



**COUNCIL OF
THE EUROPEAN UNION**

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**RECH 81
COMPET 129
MI 199
DELECT 36**

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 February 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 969 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 14.2.2014
on establishing a derogation from Regulation (EU) No 1290/2013 of the
European Parliament and of the Council laying down the rules for
participation and dissemination in "Horizon 2020 - the Framework
Programme for Research and Innovation (2014-2020)" with regard to the
ECSEL Joint Undertaking

Delegations will find attached document C(2014) 969 final.

Encl.: C(2014) 969 final



Brussels, 14.2.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 14.2.2014

on establishing a derogation from Regulation (EU) No 1290/2013 of the European Parliament and of the Council laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" with regard to the ECSEL Joint Undertaking

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

In the context of Horizon 2020, the ECSEL Joint Undertaking is set up for the implementation of a public-private partnership in the field of electronic components and systems. It replaces and succeeds the ENIAC and ARTEMIS Joint Undertakings as originally established by Regulations (EC) Nos 72/2008 and 74/2008.

The Rules for Participation and Dissemination in Horizon 2020 will apply to the ECSEL Joint Undertaking. However, given the specific operating need of this initiative as described in section 3 below, a derogation from these Rules is necessary.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission organised two meetings, on 17 and 25 September 2013, with experts nominated by the Member States to present and discuss the draft delegated act. The comments made by experts during the meetings and received in writing after the meetings were taken into account to a wide extent. Consequently, a large majority of experts endorsed the attached version of the draft delegated act. Copies of the initial and final drafts were sent in parallel to the European Parliament and to the Council.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act is adopted on the basis of Article 290 TFEU and according to the empowerment given by the Council and the European Parliament to the Commission in Articles 1(3) and 56 of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)".

According to Article 1(3), in order to take into account the specific operating needs of funding bodies set up under Article 187 TFEU, the Commission is empowered to adopt delegated acts in accordance with Article 56 of the same regulation.

Due to the co-funding by Member States in actions funded by the ECSEL Joint Undertaking, a derogation from Regulation (EU) No 1290/2013 [Rules for the participation and dissemination in Horizon 2020] with regard to the single reimbursement rate for the Union-provided funding per action for all activities funded therein is necessary. Indeed, the co-funding by Member States implies that national funding rules are to be taken into account. As a consequence, reimbursement rate for the Union funding depending on the type of participants and the type of activities is required. Such reimbursement rate dependent on the type of participant shall facilitate cross-border cooperation, in particular with small and medium sized enterprises and non-profit organizations, also in cases when a Member State would not financially contribute to the Joint Undertaking. Moreover, this shall at the same time allow an optimal level of leverage effect on private investment to be set.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)"¹, and in particular Article 1(3)(d) thereof,

Whereas:

- (1) Regulation (EU) No 1291/2013 of the European Parliament and of the Council² establishes the Framework Programme for Research and Innovation (2014-2020) (Horizon 2020) and provides for involvement of the Union in public-private partnerships, including in joint undertakings, in key areas where research and innovation may contribute to Union's wider competitiveness goals and help tackle societal challenges.
- (2) Participation in indirect actions under Horizon 2020 should comply with Regulation (EU) No 1290/2013. However, in order to take into account the specific operating needs of joint undertakings established pursuant to Article 187 of the Treaty in the area of electronic components and systems, the power to adopt acts in accordance with Article 290 of the Treaty was delegated to the Commission for the duration of Horizon 2020 with a view to allowing funding bodies in that area to apply different reimbursement rates for the Union-provided funding in cases where one or more Member States co-fund a participant or an action.

¹ OJ L 347, 20.12.2013

² 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 (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013)

- (3) The ECSEL Joint Undertaking has been set up by Council Regulation (EC) No ... /2014³ for a period up to 31 December 2024 in order to implement a Joint Technology Initiative in the field of Electronic Components and Systems.
- (4) Specific operating needs have been identified as regards the co-funding by Member States and the applicability of national funding rules.
- (5) In view of those operating needs, a derogation from the single reimbursement rates referred to in Article 28(3) of Regulation (EU) No 1290/2013 in cases where one or more Member States co-fund a participant or an action is necessary in order to allow a reimbursement rate of Union funding by type of participant and type of action. The reimbursement rate should be dependent on the type of participant and the type of action in order to facilitate cross-border cooperation in particular with small and medium-sized enterprises and non-profit legal entities, whilst achieving the optimal level of leverage effect on private investment,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 28(3) of Regulation (EU) No 1290/2013, the ECSEL Joint Undertaking 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.

Article 2

This Regulation shall enter into force on the twentieth 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 Brussels, 14.2.2014

For the Commission
The President
José Manuel BARROSO

³ OJ [...]