. 6.4 JPA vorschlagen (Board Members).
- (2) Die Aufgaben der Board Members bestimmen sich nach dem JPA und dieser Vereinbarung. Im Rahmen ihrer Aufgabenwahrnehmung vertreten sie die Interessen der Partner. Sie unterrichten die Partner über aktuelle Entwicklungen und berichten von Sitzungen der Boards. Soweit möglich, stimmen sie sich vor Beschlussfassungen der Boards mit den Partnern darüber ab, wie abgestimmt werden soll. Ist nach den Bestimmungen in Ziff. 6.1 des JPA eine Agenda erstellt worden, ist eine vorherige Abstimmung grundsätzlich möglich. Ist eine vorherige Abstimmung nicht möglich, sind die Board Members berechtigt und verpflichtet, nach bestem Wissen und Gewissen im mutmaßlichen Sinne aller Partner abzustimmen.

- (3) Die Board Members einschließlich ihrer Stellvertreter stammen aus dem Kreis derjenigen Partner, die nicht die Funktion der Contracting Authority wahrnehmen. Jeder Partner kann eine natürliche Person als Board Member vorschlagen, wenn diese ihrer Nominierung vorab zugestimmt hat. Board Members müssen nicht bei einem der Partner in einem Anstellungsverhältnis stehen.
- (4) Die Board Members werden mit einfacher Mehrheit bestimmt. Jeder Partner hat eine Stimme. Bei Stimmgleichheit entscheidet die Contracting Authority.
- (5) Die Partner können Board Members mit einfacher Mehrheit abberufen, wenn sie zuvor mit einfacher Mehrheit ein neues Board Member bestimmt haben. Die Entscheidung über die Abberufung ist dem Board Member sowie der Contracting Authority schriftlich mitzuteilen. Die Abberufung wird wirksam zum Ende des Monats, der auf den Monat folgt, in welchem die Erklärung über die Abberufung bei der Contracting Authority eingegangen ist.
- (6) Ein Board Member kann seine Tätigkeit mit schriftlicher Erklärung gegenüber den Partnern beenden. Die Erklärung wird wirksam zum Ende des Monats, der auf den Monat folgt, in dem die Erklärung den Partnern zugegangen ist. Das Board Member hat die Partner frühestmöglich unverzüglich zu unterrichten, wenn es seine Tätigkeit beenden möchte und die Partner bei der Bestimmung eines neuen Board Members nach bestem Wissen und Gewissen zu unterstützen.
- (7) Die Board Members werden von der Contracting Authority gegenüber der gemäß dem JPA zuständigen Stelle bekannt gegeben und damit von der Contracting Authority dazu berufen, ihre Tätigkeit im Board auszuüben. Wechsel von Board Members teilt die Contracting Authority nach Maßgabe des JPA gegenüber der dort benannten Stelle mit.

§ 5 Durchführung der Kooperation

- (1) Die Zusammenarbeit der Partner einschließlich der Contracting Authority ist von dem übereinstimmenden Willen zur gemeinschaftlichen,

vertrauensvollen, rücksichtsvollen und konsensorientierten Zusammenarbeit geleitet.

- (2) Das Management Board Member nimmt zugleich die Funktion eines Leitenden Koordinators (Principal Coordinator – PCO) wahr. Der PCO ist zentraler Ansprechpartner für alle Partner einschließlich der Contracting Authority.
- (3) Arbeitstreffen finden jeweils zum Quartalsanfang sowie zusätzlich jederzeit auf Wunsch mindestens eines Partners statt. Die Einberufung und Leitung der Arbeitstreffen obliegt dem PCO. Jeder Partner einschließlich der Contracting Authority hat sicherzustellen, dass an jedem Arbeitstreffen sein SPOC oder dessen Stellvertreter teilnimmt. Die Teilnahme des Board Members oder seines Stellvertreters ist bei jedem Arbeitstreffen sicherzustellen.
- (4) Bei Abstimmungen verfügt jeder Partner über eine Stimme. Soweit in dieser Vereinbarung nichts anderes geregelt ist, werden Entscheidungen mit einfacher Mehrheit der Stimmen aller Partner getroffen. Bei Stimmengleichheit gibt die Stimme der Contracting Authority den Ausschlag.
- (5) Jedem Partner, der glaubhaft machen kann, dass er in berechtigten Interessen, insbesondere in finanzieller Hinsicht, durch eine bestimmte Entscheidung im Management Board oder im Technical Board erheblich beeinträchtigt würde, steht ein Vetorecht gegen einen einer solchen Entscheidung zustimmenden Beschluss der Partner zu. Übt ein Partner dieses Vetorecht zulässigerweise aus, haben die Board Members sich bei der betroffenen Beschlussfassung im Board zu enthalten und auf die das Vetorecht begründenden Umstände hinzuweisen.
- (6) Geschäftsjahr ist das gemäß Ziff. 1 JPA festgelegte Financial Year. Dieses beginnt mit der Unterzeichnung eines Vertrages mit dem erfolgreichen Bieter und endet zwölf Monate später.

§ 6 Finanzierung

- (1) Die Contracting Authority organisiert die gemäß dem JPA zu leistenden Zahlungen. Dabei beachtet sie insbesondere die Vorgaben nach Ziff. 7 JPA.

- (2) Die Gesamtkosten für die Teilnahme am Centralised Scenario betragen für das erste Geschäftsjahr 90.000 Euro. Für das zweite und dritte Geschäftsjahr bestimmen sich die Gesamtkosten nach den Regelungen des JPA. Die Aufteilung der Gesamtkosten unter den Partnern legen die Partner in Anlage 2 einvernehmlich fest. Im Fall eines Beitritts oder des Ausscheidens eines Partners wird die Umlage unter Berücksichtigung der neuen Sachlage spätestens zum nächsten Zahlungstermin neu berechnet.
- (3) Die Kosten für die Teilnahme am Centralised Scenario sind von der Contracting Authority innerhalb der im JPA festgelegten Fristen an die im JPA bezeichnete zuständige Stelle zu zahlen. Die Contracting Authority unterrichtet die Partner unverzüglich von den zu entrichtenden Gesamtkosten eines Geschäftsjahres sowie sonstigen Zahlungsforderungen nach dem JPA. Die Partner haben der Contracting Authority ihre Kostenanteile sowie sonstige von ihnen zu entrichtende Zahlungen nach dem JPA unverzüglich nach Kenntnis ihres Kostenanteils, spätestens jedoch zwei Wochen vor Ende der in Ziff. 7 JPA vorgesehenen Zahlungsfristen für die Contracting Authority an das von der Contracting Authority bezeichnete Konto zu überweisen.
- (4) Versäumt ein Partner eine ihn betreffende Zahlungsfrist und verursacht damit eine nicht fristgerechte Zahlung der Contracting Authority mit der Folge, dass Ziff. 7.1 Buchstabe b Nr. 1 JPA Anwendung findet, stellt der säumige Partner die Contracting Authority sowie die übrigen Partner von jeglichen aufgrund seiner Säumnis entstandenen Forderungen und Schadensersatzansprüchen frei, soweit diese der Höhe nach den Kostenanteil der jeweiligen Partner überschreiten, den diese auch ohne die Säumnis des Partners nach dem JPA sowie dieser Vereinbarung zu zahlen haben.
- (5) Zahlt die Contracting Authority trotz fristgerechter Zahlungen der Partner ihrerseits nicht fristgerecht an die im JPA bezeichnete zuständige Stelle und findet Ziff. 7.1 Buchstabe b Nr. 1 JPA Anwendung, stellt die Contracting Authority die übrigen Partner von jeglichen aufgrund ihrer Säumnis entstandenen Forderungen und Schadensersatzansprüchen frei, soweit diese der Höhe nach den Kostenanteil der jeweiligen Partner überschreiten, den diese auch ohne die Säumnis der Contracting Authority nach dem JPA sowie dieser Vereinbarung zu zahlen haben.

- (6) Versäumt ein Partner eine ihn betreffende Zahlungsfrist und veranlasst dadurch die Contracting Authority, den auf den säumigen Partner entfallenden Kostenanteil gegenüber der im JPA bezeichneten zuständigen Stelle selbst zu übernehmen, wird der säumige Partner nicht von seiner Leistungspflicht gegenüber der Contracting Authority frei. Überweist er den auf ihn entfallenden Kostenanteil nicht innerhalb von 30 Tagen nach einer schriftlichen Mahnung durch die Contracting Authority an diese, endet die Verpflichtung der Contracting Authority, diesem Partner im Sinne des § 1 Absatz 1 die durch das Centralised Scenario gewährten Leistungen zugänglich zu machen. Der säumige Partner stellt die Contracting Authority sowie die übrigen Partner von jeglichen aufgrund seiner Säumnis entstandenen Forderungen und Schadensersatzansprüchen frei, soweit diese der Höhe nach den Kostenanteil der jeweiligen Partner überschreiten, den diese auch ohne die Kündigung des Partners nach dem JPA sowie dieser Vereinbarung zu zahlen haben.
- (7) Sollte ein Betrag von der im JPA bezeichneten zuständigen Stelle an die Contracting Authority zurückgezahlt werden, überweist ihn diese entsprechend der zwischen den Partnern vereinbarten Kostenaufteilung innerhalb von zwei Wochen an die von den Partnern jeweils zur Erfüllung dieser Vereinbarung der Contracting Authority gegenüber mitgeteilten Konten.

§ 7 Haftung

- (1) Die Contracting Authority haftet nach Maßgabe des JPA. Hat ein Partner eine Haftung der Contracting Authority nach dem JPA zu vertreten, stellt er die Contracting Authority insoweit von den gegen sie gerichteten Forderungen und Ansprüchen frei.
- (2) Die Partner haften untereinander, soweit in dieser Vereinbarung nichts anderes geregelt ist, wie folgt:
1. unbeschränkt für Vorsatz und grobe Fahrlässigkeit;

2. für einfache Fahrlässigkeit – außer bei Verletzung des Lebens, des Körpers oder der Gesundheit – nur soweit wesentliche Vertragspflichten (Kardinalpflichten) verletzt werden;
 3. im Falle einfacher Fahrlässigkeit ist eine Haftung für mittelbare und unvorhersehbare Schäden, Produktions- und Nutzungsausfall, entgangenen Gewinn, ausgebliebene Einsparungen und Vermögensschäden aufgrund von Ansprüchen Dritter ausgeschlossen, es sei denn, es handelt sich um eine Verletzung von Leben, Körper oder Gesundheit;
 4. für mittelbare Schäden, Folgeschäden oder ähnliche Schäden nur, sofern diese Schäden durch eine vorsätzliche Handlung oder durch eine Verletzung der Geheimhaltungspflicht verursacht wurden.
- (3) Die Haftung der Partner untereinander ist auf den vertragstypischen, vorhersehbaren Schaden begrenzt, maximal jedoch bis zur Höhe des Anderthalbfachen des individuellen Kostenanteils, soweit der Schaden nicht durch Vorsatz verursacht wurde.
- (4) Soweit die Partner im Rahmen dieser Vereinbarung einander Empfehlungen und Ratschläge geben, gelten diese als ohne jegliche Gewährleistung oder Haftung erteilt (unverbindliche Beiträge), soweit nicht etwas anderes ausdrücklich schriftlich vereinbart wird. Keiner der Partner hat einen Anspruch auf Schadensersatz oder einen sonstigen Haftungsanspruch gegen einen anderen Partner aufgrund unverbindlicher Beiträge.
- (5) Soweit die Haftung nach diesem Paragraphen ausgeschlossen oder beschränkt ist, gilt dies auch für die persönliche Haftung der Mitarbeiter, Vertreter, Organe und Erfüllungsgehilfen der Partner.
- (6) Keiner der Partner haftet für Verbindlichkeiten, die im Rahmen der Kooperation im Geschäftsbereich eines anderen Partners entstehen.
- (7) Im Übrigen bestimmt sich die Haftung der Partner nach den gesetzlichen Bestimmungen mit der Maßgabe, dass Ansprüche nicht vor Ablauf der im JPA geregelten Fristen verjähren.

§ 8 Geheimhaltung und Datenschutz

- (1) Die Partner verpflichten sich zur Geheimhaltung entsprechend den Geheimhaltungspflichten der Contracting Authority nach Ziff. 9 JPA in Verbindung mit dem JPA Security Traffic Light Protocol gemäß Annex 6 JPA (Anlage 3).
- (2) Die Partner verpflichten sich, die Arbeitsergebnisse der jeweils anderen Partner sowie alle sonstigen Informationen, insbesondere technischer und wirtschaftlicher Art, Absichten, Erfahrungen, Erkenntnisse, Konstruktionen und Unterlagen, einschließlich der vorbestehenden Ergebnisse, die ihnen aufgrund der Zusammenarbeit gemäß dieser Vereinbarung bekannt werden (zusammen „Confidential Information“ genannt), Dritten gegenüber – auch über die Dauer der Vereinbarung hinaus – vertraulich zu behandeln, Dritten nicht zugänglich zu machen, vor dem Zugriff Dritter zu schützen sowie nicht zum Gegenstand einer eigenen Schutzrechtsanmeldung zu machen.
- (3) Die Partner sind nur mit vorheriger Zustimmung der anderen Partner berechtigt, diese Confidential Information an etwaige Nachunternehmerfirmen unter Auferlegung der Verpflichtungen über die Vertraulichkeit weiterzugeben.
- (4) Die vorstehenden Verpflichtungen gelten nicht für solche Confidential Information, die einem Partner bereits vor ihrer Mitteilung im Rahmen dieser Vereinbarung bekannt waren, von diesem unabhängig erarbeitet oder anderweitig rechtmäßig erlangt wurden oder die allgemein sind oder ohne Verstoß gegen diese Vereinbarung allgemein bekannt werden oder zu denen ein Partner aufgrund einer rechtlichen Verpflichtung Zugang gewähren muss.
- (5) Die Partner werden in geeigneter Form dafür sorgen, dass auch die von ihnen bei der Durchführung dieser Vereinbarung hinzugezogenen Mitarbeiter, freien Mitarbeiter und Unterauftragnehmer die vorstehende Vertraulichkeit wahren.
- (6) Nach Beendigung dieser Vereinbarung sind die in Unterlagen etc. – einschließlich sämtlicher Kopien – verkörperten Arbeitsergebnisse und sonstige Confidential Information eines Partners, die sich im Besitz oder unter Kontrolle eines anderen Partners befinden, von diesem an den betreffenden Partner vollständig und unverzüglich zurückzugeben.

- (7) Die Partner sind verpflichtet, die gesetzlichen Datenschutzbestimmungen nach der Europäischen Datenschutz-Grundverordnung (DS-GVO) und den sie ergänzenden nationalen Vorschriften zum Datenschutz (Bundesdatenschutzgesetz, Sozialgesetzbuch etc.) einzuhalten, wenn und soweit zur Durchführung der Kooperation personenbezogene Daten nach Artikel 4 Nr. 1 DS-GVO verarbeitet werden.
- (8) Werden im Rahmen des JPA vom beauftragten Leistungserbringer für die verantwortlichen Stellen, die RINA nutzen, personenbezogene Daten im Auftrag nach Artikel 28 DS-GVO verarbeitet, wirken die Partner auf den Abschluss einer Vereinbarung im Sinne des Artikels 28 Absatz 3 DS-GVO zwischen dem Leistungserbringer und der verantwortlichen Stelle hin, soweit die Partner nicht selbst Verantwortliche nach Artikel 4 Nr. 7 DS-GVO sind.
- (9) Personenbezogene Daten (Artikel 4 Nr. 1 DS-GVO) dürfen nur für die in § 1 dieser Vereinbarung festgelegten Zwecke verarbeitet und nicht länger gespeichert werden, als es für die Erfüllung der Pflichten aus dieser Vereinbarung erforderlich ist. Gesetzliche Aufbewahrungspflichten bleiben von dieser Regelung unberührt.
- (10) Die zur Erfüllung der Pflichten aus dieser Vereinbarung erforderlichen Kommunikationswege und Ablagestrukturen der Partner müssen dem Schutzbedarf der Informationen und Daten entsprechend sicher sein und dem Stand der Technik entsprechen. Die Partner verpflichten sich, geeignete Kommunikationswege und Ablagestrukturen sowie gegebenenfalls weitergehende technische und organisatorische Maßnahmen zur Sicherstellung der Geheimhaltungspflichten und Gewährleistung der Sicherheit der Verarbeitung von Daten gemeinsam und nachweisbar festzulegen.

§ 9 Beitritt und Kündigung

- (1) Neben den Gründungspartnern können weitere Partner beitreten. Voraussetzung für den Beitritt ist, dass alle Partner sich mit dem Beitritt einverstanden erklären. Beitritts- und Einverständniserklärungen bedürfen der Schriftform.

- (2) Tritt ein neuer Partner nach Inkrafttreten der Vereinbarung bei, hat er entsprechend Ziff. 7.1 Buchstabe a Absatz 3 JPA seinen individuellen Kostenanteil so zu leisten, als wäre er bereits zum Zeitpunkt des Inkrafttretens der Vereinbarung beigetreten.
- (3) Die Partner übernehmen Verpflichtungen nach dieser Vereinbarung unter dem Vorbehalt der Bereitstellung der erforderlichen Mittel durch ihren Haushalt oder jenen ihrer gesetzgebenden Körperschaft. Stehen für ein Haushaltsjahr keine Mittel für die Entrichtung des eigenen Kostenanteils bereit, scheidet der betroffene Partner mit Ende des vorhergehenden Haushaltsjahres automatisch aus der Vereinbarung aus. Er hat dies allen Partnern unverzüglich schriftlich anzuzeigen.
- (4) Jeder Partner kann mit einer Frist von sechs Monaten zum Ende des Geschäftsjahres kündigen. Die Kündigung ist schriftlich gegenüber allen Partnern zu erklären. Die Kündigungsfrist beginnt ab dem Tag, der auf den Tag folgt, an dem alle Partner die schriftliche Kündigungserklärung erhalten haben. Die Kündigung eines Partners lässt die Vereinbarung zwischen den anderen Partnern im Übrigen unberührt, soweit die Durchführung der Vereinbarung nicht insgesamt unmöglich wird.
- (5) Bei der Beendigung des Kooperationsverhältnisses durch einen Partner ist von diesem zu gewährleisten, dass laufende Verfahren in seinem Verantwortungsbereich ordnungsgemäß abgeschlossen werden können, auch wenn das Ende der Laufzeit des Verfahrens nach dem Ende der Kooperation liegt.
- (6) Kündigt ein Partner diese Vereinbarung oder scheidet aus, bleibt seine Verpflichtung zur Entrichtung seines Anteils an den Gesamtkosten bestehen, so lange die Contracting Authority nach Ziff. 7.1 JPA verpflichtet ist, den auf diesen Partner entfallenden Anteil an den Gesamtkosten eines Geschäftsjahres sowie sonstigen Zahlungsforderungen nach dem JPA an die im JPA bezeichnete Stelle weiterzuleiten, mindestens aber für die in Ziff. 3.2 JPA bestimmte Dauer. Der kündigende oder ausscheidende Partner stellt die Contracting Authority sowie die übrigen Partner von jeglichen aufgrund seiner Beendigung des Kooperationsverhältnisses entstandenen Forderungen und Schadensersatzansprüchen frei, soweit diese der Höhe nach den

Kostenanteil der jeweiligen Partner überschreiten, den diese auch ohne die Kündigung oder das Ausscheiden des Partners nach dem JPA sowie dieser Vereinbarung zu zahlen haben.

- (7) Mit Wirksamwerden der Kündigung oder des Ausscheidens eines Partners endet die Verpflichtung der Contracting Authority, diesem Partner im Sinne des § 1 Absatz 1 die durch das Centralised Scenario gewährten Leistungen zugänglich zu machen.
- (8) Eine Kündigung des JPA durch die Contracting Authority ist nur zulässig, wenn dies zuvor von allen Partnern einvernehmlich beschlossen wurde. Kündigt die Contracting Authority das JPA entgegen dem Willen der Partner, stellt sie die Partner von jeglichen aufgrund ihrer Kündigung entstandenen Forderungen und Schadensersatzansprüchen frei, soweit diese der Höhe nach den Kostenanteil der jeweiligen Partner überschreiten, den diese auch ohne die Kündigung der Contracting Authority nach dem JPA sowie dieser Vereinbarung zu zahlen haben.

§ 10 Inkrafttreten und Geltungsdauer

- (1) Die Vereinbarung tritt in Kraft, sobald sie durch drei der vier Gründungspartner unterzeichnet worden ist. Gründungspartner sind die ABV, die GZD, das Land NRW sowie die SVLFG.
- (2) Die Vereinbarung gilt für die in Ziff. 3.2 JPA bestimmte Dauer. Sie kann verlängert werden, wenn mindestens zwei Partner dies schriftlich vereinbaren und sichergestellt ist, dass einer dieser Partner die Rolle der Contracting Authority übernimmt. Die zum Ende der in Satz 1 bestimmten Laufzeit amtierende Contracting Authority wird durch eine Vertragsverlängerung nach Satz 2 nicht verpflichtet, weiterhin die Funktion der Contracting Authority wahrzunehmen.
- (3) Die Vereinbarung kann von den Partnern jederzeit einvernehmlich mit sofortiger Wirkung beendet werden. Durch die Beendigung entstehende Mehraufwendungen bei der Abwicklung der Vereinbarung werden von den Partnern nach Maßgabe der von ihnen vereinbarten Kostenaufteilung beglichen.

§ 11 Schlussbestimmungen

- (1) Sollten einzelne Bestimmungen dieser Vereinbarung unwirksam oder undurchführbar sein oder nach Vertragsschluss unwirksam oder undurchführbar werden, bleibt davon die Wirksamkeit der Vereinbarung im Übrigen unberührt. An die Stelle der unwirksamen oder undurchführbaren Bestimmung soll diejenige wirksame und durchführbare Regelung treten, deren Wirkungen der intendierten Zielsetzung am nächsten kommen, die die Partner mit der unwirksamen beziehungsweise undurchführbaren Bestimmung verfolgt haben. Dabei soll, soweit möglich, auch die entsprechende Anwendung von Regelungen aus dem JPA geprüft werden. Die vorstehenden Bestimmungen gelten entsprechend für den Fall, dass sich die Vereinbarung als lückenhaft erweist.
- (2) Diese Vereinbarung kann nur durch eine schriftliche Vertragsänderung geändert werden, der alle Partner zustimmen müssen.
- (3) Nebenabreden bedürfen der Schriftform. Das gilt auch für einen Verzicht auf dieses Schriftformerfordernis.
- (4) Die Übertragung von Rechten und Pflichten aus dieser Vereinbarung ist mit vorheriger Zustimmung der anderen verbleibenden Partner oder nach Ausscheiden eines Partners mit vorheriger Zustimmung der verbleibenden Partner möglich.
- (5) Es gilt das Recht der Bundesrepublik Deutschland.

Ausgefertigt am:

Berlin, den _____

ABV

Bonn, den _____

GZD

Düsseldorf, den _____
Land NRW

Kassel, den _____
SVLFG

RINA Handover

Establishment of a 3-year Joint Procurement Agreement

Period covered: 2021 – 2023

JOINT PROCUREMENT AGREEMENT

Article 39 of the DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014

Agreement regarding the joint procurement for the RINA Handover entered between

Name of the Participating Contracting Authorities	Acronym	MS
National Institute for Health and Disability Insurance	NIHDI	BE
National Social Security Institute	NSSI	BG
Ministry of Labour, Welfare and Social Insurance	MLSI	CY
Ministry of the Interior, Social Security Authority	MV OSZ ČR	CZ
Ministry of Labour and Social Affairs General Secretariat of Social Security	YPAKP	EL
Gerencia de Informática de la Seguridad Social	GISS	ES
Direction de la Sécurité Sociale	DSS	FR
Croatian Pension Insurance Institute	HZZO	HR
Department of Social Protection	DSP	IE
Social Insurance Administration	TR	IS
National Institute of Social Insurance	INPS	IT
Common Centre of Social Security	CCSS	LU
State Social Insurance Agency	SSIA	LV
Department of Social Security, Ministry for Social Justice and Solidarity, the Family and Children's Rights	DSS,MSFC	MT
CAK	CAK	NL
Norwegian Labour and Welfare Administration	NAV	NO
Institute of Informatics	II	PT
Ministry of Labour and Social Protection	MLSP	RO
Swedish Social Insurance Agency	FK	SE
Health insurance institute of Slovenia	ZZZS	SI

Change Records

Version	Date	Changes	Author

Acronyms and abbreviation

Acronym	Description
JPA	Joint Procurement Agreement
CA	Contracting Authority
MB	Management Board
TB	Technical Board
CPB	Central Purchasing Body
NDI	No Disclosure Information

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JOINT PROCUREMENT AGREEMENT

The Joint Procurement Agreement is based on Article 39 of the 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 (respectively, for utilities contracting entities, if applicable, Article 57 Directive 2014/25/EU), that stipulates that several contracting authorities from different EU Member States may jointly award a public contract by allocating specific responsibilities among them and determining the applicable provisions of the national laws of any of their respective EU Member States.

The Contracting Authorities shall conclude a Joint Procurement Agreement regarding their operation and co-ordination, including all internal aspects related to the management of the Rina Handover process.

The Rina Handover is the process that allows the Member States to take ownership of the RINA artefacts from the European Commission, through the establishment of – or reuse of existing – governance structure(s) meant to guarantee the overall maintenance of RINA. RINA is a component of EESSI (Electronic Exchange of Social Security Information). EESSI is an ICT system which connect Member States' administrations in charge of social security for electronic data exchanges. RINA has been developed by the European Commission pursuant to Regulation (EC) No 883/2004 and its Implementing Regulation (EC) No 987/2009, as last amended by Commission Regulation (EU) No 1372/2013 of 19 December 2013.

The Contracting Authorities are signing this agreement to divide the costs of managing the RINA product, with the support of an Help Desk service, the corrective and evolutionary maintenance of RINA, and for a feasibility study for a new RINA architecture and for RINA As A Service (Raas), performing a Call for Tender for searching a supplier, which they will pay jointly through a division of costs shared by the Contracting Authorities and carried out with an Amount for Contracting Authority (Annex 2) and the Cost Model.

The public procurement will be carried out from INPS in the name and on behalf of the participating Contracting Authorities, following the rules of non-discrimination, transparency, proportionality and equal treatment, economy and efficiency in order to increase economic competition and the professionalization of public procurement.

The Joint Procurement Agreement is defined BETWEEN:

for each MS and the related Representatives

- INPS, established in Via Ciro il Grande, 21 – 00187 Roma, represented by Vincenzo Caridi, the Representative of the Participating Contracting Authorities and the following Participating Contracting Authorities:

MS	Contracting Authority	Authorized Representative	Telephone number	Address	E-Mail Address
BE	National Institute for Health and Disability Insurance (NIHD)			Avenue de Galillé 5/01; 1210 Bruxelles	
BG	National Social Security Institute(NSSI)			62-64 Al. Stamboliysky Blvd., Sofia	
CY	Ministry of Labour, Welfare and Social Insurance			Lordou Vyronos 7, Nicosia 1465, Cyprus	
CZ	Ministry of the Interior, Social Security Authority			nám. Hrdinů 1634/3 PO BOX 122 140 21 Praha 4 Czech Republic	
EL	Ministry of Labour and Social Affairs General Secretariat of Social Security			Σταδίου 29, 10110 Athens	
ES	Gerencia de Informática de la Seguridad Social (GISS)			C\ Dr. Tolosa Latour, s/n , 28041 – Madrid , Spain	
FR	Direction de la Sécurité Sociale			14 Avenue Duquesne 75350 Paris	

HR	Croatian Pension Insurance Institute			Zagreb, Mihanovičeva 3	
IE	Department of Social Protection(DSP)			St. Oliver Plunkett Road, Letterkenny, Co. Donegal, Ireland	
IS	Social Insurance Administration			Hlíðasmári 11, 201, Kópavogur	
LU	Common Centre of Social Security (CCSS)			125 route d'Esch L-1471 Luxembourg	
LV	State Social Insurance Agency (SSIA)			Lāčplēša iela 70a, Rīga, LV-1011	
MT	Department of Social Security (DSS), Ministry for Social Justice and Solidarity, the Family and Children's Rights (MSFC)			310, Republic Street, Valletta, Malta	
NL	CAK			Pr. Beatrixlaan, 2595 AK Den Haag	
NO	Norwegian Labour and Welfare Administration(NAV)			Fyrstikkalléen 1, 0661 Oslo	
PT	Institute of Informatics(II)			Av. Prof. Dr. Cavaco Silva, 17 - Taguspark - 2740-120 - Porto Salvo	
RO	Romanian Ministry of Labour and Social Protection (RO - MLSP)			2-4, Dem. I. Dobrescu Street, sector 1, postal code 010026, Bucharest, Romania	
SE	Swedish Social Insurance Agency			Södra Järnvägsgatan, 41 851 93 SUNDSVALL	
SI	Health insurance institute of Slovenia			Miklošičeva cesta 24, 1000 Ljubljana	

The representatives of the Contracting Authorities have conferred powers of attorney for the purposes of the signature of the Joint Procurement Agreement.

1 Definitions

“**Contracting Authority**” shall refer to an Institution that represents itself or a group of Institutions that have signed an internal national agreement.

“**Partner**” shall refer to a Contracting Authority, that represent a new single Institution or a group of Institutions that have signed an internal national agreement that want to join to the JPA.

“**Access Rights**” shall pertain to the rights needed for carrying out the tasks assigned to the recipient Contracting Authority. Without the grant of such Access Rights, the assigned tasks would be impossible to undertake, significantly delayed, or could require significant additional financial and/or human resources.

“**Governance structure**” shall refer to the following bodies under the organisational structure of the Consortium:

- **Representative of the Participating Contracting Authorities (RPCA)**

shall refer to the main contact person for the EU Commission and the contractors and the Contracting Authorities.

- **Central Purchasing Body (CPB)**

shall refer to the responsible structure for the cash flow from the Contracting Authorities and for the management of the contractor. This structure is responsible for the Call for Tender and for choosing the contractor.

▪ **Management Board (MB)**

shall refer to the decision making board, with a representative from each Contracting Authority, it is responsible for the budget of the RINA Handover Program.

▪ **Technical Board (TB)**

shall refer to the technical and business experts of RINA elected amongst the Contracting Authorities that will control the contractor activities and deliverables.

“Defaulting Contracting Authorities” shall refer to Contracting Authority which the Management Board has identified to be in breach of this Agreement as specified in Article 4.2.

“Rina Handover Program” shall refer to all the activities connected to the RINA Handover decided in the JPA: the support of a L3/L4 Help Desk service, the corrective and evolutionary maintenance of RINA, and for a feasibility study for a new RINA architecture and for RINA As A Service (Raas).

“National Competent Institution” A National Competent Institution represents a social security sector institution from an organisation in a member state. An institution is uniquely identified by its institution id and country. A Competent institution is an institution that can handle an EESSI case. This means that the competent institution can be part of an international exchange of SEDs, following the process described in an EESSI BUC type. The BUC documents describe the international exchange processes and define the ‘actors’, also called ‘Roles’ of these processes. These actors are a ‘Case Owner’ and one or several ‘Counterparties’. We can thus define a Competent Institution as an institution that can handle an EESSI Case, i.e. participating to an occurrence of an EESSI BUC Type, as Case Owner or as Counterparty.

“Financial Year” The financial year will start with the signature of the contract with the successful supplier and will end twelve months later.

2 Purpose

The aim of the JPA is to ensure the electronic exchange of social security information among participating Member States involved in the EESSI project.

The purpose of this Agreement is to specify, with regard to the process of the RINA Handover, the relationship among the Contracting Authorities concerning the organisation of the work and allocation of the budget to the end of

- dividing the costs of managing the RINA product, with the support of a L3/L4 Help Desk service,
- the corrective and evolutionary maintenance of RINA,
- a feasibility study for a new RINA architecture and for RINA As A Service (Raas)
- performing a Call for Tender for identifying a contractor, which they will pay jointly through a division of costs shared by the Contracting Authorities and carried out with an “Amount for CA” (Annex 2) for the first year and a Cost Model to be agreed, to define during the Management Boards in the course of the first year, for the followings two years. (ref. to Chapter 7).

This Agreement specifies also the rights and obligations of the Contracting Authorities regarding, inter alia, liability, Access Rights and disputes resolution.

3 Entry into force, duration and termination

3.1 Entry into force

The entry into force of the present agreement is realized with the endorsement of the present JPA by a duly authorized representative with the signature of each Contracting Authority.

For a new Contracting Authority, the entry into force is realized with the endorsement of the instrument of accession (Annex 1) by the Representative of the Contracting Authorities and after the deposit of the agreed amount of money, to be determined by the Management Board. The decision to accept the new Contracting Authority is taken by the Management Board (majority vote). A new accession shall have effect when the Management Board accepts the new Contracting Authority, verifying the request through the instrument accession signed and the deposit of the assigned amount in the Bank Account of the Central Purchasing Body. By endorsing the instrument of accession, the joining Partner accepts all the clauses of the JPA.

3.2 Duration and termination

The legal effects of the present Agreement will start as described in the Chapter 3.1. and will terminate, after three years from the signature of the contract with the official contractor that has awarded the Call for Tender with the CPB and only after that the financial administration will be carried out from the Central Purchasing Body and approved from the Management Board, and after the redistributions of the remaining funds or the payments of the difference of the total amount (the amounts are calculated with the Cost Model).

This Agreement shall continue in full force and effect until the complete fulfilment of all obligations undertaken by the Contracting Authorities under this Agreement.

3.3 Amendments to the Agreement

Any amendment to the Agreement, decided with the majority votes of the Management Board, shall be made in writing.

Any request for amendment shall be duly justified and shall be sent to the other Contracting Authorities in due time before it is due to take effect, except in cases duly substantiated by the party requesting the amendment and accepted by the other parties.

A request for amendment on behalf of the Contracting Authority shall be submitted by the representative of the Contracting Authorities. The Representative of the Contracting Authorities shall jointly submit the Amendment by other Contracting Authorities.

Amendments shall take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

3.4 Survival of rights and obligations

Among the Contracting Authorities, the provisions relating to the Access Rights and Confidentiality, as well as for Liability, Applicable law and Settlement of disputes, will survive the expiration or termination of this Agreement for a period of ten (10) years after the end of the Program of the RINA Handover (Art.2946 c.c of the Italian Law) within the limitation of liability according to Article 5 of this agreement.

For any liability of the Contracting Authorities towards Third Parties, the Contracting Authorities will be jointly and severally liable within the statutory limitation period of five (5) years (Art. 2947 c.c. of the Italian Law).

Each Contracting Authority will be solely liable towards Third Parties for damages or lost costs made by its Affiliate Entities in the course of the Program of the RINA Handover within the limitation of liability according to Article 5 of this agreement.

4 Responsibilities of the Contracting Authorities

4.1 General principles

Each Contracting Authority shall concur to the Joint Procurement Agreement by depositing the budget calculated in accordance with the agreed Amount for Contracting Authority (Annex 2) for the first year and with the Cost Model agreed for the following two years (to define during the Management Boards in the course of the first year), and by cooperating, performing and fulfilling, promptly and on time, all of the obligations stipulated under this Agreement as may be reasonably required from it and in a manner of good faith as prescribed by the substantial law of the Central Purchasing Body (DIR 2014/24 Art.39 par.3). Central Purchasing Body substantive law shall complement the Member State law in which the CPB is located when interpreting this Agreement and when interpreting any issues related to, but not regulated by or not fully regulated by this Agreement.

Each Contracting Authority undertakes to notify promptly and in accordance with the governance structure of the JPA, any significant information, fact, problem or delay that could potentially have an impact on the JPA.

Each Contracting Authority shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Contracting Authority.

Each Contracting Authority undertakes each part of this agreement, and agree on the decision of the Management Board.

Each Contracting Authority can sign an internal agreement with National Competent Institutions for the use of the deliverables of this Joint Procurement Agreement. The Contracting Authority acknowledges that these Competent Institutions have the right to receive the deliverables, the trainings and all the support needed (included the Service Desk) from their respective Contracting Authority (a single point of contact for Contracting Authority).

Only each Contracting Authority can authorize a representative to participate in the Boards described in the present JPA, and only its representatives can propose new implementations and new developments in RINA source code.

For any internal National Agreement among the Contracting Authority and National Competent Institutions a declaration has to be communicate to the Management Board by listing the Institutions that the CA represents in the JPA with the information that permit to identify the messages exchanged by this Institutions. For any new Institution that will join after the signature of the JPA, connected to internal new national agreement, the Contracting Authority must communicate the updates of the declaration with this new entry within fifteen Calendar days.

Only after the delivery of this declaration to the Management Board the exchange of the messages for a new Institution will be allowed.

4.2 Breach

In the event that the CPB identifies a breach by a Participating Contracting Authority concerning its obligations under this Agreement (e.g.: a Contracting Authority doesn't deposit the difference of the budget calculated every year in the annual balance) that is acknowledged by the Management Board, the RPCA will give written notice to such CA requiring that such breach be remedied within 30 Calendar days.

If the occurred breach is substantial and is not remedied within the established period of time or the Participating Contracting Authority is not capable of remedy, the Management Board may decide to declare the Contracting Authority a "Defaulting Contracting Authority" and decide about the consequences thereof, including the termination of its participation to the JPA and penalties (ref. to Chapter 7).

5 Mutual Liability

5.1 No warranties

With regards to any information or materials supplied by one Participating Contracting Authority to another during the course of this JPA, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient Contracting Authority shall in all cases be entirely and solely liable for the use of such information and materials, and
- no Contracting Authority granting Access Rights shall be liable in case of infringement of proprietary rights of a third Contracting Authority resulting from any other Contracting Authority (or its Affiliates) exercising its Access Rights.

5.2 Limitations of contractual liability

Contracting Authorities shall be liable without limitation for intent and gross negligence.

Contracting Authorities shall be liable for simple negligence – except in the case of injury to life, body or health – insofar as essential contractual obligations (cardinal obligations) are violated.

The contractual liability is limited to the foreseeable damage typical for the contract, however, up to the individual cost amount of the Contracting Authority or Contracting Authorities concerned.

Liability for indirect and unforeseeable damage, loss of production and use, loss of profit, loss of savings and financial loss due to claims by third parties, is excluded in the case of simple negligence, except in the case of injury to life, limb or health.

Any further liability than provided for in this agreement is excluded.

Insofar as liability is excluded or limited in accordance with this Article, this shall also apply to the personal liability of Contracting Authority's employees, representatives, organs and vicarious agents.

No Contracting Authority shall be responsible to any other Contracting Authority for any indirect or consequential loss or similar damage such as, but not limited to, loss of costs or loss of contracts, provided that such damage was not caused by a wilful act or by a breach of confidentiality.

A Contracting Authority's aggregate liability towards the other Contracting Authority collectively shall be limited to the Partner's share of the total costs of the Program, as identified in Annex 2, provided that such damage was not caused by a wilful act or gross negligence.

The terms of this Agreement shall not be construed to amend or limit any Contracting Authority statutory liability.

The financial liability is limited. This limit is set up by the Management Board for each year in advance. The only body that can change this limit is the Management Board with a majority vote. The Central Purchasing Body will monitor the expenditures and the costs during the year with accounting instruments and will report it to the Management Board with a Monthly Report. If during the year the limit is reached, the Central Purchasing Body will advise immediately the Management Board and will stop all the activities generating costs.

5.3 Damage to third parties

Each Contracting Authority shall be solely liable for any loss, damage, or injury to third parties resulting from the performance of the said Contracting Authority's obligations by it or on its behalf under this Agreement.

5.4 Force Majeure

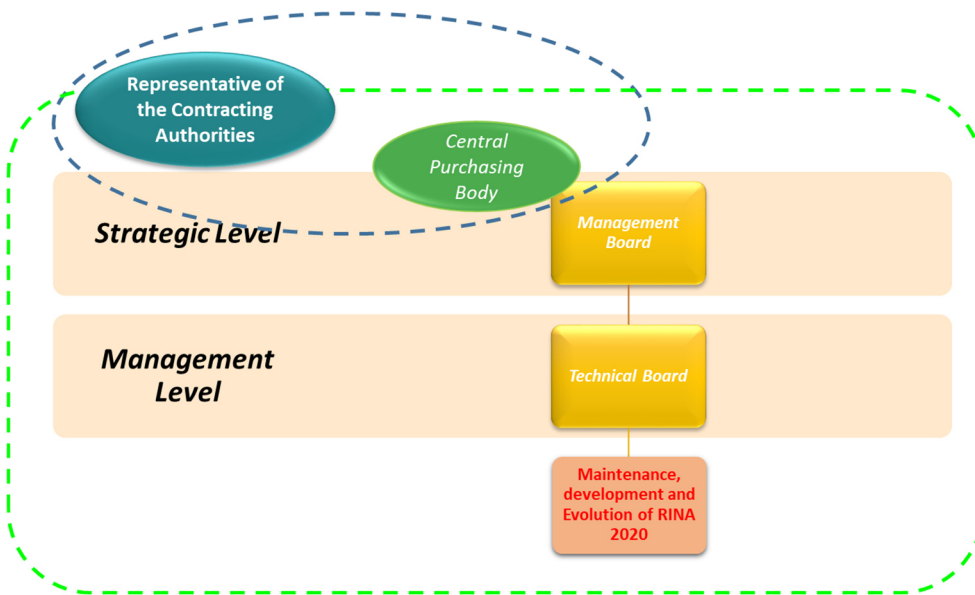
None of the Contracting Authorities joining the JPA shall be considered to be in breach of this Agreement if such breach is caused by Force Majeure.

The concept of force majeure is normally governed by arrangements between the parties or, in the absence thereof, the general principles of the common contract law where CPB resides.

Each Contracting Authority will notify the RPCA of any Force Majeure without undue delay. *Example of Force Majeure should be war, strike, riot, crime, epidemic or an event described by the legal term act of God, such as earthquake or tsunami.*

6 Governance structure

The organizational structure shall comprise the following Bodies.



6.1 Representative of the Participating Contracting Authorities (RPCA)

The Representative of the Participating Contracting Authorities is a representative among the parties participating in this agreement and other parties, such as the Management Board, the CPB, and that resides in the same MS where the CPB is located.

Main tasks in charge to Representative of the Participating Contracting Authorities are:

- Monitor that the actions of the organization are implemented in accordance with the terms and conditions of this agreement.
- Be the intermediary for all communications between the Contracting Authorities, such as:
 - Immediately provide the Contracting Authorities with the information related to any change in the name, address, legal representative as well as in the legal, financial, technical, organisational or ownership situation of any of the Contracting Authorities or of their affiliated entities, or to any event likely to affect or delay the implementation of an action, for which a specific grant was awarded, of which the Representative of the Participating Contracting Authorities is aware;
 - Bear responsibility for supplying all documents and information to all other Contracting Authorities of, which can impact activities, except where otherwise provided for these Agreements.

The Representative of the Participating Contracting Authorities shall not be entitled to act or to make legally binding declarations on behalf of any other Contracting Authorities of this Joint Procurement Agreement.

6.2 Central Purchasing Body

Central Purchasing Body “means a contracting authority providing centralised purchasing activities and, possibly, ancillary purchasing activities”

(ref. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>)

Official Journal of the European Union, 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).

The Central Purchasing Body is responsible for (ref. SIGMA Papers n.47):

- The Provision of goods and services;
- Organising tendering processes and evaluate the proposal, in view of improve cost-efficiency;
- Streamlining of procurement processes;
- Establishing efficient and attractive framework agreements and call-off systems for users and suppliers;
- Minimising risks by providing legal, technical, economic and contractual certainty to users;
- Offering high-level competence and professionalism in all key aspects of the CPB’s operations;
- Taking into considerations Reporting activities and Minutes of the Management Board;
- Implementing the decisions of the Management Board;
- The CPB has to follow the Annual Plan approved by the Management Board and stay inside budgetary limits set by Management Board;
- Producing monthly and quarterly reports on financial aspects;
- Managing the contractor;
- Declaring to the Management Board any defaulting CA;
- Stopping access to services for a defaulting CA;
- Reactivating access to services for a defaulting CA under decision of the MB;
- Budget Plan;
- Costs monitoring;
- Quarterly reports for evidences from budget consumes and objectives reached;
- Guaranteeing the operational level of the RINA Handover process, which takes care of the Project reporting, monitoring the Annual plan results;
- The Management Board must validate the activities of the Contractor;
- The CPB shall not exceed the maximum yearly budget as set out by the MB in any circumstances.

6.3 Management Board (MB)

The Management Board is a steering body having decision-making responsibilities. The Management Board shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein. All the proposals made by the Technical Board shall be considered and evaluated by the Management Board.

The decision-making process is based on common practise and follows the line of “consensus or conflict”, using as guidelines the established agreements. When there is a conflict, i.e. there is no consensus on the proposed matter. In particular circumstances consensus can be reached by means of voting (see § 6.6.3).

The Management Board shall meet periodically on a monthly basis, and additionally maybe if a specific quorum of members calls for a meeting. Each Management Board meeting shall be preceded by a Technical Board meeting. Contracting Authorities can be involved through scheduled Conference Calls, if it is so required.

The Management Board shall consist of:

- One delegate per Contracting Authorities (see list in Annex 4);
- A Deputy of the delegate per Contracting Authority, with voting rights only in case of absence of the standing Delegate;
- Other persons invited by the Chair (no members, only observers and/or advisors, no voting right).

The Management Board Members are listed in a specific annex (see Annex n. 5). If a change of the delegate of the Management Board for a Contracting Authority will occur, the Contracting Authority is obliged to send an official communication to the Representative of the Participating Contracting Authorities.

The following decisions shall be taken by the Management Board:

- Program management and steering;
- Policy;
- Strategy and Planning;
- Approval of the activities which will be conducted by the Central Purchasing Body;
- Maintenance, development, and evolution of RINA verification of progress;
- Budget and financial verification, i.e. setting the yearly maximum costs;
- Costs verification;
- Escalation of items/matters from the Technical Board;
- Intellectual property rights and other items resulting from the implementation of JPA;
- Changes to the Plan and budget;
- Action to be taken against a defaulting CA;
- Termination of a defaulting CA participation in the Agreement and assumption of legal measures.

Evolution of the Agreement:

- Entry of a new Partner to the Agreement and approval of the settlement on the conditions of the accession of such a new Partner;
- Withdrawal of a Partner from the Agreement and the approval of the settlement of the withdrawal conditions.

Deliverables:

- Annual plan (connected to the Change Requests to implement, non-conformities and anomalies/issues management and to the maintenance/new features of the RINA product); The Annual Plan has to be approved jointly with the CPB;
- Monitor that the actions (change request implementation, new developments of functions, minor changes, maintenance), for which specific grants were awarded, are implemented in accordance with the terms and conditions of Joint Procurement Agreements;
- Monitor the actions connected to the Annual Plan;
- The Management Board must validate the activities of
 - Central Purchasing Body
 - Technical Boards
- The MB, in collaboration with EC, verifies that all activities are compliant to the general infrastructure of EESSI;
- Make the appropriate arrangements for providing any financial guarantees required under the Joint Procurement Agreements;
- establish the quotes for payment in accordance with the JPA;
- Ensure that all the appropriate quote payments are made from Contracting Authorities without unjustified delay.

6.4 Technical Board (TB)

The Technical Board is responsible for the proper execution by the contractor of technical activities that the Management Board has agreed to be done. The Technical Board shall be:

- Ensure the correctness of maintenance;
- Monitoring testing activities and the monitoring of the maintenance process;
- Responsible for the proper execution of the contractor for the Service Desk services.

The Technical Board is also responsible for the proper execution of technical activities deriving from the decisions made by the Management Board.

The technical Board will evaluate the feasibility study for a new RINA architecture for RINA As A Service (Raas) submitted by the contracting supplier.

The Technical Board shall consist of

- Project Manager
 - The Project Manager is identified by the Management Board and reports back to the Management Board.
 - A Project Manager that check timely delivery and validate the correct costs of the maintenance activities, ensure the correct maintenance, testing activities and monitoring of the maintenance process.
- Technical Board Members
 - The Technical Board is identified by the Management Board and reports back to the Project Manager. It will be composed by technical experts (maximum 5 people), members of the participating Institutions of the Agreement.
 - Candidates will be evaluated during a Management Boards Meeting and chosen with a voting procedure.
 - The Technical Board has “no vote” in the Management Board but supports the process of a correct execution of the projects according to plans and planning approved by the Management Board.
 - The Technical Board is subject to changes each year accordingly and if requested by the Management Board.

The Technical Board shall have the following specific assignments:

- Will operate the planning of the Management Board;
- Will verify the technical results of the expert figures of the contractor;
- Analyses the impacts of changes, and issues;
- Gives advice to the Management Board;
- Reporting to the Management Board (through the project manager).

Deliverables:

- Progress reports (Progress on deliverables);
- Exception reports;
- Impact analyses on proposed project deviations (in the Annual Plan);
- Minutes from the Technical Board;
- Verification of the status of advancement of the deliverables of the Contractor;
- Support to the Contractor for the definition of the functional specifics given from the European Commission, through the EESSI change management process.

6.5 Role for the Members of Participating Contracting Authorities

- The principal role is to inform the Representative of the Participating Contracting Authorities immediately of any change in their legal, financial, technical, organizational or ownership situation and of any change in its name, address or legal representative;
- The list of the Contracting Authorities in Annex 3 will be kept and updated by the Representative of the Participating Contracting Authorities. Contracting Authorities are obliged to notify any change without any delay to the Representative of the Participating Contracting Authorities.

6.6 General operational procedures for all Bodies

a. Representation in meetings

Any Member of a Body Governance Structure:

- Should be present or represented at any meeting of the Body;
- May appoint a substitute or a proxy to attend and vote at any meeting of the Body;
- Shall participate in a cooperative manner in the meetings of the Body.

b. Preparation and organisation of meetings

Planning of the meetings:

- Regular meetings of the bodies are planned for the whole year;
- Ad hoc meetings, due to extraordinary events, are planned by the chairperson of that Body; the invitation together with the agenda is to be sent at least one week before the meeting.

Sending the agenda:

- The chairperson of that Body shall prepare and send each Member a written (original) agenda no later than 7 (seven) calendar days before the meeting, together with the relevant documents. In case objective reasons do not allow for original agenda by means of a written notification to all of the other Members not later than sending the documents within the stipulated time-frame, they must be submitted at the earliest possible and without unnecessary delay.

Adding agenda items:

- Any agenda item requiring a technical or management decision by the Members of the respective Body must be identified as such on the agenda.
- Any Member may add an item to the original agenda by means of a written notification to all of the other Members not later than 7 (seven) calendar days preceding the meeting.
- During the respective meeting the Members present or represented can unanimously agree to add a new item to the original agenda.
- Any technical decision may also be taken without a meeting if the chairperson circulates to all Members of the Technical Board a written document which is then signed by the defined absolute majority of all Members of the Technical Board.
- Any management decision may also be taken without a meeting if the chairperson circulates to all Members of the Management Board a written document which is then signed by the absolute defined majority of all Members of the Management Board.
- Meetings of each Board may also be held by teleconference or other telecommunication means.
- Decisions will only be binding once the relevant part of the Minutes has been accepted.

c. Voting rules and quorum

- Voting rules and quorum for the Technical Boards
The Technical Board shall not deliberate and decide validly, unless the half (1/2) of its Members are present or represented (quorum). The decisions will be taken if a simple majority of those present or represented is achieved.
- Voting rules and quorum for the Management Board
The Management Board shall not deliberate and decide validly unless three-fifths (3/5) of its Members are present or represented (quorum). The decisions will be taken if a 2/3 simple majority of those present or represented is achieved. No voting rights will be given to the chairperson. In case of tie-up the Chair of the MB will have the casting vote.

d. Veto rights

Each Contracting Authority that can demonstrate that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely prejudiced by a decision of the Technical Board may ask to present the issue to the Management Board that shall reply in a quick time, through the Representative of the Participating Contracting Authorities. The decisions taken by the Management Board are final.

e. Minutes of meetings

The chairperson or a Member designated by the chairperson shall produce written minutes of each meeting which shall be the formal record of all decisions taken. He/she shall send the draft minutes to all Members within 7 calendar days of the meeting.

The minutes shall be considered as accepted if, within 7 (seven) calendar days from their sending, no Member has objected in writing to the chairperson with respect to the accuracy of the draft of the minutes.

The chairperson shall send the accepted minutes to all Representative of Contracting Authorities.

7 Justifying Costs and Payments

The individual participation amount for the first year is determined on the basis of the "Amount for Contracting Authority" referred to the Annex 2.

Each Authority, by signing this Agreement, undertakes to pay the shareholding pertaining to it.

The first payment must be made fifteen days after the awarding of the Call but in any case before the signing of the contract with the successful supplier. For subsequent instalments, they will be paid one month before the expiry of the 12 months of the current financial year. The financial year will start with the signature of the contract with the successful supplier and will end twelve months later.

For each of the two subsequent years of application of this JPA, the MB applying the Cost Model Formula of the Option 1 reported in the Annex 2, will determinate the amount of each instalment three months before the expiry of the 12 months of the current financial year and the CPB will communicate to the partners the instalments which are to be paid one month before the expiry of the 12 months of the current financial year, upon a provided invoice to the respective CAs.

The Authority which at any time will be deemed in default, by a decision of the majority of the Management Board, will from that point in time no longer have access to the service and will in any case pay the individual cost of the entire three-years period, deducted any amount already paid, and from that moment the services entitled by the RINA product will be inhibited. The defaulting authority will also pay a penalty equal to 5% of the total amount due for the three-years period within 30 calendar days from the due date. During the period of default, the services foreseen for RINA product will be inhibited.

When, eventually, the Contracting Authorities will pay the due quote and the mentioned penalty the services for RINA will be restored.

At the end of the year, the CPB will prepare the financial statements, approved by the Management Board.

If a further contribution from the Contracting Authorities is necessary, the payment will be recalculated with the same proportion presented for the first year in the Amount for the Contracting Authority (Annex2), and the Contracting Authorities will have to pay the difference of the total amount for closing the annual accounts. For the two years after the payment will be done with the Cost Model chosen by the Management Board. If the annual budget closes in profit, the remaining funds will be divided among the participants in the same proportion in which the contribution was paid with respect to the Amount for the Contracting Authority (Annex2) for the first year, for the two years after following the Cost Model agreed by the Management Board. This amount will be considered as an advance of the next instalment. When the balance is made for the last year (at the end of the duration of this agreement) and if there is a profit, the remaining funds will be reimbursed to the Contracting Authorities.

The Amount for Contracting Authority and the amounts reported in it for each Contracting Authority for the first year of operation will be calculated with the Option 2 reported in the Annex 2. For the following years, second and third year, the Management Board will use the Formula of the Cost Model reported in the Annex 2 (Option 1). Any changes to the Cost Model Formula of the Option 1 for the second and third year must be approved by the Management Board unanimously and taking into account, in the calculation of the annual participation amount for each CA, the number of the messages exchanged (SEDs) by each Contracting Authority, including the messages exchanged by the Competent Institutions that have subscribed an internal national agreement with the respective Contracting Authority.

7.1 Joining and leaving the agreement

a. Joining

- 1) For every Member State one single institution can join this agreement and become a Contracting Authority for its Member State during the two Gates (in April and in September of each year) until the agreement expires, upon the payment of an amount calculated by the Management Board in accordance with the Cost Model in Annex 2. Anyway, for the first year of joining there will be an extra Gate at the end of November 2021.
- 2) For joining the agreement, a request for membership must be submitted in writing to the Management Board. The Management Board shall decide on the request for membership by not later than thirty calendar days from the date of submission. The accession becomes effective from the date of the payment of the due instalment as decided by the Management Board.
- 3) If a new Contracting Authority joins the agreement at a later stage it must contribute its individual cost amount retrospectively, from the date the agreement came into force in accordance with the Cost Models in Annex 2 as if it had joined from the beginning.

b. Leaving

The leaving of a Contracting Authority from this Joint Procurement Agreement may be due to default of the Contracting Authority or a voluntary exit.

- 1) The Authority which at any time will be deemed in default, with decision of the majority of the Management Board, will in any case pay the individual cost of the entire three-years period, deducted any amount already paid, and from that moment the services entitled by the RINA product will be inhibited.

The defaulting authority will also pay a penalty equal to 5% of the total amount due for the three-years period within 30 days from the due date. During the period of default, the services entitled by the RINA product will be inhibited.

- 2) The Authority which at any time during the valid period, decide to exit voluntary from this agreement, shall by a decision of the majority of the Management Board, will in any case pay the individual cost of the entire three-years period, deducted any amount already paid, and from effective date of payment, the services entitled by the RINA product will be inhibited.

7.2 Principles of evaluation of internal resources expenditures

For covering the role of expert of the Technical Board, the expenditures of the resources are evaluated in the following way.

The costs of personnel working under an employment contract with the Contracting Authority or an equivalent appointing act and assigned to the action, comprising actual salaries plus social security contributions and other statutory costs included in the remuneration, provided that these costs are in line with the Contracting Authority's usual policy on remuneration;

those costs may also include additional remunerations, including payments on the basis of supplementary contracts regardless of the nature of those contracts, provided that they are paid in a consistent manner whenever the same kind of work or expertise is required, independently from the source of funding used;

Duties, taxes and charges paid by the Contracting Authority, notably non-deductible value added tax (VAT), provided that they are included in eligible direct costs, and unless specified otherwise in the Agreement.

The Contracting Authority has to present a Timesheet of the experts that have worked in the Technical Board, and they have to request the reimbursement connected to the payroll of the employer.

For the Central Purchasing Body a reimbursement equivalent to the expenses accounted by the Working Sheets presented and approved by the MB will be done.

8 Bank Account for Payments

All payments from the Contracting Authorities shall be made to the Central Purchasing Body's bank account as indicated below:

Name of bank	Banca Di Credito Cooperativa Di Roma
Address of branch	Via Civiltà' Del Lavoro 79, 00144 Rome, Italy
Precise denomination of the account holder	I.N.P.S. Direz. Generale
Full account number (including bank codes)	IT73K0832703210000000000050
SWIFT code	ROMAITRRXXX

9 No-disclosure of Information

Contracting Authorities of this JPA conclude this No Disclosure Information (further referred to as the "NDI"), the object of which is the protection of confidential information, specified in point 10.1 of this NDI, provided by any other Contracting Authority in connection with executing rights and obligations arising out of this JPA.

9.1 The Contracting Authority agree that, for the purposes of this Agreement, confidential information shall be understood, all **information** of any nature relating to the documentation artefact connected to the new developments of RINA produced by the Contracting Authorities and the Technical Board and Management Board and the Central Purchasing Body, new developments and modification in the source code of RINA, installation kit of RINA, RINA analysis documentation, new feasibility studies about RINA as Services and new possible Architecture with the modality described in the JPA Security Traffic Light Protocol (Annex 10) except from:

- 9.1.1 Information which is publicly known on the date of conclusion of this NDI or which could already be obtained on that date from widely available sources;
- 9.1.2 Information which has become publicly known after the date of conclusion of this NDI or which can be obtained after that date from sources normally available, other than as a result of a breach of obligations under this NDI or any other analogous contract having as its object the protection of confidential facts;
- 9.1.3 Information which was made publicly available before or prior to its disclosure to the Contracting Authority, or became such upon disclosure to the Contracting Authority or, after obtaining it, to the Contracting Authority without infringing obligations under this NDI;
- 9.1.4 Information which was known Contracting Authority before it was disclosed to the Contracting Authorities, unless Contracting Authorities became known under this NDI or any other contract having as its object the protection of confidential information;
- 9.1.5 Information legally obtained by the Contracting Authority from a third party who is not bound by confidentiality against the Contracting Authorities or under the obligation to observe the confidentiality of the Contracting Authorities facts.

9.2 By agreeing on this NDI, the Contracting Authority undertakes to:

- 9.2.1 Observe complete secrecy of any confidential information which has been and will be disclosed to it by the Contracting Authorities, forwarded or made available to it;
- 9.2.2 Protect and conceal confidential information to the extent that it provides protection and confidentiality to its own confidential information;
- 9.2.3 Restrict the use of confidential information solely for the purpose of executing rights and obligations of the Contracting Parties arising of the JPA;
- 9.2.4 Copy or otherwise reproduce Confidential Information solely for own use for the purpose executing rights and obligations of the Contracting Parties arising of the JPA;
- 9.2.5 To supply or make available any confidential information to third parties solely with the prior written consent of all Contracting Authorities, with the exception of its disclosure or disclosure provided for in this NDI.

9.3 The Parties agree that the obligation of confidentiality does not apply to cases where:

- 9.3.1 The Contracting Authority disclosed Confidential Information with the prior written consent of other Contracting Authorities;
- 9.3.2 The Contracting Authority has provided confidential information to its staff, external advisors, auditors;
- 9.3.3 The Contracting Authority provided confidential information to persons processing data for the Contracting Authority;
- 9.3.4 By law, decision of a court or other competent authority, the Contracting Authority shall be obliged to provide Confidential Information;
- 9.3.5 The Contracting Authority is obliged to provide Confidential Information in any judicial, arbitration, administrative and other proceedings to which the Contracting Authority is a party.

- 9.4** Where confidential information is disclosed to the persons referred to in point 9.3.2. and point 9.3.3 of this NDI, carrying out an activity for the respective Contracting Authority, the respective Contracting Authority shall be directly responsible for the protection of such data provided, as if the Confidential Information were processed by the respective Contractive Authority himself.
- 9.5** The Contracting Authorities in case of leaving this JPA, have duty to hold the Confidential Information in confidence until such information no longer qualifies as a secret or a written notice is given releasing such Contracting Authority from this Agreement.
- 9.6** for the ownership of the source code and the documentation of RINA, that has been produced during the three years of this agreement, will remain the property of the Contacting authorities at the end of the three years. The Contracting Authorities, after the three years of the agreement, can use the source code of RINA after the agreement starting from the last version distributed, and they are free to use it and to do new developments from this version.
- 9.7** The rights to the use of the artefacts and documentation and source code and all the materials produced during the three years of this agreement is available for the Competent Institutions in a Member State that have an internal agreement with the Contracting Authority, in the same Member State, that has signed this Joint Procurement Agreement. All these Competent Institutions, internal to a Member Stare, are obliged to respect this No Disclosure Agreement.

10 LIABILITY FOR DAMAGE

- 10.1** By virtue of this agreement, The Contracting Authorities undertake that if any Contracting Authority breaches his obligation under an obligation established by this NDA, he shall be obliged to make good any damage thereby demonstrably inflicted upon the other Contracting Authorities.
- 10.2** The claim for damages of any Contracting Authority(Authorities) is payable on the basis of a demonstrable misconduct and written notice of the damaged Contracting Authority(Contracting Authorities) for damages delivered to the leaving Contracting Authority (Partner) within thirty (30) calendar days from the date of receipt of the notice to the leaving Contracting Authority.

11 Achieving of official documentation

The official documentation will be achieved in a dedicated folder in Confluence

(<https://citnet.tech.ec.europa.eu/CITnet/confluence/display/EESSI/WP3+Preparation+of+scenario+implementation>).

12 Miscellaneous

12.1 Annexes, inconsistencies and severability

This Agreement consists of this core text and the following evolving annexes

- Annex1 (new Contracting Authority) V1.0
- Annex2(Amount of the Contracting Authority) V1.0
- Annex3(Contracting Authorities List) V1.0

- Annex4(CPB) V1.0
- Annex5(Members of the Management Board) V1.0
- Annex6(JPA Security Traffic Light Protocol) V1.0
- Annex7(List of the Institutions represented by the Contracting Authorities) V1.0
- Annex8(Members of the Technical Board) V1.0

In case of conflicts between the texts of the relative Annexes and the core text of this Joint Procurement Agreement, the latter shall prevail.

Should any provision of this Agreement become-invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Agreement. In such a case, the Contracting Authorities concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

The Members of the Technical Board will be appointed during the first meetings of the Management Board.

12.2 No representation, partnership or agency

The Contracting Authorities shall not be entitled to act or to make legally binding declarations on behalf of any other Partner. Nothing in this Agreement shall be deemed to constitute a joint venture, agency, Contracting Authorities, interest grouping or any other kind of formal administrative grouping or entity between the Contracting Authorities.

12.3 Notices and other communication

Any notice to be given under this Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Representative of the Participating Contracting Authorities.

Formal notices:

If it is required in this Agreement that a formal notice, consent or approval shall be given, such notice shall be signed by an authorized representative of a Contracting Authority and shall either be served personally or sent by mail with recorded delivery with receipt acknowledgement.

Other communication:

Other communication between the Contracting Authorities may also be affected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Contracting Authority to the CPB. The address list shall be accessible to all concerned.

12.4 Assignment and amendments

No rights or obligations of the Contracting Authorities arising from this Agreement may be assigned or transferred, in whole or in part, to any third Partner without the Management Board prior formal approval.

This Agreement shall only be amended in writing by means of an amendment to that effect signed by all Contracting Authorities.

The Representative of the Participating Contracting Authorities and the Contracting Authorities ensure that in case of modification of provisions mentioned in the JPA, updated rights and obligations derived thereof shall apply.

12.5 Mandatory national law

Nothing in this Agreement shall be deemed to require a Contracting Authority to breach any mandatory statutory law under which the Contracting Authority is operating.

12.6 Language

This Agreement is drawn up in English. English shall be the language that governs all documents, notices, meetings, arbitral proceedings and processes relative thereto. In case of conflict between a translated version of the present Agreement into another language, the English version shall prevail.

12.7 Applicable law

This agreement is governed by the Law of the Member State in which the Central Purchasing Body will be located (Italy).

12.8 Settlement of disputes

In case of disputes, the Management Board will select the most appropriate option reported to Management Board rules. All cost related to litigation will be fully addressed to the defaulting Contracting Authority.

All disputes arising out, or in connection with, the subject-matter of this Agreement shall be settled in an amicable way by the Contracting Authorities.

12.9 Processing of personal data

Any personal data included in this Agreement shall be processed by the Central Purchasing Body pursuant to Regulation (E C) No 2016/679 (GDPR) on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Such data shall be processed solely for the purposes of the implementation, management and monitoring of this Agreement, without prejudice to possible transmission to the bodies charged with the monitoring or inspection tasks in application of Union law.

13 Ownership

The Joint Procurement agreement permits to the Contracting Authorities to have the rights to own and use the product RINA with the new developments after the three years of the agreement.

A CA leaving or defaulting the JPA shall, after having paid the due amount for all 3 years, have these rights too with the difference that the rights are connected to the product as it was (in production and testing) at the moment of leaving the JPA.

14 Signatures

The Contracting Authorities have caused this Agreement to be duly signed by the undersigned authorized representatives in separate signature pages the day and year first above written.

This Joint Procurement Agreement will be signed by a delegate in a Member States (Contracting Authority, Annex3), who represent one or more Institutions internally (Annex 7).

The undersigned organization confirms its willingness and ability to perform the tasks as laid out in the JPA and to following the guidelines of this Agreement and thus becomes both Contracting Authority in this Joint Procurement Agreement.

In line with the terms of the JPA, the coordination of the Program and the Budget handling will be performed by the Representative of the Participating Contracting Authorities.

On behalf of: **Istituto Nazionale
della Previdenza
Sociale (INPS)**

Via Ciro Il Grande
21

00144 Roma

ITALY

Legal/statutory
representative: Vincenzo Caridi

Title: Vicar of the General
Manager

Signature Stamp of the
organization

Date:

Aufteilung der Gesamtkosten

gemäß § 6 Absatz 2 der am [...] ausgefertigten Kooperationsvereinbarung zum RINA Handover (KoopV RHO)

Die Kostenanteile der einzelnen Partner für die Teilnahme am Centralised Scenario ermitteln sich wie folgt:

Für die Teilnahme am Centralised Scenario wurde für das erste Geschäftsjahr, das mit der Unterzeichnung eines Vertrages mit dem erfolgreichen Bieter beginnt und zwölf Monate später endet (§ 5 Absatz 6 KoopV RHO), ein Gesamtbetrag von 90.000,00 EUR für die deutschen Institutionen festgelegt. Die Ermittlung des vorgenannten Betrages erfolgte durch die für das RINA-Handover zuständige europäische Arbeitsgruppe. Die Partner akzeptieren den festgelegten Kostenanteil Deutschlands für das erste Geschäftsjahr in Höhe von 90.000,00 EUR und schätzen diesen als verhältnismäßig ein. Die Gesamtkosten für alle am RINA-Handover teilnehmenden Mitgliedstaaten betragen nach derzeitigem Stand 3.385.000,00 EUR.

Die Aufteilung der Gesamtkosten von 90.000,00 EUR zwischen den Gründungspartnern – der Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen e. V. (ABV), der Generalzolldirektion (GZD), dem Land Nordrhein-Westfalen, vertreten durch das Ministerium für Kinder, Familie, Flüchtlinge und Integration des Landes Nordrhein-Westfalen (MKFFI) und der Sozialversicherung für Landwirtschaft, Forsten und Gartenbau (SVLFG) – erfolgt anhand der unter den Partnern abgestimmten Parameter „Fixbetrag für die Teilnahme“ und „Anzahl der genutzten Institution-IDs je Teilnehmer“. Hierbei wurde eine prozentuale Gewichtung der Parameter „Fixbetrag“ zu 40 % und „Anzahl der Institution-IDs“ zu 60 % gemeinschaftlich festgelegt.

	%-Gewichtung	ABV	GZD	MKFFI	SVLFG	Gesamt
Fixkosten	40 %	9.000,00	9.000,00	9.000,00	9.000,00	36.000,00
(Institution-IDs)		(2)	(1)	(262)	(2)	(267)
Kosten	60 %	404,49	202,25	52.988,76	404,49	54.000,00
Gesamtkosten		9.404,49	9.202,25	61.988,76	9.404,49	90.000,00

Tabelle 1

Die Gründungspartner legen darüber hinaus fest, dass für das erste Kalenderjahr der Teilnahme ein Mindestbeitrag von 10.000,00 EUR je Gründungspartner zu entrichten ist. Sofern ein Gründungspartner den Mindestbeitrag nicht erreicht, wird der zusätzliche Differenzbetrag bei dem Gründungspartner mit der höchsten Kostenbeteiligung in Abzug gebracht.

Die Aufteilung der Gesamtkosten für das erste Geschäftsjahr der Teilnahme am Centralised Scenario zwischen den Gründungspartnern wird demnach wie folgt festgelegt:

ABV	GZD	MKFFI	SVLFG	Gesamt
10.000,00	10.000,00	60.000,00	10.000,00	90.000,00

Tabelle 2

Tritt neben den Gründungspartnern ein weiterer Partner der KoopV RHO bei und führt dies zu einer Erhöhung der derzeit 90.000,00 EUR betragenden deutschen Gesamtkosten, sind die zusätzlichen Kosten durch den später hinzutretenden Partner zu tragen.

Bei einem gleichbleibenden Kostenanteil für Deutschland in Höhe von 90.000,00 EUR im ersten Geschäftsjahr wird eine neue Berechnung unter Berücksichtigung der Institution-IDs des hinzutretenden Partners durchgeführt. Der vereinbarte Mindestbeitrag von 10.000,00 EUR und die zugehörige Regelung des Ausgleiches entfällt in diesem Falle. Sofern zum Zeitpunkt des Beitritts eines weiteren Partners die Gesamtkosten in Höhe von 90.000,00 EUR bereits an die im JPA bezeichnete zuständige Stelle gezahlt wurden, zahlt der hinzutretende Partner seinen Kostenanteil unmittelbar an die einzelnen Gründungspartner jeweils in Höhe der Differenz zwischen dem ursprünglich von dem jeweiligen Gründungspartner gezahlten Kostenanteil und dessen durch den Beitritt des Partners verringerten Kostenanteil.

Für die Aufteilung der Gesamtkosten im zweiten und dritten Geschäftsjahr finden die Regelungen unter „2nd and 3rd year amount for Contracting Authority for the payments“ des Annex 2 JPA (Anlage 4) in der zum Zeitpunkt des Inkrafttretens der KoopV RHO vorliegenden Fassung entsprechende Anwendung.

Die in dem Kostenmodell für das zweite und dritte Geschäftsjahr vorgesehenen Fixkosten tragen die Partner zu gleichen Teilen.

Tritt im Laufe des zweiten oder dritten Geschäftsjahres neben den Gründungspartnern ein weiterer Partner der KoopV RHO bei, hat er entsprechend Ziff. 7.1 Buchstabe a Absatz 3 JPA seinen individuellen Kostenanteil so zu leisten, als wäre er bereits zum Zeitpunkt des Inkrafttretens der Vereinbarung beigetreten (§ 9 Absatz 2 KoopV RHO).

Annex 6: JPA Security Traffic Light Protocol

Subject: JPA Traffic Light Protocol for key project technical documentation

Background

The volume of JPA project related technical documentation continues to increase in volume and complexity, and the number of stakeholders that are “de facto” recipients of this documentation is increasing as well. This increases the risk of unauthorised access to and/or unauthorised disclosure of EESSI project related technical documentation. Without adequate mitigating control measures to address this specific risk the overall security of EESSI may be ultimately compromised.

The complexity of JPA project and the involvement of multiple stakeholders from the Participating Countries (including technical experts, TB members, MB members, etc.) requires the definition of an effective and efficient manner of addressing the challenge of protecting the key JPA project related technical documentation that is circulated to an audience outside the JPA project team.

Several inquiries have been made by various categories of involved JPA stakeholders with regards to the established rules, protocols and measures for labelling, controlling and handling the various EESSI project related technical documentation that may contain sensitive information (e.g. security artefacts, architecture documentation details, software technical documentation, software code, configuration details etc.).

In response to the above-mentioned challenges, a set of additional (security) control measures are needed in order to help mitigating the risk of unauthorised access to and/or unauthorised disclosure of JPA project related technical documentation. These (security) control measures should be relevant, effective and easy to apply/use by a wide variety of JPA stakeholders, including Contracting Authorities, Participating Countries representatives, Contractor, etc.

Current control measures employed

To date, a number of control measures have been developed and were deployed by the central JPA project in order to address the risk of unauthorised access to and/or unauthorised disclosure of the key JPA project related technical documentation:

- Internal JPA project team documentation classification policies and, procedures and control measures based on CPB specific guidance are enforced;
- Technical control measures: like user access controls to the JPA project data and documentation maintained by CPB, to the project related information shared via EESSIGate or via other JPA support platforms, other security controls;

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- Other control measures on the communication and distribution of JPA project related technical documentation: distribution lists, mailing lists, etc.

JPA Traffic Light Protocol (TLP) for key project technical documentation – new proposed measure

In line with best practices for the communication and distribution of project related information to a large number and complex types/categories of stakeholders we propose an additional layer of (security) control measures, based on a proposed the JPA Traffic Light Protocol (TLP) that could be introduced.

The Traffic Light Protocol (TLP) concept is widely adopted in the security community of experts in the Participating Countries, Contracting Authorities, Contractor, etc. and the CPB believes it is also suitable for being used in the JPA context. The TLP is a set of designations used to ensure that sensitive information is shared with the correct / authorized audience. It employs four colours to indicate different degrees of sensitivity and the corresponding considerations to be applied by the recipient(s) in terms of possibility to share with other parties the received document.

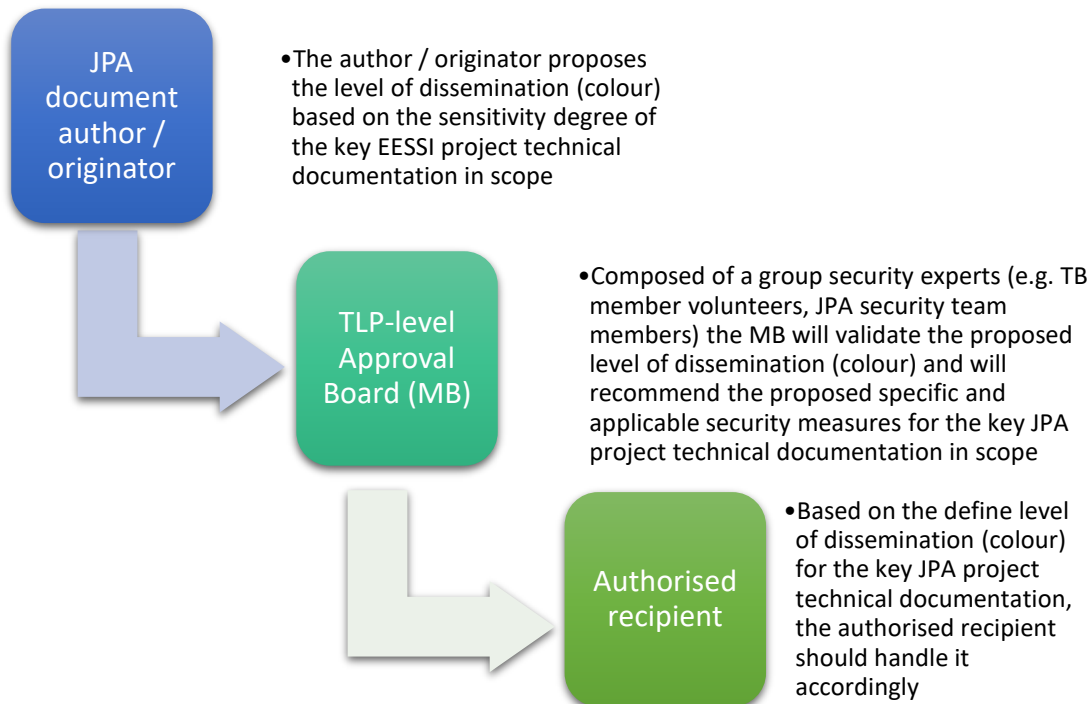
Colour	When should be used ?	How may it be shared?
Red	Information exclusively and directly given to (a group of) individual JPA System recipients. Sharing outside is not legitimate	Recipients may not share RED information with any parties outside of the specific formally authorized JPA group designated for that particular document.
Amber	Information exclusively given to the JPA System specific teams/groups; sharing limited within those JPA System teams/groups that require that information to be effectively acted upon.	Recipients may only share AMBER information with members of their own team who need to know, and only as widely as necessary to act on that information.
Green	Information given to the large JPA project community or a group of organizations relevant to the JPA community.	Recipients may share GREEN information with peers and the large JPA project community, but not via publicly accessible channels.
White	Information carries minimal or no foreseeable risk of misuse, in accordance with applicable rules for public release.	WHITE information may be distributed without restriction, subject to relevant laws and regulations copyright controls.

The originator of the information labels the information with one of four colours. These colours indicate what further dissemination, if any, can be undertaken by the recipient. Note that the colours only mark the level of dissemination, not the sensitivity level (although they often align).

Traffic Light Protocol (TLP) potential process

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A simple and straightforward process can ensure an effective implementation of the Traffic Light Protocol (TLP) for the key JPA project technical documentation, as explained in the example below:



Actions and roles:

- JPA document author / originator - The author / originator proposes the level of dissemination (colour) based on the sensitivity degree of the key EESSI project technical documentation in scope
- Management Board (TAB) - Composed of a group security experts (e.g. TB member volunteers, JPA security team members) the TAB will validate the proposed level of dissemination (colour) and will recommend the proposed specific and applicable security measures for the key JPA project technical documentation in scope
- Authorised recipient - Based on the define level of dissemination (colour) for the key JPA project technical documentation, the authorised recipient should handle it accordingly

Recommendation

The delegations are invited to take note of the proposed JPA Traffic Light Protocol (TLP) for key project technical documentation and to mandate the Security Expert Forum to further discuss, elaborate and validate the concept as well as the practical TLP implementation and to propose recommendation on this that could be di

Annex 2: Amount for Contracting Authority

(...)

2ND AND 3RD YEAR AMOUNT FOR CONTRACTING AUTHORITY FOR THE PAYMENTS

(...)

The total cost per country is calculated using four different dimensions:

Dimension name	Description	Weight of the dimension related to the total cost	Amount per each dimension
Fixed fee	A fixed fee, equal for all the countries.	10%	312.500 €
RINA Installations	The share of RINA installations owned by the CA (grouped by Country) over the total number of installations owned by all the Countries participating in the JPA.	13,5%	421.875 €
RINA Tenants	The share of RINA tenants owned by the CA (grouped by Country) over the total number of tenants owned by all the Countries participating in the JPA.	13,5%	421.875 €
Volume of messages	The share of messages exchanged by the CA (grouped by Country) over the total number of messages exchanged by all the Countries participating in the JPA. Data are gathered by the European Commission, three months before the expiry of the 12 months of the current financial year (The financial year will start with the signature of the contract with the successful supplier and will end twelve months later)	63%	1.968.750 €
		100%	3.125.000 €

The first dimension “Fixed Fee” is the only one that has a stable fixed value, and is not related to any Key Performance Indicator.

The other dimensions depend from the RINA installation (number of RINA and number of Tenants) and from the number of messages exchanged (as in+out) in a given period. So these dimensions are closely related to the characteristics of each CA.

FORMULA APPLIED FOR THE 2ND AND 3RD YEAR

The Total Amount per each Member State is the result of a sum of these addendum:

- The fixed fee **FF**;
- A variable fee depending from the total number of RINA Installations **CA_R** per each MS (sum of the number of RINA Installations per each CA belonging to a MS);

- A variable fee depending on the total number of Tenants **CA_T** per each MS (sum of the number of Tenants per each CA belonging to a MS);
- A variable fee depending on the total number of Messages **CA_M** per each MS (sum of the number of messages per each CA belonging to a MS, calculated three months before the expiry of the 12 months of the current financial year, forecasted for all the year; The financial year will start with the signature of the contract with the successful supplier and will end twelve months later).

The formula could be described as:

$$TA=FF+RA*MP*(CA_M/Total_MSG)+RA*RP*(CA_R/Total_RINA)+RA*TP*(CA_T/Total_TEN)$$

Variable Name	Value assigned	Description
TAPY	3,125M€	Total Amount per Year
TA	0	Total Amount per MS
FF	10%	Fixed Fee
MP	63%	Message Percentage
RP	13,5%	RINA Percentage
TP	13,5%	Tenants Percentage
RA	TAPY*(1-FF)	Remaining amount
CA_M	Extraction Message from the Commission	Total Message exchange for single Contracting Authority
Total_MSG	Extraction Message from the Commission	Message exchange for all Contracting Authority
CA_R	Extraction RINA from the Commission	Total RINA for single Contracting Authority
Total_RINA	Total number of RINA	RINA declared for all Contracting Authority
CA_T	Extraction Tenant for the Commission	Total Tenant for single Contracting Authority
Total_TEN	Total Number of Tenant	Tenant declared for all Contracting Authority

Table 1 - Explanation of the parameters used in the formula

(...)