

Interactive Session

Audit – legal aspects WG3

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CHECKS, REVIEWS AND **AUDITS** AND INVESTIGATIONS IN H2020

- legal basis,
- general obligation of compliance,
- audit – parties, scope, period & request for access
- formal procedure,
- consequences of findings in case of non-compliance

- **LEGAL BASIS**

- General Model Grant Agreement and Specific Model Grant Agreements:
 - ERC MGAs, MSC MGAs, SME instrument MGAs and Co-fund MGAs (Art. 22.1-6)

ARTICLE 22 — CHECKS, REVIEWS, AUDITS — EXTENSION OF FINDINGS

22.1 Checks, reviews and audits by the [Agency and the] Commission

22.2 Investigations by the European Anti-Fraud Office (OLAF)

22.3 Checks and audits by the European Court of Auditors (ECA)

22.4 Checks, reviews, audits and investigations for international organisations

22.5 Consequences of findings in checks, reviews, audits and investigations — Extension of findings

22.6 Consequences of non-compliance



- **THE GENERAL OBLIGATION OF COMPLIANCE (ART. 7.1)**
- **General obligation to properly implement projects**
 - as as described in Annex 1 **and**
 - in compliance with the provisions of the **GA** and **all legal obligations** under applicable EU, international and national law.



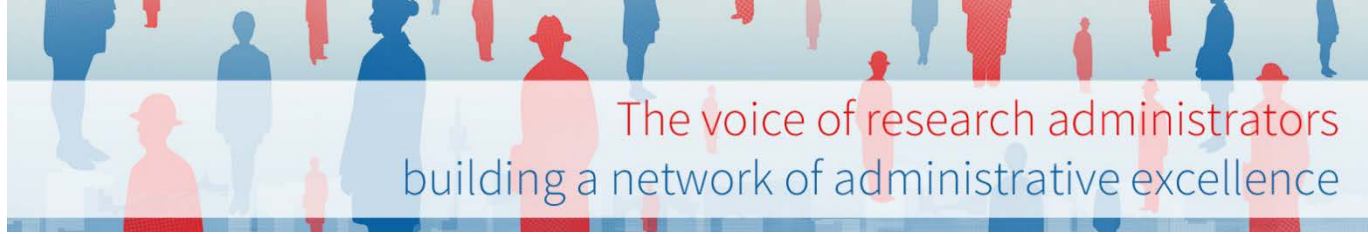
CHECKS, REVIEWS AND AUDITS – PARTIES & SCOPE

	CHECKS	REVIEWS	AUDITS
Who?	The Agency or the Commission - > may be assisted by external persons or bodies		
	The European Court of Auditors (ECA)		The European Court of Auditors (ECA)
On Whom?	Beneficiary	Beneficiary, third party	Beneficiary, third party
Scope	The proper implementation of the action and compliance with the obligations under the Agreement		
	including assessing deliverables and reports		
		and continued scientific or technological relevance of the action	

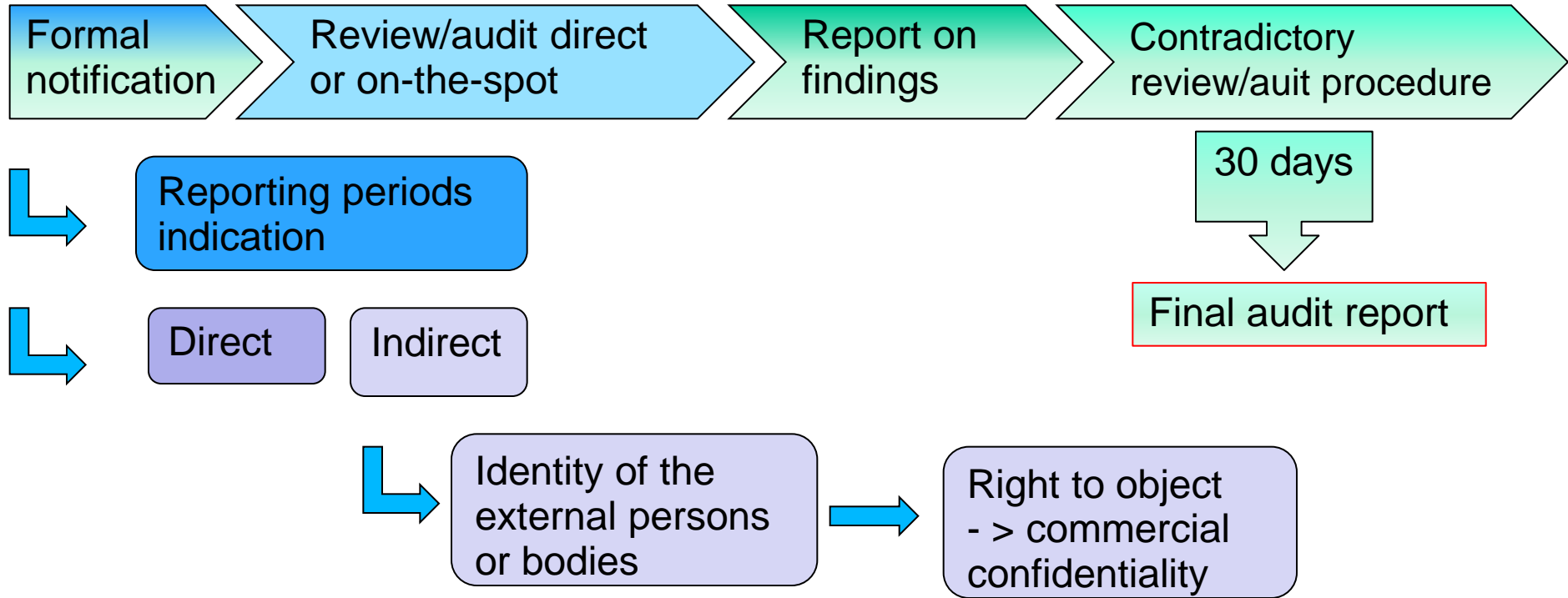


CHECKS, REVIEWS AND AUDITS – PERIOD & ACCESS

	CHECKS	REVIEWS	AUDITS
Period	During the implementation of the action or afterwards		
		up to 2 years after the payment of the balance	
Access requested	To information	To information and/or sites and premises (on-the-spot)	



REVIEWS AND AUDITS – FORMAL PROCEDURE



- **POSSIBLE CONSEQUENCES OF FINDINGS IN CHECKS, REVIEWS AND AUDITS IN CASE OF NON-COMPLIANCE**
 - rejection of ineligible costs (Art. 42 MGA)
 - reduction of the grant (Art. 43 MGA),
 - recovery of undue amounts (Art. 44 MGA) or
 - any of the other measures described in Chapter 6.

- **POSSIBLE CONSEQUENCES OF FINDINGS IN CHECKS, REVIEWS AND AUDITS IN CASE OF NON-COMPLIANCE**
- -> Identification of systemic or recurrent errors:
 - => **extension of findings from one grant to other grants (EU/Euratom),**
 - => (apart from rejection of costs, reduction of the grant or recovery) suspension of payments (Art. 48), suspension of the project implementation (Art. 49) or earlier termination of the GA or of participation for one or more beneficiaries (Art. 50)

CONCLUSIONS:

- Since the **burden of proof** for the *proper implementation* of the project and *compliance* with the GA and all relevant EU, international and national laws is **on the beneficiaries** (and third parties if audited) and
- The compliance in question is subject to **interpretation** in the light of all the relevant laws, **local** regulations and **the beneficiary usual practices**
- => **The most challenging objective** for the beneficiary (third party) is the assurance of compliance as **requested by the GA providing adequate legal, financial and administrative support for each project**

Thank you for your attention!