

TRIATLAS GA 817578

COVID 19- Eligibility of costs- Force Majeure – minimization of losses-notification requirements

In response to the worldwide COVID 19 pandemic, the national authorities of the majority of countries of TRIATLAS beneficiaries are taking increasingly restrictive measures to delay and suppress the transmission and impact of the virus.

The pandemic and the measures taken in response to it by the competent national authorities are rapidly evolving and vary from country to country.

It is clear that the pandemic and the measures taken by the authorities in most countries now constitute a significant hindrance to the implementation of TRIATLAS.

In particular, restrictions on travelling, limits on the number of people who can meet together, cancellation of research cruises and limited access to regular work environments have a direct impact on proposed TRIATLAS activities in the coming months.

As far as possible, implementation of the planned actions shall be carried out as normal. It is for each beneficiary to decide on the appropriate and proportionate course of action to take in the light of the measures formally adopted by the competent authorities

TRIATLAS General Assembly – Cabo Verde 2020

The TRIATLAS consortium has determined that cancellation of the 2020 General Assembly which the Consortium planned to hold in May 2020 in Cabo Verde is an appropriate and proportionate action at this time.

The Consortium will instead hold a remote General Assembly, the preliminary details of which was announced by Noel Keenlyside in an email on March 20. Please visit our website "www.triatlas.eu" for most up to date information.

Financial Considerations

TRIATLAS beneficiaries are required under the terms of the Grant Agreement as far as is possible to make all efforts to mitigate damage and recover lost costs in relation to cancelled arrangements.

This means that as far as possible, beneficiaries should try to recover losses by cancelling arrangements and claiming reimbursements from suppliers (where possible), claiming losses on insurance etc.

Beneficiaries should seek to make alternative arrangements wherever possible to facilitate the continued performance of the project. This includes, where possible, finding alternative solutions for participation, for example, by video conferencing, remote participation etc.

Once all steps have been taken by beneficiaries to mitigate losses arising from COVID 19 related cancellations and rearrangements, as a last resort, non-cancellable/non-refundable costs already incurred *could* be eligible under Article 51 of the Grant Agreement (force majeure).

Article 51.1 of the Grant Agreement addresses Force Majeure as follows

51.1 Force majeure

'Force majeure' means any situation or event that:

- prevents either party from fulfilling their obligations under the Agreement,*
- was unforeseeable, exceptional situation and beyond the parties' control,*
- was not due to error or negligence on their part (or on the part of third parties involved in the action), and*
- proves to be inevitable in spite of exercising all due diligence.*

Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

The party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.'

Mechanism for recovery of costs by beneficiaries under Article 51 Provisions

Costs eligible under Article 51 'Force Majeure' provisions are reported and refunded according to the standard mechanism for reporting and recovery of costs in TRIATLAS.

Eligible costs incurred by beneficiaries in the TRIATLAS project are reported in the periodic reports. The periodic financial reports are completed and submitted by each beneficiary, and, following approval by the Commission, an interim payment is made which is then disbursed to the beneficiaries by the Coordinator.

Please [see slide number 13 of attached kick off meeting presentation](#) for full breakdown of periodic reporting timeline for the project.

When costs claimed under Article 51 Force Majeure provisions are included in a period financial report, the eligibility of those costs and the application of the Force Majeure provisions will be assessed by the Commission on a case-by-case basis. This means that in the financial report made by each beneficiary, an accompanying explanation of the context, mitigation and financial implication for each beneficiary must be made in section 5.2 of the period report.

It is incumbent on each beneficiary to keep proof of trying to limit the damage, i.e. keep correspondence with hotels, travel agencies on cancellation possibilities in line with the Grant Agreement obligations as well as for possible audit purposes.

Ongoing hindrance to TRIATLAS project implementation

Where the current situation means the beneficiary's work in the project cannot be undertaken as defined in the Grant Agreement, the beneficiary must contact the coordinator as soon as possible so that the consortium can fulfil its obligations to notify the Commission.

On an ongoing basis, we ask all beneficiaries to consider their work in TRIATLAS and keep the coordinator up to date should the beneficiary be unable to progress with TRIATLAS work as

described in the Grant Agreement. Updates to the coordinator from beneficiaries should address the following points:

- the extent to which the TRIATLAS work of the beneficiary is impacted by the COVID 19 pandemic and the relevant national authorities' responses to it
- steps taken by the beneficiary to mitigate any losses and due diligence conducted
- commentary on the 'unforeseeable', 'exceptional nature' of the situation
- commentary on the extent to which events are beyond the beneficiary's control
- commentary on the inevitability of impact on the TRIATLAS work of the beneficiary despite due diligence steps undertaken.

Ends.