



Council of the  
European Union

Brussels, 14 September 2018  
(OR. en)

12067/18

---

---

**Interinstitutional File:  
2018/0224(COD)**

---

---

RECH 371  
COMPET 595  
IND 237  
MI 626  
EDUC 318  
TELECOM 278  
ENER 298  
ENV 584  
REGIO 71  
AGRI 416  
TRANS 368  
SAN 265  
CADREFIN 194  
CODEC 1446

**NOTE**

---

From: Presidency

To: Permanent Representatives Committee/Council

---

No. Cion doc.: 9865/18 + ADD 1

---

Subject: *Preparation of the Competitiveness Council of 27-28 September 2018*  
Horizon Europe package: Framework Programme for Research and Innovation 2021-2027

a) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing Horizon Europe - the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination

b) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the specific programme implementing Horizon Europe - the Framework Programme for Research and Innovation

- *Policy debate*

---

## **I. INTRODUCTION**

On 7 June 2018, the European Commission proposed the new Framework Programme for Research and Innovation, Horizon Europe. Without delay, the Council started the examination of the proposal. A first exchange of views at political level took place at the informal meeting of ministers responsible for research on 17 July 2018 in Vienna. During this informal debate, the Austrian Presidency perceived broad support for the structure and the main components of the European Commission's proposal. However, all delegations expressed concerns on specific issues that deserve attention during the further negotiations on Horizon Europe.

In addition to the discussions taking place in the Research Working Party of the Council, the Presidency invited delegations to send their comments on the proposals for the Horizon Europe Regulation and the Specific Programme by early September 2018. Based on the input received from Member States, the Presidency has updated its graph on the state of play of negotiations (see Annex) and has identified three key issues on which political guidance by ministers is required for further negotiations.

## **II. KEY ISSUES**

### **1. LEGAL BASES OF HORIZON EUROPE**

Like its predecessor Horizon 2020, the Framework Programme (FP) Regulation “Horizon Europe” is based on the TFEU Titles “Industry” and “Research and technological development and space” (Articles 173, 182, 183 and 188 TFEU). Furthermore, and in deviation from previous Specific Programme decisions, the Commission has decided to propose also the Specific Programme (SP) implementing Horizon Europe to be based on the TFEU Titles “Industry” and “Research and technological development and space” (Articles 173 and 182 TFEU). According to the Commission, this decision was based on the increased importance of innovation in Horizon Europe, notably the measures under the European Innovation Council (EIC). This change towards a dual legal basis would mean that the Specific Programme for Horizon Europe would have to be adopted according to the ordinary legislative procedure (co-decision with the EP) instead of a special legislative procedure (adoption after consulting the EP) as was the case for the Specific Programmes in the past. A discussion in the Council preparatory bodies ensued as to whether these legal bases are appropriate.

In June 2018, a number of Member States asked the Council Legal Service (CLS) to provide a written Opinion on this matter, which the CLS issued on 25 July 2018<sup>1</sup>. In this Opinion, the CLS concludes that the legal bases proposed by the European Commission for the FP Regulation are appropriate; however, regarding the Specific Programme for Horizon Europe, the CLS concludes that the dual legal basis on which the Commission based its proposal for a decision on the establishment of the Specific Programme is not appropriate and that Article 182 (4) TFEU alone is, having regard to the aim and the content of that proposal, the appropriate legal basis. Were the Council to adopt that proposal on the basis of Article 182 (4) TFEU alone, such an adoption would take place according to a special legislative procedure (adoption by the Council alone after consultation of the European Parliament and the European Economic and Social Committee).

---

1 11422/18

On 11 September 2018, the European Commission submitted a Non-paper explaining the reasons for its choice of the proposed legal basis.

To facilitate the discussion, the Presidency sent a note to delegations on 27 August 2018, explaining in detail the possible ways forward for the Council to deal with this issue, including the imminent consequences for both the work in Council and the collaboration with the European Parliament.

The discussions at technical level on 3 and 13 September showed that a clear majority of delegations is in favour of following the CLS Opinion and changing the legal bases for the Horizon Europe Specific Programme, so that it would be based on Article 182(2) TFEU alone, with the consequence that the special legislative procedure (adoption after consultation of the EP) would apply.

The Interinstitutional Agreement on better law-making of 13 April 2016 states in Article 25 that “If a modification of the legal basis entailing a change from the ordinary legislative procedure to a special legislative procedure or a non-legislative procedure is envisaged, the three Institutions will exchange views thereon”. Following the discussions at technical level, the Presidency considers that this point has been reached. In order to get a clear political mandate for a possible interinstitutional exchange of views, the Presidency therefore seeks to obtain the ministers’ views on how to proceed in this matter.

**Question to ministers:**

**In the light of the Council Legal Service Opinion, and in the light of the views expressed by Member States' delegations and the Commission at technical level, does the Council envisage a modification of the legal basis entailing a change from the Ordinary Legislative Procedure to the Special Legislative Procedure?**

## 2. WIDENING PARTICIPATION / SHARING EXCELLENCE

There seems to be consensus among delegations on two notions: Firstly, excellence is at the heart of Horizon Europe. It is a key criterion for scientific advancement, and often the foundation of economic prosperity and societal well-being. Secondly, excellence has no gender, no passport, and no frontiers. It can be found everywhere, in every Member State, and beyond the European Union.

Excellence does not thrive in isolation. It develops under the conditions created by the education, science and innovation system of each individual country. The eco-system for research and innovation provides the incentives - or sometimes the barriers - for excellence at national level. The responsibility for this eco-system lies with national decision-makers, even though the European Research Area is striving to create a more coherent European market for knowledge over time. Member States make great efforts to improve their national research and innovation systems.<sup>2</sup> As a result, sharing excellence is no longer an issue of “EU 15 versus EU 13”. The reality has become more nuanced, yet discrepancies persist, with less R&I intensity and a lower participation in Horizon 2020 in particular for Member States which joined the EU in 2004 or later.

The latest “European Innovation Scoreboard 2018”<sup>3</sup> reports on the uneven development across the European Research Area. 18 EU countries have increased, yet 10 EU countries have decreased their innovation performance. Instead of narrowing, the innovation divide in Europe tends to deepen.

Furthermore, recent evidence points in the direction of a negative impact of brain drain in the European Research Area, weakening the innovation systems of those Member States that have joined the EU since 2004<sup>4</sup>. Over the last decade, cross-border research collaboration has developed much more strongly in the western part than in the eastern part of the EU. Brain drain is a consequence of a complex cluster of reasons, and there is no panacea to reverse this trend by one single measure.

---

2 Efforts by Member States and Associated Countries have been presented in a recent “Mutual Learning Exercise on Widening Participation and Strengthening Synergies”, June 2018

3 European Commission, European Innovation Scoreboard 2018

4 Doria Arrieta, Pammolli, Petersen, Quantifying the negative impact of brain drain on the integration of European science, in Science Advances, 12 April 2017

The key issue at hand is to what extent the EU Framework Programme shall assist and complement national efforts for promoting excellence and for closing the innovation gap in Europe.

The Horizon Europe proposal includes a number of support activities that build on the measures introduced in Horizon 2020, in particular Teaming, Twinning, ERA Chairs, and COST. In addition, the European Commission proposes a substantial budget increase for these activities compared to Horizon 2020 (from €800 million to €1.7 billion).

In their comments to the Presidency, some Member States have suggested further Widening Participation / Sharing Excellence measures, for example:

- Complementing the programme objectives of Horizon Europe by the objective of strengthening a balanced European Research Area and fostering its competitiveness in all Member States;
- Introducing as an additional specific objective of Horizon Europe to contribute to inclusive and innovative societies of the European Union, to address the research and innovation divide which is increasing within the EU, and to foster the participation of all Member States in Horizon Europe;
- Renaming Part (4) of the Horizon Europe structure “Widening Participation and Strengthening the European Research Area”, and replacing the term “Sharing Excellence” by “Widening Participation”;
- Introducing a “fast track” system for research projects stemming from Teaming and Twinning projects and ERA Chairs;
- Introducing horizontal measures to widen participation, e.g. through improved evaluation procedures, or by countering “closed clubs”;
- Reflecting on the possibility of equal salaries for all Horizon Europe project partners;

- Strengthening the synergies between Horizon Europe and other EU funding programmes, in particular ESIF (e.g. smart specialisation strategies);
- Financial support (e.g. through Management funding) for bilateral and multilateral Widening activities of Member States;
- On the ERC: Appointing members from various parts of Europe for the ERC Scientific Council;
- On the ERC: Aiming at a more inclusive approach with a view to increasing the number and variety of host institutions within EU as well as the number of excellent researchers across all of the EU;
- On the ERC: Supporting young researchers, including bridging activities from Marie Skłodowska Curie Actions to the ERC;
- On “Widening Fellowships” within Marie Skłodowska Curie Actions: Introducing mobility experiences directed towards countries underrepresented in the Framework Programme for the best or most promising researchers, regardless of nationality, to undertake excellent research and develop their skills as well as their careers in both the academic and non-academic sectors;
- On Marie Skłodowska Curie Actions: Supporting researchers to return to their country of origin.

**Question to ministers:**

**Please indicate essential requirements that Horizon Europe should meet on Widening Participation / Sharing Excellence, also in the light of suggestions from Member States as listed above?**

### 3. STRUCTURE OF PILLAR 2 IN HORIZON EUROPE

The overall three-pillar structure of the Horizon Europe proposal was welcomed by delegations. The European Commission proposed a new structure for pillar 2 with a more impact-based approach that cuts across scientific disciplines and individual sectors of industry. In this context, missions should also contribute to cross-sectoral and cross-disciplinary cooperation in different clusters to increase societal impact. . Discussions at technical level have shown that the structure of pillar 2 ("Global Challenges and Industrial Competitiveness") may need some adjustments.

Over the summer, Member States provided a number of ideas how to improve pillar 2, resulting in 7 instead of 5 clusters. From these proposals, the Presidency would like to mention a few examples:

- Focusing pillar 2 on "Global Challenges and European Industrial Competitiveness";
- Ensuring that all TRL levels are covered in this pillar of Horizon Europe;
- Dividing the cluster "Inclusive and Secure Society" into two separate clusters; expanding the cluster on "Inclusive Society" to a cluster on "Inclusive, Creative, Reflective and Resilient Society", including the topic of migration; and changing the name of the sub-cluster on "Secure Society" into "Civil Security for Society";
- Proposing a bottom-up approach for "Key Enabling Technologies of the Future" within the cluster "Digital and Industry";
- Dividing the cluster on "Climate, Energy and Mobility" into two separate clusters; introducing a cluster on "Climate and Energy" and a separate cluster on "Mobility";
- Renaming the cluster on "Food and Natural Resources" into "Bioeconomy, Natural Resources and Environment";
- Introducing new areas of intervention;
- Dedicating ring-fenced budgets to each area of intervention.



**Question to ministers:**

**Please indicate essential requirements that Horizon Europe should meet regarding the structure of pillar 2, also in the light of suggestions from Member States as listed above?**

Annex 1: Horizon Europe – state of play of negotiations

# Horizon Europe – State of play

e 2 0  
u 1 8  
· a t

