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**NOTE**

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| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing Horizon Europe, the Framework Programme for Research and Innovation, for the period 2028-2034 laying down its rules for participation and dissemination, and repealing Regulation (EU) 2021/695<br>- Presidency compromise text on the Rules for participation and dissemination |

Delegations will find attached a Presidency compromise text on Block VI (Rules for participation and dissemination): Framework Programme (Art. 20-33). Changes in comparison to document 12007/25 are marked in ~~strikethrough~~ for deletions and in **bold underline** for additions. Text in ***bold italics*** corresponds to topics which require further discussion.

**ANNEX**

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING HORIZON EUROPE, THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION, FOR THE PERIOD 2028-2034 LAYING DOWN ITS RULES FOR PARTICIPATION AND DISSEMINATION, AND REPEALING REGULATION (EU) 2021/695**

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# Title II - Rules for participation and dissemination
# Chapter I
# General provisions

*Article 20*

***ECF rules***

1. **[**Article 10(2), 10(3) on EU Preference**]**, Article 13 on Application of the rules on classified information and sensitive information **[**and Article 20 on Accelerated and Targeted Action for Competitiveness of Regulation (EU) XXX [European Competitiveness Fund]**]** shall apply for the purpose of this Regulation, unless otherwise specified **in this Regulation**.

**Recital**

(22) To reinforce the Union's strategic autonomy and ensure long-term sustainable economic growth, it is essential to bolster its global competitiveness while safeguarding its strategic assets and interests as outlined in the European Economic Security Strategy[1]. Article 136 of Regulation (EU, Euratom) 2024/2509 as complemented by Article 10 of Regulation (EU) XXX [European Competitiveness Fund] promote the competitiveness of the Union and protect its economic security. The application of these provisions for the purpose of the Programme should provide an appropriate legal framework to allow, where necessary, for the establishment of specific conditions regarding award procedures that promote research-driven competitiveness **based on excellence** and protect the interests and strategic autonomy of the Union, including measures aimed at restricting participation or protecting results and ensuring coherence and consistency with specific rules under the European Competitiveness Fund windows. Where necessary, a risk-based approach should be applied to ensure that risks related to research and innovation are identified, assessed, and addressed through proportionate and effective measures[2]. In accordance with Article 136 of the Financial Regulation, eligibility restrictions should apply to high-risk suppliers, for security reasons.

*Article 21*

***Eligibility***

1. Eligibility criteria shall be set to support achievement of the general and specific objectives laid down in Article 3, in accordance with Regulation (EU, Euratom) 2024/2509 and apply to all award procedures under the Programme.

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1 Joint Communication to the European Parliament, the European Council and the Council on "European Economic Security Strategy, JOIN(2023) 20 final, Brussels, 20.06.2023.

2 Council Recommendation of 23 May 2024 on enhancing research security, C/2024/3510.

**1a.** **Any legal entity, regardless of its place of establishment and including legal entities from non-associated third countries or international organisations, may participate in actions under the Programme, provided that the conditions laid down in this Regulation have been met together with any conditions laid down in the work programme or call for proposals.**

2. In award procedures under direct and indirect management one or more of the following categories of legal entities may be eligible to receive Union support:

   (a) entities established in a Member State;

   (b) entities established in an associated ~~third~~ country;

   (c) other entities established in low to middle income non-associated third countries or, exceptionally, in other non-associated third countries if the third country is identified in the work programme adopted by the Commission;

   (d) other entities established in non-associated **third** countries where the funding of such entities is essential for implementing the action and contributes to the objectives laid down in Article 3.

3. Except **in duly justified cases** when the work programme otherwise provides, to be eligible for participation in grant actions legal entities shall form a consortium that includes as beneficiaries three legal entities independent of each other and each established in different countries as follows:

   (a) at least two legal entities established in different Member States; and

   (b) at least one other legal entity established in another Member State or an associated country.

4. ERC frontier research actions, EIC actions, ~~research and training~~ **MSCA, *specific research and technology infrastructures*** actions and actions that involve or have as their primary aim the implementation of pre-commercial procurement or procurement of innovative solutions, may be implemented by one or more legal entities, provided that one of those legal entities shall be established in a Member State or associated country.

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5. Coordination and support actions may be implemented by one or more legal entities, which may be established in a Member State, associated country or, in exceptional cases, in another third country.

6. In accordance with Article 136 of the Financial Regulation, eligibility restrictions shall apply to high-risk suppliers in line with EU law, for security reasons.

7. International European research organisations and legal entities created under Union law shall be deemed to be established in a Member State other than the ones in which other legal entities participating in the action are established.

8. International organisations other than international European research organisations shall be deemed to be established in a non-associated third country, unless otherwise provided for in the work programme or the call for proposals.

9. In addition to Article 168(2) and (3) of Regulation (EU, Euratom) 2024/2509, associated ~~third~~ countries referred to in Article 9(1) and international organisations may, where relevant, participate in and benefit from any procurement mechanisms set out in Article 168(2) and (3) of Regulation (EU, Euratom) 2024/2509. Rules applicable to Member States shall be applied, mutatis mutandis, to participating associated ~~third~~ countries and international organisations.

10. In award procedures, the following activities shall not be eligible for funding:

    (a) activities that are prohibited by Union law, applicable international law, or by national law in all Member States; ~~activities that are already fully financed from other public or private sources, except contributions from the Union in the context of actions referred to in Article 8(1);~~

    **(aa) activities that are already fully financed from other public or private sources, except contributions from the Union in the context of actions referred to in Article 8(1);**

    (b) activities aiming at human cloning for reproductive purposes;

(c) activities intended to modify the genetic heritage of human beings which could make such modifications heritable, except research relating to cancer treatment of the gonads;

(d) activities intended to create human embryos solely for the purpose of research, technological development and demonstration activities or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer;

(e) research on human stem cells, both adult and embryonic, may be financed depending both on the contents of the scientific proposal and the legal framework of the Member States involved;

For the purposes of the first subparagraph, point (a), no funding shall be provided in a Member State for a research, technological or demonstration activity which is forbidden in that Member State.

11. In addition to the grounds set out in Article 132 of Regulation (EU, Euratom) 2024/2509, award procedures and resulting legal commitments shall allow for termination where the objectives of the action are unlikely to be achieved at all or within the set timelines, or the action has lost its ~~policy~~ relevance~~.~~ **for scientific or technological reasons or, in the case of the grant component of the EIC Accelerator, also for economic reasons or, in the case of EIC and *missions*, also due to their relevance as part of a portfolio of actions. The Commission shall undergo a procedure with the action coordinator and, if appropriate, with independent external experts, before deciding to terminate an action.**

~~12. The work programme or the documents related to the award procedure may specify the eligibility criteria set out in this Regulation or set additional eligibility criteria for specific actions including to take into account specific policy requirements.~~

**12a. Where appropriate and duly justified, the work programme may provide for eligibility criteria in addition to those set out in this Article to take into account specific policy requirements or the nature and objectives of the action.**

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*Article 22*

***Ethics and research integrity***

1. Actions carried out shall comply with:

   (a) relevant Union, national and international law, including the Charter of Fundamental Rights of the European Union and the ~~European~~ Convention for the Protection of Human Rights and Fundamental Freedoms and its ~~Supplementary~~ **Additional** Protocols;

   (b) ethical principles, including the highest standards of research integrity.

2. For award procedures identified in the work programme, legal entities participating in an action shall fulfil all the following requirements:

   (a) provide an ethics self-assessment relating to the objective, implementation and likely impact of the activities, including a confirmation and description of compliance with paragraph 1;

   (b) provide a confirmation that the activities will comply with (i) the European Code of Conduct for Research Integrity, (ii) the Global Code of Conduct for Equitable Research Partnerships and that no activities excluded from funding will be conducted;

   (c) provide for activities carried out outside the Union, a confirmation that the same activities would have been allowed in a Member State;

   (d) provide for activities making use of human embryonic stem cells, as appropriate, details of licensing and control measures that shall be taken by the competent authorities of the Member States concerned as well as details of the ethics approvals that shall be obtained before the start of the relevant activities;

   (e) obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies, such as data protection authorities, before the start of the relevant activities and keep those documents on file to be provided to the Commission or the relevant implementation body upon request.

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# Chapter II

# Grants

*Article 23*

***Calls for proposals***

**-1. The content of the calls for proposals for all actions shall be included in the work programme.**

1. A call for proposals is not required for coordination and support actions which:

   (a) are to be carried out by legal entities identified in the work programme; and

   (b) do not fall within the scope of a call for proposals, in accordance with Article 198, point (e), of Regulation (EU, Euratom) 2024/2509.

2. ***The work programme shall specify calls for proposals for which Competitiveness Seals may be awarded***. Information concerning the application and the evaluation may be shared with interested financing authorities, subject to the conclusion of confidentiality agreements unless explicitly objected by the applicant.

*Article 24*

***Financial capacity of applicants***

1. In addition to the exceptions mentioned in Article 201(5) of Regulation (EU, Euratom) 2024/2509, the financial capacity shall be verified only if the requested funding from the Union for the action is equal to or greater than EUR 1- 000 000.

2. Notwithstanding paragraph 1, if there are grounds to doubt the financial capacity of an applicant, or if there is a higher risk due to the participation in several ongoing actions funded by Union R&I programmes, the financial capacity of other applicants, or of coordinators even where the requested funding is below the threshold referred to in paragraph 1 shall also be verified.

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3. If the financial capacity is structurally guaranteed by another legal entity, the financial capacity of that other legal entity shall be verified.

4. In the case where the financial capacity of an applicant is weak, the participation of the applicant may be made conditional on provision of a declaration on joint and several liability by an affiliated entity.

5. The contribution to the Mutual Insurance Mechanism set out in Article 30 shall be considered to be a sufficient guarantee under Article 155 of Regulation (EU, Euratom) 2024/2509. No additional guarantee or security shall be accepted from beneficiaries or imposed upon them.

[*Article 25*

***Award criteria and selection***

1. A proposal shall be evaluated on the basis of the following award criteria:

   (a) excellence;

   (b) impact;

   (c) quality and efficiency of the implementation.

   The work programme shall lay down details concerning the application of the award criteria referred to in paragraph 1.

2. By derogation from paragraph 1, only the excellence criterion referred to in point (a) of that paragraph shall apply for evaluations under ERC frontier research actions and research and training actions.]

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*Article 26*

***Time-to-grant***

1. By way of derogation from the first subparagraph of Article 197(2) of Regulation (EU, Euratom) 2024/2509, the following periods shall apply:

   (a) for informing all applicants of the outcome of the 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, a maximum period of seven months from the final date for submission of complete proposals.

2. The work programme may establish shorter periods than those provided for in paragraph 1.

3. In addition to the exceptions laid down in Article 197(2), second subparagraph, of Regulation (EU, Euratom) 2024/2509, the periods referred to in paragraph 1 of this Article may be exceeded for ERC actions, ***missions-oriented approach*** and when actions are submitted to an ethics assessment, security scrutiny or assessments to protect the competitiveness of the Union including its strategic assets and interests.

[*Article 27*

***Funding rates***

1. A single funding rate per action shall apply for all activities it funds. The maximum rate per action shall be fixed in the work programme.

2. Up to 100 % of total eligible costs of an action under the Programme may be reimbursed, except for for-profit legal entities where up to 70% of the total eligible costs may be reimbursed. By way of exception, SMEs shall be eligible for a funding rate of up to 100% of the total eligible costs.]

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*Article 28*

***Indirect costs***

1. Indirect eligible costs shall be 25% of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs. Where appropriate, indirect costs included in unit costs or lump sums shall be calculated using the flat rate referred to in the previous sentence.

2. Notwithstanding paragraph 1, if provided for in the work programme, indirect costs may be declared in the form of a lump sum or unit costs.

*Article 29*

***Eligible costs***

1. By way of derogation from Article 193(2) of Regulation (EU, Euratom) 2024/2509, costs of resources made available by third parties by means of in-kind contributions shall be eligible up to the direct eligible costs of the third party.

2. By way of derogation from Article 195(2) of Regulation (EU, Euratom) 2024/2509, income generated by the valorisation of the results shall not be considered to be revenues of the action.

**Recital**

(27) To accommodate specific organisational set-up, especially encountered in the Research and Innovation activities, it should be possible to declare as eligible costs in-kind contributions from third parties. To incentivise valorisation of results, it should be clarified that this should not be counted as revenues of the action.

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*Article 30*

***Mutual Insurance Mechanism***

1. A Mutual Insurance Mechanism (the 'MIM') is hereby established which shall replace and succeed the Mechanism set up in accordance with Article 37 of Regulation (EU) 2021/695. The MIM shall cover the risk associated with non-recovery of sums due by certain ~~ECF~~ **Horizon Europe** beneficiaries under direct **and indirect** management, as well as any preexisting risks covered in accordance with Article 37 of Regulation (EU) 2021/695.

2. The MIM shall be managed by the Union, represented by the Commission acting as executive agent. Specific rules for the operation of the MIM shall be set out by the Commission by means of an implementing act.

3. ***Beneficiaries shall make a contribution to be offset against the initial pre-financing and paid back to the beneficiaries at the payment of the balance.***

4. Any financial return generated by the MIM and any recovered amounts shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509 for the Programme, or its successor. If the return is insufficient, the MIM shall not intervene, and the granting authority shall recover any amount directly.

5. Once all grants for which the risk is covered by the MIM are completed, any amounts held by the MIM may be recovered by the Commission and shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509 for the Programme, or its successor.

*Article 31*

***Ownership of results***

1. Beneficiaries shall own the results they generate.

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2. Two or more beneficiaries shall own results jointly if they have jointly generated them and it is not possible to:

   (a) establish the respective contribution of each beneficiary; or

   (b) separate the results when applying for their protection.

   They shall agree in writing on the allocation and terms of exercise of their joint ownership. Unless otherwise agreed, each joint owner may grant non-exclusive licences to third parties to valorise the jointly owned results (without any right to sub-licence), if the other joint owners are given advance notice and fair and reasonable compensation. The joint owners may agree in writing to apply another regime than joint ownership.

3. If third parties involved in the action (including personnel) have rights to the results, the beneficiaries shall ensure that those rights can be exercised in a manner compatible with their obligations regarding those results.

4. **In duly justified cases, t**~~T~~ransfer of ownership may be subject to conditions as set out in the work programme, call conditions or grant agreement, including a requirement to pass on any obligations regarding the results.

*Article 32*

***Valorisation and dissemination***

1. Beneficiaries shall manage their results in accordance with the obligations set out in the work programme, call conditions or grant agreement. As part thereof, beneficiaries shall:

   (a) protect their results if justified, in particular if the results have commercial potential;

   (b) grant access to their results and background if needed for implementing action tasks or for **the** valoris~~ing~~**ation of** results~~, including for commercial deployment~~;

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(c) undertake best efforts to valorise their results, either directly or indirectly, including through transfer or licensing; if results are not valorised within a given period, the Commission may identify instruments and tools, such as those serving the valorisation strategy set out in Chapter III of Regulation (EU) XXX [European Competitiveness Fund], that the beneficiaries concerned shall use to facilitate the valorisation of those results;

(d) make the results public in an appropriate manner as soon as feasible, while keeping results confidential if needed due to the protection of **results** ~~intellectual assets~~, security concerns or legitimate interests;

(e) adhere to open science practices, including by:

(i) ensuring open access to all peer-reviewed scientific publications regarding the results;

(ii) managing responsibly the research data in the action and other results in line with the principles 'findability', 'accessibility', 'interoperability' and 'reusability' (the FAIR principles) as well as ensuring open access thereto unless doing so would be against legitimate interests, including commercial interests, or other constraints.

(f) unless otherwise provided for in the work programme or call conditions, develop and regularly update a plan to manage their results, including data;

(g) grant free access to their results for developing, implementing and monitoring their policies or programmes to the following entities:

(i) to Union institutions, bodies, offices or agencies;

(ii) to Member States' national authorities, where provided in the work programme, call conditions or grant agreement.

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**Recital**

(28) In view of strengthening the Union's competitiveness and maximising the uptake and deployment of the results in general, beneficiaries owning results should manage their results in accordance with their obligations established under this Regulation regarding valorisation and dissemination. Those obligations may be adjusted in the work programme, call conditions or grant agreement where appropriate based on policy considerations, including related **Union strategic interests such as economic security, technological sovereignty and resilience** ~~to economic security~~, but should encompass requirements to protect, give access, valorise results and make them public as appropriate and justified, including through open science practices. To facilitate and accelerate the valorisation process, support instruments and tools should be put in place in line with the Commission's valorisation strategy as developed under the European Competitiveness Fund and any such support and services provided for in its Chapter III.

*Article 33*

***Pre-commercial procurement and public procurement of innovative solutions***

1. Grant actions may involve or have as their primary aim the pre-commercial procurement or procurement of innovative solutions. These procurements are to be carried out by beneficiaries which are public procurers or private procurers.

2. The procurement procedures:

   (a) when carried out by public procurers: shall comply with competition rules and with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality, applicable EU rules for strengthening resilience in supply chains and sector specific regulatory requirements;

   (b) when carried out by private procurers: shall comply with the TFEU principles, competition rules and applicable contract law, EU rules for strengthening resilience in supply chains and sector specific regulatory requirements

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(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 tenders offering best value for money while ensuring absence of conflicts of interest.

3. In the case of pre-commercial procurement, the procurement procedure may be conducted with two instead of three phases and may include the purchase of first-of-a-kind solutions to simplify and accelerate implementation.

4. Specific conditions may apply including regarding the place of performance of the procured services, goods or works and the ownership of the results and access thereto. As part thereof, for pre-commercial procurement:

(a) the contractors shall own at least the intellectual property rights to the results they generated, while the procurers shall obtain at least free access to the results for their own use as well as free access to the results for their current and future contractors to use the results for the procurers.

(b) in case of supply chain overdependencies or security of supply issues with the contractors, or in emergency situations where the contractors cannot supply sufficient solutions to satisfy wider demand on the EU market, the procurers shall have the right to give, or require the contractors to give the right to third parties to commercially use the results for the procurer and for wider markets on a non-exclusive basis and under fair and reasonable conditions;

(c) if contractors fail to commercially use their results within a given period or abuse their results against the public interest, they may be required to transfer their ownership of results to the procurers.

5. Procurement actions carried out by the Commission or implementation bodies may take the form of pre-commercial procurement or public procurement of innovative solutions. These procurements shall be carried out by the Commission or the relevant implementation body on its own behalf or jointly with contracting authorities from Member States and associated countries.

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**Other recital**

(6) The rules for participation and dissemination of the Programme are designed to further simplify access, enhance openness, and maximize the impact of Union funding.

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