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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION amending Decision 2008/376/EC on the adoption of the Research Programme of the Research Fund for Coal and Steel and on the multiannual technical guidelines for this programme

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**COUNCIL DECISION (EU) 2017/...**

**of ...**

**amending Decision 2008/376/EC**

**on the adoption of the Research Programme**

**of the Research Fund for Coal and Steel**

**and on the multiannual technical guidelines for this programme**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 2 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>1</sup>,

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<sup>1</sup> Opinion of 14 December 2016 (not yet published in the Official Journal).

Whereas:

- (1) Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) set out in Regulation (EU) No 1291/2013 of European Parliament and of the Council<sup>1</sup> ('Horizon 2020 Framework Programme') provides an incentive to review Council Decision 2008/376/EC<sup>2</sup>, in order to ensure that the Research Programme of the Research Fund for Coal and Steel ('RFCS Programme') complements the Horizon 2020 Framework Programme in the sectors related to the coal and steel industry.
- (2) In order to ensure a coherent framework for participation in both the RFCS Programme and Horizon 2020 Framework Programme, it is necessary to align certain rules for participation under the RFCS Programme with those applicable under the Horizon 2020 Framework Programme.

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<sup>1</sup> 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, p. 104).

<sup>2</sup> Council Decision 2008/376/EC of 29 April 2008 on the adoption of the Research Programme of the Research Fund for Coal and Steel and on the multiannual technical guidelines for this programme (OJ L 130, 20.5.2008, p. 7).

- (3) It is necessary to revise the rules on the competencies and on the composition of the Advisory Groups and of the Technical Groups, notably as regards the nature of the experts appointed by the Commission to ensure increased transparency as well as compliance and coherence with the framework for Commission expert groups, and contribute, as far as possible, to a balanced representation of relevant areas of expertise and areas of interest as well as to an optimal gender balance.
- (4) It is appropriate to consider simpler funding rules to ease the participation of small and medium-sized enterprises (SME) in the RFCS Programme and to permit the use of 'unit costs' to calculate eligible staff costs for owners of SMEs and other natural persons not receiving a salary.
- (5) The measures necessary for the implementation of Decision 2008/376/EC should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>.
- (6) Decision 2008/376/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

## *Article 1*

Decision 2008/376/EC is amended as follows:

- (1) Article 21 is replaced by the following:

### *'Article 21*

#### *Tasks of the Advisory Groups*

For the coal- and steel-related RTD aspects respectively, each Advisory Group shall advise the Commission on the following:

- (a) the overall development of the Research Programme, the information package, as referred to in Article 25(3), and future guidelines;
- (b) the consistency and the possible duplication with other RTD programmes at Union and national level;
- (c) the setting-out of the guiding principles for monitoring RTD projects;
- (d) the relevance of the work being undertaken on specific projects;
- (e) the research objectives of the Research Programme listed in Sections 3 and 4 of Chapter II;

- (f) the annual priority objectives listed in the information package and, where appropriate, the priority objectives for dedicated calls for proposals, as referred to in Article 25(2);
  - (g) the preparation of a manual for evaluating and selecting RTD actions, as referred to in Articles 27 and 28;
  - (h) the rules, procedures and effectiveness concerning the evaluation of proposals for RTD actions;
  - (i) the number, competence and organisation of the Technical Groups, as referred to in Article 24;
  - (j) the drawing-up of dedicated calls for proposals, as referred to in Article 25(2);
  - (k) other measures when requested to do so by the Commission.';
- (2) Article 22 is replaced by the following:

*'Article 22*

*Composition of the Advisory Groups*

1. Each Advisory Group shall be composed in accordance with the tables set out in the Annex. Members of the Advisory Groups shall be individuals appointed by the Commission to represent a common interest shared by stakeholders. They shall not represent an individual stakeholder, but shall express an opinion common to the different stakeholder organisations.

Appointments are made for a period of 42 months. Members who are no longer capable of contributing effectively to the group's deliberations, who resign or who, even after their duties have ceased, disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components, shall no longer be invited to participate in any meetings of the Advisory Groups and may be replaced for the remainder of their term of office.

2. Members of the Advisory Groups shall be selected from experts with competence in the areas referred to in Sections 3 and 4 of Chapter II and who have responded to public calls for applications. Those experts may also be appointed on the basis of proposals put forward by the entities referred to in the tables of the Annex or by Member States.

They shall be active in the field concerned and be aware of the industrial priorities.

3. Within each Advisory Group, the Commission shall aim at ensuring a high level of expertise, as well as a balanced representation of relevant areas of expertise and areas of interest and, as far as possible, a balanced representation of gender and geographical origin, taking into account the specific tasks of the Advisory Groups, the type of expertise required and the outcome of the experts' selection procedure.';

- (3) Article 24 is replaced by the following:

*'Article 24*

*Establishment and tasks of the Coal and Steel Technical Groups*

1. The Coal and Steel Technical Groups ("the Technical Groups") shall support the Commission on the monitoring of research and pilot or demonstration projects.

Members of the Technical Groups shall be appointed in their personal capacity by the Commission.

Members who are no longer capable of contributing effectively to the group's deliberations, who resign or who, even after their duties have ceased, disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components, shall no longer be invited to participate in any meetings of the Technical Groups.

2. Members of the Technical Groups shall be selected from experts with competence in research strategy, management or production in the areas referred to in Sections 3 and 4 of Chapter II and who have responded to public call for applications.

They shall be active in the field concerned and have responsibility for research strategy, management or production in the related sectors.



3. Within each Technical Group, the Commission shall aim at ensuring a high level of professional expertise, a balanced representation of relevant areas of expertise and, as far as possible, a balanced representation of gender and geographical origin, taking into account the specific tasks of the Technical Groups, the type of expertise required and the outcome of the experts' selection procedure. Membership of a Technical Group shall not exclude eligibility as an evaluation expert.

The Commission shall ensure that rules and procedures are in place in order to properly avoid and manage conflicts of interests of members of the Technical Groups entrusted with the assessment of a specific project. Those procedures shall also ensure equal treatment and fairness throughout the whole monitoring process of projects.

Meetings of the Technical Groups shall, whenever possible, be held at venues chosen in such a way that project monitoring and results assessment are best ensured.';

- (4) Article 25 is replaced by the following:

*'Article 25*

*Call for proposals*

1. An annual call for proposals shall be published every year. The opening date for submission of proposals shall be published in the information package referred to in paragraph 3. Unless otherwise specified, 15 September of each year shall be the deadline for the submission of proposals for evaluation. Where the 15 September falls on a week-end or on a Friday or a Monday, the deadline shall be automatically shifted to the first working day following 15 September. The deadline shall be published in the information package referred to in paragraph 3.
2. Where the Commission, in accordance with points (d) and (e) of Article 41, decides to modify the deadline referred to in paragraph 1 of this Article for the submission of proposals, or to launch dedicated calls for proposals, it shall publish that information in the *Official Journal of the European Union*.

Dedicated calls for proposals shall indicate the dates and modalities for the submission, including whether it shall take place in one or two steps, and for the evaluation of the proposals, the priorities, the type of eligible projects as referred to in Articles 14 to 18, where necessary, and the envisaged funding.

3. The Commission 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 through an information package accessible on the Commission's website. A paper copy of that information package can also be obtained from the Commission on request.

The information package shall provide information on the detailed rules for participation, the methods of managing proposals and projects, application forms, rules for the submission of proposals, model grant agreements, eligible costs, the maximum financial contribution allowable, methods of payment and the annual priority objectives of the Research Programme.

Applications shall be submitted to the Commission in accordance with the rules laid down in the information package.';

- (5) in Article 27, the second paragraph is replaced by the following:

'The Commission shall ensure that a manual for the evaluation and selection of RTD actions is made available to all potential participants.';

- (6) in Article 28, paragraph 3 is replaced by the following:

'3. The Commission shall draw up a list of the proposals adopted in order of merit.';

(7) the following Article is inserted:

*'Article 29a*

*Implementation of actions*

1. Participants shall implement actions in compliance with all the conditions and obligations set out in this Decision, Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council\* and Commission Delegated Regulation (EU) No 1268/2012\*\*, as well as in the call for proposals and the grant agreement.
2. Participants shall make no commitments which are incompatible with this Decision 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 expressly relieves them of any of those obligations. Participants shall ensure that the Commission 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. Participants shall retain responsibility towards the Commission 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; and
- (d) it abides by the rules applicable to the participant under the grant agreement with regard to eligibility of costs and control of expenditure.

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

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\* 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);

\*\* Commission Delegated Regulation (EU) No 1268/2012 of 29 October 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).';

- (8) Article 33 is replaced by the following:

*'Article 33*

*Staff costs*

Eligible staff costs shall cover only the actual hours worked by the persons directly carrying out the work under the action.

Staff costs of owners of small and medium-sized enterprises and other natural persons not receiving a salary may be reimbursed on the basis of unit costs.';

- (9) Article 39 is replaced by the following:

*'Article 39*

*Appointment of independent and highly qualified experts*

For the appointment of independent and highly qualified experts referred to in Article 18, Article 28(2) and Article 38, the provisions set out in Article 40 of Regulation (EU) No 1290/2013 of the European Parliament and of the Council\* shall apply *mutatis mutandis*.

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\* 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 (OJ L 347, 20.12.2013, p. 81).';

- (10) in Article 41, point (d) is replaced by the following:

'(d) changes to the deadline referred to in Article 25;';

(11) in Article 42, paragraph 2 is replaced by the following:

- '2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council\* shall apply.

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\* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).'

### *Article 2*

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

Done at ...,

*For the Council*

*The President*