REGULATION (EU) No 1290/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2013

laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 173, 183, and the second paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors [1],

Having regard to the opinion of the European Economic and Social Committee [2],

Acting in accordance with the ordinary legislative procedure [3],

Whereas:

(1) "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" ("Horizon 2020") is established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council [4]. That Regulation needs to be complemented by rules for participation in indirect actions undertaken under Horizon 2020, and for exploitation and dissemination of the results of those actions.

(2) Horizon 2020 should be implemented with a view to contributing directly to creating industrial leadership, growth and employment as well as citizens' welfare in Europe, and should reflect the strategic vision of the Commission Communication of 6 October 2010 entitled "Europe 2020 Flagship Initiative Innovation", in which the Commission commits itself to radically simplify access for participants.

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

(4) The rules for participation, exploitation and dissemination in Horizon 2020 laid down in this Regulation ("the Rules") should adequately reflect the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes [5], and of the Council with regard to the simplification of the administrative and financial requirements of the research framework programmes. The Rules should provide continuity to the simplification measures already implemented under Decision No 1982/2006/EC of the European Parliament and of the Council [6]. They should take up the recommendations made in the final report of the Expert Group entitled 'Interim Evaluation of the 7th Framework Programme' of 12 November 2010 and they should enable further progress in reducing the administrative burden for participants and the complexity of the financial provisions in order to facilitate participation and reduce the number of financial errors. The Rules should also duly reflect the concerns raised and recommendations made by the research community resulting from the debate initiated by the Commission Communication of 29 April 2010 entitled "Simplifying the implementation of the research framework programmes", and the subsequent Green Paper of 9 February 2011 entitled "From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding".

(5) The interim evaluation of Horizon 2020 should include an evaluation of the new funding model, including its impact on funding levels, on participation in Horizon 2020 and on the attractiveness of Horizon 2020.

(6) The Commission or the relevant funding body should ensure that guidance and information is made available to all potential participants at the time of publication of the call for proposals.

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[1] OJ C 318, 20.10.2012, p. 1.
[2] OJ C 181, 21.6.2012, p. 111.
[3] Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal)
[4] Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – The Framework Programme for Research and Innovation (2014 to 2020) and repealing Decision 1982/2006/EC (See page 104 of this Official Journal).
[5] OJ C 74E, 13.3.2012, p. 34.
[6] 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) (OJ L 412, 30.12.2006, p. 1).

(7) In order to ensure coherence with other Union funding programmes, Horizon 2020 should be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council [1], and Commission Delegated Regulation (EU) 1268/2012 [2], taking due account of the specific nature of research and innovation activities.

(8) An integrated approach should be ensured by bringing together activities covered by the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) adopted by Decision No 1982/2006/EC, the Competitiveness and Innovation Framework Programme established by Decision No 1639/2006/EC of the European Parliament and of the Council [3] and the European Institute of Innovation and Technology (the EIT) established by Regulation (EC) No 294/2008 of the European Parliament and of the Council [4] 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 participation in programmes receiving Union financial contributions from the budget of Horizon 2020, including participation in programmes managed by the EIT, joint undertakings or any other structures under Article 187 of the Treaty on the Functioning of the European Union (TFEU), and 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. In order to take into account the specific operating needs as identified in the framework of the relevant basic act of the bodies set up under Article 187 TFEU, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(9) Actions which fall within the scope of this Regulation should respect fundamental rights and observe the principles acknowledged in particular by the Charter of Fundamental Rights of the European Union. Such actions should be in conformity with any legal obligation including international law and with any relevant Commission decisions such as the Commission notice of 28 June 2013 [5], as well as with ethical principles, which include avoiding any breach of research integrity.

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

(11) The Rules 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 through simplified procedures, in particular with regard to micro-, small-, and medium-sized enterprises (SMEs). The financial assistance from the Union could be provided in various forms.

(12) In line with the principle of transparency and in addition to the publicity requirement set out in Regulation (EU, Euratom) No 966/2012 and in Regulation (EU) No 1268/2012, the Commission should publish open calls for proposals on the internet pages of Horizon 2020, through specific information channels, and should ensure their wide dissemination, including via national contact points and upon request in accessible formats, where practicable.

(13) The selection and award criteria laid down in this Regulation should be applied in a transparent way and based on objective and measurable parameters, taking into account the overall aim of Horizon 2020 to achieve a well-functioning European Research Area.

(14) In general, the period between the final date for the submission of complete proposals and the signing of grant agreements with applicants or notifying grant decisions to them should be shorter than the period provided for in Regulation (EU, Euratom) No 966/2012. In duly justified cases and for actions of the European Research Council a longer period should be allowed.

[1] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

[2] Commission Delegated Regulation (EU) No 1268/2012 of 29.10.2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

[3] Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).

[4] Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

[5] OJ C 205, 19.7.2013, p. 9.

(15) The Commission should continue its efforts to simplify the procedures in ways made possible by the improvement of IT systems, such as the further expansion of the portal for participants which should function as the single entry point from the moment of publication of the calls for proposals, through submission of proposals, until implementation of the action, with the aim of establishing a one-stop shop. The system may also provide feedback to applicants on the progress and the timeline of their applications.

(16) The handling of confidential data and classified information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision 2001/844/EC, ECSC, Euratom [1] which lays down the provisions on security of European Union classified information.

(17) It is necessary to establish the minimum conditions for participation, both as a general rule and with regard to the specificities of the actions under Horizon 2020. In particular, rules should be laid down regarding the number of participants and their places of establishment. In the case of an action without the participation of an entity established in a Member State, the attainment of the objectives laid down in Articles 173 and 179 TFEU should be pursued.

(18) Pursuant to Council Decision 2001/822/EC [2], legal entities of overseas countries and territories are eligible to participate in Horizon 2020 subject to the specific conditions laid down in the latter.

(19) The Commission should consider the timings of calls for proposals and requests for information taking into account, where possible, standard holiday periods.

(20) In the case of unsuccessful proposals, the Commission should give feedback to the applicants concerned.

(21) Clear and transparent mechanisms to develop calls for proposals on specific topics should enable a level playing field, increase the attractiveness of Horizon 2020 and increase participation.

(22) The Commission should in all aspects of Horizon 2020 act in accordance with the principles of the European Code of Good Administrative Behaviour as set out in the annex to Commission Decision 2000/633/EC, ECSC, Euratom [3].

(23) It is appropriate to establish the terms and conditions for providing Union funding to 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 unit costs.

(24) The reimbursement rates in this Regulation are referred to as maximums in order to comply with the non-profit requirement and the co-financing principle, and to allow participants to request a lower rate. In principle, the reimbursement rates should however be 100 % or 70 %.

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

(26) Specific challenges in the area of research and innovation should be addressed through new forms of funding such as prizes, pre-commercial procurement, public procurement of innovative solutions, the SME Instrument and the Fast Track to Innovation actions, which require specific rules.

(27) 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, the creation of ineffective market structures or the preservation of inefficient firms. Care should be taken to ensure that funding of innovation actions neither distorts competition nor leads to market interference without sufficient cause.

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

(29) In accordance with Regulation (EU, Euratom) No 966/2012, the Rules should provide the basis for a wider acceptance of the usual cost accounting practices of the beneficiaries.

[1] 2001/844/EC,ECSC,Euratom: Commission Decision of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001).

[2] Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') (OJ L 314, 30.11.2001, p. 1).

[3] 2000/633/EC, ECSC, Euratom: Commission Decision of 17 October 2000 amending its Rules of Procedure (OJ L 267, 20.10.2000, p. 63).

(30) The participant Guarantee Fund set up under Regulation (EC) No 1906/2006 of the European Parliament and of the Council [1] and managed by the Commission has proved to be an important safeguard mechanism which mitigates the risks associated with the amounts due and not reimbursed by defaulting participants. Therefore, a new participant Guarantee Fund ("the Fund") should be established. In order to ensure more efficient management and better coverage of participants' risk, the Fund should cover actions under the programme set up under Decision No 1982/2006/EC, under the programme set up by Council Decision 2006/970/Euratom [2], under the programme set up by Council Decision 2012/93/Euratom [3] as well as actions under Horizon 2020 and Regulation (Euratom) No 1314/2013 of the Council [4]. Programmes managed by entities other than Union funding bodies should not be covered by the Fund.

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

(32) Personal data relating to the experts should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council [5].

(33) Rules governing the exploitation and dissemination of results should be laid down to ensure that participants protect, exploit and disseminate those results as appropriate, and to provide for the possibility of additional exploitation conditions in the European strategic interest. Participants that have received Union funding, and that plan to exploit the results generated with such funding primarily in third countries not associated with Horizon 2020, should indicate how the Union funding will benefit Europe's overall competitiveness (reciprocity principle), as set out in the grant agreement.

(34) In the case of research with the potential for further development into a novel medical technology (such as drugs, vaccines and medical diagnostics), measures should be taken to ensure the immediate exploitation and dissemination of the results, where appropriate.

(35) Despite the success of existing Union debt and equity financial instruments for research, development, innovation and growth, access to risk finance remains a key issue, in particular for innovative SMEs. In order to allow their most effective use, debt and equity financial instruments should be allowed to be combined with each other and with grants funded under the Union budget, including under Horizon 2020. Moreover, the Commission should, in particular, ensure continuity of the Risk-Sharing Finance Facility (RSFF) 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 Decision No 1639/2006/EC within their succeeding debt and equity financial instruments under Horizon 2020, respectively the 'Union loan & guarantee service for Research and innovation' and the 'Union Equity Instruments for research and innovation'. In this context, revenues and repayments generated by any of those financial instruments should directly benefit the financial instruments set up under Horizon 2020.

(36) The Commission should ensure sufficient complementarities between the SME instrument under Horizon 2020 and the financial instruments under Horizon 2020 and the COSME programme established under Regulation (EU) No 1287/2013 of the European Parliament and of the Council [6], as well as with schemes and instruments set up jointly with Member States, such as the Eurostars Joint Programme [7].

(37) For reasons of legal certainty and clarity, Regulation (EC) No 1906/2006 should be repealed,

[1] Regulation No 1906/2006/EC of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) (OJ L 391, 30.12.2006, p. 1).

[2] Council Decision 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) (OJ L 400, 30.12.2006, p. 60).

[3] 2012/93/Euratom: Council Decision of 19 December 2011 concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) (OJ L 47, 18.2.2012, p. 25).

[4] Regulation (Euratom) No 1314/2013 of the Council on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing Horizon 2020 - the Framework Programme for Research and Innovation (See page 948 of this Official Journal).

[5] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

[6] Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC (See page 33 of this Official Journal).

[7] Decision No 743/2008/EC of the European Parliament and of the Council of 9 July 2008 on the Community's participation in a research and development programme undertaken by several Member States aimed at supporting research and development performing small and medium-sized enterprises (OJ L 201, 30.7.2008, p. 58).

HAVE ADOPTED THIS REGULATION:

TITLE I

INTRODUCTORY PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down specific rules for participation in indirect actions undertaken under Regulation (EU) No 1291/2013, including participation in indirect actions funded by funding bodies in accordance with Article 9(2) of that Regulation.

This Regulation also lays down the rules governing the exploitation and dissemination of results.

2. Subject to the specific rules laid down in this Regulation, the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012 shall apply.

3. Regulation (EC) No 294/2008 or any basic act which entrusts budget implementation tasks to a funding body under Article 185 TFEU may establish rules which depart from those laid down in this Regulation. In order to take into account their specific operating needs and subject to the rules established in the relevant basic act, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, with regard to funding bodies set up under Article 187 TFEU concerning:

(a) the conditions for participation in calls for proposals issued by funding bodies established in the area of aeronautics with a view to reducing the minimum number of participants set out in Article 9(1);

(b) the eligibility for funding as set out in Article 10, allowing funding bodies established in the area of bio-based industries and of innovative medicines to limit the eligibility for funding to specific types of participants;

(c) the rules governing exploitation and dissemination of results, allowing funding bodies established in the area of innovative medicines to:

(i) extend the possibilities of transfer and licensing of results and background for affiliated entities, purchasers and any successor entity, in accordance with the grant agreement and without the consent of other participants referred to in Article 44(1) and (2);

(ii) allow for specific agreements for access rights to background for developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48(2) to (4);

(iii) complement the rules by introducing provisions on ownership and access to data, knowledge and information which are outside of the objectives of an action and which are not needed for implementing and exploiting the action (sideground) referred to in Article 41(2) and Articles 45 to 48;

(iv) extend rules on exploitation to other purposes than implementing the action (research use) or developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48;

(v) set out specific criteria for allowing sub-licensing from one participant to another participant in the same action referred to in Article 46(2);

(vi) extend, under the conditions defined in the consortium agreement referred to in Article 24(2), the access rights of participants, their affiliated entities and third parties as licensees to results or background for purposes other than implementing the action (research use) under appropriate conditions including financial terms, or developing results for commercialisation or commercialising results themselves (direct exploitation), as referred to in Articles 46 to 48;

(vii) make access rights for direct exploitation conditional upon the agreement of the participants concerned, as referred to in Article 48;

(viii) render optional the dissemination through scientific publication in the form of open access, as referred to in Article 43(2);

(d) the funding of the actions, allowing funding bodies in the area of electronic components and systems to apply reimbursement rates different to those set out in Article 28(3) in cases where one or more Member States co-fund a participant or an action.

A funding body entrusted with budget implementation tasks under points (i) or (ii) of point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012, may apply rules which depart from those laid down in this Regulation, subject to the consent of the Commission, if its specific operating needs so require. The Commission shall give its consent in such cases only if those rules are in compliance with the general principles established in this Regulation.

4. This Regulation shall not apply to direct actions carried out by the Joint Research Centre (JRC).

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions apply:

(1) 'access rights' means rights to use results or background under the terms and conditions laid down in accordance with this Regulation;

(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 that is directly or indirectly controlling a participant. Control may take any of the forms set out in Article 8(2);

(3) 'associated country' means a third country which is party to an international agreement with the Union, as identified in Article 7 of Regulation (EU) No 1291/2013;

(4) 'background' means any data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, which is: (i) held by participants prior to their accession to the action; (ii) needed for carrying out the action or for exploiting the results of the action; and (iii) identified by the participants in accordance with Article 45;

(5) 'basic act' means a legal act adopted by the Union institutions in the form of a regulation, a directive or a decision within the meaning of Article 288 TFEU which provides a legal basis for the action;

(6) 'innovation action' means an action primarily consisting of activities directly aimed at producing plans and arrangements or designs for new, altered or improved products, processes or services. For this purpose they may include prototyping, testing, demonstrating, piloting, large-scale product validation and market replication;

(7) 'coordination and support action' means an action consisting primarily of accompanying measures such as standardisation, dissemination, awareness-raising and communication, networking, coordination or support services, policy dialogues and mutual learning exercises and studies, including design studies for new infrastructure, and may also include complementary activities of networking and coordination between programmes in different countries;

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

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

(10) 'fair and reasonable conditions' means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged;

(11) 'funding body' means a body or authority, other than the Commission, as referred to in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012, to which the Commission has entrusted budget implementation tasks in accordance with Article 9(2) of Regulation (EU) No 1291/2013;

(12) 'international European interest organisation' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;

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

(14) 'non-profit legal entity' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members;

(15) 'participant' means any legal entity carrying out an action or part of an action under Regulation (EU) No 1291/2013 having rights and obligations with regard to the Union or another funding body under this Regulation;

(16) '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 funding bodies, managing research and innovation programmes. A programme co-fund action may also include complementary activities of networking and coordination between programmes in different countries;

(17) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;

(18) 'public procurement of innovative solutions' means procurement where contracting authorities act as a launch customer for innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformity testing;

(19) 'results' means any tangible or intangible output of the action, such as data, knowledge or information, that is generated in the action, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;

(20) 'SME' means micro-, small- and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC ([1]);

(21) 'work programme' means the document adopted by the Commission for the implementation of the specific programme in accordance with Article 5 of Council Decision 2013/743/EU of 3 December 2013 ([2]);

(22) '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 1291/2013.

2. For the purposes of this Regulation, an entity which does not have legal personality under the applicable national law shall be considered as being assimilated to a legal entity provided that the conditions set out in Article 131(2) of Regulation (EU, Euratom) No 966/2012 and Article 198 of Regulation (EU) No 1268/2012 are complied with.

3. For the purposes of this Regulation, grant recipients shall not be considered to be funding bodies.

Article 3

Confidentiality

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

Article 4

Information to be made available

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

(a) the information concerned is relevant to public policy;

(b) the participants have not provided sound and sufficient reasons for withholding the information concerned.

In actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens', the Commission shall upon request make available to Union institutions, bodies, offices or agencies or to Member States' national authorities any useful information in its possession concerning results generated by a participant in an action that has received Union funding. The Commission shall notify the participant of such communication. Where a Member State or Union institution, body, office or agency requests the communication of information, the Commission shall also notify such communication to all Member States.

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

([1]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

([2]) Council Decision 2013/743/EU of 11 December 2013 establishing the Specific Programme Implementing Horizon 2020 - The Framework Programme for Research and Innovation (2014 - 2020) (See page 965 of this Official Journal).

Article 5

Guidance and information for potential participants

In accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, the Commission or the relevant funding body shall ensure that sufficient guidance and information is made available to all potential participants at the time of publication of the call for proposals, in particular the applicable model grant agreement.

TITLE II

RULES FOR PARTICIPATION

CHAPTER I

General provisions

Article 6

Forms of funding

In accordance with Article 10 of Regulation (EU) No 1291/2013, funding may take one or several of the forms provided for by Regulation (EU, Euratom) No 966/2012, in particular grants, prizes, procurement or financial instruments.

Article 7

Legal entities that may participate in actions

1. Any legal entity, regardless of its place of establishment, or international organisation may participate in an action provided that the conditions laid down in this Regulation have been met, together with any conditions laid down in the relevant work programme or work plan.

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 of their affiliated entities established in a third country, in the third country's research and innovation programmes are considered to be prejudicial to the Union's interests.

3. The relevant work programme or work plan may exclude entities unable to provide satisfactory security guarantees, including as regards personnel security clearance if justified by security reasons.

4. The JRC may participate in actions with the same rights and obligations as a legal entity established in a Member State.

Article 8

Independence

1. Two legal entities shall be regarded as independent of each other where neither is under the direct or indirect control of the other or under the same direct or indirect control as the other.

2. For the purposes of paragraph 1, control may, in particular, take either of the following forms:

(a) the direct or indirect holding of more than 50 % of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;

(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

3. For the purposes of paragraph 1, the following relationships between legal entities shall not in themselves be deemed to constitute controlling relationships:

(a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50 % of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;

(b) the legal entities concerned are owned or supervised by the same public body.

CHAPTER II

Grants

Section I

Award procedure

Article 9

Conditions for participation

1. The following minimum conditions shall apply:

(a) at least three legal entities shall participate in an action;

(b) three legal entities shall each be established in a different Member State or associated country; and

(c) the three legal entities referred to in point (b) shall be independent of each other within the meaning of Article 8.

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

3. By way of derogation from paragraph 1, the minimum condition shall be the participation of one legal entity established in a Member State or associated country, in the case of:

(a) European Research Council (ERC) frontier research actions;

(b) the SME instrument, where the action has a clear European added value;

(c) programme co-fund actions; and

(d) justified cases provided for in the work programme or work plan.

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.

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

Article 10

Eligibility for funding

1. The following participants are eligible for funding from the Union:

(a) any legal entity established in a Member State or associated country, or created under Union law;

(b) any international European interest organisation;

(c) any legal entity established in a third country identified in the work programme.

2. In the case of a participating international organisation or in the case of a participating legal entity established in a third country, neither of which are eligible for funding according to paragraph 1, funding from the Union may be granted provided that at least one of the following conditions is fulfilled:

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

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

Article 11

Calls for proposals

1. Calls for proposals shall be issued in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/12, taking account in particular of the need for transparency and non-discrimination, and for flexibility appropriate to the diverse nature of the research and innovation sectors.

2. As an exception and without prejudice to the other cases provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, calls for proposals shall not be issued for coordination and support actions and programme co-fund actions to be carried out by legal entities identified in the work programmes or work plans provided that the action does not fall within the scope of a call for proposals.

3. In accordance with the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, sufficient time periods for preparing proposals shall be provided, with reasonable notice of upcoming calls for proposals through the publication of a work programme and a reasonable time period between the publication of a call for proposals and the deadline for submitting a proposal.

Article 12

Joint calls with third countries or with international organisations

1. Joint calls for proposals with third countries or their scientific and technological organisations and agencies or with international organisations may be issued to jointly fund actions in priority areas of common interest and expected mutual benefit where there is a clear added value for the Union. Proposals shall be evaluated and selected through joint evaluation and selection procedures to be agreed upon. Such evaluation and selection procedures shall ensure compliance with the principles set out in Title VI of Regulation (EU, Euratom) No 966/2012 and involve a balanced group of independent experts appointed by each party.

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

3. Legal entities receiving funding from the Union shall conclude a coordination agreement with the participating legal entities receiving funding from the relevant third countries or international organisations.

Article 13

Proposals

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

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 concerned 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 concerned.

3. A proposal which contravenes ethical principles or any applicable legislation, or which does not fulfil the conditions set out in Decision No 2013/743/EU, in the work programme, in the work plan or in the call for proposals may be excluded from the evaluation, selection and award procedures at any time.

4. Where relevant and specified in the work programme or the work plan, proposals shall explain how and to what extent gender analysis is relevant to the content of the intended project.

Article 14

Ethics review

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

2. The Commission shall make the process of the ethics review as transparent as possible and ensure that it is carried out in a timely manner avoiding, where possible, the resubmission of documents.

Article 15

Selection and award criteria

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

(a) excellence;

(b) impact;

(c) quality and efficiency of the implementation.

2. Only the criterion referred to in point (a) of paragraph 1 shall apply to proposals for ERC frontier research actions.

3. The criterion referred to in point (b) of paragraph 1 may be given a higher weighting for proposals for innovation actions.

4. The work programme or work plan shall lay down further details of the application of the award criteria laid down in paragraph 1, and specify weightings and thresholds.

5. The Commission shall take into account the possibility of a two-stage submission procedure provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, where appropriate and consistent with the objectives of the call for proposals.

6. Proposals shall be ranked according to the evaluation results. The selection shall be made on the basis of that ranking.

7. The evaluation shall be carried out by independent experts.

8. In the case of a legal entity referred to in Article 11(2) or in other duly justified exceptional circumstances, the evaluation may be carried out in a manner derogating from paragraph 7. In each case of such evaluation the Commission shall provide the Member States with detailed information on the evaluation procedure used and its outcome.

9. In cases where the requested funding from the Union for the action is equal or superior to EUR 500 000, the Commission or the relevant funding body shall, by means compatible with national law, verify in advance the financial capacity of only the coordinators. Furthermore, whenever there are grounds to doubt the financial capacity of the coordinator or other participants on the basis of available information, the Commission or the relevant funding body shall verify their financial capacity.

10. The financial capacity shall not be verified either in respect of legal entities whose viability is guaranteed by a Member State or an associated country or in respect of higher and secondary education establishments.

11. Financial capacity may be guaranteed by any other legal entity, whose financial capacity shall in turn be verified in accordance with paragraph 9.

Article 16

Evaluation review procedure

1. The Commission or the relevant funding body shall provide a transparent evaluation review procedure for applicants which consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in this Regulation, the relevant work programme, work plan or the call for proposals.

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

3. The Commission or the relevant funding body shall be responsible for the examination of the request referred to in paragraph 2. The examination shall cover only the procedural aspects of the evaluation, and not the merits of the proposal.

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

(a) re-evaluation of the proposal primarily by evaluators not involved in the previous evaluation;

(b) confirmation of the initial evaluation.

5. On the basis of the recommendation referred to in paragraph 4, a decision shall be taken by the Commission or the relevant funding body and notified to the coordinator of the proposal. The Commission or the relevant funding body shall take such decision without undue delay.

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

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

Article 17

Enquiries and complaints

1. The Commission shall ensure the existence of a procedure for participants to make enquiries or complaints about their involvement in Horizon 2020.

2. The Commission shall ensure that information on how to register concerns, enquiries or complaints is made available to all participants and is published on-line.

Article 18

Grant agreement

1. The Commission shall, in close cooperation with the Member States, draw up model grant agreements between the Commission or the relevant funding body and the participants in accordance with this Regulation. If a significant modification of a model grant agreement is required, the Commission shall, in close cooperation with the Member States, revise it as appropriate.

2. The Commission or the relevant funding body shall enter into a grant agreement with the participants. The removal or substitution of an entity before signature of the grant agreement shall be duly justified.

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

4. On the basis of a requirement in a work programme or work plan, the grant agreement may establish rights and obligations of the participants with regard to access rights, exploitation and dissemination, in addition to those laid down in this Regulation.

5. The grant agreement shall, where appropriate and to the extent possible, reflect the general principles laid down in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, principles of research integrity, the Commission Recommendation on the management of intellectual property in knowledge transfer activities, the Code of Practice for universities and other public research institutions as well as the gender equality principle laid down in Article 16 of Regulation (EU) No 1291/2013.

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

7. In duly justified cases, specific grants for actions may form part of a framework partnership in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

Article 19

Grant decisions

Where appropriate, and in duly justified cases, the Commission, in accordance with Article 121(1) of Regulation (EU, Euratom) No 966/2012, or the relevant funding body, may notify grant decisions instead of entering into grant agreements. The provisions of this Regulation referring to grant agreements shall apply mutatis mutandis.

Article 20

Time to grant

1. In accordance with Article 128(2) of Regulation (EU, Euratom) No 966/2012, calls for proposals shall specify the planned date by which all applicants shall be informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or the notification of grant decisions.

2. The dates referred to in paragraph 1 shall be based on the following periods:

(a) for informing all applicants of the outcome of the scientific evaluation of their application, a maximum period of five months from the final date for submission of complete proposals;

(b) for signing grant agreements with applicants or notifying grant decisions to them, a maximum period of three months from the date of informing applicants they have been successful.

3. The periods referred to in paragraph 2 may be exceeded for actions of the ERC and in exceptional, duly justified cases, in particular where actions are complex, where there is a large number of proposals or where requested by the applicants.

4. Participants shall be given reasonable time to submit the information and documentation required for the signature of the grant agreement. The Commission shall make decisions and requests for information as promptly as possible. Where possible, resubmission of documents shall be avoided.

Article 21

Time to Pay

Participants shall be paid in a timely manner in accordance with Regulation (EU, Euratom) No 966/2012. When a payment has been made to the coordinator, the Commission or the relevant funding body shall notify the participants thereof.

Article 22

Secure electronic system

All exchanges with participants, including the conclusion of grant agreements, the notification of grant decisions and any amendments thereto, may be made through an electronic exchange system set up by the Commission or by the relevant funding body, as stipulated in Article 179 of Regulation (EU) No 1268/2012.

Section II

Implementation

Article 23

Implementation of actions

1. Participants shall implement actions in compliance with all the conditions and obligations set out in this Regulation, Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1268/2012, Decision 2013/743/EU, the work programme or work plan, the call for proposals and the grant agreement.

2. Participants shall make no commitments which are incompatible with this Regulation or 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 the relevant funding body expressly relieves them of that obligation. In the event of a participant defaulting, the Commission may, in accordance with point (a) of Article 39(3) transfer the amount due from the Participant Guarantee Fund referred to in Article 38 to the coordinator of the action. The financial responsibility of each participant shall be limited to its own debt subject to the provisions relating to the Participant Guarantee Fund. Participants shall ensure that the Commission or the relevant funding body is informed in due time of any event which might significantly affect the implementation of the action or the interests of the Union.

3. Participants shall implement the action and shall take all necessary and reasonable measures to that end. They shall have the appropriate resources as and when needed for carrying out the action. Where it is necessary for the implementation of the action, they may call upon third parties, including subcontractors, to carry out work under the action or may use resources made available by third parties by means of contributions in kind, according to the conditions set out in the grant agreement. Participants shall retain responsibility towards the Commission or the relevant funding body and towards the other participants for the work carried out.

4. The award of subcontracts for carrying out certain elements of the action shall be limited to the cases provided for in the grant agreement and to duly justified cases that could not be clearly foreseen at the time of entry into force of the grant agreement.

5. Third parties other than subcontractors may carry out work under the action under the conditions laid down in the grant agreement. The third party and the work to be carried out by it shall be identified in the grant agreement.

Costs incurred by those third parties may be deemed eligible if the third party meets all the following conditions:

(a) it would be eligible for funding if it were a participant;

(b) it is an affiliated entity or has a legal link to a participant implying a collaboration not limited to the action;

(c) it is identified in the grant agreement;

(d) it abides by the rules applicable to the participant under the grant agreement with regard to eligibility of costs and control of expenditure;

(e) it accepts joint and several liability with the participant for the Union contribution corresponding to the amount declared by the third party, if required by the Commission or the relevant funding body.

6. Third parties may also make available resources to a participant by means of contributions in kind to the action. Costs incurred by third parties in relation to such contributions which are made free of charge are eligible for funding provided they meet the conditions established in the grant agreement.

7. The action may involve financial support to third parties under the conditions established in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012. The amounts referred to in point (c) of Article 137(1) of Regulation (EU, Euratom) No 966/2012 may be exceeded where it is necessary to achieve the objectives of an action.

8. The action carried out by participants which are contracting authorities within the meaning of Directive 2004/17/EC of the European Parliament and of the Council [1], Directive 2004/18/EC of the European Parliament and of the Council [2] and Directive 2009/81/EC of the European Parliament and of the Council [3] may involve or have as their primary aim the pre-commercial procurement and procurement of innovative solutions, where provided for in a work programme or a work plan and required for its implementation. In such cases, the rules set out in Article 51(2), (4) and (5) of this Regulation shall apply to the procurement procedures carried out by the participants.

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

10. Work using animals shall be carried out in accordance with Article 13 TFEU and shall comply with the requirement to replace, reduce and refine the use of animals for scientific purposes in accordance with Union law and in particular with Directive 2010/63/EU of the European Parliament and of the Council [4].

Article 24

Consortium

1. The members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement, or in the event of non-compliance with its obligations under the grant agreement.

2. The members of a consortium participating in an action shall conclude an internal agreement ("the consortium agreement") establishing their rights and obligations with respect to the implementation of the action in compliance with the grant agreement, except in duly justified cases provided for in the work programme or work plan or call for proposals. The Commission shall publish guidelines on the main issues that may be addressed by participants in the consortium agreement.

3. 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 of this Regulation, and to the provisions in the grant agreement;

(d) arrangements for settling internal disputes;

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

[1] Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

[2] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

[3] Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

[4] Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33).

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

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

Section III

Forms of grants and funding rules

Article 25

Forms of grants

Grants may take any of the forms provided for in Article 123 of Regulation (EU, Euratom) No 966/2012, taking into account the objectives of the action.

Article 26

Eligibility of costs

1. Conditions for eligibility of costs are defined in Article 126 of Regulation (EU, Euratom) No 966/2012. Costs incurred by third parties under the action may be eligible according to the provisions of this Regulation and of the grant agreement.

2. Ineligible costs are those not complying with the conditions of paragraph 1, including, in particular, provisions for possible future losses or charges, exchange losses, costs related to return on capital, costs reimbursed in respect of another Union action or programme, debt and debt service charges and excessive or reckless expenditure.

Article 27

Direct eligible personnel costs

1. Without prejudice to the conditions laid down in Article 26, direct eligible personnel costs shall be limited to salaries plus social security charges and other costs included in the remuneration of personnel assigned to the action, arising from national law or from the employment contract.

2. Without prejudice to the conditions laid down in Article 26, additional remuneration to personnel of participants that are non-profit legal entities assigned to the action, including payments on the basis of supplementary contracts regardless of their nature, may also be considered as direct eligible personnel costs, up to the amount set out in paragraph 3, if they fulfil the following additional conditions:

(a) it is part of the usual remuneration practices of the participant and is paid in a consistent manner whenever the same kind of work or expertise is required;

(b) the criteria used to calculate the supplementary payments are objective and of general application by the participant, independent of the source of funding used.

3. Additional remuneration may be eligible up to EUR 8 000 per year and per person. In relation to a person not working exclusively for the action, a limit per hour shall apply. The limit per hour shall be calculated by dividing EUR 8 000 by the number of annual productive hours calculated in accordance with Article 31.

Article 28

Funding of the action

1. The funding of an action shall not exceed the total eligible costs minus the receipts of the action.

2. The following shall be considered as receipts of the action:

(a) resources made available by third parties to the participants by means of financial transfers or contributions in kind free of charge, the value of which has been declared as eligible costs by the participant, provided that they have been contributed by the third party specifically to be used in the action;

(b) income generated by the action, except income generated by the exploitation of the results of the action;

(c) income generated from the sale of assets purchased under the grant agreement up to the value of the cost initially charged to the action by the participant.

3. A single reimbursement rate of the eligible costs shall be applied per action for all activities funded therein. The maximum rate shall be fixed in the work programme or work plan.

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

5. The Horizon 2020 grant shall be limited to a maximum of 70 % of the total eligible costs for innovation actions and programme co-fund actions.

By way of derogation from paragraph 3, the Horizon 2020 grant may, for innovation actions, reach a maximum of 100 % of the total eligible costs for non-profit legal entities, without prejudice to the co-financing principle.

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

Article 29

Indirect costs

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary, as well as financial support to third parties.

2. By way of derogation from paragraph 1, indirect costs may be declared in the form of a lump sum or unit costs when provided for in the work programme or work plan.

Article 30

Evaluation of the funding levels

The interim evaluation of Horizon 2020 shall include an evaluation of the impact of the various features introduced by the new funding levels laid down in Articles 27, 28 and 29 of this Regulation, with the aim of evaluating whether the new approach has led to undesired situations adversely affecting the attractiveness of Horizon 2020.

Article 31

Annual productive hours

1. Eligible personnel costs shall cover only the actual hours worked by the persons directly carrying out work under the action. Evidence regarding the actual hours worked shall be provided by the participant, usually through a time recording system.

2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action.

3. The grant agreement shall contain:

(a) the minimum requirements for the time recording system;

(b) the option to choose between a fixed number of annual productive hours and the method for establishing the number of annual productive hours to be used for the calculation of the hourly personnel rates, taking account of the participant's usual accounting practices.

Article 32

Owners of SMEs and natural persons without a salary

The owners of SMEs who do not receive a salary, and other natural persons who do not receive a salary, may charge personnel costs on the basis of a unit cost.

Article 33

Unit costs

1. In accordance with Article 124 of Regulation (EU, Euratom) No 966/2012, the Commission may establish methods to determine unit costs based on:

(a) statistical data or similar objective means;

(b) auditable historical data of the participant.

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

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

(b) they comply with Articles 26 and 27;

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

(d) they are calculated with due regard to Article 31.

Article 34

Certificate on the financial statements

The certificate on the 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 unit costs referred to in Article 33(2), excluding the amounts declared on the basis of lump sums, flat rates and unit costs other than those determined according to the participant's usual cost accounting practices. The certificate shall be submitted only 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.

Article 35

Certificate on the methodology

1. Participants that calculate and claim direct personnel costs on the basis of unit costs in accordance with Article 33(2) may submit to the Commission a certificate on the methodology. That methodology shall comply with the conditions set out in Article 33(2) and meet the requirements of the grant agreement.

2. Where the Commission accepts a certificate on the methodology, it shall be valid for all actions financed under Regulation (EU) No 1291/2013 and the participant shall calculate and claim costs on the basis of it. Once the Commission has accepted a certificate on the methodology, it shall not attribute any systemic or recurrent error to the accepted methodology.

Article 36

Certifying auditors

1. The certificates on the financial statements and on the methodology referred to in Articles 34 and 35 shall be established by an independent auditor qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council [1] or similar national regulations, or by a competent and independent public officer in whom the relevant national authorities have vested the legal capacity to audit the participant and who has not been involved in the preparation of the financial statements.

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

Article 37

Cumulative funding

An action for which a grant from the Union budget has been awarded may also give rise to the award of a grant on the basis of Regulation (EU) No 1291/2013, provided that the grants do not cover the same cost items.

Section IV

Guarantees

Article 38

Participant Guarantee Fund

1. A participant guarantee fund (the "Fund") is hereby established and shall cover the risk associated with non-recovery of sums due to the Union under actions financed through grants by the Commission under Decision No 1982/2006/EC and by the Commission or Union funding bodies under "Horizon 2020" according to the rules set out in this Regulation. The Fund shall replace and succeed the Participant Guarantee Fund set up under Regulation (EC) No 1906/2006.

2. The Fund shall be operated in accordance with Article 39. Any financial interest generated by the Fund shall be added to the Fund and shall serve exclusively for the purposes set out in Article 39(3).

3. Where interest is insufficient to cover the operations described in Article 39(3), the Fund shall not intervene and the Commission or the relevant Union funding body shall recover directly from participants or third parties any amount owed.

4. The Fund shall be considered a sufficient guarantee under Regulation (EU, Euratom) No 966/2012. No additional guarantee or security may be accepted from participants or imposed upon them except in the case described in paragraph 3 of this Article.

5. Participants in actions under Horizon 2020 whose risk is covered by the Fund shall make a contribution of 5 % of the Union funding for the action. At the end of the action the amount contributed to the Fund shall be returned to the participants, via the coordinator.

6. The rate of the participants' contribution to the Fund set out in paragraph 5 may be reduced on the basis of the interim evaluation of Horizon 2020.

Article 39

Operation of the Fund

1. The Fund shall be managed by the Union, represented by the Commission acting as executive agent on behalf of the participants, in accordance with the conditions established by the grant agreement.

The Commission may manage the Fund directly or entrust the financial management of the Fund either to the European Investment Bank or to an appropriate financial institution ("the depository bank"). The depository bank shall manage the Fund pursuant to the instructions of the Commission.

2. The participants' contribution to the Fund may be offset from the initial pre-financing and be paid to the Fund on behalf of the participants.

3. Where amounts are due to the Union by a participant, the Commission may, without prejudice to penalties which may be imposed on the defaulting participant, take either of the following actions:

[1] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

(a) transfer, or order the depository bank to transfer, directly the amount due from the Fund to the coordinator of the action. That transfer shall be made after the termination or withdrawal of the participation of the defaulting participant if the action is still ongoing and if the remaining participants agree to implement it according to the same objectives. Amounts transferred from the Fund shall be regarded as Union funding;

(b) recover effectively that amount from the Fund.

The Commission shall issue a recovery order against that participant or third party to the benefit of the Fund. The Commission may adopt to that end a recovery decision in accordance with Regulation (EU, Euratom) No 966/2012.

4. The amounts recovered shall constitute revenue assigned to the Fund within the meaning of Article 21(4) of Regulation (EU, Euratom) No 966/2012. Once the implementation of all grants whose risk is covered by the Fund is complete, any sums outstanding shall be recovered by the Commission and entered into the budget of the Union, subject to decisions of the legislative authority.

CHAPTER III

Experts

Article 40

Appointment of independent experts

1. The Commission and, where appropriate, funding bodies may appoint independent experts to evaluate proposals in accordance with Article 15 or to advise on or assist with:

(a) the evaluation of proposals;

(b) the monitoring of the implementation of actions carried out under Regulation (EU) No 1291/2013 as well as of previous Research and/or Innovation Programmes;

(c) the implementation of Union research and innovation policy or programmes including Horizon 2020, as well as the achievement and functioning of the European Research Area;

(d) the evaluation of Research and Innovation Programmes;

(e) the design of the Union research and innovation policy, including the preparation of future programmes.

2. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them. In cases where independent experts have to deal with classified information, the appropriate security clearance shall be required before appointment.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to relevant organisations such as research agencies, research institutions, universities, standardisation organisations, civil society organisations or enterprises with a view to establishing a database of candidates.

The Commission or the relevant funding body may, if deemed appropriate and in duly justified cases, select in a transparent manner any individual expert with the appropriate skills not included in the database.

When appointing independent experts, the Commission or the relevant funding body shall take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of various skills, experience, knowledge, geographical diversity and gender, and taking into account the situation in the field of the action. Where appropriate, private-public sector balance shall also be sought.

The Commission or the relevant funding body may call upon the advice of advisory bodies for the appointment of independent experts. In the case of ERC frontier research actions, the Commission shall appoint experts on the basis of a proposal from the Scientific Council of the ERC.

3. The Commission or the relevant funding body shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.

4. All exchanges with independent experts, including the conclusion of contracts for their appointment and any amendment thereto, may be done through electronic exchange systems set up by the Commission or by the relevant funding body as stipulated in Article 287(4) of Regulation (EU) No. 1268/2012.

5. The names of experts appointed in a personal capacity, who have assisted the Commission or the funding bodies in implementation of Regulation (EU) No 1291/2013 and Decision 2013/743/EU shall be published, together with their area of expertise, at least once a year on the internet site of the Commission or the relevant funding body. Such information shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

TITLE III

RULES GOVERNING THE EXPLOITATION AND DISSEMINATION OF RESULTS

CHAPTER I

Grants

Section I

Results

Article 41

Ownership of results

1. Results shall be owned by the participant generating them.

2. Where participants in an action have jointly generated results, and where their respective contribution to the joint results cannot be ascertained, or where it is not possible to separate such joint results for the purpose of applying for, obtaining or maintaining the relevant intellectual property rights protection, they shall have joint ownership of those results. The joint owners shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement. The joint owners may agree not to continue with joint ownership but decide on an alternative regime, inter alia by transferring their ownership shares to a single owner with access rights for the other participants, once the results have been generated.

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.

3. If employees or any party working for a participant are entitled to claim rights to the results generated, the participant concerned shall ensure that it is possible for those rights to be exercised in a manner compatible with its obligations under the grant agreement.

Article 42

Protection of results

1. Where results are capable of or may reasonably be expected to be capable of commercial or industrial exploitation, the participant owning those results shall examine the possibility of protecting them. The participant shall, if possible, reasonable and justified given the circumstances, adequately protect them for an appropriate period of time and with an appropriate territorial coverage, having due regard to its legitimate interests, and the legitimate interests, particularly the commercial interests, of the other participants in the action.

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

The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. No dissemination relating to those results may take place until the Commission or the relevant funding body has taken a decision not to assume ownership of the results or has decided that it will assume ownership and has taken the necessary steps to ensure their protection. The Commission or the relevant funding body shall make such decision without undue delay. The grant agreement shall lay down time-limits in this respect.

3. Where a participant that has received Union funding intends to abandon the protection of results or intends not to seek the extension of such protection for reasons other than the lack of potential for commercial or industrial exploitation within a period that shall not exceed five years following the payment of the balance, it shall inform the Commission or the relevant funding body, which may continue or extend protection by assuming ownership thereof. The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. The grant agreement shall lay down time-limits in this respect.

Article 43

Exploitation and dissemination of results

1. Each participant that has received Union funding shall use its best efforts to exploit the results it owns, or to have them exploited by another legal entity, in particular through the transfer and licensing of results in accordance with Article 44.

Any additional exploitation obligations shall be laid down in the grant agreement. In the case of research with the potential to address major societal challenges, additional exploitation obligations may include licensing on non-exclusive terms. Any such additional obligations shall be indicated in the work programme or work plan.

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

Any additional dissemination obligations shall be laid down in the grant agreement and indicated in the work programme or work plan.

With regard to the dissemination of results through scientific publications, open access shall apply under the terms and conditions laid down in the grant agreement. Costs relating to open access to scientific publications that result from research funded under Horizon 2020, incurred within the duration of an action, shall be eligible for reimbursement under the conditions of the grant agreement. With due regard to Article 18 of Regulation (EU) No 1291/2013, the grant agreement shall not stipulate conditions regarding open access to publications which would result in additional publishing costs after the completion of an action.

With regard to the dissemination of research data, the grant agreement may, in the context of the open access to and the preservation of research data, lay down terms and conditions under which open access to such results shall be provided, in particular in ERC frontier research and FET (Future and Emerging Technologies) research or in other appropriate areas, and taking into consideration the legitimate interests of the participants and any constraints pertaining to data protection rules, security rules or intellectual property rights. In such cases, the work programme or work plan shall indicate if the dissemination of research data through open access is required.

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

3. For the purposes of monitoring and dissemination by the Commission or the relevant funding body, participants shall provide any information on their exploitation and dissemination related activities, and provide any documents necessary in accordance with the conditions laid down in the grant agreement. Subject to the legitimate interests of the participants which have provided the information, such information shall be made publicly available. The grant agreement shall, inter alia, lay down time-limits with respect to such reporting obligations.

4. All patent applications, standards, publications or any other dissemination, including those in electronic form, relating to results shall, if possible, 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.

Article 44

Transfer and licensing of results

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

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

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

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

2. Provided that access rights to the results can be exercised, and that any additional exploitation obligations are complied with by the participant which owns the results, the latter may grant licences or otherwise grant the right to exploit them to any legal entity, including on an exclusive basis. Exclusive licences for results may be granted subject to consent by all the other participants concerned that they will waive their access rights thereto.

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

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

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

Section II

Access rights to background and results

Article 45

Background

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

Article 46

Access rights principles

1. Any request to exercise access rights or any waiving of access rights shall be made in writing.

2. Unless otherwise agreed by the owner of the results or background to which access is requested, access rights shall not include the right to sub-license.

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.

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

5. The consortium agreement may stipulate that where a participant defaults on its obligations and such default is not remedied, such a defaulting participant shall no longer enjoy access rights.

Article 47

Access rights for implementation

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

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

2. A participant shall enjoy access rights to background of another participant in the same action if this background is needed by the former to carry out its work under the action, and subject to any restrictions or limits pursuant to Article 46(3).

Such access shall be granted on a royalty-free basis, unless otherwise agreed by the participants before their accession to the grant agreement.

Article 48

Access rights for exploitation

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

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

2. A participant shall enjoy access rights to background of another participant in the same action if this background is needed by the former to exploit its own results, and subject to any restrictions or limits pursuant to Article 46(3).

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

3. An affiliated entity established in a Member State or associated country shall, unless otherwise provided for in the consortium agreement, also have access rights to results and, subject to any restrictions or limits pursuant to Article 46(3), to background under fair and reasonable conditions if those results and background are needed to exploit the results generated by the participant to which it is affiliated. Such access rights shall be requested and obtained directly from the participant owning the results or background unless otherwise agreed in accordance with Article 46(2).

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

Article 49

Access rights for the Union and the Member States

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

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

2. Regarding actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens' set out in Part III of Annex I to Regulation (EU) No 1291/2013, Union institutions, bodies, offices and agencies, as well as Member States' national authorities, shall, for the purpose of developing, implementing and monitoring their policies or programmes in this area, enjoy the necessary access rights to the results of a participant that has received Union funding. Such access rights shall be limited to non-commercial and non-competitive use. Such access rights shall be granted on a royalty-free basis and upon bilateral agreement defining specific conditions aimed at ensuring that those rights will be used only for the intended purpose and that appropriate confidentiality obligations will be in place. Such access rights shall not extend to the participant's background. The requesting Member State, Union institution, body, office or agency shall notify all Member States of such requests. The Commission rules on security shall apply regarding classified information.

TITLE IV

SPECIFIC PROVISIONS

Article 50

Prizes

1. Union funding may take the form of prizes as defined in Title VII of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

2. Any prize awarded shall be conditional upon the acceptance of the appropriate publicity obligations. Regarding the dissemination of results, Title III of this Regulation shall apply. The work programme or work plan may contain specific obligations regarding exploitation and dissemination.

Article 51

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 set out in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

2. Union funding may take the form of pre-commercial procurement or the 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, 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, Euratom) No 966/2012;

(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. Unless otherwise stipulated in the call for tenders, results generated by procurement carried out by the Commission shall be owned by the Union.

4. 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 and 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.

5. 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.

Article 52

Financial Instruments

1. Financial instruments may take any of the forms referred to in, and shall be implemented in accordance with, Title VIII of Regulation (EU, Euratom) No 966/2012 and may be combined with each other and with grants funded under the Union budget, including under Regulation (EU) No 1291/2013.

2. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual repayments generated by a financial instrument established under Regulation (EU) No 1291/2013 shall be assigned, in accordance with Article 21(4) of Regulation No 966/2012, to that financial instrument.

3. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual 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 Decision No 1639/2006/EC, shall be assigned, in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012, to the succeeding financial instruments under Regulation (EU) No 1291/2013.

Article 53

SME Instrument

1. Only SMEs may apply for calls for proposals issued under the dedicated SME instrument referred to in Article 22 of Regulation (EU) No 1291/2013. They may cooperate with other companies, and with research organisations or universities.

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

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

Article 54

Fast Track to Innovation

1. In accordance with Article 7, any legal entity may participate in a Fast Track to Innovation ("FTI") action. Actions funded under FTI shall be innovation actions. The FTI call shall be open to proposals relating to any technology field under the specific objective "Leadership in enabling and industrial technologies" set out in point 1 of Part II of Annex I to Regulation (EU) No 1291/2013 or to any of the specific objectives under the priority "Societal challenges" set out in points 1 to 7 of Part III of Annex I to that Regulation.

2. Proposals may be submitted at any time. The Commission shall set three cut-off dates per year to evaluate proposals. The period between a cut-off date and signature of the grant agreement or notification of the grant decision shall not exceed six months. Proposals shall be ranked according to the impact, quality and efficiency of implementation and excellence, with the criterion of impact given a higher weighting. No more than five legal entities shall participate in any one action. The amount of the grant shall not exceed EUR 3 million.

Article 55

Other specific provisions

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

3. In the case of ERC frontier research actions, the grant agreement may lay down specific provisions, in particular on access rights, portability and dissemination, or 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.

6. 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.

TITLE V

FINAL PROVISIONS

Article 56

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 1(3) shall be conferred on the Commission for the duration of Horizon 2020.

3. The delegation of power referred to in Article 1(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 1(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 57

Repeal and transitional provisions

1. Regulation (EC) No 1906/2006 is repealed with effect from 1 January 2014.

2. Without prejudice to paragraph 1, this Regulation shall not affect the continuation or modification, including the total or partial termination, of the actions concerned, until their closure, or until the award of financial assistance by the Commission or funding bodies under Decision No 1982/2006/EC or any other legislation applying to that assistance on 31 December 2013, which shall continue to apply to the actions concerned until their closure.

3. Any sums from the participant Guarantee Fund set up by Regulation (EC) No 1906/2006 as well as all its rights and obligations shall be transferred to the Fund as of 31 December 2013. The participants in actions under Decision No 1982/2006/EC signing grant agreements after 31 December 2013 shall make their contribution to the Fund.

Article 58

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS