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#### NOTE

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From:	Presidency
To:	Delegations
No. prev. doc.:	12705/18, 13243/18, 13467/18
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Digital Europe programme for the period 2021-2027 - Preparation of the partial general approach

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#### I. INTRODUCTION

1. On 6 June 2018 the Commission adopted the Proposal for a Regulation of the European Parliament and of the Council establishing the Digital Europe programme for the period 2021-2027<sup>1</sup>. It is one of the proposals related to the Multiannual Financial Framework (hereinafter: MFF), part of the 'Single Market, Innovation and Digital' chapter.

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<sup>1</sup> Doc. 10167/18 + ADD 1

2. The aim of the proposal is to establish a spending instrument to maximise the benefits of the digital transformation for EU citizens, businesses and public administrations, namely by reinforcing EU digital capacities in five key areas (so called 'specific objectives'): High Performance Computing, Artificial Intelligence, Cybersecurity and Trust, Advanced Digital Skills and Deployment, best use of digital capacity and interoperability. The proposed overall financial envelope is EUR 9.2 billion.
3. In the European Parliament, the Committee for Industry, Research and Energy (ITRE) is the lead committee and Ms Angelika Mlinar (ALDE, Austria) has been appointed as the rapporteur for the file. The committee vote on a draft report has been tentatively scheduled for 21 November 2018. The plenary vote will take place in one of the subsequent plenary sessions.
4. The European Economic and Social Committee adopted its opinion on 17 October 2018.

## **II. WORK WITHIN THE COUNCIL**

5. The Commission presented the proposal and its impact assessment to the Working Party on Telecommunications and Information Society (hereinafter: WP TELE) in July 2018.
6. With regard to the impact assessment, delegations were in general of the opinion that it provides a good analysis and adequately supports the Commission proposal. Some delegations found there was not enough information on possible costs of implementation and for co-financing for the Member States. They also sought clarity on possible overlaps and/or synergies with other similar programmes in order to fully grasp the “big picture” of all the relevant sectorial programmes in the digital field. Generally the wish for a clearer governance model was expressed. Some would have liked more analysis with regard to the impact on SMEs. Concerns were raised also in relation to the existing and newly created digital innovation hubs.

7. The examination of the proposal in the WP TELE started in September 2018 and since then the proposal has been intensively discussed in a number of meetings, on the basis of several Presidency compromise texts<sup>2</sup>. Delegations broadly welcomed the Commission's proposal but raised a number of questions and requested further details, clarifications and concerns which were subsequently addressed by the Presidency compromise texts. Further to the discussions at Working Party level, the Presidency included a number of amendments, notably on the following issues:
- amending definitions of European Digital Innovation Hubs and of Advanced digital skills and adding three new definitions;
  - improving the text of the particular specific objectives;
  - more detailed provisions on the implementation and governance of the programme, including specification on which specific objectives will be implemented under direct and which under indirect management and including specification that work programmes under direct management will be adopted via implementing acts;
  - clarifying the criteria and the designation/selection process for European Digital Innovation Hubs;
  - amending the performance indicators for monitoring the implementation of the programme.
8. The Presidency considers the text as a solid basis for reaching a partial general approach at the Telecom Council on 4 December 2018. The Presidency compromise text is included in the Annex to this note. The following elements (indicated in the Annex with square brackets) are excluded from the partial general approach:

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<sup>2</sup> Docs, 12705/18, 13243/18, 13467/18.

- Article 6(1)(e) and part of recital 22 on dual use technologies and article 6(2) on the implementation of actions under the Cybersecurity specific objective, pending discussions in other Council preparatory bodies on the Regulation establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres<sup>3</sup>.
- A reference, in article 15 on European Partnerships, to Strategic planning process between the European Commission and the Member States in line with Horizon Europe, pending the discussions in the other Council preparatory bodies on the Horizon Europe Regulation<sup>4</sup>.
- Article 22(2) on the Seal of Excellence, as discussions in other Council preparatory bodies on the horizontal rules for providing support to actions awarded a Seal of Excellence certification and setting out other conditions for providing support are still ongoing.
- Since the proposed Regulation is one of the package of proposals linked to the MFF, all provisions with budgetary implications or of horizontal nature have been set aside - and thus excluded from the partial general approach aimed for - pending further progress on the MFF. These provisions concern: the target percentage of the EU budget expenditures supporting climate objectives (recital 43), the protection of the Union's budget in case of generalized deficiencies as regards the rule of law in the Member States (recital 49), the overall financial envelope for the implementation of the programme (article 9(1)), the indicative amounts allocated to specific objectives (article 9(2)), the participation of third countries on the basis of a specific agreement (article 10(4)) and the protection of the financial interests of the Union (Article 28).

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<sup>3</sup> Commission proposal 2018/0328 of 12 September 2018.

<sup>4</sup> Commission proposal 2018/0435 of 8 June 2018.

*N.B. Delegations will notice that some textual parts (other than those listed above) appear, in Annex to this note, in curly brackets. These mostly concern references to legal acts still under discussion and the sole purpose of those curly brackets is to indicate that the reference will need to be updated at the end of the process.*

### III. **PRESIDENCY COMPROMISE TEXT**

9. Delegations will find in the Annex the Presidency compromise text in view of the WP TELE meeting of 22 November. The purpose of the meeting will be to prepare the text of the partial general approach ahead of the meeting of the Permanent Representatives Committee and of the Council, focusing on possible remaining outstanding issues that still need to be tackled. **Delegations are kindly requested to limit their interventions to “red lines” and major issues.** On 28 November 2018, the Permanent Representatives Committee will be invited to confirm the Presidency compromise text and forward it to the TTE (Telecom) Council of 4 December 2018 in order to adopt the partial general approach.
10. For ease of reference, amendments to the Commission proposal are marked in **bold** and the deletions in ~~striketrough~~. The changes introduced by the present document compared with doc. 13467/18 are marked in **underline**.
11. Modifications introduced by the present document are as follows:
  - a/ Article 2
    - in **art. 2(e)**, the definition of European Innovation Hub has been better aligned with the text of art. 16.
    - the word 'technical' has been deleted from the definition of 'advanced digital skills' in **art. 2(f)**.

*b/ Article 4*

- explanations in footnotes in **art. 4(1)(a) and (c)** have been deleted and their text included in the corresponding part of **Annex 1, part 1.1 and 1.2**.
- in **art. 4(1)(a)** the Presidency has included the reference to the Regulation on the EuroHPC Joint undertaking. Similar reference has been included in the corresponding part of **Annex 1, part 1.1 and recital 18**.

*c/ Article 5*

- the descriptions of operational objectives in **art. 5(1)(a) and (b)** have been further improved.
- **art. 5(2)** now clarifies that blending operations under specific objective AI are not implemented through direct management.
- related **recitals 19 and 19a** have been further amended.

*d/ Article 6*

- the operational objective on dual use in **art. 6(1)(e)** has been redrafted. Moreover, this text will not be part of the partial general approach (and appear therefore in square brackets), pending the discussion on Regulation on cybersecurity centers. Corresponding text in **recital 22** has been amended accordingly and also placed between brackets.
- for the same reasons, **art. 6(2)** on the implementation of specific objective Cybersecurity has also been put between square brackets.
- a reference to certification has been included in related **recital 23**.

*e/ Article 8*

- the descriptions of operational objectives in **art. 8(1)(a),(d) and (e)** have been further improved.
- **art. 8(2)** now clarifies that blending operations under this specific objective are not implemented through direct management.

*f/ Article 10*

- as indicated at the WP TELE of 15 November, the reference to EFTA members having a specific agreement with the EU in **art. 10(1)** has been taken out as provisions related to the participation of non-EU countries cannot be amended at sectoral level due to the horizontal nature of such provisions and ongoing international negotiations.

*g/ Article 11*

- in **art. 11(2)**, the phrase 'as appropriate' has been deleted, following the inclusion, in **art. 12(5)** of the reference to specific objectives HPC and AI.

*h/ Article 14*

- a reference to articles 4 to 8 on the specific objectives has been included in **art. 14(1)** for clarification purposes.

*i/ Article 16*

- in **art. 16(3)** the reference to the 'first work programme' has been deleted as the decision on the initial network might not be necessarily adopted in the first work programme.
- in **art. 16(4)** the various steps of the selection procedure for additional DIHs have been clarified.
- the order of **art. 16(5) and (6)** has been reversed to improve readability of the text.
- the **chapeau of art. 16(5)** now includes reference to the industry, SMEs, midcaps and public sector.
- **art. 16(5)(a)** allows to provide the access to expertise, know-how and services either directly or by ensuring access thereto. The reference to sectors slower in the uptake of digital has been deleted.
- in **art. 16(5)(b)** the word 'facilitate' has been included.

- **art. 16(5)(a)** allows to provide the access to thematic services either directly or by ensuring access thereto and clarifies that DIHs do not need to provide all thematic services or provide them to all categories of entities.
- in **art. 16(6)** (former 16(5)) the phrase 'under this programme' has been included.
- related **recitals 11a, 11b and 11c** have been further developed.

*j/ Article 20*

- provisions of **art. 20** on award criteria have been regrouped to improve the readability and to distinguish between elements that must be taken into account in all cases and those that need to be taken into account where appropriate.
- the reference to the outermost and economically disadvantaged regions has been removed from **art. 20(2)(e)** and has been included in **recital 10**.

*k/ Article 20a*

- the word 'proposals' has been replaced with 'application for' in **art. 20a** for clarification purposes.

*l/ Article 22*

- as explained in section II above, **art. 22(2)** has been placed between square brackets, pending discussions in other Council preparatory bodies on the horizontal rules for providing support to actions awarded a Seal of Excellence.

*m/ Article 23*

- in **art. 23(2)** the Presidency has clarified that the work programmes are not expected to cover the entire duration of the Programme and may cover one or more specific objectives.

*n/ Article 25*

- a reference to new relevant technological developments has been included in **art. 25(2)** on the interim evaluation.



*o/ Article 28*

- as indicated in section II above, **art. 28** has been placed between square brackets as it is also being addressed at horizontal level.

*p/ Annexes*

- in **Annex 1, part 2.3** the phrase 'or connected to' has been included.
- in **Annex 1, part 3.3** has been slightly reworded.
- **last paragraph of Annex 1, part 4** has been aligned with the provisions on the implementation of the programme. The role of DIHs has been clarified.
- the word 'public' has been included in **Annex 1, part 5.I.1 heading**.
- reference to data protection has been included in **Annex 1, part 5.I.2.1**. The word 'cure' has been deleted.
- in **Annex 1, part 5.I.3** the reference to courts and legal professional has been replaced by reference to 'legal profession'.
- reference to cultural sector has been included in **Annex 1 part 5.I.5**.
- **Annex 1, part 5.I.6** has been further improved and a reference to this point has been included in the following paragraph on the involvement of DIHs.
- in **Annex I, part 5.II.1.3** the word 'digital' has been included.
- in **Annex II, point 2.2** the reference to various stakeholder groups has been deleted.
- in **Annex II, point 4.1** the acronym 'ICT' has been deleted.
- in **Annex II, point 4.2** a reference to SMEs has been included.
- in **Annex II, point 5.4** has been further streamlined.
- in **Annex III, part 2(b)** the reference to the Tallinn Declaration has been improved.
- in **Annex III, part 5a** on synergies with Creative Europe has been included.

*q/ Recitals (other than those mentioned in the context of articles above)*

- in **recital 5**, the reference to benchmarking framework has been included.
  - in **recital 11**, clarification with regard to 'midcaps' has been included. The word 'widest' has been replaced by 'broad'.
  - the word 'co-investment' has been replaced with 'co-financing' in **recital 12**.
  - the reference to 'policy windows' has been deleted in **recital 13**.
  - further clarifications with regard to workforce have been included in **recital 28**.  
There, also a clarification on “trainees” has been inserted.
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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the Digital Europe programme for the period 2021-2027**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 and 173(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>5</sup>,

Having regard to the opinion of the Committee of the Regions<sup>6</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) This Regulation lays down a financial envelope for the Digital Europe programme for the period 2021-2027 which is to constitute the prime reference amount, within the meaning of ~~the~~ reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>7</sup>, for the European Parliament and the Council during the annual budgetary procedure.

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<sup>5</sup> OJ C , , p. . tbc

<sup>6</sup> OJ C , , p. . tbc

<sup>7</sup> *Reference to be updated:* OJ C 373, 20.12.2013, p. 1. *The agreement is available at:* [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC)

- (2) Regulation (EU, Euratom) 2018/1046<sup>8</sup> of the European Parliament and of the Council ~~the new FR~~ (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees.
- (3) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>8</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>9</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>10</sup> and Regulation (EU) 2017/1939<sup>11</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>12</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of the Union funds grant equivalent rights.

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<sup>8</sup> OJ L 248, 18.9.2013, p. 1–22. The regulation is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R0883&rid=1>

<sup>9</sup> OJ L 312, 23.12.1995, p. 1–4. The regulation is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31995R2988&rid=1>

<sup>10</sup> OJ L 292, 15.11.1996, p. 2–5. The regulation is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31996R2185&rid=1>

<sup>11</sup> OJ L 283, 31.10.2017, p. 1–71. The regulation is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017R1939&rid=1>

<sup>12</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (4) Pursuant to ~~the~~ *reference to be updated as appropriate according to a new decision on OCTs: Article 88 of Council Decision / /EU<sup>13</sup>*, persons and entities established in overseas countries and territories (OCTs) should be eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (5) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>14</sup>, there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States **and taking into account existing measuring and bench-marking frameworks in the digital field**. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Programme on the ground.
- (6) The Tallinn Digital Summit<sup>15</sup> of September 2017 and the Conclusions of the European Council<sup>16</sup> of 19 October 2017 indicated the need for Europe to invest in digitising our economies and addressing the skills gap to maintain and enhance European competitiveness, our quality of life and social fabric. The European Council concluded that the digital transformation offers immense opportunities for innovation, growth and jobs, will contribute to our global competitiveness, and enhance creative and cultural diversity. Seizing these opportunities requires collectively tackling some of the challenges posed by the digital transformation and reviewing policies affected by the digital transformation.
- (7) The European Council concluded in particular that the Union should urgently address emerging trends: this includes issues such as artificial intelligence and distributed ledgers technologies (e.g. blockchain), while at the same time ensuring a high level of data protection, digital rights and ethical standards. The European Council invited the Commission to put forward a European approach to artificial intelligence by early 2018 and called on the Commission to put forward the necessary initiatives for strengthening the framework conditions with a view to enable the EU to explore new markets through risk-based radical innovations and to reaffirm the leading role of its industry.

<sup>13</sup> Council Decision / /EU.

<sup>14</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

<sup>15</sup> <https://www.eu2017.ee/news/insights/conclusions-after-tallinn-digital-summit>

<sup>16</sup> <https://www.consilium.europa.eu/media/21620/19-euco-final-conclusions-en.pdf>

- (8) The Commission's Communication on 'A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020'<sup>17</sup> outlines among the options for the future financial framework a programme for Europe's digital transformations to deliver 'strong progress towards smart growth in areas such as high quality data infrastructure, connectivity and cybersecurity'. It would seek to secure European leadership in supercomputing, next generation internet, artificial intelligence, robotics and big data. It would reinforce the competitive position of industry and businesses in Europe across the digitised economy and would have a significant impact on filling the skills gap across the Union.
- (9) The Communication "Towards a common European data space"<sup>18</sup>, addresses the new measure to be taken as a key step towards a common data space in the EU - a seamless digital area with a scale that will enable the development of new products and services based on data.
- (10) The general objective of the Programme should be to support the digital transformation of industry and to foster better exploitation of the industrial potential of policies of innovation, research and technological development, for the benefit of businesses and citizens all over the Union, **including the outermost as well as economically disadvantaged regions**. The programme should be structured into five Specific Objectives reflecting key policy areas, namely: high-performance computing, ~~cybersecurity~~, artificial intelligence, **cybersecurity**, advanced digital skills, and deployment, best use of digital capacities and interoperability. For all these areas, the Programme should also aim at better aligning Union, Member States and regional policies, and pooling of private and industrial resources in order to increase investment and develop stronger synergies.

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<sup>17</sup> COM(2018) 98 final  
<sup>18</sup> COM (2018) 125 final

- (11) A central role in the implementation of the Programme should be attributed to **European Digital Innovation Hubs**, which should stimulate the broad adoption of advanced digital technologies by industry, **in particular SMEs and entities employing up to 3 000 employees that are not SMEs (midcaps)**, by public organisations and academia. **In order to clarify the distinction between Digital Innovation Hubs complying with the eligibility criteria under this Programme and Digital Innovation Hubs established following the Communication of Digitising European Industry (COM(2016) 180 final) and financed by other sources, Digital Innovation Hubs financed under this Programme should be called European Digital Innovation Hubs.** ~~A network of Digital Innovation Hubs should ensure the widest geographical coverage across Europe. A first set of Digital Innovation Hubs will be selected based on Member States' proposals and then the network will be enlarged through an open and competitive process.~~ The **European Digital Innovation Hubs** will serve as access points to latest digital capacities including high performance computing (HPC), artificial intelligence, cybersecurity, as well as other existing innovative technologies such as Key Enabling Technologies, available also in fablabs or citylabs. They shall act as single-entry points in accessing tested and validated technologies and promote open innovation. They will also provide support in the area of advanced digital skills. The network of **European Digital Innovation Hubs** should also contribute to the participation of the outermost regions in the Digital Single Market. A network of Digital Innovation Hubs should ensure ~~the widest~~ **a broad** geographical coverage across Europe<sup>19</sup>.
- (11a) A first set of **European Digital Innovation Hubs** will be selected based on Member States' proposals and then the network will be enlarged through an open and competitive process. **The Member States should be free to rank the candidates in accordance with their national procedures and the Commission should take utmost account of the opinion of each Member State before the selection of a European Digital Innovation Hub in its territory. The Commission may involve independent external experts in the selection process. The Commission and Member States should avoid unnecessary duplication of competences and functions at national and EU level. Hence there should be adequate flexibility when designating the hubs and determining their activities and composition.**
- (11b) A consortium of legal entities may be ~~designated~~ **selected** as **European Digital iInnovation hHubs** following the provision in Article 197.2(c) of the Financial Regulation that allows entities which do not have legal personality under the applicable national law to participate in calls for proposals, provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees for the protection of the financial interests of the Union equivalent to those offered by legal persons.

<sup>19</sup> As indicated in the Communication on Digitising European Industry (COM(2016) 180 final)

- (11c) **European Digital Innovation Hubs should be allowed to receive contributions from Member States, participating third countries or public authorities within them, contributions from international bodies or institutions, contributions from the private sector, in particular from members, shareholders or partners of the European Digital Innovation Hubs, revenues generated by the European Digital Innovation Hubs' own assets and activities, bequests, donations and contributions from individuals or funding including in the form of grants ~~including~~ from the Programme and other Union programmes.**
- (12) The Programme should be implemented through projects reinforcing essential digital capacities and their wide use. This should involve ~~co-investments~~ **co-financing** with Member States and, when needed, the private sector. **The ~~co-investment~~ co-financing rate should be established in the work programme. Only in exceptional cases might the Union funding cover up to 100% of eligible costs.** This should notably require reaching a critical mass in procurement to obtain better value for money and guarantee that suppliers in Europe stay at the forefront of technology advancements.
- (13) The policy objectives of this Programme will be also addressed through financial instruments and budgetary guarantee under ~~the policy window(s) [...]~~ of the InvestEU Fund.
- (14) The Programme's actions should be used to address market failures or sub-optimal investment situations, in a proportionate manner, without duplicating or crowding out private financing and have a clear European added value.
- (15) To achieve maximum flexibility throughout the lifetime of the programme and develop synergies between its components, each of the specific objectives may be implemented through all instruments available under the Financial Regulation. The delivery mechanisms to be used are direct management and indirect management when Union financing should be combined with other sources of financing or when execution requires the setup of commonly governed structures. **Moreover, in order to respond in particular to new developments and needs, e.g. new technologies, the Commission may, within the annual budgetary procedure, propose to deviate from the indicative amounts set out in this Regulation.**



- (15a) In order to ensure efficient allocation of funds from the general budget of the Union, it is necessary to ensure the European added value of all actions and activities carried out with the Programme, their complementarity to Member States' activities, while consistency, complementarity and synergies should be sought with funding programmes supporting policy areas with close links to each other. While for directly and indirectly managed actions the relevant work programmes provide a tool for ensuring consistency, collaboration between the Commission and the relevant Member States authorities should be established to ensure consistency and complementarities also between directly or indirectly managed funds and funds subject to shared management. ~~For instance, the proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument provides for Strategic Approach which, inter alia, requires the relevant Partnership Agreements to contain elements as regards complementarities between the Funds and other Union instruments.~~
- (16) The **high performance computing** and the related data processing capacities in the Union should allow to ensure wider use of high performance computing by industry and, more generally, in areas of public interest in order to seize unique opportunities that supercomputers bring to society as regards health, environment and security as well as competitiveness of industry, notably small and medium-sized enterprises.
- (17) The support to the Union's intervention in this area was expressed by the Council<sup>20</sup> and, by the European Parliament<sup>21</sup>. Moreover, in ~~{2017-2018 nineteen}~~ Member States signed the EuroHPC Declaration<sup>22</sup>, a multi-government agreement where they commit to collaborate with the Commission to build and deploy state-of-the-art HPC and data infrastructures in Europe that would be available across the Union for scientific communities, public and private partners.

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- (18) For the high performance computing specific objective a joint undertaking is deemed the most suited implementation mechanism, in particular to coordinate national and Union strategies and investments in high performance computing infrastructure and research and development, pool resources from public and private funds, and safeguard the economic and strategic interests of the Union<sup>23</sup>. Moreover, high performance computing competence centres **as defined in Article 2(4) of the Council Regulation (EU) 2018/1488** in Member States will provide high performance computing services to industry, academia and public administrations.
- (19) Developing capacity related to artificial intelligence is a crucial driver for the digital transformation of industry, **services** and also of the public sector . Ever more autonomous robots are used in factories, deep sea application, homes, cities and hospitals. Commercial artificial intelligence platforms have moved from testing to real applications in health and environment; all major car manufacturers are developing self-driving cars, and machine learning techniques are at the heart of all main web platforms and big data applications. **It is essential for Europe to join forces at all levels to be competitive internationally. The Member States have acknowledged this through concrete commitments for collaboration in a coordinated action plan.**
- (19a) **Libraries of algorithms may cover a large set of algorithms, including simple solutions such as classification algorithms, neural network algorithms or planning or reasoning algorithms, or more elaborated solutions, such as speech recognition algorithms, navigation algorithms embedded in autonomous devices, such as drones or in autonomous cars, AI algorithms built-in robots enabling them to interact with and adapt to their environment. Libraries of algorithms should be made easily accessible to all based on fair, reasonable and non-discriminatory terms.**
- (20) The availability of large-scale data sets and testing and experimentation facilities are of major importance for the development of artificial intelligence.
- (21) In its resolution of 1 June 2017 on digitising European industry<sup>24</sup> the European Parliament highlighted the importance of a common European cybersecurity approach, recognising the need to raise awareness and considered cyber-resilience as a crucial responsibility for business leaders and national and European industrial security policymakers.

<sup>23</sup> Impact Assessment accompanying the document "Proposal for a Council Regulation on establishing the EuroHPC Joint Undertaking" (<https://ec.europa.eu/digital-single-market/en/news/proposal-council-regulation-establishing-eurohpc-joint-undertaking-impact-assessment>)

<sup>24</sup> Document ref. A8-0183/2017, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0240>

- (22) Cybersecurity is a challenge for the whole Union. ~~that cannot continue to be addressed only with fragmented national initiatives.~~ Europe's cybersecurity capacity should be reinforced to endow Europe with the necessary capacities to protect its citizens and businesses from cyber threats. In addition consumers should be protected when using connected products that can be hacked and compromise their safety. This should be achieved together with Member States and private sector by developing, and ensuring coordination between, projects reinforcing Europe's capacities in cybersecurity and ensuring the wide deployment of latest cybersecurity solutions, ~~including dual use projects, services and competences~~ across the economy, **[including dual use projects, services, competences and applications.]** as well as by aggregating the competences in this field to ensure critical mass and excellence.
- (23) In September 2017, the Commission put forward a package of initiatives<sup>25</sup> setting out a comprehensive Union approach to cybersecurity, with the aim of reinforcing Europe's capacities to deal with cyber-attacks and threats and to strengthen technology and industrial capacity in this field. **In particular, this included a new mandate for the European Union Agency for Network and Information Security (ENISA) and the creation of a voluntary Union-wide cybersecurity certification framework inter alia to improve and expand cybersecurity-related capabilities.**
- (24) Trust is a prerequisite for the Digital Single Market to function. Cybersecurity technologies such as digital identities, cryptography or intrusion detection, and their application in areas such as finance, industry 4.0, energy, transportation, healthcare, or e-government are essential to safeguard the security and trust of online activity and transactions by both citizens, public administrations, and companies.
- (25) The European Council in its conclusions of 19 October 2017 stressed that to successfully build a Digital Europe, the Union needs in particular labour markets, training and education systems fit for the digital age and that there is a need to invest in digital skills, to empower and enable all Europeans;

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<sup>25</sup> <https://ec.europa.eu/digital-single-market/en/policies/cybersecurity>

- (26) The European Council in its conclusions of 14 December 2017 called on Member States, the Council and the Commission to take forward the agenda of the Gothenburg Social Summit of November 2017 including the European Pillar of Social Rights as well as education and training and the delivery of the new European Skills Agenda. The European Council also asked the Commission, the Council and the Member States to examine possible measures addressing the skills challenges linked to digitisation, cybersecurity, media literacy and artificial intelligence and the need for an inclusive, lifelong-learning-based and innovation-driven approach to education and training. In response, the Commission presented on 17 January 2018 a first package of measures, addressing key competences, digital skills<sup>26</sup> as well as common values and inclusive education. In May 2018, a second package of measure was launched advancing work to build a European Education Area by 2025, which also emphasises the centrality of digital skills.
- (27) In its resolution of 1 June 2017 on digitising European industry<sup>27</sup> the European Parliament stated that education, training and lifelong learning are the cornerstone of social cohesion in a digital society.
- (28) The advanced digital technologies supported by this Programme, such as high performance computing, cybersecurity and artificial intelligence are now sufficiently mature to move beyond the research arena and be deployed, implemented and scaled-up at Union level. Just as the deployment of these technologies require a Union response so does the skills dimension. Training opportunities in advanced digital skills need to be scaled up, increased and made accessible throughout the EU. Failing this could impede the smooth deployment of advanced digital technologies and hamper the overall competitiveness of Union's economy. The actions supported by this programme are complementary to those supported by the ESF, ERDF and Horizon Europe programmes. **They will target the workforce, in the private as well as the public sector, in particular ICT professionals and other related professionals, as well as students. These categories include trainees. The workforce refers to the economically active population, and includes both employed (employees and self-employed) and unemployed people.**

<sup>26</sup> Within this package, the Digital Education Action Plan (COM(2018) 22 final) sets out a series of measure to support Member States in the development of digital skills and competences in formal education.

<sup>27</sup> Document ref. A8-0183/2017, available at:  
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0240>

- (29) Modernising public administrations and services through digital means is crucial to reducing administrative burden on industry and on citizens in general by making their interactions with public authorities faster, more convenient and less costly, as well as by increasing the efficiency and the quality of the services provided to citizens and businesses. Since a number of services of public interest already have a Union dimension, the support to their implementation and deployment at Union level should ensure that citizens and businesses will benefit from the access to high quality digital services across Europe. **Moreover, Union support in this area is expected to encourage re-use of public sector information.**
- (30) The digital transformation of the areas of public interest such as healthcare<sup>28</sup>, mobility, justice, earth/environmental monitoring, education and culture requires the continuation and expansion of Digital Service Infrastructures, which make secure cross-border exchange of data possible and foster national development. Their coordination under this Regulation best achieves the potential for exploiting synergies.
- (30a) The deployment of necessary digital technologies, in particular those under specific objectives of high performance computing, artificial intelligence and cybersecurity and trust is key to reap the benefits of digital transformation and might be complemented by other leading edge and future technologies, such as distributed ledgers (e.g. blockchain).**
- (31) The Council of the EU in its Tallinn declaration of 6 October 2017 concluded that digital progress is transforming our societies and economies to the core, challenging the effectiveness of previously developed policies in a broad range of areas as well as the role and function of the public administration overall. It is our duty to anticipate and manage these challenges to meet the needs and expectations of citizens and businesses.
- (32) The modernisation of European public administrations is one of the key priorities for successful implementation of the Digital Single Market Strategy. The mid-term evaluation of the Strategy highlighted the need to strengthen the transformation of public administrations and to ensure citizens have easy, trusted, and seamless access to public services.
- (33) The Annual Growth Survey published by the Commission in 2017<sup>29</sup> shows that the quality of European public administrations has a direct impact on the economic environment and is therefore crucial to stimulating productivity, competitiveness, economic cooperation, growth and employment. In particular, efficient and transparent public administration and effective justice systems are necessary to support economic growth and deliver high quality services for firms and citizens.

<sup>28</sup> [http://ec.europa.eu/newsroom/dae/document.cfm?doc\\_id=51628](http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=51628)

<sup>29</sup> COM(2016) 725 final

- (34) Interoperability of European public services concerns all levels of administration: Union, national, regional and local. Besides removing barriers to a functioning Single Market, interoperability facilitates successful implementation of policies and offers great potential to avoid cross-border electronic barriers, further securing the emergence of new, or the consolidation of developing, common public services at Union level. In order to eliminate fragmentation of European services, to support fundamental freedoms and operational mutual recognition in the EU, a holistic cross-sector and cross-border approach to interoperability should be promoted in the manner that is the most effective, and the most responsive to end-users. This implies that interoperability is to be understood in a broad sense, spanning from technical to legal layers and encompassing policy elements in the field. Accordingly, the span of activities would go beyond the usual lifecycle of solutions to include all the interventions elements that would support the necessary framework conditions for sustained interoperability at large.
- (35) The budget allocated to specific activities dedicated to the implementation of the interoperability framework and the interoperability of developed solutions is EUR 194 million.
- (36) European Parliament resolution of 1 June 2017 on digitising European industry<sup>30</sup> stresses the importance of unlocking sufficient public and private finance for the digitisation of Europe's industry.
- (37) In April 2016 the Commission adopted the Digitising European Industry initiative to ensure that "any industry in Europe, big or small, wherever situated and in any sector can fully benefit from digital innovations".<sup>31</sup>
- (38) The European Economic and Social Committee welcomed the communication on "Digitising European Industry" and considered it, together with accompanying documents, as "the first step in a vast European work programme to be carried out in close mutual cooperation between all interested public and private parties".<sup>32</sup>
- (39) Reaching the target objectives may require leveraging the potential of complementary technologies in the networking and computing domains, as stated in the Communication "Digitising European Industry"<sup>33</sup> that recognises "availability of world class networking and cloud infrastructure" as an essential ingredient of industry digitisation.

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<sup>33</sup> COM (2016) 180 final: Digitising European Industry – Reaping the full benefits of a digital single market.

- (40) The General Data Protection Regulation (GDPR), applicable from May 2018 onwards, by providing for a single set of rules directly applicable in the Member States legal orders, will guarantee the free flow of personal data between EU Member States and reinforce trust and security of the individuals, two indispensable elements for a real Digital Single Market. The actions undertaken under this Programme, when they involve the processing of personal data, should therefore support the application of the GDPR, for instance in the field of artificial intelligence and blockchain technology.
- (41) The Programme should be implemented in full respect of the international and EU framework of intellectual property protection and enforcement. The effective protection of intellectual property plays a key role in innovation and thus is necessary for the effective implementation of the Programme.
- (42) Bodies implementing this Programme should comply with the provisions applicable to the Union institutions, and with national legislation regarding the handling of information, in particular sensitive non-classified information and EU classified information.
- (43) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Programme will contribute to mainstream climate actions and lead to the achievement of an overall target of [25]% of the EU budget expenditures supporting climate objectives<sup>34</sup>. Relevant actions will be identified during the Programme's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes.
- (44) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission for the adoption of the work programmes so that the objectives of the Programme are achieved in accordance with the Union's and Member States' priorities while ensuring consistency, transparency and continuity of joint action by the Union and the Member States. Those powers should be exercised in accordance with the **advisory examination** procedure referred to in Article 45 of Regulation (EU) 182/2011<sup>35</sup> laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers. **For actions subject to indirect management, the work programmes should be adopted in accordance with rules of the governing boards of the funding bodies.**

<sup>34</sup> COM(2018) 321 final, page 1

<sup>35</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).



- (45) The work programmes should be adopted in principle as multi-annual work programmes, typically every two years, or, if justified by the needs related to the implementation of the programme, annual work programmes. The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (46) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission concerning amendments to Annex II to review and/or complement the indicators. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (47) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Unions, notably those referred under Articles [8], [11], [16], [21], [35], [38] and [47] regarding the protection of personal data, the freedom of expression and information, the freedom to conduct business, the prohibition of discrimination, healthcare, consumer protection and the right to effective remedy and fair trial. The Member States must apply this Regulation in a manner consistent with these rights and principles'.
- (48) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorizing officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.



- (49) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding].

HAVE ADOPTED THIS REGULATION:

## *Article 1*

### *Subject matter*

This Regulation establishes the Digital Europe programme ('Programme').

It lays down the objectives of the Programme, the budget for the period 2021 - 2027, the forms of European Union funding and the rules for providing such funding.

## *Article 2*

### *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'Blending operation' means actions supported by the EU budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors.
- (b) 'Legal entity' means any natural person, or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;
- (c) 'Third country' means a country that is not member of the Union;
- (d) 'Associated country' means a third country which is party to an agreement with the Union allowing for its participation in the Programme pursuant to Article [10]; "international organisation of European interest" means an international organisation, the majority of whose members are Member States or whose headquarters are in a Member State;

- (e) **'European Digital Innovation Hub'** means legal entity ~~designated or~~ selected in an open and competitive procedure in order to fulfil the tasks under the Programme **as defined in Article 16**, in particular providing **directly, or ensuring** access to, technological expertise and experimentation facilities, such as equipment and software tools to enable the digital transformation of the industry, **notably SMEs and midcaps, and the public sector.**
- (f) **'Advanced digital skills'** are those skills and **professional** competences **requiring technical knowledge, attitudes and experience** necessary to **understand**, design, develop, manage, **test**, deploy, **use** and maintain the technologies, **products and services** supported by this Regulation **as referred to under Article 3(2)(a), (b), (c) and (e).**
- (g) **'Cybersecurity'** means the protection of network and information systems, their users, and other persons against cyber threats.
- (h) **'Digital Service Infrastructures'** means infrastructures which enable networked services to be delivered electronically, typically over the internet.
- (i) **'Seal of Excellence'** means a certified label which shows that a proposal submitted to a call for proposals exceeded all of the thresholds set out in the work programme, but could not be funded due to lack of budget available to that call in the work programme.

### *Article 3*

#### *Programme objectives*

1. The Programme has the following general objective: to support the digital transformation of the European economy and society, ~~and~~ bring its benefits to European citizens and businesses, **and improve the competitiveness of Europe in the global digital economy. This requires a holistic, cross-sectoral and cross-border support and stronger Union contribution.** The Programme, **implemented in close coordination with other Union funding programmes as applicable**, will:
  - (a) ~~reinforce~~ **strengthen and promote** Europe's capacities in key digital technology areas through large-scale deployment,
  - (b) widen their diffusion and uptake in areas of public interest and the private sector.
2. The Programme will have five **interrelated** specific objectives:
  - (a) Specific Objective 1: High Performance Computing
  - (b) Specific Objective 2: Artificial Intelligence
  - (c) Specific Objective 3: Cybersecurity and Trust
  - (d) Specific Objective 4: Advanced Digital Skills
  - (e) Specific Objective 5: Deployment, best use of digital capacity and interoperability

## Article 4

### High Performance Computing

1. The financial intervention by the Union under Specific Objective 1. High Performance Computing shall pursue the following operational objectives:
  - (a) deploy, coordinate at the Union level and operate an integrated **demand-oriented and application driven** world-class exascale<sup>36</sup> supercomputing and data infrastructure in the Union that shall be **easily accessible on a non-commercial basis** to public and private users, **notably SMEs, irrespective of which Member State they are located in, and in the framework of for publicly funded research purposes, in accordance with {Regulation establishing the European High Performance Computing Joint Undertaking}**;
  - (b) deploy ready to use/operational technology resulting from research and innovation to build an integrated Union high performance computing ecosystem, covering **all various aspects in the** scientific and industrial value chain segments, including hardware, software, applications, services, interconnections and digital skills;
  - (c) deploy and operate a post-exascale<sup>37</sup> infrastructure, including the integration with quantum computing technologies and ~~develop new~~ research infrastructures for computing science.
2. The actions under this specific objective **High Performance Computing** shall be implemented primarily through the Joint Undertaking established by ~~{~~**Regulation establishing the European High Performance Computing Joint Undertaking**~~}~~.

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<sup>36</sup> ~~Billions of billions of floating operations per second Performance level of computing systems capable of executing ten to the power of eighteen operations per second~~

<sup>37</sup> ~~A thousand times faster than exascale Performance level of computing systems capable of executing ten to the power of twenty one operations per second~~

## Article 5

### Artificial Intelligence

1. The financial intervention by the Union under Specific Objective 2. Artificial Intelligence shall pursue the following operational objectives:
  - (a) build up and strengthen core artificial intelligence capacities **and knowledge** in the Union, including **quality** data resources **and corresponding exchange mechanisms** and libraries of algorithms **while guaranteeing a human-centric and inclusive approach**~~respecting European values~~. In compliance with data protection legislation, **artificial intelligence based solutions and data made available shall respect the principle of privacy and security by design and shall take into account relevant ethical principles that respect European values**;
  - (b) make those capacities accessible to ~~all~~ businesses, **civil society** and public administrations **to maximise their benefit to European society and economy and thereby facilitating the transfer of artificial intelligence methods inter alia into industrial-commercial applications**;
  - (c) reinforce and network ~~existing~~ artificial intelligence testing and experimentation facilities in Member States;
2. **The actions under this specific objective Artificial Intelligence shall be implemented through direct management, except for blending operations.**

## Article 6

### Cybersecurity and Trust

1. The financial intervention by the Union under Specific Objective 3. Cybersecurity and Trust shall pursue the following operational objectives:
  - (a) support, together with Member States, the **build-up and** procurement of advanced cybersecurity equipment, tools and data infrastructures **in Europe** in ~~full~~ compliance with data protection legislation;
  - (b) support the **build-up and** best use of European knowledge, capacity and skills related to cybersecurity;

- (c) ensure a wide deployment of the latest **effective state of the art** cybersecurity solutions ~~according to the state of the art~~ across the **European** economy;
- (d) reinforce capabilities within Member States and private sector to help them meet Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union<sup>38</sup> **including through measures aiming at developing a cybersecurity culture within organisations.**
- [(e) **enhance cooperation between the civil and defence spheres with regard to dual use projects, services, competences and applications in cybersecurity, in accordance with Article 4.7 of Regulation 2019/XXXX establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres.** ~~enhance cooperation between the civil and defence communities with regard to dual use technologies and applications in cybersecurity.~~
- 2. [The actions under this specific objective ~~Cybersecurity and trust~~ shall be implemented primarily through the European Cybersecurity Industrial, Technology and Research Competence Centre and the Cybersecurity Competence Network in accordance with ~~Regulation 2018/2019/XXXX0328~~ **Regulation 2019/XXXX0328** establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres~~].~~

## *Article 7*

### *Advanced Digital Skills*

- 1. The financial intervention by the Union under Specific Objective 4. Advanced Digital skills shall support the development of advanced digital skills in areas supported by this programme, thus contributing to increase Europe's talent pool, fostering greater professionalism, especially with regard to high performance computing, big data analytics, cybersecurity, distributed ledger technologies (**e.g. blockchain**), **quantum technologies**, robotics and artificial intelligence. The financial intervention shall pursue the following operational objectives:
  - (a) support the design and delivery of long-term trainings and courses for students, ~~IT professionals~~ and the workforce;

<sup>38</sup> OJ L 194, 19.7.2016, p. 1–30

- (b) support the design and delivery of short-term trainings and courses for ~~entrepreneurs, small business leaders and~~ the workforce, **in particular in SMEs**;
  - (c) support on-the-job trainings and ~~traineeships~~ **work placements** for students, ~~young entrepreneurs and graduates and~~ the workforce, **in particular in SMEs**.
2. **The actions under this specific objective Advanced Digital Skills shall be implemented through direct management.**

## *Article 8*

### *Deployment, best use of digital capacities and Interoperability*

1. The financial intervention by the Union under Specific Objective 5. Deployment, best use of digital capacities and Interoperability shall achieve the following operational objectives:
  - (a) ~~ensure that~~ **support** the public sector and areas of public interests, such as **health and care, education, judiciary, transport, mobility, energy, environment, cultural and creative sectors, those listed in Annex 1** to deploy and access effective state-of-the-art ~~necessary~~ digital technologies, ~~in particular~~ **such as** high performance computing, artificial intelligence and cybersecurity;
  - (b) deploy, operate and maintain trans-European interoperable Digital Service Infrastructures (including related services) in complementarity with national and regional actions;
  - (ba) **support integration and use of trans-European Digital Service Infrastructures and of agreed European digital standards in the public sector and areas of public interests to facilitate cost-efficient implementation and interoperability;**
  - (c) facilitate the development, update and use of solutions and frameworks by European public administrations, businesses and citizens, including the re-use of interoperability solutions and frameworks;
  - (d) ~~offer to public administrations,~~ **the public sector organisations and business the Union industry, notably SMEs,** easy access to testing and piloting of digital technologies, including their cross-border use;
  - (e) support the uptake **by the public sector and the Union industry, notably SMEs** of advanced digital and related technologies, including in particular high performance computing, artificial intelligence, cybersecurity, **other leading edge** and future ~~emerging~~ technologies, **such as distributed ledgers (e.g. blockchain)** ~~by the Union industry, notably SMEs~~;



- (f) support the design, testing, implementation and deployment of interoperable digital solutions, **including digital government solutions**, for EU level public services delivered through a data-driven reusable solutions platform, fostering innovation and establishing common frameworks in order to unleash the full potential of the public administrations' services for European citizens and businesses;
  - (g) ensure a continuous capacity at the Union level to observe, analyse and adapt to fast-evolving digital trends, as well as sharing and mainstreaming best practices;
  - (h) support cooperation towards achieving a European ecosystem for trusted **datasharing and digital** infrastructures using distributed ledger services and applications, including support for interoperability and standardisation and fostering the deployment of EU cross-border applications;
  - (i) build up and strengthen the ~~network of~~ **European Digital Innovation Hubs and their network**.
2. **The actions under this specific objective Deployment, best use of digital capacities and Interoperability shall be implemented through direct management, except for blending operations.**

## *Article 9*

### *Budget*

1. The financial envelope for the implementation of the Programme for the period 2021–2027 shall be [EUR 9 194 000 000 in current prices].
2. The indicative distribution of the referred amount shall be:
  - (a) ~~up to~~ [EUR 2 698 240 000] for Specific Objective 1, High Performance Computing
  - (b) ~~up to~~ [EUR 2 498 369 000] for Specific Objective 2, Artificial Intelligence
  - (c) ~~up to~~ [EUR 1 998 696 000] for Specific Objective 3, Cybersecurity and Trust
  - (d) ~~up to~~ [EUR 699 543 000] for Specific Objective 4, Advanced Digital skills
  - (e) ~~up to~~ [EUR 1 299 152 000] for Specific Objective 5, Deployment, best use of digital capacities and Interoperability.

~~2a. In order to respond to unforeseen situations or to new developments and needs, the Commission may, within the annual budgetary procedure, deviate from the amounts referred to in paragraph 2 up to a maximum of [x%].~~

3. The amount referred to in paragraph 1 may **also** be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

4. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments.

5. Resources allocated to Member States under shared management **and transferable in accordance with [Article 21 of Common Provisions Regulation]** may, at their request, be transferred to the Programme, **in particular to complement grants awarded to the action up to 100% of the total eligible cost where possible.** The Commission shall implement those resources directly in accordance with point (a) of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that Article. ~~Where possible~~ Those resources shall be used for the benefit of the Member State concerned **only**.

6. Without prejudice to the Financial Regulation, expenditure for actions resulting from projects included in the first work programme may be eligible as from 1 January 2021.

## Article 10

### *Third countries associated to the Programme*

The programme shall be open to:

1. Members of the European Free Trade Association (**EFTA**), which are members of the European Economic Area, in accordance with the conditions laid down in the European Economic Area agreement, ~~for EFTA members in accordance with the specific conditions laid down in agreements between the Union and those countries~~;
2. Acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for their participation in Union programmes established in the respective framework agreements and Association Council Decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and them;
3. Countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council Decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;
4. [Third countries in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement
  - ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
  - lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation] ;
  - does not confer to the third country a decisional power on the programme;
  - guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.]

## Article 11

### International cooperation

1. The Union may cooperate with third countries mentioned in Article 10, with other third countries and with international organisations or bodies established in those countries, in particular within the framework of the Euro-Mediterranean and Eastern Partnerships and with neighbouring countries, in particular those of the Western Balkans and Black Sea regions. Without prejudice to Article [19], related costs shall not be covered by the programme.
2. The cooperation with third countries and organisations mentioned in paragraph 1 under **Specific Objective 1. High Performance Computing, Specific Objective 2. Artificial Intelligence and Specific Objective 3. Cybersecurity and Trust** shall be subject to Article ~~[12]~~ as appropriate.

## Article 12

### Security

31. Actions carried out under the Programme shall comply with the applicable security rules and in particular the protection of the classified information against unauthorised disclosure, including compliance with any relevant national and Union law. In case of actions carried out outside the Union **using and/or generating classified information**, it is necessary that, in addition to the compliance with above requirements, a security agreement must have been concluded between the Union and the third country in which the activity is conducted.
42. Where appropriate, proposals and tenders shall include a security self-assessment identifying any security issues and detailing how those issues will be addressed in order to comply with the relevant national and Union laws.
53. Where appropriate, the Commission or funding body shall carry out a security scrutiny for proposals raising security issues .
64. Where appropriate, the actions shall comply with Commission Decision (EU, Euratom) 2015/444/EC<sup>39</sup>, and its implementing rules.

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<sup>39</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

75. The work programme may also provide that legal entities established in associated countries and legal entities established in the EU but controlled from third countries are not eligible for participation in all or some actions under Specific Objectives **1, 2 and 3** for **duly justified** security reasons. In such cases calls for proposals and calls for tenders shall be restricted to entities established or deemed to be established in Member States and controlled by Member States and/or nationals of Member States. **Any limitation of the participation of legal entities established in associated countries shall be in accordance with the terms and conditions of the relevant agreement.**

### *Article 13*

#### *Synergies with other Union programmes*

1. The Programme is designed to be implemented enabling synergies, as further described in Annex III, with other Union funding programmes, in particular through arrangements for complementary funding from EU programmes where management modalities permit; either in sequence, in an alternating way, or through the combination of funds including for the joint funding of actions.
2. **The Commission, in cooperation with the Member States, shall ensure the overall consistency and complementarity of the Programme with the relevant policies and Union programmes. To this effect, the Commission shall facilitate setting up** ~~A~~appropriate mechanisms of coordination between relevant authorities and **establish** appropriate monitoring tools ~~shall be established~~ to systematically ensure synergies between the Programme and any relevant EU funding instruments. The arrangements shall contribute to avoiding duplications and maximising impact of expenditure.

## Article 14

### *Implementation and forms of funding*

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article 62(1)(c) and 58(1)(e) of the Financial Regulation **in accordance with Articles 4 - 8.** ~~notably for Specific Objectives 1 and 3.~~ Funding bodies may depart from the rules for participation and dissemination laid down in this regulation only if this is provided for in the basic act setting up the funding body and/or entrusting budget implementation tasks to it or, for funding bodies under Article 62(1)(c)(ii), (iii) or (v) of the Financial Regulation, if it is provided for in the contribution agreement and their specific operating needs or the nature of the action so require.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, including notably procurement as a primary form as well as grants and prizes. It may also provide financing in the form of financial instruments within blending operations.
3. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in {Article X of} Regulation XXX ~~{successor of the Regulation on the Guarantee Fund}~~ } shall apply.

## Article 15

### *European Partnerships*

The Programme may be implemented through European Partnerships **established in accordance with [Horizon Europe Regulation] within the Strategic planning process between the European Commission and the Member States**. This may include in particular contributions to existing or new public-private partnerships in the form of joint undertakings established under Article 187 TFEU. For these contributions, provisions relating to European Partnerships under [Horizon Europe Regulation, ref to be added] apply.

## Article 16

### *European Digital Innovation Hubs*

1. During the first year of the implementation of the Programme, an initial network of **European** Digital Innovation Hubs shall be established.
2. For the purpose of the establishment of the network mentioned in paragraph 1, each Member State shall designate, **in accordance with their national procedures**, candidate entities ~~through an open and competitive process~~, on the basis of the following criteria:
  - (a) appropriate competences related to the functions of the **European** Digital Innovation Hubs **specified in Article 16(6) and competences in one or several areas identified in Article 3(2)**;
  - (b) appropriate management capacity, staff and infrastructure **necessary to carry out the functions identified in Art 16(6)**;
  - (c) operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;
  - (d) appropriate financial **viability, demonstrated, where appropriate, through** guarantees, issued preferably by a public authority, corresponding to the level of Union funds it will be called upon to manage.
3. The Commission shall adopt a decision on the selection of entities forming the initial network ~~in the first work programme~~ **in accordance with the procedure referred to in Article 27a(2) taking utmost account of the opinion of each Member State before the selection of a European Digital Innovation Hub in its territory**. These entities shall be selected by the Commission from candidate entities designated by Member States on the basis of the criteria mentioned in paragraph 2 and the following additional criteria:
  - (a) the budget available for the financing of the initial network;
  - (b) the need to ensure by the initial network a coverage of the needs of industry and areas of public interest and a comprehensive and balanced geographical coverage.

4. **Following an open and competitive process and taking utmost account of the opinion of each Member State before the selection of a European Digital Innovation Hub in its territory, the Commission shall select a** Additional European Digital Innovation Hubs ~~shall be selected in accordance with the procedure referred to in Article 27a(2) on the basis of an open and competitive process, and taking utmost account of the opinion of each Member State before the selection of a European Digital Innovation Hub in its territory,~~ in such a way to ensure ~~the widest~~ **a broad** geographical coverage across Europe. The number of entities of the network shall ~~be proportional to the population of a~~ **meet the demand for the hub's services in** the given Member States and there shall be at least one **European** Digital Innovation Hub per Member State. To address the specific constraints faced by the EU outermost regions, specific entities may be nominated to cover their needs.
- 4a. **European Digital Innovation Hubs shall have substantial overall autonomy to define their internal organisation, composition, and working methods.**
- 56.** The **European** Digital Innovation Hubs ~~which receive funding~~ shall be involved in the implementation of the Programme ~~to~~ **by performing the following functions to the benefit of the Union industry, notably SMEs and midcaps, as well as the public sector:**
- (a) **raise awareness and provide directly, or ensure access to,** digital transformation **expertise, know-how and services,** including testing and experimentation facilities ~~targeted towards industry, notably SMEs and midcaps, also in sectors that are slower in the uptake of digital and related technologies and the public sector;~~
  - (b) **facilitate the** transfer of expertise and know-how between regions, in particular by networking SMEs and midcaps established in one region with **European** Digital Innovation Hubs established in other regions which are best suited to provide relevant services;
  - (c) provide **directly, or ensure access to,** thematic services, **including in particular** services related to artificial intelligence, high performance computing and cybersecurity and trust to the **public** administrations, public sector organisations, SMEs or midcaps. ~~Individual~~ **European** Digital Innovation Hubs may specialise in specific thematic services and do not need to provide all thematic services **or provide those services to all categories of entities** mentioned in this paragraph; **and**
  - (d) provide financial support to third parties under the specific objective 4, Advanced Digital Skills.
- 65.** **Under this programme** ~~The~~ **European** Digital Innovation Hubs ~~may~~ **shall** receive funding in the form of grants.



## CHAPTER II

### ELIGIBILITY

#### Article 17

##### Eligible actions

1. Only actions contributing to the achievement of the objectives referred to in Article {3} and Articles {4}-{8} shall be eligible for funding.
2. The eligibility criteria for the actions shall be set out in the work programmes.

#### Article 18

##### Eligible entities

- ~~1. In addition to the criteria set out in Article 197 of the Financial Regulation, the eligibility criteria set out in paragraphs 2 to 4 shall apply:~~
- 2.1. The following **legal** entities shall be eligible:
  - (a) legal entities established in:
    - (i) a Member State or an overseas country or territory linked to it
    - (ii) a third countries associated with the Programme;
  - (b) any legal entity created under Union law or any international organisation.
- 3.2. Legal entities established in a third country which is not associated to the Programme are exceptionally eligible to participate in specific actions where this is necessary for the achievement of the objectives of the Programme. **Such entities shall bear the cost of their participation unless specified otherwise in the work programmes.**
- 4.3. Natural persons shall not be eligible, except for grants awarded under Specific Objective 4. Advanced digital skills.

- 5.4.** The work programme **referred to in Article 23** may provide that participation is limited to beneficiaries established in Member States only, or to beneficiaries established in Member States and specified associated or other third countries for security reasons or actions directly related to EU strategic autonomy. **Any limitation of the participation of legal entities established in associated countries shall be in accordance with the terms and conditions of the relevant Agreement.**
- ~~6. — Legal entities established in a third country which is not associated to the programme should in principle bear the cost of their participation.~~
- 7. 5.** The work programme referred to in Article 23 may provide that proposals may be submitted by one or more Member States or by international organisations, joint undertakings, or public or private undertakings or bodies established in Member States, with the agreement of the Member States concerned.

### *CHAPTER III*

#### *GRANTS*

##### *Article 19*

##### *Grants*

Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

## Article 20

### Award criteria

**1.1.** The award criteria shall be defined in the work programmes and in the calls for proposals, taking into account at the minimum the following elements:

- (a) the maturity of the action in the project development;
- (b) the soundness of the implementation plan proposed;
- ~~(c) the stimulating effect of Union support on public and private investment, when applicable;~~

~~(d)~~(c) the need to overcome financial obstacles such as the lack of market finance.;

**2. In addition, the following elements shall be taken into account where applicable:**

- ~~(e)~~ **(a) the stimulating effect of Union support on public and private investment;**
  - ~~(b)~~ ~~where applicable,~~ the **potential** expected economic, social, climate and environmental impact;;
- ~~(ea)~~ **(c) where applicable, and** accessibility and ease of access to respective services;
- ~~(f)~~ **(d) where applicable,** a trans-European dimension;
- ~~(g)~~ **(e) where applicable,** a balanced geographical distribution across the Union, **including the outermost and as well as economically disadvantaged regions;**
- ~~(h)~~ **(f) where applicable,** the presence of a long-term sustainability plan;
- ~~(i)~~ **(g) where applicable,** synergy and complementarity with other Union programmes.

### *Article 20a*

#### *Evaluation*

**In accordance with Article 150 of the Financial Regulation, proposals applications for grants shall be evaluated by an evaluation committee which may be fully or partially composed of external independent experts.**

## *CHAPTER IV*

### *BLENDING OPERATIONS AND OTHER COMBINED FUNDING*

### *Article 21*

#### *Blending operations*

Blending operations decided under this Programme shall be implemented in accordance with the [{InvestEU regulation}] and Title X of the Financial Regulation.

*Cumulative, complementary and combined funding*

1. An action that has received a contribution from another Union programme, **including funds under shared management**, may also receive a contribution ~~from~~ under the Programme, provided that the contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
- [2. Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, ~~comparative~~ conditions:
  - (a) they have been assessed in a call for proposals under the Programme;
  - (b) they comply with the minimum quality requirements of that call for proposals;
  - (c) they may not be financed under that call for proposals due to budgetary constraints.

may receive support from the European Regional Development Fund, ~~the Cohesion Fund~~, the European Social Fund+ or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [67] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply ~~from the award on.~~]

## CHAPTER V

### PROGRAMMING, MONITORING, EVALUATION AND CONTROL

#### Article 23

##### Work programmes

1. The Programme shall be implemented by work programmes referred to in Article 110 of Financial Regulation.
2. Those work programmes shall be adopted as multiannual programmes ~~for the entire Programme which cover one or more Specific Objectives~~. If justified by specific implementation needs, they may also be adopted as annual programmes ~~which cover one or more Specific Objectives~~.
3. The first multiannual work programmes shall focus on the activities set out in the Annex 1 and ensure that the actions thereby supported do not crowd out private financing. Subsequent work programmes may include activities not set out in ~~the~~ **that** Annex provided that they are consistent with the objectives of this Regulation, as set out in Articles ~~4 – 8~~.
4. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.
5. **The work programmes for Specific Objectives ~~subject to direct management~~ 2 Artificial Intelligence, Specific Objective 4 Advanced Digital Skills and Specific objective 5 Deployment, best use of digital capacity and interoperability and for possible other actions under direct management for Specific objective 1 High Performance Computing and Specific Objective 3 Cyber security and Trust shall be adopted by the Commission by means of ~~an~~ implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27a(2).**

## Article 24

### *Monitoring and reporting*

1. Indicators to monitor the implementation and progress of the Programme in achieving the general and specific objectives set out in Article 3 are set in the Annex II.
2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 27 to amend Annex II to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and Member States.
4. Official EU statistics such as regular ICT statistical surveys shall be used to their maximum. National Statistical Institutes shall be consulted on, and involved together with Eurostat, in the initial design and subsequent development of statistical indicators used for monitoring the implementation of the programme and the progress made with regard to digital transformation.

## Article 25

### *Programme Evaluation*

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Programme shall be performed once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the implementation of the Programme. **The interim evaluation shall form the basis to adjust programme implementation, as appropriate, also taking into account new relevant technological developments.**
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 11, a final evaluation of the Programme shall be carried out by the Commission.

4. The evaluation reporting system shall ensure that data for programme evaluation are collected efficiently, effectively, in a timely manner and at the appropriate level of granularity by recipients of Union funds;
5. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

## *Article 26*

### *Audits*

1. Audits on the use of the Union contribution carried out by persons or entities, including by others than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.
2. The control system shall ensure an appropriate balance between trust and control, taking into account administrative costs and other costs of controls at all levels.
3. Audits of expenditure shall be carried out in a consistent manner in accordance with the principles of economy, efficiency and effectiveness.
4. As part of the control system, the audit strategy may be based on the financial audit of a representative sample of expenditure. That representative sample shall be complemented by a selection based on an assessment of the risks related to expenditure.
5. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.

## *Article 27*

### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 24 shall be conferred on the Commission until 31 December 2028.



3. The delegation of power referred to in Article 24 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to article 24 shall **only** enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 27a*

#### *Committee procedure*

1. **The Commission shall be assisted by the Digital Europe Programme Coordination Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.**
32. **Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

## *[Article 28*

### *Protection of the financial interests of the Union*

Where a third country participates in the programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).]

## *CHAPTER VI*

### *TRANSITIONAL AND FINAL PROVISIONS*

## *Article 29*

### *Information, communication, publicity, policy support and dissemination*

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article [3].
3. The Programme shall provide support to policy development, outreach, awareness-raising and the dissemination of activities and promote cooperation and the exchange of experience in the areas mentioned in Articles 4 to 8.

## Article 30

### Repeal

- ~~1.~~ Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA2 Programme) as a means for modernising the public sector is repealed with effect from 1 January 2021.

## Article 31

### Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) No 283/2014 of the European Parliament and of the Council<sup>40</sup> and under Decision (EU) 2015/2240<sup>41</sup>, which shall continue to apply to the actions concerned until their closure.
2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Regulation (EU) No 283/2014 and under Decision (EU) 2015/2240<sup>42</sup>.
3. Where necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses referred to in Article {9(4)} in order to enable the management of actions not completed by 31 December 2027.

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<sup>40</sup> Regulation (EU) No 283/2014 of the European Parliament and of the Council of 11 March 2014 on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC (OJ L 86, 21.3.2014, p. 14).

<sup>41</sup> Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA2 programme) as a means for modernising the public sector.

<sup>42</sup> Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA2 programme) as a means for modernising the public sector.

*Article 32*

*Entry into force*

4. 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,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX 1

### ACTIVITIES

#### Technical description of the programme: initial scope of activities

The initial activities of the Programme shall be implemented in accordance with the following technical description:

##### *Specific Objective 1. High Performance Computing*

The Programme shall implement the European strategy on HPC by supporting a full EU ecosystem that provides the necessary HPC and data capabilities for Europe to compete globally. The strategy aims to deploy a world-class HPC and data infrastructure with exascale capabilities by 2022/2023, and post exascale facilities by 2026/27, endowing the Union with its own independent and competitive HPC technology supply, achieving excellence in HPC applications and widening HPC availability and use.

Initial activities shall include:

1. A joint procurement framework **enabling a co-design approach for the acquisition of** ~~for~~ an integrated network of world-class HPC including exascale **(executing ten to the power of eighteen operations per second)** supercomputing and data infrastructure. It will be easily accessible on a ~~non-economic~~ **commercial** basis to public and private users **notably SMEs, irrespective of which Member State they are located in, and for in the framework of** publicly funded research ~~purposes~~, **in accordance with the {Regulation establishing the European High Performance Computing Joint Undertaking}**.
2. A joint procurement framework of a post-exascale **(executing ten to the power of twenty-one operations per second)** supercomputing infrastructure, including the integration with quantum computing technologies.
3. EU-level coordination and adequate financial resources to support the development, procurement and operation of such infrastructure.
4. Networking of Member State HPC and data capacities and support for Member States wishing to upgrade or acquire new HPC capacities.
5. Networking of HPC Competence Centres, **at least** one per Member State and associated with their national supercomputing centres to provide HPC services to industry (in particular SMEs), academia and public administrations.
6. The deployment of ready to use/operational technology: supercomputing as a service resulting from R&I to build an integrated European HPC ecosystem, covering all scientific and industrial value chain segments (hardware, software, applications, services, interconnections and advanced digital skills).

### ***Specific Objective 2. Artificial Intelligence***

The Programme shall build up and strengthen core Artificial Intelligence capacities in Europe including data resources and repositories of algorithms and making them accessible by all businesses and public administrations as well as reinforcement and networking of existing **and newly established** AI testing and experimentation facilities in Member States.

Initial activities shall include:

1. Creation of Common European Data spaces that aggregate public information across Europe, **including from the re-use of Public Sector Information**, and become a data input source for AI solutions. The spaces would ~~also~~ be open to public and private sector. For increased usage, data within a space should be made interoperable as much as possible, **notably by agreeing on aiming for a data formats that would be open, machine readable, standardized and documented**, both in the interactions between public and private sectors, within sectors and across sectors (semantic interoperability).
2. Development of common European **libraries or interfaces to** libraries of algorithms that would be **easily** accessible to all **based on fair, reasonable and non-discriminatory terms**. Companies and public sector would be able to identify and acquire whichever solution would work best for their needs.
3. Co-investment with Member States in world class reference sites for experimentation and testing in real setting focusing on the applications of AI in essential sectors such as health, earth/environment monitoring, **transport and** mobility, security, manufacturing or finance, as well as in other areas of public interest. The sites should be open to all actors across Europe and connected to the Network of Digital Innovation Hubs. They should be equipped with **or connected to** large computing and data handling facilities as well as latest AI technologies including emerging areas ~~such as~~ **inter alia** neuromorphic computing, deep learning and robotics.

### ***Specific Objective 3. Cybersecurity and trust***

The Programme shall stimulate the **reinforcement**, building **and acquisition** of essential capacities to secure the EU's digital economy, society and democracy by reinforcing the EU's cybersecurity industrial potential and competitiveness, as well as improving capabilities of both private and public sectors to protect European citizens and businesses from cyber threats, including supporting the implementation of the Network and Information Security Directive.

Initial activities, under this objective, shall include:

1. Co-investment with Member States in advanced cybersecurity equipment, infrastructures and know-how that are essential to protect critical infrastructures and the DSM at large. This could include investments in quantum facilities and data resources for cybersecurity, situational awareness in cyberspace as well as other tools to be made available to public and private sector across Europe.
2. Scaling up existing technological capacities and networking the competence centres in Member States and making sure that these capacities respond to public sector needs and industry, including in products and services that reinforce cybersecurity and trust within the DSM.
3. Ensuring wide deployment of ~~the latest~~ **effective state of the art** cybersecurity and trust solutions ~~according to the state of the art~~ across the Member States. This includes ensuring strengthening security and safety by design for of products, from their design to their commercialisation.
4. Support to close the cybersecurity skills gap by e.g. aligning cybersecurity skills programmes, adapting them to specific sectorial needs and facilitating access to targeted specialised training courses.

#### *Specific Objective 4. Advanced Digital skills*

The Programme shall support easy access to advanced digital skills, notably in HPC, AI, **Big Data analytics**, distributed ledgers (e.g. blockchain) and cybersecurity for the current and future labour force by offering **inter alia** students, recent graduates, and ~~existing current~~ workers, wherever they are situated, with the means to acquire and develop these skills.

Initial activities shall include:

1. Access to on the job training by taking part in traineeships in competence centres and companies deploying advanced **digital** technologies.
2. Access to courses in advanced digital technologies which will be offered by ~~universities~~ **higher education institutions, research institutions and industry professional certification bodies** in cooperation with the bodies involved in the Programme (topics ~~will~~ **are expected to** include AI, cybersecurity, distributed ledgers (e.g. blockchain), HPC and quantum technologies).
3. Participation in short-term, specialised professional training courses that have been pre-certified, for example in the area of cybersecurity.

Interventions shall focus on ~~high-end~~ **advanced** digital skills related to specific technologies.

All interventions will be designed and implemented ~~primarily~~ through **direct management**. The European Digital Innovation Hubs, as defined in Article 4516, shall act as facilitators for training opportunities, liaising with education and training providers.

### *Specific Objective 5. Deployment, best use of digital capacities and Interoperability*

#### **I. Initial activities related to the digital transformation of areas of public interest shall include:**

~~Projects serving the deployment, the best use of digital capacities or interoperability shall constitute projects of common interest.~~

##### *1. Modernisation of **public** administrations:*

- 1.1. Support Member States in the implementation of the Principles of the Tallinn Declaration on e-Government in all policy domains, creating where necessary, the registries needed and interconnecting them in full respect of the General Data Protection Regulation.
- 1.2. Support the design, piloting, deployment, maintenance and promotion of a coherent eco-system of cross-border digital services infrastructure and facilitate seamless end-to-end, secure, interoperable, multi-lingual, interoperable cross-border or cross-sector solutions and common frameworks within public administration. Methodologies for assessing the impact and benefits shall also be included.
- 1.3. Support the assessment, updating and promotion of existing common specifications and standards as well as the development, establishment and promotion of new common specifications, open specifications and standards through the Union's standardisation platforms and in cooperation with European or international standardisation organisations as appropriate.
- 1.4. Cooperate towards a European ecosystem for trusted infrastructures **possibly** using distributed ledgers (e.g. blockchain) services and applications, including support for interoperability and standardisation and fostering the deployment of EU cross-border applications.

##### *2. Health<sup>43</sup>*

- 2.1. Ensure that EU citizens **have control over their personal data and** can access, share, use, and manage their personal health data securely across borders irrespective of their location or the location of the data, **in accordance with applicable data protection legislation**. Complete the eHealth Digital Service Infrastructure and extend it by new digital services, **related to disease prevention, health and care and cure**, support **their** deployment, **building on the EU and Member States' activities such as the development of the a European exchange format for electronic health records** a broad support by EU activities and Member States, in particular in the eHealth Network according to Article 14 of Directive 2011/24/EU.

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<sup>43</sup> COM(2018) 233 final, on enabling the digital transformation of health and care in the Digital Single Market; empowering citizens and building a healthier society



- 2.2. Make available better data for research, disease prevention and personalised health and care. Ensure that European health researchers and clinical practitioners have access to necessary scale of resources (shared data spaces, **including data storage and computing**, expertise and analytical capacities) to achieve breakthroughs in major as well as in rare diseases. The target is to ensure a population-based cohort of at least 10 million citizens. ~~A milestone is 1 million of sequenced genome by 2022.~~
- 2.3. Make digital tools available for citizen empowerment and for person-centred care by supporting the exchange of innovative and best practices in digital health, capacity building and technical assistance, in particular for cybersecurity, AI and HPC.
3. Judiciary: Enable seamless and secure cross-border electronic communication within the judiciary and between the judiciary and other competent bodies in the area of civil and criminal justice. Improve access to justice and juridical information and procedures to citizens, businesses, legal practitioners and members of the judiciary with semantically interoperable interconnections to national databases and registers as well as facilitating the out-of-court dispute resolution online. Promote the development and implementation of innovative technologies for ~~courts and legal practitioners~~ **the legal profession** based inter alia on artificial intelligence solutions which are likely to streamline and speed-up procedures (for example “legal tech” applications).
4. Transport, **mobility**, energy and environment: Deploy decentralised solutions and infrastructures required for large-scale digital applications such as **connected automated driving, Unmanned Aerial Vehicles, smart mobility concepts**, smart cities or smart rural areas in support of transport, energy and environmental policies, **in coordination with the actions for digitalizing the transport and energy sectors under Connecting Europe Facility**.
5. Education, ~~and~~ **culture and media**: Provide creators, ~~and~~ creative industry and cultural sector in Europe with access to latest digital technologies from AI to advanced computing. Exploit the European cultural heritage as a vector to **support education and research and to** promote cultural diversity, social cohesion and European ~~citizenship~~ **society**. Support the uptake of digital technologies in education **as well as private and publicly funded cultural institutions**.

~~All the above activities may be partly supported by Digital Innovation Hubs through the same capacities developed to assist the industry with their digital transformation (see point II).~~

6. **Other activities supporting** Additionally a set of **the** Digital Single Market ~~support activities;~~ will be supported which will include a pan-European network of Safer Internet Centres ~~to for example~~ fostering **digital and media** literacy and raising awareness ~~and~~ among minors, parents and teachers regarding risks minors may encounter online and ways to protect them, ~~and to tackling~~ **cyberbullying and** the dissemination of child sexual abuse material online **by supporting a pan-European network of Safer Internet Centres;** **promoting** measures aimed at **detecting and** combatting intentional disinformation spread; **supporting** an EU observatory for the digital platform economy as well as studies and outreach activities.

Activities referred to in points 1 to **5-6** may be partly supported by European Digital Innovation Hubs through the same capacities developed to assist the industry with their digital transformation (see point II).

## **II. Initial activities related to the digitization of industry:**

1. Contribution to the upscaling of the infrastructure and technology facilities (equipment, software and tools) of the network of **European** Digital Innovation Hubs to ensure access to digital capacities to any business, notably SMEs in any region across the EU. This includes notably:
  - 1.1. Access to Common European Data space and AI platforms and European HPC facilities for data analytics and compute intensive applications
  - 1.2. Access to AI large scale testing facilities and to advanced cybersecurity tools
  - 1.3. Access to advanced **digital** skills
2. Activities will be coordinated with, and will complement the innovation actions in digital technologies supported notably under the Horizon Europe Programme as well as investments in **European** Digital Innovation Hubs supported under the European Regional and Development Funds. Grants for market replication may also be provided from the Digital Europe Programme in line with state aid rules. Support for access to finance further steps in their digital transformation will be achieved with financial instruments making use of the InvestEU scheme.

## ANNEX 2

### Performance indicators

#### Specific Objective 1 - High-performance computing

1.1 Number of HPC infrastructures jointly procured

1.2 Usage of the exascale and post-exascale computers in total and by various stakeholder groups (universities, SMEs etc.)

#### Specific Objective 2 - Artificial intelligence

2.1 Total amount co-invested in sites for experimentation and testing

2.2 ~~Number of companies and organisations using AI~~ **Usage of common European libraries or interfaces to libraries of algorithms, usage of Common European Data Spaces and usage of sites for experimentation and testing related to activities in this regulation by various stakeholder groups (SMEs, large enterprises, public sector, universities etc.)**

#### Specific Objective 3 - Cybersecurity & Trust

3.1 Number of cybersecurity infrastructure and/or tools jointly procured.<sup>44</sup>

3.2 Number of users and user communities getting access to European cybersecurity facilities

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<sup>44</sup> In response to a question for clarifications, the following explanations can be provided with regard to this performance indicator:

'Infrastructures' would typically mean a research or experimentation infrastructure such as testbeds, cyber ranges or computing/communication facilities. This could be either data and/or software only, or involve physical facilities.

'Tools' would typically mean a physical device and/or software/algorithm used to increase the security of ICT systems. Examples would be intrusion detection software or data resources allowing situational awareness of critical infrastructures.

The Competence Centre proposal allows all sorts of procurement, not only joint procurement: by the Competence Centre as a Union body, by others with the help of a Union grant, or by several parties.

#### **Specific Objective 4 - Advanced digital skills**

4.1 Number of ~~ICT specialists trained and working~~ **persons who have undergone a training to acquire advanced digital skills**

4.2 Number of enterprises, **in particular SMEs,** having difficulty recruiting ICT specialists

#### **Specific Objective 5 - Deployment, best use of digital capacity and interoperability**

5.1 Take-up of digital public services

5.2 Enterprises with high digital intensity score

5.3 Alignment of the National Interoperability Framework with the European Interoperability Framework

**5.4 Number of businesses ~~and, and public authorities administrations and~~ public sector ~~organisations—entities~~ which have used the European Digital Innovation Hubs’ services.**

## ANNEX 3

### Synergies with other Union programmes

31. Synergies with Horizon Europe shall ensure that:
- (a) Whereas several thematic areas addressed by Digital Europe and Horizon Europe converge, the type of actions to be supported, their expected outputs and their intervention logic are different and complementary;
  - (b) Horizon Europe will provide extensive support to research, technological development, demonstration, piloting, proof-of-concept, testing and innovation including pre-commercial deployment of innovative digital technologies, in particular through (i) a dedicated budget in the Global Challenges pillar for "Digital and industry" to develop enabling technologies (Artificial Intelligence and Robotics, Next Generation Internet, High Performance Computing and Big Data, Key Digital Technologies, combining digital with other technologies); (ii) support to e-Infrastructures under the Open Science pillar; (iii) the integration of digital across all the Global Challenges (health, security, energy and mobility, climate, etc.); and (iv) support for scale-up breakthrough innovations under the Open Innovation pillar (many of which will combine digital and physical technologies);
  - (c) Digital Europe will invest in (i) digital capacity building in High Performance Computing, Artificial Intelligence, Cybersecurity and advanced digital skills; and (ii) national and regional deployment within an EU framework of digital capacities and the latest digital technologies in areas of public interest (such as health, public administration, justice and education) or market failure (such as the digitisation of businesses, notably small and medium enterprises);
  - (d) Digital Europe capacities and infrastructures are made available to the research and innovation community, including for activities supported through Horizon Europe including testing, experimentation and demonstration across all sectors and disciplines;
  - (e) As the development of novel digital technologies matures through Horizon Europe, these will progressively be taken up and deployed by Digital Europe;
  - (f) Horizon Europe initiatives for the development of skills and competencies curricula, including those delivered at the co-location centres of the European Institute of Innovation and Technology's KIC-Digital, are complemented by Digital Europe-supported capacity-building in advanced digital skills;
  - (g) Strong coordination mechanisms for programming and implementation, are put in place, aligning all procedures for both programmes to the extent possible. Their governance structures will involve all Commission concerned services.

42. Synergies with Union programmes under shared management, including the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the European Agricultural Fund for Rural Development (EAFRD) and European Maritime and Fisheries Fund (EMFF), shall ensure that:
- (a) Arrangements for complementary funding from Union programmes under shared management and the Digital Europe Programme are used to support activities providing a bridge between smart specialisations and support to the digital transformation of the European economy **and society**.
  - (b) The ERDF contributes to the development and strengthening of regional and local innovation ecosystems, ~~and industrial transformation~~ **as well as digital transformation of society and of public administration, thus stimulating also the implementation of the Tallinn Declaration on eGovernment**. This includes support to digitization of industry and take-up of results as well as the rolling out of novel technologies and innovative solutions. ~~Moreover, this support should stimulate implementation of the Tallinn Declaration on eGovernment reflecting digital transformation in a greater scale.~~ The Digital Europe programme will complement and support the trans-national networking and mapping of digital capacities to make them accessible to SMEs and to make interoperable IT solutions accessible to all EU regions.
53. Synergies with the Connecting Europe Facility (CEF) shall ensure that:
- (a) The future DEP focuses on large-scale digital capacity and infrastructure building in High Performance Computing, Artificial Intelligence, Cybersecurity and advanced digital skills aiming at wide uptake and deployment across Europe of critical existing or tested innovative digital solutions within an EU framework in areas of public interest or market failure. DEP is mainly implemented through coordinated and strategic investments with Member States, notably through joint public procurement, in digital capacities to be shared across Europe and in EU-wide actions that support interoperability and standardisation as part of developing a Digital Single Market.
  - (b) Digital Europe capacities and infrastructures are made available to the deployment of innovative new technologies and solutions in the field of mobility and transport. The CEF supports the roll-out and deployment of innovative new technologies and solutions in the field of mobility and transport.
  - (c) Coordination mechanisms will be established in particular through appropriate governance structures.

64. Synergies with InvestEU shall ensure that:
- (a) Support through market-based financing, including pursuing policy objectives under this Programme will be provided under the InvestEU Fund Regulation. Such market-based financing might be combined with the grant support.
  - (b) Access to financial instruments by companies will be facilitated by the support provided by Digital Innovation Hubs.

75. Synergies with Erasmus shall ensure that:

- (a) The Programme will support the development and acquisition of the advanced digital skills needed for the deployment of cutting-edge technologies such as artificial intelligence or high-performance computing, in cooperation with relevant industries.
- (b) The advanced skills part of Erasmus will complement the interventions of Digital Europe addressing the acquisition of skills in all domains and at all levels, through mobility experiences.

**5a. Synergies with Creative Europe shall ensure that:**

- (a) the MEDIA sub-programme of Creative Europe supports initiatives that can generate real impact for the sectors across Europe, helping its adaptation to the digital transformation.**
- (b) Digital Europe Programme inter alia provides creators, creative industry and cultural sector in Europe with access to latest digital technologies from AI to advanced computing.**

6. Synergies with other EU Programmes and Initiatives on Competences/Skills shall be ensured.

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