



The EU Framework Programme for Research and Innovation

HORIZON 2020

Joint Undertakings under Article 187 TFEU:

Legal framework and main specificities

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Overview

1. Introduction on Public-Private Partnerships (PPPs)
2. Financial regulations
3. Framework Programme (FP) and Specific Programme (SP) regulations
4. Rules for Participation (RfP) regulation
5. Joint Undertaking (JU) regulations
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Concept of Public-Private Partnerships

- Elements that normally characterize PPPs:
 - Relatively long duration**
 - Combining public and private sector funds**
 - Public partner concentrates primarily on:**
 - objectives, quality issues, monitoring
 - Private entity participates in:**
 - design, completion, implementation
 - Distribution of risk:**
 - determined on a case by case basis
 - specificity of PPPs in the area of research: less predictable and tangible results
- Legal forms, in particular:
 - Contractual PPPs (cPPPs)**
 - Institutionalised PPPs (iPPPs)**

Legacy, ETPs -> JTI JUs

- **JUs under the Euratom Treaty:**
..., JET, EJU for ITER (F4E)
- Previous ideas for major **European technology initiatives, prior to FP7:**
ESPRIT (E. Davignon), Task Forces (E. Cresson), Eureka clusters, e.g.: MEDEA+
- **First JUs under TFEU (TEC):**
Galileo (2002)
SESAR (2007)
- **European Technology Platforms (ETPs):** autonomous structures
 - ☞ Common vision, Strategic Research Agenda (SRA), Implementation of the SRA
 - ☞ **A small minority of ETPs led to Joint Technology Initiatives (JTI) JUs in FP7:**
Clean Sky, FCH, IMI, ARTEMIS & ENIAC

Legal basis in TFEU

Article 187 TFEU (ex-Article 171 TEC):

"The Union may set up joint undertakings or any other structure necessary for the efficient execution of Union research, technological development and demonstration programmes."

- "joint"
- does not prejudice the legal form
- Council decides by qualified majority
- the European Parliament and the Economic and Social Committee are consulted

General Financial Regulation (FR) specificities for JUs

(Regulation 966/2012 as amended by Regulation 1929/2015, see also Commission Delegated Regulation 1268/2012 (RAP) as amended by Delegated Regulation 2462/2015)

Methods of implementation of the budget: Article 58 FR

1. The Commission shall implement the budget in the following ways: ...

- (c) indirectly ('indirect management'), ... by entrusting budget implementation tasks to: ...
- (iv) bodies referred to in Articles 208 and 209*;

...

**JUs are Article 209 FR bodies (except SESAR, which is an Article 208 FR body)*

2. The Commission remains responsible for the implementation of the budget ...

Indirect management: Article 60 FR

Ex ante assessments and delegation agreements: Article 61 FR



Model Financial Regulation for EU PPP bodies (mFR): Article 209 FR

1. The bodies having legal personality set up by a basic act and entrusted with the implementation of a PPP shall adopt their financial rules. ...

The Commission shall be empowered to adopt a model financial regulation ... which shall lay down the principles necessary to ensure sound financial management of Union funds and which shall be based on Article 60.

- *Done by Commission Delegated Regulation 110/2014 as amended by Delegated Regulation 2461/2015*
- *Main features of the mFR:*
 - **Simpler:** *less than half of the articles of the framework FR*
 - **n+3 rule:** *unused appropriations for a given year to be entered in the estimates of revenue and expenditure of up to the following 3 financial years (Art. 6(5) mFR)*
 - *Possibility for **multiannual commitments** (Art. 6(6) mFR) if basic act so allows*
 - **Surpluses** *at the end of the financial year entered as revenue in the budget of n+1 year (Art. 7(4) mFR)*
 - **Flexibility** *in transfers of appropriations (Art. 10(2) mFR)*
 - **Procurement** *in particular with JU members made easier (Art. 33(5) mFR)*

The financial rules of those bodies shall not depart from the model financial regulation except where their specific needs so require and with the Commission's prior consent.

2. Discharge by EP, Commission's internal auditor, Independent external auditor.

In kind contributions in PPPs: Article 38(4) FR on EU draft budget

4. Where the Commission entrusts budget implementation to public-private partnerships (PPPs), it shall attach to the draft budget a working document presenting:

- (a) an annual report on the performance of existing PPPs in the preceding financial year, including information on the legal form and the shareholders of entities entrusted pursuant to point (vii) of Article 58(1)(c);
- (b) the targets set for the financial year to which the draft budget relates, indicating any specific budgetary needs dedicated to achieving this target;
- (c) the administrative costs and the implemented budget in total and per body referred to in Article 209 and per PPP in the preceding financial year;
- (d) the amount of financial contributions made from the budget, the amount of financial contributions and the value of contributions in kind made by the other partners for each PPP;

...

H2020 Framework Programme specificities for JUs

(Regulation 1291/2013)

“public-private partnership”: a partnership where private sector partners, the Union and, where appropriate, other partners, such as public sector bodies, **commit to jointly support the development and implementation of a research and innovation programme or activities** (Article 2(4) FP)

Implementation through JUs: Article 25(2) (a) FP

2. The involvement of the Union in **public-private partnerships** shall make use of the pre-existing and lean governance structures and may take one of the following forms:

(a) **financial contributions to JUs established under FP7; to new PPPs under Article 187 TFEU; ... This form of partnerships shall only be implemented where the scope of the objectives pursued and the scale of the resources required justify it taking full account of the relevant impact assessments, and where other forms of partnerships would not fulfil the objectives or would not generate the necessary leverage**

PPP are identified based on the following criteria: Article 25(3) FP

- (a) **Added value** of the action at EU level and of the choice of the instrument
- (b) **Scale of impact** on industrial competitiveness, jobs, growth, societal challenges ...
- (c) **Long-term commitment**, balanced contribution from all partners ...
- (d) **Scale of the resources** involved, the ability to leverage additional investments
- (e) **Clear definition of roles** of the partners and agreed key performance indicators
- (f) **Complementarity** with other parts of H2020 and alignment with the EU research and innovation strategic priorities, in particular **those of the Europe 2020 strategy**

H2020 Specific Programme specificities for JUs

(Decision 743/2013)

Annex I - Common elements for the indirect actions

...

3. PARTNERING

Existing PPPs may receive support from H2020, provided they address H2020 objectives, contribute to realising the ERA, meet the criteria laid down in Horizon 2020 and have shown to make significant progress under FP7.

Joint Undertakings established in FP7 under Article 187 TFEU for which further support may be provided under the above conditions are:

- Clean Sky,
- Electronic Components and Systems for European Leadership (ECSEL, as successor of ARTEMIS and ENIAC),
- Fuel Cells and Hydrogen (FCH),
- Innovative Medicines Initiative (IMI),
- Single European Sky ATM Research (SESAR).

Further ... public-private partnerships may be launched under Horizon 2020 where they meet the defined criteria.

- *Basis for launching other, new JUs*

H2020 Rules for Participation

(Regulation 1290/2013)

A coherent set of rules: Article 1(1) and 1(2) RfP

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 ...

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 FR and RAP shall apply.

-> The coherent set of rules for JUs is a major difference from FP7



Derogations for JUs: Article 1(3) RfP

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 ..., with regard to funding bodies set up under Article 187 TFEU concerning:

- ❖ the **conditions for participation** in calls for proposals: reducing the minimum number of participants set out in Art. 9(1) (in view of **Clean Sky 2 JU**);
- ❖ the **eligibility for funding** as set out in Art. 10: limiting the eligibility for funding to specific types of participants (in view of **BBI** and **IMI 2 JUs**);
- ❖ the **funding of the actions**: apply reimbursement rates different to those set out in Art. 28(3) in cases Member States **co-fund** a participant or an action (in view of **ECSEL JU**);
- ❖ the **rules governing exploitation and dissemination of results** (in view of **IMI 2 JU**):
 - (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 Art. 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 Art. 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 Art. 41(2) and Art. 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 Art. 48;
 - (v) set out specific criteria for allowing sub-licensing from one participant to another participant in the same action referred to in Art. 46(2);
 - (vi) extend, under the conditions defined in the consortium agreement referred to in Art. 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 Art. 46 to 48;
 - (vii) make access rights for direct exploitation conditional upon the agreement of the participants concerned, as ref. to in Art. 48;
 - (viii) render optional the dissemination through scientific publication in the form of open access, as referred to in Art. 43(2);

-> **No delegated act empowerment for**

Specificities for JUs: Article 2(1)(11) and 2(1)(22) RfP

(11) 'funding body' means a **body or authority, other than the Commission, as referred to in point (c) of Article 58(1) of FR, to which the Commission has entrusted budget implementation tasks...**

In most cases, RfP refer to “Commission or the relevant funding body”

- If not, need for interpretation, e.g. ethics review

(22) 'work plan' means the **document similar to the Commission work programme adopted by funding bodies ...**

- **Similar in function and in content, e.g. call management rules of General Annexes to the H2020 Work Programme**

In most cases, RfP refer to “work programme or work plan”

- **If not, need for interpretation, e.g. Article 10(1) Eligibility for funding:**

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

...

(c) any legal entity established in a **third country** identified in the **work programme** (i.e. not work plan)

- **Important provision (that can be) used by JUs:**

Article 9(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**.

JU Regulations (JU basic acts)

- Council Regulation 560/2014 of 6 May 2014 establishing the **Bio-based Industries JU**
- Council Regulation 558/2014 of 6 May 2014 establishing the **Clean Sky 2 JU**
- Council Regulation 561/2014 of 6 May 2014 establishing the **ECSEL JU**
- Council Regulation 559/2014 of 6 May 2014 establishing the **Fuel Cells and Hydrogen 2 JU**
- Council Regulation 557/2014 of 6 May 2014 establishing the **Innovative Medicines Initiative 2 JU**
- Council Regulation 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (**SESAR JU**)
Amended by Council Regulation 721/2014 of 16 June 2014
- Council Regulation 642/2014 of 16 June 2014 establishing the **Shift2Rail JU (S2R JU)**

With regard to FP7:

- **all FP7 JTI JUs re-established (ARTEMIS and ENIAC JUs merged into new ECSEL JU)**
- **SESAR JU amended**
- **2 new JUs set up: BBI JTI JU** (autonomous as from 26.10.2015) **and S2R JU** (autonomous as from 24.05.2016)

H2020 JUs under Article 187 TFEU funded:

BBI, Clean Sky 2, ECSEL, FCH 2, IMI 2 (5 JTI JUs)

- JTI JU ≠ JTI
- JTI JU + ... ~ JTI

S2R, SESAR (2 JUs)

H2020 JUs budget: >7 Bn €, i.e. approximately 10% of H2020 FP budget.

Main additional common JUs features

- Each JU established by **Council Regulation: Main part** and Annex(es), mainly **Statutes**
 - ✓ **Location, duration:** Brussels, 10 years
 - ✓ **List of "Members other than the Union"**
 - ✓ **Contributions from EU & from private members**
 - ✓ conditions
 - ✓ **In kind contributions in projects:** by the private partners
 - ✓ **EU Staff Regulations apply**
 - ✓ appointing authority is the JU
 - ✓ implementing rules by the Commission; JU has options (Art. 110 SR)
 - ✓ **Protocol on Privileges and Immunities applies to JU and its staff**
 - ✓ directly and/or via the administrative agreement
 - ✓ **Liability: contractual; non contractual**
 - ✓ **Jurisdiction: Court of Justice**
 - ✓ **Applicable law: EU law**
 - ✓ for matters not covered: law of the host state
 - ✓ **Ex-post audits:** by the JU; Commission may decide to carry them out itself
 - ✓ **Protection of financial interests of the members**
 - ✓ audits by the Commission, Court of Auditors
 - ✓ investigations, including on-the-spot checks and inspections by OLAF
 - ✓ **Internal audit: IAS, IAC**



Main JUs features – Membership

JU	Initial membership		Who may apply for membership	Possibility used by (according to JUs' Websites)
BBI JU	EU represented by the EC	Bio-based Industries Consortium (BIC) *	Any legal entity that supports R&I in a MS or AC	–
Clean Sky 2 JU	EU represented by the EC	16 Leaders identified in Annex II.1 to the Regulation. 66 Associates identified in Annex II.2 to the Regulation.	Any legal entity established in a MS or AC contributing to JU objectives (-> Core partners)	> 500 legal entities
ECSEL JU	EU represented by the EC	26 Member States AENEAS ARTEMIS-IA EPoSS **	<ul style="list-style-type: none"> MS + AC + OC if accepted Any legal entity supporting R&I in MS or AC 	2 AC (end 2014)
FCH 2 JU	EU represented by the EC	Industry Grouping * Research Grouping *	–	–
IMI 2 JU	EU represented by the EC	European Federation of Pharmaceutical Industries and Associations (EFPIA)	Any legal entity supporting the JU objectives & R&I in MS or AC (-> Members or Associated partners)	<ul style="list-style-type: none"> - Diabetes charity JDRF - Leona M. and Harry B. Helmsley Charitable Trust - Bill and Melinda Gates Foundation
S2R JU	EU represented by the EC	8 founding members (other than the Union) identified in Annex II to the Regulation.	Any legal entity, grouping or consortium established in MS or AC (-> Associated members)	19 Associated members
SESAR JU	EU represented by the EC	EUROCONTROL	<ul style="list-style-type: none"> - European Investment Bank - Any other public or private undertaking or body including those from third countries that have concluded an agreement with the EU in field of air transport 	under way

* Non-profit organisation established under BE law

** Associations registered under FR, NL, DE law

Main JUs features – Bodies

JU	Decision-making body	Executive body	Advisory Bodies	Other Bodies
BBI JU	Governing Board	Executive Director	Scientific Committee States Representatives Group	–
Clean Sky 2 JU	Governing Board	Executive Director	Scientific Committee States Representatives Group	Steering Committees
ECSEL JU	Governing Board	Executive Director	–	Public Authorities Board Private Members Board
FCH 2 JU	Governing Board	Executive Director	Scientific Committee States Representatives Group Stakeholder Forum	–
IMI 2 JU	Governing Board	Executive Director	Scientific Committee States Representatives Group Stakeholder Forum	–
S2R JU	Governing Board	Executive Director	Scientific Committee States Representatives Group	–
SESAR JU	Administrative Board	Executive Director	–	–



Main JUs features – Governance

JUs	BBI	Clean Sky 2	ECSEL	FCH 2	IMI 2	S2R	SESAR
Representatives at the Board:	5 EC 5 MottU * (1 SME)	1 EC 1/Leader 1/Core Partners/ITD** 1/Associates/ITD 1/Core Partners/IADP***	1 lead delegate for representatives of each Member	3 EC 6 Industry Grouping (1 SME) 1 Research Grouping	5/Member	2 EC 1/other founding Member 1/associated member subject to conditions Max. 9 for other associated members	1/member 1/stakeholder (military; civil users; air navigation service providers; manufacturers; airports; ATM staff bodies; scientific institutions)
Votes:							
- EC	50% indivisible	50% indivisible	1/3	50% indivisible	50% indivisible	50% indivisible	% contribution but: 25% (not less)
- Others	Equal number of votes	Equal number of votes per representative	1/3 private members collectively 1/3 participating States collectively	43% for Industry Grouping 7% for Research Grouping	Percentage corresponding to its contribution	In proportion to the contribution	25% EURO-CONTROL (not less) 10% Airspace users (at least)
Majority:	75%	80%	75%	75%	75%	2/3	Simple (unless otherwise provided for)

* MottU: Members other than the Union

** ITD: Integrated Technology Demonstrators

*** IADP: Innovative Aircraft Demonstration Platforms

Main JUs specificities (other than derogations)

- ❖ BBI JU: cash contribution by BIC to the JU
- ❖ Clean Sky 2 JU:
 - ❖ Allocation of the EU contribution:
 - ❖ (a) up to 40 % to Leaders and their participating affiliates;
 - ❖ (b) up to 30 % to Core Partners and their participating affiliates;
 - ❖ (c) at least 30 % by way of competitive calls for proposals and calls for tenders.
 - ❖ Possibility for multi-annual commitments
- ❖ ECSEL JU: involvement of Participating States
- ❖ FCH 2 JU: leverage by “other” legal entities to be assessed
- ❖ IMI 2 JU:
 - ❖ financial contributions by the private partners possible
 - ❖ no more than 30% of in-kind incurred outside the EU & AC
- ❖ S2R JU:
 - ❖ Contributions described in more detail
 - ❖ Membership agreement between the JU and its Members
 - ❖ Allocation of the EU contribution:
 - ❖ (a) up to 40 % to founding members other than the EU, and their affiliated entities;
 - ❖ (b) up to 30 % to associated members and their affiliated entities;
 - ❖ (c) at least 30 % by way of competitive calls for proposals and calls for tenders.
- ❖ SESAR JU:
 - ❖ Follows a different drafting concept
 - ❖ Membership agreement between the JU and its Members
- ❖ **BBI , Clean Sky 2, FCH 2 and S2R JUs: In-kind contributions in “Additional activities”**

Delegated Regulations (Delegated acts) for certain JUs

Delegated acts are based on Article 290 TFEU:

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective 'delegated' shall be inserted in the title of delegated acts.

-> Delegated acts exist for BBI, Clean Sky 2, ECSEL and IMI 2 JUs

-> No delegated act for FCH 2, S2R and SESAR JUs

Delegated act for BBI JU (Delegated Regulation 623/2014)



Article 1:

By way of derogation from Article 10(1) of Regulation 1290/2013, with regard to the BBI JU **only the following participants shall be eligible for funding** from the BBI JU **for actions in the area of bio-based industries other than innovation actions:**

- (a) small and medium-sized enterprises;
- (b) secondary and higher education establishments;
- (c) non-profit legal entities, including those carrying out research or technological development as one of their main objectives;
- (d) the Joint Research Centre;
- (e) international European interest organisations.

Cf. Article 10(1) RfP: Eligibility for funding

Are eligible for funding:

- any legal entity established in a Member State or associated country, or created under Union law;
- any international European interest organisation;
- any legal entity established in a third country identified in the work programme.



Delegated act for Clean Sky 2 JU (Delegated Regulation 624/2014)



Article 1:

By way of derogation from Article 9(1) of Regulation (EU) No 1290/2013, as regards calls for proposals issued by the Clean Sky 2 JU, **the minimum condition** shall be the **participation of one legal entity** established in a Member State or associated country.



Cf. Article 9(1) RfP : Conditions for participation

1. The following minimum conditions shall apply:

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

Delegated act for ECSEL JU (Delegated Regulation 610/2014)



Article 1:

By way of derogation from Article 28(3) of Regulation (EU) No 1290/2013, the ECSEL JU may apply **different reimbursement rates** for the Union funding within an action **dependent upon the type of the participant and the type of activity** in actions **where one or more Member States co-fund a participant or the action.**



Cf. Article 28(3) RfP: Funding of the action

*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.*

Delegated act for IMI 2 JU (Delegated Regulation 622/2014)



Article 1:

By way of derogation from Article 10(1) of RfP, **only the following participants shall be eligible for funding** from the IMI 2 JU:

- a) legal entities established in a Member State or an associated country, or created under Union law; and
- b) which fall within one of the **following categories**:
 - i. **micro, small and medium-sized enterprises and other companies with an annual turnover of EUR 500 million or less, the latter not being affiliated entities of companies with an annual turnover of more than 500 million;**
 - ii. **secondary and higher education establishments;**
 - iii. **non-profit organisations, including those carrying out research or technological development as one of their main objectives or those that are patient organisations.**
- c) the **Joint Research Centre**;
- d) **International European interest organisations**;

Cf. Article 10(1) RfP: Eligibility for funding

Are eligible for funding:

- any legal entity established in a Member State or associated country, or created under Union law;
- any international European interest organisation;
- any legal entity established in a third country identified in the work programme.





Subject matter	Main general rules (RfP)	Main derogations for IMI 2 JU
Ownership and access rights to SIDEGROUND	No definition for sideground. RfP definition for results encompasses IMI 2 JU definition for sideground (different understanding from FP7 sideground). Art. 2(1)(19)	Results do not include sideground (relevant in particular concerning access rights). More flexible ownership and no obligation to grant access rights. Art. 2
Transfer of ownership of results and background (R & B)	Transfer of R from one participant to a third party (including affiliated entities) is subject to prior notice and right to object to the transfer . Waiver: possible for transfers to a specifically identified third party . Art. 44(1)	Transfer of R & B is possible to affiliates, purchasers, successors without consent of other participants (only information) and subject to the transferee's agreement to be bound by the GA and the CA). Art. 3
Licensing of results	Licenses of results are possible if access rights can be exercised and if any additional exploitation obligations are complied with. Exclusive licenses are subject to consent by all the other concerned participants to waive their access rights. Art. 44(2)	Licenses of results are possible if access rights can be exercised and if the additional exploitation obligations set out in GAs or CAs are complied with. Art. 4
Sub-licensing	Access rights cannot be sublicensed unless otherwise agreed by the owner of the results or background. Art. 46(2)	Any legal entity enjoying access rights to complete the action or for research use may authorize, without the owner's agreement, another legal entity to exercise them on its behalf under certain conditions. Art. 5
Access rights for implementation of the action (R & B)	If needed to carry out work under the action (unless - for B - applicable restrictions). Such rights are granted on a royalty-free basis (unless - for B - otherwise agreed by the participants before their accession to the GA). Art. 47	Solely for the purpose and to the extent necessary for undertaking and completing the action (unless - for B - applicable restrictions). Such rights are granted on a royalty-free basis (R & B). Art. 6

Delegated Act for IMI 2 JU: Main IPR Rules Summary 2/2

Subject matter	Main general rules (RfP)	Main derogations for IMI 2 JU
<p>Research use</p> <p>Direct exploitation</p>	<p>Exploitation</p> <p>"(...) <i>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</i>"</p> <p>Art. 2(1)(9)</p>	<p>Two definitions apply as regards exploitation (relevant in particular concerning access rights):</p> <ul style="list-style-type: none"> • Research use, i.e. use of results for all purposes except for completing the action and direct exploitation • Direct exploitation, i.e. developing results for commercialisation or commercialisation of results <p>Art. 7(a)</p> <p>More flexible and extended access rights for third parties under certain conditions.</p>
<p>Access rights for 'research use' (R & B)</p>	<p>Main conditions for granting access rights to R & B for exploitation:</p> <ul style="list-style-type: none"> • If needed by a participant (and <u>under certain conditions</u>, by its affiliated entities from MS/AC), to exploit its own results • Under fair and reasonable conditions (i.e. including royalty free) 	<ul style="list-style-type: none"> • During and after completion of the action: Access rights to R & B for participants and their affiliated entities are mandatory if needed by them for research use (on a non-exclusive basis, under fair and reasonable conditions, time-limit to be agreed by the participants). • After completion of the action: Third parties have the right to receive access rights to R & B if needed for research use, on a non-exclusive basis under conditions agreed among the parties involved, time-limit to be agreed by participants (but not more favourable, for access rights to <u>results</u>, than those applied to participants and affiliates; elements of background identified before the signature of the GA may be excluded if agreed by the IMI2 JU). <p>Art. 7</p>
<p>Access rights for 'direct exploitation' (R & B)</p>	<p>Art. 48</p>	<ul style="list-style-type: none"> • If needed by participants or third parties for direct exploitation, access rights to R & B may be negotiated; <p>Art. 7</p> <p style="text-align: right;">Not legally binding</p>

List of derived (from the general H2020 MGA) MGAs for JUs

Article 18(1) RfP: 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 ...

	Funding Body	Derived Model Grant Agreement(s) (MGAs)
1	BBI JU	BBI JU multi-beneficiary MGA
2	Clean Sky 2 JU	Clean Sky 2 JU mono-beneficiary MGA for Partners (MGAP)
3		Clean Sky 2 JU multi-beneficiary MGA for Members (MGAM)
4		Clean Sky 2 JU multi-beneficiary MGA for Partners (MGAP)
5	ECSEL JU	ECSEL JU multi-beneficiary MGA
6	FCH 2 JU	FCH 2 JU multi-beneficiary MGA
7	IMI 2 JU	IMI 2 JU multi-beneficiary MGA
8	Shift2Rail JU	S2R JU mono-beneficiary MGA
9		S2R JU multi-beneficiary MGA(M)
10	SESAR JU	SESAR JU multi-beneficiary MGA
11		SESAR JU multi-beneficiary MGA for Members (MGAM)

-> *Contain common specificities*

-> *Additional, individual specificities exist for all JUs MGAs except FCH 2 JU MGA*

Main common specificities in the JU MGAs (multi-beneficiary) (compared to the general H2020 MGA)

- **The legal entity signing the GA is not the EU** represented by the EC but **the JU** => replacement of "EU" or addition of "JU" when rights are concerned. JRC=normal beneficiary.
e.g. evaluation of impact of action: [Art. 23](#), JU ownership to protect results: [Art. 26.4](#)
- **Terminology**, e.g. work programme->**work plan**; EU funding->**JU funding**
- Commission responsible for approval of **certificate on the methodology**, but submitted to the JUs: [Art. 18.1.2](#)
- Right to carry out **checks and reviews** only for the JUs, right to carry out **audits** for the JUs and the Commission + Addition of reference to JU Financial Rules: [Art. 22](#)
- **Removal of the option of specific institutional access rights** for calls under the specific objective on "secure societies" cf. [Art. 49 RfP](#): [Art. 31.5](#)
- **Removal of paragraph on Commission making available information on results to other institutions** cf. [Art. 4 RfP](#): [Art. 36.1](#)
- **Removal of reference to enforceable decisions** under [Art. 299 TFEU](#): [Art. 44.1](#), [45.3](#), [46.2](#), [57.2](#)

Main individual specificities in the BBI JU (multi beneficiary) MGA (compared to the general H2020 MGA)



Provision	Content
6.2.A.5	'Costs of beneficiaries that are natural persons' not receiving salary: -> Option applicable only to "Innovation actions".

Main individual specificities in the Clean Sky 2 JU (multi beneficiary) MGA for Partners (compared to the general H2020 MGA)



Provision	Content
Preamble	Definitions of " Partner " (beneficiary selected under a call for proposals) and "IADP (Innovative Aircraft Demonstration Platforms)" / "ITD (Integrated Technology Demonstrators)" / "TA (Transverse Activities)"
2	Definition of Programme ("Joint Technical Programme" which will be implemented and updated in the form of a "Development Plan").
20.1	In "Reporting", addition that the JU sends a copy of the technical report to the topic manager for opinion. " Topic manager "* is defined with regard to calls for proposals.
25.5	New option for complementary grants if foreseen in the Work Plan: Corresponding access rights to "beneficiary <u>background</u> " for topic manager, under certain conditions. Definition of " complementary beneficiary ": a beneficiary of the complementary GA.
31.6	Adapted option for complementary grants if foreseen in the Work Plan: Corresponding access rights to "beneficiary <u>results</u> " for topic manager, under certain conditions.
41.2(b) (ii) and (iv)	In "Internal division of roles and responsibilities", addition of topic manager roles , e.g. to support the coordinator.
41.4	Adapted option detailing the content of the "Consortium or implementation agreement" for complementary grants if foreseen in the Work Plan. Additional content includes e.g. organisation and coordination of the work, division of responsibilities.

* '**Topic Manager**' means the private Member of the JU (either a "Leader" or a "Core Partner" as defined in the Clean Sky 2 JU Regulation), appointed by the JU as responsible for the topic in the call for proposals under which this action was selected.

Main individual specificities in the ECSEL JU (multi beneficiary) MGA (compared to the general H2020 MGA)



Provision	Content
4.2	Estimated budget breakdown indicated in Annex 2 may not be adjusted by transfers of amounts between beneficiaries . This requires an amendment according to Article 55 (linked to national GAs).
5.2	Addition of % [reimbursement rates] for beneficiaries established in participating countries having entrusted the JU with the implementation and payment of its contribution, per type of beneficiary.

Main individual specificities in the IMI 2 JU (multi beneficiary) MGA (compared to the general H2020 MGA)



Provision	Content
5.3.3	Notion of receipts expanded to cover financial contributions * to a beneficiary, specifically for the action, given by (...) - a beneficiary not receiving JU funding which is: - a JU member or a constituent or an affiliated entity of a JU member - a JU associated partner or a constituent or affiliated entity of a JU associated partner
6.2.A.5	'Costs of beneficiaries that are natural persons' not receiving salary: Deleted
24a	Adaptation of provisions on "Transfer & licensing of background" **
25.1, 25.2 25.3, 25.4	Adaptation of provisions on "Access rights to background" **
26.1	Adaptation of provisions on "Ownership of results" (in relation to the non-inclusion of sideground in results) **
30.1, 30.2	Adaptation of provisions on "Transfer and licensing of results" **
31.2, 31.3, 31.5	Adaptation of provisions on "Access rights to results" **

* In relation to Article 13(3)(c) 'Sources of financing' of the Statutes of the IMI 2 JU

** Correspond closely to the provisions of the Delegated Regulation 622/2014

Main individual specificities in the S2R JU (multi beneficiary) MGA(M) (compared to the general H2020 MGA)



Provision	Content
Preamble	Definitions of "Innovation Programmes" (IP), "Integrated Technology Demonstrators" (ITD), CCA (actions with relevance across several IPs and/or ITDs and requiring coordination and management across the IPs and/or ITDs).
2	Definition of Multi Annual Action Plan ('MAAP')
25.5	New option for complementary grants if foreseen in the work plan: The beneficiaries must give - under the conditions set out in Article 25.2 and Article 25.3 - access to their background to complementary beneficiaries, for the purposes of the complementary GA (see Article 2). "Complementary beneficiary" means a beneficiary of the complementary GA.
41.4	Adapted option detailing the content of the "Collaboration agreement" for complementary grants if foreseen in the Work Plan. <u>Addition of:</u> ... The beneficiaries must give access to their <u>background and results</u> to the complementary beneficiaries, for the purposes of the complementary GA(s) (see Articles <u>25.5 and 31.6</u>) ...

Main individual specificities in the SESAR JU (multi beneficiary) MGA (compared to the general H2020 MGA)



Provision	Content
2	"Work programme" of Article 16(1)(b) of SESAR JU Regulation corresponds to "work plan" under the H2020 RfP.

❖ Amendment of the general H2020 MGA

- ❖ Followed by new versions of derived MGAs for JUs

❖ Evaluation of JUs

❖ Interim evaluation of the H2020 JUs

- ❖ "The interim evaluation (...) shall include a final evaluation" of the previous generation Joint Undertakings
 - ❖ Aimed to reduce the administrative burden of two close in time but separate evaluation exercises

✓ By 30 June 2017

➤ **Joint Undertakings (Art. 187 TFEU) in Horizon 2020:**

<http://ec.europa.eu/transparency/regdoc/rep/1/2013/EN/1-2013-494-EN-F1-1.Pdf>

<https://ec.europa.eu/programmes/horizon2020/en/official-documents>

<http://ec.europa.eu/programmes/horizon2020/en/area/partnerships-industry-and-member-states>