



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Industry, Research and Energy

2011/0399(COD)

4.6.2012

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' (COM(2011)0810 – C7-0465/2011 – 2011/0399(COD))

Committee on Industry, Research and Energy

Rapporteur: Christian Ehler

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	72

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' (COM(2011)0810 – C7-0465/2011 – 2011/0399(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0810),
 - having regard to Article 294(2) and Articles 173, 183 and the second paragraph of Article 188 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0465/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of xx.xx 2012¹,
 - – having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Development and the Committee on Budgets (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

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

Amendment

(4) The rules for the participation and dissemination should adequately reflect the recommendations of the European Parliament, as summarised in the ‘Report

¹ Not yet published in the Official Journal.

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 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'.

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 ***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 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.***

Or. en

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 2
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) 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, ***notwithstanding taking due regard of the specific nature of research and innovation activities.***

Or. en

Amendment 3
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 undertakings or any other structures under

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.***

Article 187 TFEU or participation in programmes undertaken by Member States pursuant to Article 185 TFEU.

Or. en

(See below.)

Justification

In order to maintain a single set of common rules, this regulation shall lay down specific rules for the mentioned actions or programmes, still allowing flexibility in areas defined in this regulation.

Amendment 4
Proposal for a regulation
Recital 9

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 5
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.

Or. en

Justification

An additional recital has been added to highlight that the main criterion for choosing between different forms of funding shall be the suitability of the measure in regard to the specific objective.

Amendment 6
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 among the research community, the rules for participation should establish a further reduction of combinations of funding rates and methods for defining indirect costs, while maintaining the current differentiation between universities/research centres, industry, non-profit organisations and SMEs, as clearly stated in paragraph 17 of the European Parliament Resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes¹.

¹ OJ C 74E, 13.3.2012, p. 34

Or. en

Justification

To prevent an over-simplification of HORIZON 2020, that does not even consider the most basic differences between stakeholders and thus might trigger undesired effects in terms of reduced participation of certain stakeholders that are currently put at a disadvantage, the

Parliament should recall paragraph 17 of the Carvalho report that clearly called for a simplified system that should maintain the current (and well justified) differentiation between the stakeholders.

Amendment 7
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 for SMEs and Small Midcaps, in order to release their full research and innovation potential, with due regard to the specificities of different types of SMEs and different sectors. The rules of participation should in due manner facilitate the shortening of "time-to-grant" to a maximum of six months.

Or. en

Justification

Reference to the paragraphs 38 and 39 of the Carvalho report.

Amendment 8
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***

(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, a simplified cost reimbursement system should be adopted with enhanced use of lump sums, flat rates and scale of unit costs.

with no differentiation according to the type of participant.

Or. en

Justification

For participants, a higher flexibility during the project implementation does not lead to a reduction of complexity, but rather the opposite. A single funding rate does not consider the specific needs of certain participants and is unattractive for participants who carry out research activities within an innovation project. It is unlikely that research partners will be funded by other participants. This scheme would also hamper project consortia and significantly delay the application process.

Amendment 9 **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 should be addressed through new forms of funding such as prizes, pre-commercial procurement and public procurement of innovative solutions, *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) No XX/XX [the Financial Regulation]. These new forms of funding and these different types of funding bodies* require specific rules *which should be laid down in this Regulation.*

Or. en

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 10
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 types of funding bodies. In particular, the financial instruments should be used in a complementary manner in cases where they help to leverage yet 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 close-to-market activities.

Or. en

Justification

The financial instruments aim at triggering and facilitating private investment in innovation and bridging the valley of death at a pre-commercial stage. A combination with close-to-market activities should be strengthened and highlighted throughout the rules for participation, including through a dedicated article in the "specific provisions" laying down the general conditions for the use of the financial instruments.

Amendment 11
Proposal for a regulation
Recital 14

Text proposed by the Commission

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.

(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 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.

Justification

Since the State Aid framework is directed only to the Member States and does not apply to Union funding in the areas of research and innovation, the reference should be deleted to avoid confusion. However, the general aim to prevent market distortions should still be mentioned.

Amendment 12
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 proportionate measures throughout the expenditure cycle, ***ensuring an appropriate balance between trust and control.***

Justification

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

Amendment 13
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 conditions in the European strategic interest. ***It is necessary to place more emphasis on the widest possible use and dissemination of knowledge generated by the supported activities up to the commercial exploitation of such***

knowledge.

Or. en

Amendment 14
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) 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, *in particular in relation to ownership, access rights, exploitation and dissemination of results.*

Or. en

Justification

Allowing any funding body to establish its own specific rules contradicts the idea of introducing a single set of rules as an essential pillar of simplification. The limits and scope of derogation should be defined within dedicated articles under "specific provisions", striking a balance between appropriate flexibility and necessary reliability and coherence of the set of rules. This issue is crucial as the Commission will delegate budget implementation tasks to these funding bodies.

Amendment 15
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 16**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 as well as any rights such as intellectual property rights which are (i) held by participants prior to their accession to the action, (ii) ***generated outside the action and brought into the action by the owning participant, (iii) are needed for carrying out the indirect action or for using the results of the indirect action, and*** (iv) identified by the participants in accordance with Article 42;

Justification

Criterion (ii) has proven to be useful in FP7. The criterion of need should also apply and must be clearly stated.

Amendment 17**Proposal for a regulation****Article 2 – paragraph 1 – point 5 a (new)***Text proposed by the Commission**Amendment*

(5a) 'close-to-market activities' means the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services, including activities

such as prototyping, experimental production, testing, demonstrating, piloting, and market replication;

Or. en

Justification

Given that a difference in funding shall be established here, this difference should be based on a coherent definition that draws on an acknowledged concept of distinguishing research activities from close-to-market activities. The definition of 'experimental development' laid down in the current 'Community Framework for State Aid for Research and Development and Innovation' (2006/C 323/01) seems to be the most appropriate.

Amendment 18

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 *publications that describe, analyse and interpret research* in any medium;

Or. en

Amendment 19

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(7a) 'exploit/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;

Or. en

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 20

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(7b) 'fair and reasonable conditions' means financial terms which take into account the specific circumstances of the request for access, in particular the actual or potential value of the foreground or background to which access is requested and/or the scope, duration or other characteristics of the use envisaged;

Or. en

Justification

Definition of "fair and reasonable conditions" in the RfP is important since the term is used frequently throughout the Regulation. It should have a stronger tendency towards measurable financial terms than in FP7.

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(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];

(8) 'funding body' means a body or authority, other than the Commission, as referred to in Article [55(1)(b)] of Regulation (EU) No XX/XX [the Financial Regulation], to which the Commission has entrusted budget implementation tasks;

Or. en

Justification

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

Amendment 22

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;***

Or. en

Justification

Addition moved here from Art. 2 (5).

Amendment 23

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 data, knowledge, ***information, objects and other tangible outputs***, 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. ***Publications which describe, interpret, or analyse data, knowledge or information generated as a direct result of Horizon 2020 funding do not constitute results;***

Or. en

Justification

Tangible results should be added to avoid legal uncertainty. Examples of IP rights should be added, which is helpful for illustration. The definition of results should make clear that results do not include research publications to which open access shall be granted.

Amendment 24

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

deleted

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

Or. en

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 25

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.

Or. en

Justification

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

Amendment 26
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**

Or. en

Justification

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

Amendment 27
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**

Or. en

Justification

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

Amendment 28
Proposal for a regulation
Article 3

Text proposed by the Commission

Amendment

Subject to the conditions established in the

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.

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.

Or. en

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 29

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

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:

Amendment

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:

Or. en

Amendment 30

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

In actions under the ***specific objective*** ‘Secure societies - ***Protecting freedom and security of Europe and its citizens***’, the Commission may make available to Union institutions and bodies or Member States’

or Member States' national authorities any useful information in its possession on results of a participant that has received Union funding.

national authorities any useful information in its possession on results of a participant that has received Union funding.

Or. en

Amendment 31
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.

Or. en

Justification

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

Amendment 32
Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

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.

Amendment

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.

Or. en

Justification

The conditions for the application of the single participant rule shall be clearly stated in the text of the Regulation.

Amendment 33
Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

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.

Amendment

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, ***given that the legal entity can compete across borders and is addressing societal challenges of a European dimension.***

Or. en

Amendment 34
Proposal for a regulation
Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

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 35
Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

1. **Proposals** shall include a draft plan for the exploitation and dissemination of the results, **provided the call for proposals explicitly so requires.**

Or. en

Amendment 36
Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

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.

Amendment

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 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.

Or. en

Justification

Self-contradictory wording. All proposals for research on human embryonic stem shall include details of licensing and control measures.

Amendment 37
Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

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

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 *shall* be excluded from the evaluation, selection and award procedures.

Or. en

Amendment 38

Proposal for a regulation

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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.

Or. en

Justification

The Commission should provide all necessary assistance to make Horizon 2020 more accessible and increase the success rate of proposals. A clear guide to the selection process would be highly valued by the stakeholder community and would ease access for newcomers and inexperienced applicants.

Amendment 39

Proposal for a regulation

Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission or the relevant funding

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.

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 provide a simple, user-friendly electronic tool to applicants to carry out their financial viability check.***

Or. en

Justification

Clarification necessary for the method of verification.

Amendment 40 **Proposal for a regulation** **Article 15 – paragraph 1**

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.

Amendment

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, the call for proposals ***and the Commission's guide to the selection process.***

Or. en

(See wording in article 14 (3) a.)

Amendment 41 **Proposal for a regulation** **Article 16 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. The Commission shall, in close

cooperation with Member States, establish a model grant agreement in accordance with this Regulation, 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.

Or. en

Justification

Under FP7 the Commission had to draw up a Model Grant Agreement (Art. 19 (8) RfP). This should also be foreseen under H2020 to limit the scope for derogation from the single set of rules which is otherwise left to individual DGs and funding bodies.

Amendment 42
Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

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.

Amendment

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. ***It shall comply with this Regulation.***

Or. en

Justification

This amendment should ensure that the grant agreement entirely considers this regulation and no new interpretations are integrated into the grant agreement.

Amendment 43
Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

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.

Amendment

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. ***The Commission shall ensure that additional rights and obligations are applied at all actions funded under Horizon 2020 in a coherent and consistent manner.***

Or. en

Amendment 44
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.

Amendment

Where appropriate ***and necessary for a streamlined approach to the action funded***, the Commission, in accordance with Article X of Regulation (EU) No XX/XX [*the* 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.

Or. en

Justification

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

Amendment 45
Proposal for a regulation
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Time to Grant

The Commission or the relevant funding body shall ensure that the time between the deadline for proposals as established by the individual calls for proposals and the signature of the grant agreement, or where applicable the grant decision, shall be limited to a maximum period of six months. That period may be extended by one month in exceptional cases.

Or. en

(Ref. wording Carvalho report paragraph 38-39.)

Justification

This is the most crucial factor to improve the participation of industry in H2020 in comparison to FP7. Time to grant in FP7 has been 350 days on average. Commission DG InfSo has achieved an average of 270 days. The Commission's aim to reduce the average time to grant by 100 days is not satisfactory, given that DG InfSo achieves this almost today and no concrete proposals have been made in the draft regulation.

Amendment 46 **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. 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.

Or. en

Justification

For simplification purposes, there should ideally be one single electronic system and

participants' portal.

Amendment 47
Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

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.

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 funding provided to, or reserved for, the defaulting party shall 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 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, 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 ***in due time.***

Or. en

Justification

In case a participant fails to comply with its obligations, the implementation of the action as a whole shall, if possible, continue and funding provided to or reserved for the defaulting party shall be made available to the remaining partners in order to cover their costs.

Amendment 48
Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

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.

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 main point of contact between the members of 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.***

Or. en

Justification

The role of the coordinator and its tasks shall be described more precisely.

Amendment 49
Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

Amendment

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.***

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).

Or. en

Justification

The main purpose of the consortium agreement (rights and obligations of the members in the consortium) should be expressed in the text. Experience from past framework programmes has shown that the existence of a preliminary consortium agreement eases the implementation of a project which is why it should be considered a standard procedure.

Amendment 50
Proposal for a regulation
Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The 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 any arrangements in the consortium that they deem fit in so far as those arrangements are not in conflict with the grant agreement or this Regulation.

Or. en

Justification

Following the present experience with consortium agreements, it seems advisable to specify the minimum content of a consortium agreement.

Amendment 51
Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

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

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 **rules** for participation,

implementation of the action and is not contrary to the principle of equal treatment.

does not adversely affect the implementation of the action and is not contrary to the principle of equal treatment.

Or. en

Amendment 52
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) No XX/XX [the Financial Regulation], **taking into account the objectives of the action.**

Or. en

Justification

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

Amendment 53
Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

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

3. Reimbursement of eligible costs shall **be based on the following fixed rates per type of activity and per type of participant, depending on the method of cost calculation chosen by the participant:**

Or. en

(insert new table after this amendment. See AM 54)

Justification

As a consequence from reintroducing the option for reimbursement on the basis of full-costs, the adjustment of the proposed reimbursement rates is deemed crucial to comply with the co-

funding principle and prevent a substantial increase of Union costs per project. Instead of a single reimbursement rate, a reduced set of reimbursement rates with due regard to method of cost calculation and type of participant shall be used, based on the conditions set out in this table.

Amendment 54

Proposal for a regulation

Article 22 – paragraph 3 – table (new)

Text proposed by the Commission

Amendment

<i>Type of activity</i>	<i>Method of cost calculation</i>	<i>Type of participant</i>		
		<i>University/ RTOs/ Other</i>	<i>SME</i>	<i>Industry</i>
<i>Research & Development</i>	<i>direct costs + flat rate</i>	<i>100% + 20%</i>	<i>100% + 20%</i>	<i>70% + 20%</i>
	<i>full costs</i>	<i>70%</i>	<i>70%</i>	<i>50%</i>
<i>Close-to-market</i>	<i>direct costs + flat rate</i>	<i>100% + 20%</i>	<i>70% + 20%</i>	<i>30% + 20%</i>
	<i>full costs</i>	<i>70%</i>	<i>50%</i>	<i>35%</i>

Or. en

(See AM 53)

Justification

As a consequence from reintroducing the option for reimbursement on the basis of full-costs, the adjustment of the proposed reimbursement rates is deemed crucial to comply with the co-funding principle and prevent a substantial increase of Union costs per project. Instead of a single reimbursement rate, a reduced set of reimbursement rates with due regard to method of cost calculation and type of participant shall be used, based on the conditions set out in this table.

Amendment 55
Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 56
Proposal for a regulation
Article 22 – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

(a) actions primarily consisting of activities such as prototyping, testing, demonstrating, experimental development, piloting, market replication;
(b) programme co-fund actions.

Or. en

Amendment 57
Proposal for a regulation
Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Regarding the costs of management and coordination activities, the coordinating participant shall receive an additional flat rate of 7% of eligible direct costs to cover the costs of management and coordination activities.

Or. en

Justification

Management and coordination activities (which normally do not exceed 7% of the overall project costs) should be fully reimbursed, as it was in FP7, to avoid that these activities are rendered unattractive for participants. A lump sum is the most favourable option here since it does not entail additional administrative burden, such as a differentiated time recording systems etc.

Amendment 58

Proposal for a regulation

Article 22 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

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

For the purposes of this Regulation and in accordance with Article [119] of Regulation (EU) No XX/XX [the Financial Regulation], 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.

Or. en

Justification

Due to the high variability of different programme co-funding activities, a fixation of the applicable reimbursement rate in the work programme would be the most favourable option. The second subparagraph allows for cumulative funding, especially in close-to-market activities, e.g. through the Structural Funds.

Amendment 59

Proposal for a regulation

Article 22 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. Regarding the validation process that is used to verify the type of participant, the records of the Unique Registration facility

shall be used to the greatest possible extent. 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 with the SME definition.

Or. en

Justification

To speed up the validation process (to identify the type of participant) available records shall be used to the greatest possible extent, avoiding also repeated validations.

Amendment 60
Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Value-added tax ('VAT') that is paid by, and that cannot be refunded to, the beneficiary according to the applicable national legislation, shall be considered as eligible costs.

Or. en

Justification

The inclusion of VAT in eligible costs is part of the Parliaments report on the Financial Regulation (Art. 117a (3c)) and currently subject of trilogue negotiations. To ensure that VAT will be considered eligible cost within Horizon 2020 this is included. It may fall if the revised Financial Regulation eventually provides for this.

Amendment 61
Proposal for a regulation
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Alternatively, a beneficiary may opt to determine its indirect eligible costs based on indirect costs that are actually

incurred in direct relationship with the eligible direct 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.

Or. en

Justification

Full costs calculation is the most widely used cost calculation method amongst competitive research stakeholders, and the most sustainable one. The Commission has actively fostered this for years. Not granting it as an option would be a step backwards in terms of simplification, sustainability and support of industry participation. In FP7 28,4% of RTOS, 9,0% of universities, 23,9% of SMEs and 66,2% of industry participants chose to calculate their indirect costs this way, instead of using a flat rate (the overwhelming majority of participants that opted for a flat rate chose 60% instead of 20%).

Amendment 62

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.

Or. en

Justification

Measure of simplification.

Amendment 63

Proposal for a regulation

Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The annual productive hours shall be determined according to the usual cost

accounting practices of the beneficiary.

Or. en

Justification

Measure of simplification to avoid administrative burden and/ or potentially differing interpretations of rules, resulting in errors.

Amendment 64

Proposal for a regulation

Article 27 – paragraph 2 – point a

Text proposed by the Commission

(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*;

Amendment

(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 *usual accounting practices of the beneficiary.*

Or. en

Justification

Measure of simplification to avoid administrative burden and/ or potentially differing interpretations of rules, resulting in errors.

Amendment 65

Proposal for a regulation

Article 27 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

deleted

Or. en

Justification

Removed in accordance with amendment made in Article 25.

Amendment 66
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.

Or. en

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 67
Proposal for a regulation
Article 29 – paragraph 1

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 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.***

Amendment

1. Participants that calculate and claim direct personnel costs on the basis of scale of unit costs ***or on the basis of indirect eligible costs actually incurred shall*** submit to the Commission a certificate on the methodology. That methodology shall comply with the conditions set out in Article 27(2).

Or. en

Justification

This amendment promotes certification for participants that have a recognised transparent and auditable methodology already in place. Given that nationally accepted methodologies would be acknowledged and costs will be reimbursed, making this an obligation will not do any harm but ensure that participants are on the safe side with regarding their methodology.

Amendment 68

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 indirect action is guaranteed by a Member State or an associated country.

Or. en

Justification

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

Amendment 69

Proposal for a regulation

Article 34

Text proposed by the Commission

Amendment

Article 34

deleted

Prizes

Union funding may take the form of prizes as defined in Title VII of Regulation (EU) No XX/XX [Financial Regulation].

Or. en

Justification

Article moved under a separate Title.

Amendment 70
Proposal for a regulation
Article 35

Text proposed by the Commission

Amendment

Article 35

deleted

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

***1. Any procurement carried out by the
Commission on its own behalf or jointly
with Member States shall be subject to the
rules on public procurement as set out in
Regulation (EU) No xx/2012 [Financial
Regulation] 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 or the
relevant funding body on its own behalf
or 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, or, where the Commission
acts on its own behalf, with Regulation
(EU) No XX/2012 [the Financial
Regulation];***

***(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 tender(s) offering best value for money.

Or. en

Justification

Article moved under a separate Title.

Amendment 71

Proposal for a regulation

Article 36

Text proposed by the Commission

Amendment

Article 36

deleted

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) No XX/XX [the Financial Regulation] and may be combined with grants funded under the Union budget, including under Horizon 2020.

2. In accordance with Article [18(2)] of Regulation (EU) No XX/XX [the Financial Regulation], 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.

3. Revenues and repayments generated by the Risk-Sharing Finance facility set up under Decision No 1982/2006/EC and the early stage part of the High-Growth and Innovative SME Facility (GIF1) set up under the Decision No 1639/2006/EC of the European Parliament and of the Council, shall be assigned to the succeeding financial instruments under Regulation (EU) No XX/XX [Horizon 2020].

Justification

Article moved under a separate Title.

Amendment 72**Proposal for a regulation****Article 37 – paragraph 2 – subparagraph 1***Text proposed by the Commission*

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.

Amendment

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 shall seek to achieve a balanced composition within the expert groups in terms of various skills, experience and knowledge, 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.

Or. en

Justification

While the first sentence refers to the criteria for choosing the individual expert, the second sentence stresses the importance of a balanced composition of the expert groups.

Amendment 73**Proposal for a regulation****Article 38 – paragraph 2 – subparagraph 1***Text proposed by the Commission*

2. 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

Amendment

2. Where participants in an action have jointly generated results and where ***these*** results are not attributable to the respective ***share*** of the work ***of the participants***, they shall have joint ownership of those results. The joint owners shall establish an agreement

exercise of that joint ownership in accordance with their obligations under the grant agreement.

regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.

Or. en

Justification

Joint ownership also exists where the shares of the work can be ascertained. It is rather a question of whether it is possible to separate the jointly developed results for the purposes of protection (patent application etc). Where the result is not separable, there will have to be joined ownership; either according to the ascertained shares, or according to another principle (e.g., equal shares).

Amendment 74

Proposal for a regulation

Article 38 – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

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:***

Amendment

Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to ***use their*** jointly owned results ***on a royalty-free basis***, without ***requiring the prior consent of the other joint owner(s).***

Or. en

Justification

There must also be a statement on own use of results (without granting licenses).

Amendment 75

Proposal for a regulation

Article 38 – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

(a) prior notice shall be given to the other joint owners;

Amendment

deleted

Or. en

Justification

See AM 77.

Amendment 76

Proposal for a regulation

Article 38 – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) fair and reasonable compensation shall be provided to the other joint owners.

deleted

Or. en

Justification

See AM 77.

Amendment 77

Proposal for a regulation

Article 38 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

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-license, 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.

Or. en

Amendment 78

Proposal for a regulation

Article 39 – paragraph 1

PE489.632v01-00

46/76

PR\903026EN.doc

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.

Amendment

1. Where results are capable of commercial 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.

Or. en

Justification

Since the difference between the concept of commercial application and industrial application remains unclear, the latter has been deleted for reasons of clarity.

Amendment 79

Proposal for a regulation

Article 39 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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, **with the consent of the owning participant**, assume ownership of these results and take the necessary steps for their adequate protection.

Amendment 80
Proposal for a regulation
Article 39 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.***

Amendment

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. ***This decision shall be taken within 45 days.***

Or. en

Justification

Introducing time limits is a good approach but should be more specific. The RfP should at least set out the maximum time span, preferably the 45 days foreseen in FP6.

Amendment 81
Proposal for a regulation
Article 39 – paragraph 3

Text proposed by the Commission

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 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

Amendment

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 Commission or the funding body which may, ***with the consent of the owning participant***, 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.

this respect.

Or. en

Amendment 82

Proposal for a regulation

Article 40 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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.***

Amendment

Additional exploitation obligations may be laid down in the grant agreement. ***The model grant agreement shall include a list of possible*** additional ***exploitation*** obligations.

Or. en

Justification

It needs to be defined exactly what is envisaged regarding “additional exploitation obligations”. This is potentially critical and cannot be left to the Work Programmes and Grant Agreements. Clarification at an early stage, such as in the Model Grant Agreement, if possible even in the RfP, seems therefore absolutely necessary.

Amendment 83

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

Amendment

Additional dissemination obligations may be laid down in the grant agreement. ***The model grant agreement shall include a list of possible additional dissemination obligations.***

Or. en

Justification

It needs to be defined exactly what is envisaged regarding “additional dissemination obligations”. This is potentially critical and cannot be left to the Work Programmes and Grant Agreements. Clarification at an early stage, such as in the Model Grant Agreement, if

possible even in the RfP, seems therefore absolutely necessary.

Amendment 84

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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

Amendment

With regard to dissemination through research publications ***which describe, interpret, or analyse data, knowledge or information generated as a direct result of Horizon 2020 funding,*** open access shall be provided.

Or. en

Justification

As a general rule, open access shall be provided to research publications which describe, interpret, or analyze data, knowledge or information generated as a direct result of Horizon 2020 funding. Open access shall however be limited to publications. Regarding access and open access to results see AM 85.

Amendment 85

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

See AM 84. Previously in Art 40(2)3.

Amendment 86

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 4

Text proposed by the Commission

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.

Amendment

Prior notice of any dissemination activity shall be given to the other participants ***where the results concerned are not exclusively owned by the disseminating participant alone***. 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.

Or. en

Justification

The duty to inform the other participants is not appropriate where a participant intends to disseminate own results. The notification requirement and objection possibility have a huge potential to lead to blockades.

Amendment 87

Proposal for a regulation

Article 40 – paragraph 3

Text proposed by the Commission

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

Amendment

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.

accordance with the conditions laid down in the grant agreement, ***upon request by the Commission. A time limit regarding those obligations shall be specified in the model grant agreement.***

Or. en

Justification

In view of its practical implementation it might be more useful to foresee that participants should provide this information on request, thus assuring that they end up with a central contact point within the Commission rather than the Project officers who were in charge of the project years ago. Also, this should not be an open-ended obligation still in force in 50 years' time. There needs to be a time limit on this.

Amendment 88 **Proposal for a regulation** **Article 40 – paragraph 4**

Text proposed by the Commission

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.

Amendment

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 ***model*** grant agreement.

Or. en

Amendment 89 **Proposal for a regulation** **Article 41 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

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

Amendment

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, ***and where the results concerned are not***

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.

exclusively owned by the participant who intends to transfer the results, *that participant* 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.

Or. en

Amendment 90

Proposal for a regulation

Article 41 – paragraph 1 – subparagraph 3

Text proposed by the Commission

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.

Amendment

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.

Or. en

Amendment 91

Proposal for a regulation

Article 41 – paragraph 2

Text proposed by the Commission

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.

Amendment

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

Justification

This paragraph must be more specific in order to avoid misunderstandings, otherwise, it could be read to mean that licensing may only take place if everyone follows their exploitation obligations; "the results" instead of "them" is clearer.

Amendment 92
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.***

Or. en

Amendment 93
Proposal for a regulation
Article 43 – paragraph 3

Text proposed by the Commission

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

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 any such restrictions prior to the execution of the grant agreement and shall consider the impact of any such restrictions on achieving the objectives of the action.***

Or. en

Justification

This amendment would help prevent that the list of exclusions from access rights contains elements that are necessary for achieving the objectives of the action. On the other hand the exclusions are necessary for cases where parts of the background are covered by agreements (e.g. nondisclosure agreements or material transfer agreements) and licences to third parties.

Amendment 94

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.)

Or. en

Justification

Clarification in use of the terms ‘access’ and ‘access rights’.

Amendment 95

Proposal for a regulation

Article 45 – paragraph 3

Text proposed by the Commission

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

3. An affiliated entity shall, unless otherwise provided for in the consortium agreement, also have access rights to results or background under ***fair and reasonable*** conditions if such access is needed to exploit the results generated by the participant to which it is affiliated.

Or. en

Justification

This limitation should be removed in order to attract globally active companies who could be valuable partners in an action.

Amendment 96

Proposal for a regulation

Article 45 – paragraph 4

Text proposed by the Commission

Amendment

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. ***deleted***

Or. en

Justification

There should be no time limit, in order to ensure proper exploitation. If the participant's request for access is in accordance with initial agreement between participants, there should be no time limit.

Amendment 97

Proposal for a regulation

Article 46 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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.

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 ***and do not include the right to sub-license. The Union shall provide sufficient evidence to the owning participant that the access rights will contribute to developing, implementing and monitoring Union policies or programmes.***

Amendment 98
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.

Or. en

(Article 47 paragraphs 1 to 6 moved under a new Title. Article 47 paragraph 7 moved to Art 1(3).)

Amendment 99
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.

Or. en

Justification

Moved under a new Title.

Amendment 100
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.

Or. en

Justification

Moved under a new Title.

Amendment 101
Proposal for a regulation
Title III a (new)

Title IIIa

Specific Provisions

Or. en

Amendment 102
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) No XX/XX [the Financial Regulation]. 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 at least lay down 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].

Or. en

Justification

Moved here from Art. 34 and 48. Paragraph 3-6 contain the current wording of the Draft Financial Regulation, still subject to trilogue, and may fall when the draft is adopted. Paragraph 7 adds crucial provisions for IPR and dissemination of results. Paragraph 8 ensures that funds allocated under HORIZON 2020 remain within the RDI budget, particularly in case the new instrument of inducement prizes does not entail the desired effects.

Amendment 103
Proposal for a regulation
Article 49 b (new)

Text proposed by the Commission

Amendment

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) No XX/XX [the Financial Regulation] 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.

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 tender(s) offering best value for money.

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. 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.

Or. en

Justification

Moved here from Articles 35 and 49. Procurement shall only be carried out by the Commission jointly with Member States and contracting authorities from Member States, to ensure that a real public demand is identified and procured by contracting authorities.

Amendment 104 **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) No XX/XX [the Financial Regulation] and may be combined with grants funded under the Union budget, including under Horizon

2020.

2. Funding provided under the financial instruments of Regulation (EU) No XX/XX [Horizon 2020] shall be matched by an equivalent amount of funding provided through the European Investment Bank or other Union programmes.

3. In accordance with Article [18(2)] of Regulation (EU) No XX/XX [the Financial Regulation], 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 and the early stage part of the High-Growth and Innovative SME Facility (GIF1) set up under the Decision No 1639/2006/EC of the European Parliament and of the Council, shall be assigned to the succeeding financial instruments under Regulation (EU) No XX/XX [Horizon 2020].

Or. en

Justification

Moved here from Article 36. Paragraph 2 has been added in order to double the leverage effect of the financial instruments under HORIZON 2020 and aims to resemble the financing structure of the RSFF where funds from the EC had to be matched by an equivalent amount of funding from the EIB. It seems crucial to maintain this structure to achieve the desired leverage effect of the financial instruments.

Amendment 105 Proposal for a regulation Article 49 d (new)

Text proposed by the Commission

Amendment

Article 49d

Public-private partnerships

1. In accordance with Article 19 of Regulation (EU) No XX/XX [Horizon 2020] Horizon 2020 may be implemented through public-private partnerships, provided all partners concerned commit to support the development and implementation of Horizon 2020.

2. Public-private partnerships shall be identified in an open and transparent way, based on the 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 added value of action at Union level;

(b) the scale of impact on industrial competitiveness, sustainable growth and socio-economic issues;

3. The Commission may entrust budget implementation tasks to a public-private partnerships, provided the following criteria are fulfilled and laid down in a contractual agreement:

(a) the long-term commitment from all partners based on a shared vision and clearly defined objectives;

(b) the scale of the resources involved and the ability to leverage additional investments in research and innovation;

(c) a clear definition of roles for each of the partners and agreed key performance indicators over the period chosen.

4. The rules for participation and dissemination of public-private partnerships created and funded under Horizon 2020 shall fully comply with the Regulation (EU) No XX/XX [the Financial Regulation], as well as the rules laid down in this Regulation, except where their specific needs so require.

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.

5. Deviations from the rules referred to in paragraph 2 and the specific reasons for such deviations shall be communicated to the European Parliament and the Council in a working document annually. The working document shall also set out the progress towards the completion of the purpose for which the individual entities were set up, and the relevance of the aforementioned deviations for the progress achieved.

6. Involvement of the Union in those partnerships may take one of the following forms:

(a) financial contributions from the Union to joint undertakings established on the basis of Article 187 TFEU under the Seventh Framework Programme, subject to the amendment of their basic acts; to new public-private partnerships set up on the basis of Article 187 TFEU; and to other funding bodies referred to in Article [55(1)(b)(v) or (vii)] of Regulation (EU) No XX/XX [the Financial Regulation]. This form of partnerships shall only be implemented where the scope of the objectives pursued and the scale of the resources required justify it;

(b) entering a contractual agreement between the partners referred to in paragraph 1, which specifies the objectives of the partnership, respective commitments of the partners, key performance indicators, and outputs to be delivered including the identification of research and innovation activities that require support from Horizon 2020.

Or. en

(See wording EP AM 241 (Art. 196b + c) to Financial Regulation, currently object of trilogue. See HORIZON 2020 Regulation, Art. 19.)

Justification

For reasons of legal clarity and consistence, the conditions for participation laid down in Article 19 of the Horizon 2020 Regulation have been complemented by a corresponding Article in the RfP.

Amendment 106 **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 conditions are fulfilled:

(a) a significant level of prior financial commitments of the participating entities to the joint calls and actions

(b) harmonised rules and implementation modalities of the joint calls and actions

Public-public partnerships may be supported either within, or across, the priorities set out in Article 5(2), in particular through:

3. Joint Programming Initiatives in accordance with Article 185 TFEU may be eligible for co-funding under Horizon 2020, provided the following conditions 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 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;

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;

Or. en

(See Article 20 Horizon 2020 Regulation.)

Justification

For reasons of legal clarity and consistence, the conditions for participation laid down in Article 20 of the Horizon 2020 Regulation have been complemented by a corresponding Article in the RfP.

Amendment 107 **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].

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.

3. 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.

4. Where revision of the grant agreement concluded under the SME instrument is necessary during the implementation of an action, in particular with regards to changes in the composition of the consortium, a simplified revision procedure shall apply.

5. The Commission shall ensure sufficient complementarities between the SME instrument under Horizon 2020 and the Financial Instruments under Horizon 2020 and COSME as well as schemes and instruments set up jointly with Member States, such as the Eurostars Joint Programme.

Or. en

Justification

Additionally, a dedicated Annex to the H2020 Regulation should give a more detailed outline on the functioning of all dedicated instruments and funding schemes foreseen under HORIZON 2020, including the SME instrument. The scheme of 'innovation vouchers' as currently carried out in a couple of Member States, may be introduced as a new grant scheme under the SME instrument.

Amendment 108
Proposal for a regulation
Article 49 g (new)

Text proposed by the Commission

Amendment

Article 49g

Other 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 the use 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 of results.***

Or. en

Justification

Regarding research infrastructures in particular, specific provisions should also, if necessary, cover other aspects of the use of infrastructures, not only provisions for users.

EXPLANATORY STATEMENT

Introduction

The Rapporteur broadly welcomes the Commission proposal on the “Rules for Participation and Dissemination of Results in HORIZON 2020” (hereinafter *Rules*) as an important step forward. Most importantly, he acclaims the following aspects:

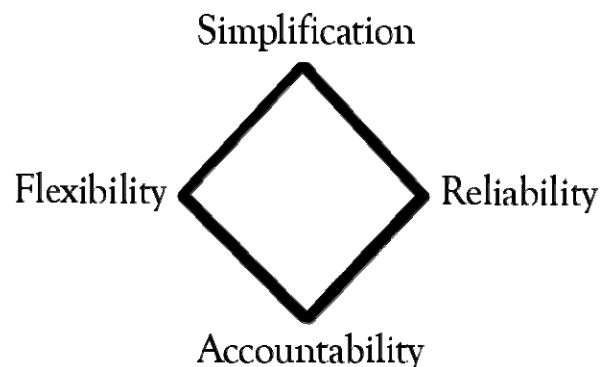
- A broader acceptance of beneficiaries’ usual accounting practices;
- A single set of rules applying to the funding of all actions undertaken by participants under H2020;
- Reduced requirements in terms of time-recording systems;
- The inclusion of VAT in the definition of eligible costs;

However, the Rapporteur thinks that some desirable changes included by the Commission are still formulated too vaguely in the proposal, while other changes appear to be cases of over-simplification and/or do not meet with the general approval of the research and innovation community. In particular, the Rapporteur is critical of the following details:

- No possibility of claiming reimbursement of indirect costs on the basis of actual costs;
- A single funding rate that does not take the specific cost structures of different participants into account, thereby leading to inefficient and disproportionate funding (especially in close to market activities) and an increased average reimbursement level per project in comparison to FP7;
- The unassertive and limited acceptance of the beneficiaries’ usual accounting practices;
- The existence of a general escape clause from the single set of rules applying to all types of funding bodies;
- The extensive flexibility of the proposed rules, which leaves far too many important decisions to be made at work programme level;
- No substantial improvement in shortening the average "time to grant";

The amendments proposed by the Rapporteur aim to deepen the interinstitutional debate on the Rules and to stimulate more detailed consultations with the research and innovation community.

The Rapporteur would like to stress once more that in order to achieve the goals that the Parliament set in earlier reports and to serve the interest of the research and innovation community, the Rules must strike a sensitive balance between four crucial principles: simplification, accountability, flexibility, and reliability. The successful implementation of



Horizon 2020 will largely depend on meeting and balancing these principles.

Potential impact of the current Commission proposal

Model calculations have been made¹, comparing the average level of EU contribution per action between FP7 and Horizon 2020, for the different categories of participants. According to these calculations, the proposed 100/20 model would increase the average reimbursement level for industry participants (+ 46.8%) and for SMEs (+ 7.7%), while leaving non-profit research organisations (- 0.5%) and universities (- 0.9%) with a slightly lower level of funding. The application of the 100/20 model would be expected to lead to a 7.2% overall increase of the total EU contribution per project, the surplus going mainly to industry participants.

Providing a flat rate of 20% as the only option for the reimbursement of indirect costs would put participants with costly high-end research facilities at a structural disadvantage in comparison to FP7. This would not only affect many research centres and private companies, but also numerous universities that have made considerable efforts over a number of years to switch to full cost accounting. Some of these actors might be deterred from participating in Horizon 2020 projects, especially in close-to-market activities where the 70/20 model would apply and leave them with an even lower level of funding.

Another crucial factor that needs to be assessed for its potentially negative effects on implementing the objectives of HORIZON 2020 is the foreseen separation between project calls for R&D and project calls for close-to-market activities. The general rule that one single reimbursement rate would apply per project—in close-to-market projects, although they may contain research activities, this rate would nonetheless be 70/20 for all activities—confronts research centres and universities with unfavourable funding levels when carrying out research activities within close-to-market projects. These stakeholders would be likely to partly withdraw from such projects, potentially entrenching the gap between research and innovation even further, hampering the integration of the knowledge triangle, and delaying the innovation cycle.

Budget constraints and economic implications

Bearing in mind that Horizon 2020 is meant to achieve a major shift towards more innovation in Europe, a budget increase of just about 6.19% will hardly deliver sustainable results. The Rapporteur therefore re-emphasizes the Parliament's demand to allocate 100 Billion to Horizon 2020.

In this regard the impact of the Rules, and particularly the eventual design of the reimbursement rate system, must not be underestimated when it comes to the budgetary implementation of Horizon 2020. The Rapporteur stresses his concern that setting reimbursement rates too high, might considerably limit the number of projects that could be funded under Horizon 2020, thereby also reducing the programme's overall impact and potentially hampering the implementation of the Innovation Union Flagship Initiative and the "Europe 2020" strategy.

¹ Commission Non-paper "Horizon 2020 - Simplification of funding rules: Single reimbursement rate for all participants and activities and single flat rate for indirect costs", 19.4.2012.

This issue might become even more important, given that the outcome of the negotiations on the next Multiannual Financial Framework might leave Horizon 2020 with an even smaller financial envelope than currently proposed by the Commission.

Anticipating a potentially constrained budget for HORIZON 2020, the Rapporteur aims at maintaining the average level of EU contribution per project that was granted in FP7, thus ensuring that the total number of projects will not have to be reduced due to disproportionate and inefficient project funding.

From an economic point of view, the funding of close-to-market activities needs to follow a clearly defined concept. The Rapporteur stresses that Union funding in the field of research and innovation has to aim at a substantial leverage effect in terms of private investment. Union funding has to be proportionate and must not lead to market distortions.

A simplified set of reimbursement rates allowing seamless funding of the whole innovation cycle

Bearing in mind the aforementioned estimations of the potential effects of the proposed Rules, as well as the budgetary concerns, the Rapporteur has decided to put forward an alternative set of reimbursement rates. This set of rates caters to the different participants' specific needs and seeks to strike a better balance between an appropriate simplification and a more efficient and accountable research and innovation funding policy.

Firstly, the Rapporteur proposes the reintroduction of an option for reimbursement of real indirect costs for all types of participants, based on their usual accounting practices. This is advisable for a number of reasons—continuity, simplification, sustainability of the Union's RDI funding policy, attracting excellent participants. However, since reintroducing this option would lead to an even higher increase of total EU contribution per project (+ 9.2 %)¹, the Rapporteur deems an alternative set of reimbursement rates ever more necessary.

The Rapporteur therefore proposes to differentiate the reimbursement rate not only by type of activity (RD/ CtM), as currently foreseen, but also by method of cost calculation (direct costs + flat rate/ full costs) and type of participant (universities, research centres, others/ SMEs/ industry). The Rapporteur believes that this differentiation enables a more tailored funding approach towards participants and thus allows for a seamless implementation of innovation funding, making it easier to combine research and close-to-market activities within one project and integrate the knowledge triangle.

The Rapporteur would like to stress that innovation funding remains a budgetary "black box", since no indication of the share of close-to-market projects within the Horizon 2020 budget has been given. Bearing in mind that close-to-market activities such as demonstration, testing and piloting, tend to be much more costly than R&D projects, the Rapporteur deemed it necessary to adapt the reimbursement rate for close-to-market activities to this situation of uncertainty, in order to prevent major reductions of the Union's R&D funding.

¹ Commission Non Paper "Horizon 2020: clarifications on some aspects of the Rules for Participation and Dissemination", 29.5.2012.

Simplification for all participants

Over the last two years, the Parliament has repeatedly called upon the Commission to take a quantum leap in simplification. It is now facing a proposal where some aspects suffer from over-simplification while others have not been taken into sufficient account. The Rapporteur therefore proposes a number of simplification measures that the Parliament has put forward in previous reports.

Most importantly, the Rapporteur proposes a further broadening of the acceptance of beneficiaries' usual accounting practices, convinced that thereby a true reduction of administrative burden and risk of error can be achieved for all participants.

In addition to the acknowledgement of the beneficiaries' usual accounting practices, the Rapporteur believes that a clear, single set of common rules is another cornerstone of simplification in Horizon 2020 and therefore calls for the thorough realisation of this idea. He doubts that a great deal of flexibility during the implementation process will lead towards simplification, rather the opposite. While flexibility is needed for some funding bodies, the majority of participants would benefit from a clear set of reliable rules. Reintroducing a model grant agreement as a standard reference point for all grant agreements, clarifying a number of definitions and provisions, and including a new Title 'Specific Provisions', that contains dedicated articles on prizes, procurement, the financial instruments, the SME instrument, PPPs and P2Ps, are proposals that aim at strengthening the idea of a "single set of rules".

Furthermore, the Rapporteur would like to see Horizon 2020 made more accessible to new comers and inexperienced applicants. Creating a single, user-friendly entry portal, merging the funding bodies' 'work plans' into the Commission's 'work programmes' as well as an explanatory guide to the selection process seem useful propositions to this end.

Addressing the real needs of industry

The Rapporteur fears that the increased reimbursement level for industry participants, as currently proposed by the Commission, might serve as a financial compensation for shortcomings of the programme that have otherwise not been addressed, thus also leading to a merely cosmetic boost of industry's share of the overall Horizon 2020 budget while not actually increasing the number of industry participants in projects.

The Rapporteur therefore aims to address the real needs of industry participants. Setting an explicit limit of six months for the 'time to grant' is the most crucial measure in this respect. Time becomes an ever more important factor, given that Horizon 2020 aims to foster innovation. This is particularly true for companies and highly innovative SMEs. A shortened 'time to grant' is also a precondition for the attraction of excellent research partners from all over the world—internationalisation being another pull-factor for industry participants.

Furthermore, the Rapporteur thinks that including dedicated articles on the SME instrument as well as the financial instruments has made the functioning of these instruments more clear.

Clarifying certain aspects regarding intellectual property rights, additional dissemination and exploitation obligations, as well as the concept of 'open access' should provide companies with a better understanding of how their commercial interests will be protected, when

participating in Horizon 2020.

Last but not least, the Rapporteur has proposed several amendments to highlight co-funding possibilities and combined use of Horizon 2020 instruments for project funding, also allowing for cumulative funding, hereby aiming at feasible financing for large-scale demonstration projects in particular.