

17.10.2013

A7-0428/ 001-137

**AMENDMENTS 001-137**

by the Committee on Industry, Research and Energy

**Report**

**Christian Ehler**

**A7-0428/2012**

Rules for the participation and dissemination in Horizon 2020

Proposal for a regulation (COM(2011)0810 – C7-0465/2011 – 2011/0399(COD))

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**Amendment 1**

**Proposal for a regulation**

**Recital 2**

*Text proposed by the Commission*

(2) Horizon 2020 should be implemented with a view to contributing directly to creating industrial leadership, growth and employment in Europe and should reflect the strategic vision of the Commission Communication of 6 October 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region ‘Europe 2020 Flagship Initiative Innovation’ whereby the Commission engages to radically simplify access of participants.

*Amendment*

(2) Horizon 2020 should be implemented with a view to contributing directly to creating industrial leadership, growth and employment *as well as citizens welfare, social, economic and environmental sustainability* in Europe and should reflect the strategic vision of the Commission Communication of 6 October 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region ‘Europe 2020 Flagship Initiative Innovation’ whereby the Commission engages to radically simplify access of participants.

**Amendment 2**

**Proposal for a regulation**

**Recital 3**

*Text proposed by the Commission*

(3) Horizon 2020 should support the achievement and functioning of the European Research Area in which researchers, scientific knowledge and technology circulate freely, by strengthening cooperation between the Union and the Member States, notably through application of a coherent set of rules.

*Amendment*

(3) Horizon 2020 should support the achievement and functioning of the European Research Area in which researchers, scientific knowledge and technology circulate freely, by strengthening cooperation **both** between the Union and the Member States, **and among the Member States**, notably through application of a coherent **and transparent** set of rules.

### **Amendment 3**

#### **Proposal for a regulation**

#### **Recital 4**

*Text proposed by the Commission*

(4) The rules for the participation and dissemination should adequately reflect the recommendations of the European Parliament, as summarised in the 'Report on simplifying the implementation of the Research Framework Programmes', and Council with regard to the simplification of the administrative and financial requirements of the research framework programmes. The rules should give continuity to the simplification measures already implemented under Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and progress further in reducing the administrative burden for participants and the complexity of the financial provisions in order to decrease financial errors. The rules should also duly consider the concerns and recommendations from the research community resulting from the debate initiated by the Commission Communication of 29 April 2010 to the European Parliament, the Council, the European Economic and Social Committee

*Amendment*

(4) The rules for the participation and dissemination should adequately reflect the recommendations of the European Parliament, as summarised in *its Resolution of 11 November 2010* on simplifying the implementation of the Research Framework Programmes, and Council with regard to the simplification of the administrative and financial requirements of the research framework programmes. ***In its resolution of 8 June 2011 on Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe<sup>1</sup> the European Parliament furthermore called for a radical simplification of Union research and innovation funding stressing that any increase of funds should be coupled with a radical simplification of funding procedures.*** The rules should give continuity to the simplification measures already implemented under Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)

and the Committee of the Regions ‘Simplifying the implementation of the research framework programmes’, and the subsequent Green Paper of 9 February 2011 ‘From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding’ .

and *the final report of the Expert Group 'Interim Evaluation of the 7th Framework Programme' of 12 November 2010* and progress further in reducing the administrative burden for participants and the complexity of the financial provisions in order to *facilitate participation and decrease financial errors*. The rules should also duly consider the concerns and recommendations from the research community resulting from the debate initiated by the Commission Communication of 29 April 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Simplifying the implementation of the research framework programmes’, and the subsequent Green Paper of 9 February 2011 ‘From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding’ *as well as the respective public consultation of the stakeholder community initiated by the Commission. In concrete terms, the new simplified rules of participation and dissemination should aim to reduce the average time to grant at least by 100 days as compared to the situation in 2011 as outlined in the Commission Communication of 30 November 2011 entitled: "Horizon 2020 - The Framework Programme for Research and Innovation"*<sup>2</sup>.

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<sup>1</sup> *Texts adopted, P7\_TA(2011)0266.*

<sup>2</sup> *COM(2011)0808 final.*

#### *Justification*

*Commission's impact assessment for Horizon 2020, COM 809 (2011) final , p. 101: "...the consultation of stakeholders and the institutions on further simplification, and the Horizon 2020 impact assessment, clearly indicate that the continuation of a funding model based on the reimbursement of actual costs is the favoured option."*

#### **Amendment 4**

## Proposal for a regulation

### Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) In 2017 at the latest, the Commission should carry out an interim evaluation of the rules for the participation and dissemination to assess the desired simplification of procedures and increased participation in Horizon 2020. This should include an analysis of access to funding for participants from all regions and for SMEs and balanced participation by women and men, and the scope for further simplifications should be analysed. At the proposal of the Commission, the rules may if appropriate be adjusted by the legislature once during the period of application of Horizon 2020.***

*Justification*

*The impact of the radical simplification approach in the participation rules requires continuous assessment, with the possibility of adjustment by the legislature.*

## Amendment 5

## Proposal for a regulation

### Recital 4 b (new)

*Text proposed by the Commission*

*Amendment*

***(4b) From the outset, the rules for the participation and dissemination should be clear and transparent and ensure to the largest possible extent the participation of SMEs. For reasons of legal certainty and clarity, the rules, in principle, should remain the same throughout the whole duration of Horizon 2020. Where rules need to be adapted, this should not be to the detriment of participants whose project has been approved under the rules before adaptation. All relevant instructions and guidance notes for beneficiaries and auditors should be available from the beginning of the programme and onward.***

## Amendment 6

### Proposal for a regulation

#### Recital 5

*Text proposed by the Commission*

(5) In order to ensure coherence with other Union funding programmes, Horizon 2020 should be implemented in accordance with Regulation (EU) No. XX/XX of the European Parliament and of the Council of [...] on the financial rules applicable to the annual budget of the Union, and the Delegated Commission Regulation (EU) No. X/X of [...] amending the detailed rules for the implementation of the Financial Regulation.

*Amendment*

(5) In order to ensure coherence with other Union funding programmes, Horizon 2020 should be implemented in accordance with Regulation (EU, *Euratom*) No. 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the annual budget of the Union, and the Delegated Commission Regulation (EU) No. X/X of [...] amending the detailed rules for the implementation of the Financial Regulation, ***taking due account of the specific nature of research and innovation activities.***

## Amendment 7

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) An integrated approach should be ensured by bringing together activities covered by the Seventh Framework Programme for research, the Competitiveness and Innovation Framework Programme and the European Institute of Innovation and Technology (the EIT) to make participation easier, create a more coherent set of instruments and increase the scientific and economic impact while avoiding duplication and fragmentation. Common rules should apply in order to ensure a coherent framework which should facilitate the participation in programmes receiving Union financial contribution from the budget of Horizon 2020, including the participation in programmes managed by the EIT, joint

*Amendment*

(6) An integrated approach should be ensured by bringing together activities covered by the Seventh Framework Programme for research, the Competitiveness and Innovation Framework Programme and the European Institute of Innovation and Technology (the EIT) to make participation easier, create a more coherent set of instruments and increase the scientific and economic impact while avoiding duplication and fragmentation. Common rules should apply in order to ensure a coherent framework which should facilitate the participation in programmes receiving Union financial contribution from the budget of Horizon 2020, including the participation in programmes managed by the EIT, joint

undertakings or any other structures under Article 187 TFEU or participation in programmes undertaken by Member States pursuant to Article 185 TFEU. ***However, flexibility to adopt specific rules should be ensured when justified by the specific needs of the respective actions and with Commission consent.***

undertakings or any other structures under Article 187 TFEU or participation in programmes undertaken by Member States pursuant to Article 185 TFEU.

## Amendment 8

### Proposal for a regulation

#### Recital 7

*Text proposed by the Commission*

(7) Actions which fall within the scope of this Regulation ***should*** respect fundamental rights and observe the principles acknowledged in particular by the Charter of Fundamental Rights of the European Union. Such actions ***should*** be in conformity with any legal obligation and with ethical principles, which include avoiding any kind of plagiarism.

*Amendment*

(7) Actions which fall within the scope of this Regulation ***have to*** respect fundamental rights and observe the principles acknowledged in particular by the Charter of Fundamental Rights of the European Union. Such actions ***also have to*** be in conformity with any legal obligation and with ethical principles, which include avoiding any kind of ***fabrication of data and*** plagiarism.

## Amendment 9

### Proposal for a regulation

#### Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) It is necessary to note the importance of a reinforced gender perspective in the design, implementation and delivery of Horizon 2020.***

## Amendment 10

### Proposal for a regulation

#### Recital 8

*Text proposed by the Commission*

(8) In line with the objectives of

*Amendment*

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international cooperation as set out in Articles 180 and 186 TFEU, the participation of legal entities established in third countries and of international organisations should be promoted. The implementation of these rules should be in conformity with the measures adopted in accordance with Articles 75 and 215 TFEU and be in compliance with international law. Moreover, the implementation of these rules should duly take into account conditions for the participation of Union entities in third countries' programmes.

international cooperation as set out in Articles 180 and 186 TFEU, the participation of legal entities established in third countries and of international organisations should be promoted. The implementation of these rules should be in conformity with the measures adopted in accordance with Articles 75 and 215 TFEU and be in compliance with international law. Moreover, the implementation of these rules should duly take into account conditions for the participation of Union entities in third countries' programmes, ***based on the principle of reciprocity as well as conditions potentially arising from the legal frameworks of the participating third countries and international organisations.***

## Amendment 11

### Proposal for a regulation Recital 8 a (new)

*Text proposed by the Commission*

*Amendment*

***(8a) The rules for the participation and dissemination should include rules for the establishment of public-private partnerships. If steps towards a further externalisation of the Union's research and innovation funding were to be taken this should be exceptional, and justified by demonstrating that according to the results of an independent impact assessment no other form of funding can deliver the same objectives.***

## Amendment 12

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

*Amendment*

(9) These rules for the participation and dissemination should provide a coherent, comprehensive and transparent framework

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to ensure the most efficient implementation possible, taking into account the need for easy access by all participants, *notably small and medium-sized enterprises, through simplified procedures. The financial assistance from the Union could be provided through different forms.*

to ensure the most efficient implementation possible, taking into account the need for easy access by all participants.

### Amendment 13

#### Proposal for a regulation Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) The financial assistance from the Union could be provided through different forms by choosing the most appropriate measure that supports the Horizon 2020 objectives and that suits the specific needs of the targeted beneficiaries. The choice of the different forms should always aim at producing the largest possible leverage effect.***

### Amendment 14

#### Proposal for a regulation Recital 9 b (new)

*Text proposed by the Commission*

*Amendment*

***(9b) Given the different nature and specific needs of the different participants from the research community, the rules for the participation and dissemination should establish a limited combination of funding rates and options for reimbursement of indirect costs, while maintaining the current differentiation between universities/research centres, non-profit organisations and SMEs and industry, as stated in the European Parliament's resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes.***



## **Amendment 15**

### **Proposal for a regulation Recital 9 c (new)**

*Text proposed by the Commission*

*Amendment*

***(9c) These rules for the participation and dissemination should also take into account the specific funding needs of SMEs, in order to release their full research and innovation potential, with due regard to the specificities of different types of SMEs and different sectors.***

## **Amendment 16**

### **Proposal for a regulation Recital 9 d (new)**

*Text proposed by the Commission*

*Amendment*

***(9d) In general, the period between the deadline for the submission of project proposals and the conclusion of the grant agreement (time to grant) should not exceed six months. The Commission should set appropriate time limits for the submission of documents by a consortium.***

#### *Justification*

*The reduction of the time to grant is regarded by many participants – and particularly by innovative undertakings – as one of the main reasons for participating in European research projects. However, the Commission should not unreasonably shift the pressure of time onto participants by setting unrealistic time limits for the submission of documents, failure to comply with which can result in abandonment of the procedure.*

## **Amendment 17**

### **Proposal for a regulation Recital 9 e (new)**

*Text proposed by the Commission*

*Amendment*

***(9e) The Commission should continue its efforts to simplify the procedures in ways made possible by the improvement of IT systems, such as the further expansion of the Participants Portal as the single entry point from the publication of the calls for project proposals, followed by their submission, until implementation, for all programmes, with the aim of establishing a one-stop shop.***

*Justification*

*A user-friendly, self-explanatory website for all participants and all stages in the whole process can make an essential contribution to the simplification of participation in the programme, thus indirectly making European research funding more attractive.*

#### **Amendment 18**

##### **Proposal for a regulation Recital 9 f (new)**

*Text proposed by the Commission*

*Amendment*

***(9f) Synergies between the Structural Funds and Horizon 2020 should be used more than hitherto to attain the objective of spreading excellence and expanding participation. This should be done in particular by linking up-and-coming centres of excellence located in less innovative, less well-performing Member States and regions with world leading European research partners.***

*Justification*

*Experience of promoting centres of excellence in Central and Eastern European countries – which at the time were associated countries – under FP5 should be put to use in bridge-building measures.*

#### **Amendment 19**

##### **Proposal for a regulation Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) Any documents issued by the Commission in relation to Horizon 2020 shall be provided upon request in accessible formats, including large print, Braille, easy-to-read text, audio, video, and electronic format.***

## **Amendment 20**

### **Proposal for a regulation**

#### **Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) It is appropriate to establish the terms and conditions for providing Union funding for participants in actions under Horizon 2020. In order to reduce the complexity of the existing funding rules ***and have a higher flexibility in the project implementation***, a simplified cost reimbursement system should be adopted with enhanced use of lump sums, flat rates and scale of unit costs. ***For simplification purposes, a single reimbursement rate should be applied for each type of action with no differentiation according to the type of participant.***

(12) It is appropriate to establish the terms and conditions for providing Union funding for participants in actions under Horizon 2020. In order to reduce the complexity of the existing funding rules ***and increase participation***, a simplified cost reimbursement system should be adopted with enhanced use of lump sums, flat rates and scale of unit costs, ***allowing also a full-cost option as well as applying the usual accounting practices of the beneficiary in accordance with Regulation (EU, Euratom) No 966/2012***.

## **Amendment 21**

### **Proposal for a regulation**

#### **Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12a) The Commission should take into consideration that the application of the co-financing principle may be harmful to those Member States whose public expenditure is subject to large restrictions. Their leading research centres, universities and undertakings might be supported at Union's level.***

## Amendment 22

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

(13) Specific challenges in the area of research and innovation **should** be addressed through new forms of funding such as prizes, pre-commercial procurement and public procurement of innovative solutions **which** require specific rules.

*Amendment*

(13) Specific challenges in the area of research and innovation **could** be addressed through new forms of funding **potentially more efficient** such as prizes, pre-commercial procurement and public procurement of innovative solutions, **an enhanced and more targeted use of innovative financial instruments, as well as through specific types of funding bodies such as the existing and newly foreseen programming initiatives based on Articles 185 and 187 TFEU and Article [55] of Regulation (EU, Euratom) No 966/2012. These new forms of funding and these different types of funding bodies** require specific rules **which should be laid down in this Regulation. Member States and the Commission should endeavour to increase the visibility and accessibility of such new forms of funding and types of funding bodies to relevant stakeholders.**

*Justification*

*To strengthen the idea of a single set of rules, a new title "specific provisions" has been introduced within the rules for participation which shall cover specific types of funding bodies, as well as new forms of funding available.*

## Amendment 23

### Proposal for a regulation Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

**(13a) It is appropriate to use different forms of funding, and where appropriate, combine different forms of funding. In**

*particular, the financial instruments should be used in a complementary manner in cases where they help to leverage further private investment in research and innovation, including venture capital investments for innovative companies and in particular SMEs, and where the pursued results cannot be effectively achieved by grants, and where actions primarily consist of experimental development activities.*

## Amendment 24

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

(14) In order to maintain a level playing field for all undertakings active in the internal market, funding provided by Horizon 2020 should be designed in accordance with State aid rules so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, creating ineffective market structures or preserving inefficient firms.

*Amendment*

(14) In order to maintain a level playing field for all undertakings active in the internal market, funding provided by Horizon 2020 should be designed in accordance with State aid rules so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, creating ineffective market structures or preserving inefficient firms. *In particular, the establishment of public-private partnerships should be subject to conditions that ensure that an effective competitive environment is maintained and that opportunities for new entrants to join in at any stage are ensured.*

## Amendment 25

### Proposal for a regulation Recital 14a (new)

*Text proposed by the Commission*

*Amendment*

*(14a) The rules for the participation and dissemination should ensure utmost transparency, accountability and democratic scrutiny of innovative financial instruments and mechanisms*

*that involve the Union budget, especially as regards their contribution, both expected and achieved, to reaching Union objectives.*

## **Amendment 26**

### **Proposal for a regulation Recital 15**

*Text proposed by the Commission*

(15) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle.

*Amendment*

(15) The financial interests of the Union should be protected through ***necessary***, proportionate ***and efficient*** measures throughout the expenditure cycle, ***ensuring an appropriate balance between trust and control.***

***(15a) Open access to scientific publications or any other disseminated results funded by Horizon 2020 might require the set up of digital central repositories and the use of open digital formats.***

*Justification*

*Reference in line with paragraph 11 of the Carvalho report and the HORIZON 2020 Regulation.*

## **Amendment 27**

### **Proposal for a regulation Recital 15 b (new)**

*Text proposed by the Commission*

*Amendment*

***(15b) In accordance with Regulation (EU, Euratom) No 966/2012, these rules for the participation and dissemination should provide the basis for a wider acceptance of the usual accounting practices of the beneficiaries and to accept beneficiaries' usual accounting practices in establishing eligible costs. For this purpose, the requirements of audit certificates, including the certificates on methodology, should be adapted appropriately. The Commission should establish to the greatest possible extent a single audit***

*approach, leaving sufficient flexibility for the acknowledgement of usual accounting practices, with due regard to nationally accepted accounting practices.*

## Amendment 28

### Proposal for a regulation

#### Recital 17

##### *Text proposed by the Commission*

(17) In order to enhance transparency, the names of experts that have assisted the Commission or relevant funding bodies in application of this Regulation should be published. Where the publication of the name would endanger the security or integrity of the expert or would unduly prejudice his or her privacy, the Commission or funding bodies should be able to refrain from the publication of such names.

##### *Amendment*

(17) In order to enhance transparency, the names ***of the legal entities awarded funding and*** of experts that have assisted the Commission or relevant funding bodies in application of this Regulation should be published. Where the publication of the names would ***justifiably prejudice the commercial interests of participants or*** endanger the security or integrity of the expert or would unduly prejudice his or her privacy, the Commission or funding bodies should be able to refrain from the publication of such names.

## Amendment 29

### Proposal for a regulation

#### Recital 19

##### *Text proposed by the Commission*

(19) Rules governing the exploitation and dissemination of results should be laid down to ensure that the participants protect, exploit and disseminate those results as appropriate, in particular the possibility of additional exploitation conditions in the European strategic interest.

##### *Amendment*

(19) Rules governing the exploitation and dissemination of results should be laid down to ensure that the participants protect, exploit and disseminate those results as appropriate, in particular the possibility of additional exploitation ***and dissemination or licensing*** conditions in the European strategic interest ***or in the predominant public interest. It is necessary to place more emphasis on the widest possible use and dissemination of knowledge generated by the supported activities whilst recognising the importance of intellectual property rights.***

## Amendment 30

### Proposal for a regulation

#### Recital 19 a (new)

*Text proposed by the Commission*

*Amendment*

***(19a) In order to enhance transparency, steps shall be taken by the Commission or relevant funding body to disclose, upon request from Union citizens or their directly elected representatives, the details of projects undertaken under Horizon 2020.***

## Amendment 31

### Proposal for a regulation

#### Recital 19 b (new)

*Text proposed by the Commission*

*Amendment*

***(19b) All research and innovation build on the capacity of scientists, research institutions, businesses and citizens to openly access, share and use scientific information. However, intellectual property rights must be respected.***

## Amendment 32

### Proposal for a regulation

#### Recital 19 c (new)

*Text proposed by the Commission*

*Amendment*

***(19c) The setting up of patent pools should be encouraged in order to allow the sharing of patented scientific data and increase collaborative efforts and R&D cooperation on specific technological needs. Patent pools would be particularly suitable for technologies that are both complex and expensive allowing the avoidance of the blocking of research due to patent thicket situations.***



## Amendment 33

### Proposal for a regulation Article 1 - paragraph 3

*Text proposed by the Commission*

3. **A funding body** may establish rules which depart from those laid down in this Regulation or Regulation (EU) No XX/2012 [*the Financial Regulation*] if this is provided for in the basic act or, subject to the consent of the Commission, if its specific operating needs so require.

*Amendment*

3. **The EIT** may establish rules which depart from those laid down in this Regulation or Regulation (EU, *Euratom*) No 966/2012 if this is provided for in the basic act or, subject to the consent of the Commission, if its specific operating needs so require, ***in particular in relation to ownership, access rights, exploitation and dissemination of results.***

## Amendment 34

### Proposal for a regulation Article 2 – paragraph 1 – point 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) 'action' means project;***

## Amendment 35

### Proposal for a regulation Article 2 – paragraph 1 – point 2

*Text proposed by the Commission*

(2) 'affiliated entity' means any legal entity that is under the direct or indirect control of a participant, or under the same direct or indirect control as the participant, or is directly or indirectly controlling a participant;

*Amendment*

(2) 'affiliated entity' means any legal entity that is under the direct or indirect control of a participant, or under the same direct or indirect control as the participant, or is directly or indirectly controlling a participant. ***Control may take any of the forms set out in Article 7(2);***

*Justification*

*Reference to "control" definition should be here rather than hidden in paragraph 2 of Art. 2.*

**Amendment 36**  
**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) 'background' means any data, know-how and/or information whatever their form or nature **as well as** any rights such as intellectual property rights which are (i) held by participants prior to their accession to the action **and** (ii) identified by the participants in accordance with Article 42;

*Amendment*

(4) 'background' means any data, know-how and/or information whatever their form or nature, **tangible or intangible, including** any rights such as intellectual property rights which are:

(i) held by participants prior to their accession to the action **or prior to the application which was filed before their accession to the action,**

(ii) **needed for carrying out the indirect action or for using the results of the indirect action, and**

(iii) identified by the participants in accordance with Article 42;

**Amendment 37**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**(4a) 'needed access' means:**

**(i) in the context of the implementation of the action, access that is needed because, without the grant of access rights, carrying out the tasks assigned to the recipient party would be impossible, significantly delayed, or require significant additional financial or human resources.**

**(ii) in the context of the use of own results, access that is needed because, without the grant of such access rights, the use of own results would be technically or legally impossible.**

## *Justification*

*These changes have been suggested by DESCAs coordinators.*

### **Amendment 38**

#### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) 'experimental development' means the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills aiming at developing new, altered or improved products, processes or services, including activities such as prototyping, experimental production, testing, demonstrating, piloting, and market replication;***

### **Amendment 39**

#### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) 'call for proposals' means an announcement inviting proposals for research.***

### **Amendment 40**

#### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 5 c (new)**

*Text proposed by the Commission*

*Amendment*

***(5c) 'consortium' means a group of participants, made up of a coordinator and action partners, that agrees to work together to submit a proposal and potentially work on an action.***

## Amendment 41

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7

*Text proposed by the Commission*

(7) 'dissemination' means the public disclosure of the results by any appropriate means (other than resulting from protecting or exploiting the results), including by ***publishing*** in any medium;

*Amendment*

(7) 'dissemination' means the public disclosure of the results by any appropriate means (other than resulting from protecting or exploiting the results), including by ***scientific publications*** in any medium;

## Amendment 42

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) 'exploitation' means the direct or indirect use of results in further research activities other than those covered by the indirect action concerned, or for developing, creating and marketing a product or process, or for creating and providing a service;***

*Justification*

*A definition of "exploit" needs to be added to clarify that all kinds of internal or external utilisation of results are covered by "exploit" (including internal research, third-party research, own use).*

## Amendment 43

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 b (new)

*Text proposed by the Commission*

*Amendment*

***(7b) 'fair and reasonable conditions' means appropriate conditions, including in financial terms and encompassing royalty-free conditions, which take into account the specific circumstances of the request for access, for example the actual or potential value of the results or***

*background to which access is requested and/or the scope, duration or other characteristics of the use envisaged;*

#### **Amendment 44**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 8**

*Text proposed by the Commission*

(8) 'funding body' means a body or authority, other than the Commission, to which the Commission has entrusted budget implementation tasks **in accordance with Article 9(2) of Regulation (EU) No XX/XX [Horizon 2020]**;

*Amendment*

(8) 'funding body' means a body or authority, other than the Commission, **as referred to in points (b) and (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012**, to which the Commission has entrusted budget implementation tasks;

*Justification*

*References to references should be avoided for reasons of legal clarity.*

#### **Amendment 45**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 10**

*Text proposed by the Commission*

(10) 'legal entity' means **undertakings, research centres and universities, encompassing** any natural person, or any legal person created under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations;

*Amendment*

(10) 'legal entity' means any natural person, or any legal person created under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations;

#### **Amendment 46**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 10 a (new)**

*Text proposed by the Commission*

*Amendment*

**(10a) 'non-profit legal entity' means a**

*legal entity which by law is not allowed to have a lucrative aim or which has a legal or statutory obligation not to distribute profits or which is recognised as such by national, Union or international authorities;*

#### **Amendment 47**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 12**

*Text proposed by the Commission*

(12) 'programme co-fund action' means an action funded through a grant the main purpose of which is supplementing individual calls or programmes funded by entities, other than Union bodies, managing research and innovation programmes;

*Amendment*

(12) 'programme co-fund action' means an action funded through a grant the main purpose of which is supplementing individual calls or programmes funded by entities, other than Union bodies, managing research and innovation programmes. ***An action may include complementary activities of networking and coordination between programmes in different countries;***

*Justification*

*Addition moved here from Art. 2 (5).*

#### **Amendment 48**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 15**

*Text proposed by the Commission*

(15) 'results' means any data, knowledge ***and*** information whatever their form or nature, whether or not they can be protected, which are generated in the action as well as any attached ***rights***, including intellectual property rights;

*Amendment*

(15) 'results' means any ***tangible or intangible output of the action, such as*** data, knowledge, information, whatever their form or nature, whether or not they can be protected, which are generated in the action as well as any ***rights*** attached ***to them***, including intellectual property rights.

#### **Amendment 49**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15a) 'use' means the direct or indirect use of results in further research activities other than those covered by the indirect action concerned, or by exploitation, including, but not limited to, developing, creating and marketing a product or process, or for creating and providing a service;***

*Justification*

*These changes have been suggested by DESCA coordinators.*

**Amendment 50**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 15 b (new)**

*Text proposed by the Commission*

*Amendment*

***(15b) 'SMEs' means micro-, small- and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>1</sup>;***

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<sup>1</sup> OJ L 124, 20.5.2003, p 36.

**Amendment 51**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 17**

*Text proposed by the Commission*

*Amendment*

***(17) 'work plan' means the document similar to the Commission work programme adopted by funding bodies entrusted with part of the implementation of Horizon 2020 in accordance with***

***deleted***

**Article 9(2) of Regulation (EU) No  
XX/XX [Horizon 2020].**

*(This amendment applies throughout the  
text. Adopting it will necessitate  
corresponding changes throughout.)*

*Justification*

*For reasons of simplification, clarity and accessibility, 'work plan', as in an annual workplan drafted by a funding body, shall be called 'work programme' and shall be adopted by the Commission in the same manner as the work programme of the ERC, as outlined in Art. 5(3) Horizon 2020 Specific Programme.*

**Amendment 52**

**Proposal for a regulation  
Article 2 – paragraph 1 – point 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17a) 'guaranteed by a Member State'  
means that a participating legal entity's  
financial viability is secured by a  
commitment of a Member State.***

*Justification*

*A definition of this status seems important to avoid confusion, like in the beginning of FP7.*

**Amendment 53**

**Proposal for a regulation  
Article 2 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. For the purposes of point (2) of  
paragraph 1, control may take any of the  
forms set out in Article 7.*** ***deleted***

*Justification*

*Reference moved to Article 2, paragraph 1, point 2.*

**Amendment 54**



## **Proposal for a regulation**

### **Article 2 – paragraph 3**

*Text proposed by the Commission*

3. For the purposes of this Regulation an entity which does not have legal personality under the applicable national law is assimilated to a legal entity provided that the conditions set out in Regulation (EU) No XX/2012 [the Financial Regulation] are complied with.

*Amendment*

3. For the purposes of this Regulation an entity which does not have legal personality under the applicable national law is assimilated to a legal entity provided that the conditions set out in **Article 114(2)(a) of Regulation (EU, Euratom) No 966/2012 and Article 201 of the Commission delegated Regulation (EU) No XX/XX of 29.10.2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union adopted pursuant thereto** are complied with.

*Justification*

*With reference to the concept of legal personality, in view of the differences between the legal arrangements in place in the various Member States and in order to clarify the scope of paragraph 2.3 and avoid any interpretation problems, explicit reference should be made to Article 114(2)(a) of the current Financial Regulation and Article 174a of the implementing rules.*

## **Amendment 55**

### **Proposal for a regulation**

#### **Article 2 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. For the purposes of point (10) of paragraph 1, a simplified set of rules may apply for public authorities as regards ascertaining their legal personality.**

## **Amendment 56**

### **Proposal for a regulation**

#### **Article 2 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. For the purposes of point (12) of paragraph 1, actions may also include complementary activities of networking and coordination between programmes in different countries.**

**deleted**

*Justification*

*Reference moved to Article 2, paragraph 1, point 12.*

#### **Amendment 57**

##### **Proposal for a regulation Article 2 – paragraph 5a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. The OECD definitions regarding Technological Readiness Level (TRL) will be taken into account in the classification of technological research, product development and demonstration activities.**

#### **Amendment 58**

##### **Proposal for a regulation Article 3**

*Text proposed by the Commission*

*Amendment*

Subject to the conditions established in the implementing agreements, decisions or contracts, any data, knowledge and information communicated as confidential in the frame of an action shall be kept confidential, taking due account of any rules regarding the protection of classified information.

Subject to the conditions established in the implementing agreements, decisions or contracts, any data, knowledge and information communicated as confidential in the frame of an action shall be kept confidential **by the Union institutions and bodies and the participants in an action**, taking due account of any rules regarding the protection of classified information.

*Justification*

*Art. 3 should clearly state by whom the information needs to be kept confidential (by the Union institutions and bodies and the participants in an action)*

## Amendment 59

### Proposal for a regulation

#### Article 4

##### *Text proposed by the Commission*

1. Without prejudice to Article 3, the Commission shall, upon request, make available to the Union institutions and bodies, any Member State or associated country, any useful information in its possession on results **of** a participant that has received Union funding, provided that both the following conditions are met:

- (a) the information concerned is relevant to public policy;
- (b) the participants have not provided sound and sufficient reasons for withholding the information concerned.

In actions under the **activity ‘Secure societies’ within the specific objective ‘Inclusive, innovative and secure societies’**, the Commission may make available to Union institutions and bodies or Member States' national authorities any useful information **in its possession** on results of a participant that has received Union funding.

2. The provision of information pursuant to paragraph 1 **shall not be** deemed to transfer to the recipient any rights or obligations of the Commission or of the participants. **However**, the recipient **shall treat** any such information as confidential unless it becomes public or is made available publicly by the participants, or unless it was communicated to the Commission without restrictions concerning confidentiality. **The** Commission rules on security **shall** apply regarding classified information.

##### *Amendment*

1. Without prejudice to Article 3, the Commission shall, upon request, make available to the Union institutions and bodies, any Member State or associated country, any useful information in its possession on results **generated by** a participant **within an action** that has received Union funding, provided that both the following conditions are met:

- (a) the information concerned is relevant to public policy **or in the public interest**;
- (b) the participants have not provided sound and sufficient reasons for withholding the information concerned.

In actions under the **activities of the Societal Challenges pillar** the Commission may make available to Union institutions and bodies or Member States' national authorities any useful information **at its disposal** on results of a participant that has received Union funding.

**2. The Commission shall ensure the following:**

- (a) the provision of information pursuant to paragraph 1 **is** not deemed to transfer to the recipient any rights or obligations of the Commission or of the participants,

(b) the recipient *treats* any such information as confidential unless it becomes public or is made available publicly by the participants, or unless it was communicated to the Commission without restrictions concerning confidentiality, *and*

(c) the Commission rules on security apply regarding classified information.

## Amendment 60

### Proposal for a regulation Article 4 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 4a*

#### ***Guidance and information for potential participants***

***1. The Commission shall ensure that sufficient guidance and information is made available to all potential participants, in parallel with the publication of the first annual work programme of Horizon 2020.***

***2. The following documents shall be drawn up in close cooperation with all relevant stakeholders and the Member States and adopted by the Commission by means of implementing acts:***

***(a) rules for submission, evaluation, selection, award;***

***(b) standard model grant agreement;***

***(c) rules on audit certification.***

***3. Furthermore, the following guidance and information documents shall be drawn up in close cooperation with all relevant stakeholders and disseminated, as appropriate, by the Commission:***

***(a) guidance note for beneficiaries, including detailed guidance on drafting proposals in consideration of the evaluation and selection process;***

- (b) guide to financial issues;*
  - (c) guide to intellectual property rights (IPR);*
  - (d) checklist for consortium agreement.*
- 4. The elements of the documents referred to paragraph 2 that concern the interpretation of the rules laid down in Regulation (EU, Euratom) No 966/2012 and this Regulation shall remain valid throughout the whole duration of the programme.**

## **Amendment 61**

### **Proposal for a regulation Article 4 b (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 4b**

##### **Code of best practice**

***The Commission, including agencies and bodies acting on behalf of the Commission shall respect the principles set out in Annex 0 in relation to all Horizon 2020 projects..***

## **Amendment 62**

### **Proposal for a regulation Article 5**

*Text proposed by the Commission*

*Amendment*

In accordance with Article 10 of Regulation (EU) XX/2012 [Horizon 2020], funding may take one or several of the forms of provided for by Regulation (EU) No XX/2012 [Financial Regulation], **in particular** grants, prizes, procurement and financial instruments.

In accordance with Article 10 of Regulation (EU) No. XX/2012 [Horizon 2020], funding may take one or several of the forms of provided for by Regulation (EU, Euratom) No 966/2012, **including** grants, prizes, procurement and financial instruments.

## Amendment 63

### Proposal for a regulation

#### Article 6 – paragraph 2

*Text proposed by the Commission*

2. The relevant work programme may restrict the participation in Horizon 2020 or parts thereof of legal entities established in third countries where conditions for the participation of legal entities from Member States in the third country's research and innovation programmes are considered prejudicial to the Union's interests.

*Amendment*

2. The relevant work programme may restrict the participation in Horizon 2020 or parts thereof of legal entities established in third countries where conditions for the participation of legal entities from Member States, ***or their local affiliated entities***, in the third country's research and innovation programmes are considered prejudicial to the Union's interests.

*Justification*

*Reciprocal access to third country programmes should be encouraged, also for the local R&D labs of European multinational companies.*

## Amendment 64

### Proposal for a regulation

#### Article 6 – paragraph 3

*Text proposed by the Commission*

3. The relevant work programme ***or work plan*** may exclude entities not able to provide satisfactory security guarantees, including as regards personnel security clearance if justified by security reasons.

*Amendment*

3. The relevant work programme may exclude entities not able to provide satisfactory security ***or intellectual property protection*** guarantees, including as regards personnel security clearance if justified by security reasons.

## Amendment 65

### Proposal for a regulation

#### Article 6 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. Participation by legal entities established in third countries in the Horizon 2020 framework programme or parts thereof shall be subject to the principle of reciprocity, according to***

*which legal entities established in the Union may participate in research and innovation programmes initiated by those countries.*

## Amendment 66

### Proposal for a regulation

#### Article 8

##### *Text proposed by the Commission*

1. The following minimum conditions shall apply:

- (a) at least three legal entities shall participate in an action;
- (b) each of the three shall be established in a Member State or associated country;
- (c) no two of the three may be established in the same Member State or associated country;
- (d) all three legal entities shall be independent of each other within the meaning of Article 7.

2. For the purposes of paragraph 1, where one of the participants is the JRC, or an international European interest organisation or an entity created under Union law, it shall be deemed to be established in a Member State or associated country other than any Member State or associated country in which another participant in the same action is established.

3. By way of derogation from paragraph 1, in the case of European Research Council (ERC) frontier research actions, the SME instrument, programme co-fund actions ***and in justified cases provided for in the work programme or work plan***, the minimum condition shall be the participation of one legal entity established in a Member State or associated country.

4. By way of derogation from paragraph 1, in the case of coordination and support

##### *Amendment*

1. The following minimum conditions shall apply:

- (a) at least three legal entities shall participate in an action;
- (b) each of the three shall be established in a Member State or associated country;
- (c) no two of the three may be established in the same Member State or associated country;
- (d) all three legal entities shall be independent of each other within the meaning of Article 7.

2. For the purposes of paragraph 1, where one of the participants is the JRC, or an international European interest organisation or an entity created under Union law, it shall be deemed to be established in a Member State or associated country other than any Member State or associated country in which another participant in the same action is established.

3. By way of derogation from paragraph 1, in the case of European Research Council (ERC) frontier research actions, the SME instrument, programme co-fund actions, the minimum condition shall be the participation of one legal entity established in a Member State or associated country, ***given that the legal entity can compete across borders and is addressing societal challenges of a European dimension***.

4. By way of derogation from paragraph 1, in the case of coordination and support

actions and training and mobility actions, the minimum condition shall be the participation of one legal entity.

Work programmes *or work plans* may provide for additional conditions according to specific policy requirements or to the nature and objectives of the action, including *inter alia* conditions regarding the number of participants, the type of participant and the place of establishment.

actions and training and mobility actions, the minimum condition shall be the participation of one legal entity.

**5. *If necessary and fully justified***, work programmes may provide for additional conditions according to specific policy requirements or to the nature and objectives of the action, including *inter alia* conditions regarding the number of participants, the type of participant and the place of establishment.

## Amendment 67

### Proposal for a regulation Article 9 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Horizon 2020 shall exclude legal entities (including any affiliated entities) whose participation would, due to the objectives they pursue, their place of establishment, the nature or the location of their activities, cause the Union to recognise as lawful or render aid or assistance in maintaining a situation created by a serious breach of international law (including international humanitarian law) where such breach has been established by a resolution of the United Nations Security Council or by a judgment or advisory opinion of the International Court of Justice.***

## Amendment 68

### Proposal for a regulation Article 9 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) the participation is deemed essential for carrying out the action by the Commission or the relevant funding body;

(a) the participation is deemed essential for carrying out the action by the Commission or the relevant funding body, ***following consultation of the European Parliament and the Council***;



## Amendment 69

### Proposal for a regulation

#### Article 9 – paragraph 2 – point b

*Text proposed by the Commission*

(b) such funding is provided for under a bilateral scientific and technological agreement or any other arrangement between the Union and the international organisation or, for entities established in third countries, the country in which the legal entity is established.

*Amendment*

(b) such funding is provided for under a bilateral scientific and technological agreement or any other arrangement between the Union and the international organisation or, for entities established in third countries, the country in which the legal entity is established. ***Such agreement should ensure equal treatment of all Member States regardless of their membership in the international organisation.***

## Amendment 70

### Proposal for a regulation

#### Article 9 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. The Commission shall verify fulfilment of the conditions referred to in paragraph 1.***

## Amendment 71

### Proposal for a regulation

#### Article 10 – paragraph 1

*Text proposed by the Commission*

Without prejudice to the other cases provided for in Regulation (EU) No XX/2012 [Financial Regulation] and in Regulation (EU) No XX/2012 [Delegated Regulation], calls for proposals shall not be issued for coordination and support actions and programme co-fund actions to be carried out by legal entities identified in the work programmes provided that the action

*Amendment*

***I.*** Without prejudice to the other cases provided for in Regulation (EU) No XX/2012 [Financial Regulation] and in Regulation (EU) No XX/2012 [Delegated Regulation], calls for proposals shall not be issued for coordination and support actions and programme co-fund actions to be carried out by legal entities identified in the work programmes provided that the action

does not fall under the scope of a call for proposals.

does not fall under the scope of a call for proposals. ***Calls for proposals may take any form, including open calls, which are necessary to ensure the level of flexibility imposed by the diversity of research and innovation sectors and activities, from long-term projects to short-term opportunity-seizing activities.***

## **Amendment 72**

### **Proposal for a regulation Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. A call for proposals shall not preliminarily restrict the number of actions to be funded under that call for proposals to only one action.***

*Justification*

*In order to maintain an element of competitiveness within the call process the common restriction that 'only one project is expected to be funded under each topic' should be abolished. Otherwise, depending on the level of specification and detail within the call, this restriction might jeopardise the criterion of excellence.*

## **Amendment 73**

### **Proposal for a regulation Article 10 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The number of actions funded under a call for proposals shall be determined by the criterion of excellence.***

## **Amendment 74**

### **Proposal for a regulation Article 11 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Joint calls for proposals with third

1. Joint calls for proposals with third

countries or their scientific and technological organisations and agencies or with international organisations may be launched to jointly fund actions. Proposals shall be evaluated and selected through joint evaluation and selection procedures to be agreed upon. Such evaluation and selection procedures shall ensure compliance with the principles set out in Title VI of Regulation (EU) XX/2012 [Financial Regulation] and involve a balanced group of independent experts appointed by each party.

countries or their scientific and technological organisations and agencies or with international organisations may be launched to jointly fund actions ***in areas where there is a clear European added value***. Proposals shall be evaluated and selected through joint evaluation and selection procedures to be agreed upon. Such evaluation and selection procedures shall ensure compliance with the principles set out in Title VI of Regulation (EU) XX/2012 [Financial Regulation] and involve a balanced group of independent experts appointed by each party.

## **Amendment 75**

### **Proposal for a regulation Article 11 – paragraph 2**

#### *Text proposed by the Commission*

2. Legal entities receiving funding from the Union shall conclude a grant agreement with the Union or the relevant funding body. That grant agreement shall include the description of work to be done by those participants and by the participating legal entities from the third countries involved.

#### *Amendment*

2. Legal entities receiving funding from the Union shall conclude a grant agreement with the Union or the relevant funding body. That grant agreement shall include the description of work to be done by those participants and by the participating legal entities from the third countries involved ***and framework conditions in particular on access rights, exploitation and dissemination***.

#### *Justification*

*Provision needs to be made for the possibility of indicating framework conditions for actions carried out on the basis of joint calls with third countries, in particular in relation to intellectual property rights.*

## **Amendment 76**

### **Proposal for a regulation Article 11 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

#### ***Article 11a***

### *Time to Bid*

*Shortening time periods for deciding on successful bids is a priority. However, depending on the nature of any specific call, due consideration shall also be given to the following:*

*(a) clear and transparent mechanisms to develop calls on specific topics will enable a level playing field and the inclusion and growth of participation. This should, where possible, be consistent across programmes and objectives;*

*(b) reasonable advance notice of upcoming calls can allow potential participants to form bidding consortia in advance of publication of calls and thus result in higher quality bids;*

*(c) maintaining a reasonable time period between the publication of a call and the deadline for submitting bids can result in higher quality bids and a more level playing field between participants with different degrees of administrative capacity, experience of participation in Union funded programmes, different languages and varying levels of English language skills; and*

*(d) call deadlines should be scheduled taking into account the full scope of Union calls and the academic and business calendar of potential participants.*

### **Amendment 77**

#### **Proposal for a regulation Article 11 b (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 11b**

##### **Synergies with Cohesion funds**

*In order to create synergies and efficiency with the use of Cohesion funds dedicated to research purposes, common rules for participation shall be set. One single set of*

*rules including usage of the same Participant Identification Code (PIC) and a single entry point for all research funding from the Union, through the Participant Portal shall be established.*

## Amendment 78

### Proposal for a regulation Article 12

#### *Text proposed by the Commission*

1. **Where appropriate, proposals** shall include a draft plan for the exploitation and dissemination of the results.

2. Any proposal for research on human embryonic stem cells shall include, **as appropriate**, details of licensing and control measures that will be taken by the competent authorities of the Member States as well as details of the ethical approvals that will be provided. As regards the derivation of human embryonic stem cells, institutions, organisations and researchers shall be subject to strict licensing and control in accordance with the legal framework of the Member States involved.

3. A proposal which contravenes ethical principles or any applicable legislation, or which does not fulfil the conditions set out in Decision No XX/XX/EU [specific programme], the work programme **or work plan** or in the call for proposals may be excluded from the evaluation, selection and award procedures at any time.

#### *Amendment*

1. **Proposals** shall include a draft plan for the exploitation and dissemination of the results, **where provided for in the work programme**.

**1a. Where appropriate, e.g. if it is expected that there will be a high volume of applications, the Commission may decide to use a two-stage application procedure, provided that it does not entail a longer period of time from proposal deadline until contract is signed (time-to-contract) or until the grant is awarded (time-to grant).**

2. Any proposal for research on human embryonic stem cells shall include details of licensing and control measures that will be taken by the competent authorities of the Member States as well as details of the ethical approvals that will be provided, **as appropriate**. As regards the derivation of human embryonic stem cells, institutions, organisations and researchers shall be subject to strict licensing and control in accordance with the legal framework of the Member States involved.

3. A proposal which contravenes ethical principles, **fundamental rights** or any applicable legislation, or which does not fulfil the conditions set out in Decision No XX/XX/EU [specific programme], the work programme or in the call for proposals may be excluded from the evaluation, selection and award procedures at any time.

**3a. Any proposal for research with the potential for further development into a novel medical technology (e.g. drugs, vaccines, medical diagnostics) shall include a draft plan specifying a strategy to guarantee the immediate and widest possible access to this technology, where lack of access rights to the technology would pose a threat to the protection of public health.**

**3b. Where relevant, proposals should explain how and to what extent sex and gender analysis is relevant to the intended project, and use appropriate methods developed by cutting-edge research in the field.**

*Justification*

*In certain areas, proposals should indicate how relevant gender is.*

**Amendment 79**

**Proposal for a regulation**

**Article 13 – paragraph 1**

*Text proposed by the Commission*

The Commission shall systematically carry out ethics reviews for proposals raising ethical issues. This review shall verify the respect of ethical principles and legislation and, in the case of research carried out outside the Union, **that** the same research would have been allowed in a Member State.

*Amendment*

**1.** The Commission shall systematically carry out ethics reviews for proposals raising ethical issues. This review shall verify the respect of ethical principles and **Union** legislation and, in the case of research carried out outside the Union, **shall verify whether** the same research would have been allowed in a Member State.

*Justification*

*This is to ensure that ethics reviews are conducted in accordance with EU legislation and principles.*

**Amendment 80**

**Proposal for a regulation**

**Article 13 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission shall make the process of ethics review as transparent as possible to the project officers and to participants.***

## **Amendment 81**

### **Proposal for a regulation Article 13 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The Commission shall try to ensure that ethics reviews do not, where possible, result in undue delay in the start, continuation or completion of projects.***

## **Amendment 82**

### **Proposal for a regulation Article 13 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 13a***

#### ***Gender Review***

***The Commission shall systematically carry out gender reviews for proposals, using a template with a check list attached to the guidance documents referred to in Article 4a.***

## **Amendment 83**

### **Proposal for a regulation Article 14**

*Text proposed by the Commission*

*Amendment*

1. The proposals submitted shall be evaluated on the basis of the following award criteria:

1. The proposals submitted shall be evaluated on the basis of the following award criteria:

- a) excellence;
  - b) impact;
  - c) quality and efficiency of the implementation.
2. The sole criterion of excellence shall apply for proposals for ERC frontier research actions.
3. The work programme *or work plan* shall lay down further details of the application of the award criteria laid down in paragraph 1, and specify weightings and thresholds.

4. Proposals shall be ranked according to the evaluation results. The selection shall be made on the basis of this ranking.
5. The Commission or the relevant funding body shall verify the financial capacity in advance only for coordinators when the requested funding from the Union for the action is equal or superior to EUR 500 000, unless where, on the basis of available information, there are grounds to doubt the financial capacity of the coordinator or other participants.

6. The financial capacity shall not be

- a) excellence;
  - b) impact;
  - c) quality and efficiency of the implementation.
2. The sole criterion of excellence shall apply for proposals for ERC frontier research actions.
3. The work programme shall lay down further details of the application of the award criteria laid down in paragraph 1, and specify weightings and thresholds.

***3a. The Commission shall draw up a guide to the selection process, explaining the application of the award criteria and defining the implications of specific weightings and thresholds for the selection process. This guide shall be published in parallel with the first work programme.***

***3b. Where appropriate, the potential of a proposal to foster international cooperation on key topics such as standardisation shall be taken into account in the evaluation procedure.***

4. Proposals shall be ranked according to the evaluation results. The selection shall be made on the basis of this ranking.
5. The Commission or the relevant funding body shall verify the financial capacity in advance only for coordinators when the requested funding from the Union for the action is equal or superior to EUR 500 000, unless where, on the basis of available information, there are grounds to doubt the financial capacity of the coordinator or other participants. ***The Commission shall ensure that a simple, user-friendly electronic tool is provided to applicants to carry out their financial viability check.***

***5a. Where the coordinator is an SME and does not meet the financial capacity criteria, the Participant Guarantee Fund outlined in Article 32 may cover the risk.***

6. The financial capacity shall not be



verified for legal entities whose viability is guaranteed by a Member State or an associated country and for higher and secondary education establishments.

verified for legal entities whose viability is guaranteed by a Member State or an associated country and for higher and secondary education establishments.

***Similarly, the financial and coordination capacity of under-capitalised subsidiaries or start-ups shall not be verified where their viability is guaranteed by their shareholders provided that this is renewed on a yearly basis.***

## Amendment 84

### Proposal for a regulation

#### Article 15

##### *Text proposed by the Commission*

1. The Commission or the relevant funding body shall provide ***an*** evaluation review procedure for applicants who consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in these rules, the relevant work programme ***or work plan*** and the call for proposals.

2. A request for review shall relate to a specific proposal, and shall be submitted by the coordinator of the proposal within 30 days of the date when the Commission or the relevant funding body informs the coordinator of the evaluation results.

3. The Commission or the relevant funding body shall be responsible for the examination of this request. This examination shall only cover the procedural aspects of the evaluation, and not the merit of the proposal.

##### *Amendment*

1. The Commission or the relevant funding body shall provide ***a fully transparent*** evaluation review procedure for applicants who consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in these rules, the relevant work programme and the call for proposals.

2. A request for review shall relate to a specific proposal, and shall be submitted by the coordinator of the proposal within 30 days of the date when the Commission or the relevant funding body informs the coordinator of the evaluation results.

3. The Commission or the relevant funding body shall be responsible for the examination of this request. This examination shall only cover the procedural aspects of the evaluation, and not the merit of the proposal.

***3a. Where Horizon 2020 subsidy projects are resubmitted, the Commission shall, before the evaluation, make available to the new evaluation panel the project application previously submitted and the accompanying Evaluation Summary Report (ESR). The Commission shall, with due regard for technical and scientific developments ensure that there***

4. An evaluation review committee composed of Commission staff or of the relevant funding body staff shall provide **an** opinion on the procedural aspects of the evaluation process. It shall be chaired by an official of the Commission or of the relevant funding body, from a department other than the one responsible for the call for proposals. The committee may recommend one of the following:

- (a) re-evaluation of the proposal;
- (b) confirmation of the initial opinion.

5. On the basis of that recommendation a decision shall be taken by the Commission or the relevant funding body and notified to the coordinator of the proposal.

6. The review procedure shall not delay the selection process of proposals which are not the subject of requests for review.

7. The review procedure shall not preclude any other actions the participant may take in accordance with Union law.

***is no inconsistency between the findings in the old and new project ESRs.***

4. An evaluation review committee composed of Commission staff or of the relevant funding body staff shall provide **a transparent and objective** opinion on the procedural aspects of the evaluation process. It shall be chaired by an official of the Commission or of the relevant funding body, from a department other than the one responsible for the call for proposals. The committee may recommend one of the following:

- (a) re-evaluation of the proposal
- (b) confirmation of the initial opinion.

5. On the basis of that recommendation a decision shall be taken by the Commission or the relevant funding body and notified to the coordinator of the proposal ***within 30 days of the date on which the Commission or the relevant funding body receives the request for the review.***

6. The review procedure shall not delay the selection process of proposals which are not the subject of requests for review.

7. The review procedure shall not preclude any other actions the participant may take in accordance with Union law.

## **Amendment 85**

### **Proposal for a regulation Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 15a***

##### ***Redress***

***1. The Commission shall set up a formal complaints procedure for participants, which may include appointing an ombudsman or equivalent body specifically dedicated to research and innovation projects under Horizon 2020. The Commission shall ensure that***

*participants are aware of all complaints/redress procedures available to them by publishing details of the redress/complaints procedures on all correspondence with participants or applicants. The procedure shall be transparent and the results and decision-making process shall be made available to participants.*

*2. Participants shall be allowed to register complaints concerning any area of their involvement in Horizon 2020. The complaints procedure shall not be limited to procedural aspects of the evaluation of proposals.*

*3. The Commission shall respond to complaints within 30 days of receiving them with a decision.*

*4. In line with Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, when a complaint cannot satisfactorily be solved through the complaints procedure referred to in paragraph 1, the Commission and the participants may agree to attempt to resolve the dispute through a mediation process in accordance with a mediation centre procedure. The mediation centre shall be agreed by the Commission and the participant(s), preferably from a list of mediation centres accepted by the Commission.*

*5. The Commission shall set aside 0,5% of the Horizon 2020 budget for funding projects which are initially unsuccessful and which, following the redress procedure, are positively evaluated.*

**Amendment 86**

**Proposal for a regulation  
Article 16**

1. The Commission or the relevant funding body shall enter into a grant agreement with the participants.
2. The grant agreement shall establish the rights and obligations of the participants, of the Commission or the relevant funding bodies. It shall also establish the rights and obligations of legal entities which become participants during the implementation of the action.
3. The grant agreement may establish rights and obligations of the participants with regard to access rights, exploitation and dissemination, additional to those laid down in this Regulation.
4. The grant agreement shall, where appropriate, reflect the general principles

***-1. The Commission shall, in close cooperation with the Member States, draw up model grant agreements taking into account the characteristics of the funding scheme concerned. If a significant modification of the model grant agreement proves necessary, the Commission shall, in close cooperation with Member States, revise it as appropriate.***

***-1a. At the latest at the date of publication of the first call for proposals, the Commission or the relevant funding body shall make available the model grant agreement.***

1. The Commission or the relevant funding body shall enter into a grant agreement with the participants.
2. The grant agreement shall establish the rights and obligations of the participants, ***and either*** of the Commission or the relevant funding bodies ***in compliance with this Regulation***. It shall also establish the rights and obligations of legal entities which become participants during the implementation of the action ***as well as establishing the role and tasks of a consortium coordinator***.

***It shall comply with the provisions of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No XX/XX [the Delegated Regulation].***

3. ***On the basis of a requirement in a work programme requirement***, the grant agreement may establish rights and obligations of the participants with regard to access rights, exploitation and dissemination, additional to those laid down in this Regulation. ***The Commission shall ensure that additional rights and obligations are applied in a coherent and consistent manner.***
4. The grant agreement shall, where appropriate, reflect the general principles

laid down in Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers.

5. The grant agreement shall, where appropriate, contain provisions ensuring the respect of ethical principles, including the establishment of an independent ethics board and the right of the Commission to carry out an ethics audit.

6. Specific grants for actions may form part of a framework partnership according to the provisions of Regulation (EU) No XX/2012 [the Financial Regulation] and Regulation (EU) No [the Delegated Regulation].

## Amendment 87

### Proposal for a regulation Article 17

#### *Text proposed by the Commission*

Where appropriate the Commission, in accordance with Article X of Regulation (EU) No XX/2012 [Financial Regulation], or the relevant funding body may adopt grant decisions instead of entering into grant agreements. The provisions of this Regulation referring to grant agreements shall apply mutatis mutandis.

laid down in Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, ***principles of research integrity, Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research institutions as well as the gender equality principle laid down in Article 15 of Regulation (EU) No XX/XX [Horizon 2020].***

5. The grant agreement shall, where appropriate, contain provisions ensuring the respect of ethical principles ***and fundamental rights***, including the establishment of an independent ethics board and the right of the Commission to carry out an ***independent*** ethics audit.

6. ***In exceptional and duly justified cases***, specific grants for actions may form part of a framework partnership according to the provisions of Regulation (EU) No XX/XX [the Financial Regulation] and Regulation (EU) No XX/XX [the Delegated Regulation].

#### *Amendment*

Where appropriate ***and necessary for a streamlined approach to the action funded***, the Commission, in accordance with Article X of Regulation (EU, Euratom) No 966/2012, or the relevant funding body may adopt grant decisions instead of entering into grant agreements. The provisions of this Regulation referring to grant agreements shall apply mutatis mutandis.

## *Justification*

*The conditions for the use of grant decisions shall be defined in a more precise manner.*

### **Amendment 88**

#### **Proposal for a regulation**

#### **Article 17 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 17a*

#### *Time to grant*

*1. The Commission or the relevant funding body shall ensure that the average time between the deadline for proposals as established by the call for proposals and the signature of the grant agreement, or where applicable the grant decision (the 'time to grant'), shall be a maximum period of six months. This time may be prolonged by one additional month in exceptional cases or if requested by the consortium.*

*2. The cumulative time taken by the Commission to complete their internal process including preparation of all relevant information and documentation, evaluation and signature of grant agreements shall be no more than 60 working days.*

*Participants shall be given no less than 60 working days cumulatively to prepare all relevant information and documentation required.*

*3. Where appropriate to the nature of any specific call, due consideration shall be given to a two-stage evaluation procedure in order to reduce the costs of preparing proposals which are unsuccessful. For two-stage procedures, the average time to grant shall be nine months. There shall be consistency in the format of the outline of proposals where a two-stage procedure is used and applicants shall have sufficient time to prepare stage two of the bid.*

*4. The Commission shall endeavour to make decisions or requests for information as promptly as reasonably practicable. The Commission shall avoid obliging participants to re-draft or re-negotiate parts of an initial successful bid, unless there is a reasonable and justified reason for doing so.*

*5. Participants shall be given reasonable amounts of time to prepare information and documentation required for projects.*

*6. Repetitive elements of the application, grant agreement or supporting documents shall be avoided. The Commission shall refrain from asking participants for information which is already available within the administration, unless it needs to be updated, or for facts or data which the Commission can verify easily and free of charge in an authenticated, electronically accessible database (e.g. company data).*

*7. The Commission shall seek, where possible, to avoid timing calls in such a way that they require potential participants to submit documentation during standard academic and business vacation periods.*

## **Amendment 89**

### **Proposal for a regulation Article 17 b (new)**

*Text proposed by the Commission*

*Amendment*

*Article 17b*

*Time to Pay*

*1. Participants who have delivered the work which they were contracted to do, shall be paid in a timely fashion.*

*2. The Commission shall ensure that participants receive money owed to them within 30 days of the necessary paperwork being submitted to the Commission. The Commission shall notify the project*

*coordinator and participants of any irregularities or additional paperwork within two weeks of information being submitted to the Commission. If no such notification is received, the Commission shall be liable to the pay amounts owed.*

*3. The Commission shall put in place measures to ensure that project coordinators distribute project money promptly, fairly and in accordance with the grant agreement and that money is shared among partners in proportion to what is owed to each partner. Unless agreed between all participants, project coordinators shall not withhold or phase pre-financing payments without the approval of the project officer, in particular for SMEs. Such arrangements shall be made clear in consortium agreements and have the approval of the project officer.*

*4. Once a payment has been made to the project coordinator, the Commission shall notify the participants of the amount that has been paid and the date on which the payment was made.*

*5. If one or more partner(s) have not completed the work they have been contracted to do or they have not submitted the required information or documentation to the project coordinator or the Commission, it shall not prevent the project coordinator from submitting documentation to the Commission on behalf of other partner(s) or the Commission from issuing payment to other partner(s).*

*6. Where new partners enter into a project after the grant agreement has been negotiated, such entry shall not alter the amount of funding allocated to the original partners unless agreed by the original partners or unless the amount of work required by them will be significantly different.*

*7. The Commission shall implement a hierarchical auditing process to ensure that the beneficiaries' auditors comply*



*with an approved standard and comply with the auditing requirements of Horizon 2020. The Commission shall refrain from asking for extra information once an audit has already been submitted.*

*8. The Commission shall report on its payment performance by producing semi-annual statistics that present payment times for completed work. Payment times shall be defined as the time from final sign-off of the completed project by both the project coordinator and project officer (this time period itself to be no longer than one month from project completion date) to the availability of cleared funds in the participant's bank account.*

*9. At the request of the participant, grant agreements shall respect the academic and business calendar. This shall apply especially to projects which, for example, need to recruit PhD students who are not likely to be available during the middle of the academic calendar.*

## **Amendment 90**

### **Proposal for a regulation Article 17 c (new)**

*Text proposed by the Commission*

*Amendment*

*Article 17c*

*Communication*

*1. The ethics approval process shall be transparent to participants and to applicants, especially when the process is the source of a delay in the initiation of projects. Information that has already been submitted in the bid shall not need to be re-drafted for ethical approval. Where possible, the Commission shall use all the information that has already been submitted by the applicant(s) in the bid in order to grant its approval and shall only ask for additional information where it can prove that this information is absolutely necessary.*

***2. Participants shall be able to communicate directly with project officers in cases where they have repeated concerns regarding the management of a project or the actions of the project coordinator. If the project officer is absent, he/she shall ensure that participants have the contact details for a deputy, who is able to make decisions in the project officer's absence. Contact details for the relevant Commission officials shall be made available and made known to participants.***

***3. At the request of participants, and to enable them to prepare for future bids, the Commission shall give feedback to applicants on unsuccessful bids including the strengths and weaknesses as considered by the independent experts referred to in Article 37 of the Regulation.***

## **Amendment 91**

### **Proposal for a regulation Article 18**

#### *Text proposed by the Commission*

The Commission ***or the relevant funding body may*** establish a secure electronic system for exchanges with the participants. A document submitted by means of this system, including grant agreements, shall be deemed to be the original of that document where the user identification and password of the participant's representative have been used. Such identification shall constitute the signature of the document concerned.

#### *Amendment*

The Commission ***shall*** establish a secure electronic system for exchanges with the participants ***as part of the single entry point that shall, inter alia, inform applicants of the details and timeline of their application, in an easily accessible format. The system shall provide feedback to applicants so they know when they are likely to receive a decision from the Commission or relevant funding body.*** A document submitted by means of this system, including grant agreements, shall be deemed to be the original of that document where the user identification and password of the participant's representative have been used. Such identification shall constitute the signature of the document concerned.

## Amendment 92

### Proposal for a regulation

#### Article 19 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Participants may submit to the Commission clarifications or interpretations relating to the application of this Regulation. In the absence of a Commission response within two months, the participant's clarifications or interpretations shall be deemed to have been endorsed.***

*Justification*

*Many participants complain that the Commission takes a long time to reply, if it replies at all, to requests for clarifications or interpretations regarding the application of the rules governing participation. This arrangement will make for a more balanced relationship between the Commission and beneficiaries.*

## Amendment 93

### Proposal for a regulation

#### Article 19 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Participants shall make no commitments which are incompatible with the grant agreement. Where a participant fails to comply with its obligations regarding the technical implementation of the action, the other participants shall comply with the obligations without any additional Union funding unless the Commission or funding body expressly relieves them of that obligation. The financial responsibility of each participant shall be limited to its own debt, subject to the provisions relating to the Fund. The participants shall ensure that the Commission or funding body is informed of any event which might affect the implementation of the action or the interests of the Union.

2. Participants shall make no commitments which are incompatible with ***this Regulation and*** the grant agreement. Where a participant fails to comply with its obligations regarding the technical implementation of the action, the other participants shall comply with the obligations without any additional Union funding unless the Commission or funding body expressly relieves them of that obligation. ***The funding provided to or reserved for a defaulting party may be made available to the remaining partners in order to cover their costs in undertaking the work originally allocated to the defaulting party. The funding shall be released to the project coordinator when action due by the defaulting party is scheduled to start.*** The financial

responsibility of each participant shall be limited to its own debt **and related to what has been directly received**, subject to the provisions relating to the Fund. The participants shall ensure that the Commission or funding body is informed **in due time** of any **significant** event which might affect the implementation of the action or the interests of the Union.

## Amendment 94

### Proposal for a regulation Article 19 – paragraph 4

*Text proposed by the Commission*

4. The award of subcontracts for carrying out certain elements of the action shall be limited to the cases provided for in the grant agreement.

*Amendment*

4. The award of subcontracts for carrying out certain elements of the action shall be limited to the cases provided for in the grant agreement **and cases that could not be clearly foreseen at the time of its entry into force. In these cases, prior approval by the Commission shall be requested; such an approval can not be unreasonably denied.**

*Justification*

*A certain degree of flexibility is needed as a strict application of the rule can jeopardize the result of the action. Over the duration of the action and development of the research activity it could happen that a certain degree of flexibility concerning the subcontracting of some activity is needed and that was not foreseeable at the time of the entry into force.*

## Amendment 95

### Proposal for a regulation Article 19 – paragraph 5 – subparagraph 1

*Text proposed by the Commission*

Third parties **other than** subcontractors may carry out part of **a participant's** work **under the action, provided that the third party and the work to be carried out by it are** identified in the grant agreement.

*Amendment*

**The involvement of** third parties, **not including project** subcontractors, **who** may carry out part of **the research** work **shall be** identified in the grant agreement.

## *Justification*

*The project coordinator is unable to foresee the implementation requirements in their entirety, especially as regards services of no scientific significance.*

### **Amendment 96**

#### **Proposal for a regulation Article 19 – paragraph 9**

##### *Text proposed by the Commission*

9. Participants shall comply with national legislation, regulations *and* ethical rules in the countries where the action will be carried out. Where appropriate, participants shall seek the approval of the relevant national or local ethics committees prior to the start of the action.

##### *Amendment*

9. Participants shall comply with national legislation, regulations, ethical rules *and principles of research integrity* in the *Union and associated* countries where the action will be carried out. Where appropriate, participants shall seek the approval of the relevant national or local ethics committees prior to the start of the action. *Actions which are carried out by third countries and funded by the Commission shall comply with Union law.*

### **Amendment 97**

#### **Proposal for a regulation Article 20**

##### *Text proposed by the Commission*

1. The members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator which shall be identified in the grant agreement.

##### *Amendment*

1. The members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator which shall be identified in the grant agreement.

*The coordinator shall be the principal point of contact between the members of the consortium, represent the consortium in relations with the Commission or the relevant funding body and monitor the compliance by members of the consortium with their obligations under the grant agreement.*

*This, however, shall not prevent individual members of the consortium from being able to enter into direct dialogue with the Commission or the*

2. The members of a consortium participating in an action shall conclude an internal agreement (the consortium agreement), *except in duly justified cases provided for in the work programme or work plan or call for proposals.*

3. The consortium may propose to add or remove a participant in accordance with the respective provisions of the grant agreement, provided that this change is in conformity with the conditions for participation, does not adversely affect the implementation of the action and is not contrary to the principle of equal treatment.

*relevant funding body, in particular when they have concerns over the actions of the coordinator.*

2. The members of a consortium participating in an action shall conclude an internal agreement *that establishes the rights and obligations of the members in the consortium* (the consortium agreement).

*2a. Such consortium agreement may stipulate inter alia the following:*

*(a) the internal organisation of the consortium;*

*(b) the distribution of the Union funding;*

*(c) rules on dissemination, use and access rights, additional to those in Title III, Chapter I, and to the provisions in the grant agreement;*

*(d) the settlement of internal disputes including cases of abuse of power;*

*(e) liability, indemnification and confidentiality arrangements between the participants.*

*The members of the consortium may make all arrangements in the consortium they deem fit to the extent those arrangements are not in conflict with the grant agreement and this Regulation.*

*2b. The Commission shall publish, together with the invitation to submit project proposals, guidelines concerning the principal issues which participants can deal with in their consortium agreements.*

3. The consortium may propose to add or remove a participant *or change a coordinator* in accordance with the respective provisions of the grant agreement, provided that this change is in conformity with the conditions for participation, does not adversely affect the implementation of the action and is not contrary to the principle of equal treatment.

## Amendment 98

### Proposal for a regulation

#### Article 21

##### *Text proposed by the Commission*

Grants may take any of the forms provided for in Article [116] of Regulation (EU) No XX/2012 [the Financial Regulation].

##### *Amendment*

Grants may take any of the forms provided for in Article [116] of Regulation (EU, Euratom) No 966/2012, **taking into account the objectives of the action.**

##### *Justification*

*These rules shall highlight the objectives of the action as the main criterion when choosing the form of funding.*

## Amendment 99

### Proposal for a regulation

#### Article 22

##### *Text proposed by the Commission*

1. The funding for an action shall not exceed the total eligible costs minus the receipts of the action.
2. The following shall be considered as receipts of the action:
  - (a) Resources made available by third parties to the participants by means of financial transfers or contributions in kind free of charge, provided that they have been contributed by the third party specifically to be used in the action;
  - (b) Income generated by the action, except income generated by the exploitation of the results of the action;
  - (c) Income generated from the sale of assets purchased under the grant agreement up to the value of the cost initially charged to the action by the participant.
3. ***A single reimbursement rate of the eligible costs shall be applied per action for all activities funded therein. The maximum rate shall be fixed in the work programme or work plan.***

##### *Amendment*

1. The funding for an action shall not exceed the total eligible costs minus the receipts of the action.
2. The following shall be considered as receipts of the action:
  - (a) Resources made available by third parties to the participants by means of financial transfers or contributions in kind free of charge, provided that they have been contributed by the third party specifically to be used in the action;
  - (b) Income generated by the action, except income generated by the exploitation of the results of the action;
  - (c) Income generated from the sale of assets purchased under the grant agreement up to the value of the cost initially charged to the action by the participant.
3. ***For reimbursement of eligible costs, the following maximum rates shall apply:***

<i>Type of activity</i>	<i>Method of cost calculation</i>	<i>Type of participant</i>	
		<i>University/ RTOs/SMEs/Others</i>	<i>Industry</i>
<i>Research &amp; Development &amp; Experimental development</i>	<i>direct eligible costs + flat rate (Article 24)</i>	<i>100%+20%</i>	<i>70% +20%</i>
	<i>full costs (Article 24)</i>	<i>70%</i>	<i>50%</i>

4. The Horizon 2020 grant may reach a maximum of 100 % of the **total** eligible costs, without prejudice to the co-financing principle.

4. **For a non-profit participant or an SME participant**, the Horizon 2020 grant may reach a maximum of 100 % of the **direct** eligible costs, without prejudice to the co-financing principle.

**4a. For a non-profit participant or an SME participant that has opted to determine its indirect eligible costs based on indirect costs actually incurred in accordance with Article 24(2), the Horizon 2020 grant shall amount to 70% of total eligible costs.**

**For an industry participant, the Horizon 2020 grant shall be limited to a maximum of 70 % of the direct eligible costs, without prejudice to the co-financing principle.**

**For an industry participant that has opted to determine its indirect eligible costs based on indirect costs actually incurred in accordance with Article 24(2), the Horizon 2020 grant shall amount to 50% of total eligible costs.**

**5. The Horizon 2020 grant shall be limited to a maximum of 70 % of the total eligible costs for the following actions:**

**(a) actions primarily consisting of activities such as prototyping, testing, demonstrating, experimental development, piloting, market replication;**

**(b) programme co-fund actions.**

**5. Regarding programme co-fund actions, the applicable rate shall be fixed in the work programme.**

**For programme co-fund actions and other indirect actions that consist mainly in large-scale experimental development**



*activities, the applicable rate may be a maximum of 35% of direct eligible costs.*

*For the purposes of this Regulation and in accordance with Article [119] of Regulation (EU, Euratom) No 966/2012, co-funding may take the form of cumulative financing from separate budget lines in justified cases provided for in the work programme, without prejudice to the avoidance of double-funding of the same cost item.*

6. The reimbursement rates determined in this Article shall also apply in the case of actions where flat rate, scale of unit or lump-sum financing is fixed for the whole or part of an action.

6. The reimbursement rates determined in this Article shall also apply in the case of actions where flat rate, scale of unit or lump-sum financing is fixed for the whole or part of an action.

*6a. In cases where money allocated to a project has not been spent, the Commission shall provide the appropriate means to allow money to be returned to the Horizon 2020 budget.*

*6b. Regarding the validation process that is used to verify the type of participant, the records of the unique registration facility in the Participant Portal shall be used. For entities that have been validated in previous framework programmes, no repeated validation shall be necessary, unless the entity's legal status has changed or, in case of SMEs, a company no longer falls within the SME definition.*

## **Amendment 100**

### **Proposal for a regulation Article 22 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*3a. Eligible costs shall be composed of costs attributable directly to the action, ('direct eligible costs') and, where applicable, of costs which are not attributable directly to the action, but which have been incurred in direct relationship with the direct eligible costs attributed to the action ('indirect eligible*

costs').

### **Amendment 101**

#### **Proposal for a regulation Article 23 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Value added tax ('VAT') paid by, and which cannot be refunded to, the beneficiary according to the applicable national legislation, shall be considered as an eligible cost.***

### **Amendment 102**

#### **Proposal for a regulation Article 24 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Alternatively, a participant may opt to determine its indirect eligible costs based on indirect costs that are actually incurred in direct relationship with the eligible costs attributed to the project, according to the beneficiary's usual cost accounting practices. In this case the reimbursement rates for full costs calculation stipulated in Article 22(3) shall apply.***

### **Amendment 103**

#### **Proposal for a regulation Article 24 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The beneficiary shall be able to exercise the same method for the declaration of indirect eligible costs consistently for all actions under Horizon 2020 in which it participates.***

## *Justification*

*Measure of simplification.*

### **Amendment 104**

#### **Proposal for a regulation**

##### **Article 25**

###### *Text proposed by the Commission*

1. Eligible personnel costs shall **only** cover the **actual** hours worked by the persons directly carrying out work under the action. The evidence regarding the **actual** hours worked shall be provided by the participant, **normally through a** time recording system.
2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action.
3. The grant agreement shall contain the minimum requirements for the time recording system **as well as** the number of annual productive hours to be used for the calculation of the hourly personnel rates.

###### *Amendment*

1. Eligible personnel costs shall cover the hours worked by the persons directly carrying out work under the action. The evidence regarding the hours worked shall be provided by the participant **in accordance with the participant's own official** time recording system.
2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action.
3. The grant agreement shall contain:
  - (i) the minimum requirements for the time recording system;
  - (ii) **the method for establishing** the number of annual productive hours to be used for the calculation of the hourly personnel rates **taking into account the participant's usual accounting practices.**

### **Amendment 105**

#### **Proposal for a regulation**

##### **Article 27 – paragraph 1**

###### *Text proposed by the Commission*

1. In accordance with Article X of Regulation (EU) No XX/XX [financial regulation], the Commission may establish

###### *Amendment*

1. In accordance with Article X of Regulation (EU, Euratom) No 966/2012, the Commission may establish methods to

methods to determine scales of unit costs based on:

- a) statistical data or similar objective means;
- b) auditable historical data of the participant.

determine scales of unit costs based on:

- a) statistical data or similar objective means;
- b) auditable historical data of the participant.

***Once they are agreed upon, scales of unit costs are not subject to the verification that they are actually incurred.***

#### *Justification*

*Scales of unit costs should not be called into question again retrospectively when the Commission and the participant have reached agreement on them beforehand.*

#### **Amendment 106**

##### **Proposal for a regulation Article 27 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) auditable historical data of the ***participant.***

*Amendment*

(b) auditable historical data of the ***participants.***

#### **Amendment 107**

##### **Proposal for a regulation Article 27 – paragraph 2**

*Text proposed by the Commission*

2. Direct eligible personnel costs may be financed on the basis of scale of unit costs determined according to the participant's usual cost accounting practices, provided that they comply with the following cumulative criteria:

(a) they are calculated on the basis of the total actual personnel costs recorded in the participant's general accounts ***which may be adjusted on the basis of budgeted or estimated elements according to the conditions defined by the Commission;***

(b) they comply with the provisions in

*Amendment*

2. Direct eligible personnel costs may be financed on the basis of scale of unit costs determined according to the participant's usual cost accounting practices, provided that they comply with the following cumulative criteria:

(a) they are calculated on the basis of the total actual personnel costs recorded in the participant's general accounts;

(b) they comply with the provisions in

Article 23;

(c) they ensure compliance with the non-profit requirement and avoidance of double funding of costs;

***(d) they are calculated with due regard to the provisions on productive hours in Article 25.***

Article 23;

(c) they ensure compliance with the non-profit requirement and avoidance of double funding of costs.

## **Amendment 108**

### **Proposal for a regulation**

#### **Article 28**

##### *Text proposed by the Commission*

The certificate on financial statements shall cover the total amount of the grant claimed by a participant under the form of reimbursement of actual costs and under the form of scale of unit costs referred to Article 27(2). The certificate shall only be submitted when that amount is equal to or greater than EUR 325 000 at the time of claiming the payment of the balance of the grant.

##### *Amendment*

The certificate on financial statements shall cover the total amount of the grant claimed by a participant under the form of reimbursement of actual costs and under the form of scale of unit costs referred to Article 27(2). The certificate shall only be submitted when that amount ***of the Union's contribution, excluding contribution paid in forms of flat rates, lump sums or scale of units costs*** is equal to or greater than EUR 325 000 at the time of claiming the payment of the balance of the grant.

##### *Justification*

*It should be made clear that flat rates, lump sums and scale of units costs shall not be subject to audits, as explained by the Commission. The exclusion of these sums is also the main reason for reducing the current threshold for a certificate on the financial statements (€375 000) to €325 000.*

## **Amendment 109**

### **Proposal for a regulation**

#### **Article 29**

##### *Text proposed by the Commission*

1. Participants that calculate and claim direct personnel costs on the basis of scale of unit costs ***may*** submit to the

##### *Amendment*

1. Participants that calculate and claim direct personnel costs on the basis of scale of unit costs ***or participants that claim***

Commission a certificate on the methodology. ***That methodology shall comply with the conditions set out in Article 27(2) and meet the requirements of grant agreement.***

2. Where the Commission accepts a certificate on the methodology, it shall be valid for all actions financed under Regulation (EU) No XX/XX [Horizon 2020] and the participant shall calculate and claim costs on its basis.

***indirect eligible costs actually incurred shall*** submit to the Commission a certificate on the methodology. ***The Commission shall accept such a certificate where it complies with the conditions set out in Article 24(1a) or Article 27(2).***

2. Where the Commission accepts a certificate on the methodology, it shall be valid for all actions financed under Regulation (EU) No XX/XX [Horizon 2020] and the participant shall calculate and claim costs on its basis. ***Once the Commission has accepted a certificate on the methodology, it shall not be possible to attribute to the beneficiary any error related to the beneficiary methodology.***

## Amendment 110

### Proposal for a regulation Article 30 – paragraph 2

#### *Text proposed by the Commission*

2. Upon request by the Commission, the Court of Auditors or the European Antifraud Office (OLAF), the auditor who delivers the certificate on the financial statements and on the methodology shall grant access to the supporting documents and audit working papers on the basis of which a certificate on the financial statements was issued.

#### *Amendment*

***2. The Commission and the Court of Auditors shall accept the certificates referred to in paragraph 1, unless they can provide evidence to the participant that the methodology does not comply with the principles laid down in [Art. 117a 2d] of Regulation (EU, Euratom) No 966/2012.***

***In particular, the Commission shall not challenge the compliance, established ex ante, of the participant's usual cost accounting practices by ex post controls.***

Upon request by the Commission, the Court of Auditors or the European Antifraud Office (OLAF), the auditor who delivers the certificate on the financial statements and on the methodology shall grant access to the supporting documents and audit working papers on the basis of which a certificate on the financial statements was issued.

*Justification*

*See also Financial Regulation, Art 116a (3)), subparagraph 2*

**Amendment 111**

**Proposal for a regulation**

**Article 31 – paragraph 1**

*Text proposed by the Commission*

An action for which a grant from the Union budget has been awarded may also give rise to the award of a grant on the basis of Regulation (EU) No XX/XX [Horizon 2020] provided that the grants do not cover the same cost items.

*Amendment*

An action for which a grant from the Union budget has been awarded may also give rise to the award of a grant on the basis of Regulation (EU) No XX/XX [Horizon 2020] provided that the grants ***create added value for research and innovation and*** do not cover the same cost items. ***This applies especially to a grant from the Structural Funds.***

*Justification*

*It must be stipulated in the rules for participation that Horizon 2020 funds may only be used cumulatively if the measure supported also contains a genuine research and innovation component.*

**Amendment 112**

**Proposal for a regulation**

**Article 32 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The recovery referred to in Article 32(3) shall not apply to legal entities whose participation in the action is guaranteed by a Member State or an associated country.***

*Justification*

*There needs to be an exception for institutions guaranteed by a Member State, as there is in FP7.*

## Amendment 113

### Proposal for a regulation

#### Article 37

##### *Text proposed by the Commission*

1. The Commission and, where appropriate, funding bodies **may** appoint independent experts to evaluate proposals or to advise on or assist with:
- a) the evaluation of proposals;
  - b) the monitoring of the implementation of actions carried out under Regulation (EU) No XX/XX [Horizon 2020] as well as of previous Research and/or Innovation Programmes;
  - c) the implementation of Union research and innovation policy or programmes including Horizon 2020, as well as with the achievements and functioning of the European Research Area;
  - (d) the evaluation of Research and Innovation Programmes;
  - e) the **design** of the Union research and innovation policy including the preparation of future programmes.
2. Independent experts shall be chosen on the basis of skills, experience and knowledge appropriate to carry out the tasks assigned to them. In cases where independent experts have to deal with classified information, the appropriate security clearance shall be required before appointment.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls

##### *Amendment*

1. The Commission and, where appropriate, funding bodies **shall** appoint independent experts to evaluate proposals or to advise on or assist with:
- a) the evaluation of proposals;
  - b) the monitoring of the implementation of actions carried out under Regulation (EU) No XX/XX [Horizon 2020] as well as of previous Research and/or Innovation Programmes;
  - c) the implementation of Union research and innovation policy or programmes including Horizon 2020, as well as with the achievements and functioning of the European Research Area;
  - (d) the evaluation of Research and Innovation Programmes, **including carrying out comparative studies with those countries excelling in R&D**;
  - e) the **development** of the Union research and innovation policy including the preparation of future programmes.
2. Independent experts shall be chosen on the basis of skills, experience and knowledge appropriate to carry out the tasks assigned to them. **When appointing independent experts, the Commission or the relevant funding body shall seek to achieve a balanced composition within the expert groups in terms of various skills, experience, and knowledge, geographical diversity and gender, depending on the field of the action.** In cases where independent experts have to deal with classified information, the appropriate security clearance shall be required before appointment.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls



addressed to relevant organisations such as ***national*** research agencies, research institutions, standardisation organisations or enterprises with a view to establishing a database of candidates.

The Commission or the relevant funding body may, if deemed appropriate and in duly justified cases, select any individual with the appropriate skills from outside the database.

***Appropriate measures shall be taken to seek gender balance and geographical diversity when appointing independent experts.***

3. The Commission or the relevant funding body shall take all necessary steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

4. The appointment of the experts may take the form of a framework appointment valid for the entire duration of Horizon 2020 with specific assignments of tasks.

5. The names of experts ***appointed in a personal capacity***, who have assisted the Commission or the funding bodies in implementation of Regulation (EU) No XX/XX Horizon 2020 and Decision No XX/XX/EU [the specific programme], shall be published at least once a year on the Internet site of the Commission or the funding body. The names of experts shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

addressed to relevant organisations such as research agencies, research institutions, ***universities***, standardisation organisations, ***civil society organisations*** or enterprises with a view to establishing a database of candidates.

The Commission or the relevant funding body may, if deemed appropriate and in duly justified cases, select any individual ***expert*** with the appropriate skills from outside the database. ***The Commission or the relevant funding body shall duly inform the programme committee of these cases.***

3. The Commission or the relevant funding body shall take all necessary steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion. ***Stakeholders or persons with conflicts of interests shall be prohibited from sitting 'in a personal capacity'.***

4. The appointment of the experts may take the form of a framework appointment valid for the entire duration of Horizon 2020 with specific assignments of tasks.

5. The names of ***all participating experts – together with the scientific disciplines that they represent*** – who have assisted the Commission or the funding bodies in implementation of Regulation (EU) No XX/XX Horizon 2020 and Decision No XX/XX/EU [the specific programme], shall be published ***following their appointment in the period prior to the commencement of Horizon 2020, and the lists shall subsequently be updated*** at least once a year on the Internet site of the Commission or the funding body. The names of experts shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

## Amendment 114

### Proposal for a regulation

#### Article 38 – paragraph 2

##### *Text proposed by the Commission*

Where participants in an action have jointly generated results and where their respective share of the work cannot be ascertained, they shall have joint ownership of those results.

The joint owners shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.

Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to grant non-exclusive licences to third parties to exploit the jointly owned results, without any right to sub-licence, subject to the following conditions:

- (a) prior notice shall be given to the other joint owners;
- (b) fair and reasonable compensation shall be provided to the other joint owners.

##### *Amendment*

Where participants in an action have jointly generated results and where their respective share of the work cannot be ascertained ***or where it is not possible to separate such joint results for the purpose of applying, obtaining and/or maintaining the relevant patent protection or any other intellectual property right***, they shall have joint ownership of those results, ***unless they agree otherwise once the results have been generated.***

The joint owners shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.

***Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to directly exploit their jointly owned results, without requiring prior consent of the other joint owners.***

Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to grant non-exclusive licences to third parties to exploit the jointly owned results, without any right to sub-licence, subject to the following conditions:

- (a) prior notice shall be given to the other joint owners;
- (b) fair and reasonable compensation shall be provided to the other joint owners.

## Amendment 115

### Proposal for a regulation

#### Article 39

*Text proposed by the Commission*

1. Where results are capable of commercial or industrial **application**, the participant owning these results shall examine the possibility for protection and, if possible and justified given the circumstances, shall adequately protect them for an appropriate period of time and with an appropriate territorial coverage, having due regard to **its** legitimate interests **and the legitimate interests**, particularly the commercial interests, of **the other participants in the action**.

2. Where a participant that has received Union funding intends not to protect results generated by it for reasons other than impossibility under Union or national law or the lack of potential for commercial exploitation, and unless the participant intends to transfer them to another legal entity established in a Member State or associated country in view of their protection, it shall inform the Commission or funding body before any dissemination relating to these results takes place. The Commission on behalf of the Union or the funding body may assume ownership of these results and take the necessary steps for their adequate protection.

The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. No dissemination relating to these results may take place until the Commission or the funding body has taken a decision or has decided that it will assume ownership and has taken the necessary steps to ensure protection. **The grant agreement shall lay down time-limits in this respect.**

3. Where a participant that has received Union funding intends to abandon the protection of results or not to seek extension of such protection for reasons other than the lack of potential for commercial exploitation, it shall inform the

*Amendment*

1. Where results are capable **or may reasonably be expected to be capable** of commercial or industrial **exploitation**, the participant owning these results shall examine the possibility for protection and, if possible and justified given the circumstances, shall adequately protect them for an appropriate period of time and with an appropriate territorial coverage, having due regard to legitimate interests **of all involved participants**, particularly the commercial interests.

2. Where a participant that has received Union funding intends not to protect results generated by it for reasons other than impossibility under Union or national law or the lack of potential for commercial **or industrial** exploitation, and unless the participant intends to transfer them to another legal entity established in a Member State or associated country in view of their protection, it shall inform the Commission or funding body before any dissemination relating to these results takes place. The Commission on behalf of the Union or the funding body, **with the consent of the participant**, may assume ownership of these results and take the necessary steps for their adequate protection, **exploitation and dissemination**.

The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. No dissemination relating to these results may take place until the Commission or the funding body has taken a decision or has decided that it will assume ownership and has taken the necessary steps to ensure protection. **The decision shall be taken within 45 days.**

3. Where a participant that has received Union funding intends to abandon the protection of results or not to seek extension of such protection for reasons other than the lack of potential for commercial exploitation **within five years**

Commission or the funding body which may continue or extend protection by assuming ownership thereof. The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. The grant agreement shall lay down time-limits in this respect.

*following the end of the action*, it shall inform the Commission or the funding body which may, *with the consent of the participant*, continue or extend protection by assuming ownership thereof. ***The Commission or the funding body shall take this decision within 45 days.*** The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. The grant agreement shall lay down time-limits in this respect.

## Amendment 116

### Proposal for a regulation Article 40

#### *Text proposed by the Commission*

1. Each participant that has received Union funding shall use its best efforts to exploit the results it owns ***in further research or commercially***, or to have them exploited by another legal entity ***for these purposes***, in particular through transfer and licensing of results in accordance with Article 41.

Additional exploitation obligations may be laid down in the grant agreement. Any such additional obligations shall be indicated in the work programme ***or work plan***.

2. Subject to any restrictions due to the protection of intellectual property, security rules or legitimate commercial interests, each participant shall through appropriate means disseminate the results it owns as soon as possible. The grant agreement may lay down time-limits in this respect.

Additional dissemination obligations may be laid down in the grant agreement.

With regard to dissemination through research publications, open access shall apply under the terms and conditions laid down in the grant agreement.

#### *Amendment*

1. Each participant that has received Union funding shall use its best efforts to exploit the results it owns, or to have them exploited by another legal entity, in particular through transfer and licensing of results in accordance with Article 41.

Additional exploitation obligations may be laid down in the grant agreement. Any such additional obligations shall be indicated in the work programme.

2. Subject to any restrictions due to the protection of intellectual property, security rules or legitimate commercial interests, each participant shall through appropriate means disseminate the results it owns as soon as possible. The grant agreement may lay down time-limits in this respect.

Additional dissemination obligations may be laid down in the grant agreement. ***Any such additional obligations shall be indicated in the work programme.***

With regard to dissemination through research publications, open access shall ***be mandatory and*** apply under the terms and conditions laid down in the grant

agreement.

***Costs related to open access to research publications that result from research funded under Horizon 2020, published during or after the duration of a project, shall be eligible for reimbursement.***

With regard to dissemination of ***other results, including*** research data, the grant agreement may lay down the terms and conditions under which open access to such results shall be provided, in particular in ERC frontier research or in other ***appropriate*** areas.

With regard to dissemination of research data, the grant agreement may lay down the terms and conditions under which open access to such results shall be provided, in particular in ERC frontier research or in other areas ***of major societal interest, taking into account constraints pertaining to privacy, national security or intellectual property rights.***

***The work programme shall indicate if dissemination of research data through open access is required.***

Prior notice of any dissemination activity shall be given to the other participants. Following notification, a participant may object if it demonstrates that its legitimate interests in relation to its results or background would suffer significant harm by the intended dissemination. In such cases, the dissemination activity may not take place unless appropriate steps are taken to safeguard these legitimate interests. The grant agreement ***may*** lay down time-limits in this respect.

Prior notice of any dissemination activity shall be given to the other participants. Following notification, a participant may object if it demonstrates that its legitimate interests in relation to its results or background would suffer significant harm by the intended dissemination. In such cases, the dissemination activity may not take place unless appropriate steps are taken to safeguard these legitimate interests. The grant agreement ***shall*** lay down ***reasonable*** time-limits in this respect.

***3. Each participant shall report to the Commission or funding body on its exploitation and dissemination related activities.*** For the purposes of monitoring and dissemination by the Commission or funding body, participants shall provide any information and documents ***useful*** in accordance with the conditions laid down in the grant agreement.

3. For the purposes of monitoring and dissemination by the Commission or funding body, participants shall provide any information ***on their exploitation and dissemination related activities*** and documents ***necessary*** in accordance with the conditions laid down in the grant agreement. ***To ensure transparency, such information shall be made publicly available. The grant agreement shall, inter alia, lay down time-limits in this respect.***

4. All patent applications, standards, publications or any other dissemination, also in electronic form, relating to results shall include a statement, which may

4. All patent applications, standards, publications or any other dissemination, also in electronic form, relating to results shall include a statement, which may

include visual means, that the action received financial support from the Union. The terms of that statement shall be established in the grant agreement.

include visual means, that the action received financial support from the Union. The terms of that statement shall be established in the *model* grant agreement.

## Amendment 117

### Proposal for a regulation

#### Article 41

*Text proposed by the Commission*

1. Where a participant transfers ownership of results, it shall pass on its obligations under the grant agreement regarding those results to the transferee, including the obligation to pass them on in any subsequent transfer.

Without prejudice to confidentiality obligations arising from laws or regulations in the case of mergers and acquisitions, where other participants still enjoy access rights to the results to be transferred, the participant who intends to transfer the results shall give prior notice to those other participants, together with sufficient information concerning the intended new owner of the results to permit the other participants to analyse the effect of the intended transfer on the possible exercise of their access rights.

Following notification, a participant may object to the transfer of ownership if it demonstrates that the intended transfer would adversely affect the exercise of its access rights. In such case, the transfer may not take place until agreement has been reached between the participants concerned. The grant agreement *may* lay down time-limits.

The other participants may by prior written agreement, waive their right to prior notice and to object in the case of transfers of ownership from one participant to a specifically identified third party.

2. Provided that any access rights to the results can be exercised and that any

*Amendment*

1. Where a participant transfers ownership of results, it shall pass on its obligations under the grant agreement regarding those results to the transferee, including the obligation to pass them on in any subsequent transfer.

Without prejudice to confidentiality obligations arising from laws or regulations in the case of mergers and acquisitions, where other participants still enjoy access rights *or still may request the granting of access rights* to the results to be transferred, the participant who intends to transfer the results shall give prior notice to those other participants, together with sufficient information concerning the intended new owner of the results to permit the other participants to analyse the effect of the intended transfer on the possible exercise of their access rights.

Following notification, a participant may object to the transfer of ownership if it demonstrates that the intended transfer would adversely affect the exercise of its access rights. In such case, the transfer may not take place until agreement has been reached between the participants concerned. The *model* grant agreement *shall* lay down time-limits.

The other participants may by prior written agreement, waive their right to prior notice and to object in the case of transfers of ownership from one participant to a specifically identified third party.

2. Provided that any access rights to the results can be exercised and that any

additional exploitation obligations are complied with, the participant who owns results may grant licences or otherwise give the right to exploit **them** to any legal entity, including on an exclusive basis.

3. With regard to results which are generated by participants that have received Union funding, the Commission or funding body may object to transfers of ownership or to grants of an exclusive licence, to third parties established in a third country not associated to Horizon 2020, if it considers that the grant or transfer is not in accordance with the interests of developing the competitiveness of the Union economy or is inconsistent with ethical principles or security considerations.

In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission or funding body is satisfied that appropriate safeguards will be put in place.

Where appropriate, the grant agreement shall provide that the Commission or funding body is to be notified in advance of any such transfer of ownership or grant of an exclusive licence. The grant agreement shall lay down time-limits.

additional exploitation obligations are complied with **by** the participant who owns results, **that participant** may grant licences or otherwise give the right to exploit **the results** to any legal entity, including on an exclusive basis. ***Exclusive licences for results may be granted subject to written confirmation by all the other participants concerned that they will waive their access rights thereto.***

3. With regard to results which are generated by participants that have received Union funding, the **grant agreement may provide that the** Commission or funding body **or any participant in the action** may object to transfers of ownership or to grants of an exclusive licence, to third parties established **within the Union or** in a third country not associated to Horizon 2020, if it considers that the grant or transfer is not in accordance with the interests of developing the competitiveness of the Union economy or is inconsistent with ethical principles or security considerations.

In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission or funding body **or the participant in the action** is satisfied that appropriate safeguards will be put in place.

Where appropriate, the grant agreement shall provide that the Commission or funding body **or any participant in the action** is to be notified in advance of any such transfer of ownership or grant of an exclusive licence. The **model** grant agreement shall lay down time-limits.

***In the field of major societal challenges (health, climate, biodiversity), licensing of results to third parties shall by default take place on non-exclusive terms so as to enable immediate competition and thereby to foster global accessibility, unless the participant can duly justify licensing results on exclusive terms.***

## Amendment 118

### Proposal for a regulation

#### Article 42

##### *Text proposed by the Commission*

Participants shall identify the background for their action ***in any manner in a written agreement.***

##### *Amendment*

Participants shall identify the background for their action in ***writing.***

## Amendment 119

### Proposal for a regulation

#### Article 42

##### *Text proposed by the Commission*

Participants shall identify the background for their action in any manner in a written agreement.

##### *Amendment*

Participants shall identify the ***necessary*** background for their action in any manner in a written agreement.

## Amendment 120

### Proposal for a regulation

#### Article 43

##### *Text proposed by the Commission*

1. Any request to exercise access rights or any waiving of access rights shall be made in writing.
2. Unless otherwise agreed by the owner of the results or background to which access is requested, access rights shall not include the right to sub-licence.
3. Participants in the same action shall inform each other before their accession to the grant agreement of any legal restriction or limit to granting access to their background. Any agreement concluded thereafter by a participant regarding background shall ensure that any access rights may be exercised.

##### *Amendment*

1. Any request to exercise access rights or any waiving of access rights shall be made in writing.
2. Unless otherwise agreed by the owner of the results or background to which access is requested, access rights shall not include the right to sub-licence.
3. Participants in the same action shall inform each other before their accession to the grant agreement of any legal restriction or limit to granting access to their background. Any agreement concluded thereafter by a participant regarding background shall ensure that any access rights may be exercised. ***The Commission or the funding body shall be informed of the restriction(s) before the grant agreement is concluded and shall consider the impact that the restriction(s)***



4. For the purposes of access rights, fair and reasonable conditions may be royalty-free conditions.

5. The termination of the participation in an action shall not affect the obligation of such a participant to grant access under the terms and conditions established in the grant agreement.

6. Where a participant defaults on its obligations and such default is not remedied, the consortium agreement may stipulate that such a participant shall no longer enjoy access rights.

*have or will have on the attainment of the aims of the specific project.*

4. For the purposes of access rights, fair and reasonable conditions may be royalty-free conditions.

5. The termination of the participation in an action shall not affect the obligation of such a participant to grant access **rights** under the terms and conditions established in the grant agreement.

6. Where a participant defaults on its obligations and such default is not remedied, the consortium agreement may stipulate that such a participant shall no longer enjoy access rights.

***6a. The principles governing access rights as defined in this Article shall constitute a minimum precondition, which may be expanded at the discretion of, and by means of an agreement between, all the participants in a specific action.***

## **Amendment 121**

### **Proposal for a regulation**

#### **Article 44 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

1. A participant shall enjoy access rights to the results of another participant in the same action, if such access *is* needed by the former to carry out its work under the action.

##### *Amendment*

1. A participant shall enjoy access rights to the results of another participant in the same action, if such access **rights are** needed by the former to carry out its work under the action.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

##### *Justification*

*Clarification in use of the terms 'access' and 'access rights'.*

## **Amendment 122**

### **Proposal for a regulation**

#### **Article 44 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. A participant shall enjoy access rights to background of another participant in the same action, if such access *is* needed by the former to carry out its work under the action and subject to any restrictions pursuant to Article 43(3).

*Amendment*

2. A participant shall enjoy access rights to background of another participant in the same action, if such access ***rights are*** needed by the former to carry out its ***own*** work under the action and subject to any restrictions pursuant to Article 43(3).

*Justification*

*The right of ‘access’ is replaced by ‘results’ or ‘background’, because it is the results or the previous knowledge which must be needed in order to justify the right of access.*

**Amendment 123**

**Proposal for a regulation**

**Article 45**

*Text proposed by the Commission*

1. A participant shall enjoy access rights to the results of another participant in the same action, if such access *is* needed by the former to exploit its results.

Subject to agreement, such access shall be granted under fair and reasonable conditions.

2. A participant shall enjoy access rights to background of another participant in the same action, if such access is needed by the former to exploit its results and subject to any restrictions or limits pursuant to Article 43(3).

Subject to agreement, such access shall be granted under fair and reasonable conditions.

3. An affiliated entity ***established in a Member State or associated country*** shall, unless otherwise provided for in the consortium agreement, also have access rights to results ***or*** background under ***the same*** conditions if ***such access is*** needed to exploit the results generated by the participant to which it is affiliated.

*Amendment*

1. A participant shall enjoy access rights to the results of another participant in the same action, if such access ***rights are*** needed by the former to exploit its ***own*** results.

Subject to agreement, such access ***rights*** shall be granted under fair and reasonable conditions.

2. A participant shall enjoy access rights to background of another participant in the same action, if such access ***rights are*** needed by the former to exploit its ***own*** results and subject to any restrictions or limits pursuant to Article 43(3).

Subject to agreement, such access ***rights*** shall be granted under fair and reasonable conditions.

3. An affiliated entity shall, unless otherwise provided for in the consortium agreement, also have access rights to results ***and subject to any restrictions or limits pursuant to Article 43(3), to*** background under ***fair and reasonable*** conditions if ***these results and background are*** needed to exploit the results generated

4. A request for access under paragraphs 1, 2 and 3 may be made up to one year after the end of the action. However, the participants may agree on a different time-limit.

by the participant to which it is affiliated. ***Such access rights shall be requested and obtained directly from the participant owning the results or background.***

4. A request for access ***rights*** under paragraphs 1, 2 and 3 may be made up to one year after the end of the action ***or after the termination of the requesting participant's participation in the action.*** However, the participants may agree on a different time-limit.

## Amendment 124

### Proposal for a regulation Article 46

#### *Text proposed by the Commission*

1. The Union institutions and bodies shall, for the purpose of developing, implementing and monitoring Union policies or programmes, enjoy access rights to the results of a participant that has received Union funding. Such access rights are limited to non-commercial and non-competitive use.

Such access shall be granted on a royalty-free basis.

***2. Regarding actions in the activity 'Secure societies' within the specific objective 'Inclusive, innovative and secure societies', the Union institutions and bodies as well as Member States' national authorities shall, for the purpose of developing, implementing and monitoring their policies or programmes in this area, enjoy access rights to the results of a participant that has received Union funding. Notwithstanding Article 43(2), such access rights shall include the right to authorise third parties to use the results in public procurement in the case of the development of capabilities in domains with very limited market size and a risk of market failure, and where a predominant***

#### *Amendment*

1. The Union institutions and bodies shall, for the purpose of developing, implementing and monitoring Union policies or programmes, enjoy ***the necessary*** access rights to the results of a participant that has received Union funding. Such access rights are limited to non-commercial and non-competitive use.

***Unless stipulated otherwise in the grant agreement,*** such access ***rights*** shall be granted on a royalty-free basis.

*public interest exists.*

*Such access shall be granted on a royalty-free basis, except for use in public procurement where it shall be granted on fair and reasonable conditions to be agreed upon. The Union funding received in generating the results shall be fully taken into account in the determination of the fair and reasonable conditions. The Commission rules on security shall apply regarding classified information.*

*1a. The Union or the Member State shall provide sufficient evidence to the owning participant that such access rights will contribute to developing, implementing and monitoring its policies or programmes.*

*1b. Unless stipulated otherwise in the grant agreement, such access rights shall not be extended to the participants' background, even in cases where the background is needed for use of the results, and do not include the right to sub-license.*

#### **Amendment 125**

##### **Proposal for a regulation Title III a (new)**

*Text proposed by the Commission*

*Amendment*

*Title IIIa*

*Specific provisions*

#### **Amendment 126**

##### **Proposal for a regulation Article 47**

*Text proposed by the Commission*

*Amendment*

*Article 47*

*deleted*

*Specific provisions*

*1. In the case of actions involving*

*security-related activities, the grant agreement may lay down specific provisions, in particular on changes to the consortium's composition, classified information, exploitation, dissemination, transfers and licences of results.*

*2. In the case of actions to support existing or new research infrastructures, the grant agreement may lay down specific provisions relating to users of the infrastructure.*

*3. In the case of ERC frontier research actions, the grant agreement may lay down specific provisions, in particular on access rights, portability and dissemination, relating to participants, researchers and any party concerned by the action.*

*4. In the case of training and mobility actions, the grant agreement may lay down specific provisions on commitments relating to the researchers benefiting from the action, ownership, access rights and portability.*

*5. In the case of coordination and support actions, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.*

*6. In the case of the SME instrument and grants by funding bodies targeting SMEs, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.*

*7. In the case of the Knowledge and Innovation Communities of the EIT, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.*

*Justification*

*Moved to new Article 49h.*

## Amendment 127

### Proposal for a regulation

#### Article 48

*Text proposed by the Commission*

*Amendment*

#### *Article 48*

*deleted*

#### *Prizes*

*Any prize awarded shall be conditional on the acceptance of the appropriate publicity obligations. The work programme or work plan may contain specific obligations regarding exploitation and dissemination.*

*Justification*

*Moved under a new Title.*

## Amendment 128

### Proposal for a regulation

#### Article 49

*Text proposed by the Commission*

*Amendment*

#### *Article 49*

*deleted*

*Procurement, pre-commercial procurement and public procurement of innovative solutions*

- 1. Unless otherwise stipulated in the call for tenders, results generated by procurement carried out by the Commission shall be owned by the Union.*
- 2. Specific provisions regarding ownership, access rights and licensing shall be laid down in the contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use as well as the*

*right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-licence. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.*

*3. Specific provisions regarding ownership, access rights and licensing may be laid down in the contracts regarding public procurement of innovative solutions to ensure maximum uptake of the results and to avoid any unfair advantage.*

*Justification*

*Moved under a new Title.*

## **Amendment 129**

### **Proposal for a regulation Article 49 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 49a*

##### *Prizes*

*1. Union funding may take the form of prizes as defined in [Title VII] of Regulation (EU, Euratom) No 966/2012. The use of prizes shall be encouraged but not as a substitute for properly structured funding.*

*2. The rules of the contest shall be stipulated in the work programme.*

*3. The rules of the contest shall lay down at least the conditions for participation, the award criteria, including the deadline for proposals and the deadline for award, the amount of the prize and the payment arrangements.*

*Prizes may not be awarded directly without a contest and shall be published annually.*

*4. Entries in a contest shall be evaluated by a panel of experts on the basis of the published rules of the contest.*

*Prizes shall then be awarded by the authorising officer responsible on the basis of the evaluation provided by the panel of experts who are free to decide whether or not to recommend the award of prizes, depending on their appraisal of the quality of the entries.*

*5. The amount of the prize shall not be linked to the costs incurred by the recipient.*

*6. Where implementation of an action or work programme requires prizes to be given to third parties by a beneficiary of a Union grant, this beneficiary may give such prizes provided that the minimum content of the rules of the contest is strictly defined in the grant decision or agreement between the beneficiary and the Commission, with no margin for discretion.*

*7. Regarding the dissemination of results, Title III of this Regulation shall apply. Any additional obligations for dissemination or exploitation of results shall be stipulated in the rules of the contest.*

*8. Where a prize is not awarded within the deadline set out in the rules of the contest, the funds allocated to the contest shall be reassigned within the same objective under Regulation (EU) No XX/XX [Horizon 2020].*

**Amendment 130**

**Proposal for a regulation  
Article 49 b (new)**



***Article 49b***

***Procurement, pre-commercial procurement and procurement of innovative solutions***

***1. Any procurement carried out by the Commission jointly with Member States shall be subject to the rules on public procurement set out in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No XX/XX [the Delegated Regulation].***

***2. Union funding may take the form of pre-commercial procurement or procurement of innovative solutions carried out by the Commission jointly with contracting authorities from Member States and associated countries or by Union agencies jointly with contracting authorities from Member States and associated countries.***

***The procurement procedures:***

***(a) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality, and with competition rules and, where applicable, with Directives 2004/17/EC, 2004/18/EC and 2009/81/EC.***

***(b) may provide for specific conditions such as the place of performance of the procured activities being limited for pre-commercial procurement to the territory of the Member States and of countries associated to Horizon 2020 where duly justified by the objectives of the actions;***

***(c) may authorise the award of multiple contracts within the same procedure (multiple sourcing);***

***(d) shall provide for the award of the contracts to the most economically advantageous tender(s).***

***3. Specific provisions regarding ownership, access rights and licensing***

*shall be laid down in the contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use as well as the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license, unless otherwise agreed. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.*

*4. Specific provisions regarding ownership, access rights and licensing may be laid down in the contracts regarding public procurement of innovative solutions to ensure maximum uptake of the results and to avoid any unfair advantage.*

## **Amendment 131**

### **Proposal for a regulation Article 49 c (new)**

*Text proposed by the Commission*

*Amendment*

*Article 49c*

#### *Financial Instruments*

*1. Financial instruments may take any of the forms referred to in, and shall be implemented in accordance with, [Title VIII] of Regulation (EU, Euratom) No 966/2012 and may be combined with each other and with other grants funded under the Union budget, including under Horizon 2020.*

*2. In accordance with Article [54] of Regulation (EU, Euratom) No 966/2012 , the Commission may delegate implementation tasks and management of the financial instruments to the EIB, EIF and other financial institutions.*

*3. In accordance with Article [18(2)] of Regulation (EU, Euratom) No 966/2012 , revenues and repayments generated by a financial instrument set up under Regulation (EU) No XX/XX [Horizon 2020] shall be assigned to that financial instrument.*

*4. Revenues and repayments generated by the Risk-Sharing Finance facility set up under Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>1</sup> and the early stage part of the High-Growth and Innovative SME Facility (GIFI) set up under the Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013)<sup>2</sup>, shall be assigned to the succeeding financial instruments under Regulation (EU) No XX/XX [Horizon 2020].*

*5. The Commission shall ensure that all types of financial intermediaries, including national and regional public banks as well as regional investment banks, are adequately involved in the implementation of the financial instruments.*

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<sup>1</sup> OJ L 412, 30.12.2006, p. 1

<sup>2</sup> OJ L 310, 9.11.2006, p. 15

## Amendment 132

### Proposal for a regulation Article 49 d (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 49d*

##### *Public-private partnerships*

*In accordance with Article 19 of Regulation (EU) No XX/XX [Horizon 2020], public-private partnerships shall be identified and implemented in an open and transparent way, based on an evaluation of independent experts in accordance with Article 37 of this Regulation. This evaluation shall be based on all of the following criteria:*

- a) the demonstration of added value of action at Union level and the added value of the instrument of a public-private partnership;*
- b) the scale of impact on industrial competitiveness, sustainable growth and socio-economic issues through the definition of clear and measurable societal and competitiveness objectives, including job creation and educational/training targets, and accountability on reaching these objectives;*
- c) the commitment, including a balanced contribution, from all partners based on a shared vision and clearly defined objectives;*
- d) the scale of the resources involved and the ability to leverage additional investments in research and innovation;*
- e) a clear definition of roles for each of the partners and agreed key performance indicators over the period chosen;*
- (f) the compliance with this Regulation;*
- (g) the complementarity with other parts of Horizon 2020 and the alignment with the Union research and innovation strategic agenda;*

*(h) the involvement of all interested partners of the entire value chain, including the end-users, universities, SMEs and research institutes, in the partnership;*

*(i) the demonstration of an open, transparent and participatory governance system and of principles of sound financial management;*

*2. In accordance with Article XX of Regulation (EU) No XX/XX [Horizon 2020], public-private partnerships shall be evaluated and assessed in an open and transparent way based on the criteria referred to in paragraph 1;*

*3. The rules for participation and dissemination of public-private partnerships created and funded under Horizon 2020 shall comply with the Regulation (EU, Euratom) No 966/2012, as well as the rules laid down in this Regulation, in particular in terms of intellectual property rights, transparency and openness,*

*The rules of public-private partnerships may deviate from the Union Staff Regulations insofar as the acts establishing these bodies according to Article 1a(2) of the Staff Regulations do not provide for an application of the Staff Regulations.*

## **Amendment 133**

### **Proposal for a regulation Article 49 e (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 49e*

##### *Public-public partnerships*

*1. The rules laid down in this Regulation shall also apply to public-public partnerships as referred to in Article [20] of Regulation (EU) No XX/XX [Horizon 2020].*

***2. Public-public partnerships funded through the ERA-NET instrument may be eligible for co-funding under Horizon 2020, provided the following criteria are fulfilled:***

***(a) the added value of action at Union level;***

***(b) a significant level of prior financial commitments, whether in cash or in-kind, of the participating entities to the joint calls and actions***

***(c) harmonised rules and implementation modalities of the joint calls and actions.***

***3. Joint Programming Initiatives in accordance with Article 185 TFEU may be eligible for co-funding under Horizon 2020, provided the following criteria are fulfilled:***

***(a) an existing need for a dedicated implementation structure based on Article 185 TFEU;***

***(b) a high level of commitment of the participating countries, in cash or in-kind, to integration at scientific, management and financial levels;***

***(c) the added value of action at Union level;***

***(d) the critical mass, with regard to the size and the number of programmes involved, the similarity of activities and the share of relevant research they cover;***

***(e) the efficiency of Article 185 TFEU as the most appropriate means for achieving the objectives.***

***4. The Commission may entrust budget implementation tasks to a Joint Programming Initiative, provided the following criteria are fulfilled and laid down in an agreement:***

***(a) a clear definition of the objective to be pursued and its relevance to the objectives of Horizon 2020 and broader Union policy objectives;***

***(b) clear financial commitments of the participating countries, including prior***

*commitments to pool national and/or regional investments for transnational research and innovation.*

## **Amendment 134**

### **Proposal for a regulation Article 49 f (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 49f*

#### *SME Instrument*

*1. Only SMEs may apply for calls for proposals issued under the dedicated SME instrument referred to in Article [18] of Regulation (EU) No XX/XX [Horizon 2020]. They shall be encouraged to participate jointly with other companies, research organisations and universities.*

*Once a company has been validated as an SME this legal status shall be assumed to prevail for the entire duration of the project, even in cases where the company, due to its growth, later on exceeds the ceilings foreseen within the SME definition.*

*2. Calls for proposals under the SME instruments shall be open calls, taking a bottom-up approach towards the topic to the greatest possible extent. A simplified two-stage evaluation procedure may apply, if stated so in the work programme, provided that no prolongation of the overall evaluation period is entailed.*

*3. In accordance with Article 17a, the 'time to contract' under the SME instrument may not exceed six months.*

*4. In accordance with this Regulation, the grant agreement concluded under the SME instrument may lay down specific provisions, in particular on subcontracting, ownership, access rights, exploitation and dissemination of results.*

*5. Where revision of the grant agreement concluded under the SME instrument is*

*necessary during the implementation of an action, in particular with regard to changes in the composition of a consortium, a simplified revision procedure shall apply.*

*6. The Commission shall ensure sufficient complementarities between the SME instrument under Horizon 2020 and the financial instruments under Horizon 2020 and the Programme for the Competitiveness of Enterprises and SMEs (COSME) 2014-2020 as well as schemes and instruments set up jointly with Member States, such as the Eurostars Joint Programme.*

## Amendment 135

### Proposal for a regulation Article 49 g (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 49g*

##### *Fast Track to Innovation*

*1. Any legal entity that is allowed to participate in activities covered by part II ('Industrial Leadership') and part III ('Societal Challenges') of the Specific Programme (Regulation (EU) XXXX) shall be allowed to submit proposals to be considered under the Fast Track 2 Innovation Instrument.*

*Within part II ('Industrial Leadership'), proposals may be submitted under every technology field identified under the specific objective 'Leadership in enabling and industrial technologies' in the [Specific Programme], without restriction to the topic of research.*

*Within part III ('Societal Challenges'), proposals may be submitted under every societal challenge, without restriction to the technology field.*

*2. Proposals may be submitted at any time. The Commission shall initiate an*



*evaluation period twice a year, at a fixed period of time. Time between the start of an evaluation period and the award of a grant shall not exceed six months.*

*3. Firstly, proposals shall be ranked according to the award criteria "impact" and "quality and efficiency of the implementation". Secondly, "excellence" as the crucial award criterion shall determine the final ranking leading to the grant decision.*

*4. Being implemented as a fast track, no more than five legal entities shall participate in an action.*

*5. The Horizon 2020 grant shall be determined in accordance with Article 22 (3a).*

#### *Justification*

*Taking due account of the programme's intended shift towards innovation, Horizon 2020 needs to provide at least one instrument that systematically allows innovative ideas to be evaluated and funded at any time, applying a fast, standardized and reliable procedure. An 'open call' or 'bottom up' instrument with a guaranteed six months of time-to-grant', will ensure that innovative ideas do not risk to be outdated once the project can finally start. This will also increase industry participation.*

#### **Amendment 136**

##### **Proposal for a regulation Article 49 h (new)**

*Text proposed by the Commission*

*Amendment*

##### **Article 49h**

##### **Other specific provisions**

***1. In the case of actions involving security-related activities, the grant agreement may lay down specific provisions, in particular on pre-commercial public procurement, procurement of innovative solutions, changes to the consortium's composition, classified information, open access to research publications, exploitation, dissemination, transfers and licences of***

*results.*

*2. In the case of actions to support the operation of existing or new research infrastructures, such as institutes, the grant agreement may lay down specific provisions relating the users' access to them.*

*3. In the case of ERC frontier research actions, the grant agreement may lay down specific provisions, in particular on access rights, portability and dissemination, relating to participants, researchers and any party concerned by the action.*

*4. In the case of training and mobility actions, the grant agreement may lay down specific provisions on commitments relating to the researchers benefiting from the action, ownership, access rights and portability.*

*5. In the case of coordination and support actions, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination of results.*

## **Amendment 137**

### **Proposal for a regulation Annex 0 (new)**

*Text proposed by the Commission*

*Amendment*

#### **ANNEX 0**

##### **Commission Code of Best Practice**

##### **Time to Bid (Article 11a)**

*Shortening time periods for deciding on successful bids is a priority. However, depending on the nature of any specific call, due consideration should also be given to the following:*

*Clear and transparent mechanisms to develop calls on specific topics will enable a level playing field and the inclusion and growth of participation. This should,*

*where possible, be consistent across programmes and objectives.*

*Reasonable advance notice of upcoming calls can allow potential participants to form bidding consortia in advance of publication of calls and thus result in higher quality bids.*

*Maintaining a reasonable time period between the publication of a call and the deadline for submitting bids can result in higher quality bids and a more level playing field between participants with different degrees of administrative capacity, experience of participation in Union funded programmes, different languages and varying levels of English language skills.*

*Call deadlines should be scheduled taking into account the full scope of EU calls and the academic and business calendar of potential participants.*

*Time to Grant (Article 17a)*

*The average time to grant shall be six months from the date of the negotiation offer. The cumulative time taken by the Commission to complete their internal process including preparation of all relevant information and documentation, evaluation and signature of grant agreements shall be no more than 60 working days. Participants shall be given no less than 60 working days cumulatively to prepare all relevant information and documentation required.*

*Where appropriate to the nature of any specific call, due consideration shall be given to a two stage evaluation procedure in order to reduce the costs of preparing proposals which are unsuccessful. For two stage procedures the average time to grant shall be nine months. There shall be consistency in the format of the outline of proposals where a two stage procedure is used and applicants shall have sufficient time to prepare stage two of the bid.*

*The Commission shall endeavour to make decisions or requests for information as*

*promptly as reasonably practical. The Commission shall avoid obliging participants to re-draft or re-negotiate parts of an initial successful bid, unless there is a reasonable and justified reason for doing so.*

*Participants shall be given reasonable amounts of time to prepare information and documentation required for projects.*

*When designing the application documents and setting time limits, the Commission shall be sensitive to the fact that SMEs and university academics in particular typically have little, if any, specific capacity to deal with the preparation of administrative documents. Repetitive elements of the application, grant agreement or supporting documents shall be avoided. The Commission shall refrain from asking participants for information which is already available within the administration, unless it needs to be updated. In this respect, the Commission shall apply the "only once" principle whereby information submitted once to the administration should not be asked for again by another service of the administration i.e. enterprises should not be obliged to provide information all over again that authorities have already received by another route.*

*The Commission shall seek, where possible, to avoid timing calls in such a way that they require potential participants to submit documentation during standard academic and business vacation periods.*

*The Commission shall aim to limit the time it takes to prepare the necessary paperwork once a grant agreement has been made to 15 working days.*

*In appropriate cases, such as for SMEs, the Commission may usefully be allowed to waive the obligation for participants to submit part or all of the documentary evidence required if such evidence has already been submitted to them recently for another procedure and provided the*

*relevant documents were issued within a fixed reasonable time period and are still valid. In such cases, the participant concerned could be invited to declare on his honour that the documentary evidence has already been provided in a previous procedure - to be specified - and to confirm that there has been no change in the situation.*

*The Commission shall not be allowed to request participants to provide facts or data which the Commission can verify easily and free of charge in an authenticated, electronically accessible database (e.g. company data).*

*The Commission shall not set targets on the level of subscription for individual calls.*

#### *Time to Pay (Article 17b)*

*Participants who have delivered the work which they were contracted to do, shall be paid in a timely fashion.*

*The Commission shall ensure that participants receive money owed to them within 30 days of the necessary paperwork being submitted to the Commission. The Commission shall notify the project coordinator and participants of any irregularities or additional paperwork within two weeks of information being submitted to the Commission. If no such notification is received the Commission shall be liable to the pay amounts owed.*

*The Commission shall put in place measures to ensure that Project Coordinators distribute project money promptly, fairly and in accordance with the grant agreement and that money is shared among partners in proportion to what is owed to each partner. Unless agreed between all participants, Project Coordinators shall not withhold or phase pre-financing payments without the approval of the Project Officer, in particular for SMEs. Such arrangements shall be made clear in consortium agreements and have the approval of the*

***Project Officer.***

***Once a payment has been made to the project coordinator, the Commission shall notify the participants of the amount that has been paid and the date on which the payment was made.***

***If one or more partner(s) have not completed the work they have been contracted to do or they have not submitted the required information or documentation to the project Coordinator or the Commission, it shall not prevent the project coordinator from submitting documentation to the Commission on behalf of other partner(s) or the Commission from issuing payment to other partner(s).***

***Where new partners enter into a project after the grant agreement has been negotiated, such entry shall not alter the amount of funding allocated to the original partners unless agreed by the original partners or unless the amount of work required by them will be significantly different.***

***The Commission shall implement a hierarchical auditing process to ensure that the beneficiaries' auditors comply with an approved standard and comply with the auditing requirements of Horizon 2020. This will avoid the need for multiple audits, making the administrative process clearer and easier for participants. The Commission shall refrain from asking for extra information once an audit has already been submitted.***

***The Commission shall report on its payment performance by producing semi-annual statistics that present payment times for completed work. Payment times shall be defined as the time from final sign-off of the completed project by both the project coordinator and project officer (this time period itself to be no longer than 1 month from project completion date) to the availability of cleared funds in the participant's bank account.***

*At the request of the participant, grant agreements shall respect the academic and business calendar. This shall apply especially to projects which, for example, need to recruit PhD students and who are not likely to be available during the middle of the academic calendar.*

***Redress (Article 15a)***

*The Commission shall set up a formal complaints procedure for participants, which may include appointing an ombudsman or equivalent body specifically dedicated to research and innovation projects under Horizon 2020. The Commission shall ensure that participants are aware of all complaints/redress procedures available to them by publishing details of the redress/complaints procedures on all correspondence with participants or applicants. The procedure shall be transparent and the results and decision-making process shall be made available to participants.*

*Participants shall be allowed to register complaints concerning any area of their involvement in Horizon 2020. The complaints procedure shall not be limited to procedural aspects of the evaluation of proposals.*

*The Commission shall respond to complaints within 30 days of receiving them with a decision.*

*In line with Directive 2008/52/EC, where a complaint cannot be satisfactorily solved through the procedure referred to in the first paragraph, the Commission and the participants may agree to attempt to resolve the dispute through a mediation process in accordance a mediation centre procedure. The mediation centre shall be agreed beforehand by the Commission and the participant(s) preferably from a list of mediation centres accepted by the Commission.*

*The Commission shall set aside 0.5% of the Horizon 2020 budget for funding*

*projects which are initially unsuccessful and which, following the redress procedure, are positively evaluated.*

**Communication**

*The ethics approval process shall be transparent to participants and to applicants, especially when this process is the source of a delay in the initiation of projects. Information that has already been submitted in the bid should not need to be re-drafted for the ethical approval. Where possible, the Commission shall use all the information that has already been submitted by the applicant(s) in the bid in order to make its approval and shall only ask for additional information where it can prove that this information is absolutely necessary.*

*Participants shall be able to communicate directly with project officers in cases where they have repeated concerns regarding the management of a project or the actions of the project coordinator. If the project officer is absent, he/she shall ensure that participants have the contact details for a deputy, who is able to make decisions in the project officer's absence. Contact details for the relevant Commission officials must be made available and made known to participants.*

*At the request of participants, and to enable them to prepare for future bids, the Commission shall give feedback to applicants on unsuccessful bids including the strengths and weaknesses as considered by the independent experts referred to in Article 37 of this Regulation.*