



Brussels, 11.1.2018  
COM(2018) 8 final

2018/0003 (NLE)

Proposal for a

**COUNCIL REGULATION**

**on establishing the European High Performance Computing Joint Undertaking**

{SWD(2018) 5 final} - {SWD(2018) 6 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The term 'High Performance Computing' refers to the technologies and the use of powerful supercomputers (interconnecting in a single system or in close proximity of hundreds of thousands or millions of computing units working in parallel) to perform massive and fast computations that are so demanding that they cannot be performed using general-purpose computers. High performance computing methodologies include modelling and simulation, advanced data analytics and visualisation that are used for highly computational or data intensive tasks in a very wide range of scientific, engineering, industrial, business and public sector applications. HPC is at the core of major advances and innovations in the digital age where to out-compute is to out-compete. It is a key technology for science, industry, and society at large:

- HPC is an essential tool to address major scientific and societal challenges such as (to name just a few) the early detection and treatment of diseases, new therapies based for example on personalised and precision medicine; deciphering the functioning of the human brain; forecasting climate evolution; observing space; preventing and managing large-scale natural disasters; and accelerating the design of new materials.
- The use of HPC is having a growing critical impact on industries and businesses by significantly reducing design and production cycles, minimising costs, increasing resource efficiency, and shortening and optimising decision processes.
- HPC is also essential for national security and defence, e.g. in developing complex encryption technologies, tracking and responding to cyberattacks, deploying efficient forensics, and in nuclear simulations.

Europe's scientific capabilities, industrial competitiveness and sovereignty depend critically on access to world-leading HPC and data infrastructures to keep pace with the growing demands and complexity of the problems to be solved. Although the Union acted in 2012 to step up its efforts to ensure leadership in the supply and use of HPC systems and services<sup>1</sup>, this has insufficient to date. As a result:

- (a) the Union does not have the best supercomputers in the world, and those it has depend on foreign HPC supply chains, exposing it to an increasing risk of being deprived of strategic or technological know-how for innovation and competitiveness;
- (b) the supercomputers available in the Union do not satisfy demand. To fill the gap, European scientists and industry are seeking access to top machines located outside the Union to process their data. This may create problems, in particular as regards the protection of personal and sensitive data e.g. commercial data or trade secrets), and the ownership of data, in particular for sensitive applications such as health;
- (c) Member States' and the Union's investments in HPC remain largely uncoordinated and the industrial take-up of HPC technology developments is low. As compared with competitors in the United States, China and Japan, the Union and its Member

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<sup>1</sup> Commission Communication on *High-performance computing: Europe's place in a global race* (COM(2012) 45 final)

States are clearly underinvesting in HPC with a funding gap of EUR 500-750 million per year.

- (d) the Union is failing to turn its investments in technology development into European technology based HPC systems that it procures, i.e. it lacks an effective link between technology supply, co-design with users, and a joint procurement of systems; and
- (e) the failure to create a lead market in HPC means failure to create a competitive European HPC supply industry in a market projected to be worth around EUR 1 trillion in the next 10 years.

To address these issues, at the Digital Day in Rome (organised on 23 March 2017 as part of the 60<sup>th</sup> anniversary celebrations of the Treaty of Rome), seven Member States – France, Germany, Italy, Luxembourg, the Netherlands, Portugal and Spain – signed the *EuroHPC declaration*.<sup>2</sup> They were subsequently joined by Belgium, Slovenia, Bulgaria, Switzerland, Greece and Croatia. The 13 countries agreed to work together and with the Commission in acquiring and deploying by 2022/2023 a pan-European integrated exascale supercomputing infrastructure (EuroHPC). Other Member States and associated countries were invited to sign the EuroHPC declaration.

The target set by the Union is to reach exascale performance, i.e. a performance level of computing systems capable of executing ten to the power of eighteen operations per second, by the years 2022 or 2023. The increase of computing power beyond the exascale would include post-exascale technologies and likely quantum computers. These are computing devices exploiting quantum physical effects, rather than the traditional transistors. As an intermediate step to reach exascale performance pre-exascale performance, i.e. 20% to 50% of the exascale performance, should be reached by 2019.

The countries signing the EuroHPC declaration recognised that there is an urgent need for them and for the Union to invest together in order to: acquire and offer to Europe's scientific and industrial users a leading-edge HPC infrastructure matching their demanding application requirements; and develop in Europe an own world-class exascale<sup>3</sup> HPC infrastructure by 2022/2023.

Achieving these objectives will require a new legal and financial instrument allowing two world-class pre-exascale machines of a few hundred petaflops<sup>3</sup> each to be procured (in 2019/2020) and made available to public and private users in order to develop leading scientific and industrial applications that will foster the development of a broad pre-exascale ecosystem in Europe. The instrument will also need to support the R&D and technology development required for co-designing competitive European exascale machines, including the first generation of a European low-power microprocessor technology, a key technology for reaching exascale capability in Europe by 2022/2023. The procurement of exascale systems would, however, not be part of the current proposal.

In summer and autumn 2017, the Commission carried out an impact assessment to identify the best instrument for achieving these goals, while promising the best economic, societal, and environmental impacts and safeguarding the Union's interests. A Joint Undertaking was

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<sup>2</sup> [http://ec.europa.eu/newsroom/document.cfm?doc\\_id=43815](http://ec.europa.eu/newsroom/document.cfm?doc_id=43815),  
<https://ec.europa.eu/digital-single-market/en/news/belgium-joins-european-cooperation-high-performance-computing>

<sup>3</sup> Measuring the 'floating-point operations per second' (FLOPS) of a computer qualifies the performance of a computer. One peta-flop (petascale machines) corresponds to ten to the power of fifteen FLOPS and one exa-flop (exascale machines) corresponds to ten to the power of eighteen FLOPS.

found to represent the best option. A Joint Undertaking provides a legal, contractual and organisational common framework to structure the joint commitments entered into by its participating members. It also provides its members with a firm governance structure and budgetary certainty. It can implement joint procurement and operate world-class HPC systems via the promotion of (in particular European) technology. It can act as the owner of the pre-exascale supercomputers funded jointly by its members and so facilitate non-discriminatory access to them. Lastly, it can launch R&D&I programmes for developing technologies and their subsequent integration in European exascale supercomputing systems, thus closing the chain from R&D to the delivery and operation of exascale HPC systems, and contributing to the development of a competitive European technology supply industry.

The EuroHPC Joint Undertaking will draw its funds from the current Multiannual Financial Framework (MFF) budgets already committed for HPC activities in the work-programmes for the last two years of Horizon 2020 and the Connecting Europe Facility. The EuroHPC Joint Undertaking will not rely on additional funding from the next Multiannual Financial Framework to achieve its objectives. Should funds become available in the next Multiannual Financial Framework, the Regulation of the EuroHPC Joint Undertaking would need to be amended in order to define a new mandate to cover the procurement and operation of the exascale infrastructure, the development of HPC technology coming after the exascale, and the procurement and operation of such a post-exascale infrastructure, including its eventual integration with quantum computing technologies. An amended, broadened mandate would be underpinned by a proportionate impact assessment in line with Better Regulation requirements.

#### **How will the EuroHPC Joint Undertaking operate?**

The activities of the Joint Undertaking will be grouped around two main pillars:

- (1) **procurement and operation of HPC and data infrastructures:** acquisition of world-class supercomputing and data infrastructures, their deployment, interconnection and operation; and providing and managing access to these infrastructures for a wide range of public and private users, and
- (2) **an HPC research and innovation programme:** supporting an R&I agenda for European HPC technology and know-how development; applications and skills development and a wide use of HPC.

Membership of the Joint Undertaking will be as follows:

- **public members:** the Union (represented by the Commission) and the Member States and Horizon 2020<sup>4</sup> associated countries wishing to participate (Participating States). Currently, the Participating States are the 13 countries that have signed the EuroHPC declaration: France, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Belgium, Slovenia, Bulgaria, Greece, Croatia and Switzerland, but other Member States and Associated Countries may yet join them, and
- **private Members:** representatives of HPC and Big Data stakeholders, including academia and industry. The associations ETP4HPC<sup>5</sup> and BDVA<sup>6</sup> representing the private entities in the contractual public-private-partnerships have submitted letters

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<sup>4</sup> [https://ec.europa.eu/research/iscp/pdf/policy/h2020\\_assoc\\_agreement.pdf](https://ec.europa.eu/research/iscp/pdf/policy/h2020_assoc_agreement.pdf)

<sup>5</sup> <http://www.etp4hpc.eu/>

<sup>6</sup> <http://www.bdva.eu/>

of support for the implementation of the EuroHPC initiative and expressed their interest in contributing to the activities of the Joint Undertaking.

**The governance** of the Joint Undertaking will be structured as follows:

- a **Governing Board** (composed of representatives of the public members of the Joint Undertaking) will be responsible for strategic policy making and the funding decisions relating to the Joint Undertaking's procurement and R&I activities. In principle, members' voting rights and procedures will be in proportion to their financial contributions, and
- an **Industrial and Scientific Advisory Board** (composed of representatives of the private members of the Joint Undertaking). To avoid conflicts of interest, in particular with the procurement of pre-exascale supercomputers for the suppliers of high performance technology, this board will have an advisory role only and will include two advisory groups:
  - a **Research and Innovation Advisory Group**, which will include representatives of academia, industry users and technology suppliers and be responsible for drawing up a medium- to long-term R&I agenda on technology and applications, covering the research, innovation, applications and skills development activities supported by the Joint Undertaking's R&I programme, and
  - an **Infrastructure Advisory Group**, which will include experienced academic and user industry experts selected by the Governing Board and will provide it with independent advice on the procurement and operation of the supercomputers owned by the Joint Undertaking.

The EuroHPC Joint Undertaking will start operating in 2019. In 2019-2020 it will launch open calls for R&I proposals for funding HPC technology and application development activities. It will also procure two world-class pre-exascale machines of a few hundred petaflops and co-finance the acquisition of at least two additional machines of the order of a few tens of petaflops.

The Joint Undertaking will procure and own the HPC machines funded mainly by the Union. The Participating States will procure and own those funded mainly by themselves.

The Joint Undertaking will acquire its pre-exascale supercomputers in two steps:

- it will first select a hosting entity in a Member State participating in the Joint Undertaking that provides the necessary facilities to host and operate a supercomputer (typically a supercomputing centre). The Governing Board will establish the criteria for the selection of the hosting entity. The Joint Undertaking and the hosting entity will sign a hosting agreement setting out the entity's responsibilities in installing and operating the HPC machines. The pre-exascale supercomputers will be located in a Member State as the overall objective is to support the development of an integrated High Performance Computing ecosystem in the Union<sup>7</sup>.
- secondly, the Joint Undertaking will launch the procedure to acquire the supercomputer to be installed and operated in the selected hosting entity.

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<sup>7</sup> Article 3(1)(a) of the Council Regulation establishing the European High performance Computing Joint Undertaking

The Union financial contribution, under the current Multiannual Financial Framework, would be EUR 486 million, matched by similar amounts from the Participating States and the Private Members of the EuroHPC Joint Undertaking.

The Joint Undertaking will use these funds mainly to implement its activities under the two pillars (see above). In particular, the second pillar (the HPC Research and Innovation Programme") will address the programme-coordination inefficiencies that the Commission is currently experiencing as a result of having to implement the HPC strategy through separate work programmes (Horizon 2020 and the Connecting Europe Facility). The Governing Board will be responsible for:

- aligning the content and the timing of the various calls with the HPC strategic agenda;
- ensuring coherence between the topics of the calls; and
- putting in place the appropriate funding instruments to achieve the objectives, in particular innovation procurement to accompany the route from European HPC technology development to the procurement of European machines.

By using the Horizon 2020 rules, the Joint Undertaking will be able to introduce provisions to protect the Union's economic and strategic interests of the Union, i.e. protecting intellectual property (IPR) produced in the Union and first exploiting all EU-funded R&I results in the Union.

- **Consistency with existing policy provisions in the policy area**

The 2012 Communication on "*High performance computing: Europe's place in a global race*"<sup>1</sup> highlighted the strategic nature of HPC as a crucial asset for the EU's innovation capacity.

On 19 April 2016, the Commission adopted the *European Cloud Initiative* as part of its Digitising European Industry strategy.<sup>8</sup> This involves the Commission and the Member States creating a leading European HPC and big data ecosystem, underpinned by a world-class HPC, data and network infrastructure. Such an infrastructure would help the EU to become one of the world's top supercomputing powers by 2022/2023 thanks to exascale supercomputers based on European technology.

- **Consistency with other Union policies**

On 10 May 2017, the Commission adopted a Mid-term review of the digital single market strategy<sup>9</sup>, in which it announced its intention to propose, by the end of 2017, a legal instrument providing a procurement framework for an integrated pan-European exascale supercomputing and data infrastructure.

The policy intervention also builds upon the 'Digitising European Industry' policy package (see above).

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<sup>8</sup> Communication on *Digitising European industry – reaping the full benefits of a digital single market* (COM(2016) 180 final) and SWD(2016) 106

<sup>9</sup> COM(2017) 228 final

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

### • Legal basis

The legal basis of the EuroHPC Joint Undertaking initiative is Article 187 and the first paragraph of Article 188 of the Treaty on the Functioning of the European Union.

### • Subsidiarity (for non-exclusive competence)

The growth in the importance of HPC for science and the public and private sectors in recent years has been accompanied by an exponential rise in the level of investment required to stay globally competitive. This has led to a widespread recognition that 'Europeanisation' in this area via a shared infrastructure and common use of existing capabilities would benefit everyone. This includes Member States that may have difficulties in creating self-sufficient national HPC infrastructures while they can make valuable contributions to and benefit from federated and interconnected EU-level HPC capabilities.

The scale of the resources needed to realise a sustainable world-class HPC infrastructure and ecosystem is beyond what individual Member States can afford. No single Member State has the financial means to acquire exascale computing capabilities and develop, acquire and operate the necessary exascale HPC ecosystem on its own and in competitive timeframes as compared with the current world leaders in this domain (the USA, China and Japan). Knowledge and resources available in the Union need to be brought together to build a leading-edge HPC ecosystem across all value-chain segments, while EU-level investments and resulting services must be coordinated if the Union's HPC computing and data infrastructures are to be on a par with those of its global competitors.

Cooperation exists already in some areas among Member States, industry and science. Examples include the PRACE<sup>10</sup> Association, the HPC contractual Public-Private-Partnership ETP4HPC, the Big Data contractual Public-Private-Partnership and GÉANT.<sup>11</sup> EuroHPC builds on these as the key investors in the EuroHPC signatory countries are already represented there.

Political support from Member States on EuroHPC has already been explicitly given by the Council, by the signatories of the EuroHPC Declaration, and by the European Parliament<sup>12</sup>.

### • Proportionality

The proposal complies with the principle of proportionality as set out in Article 5 of the Treaty on European Union, as it consists of an effective cooperation framework, suited to all intervention areas of this initiative, does not go beyond what is necessary to solve the problems identified and is proportionate to its objectives. More specifically:

- First, it sets up a joint procurement framework for an integrated world-class pre-exascale computing and data infrastructure in Europe, overcoming the fragmentation of national HPC investment plans and the difficulties of acquiring supercomputers based on European technology. It will pool resources from the Union, the Participating States and the Private Members. Funding for the EuroHPC Joint Undertaking is already available in the Union budget (commitments for HPC activities in the last two years of Horizon 2020 and the Connecting Europe Facility).

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<sup>10</sup> <http://www.prace-ri.eu/>

<sup>11</sup> <https://www.geant.org>

<sup>12</sup> European Parliament, Report on the European Cloud Initiative (2016/2145(INI)), Committee on Industry, Research and Energy, Brussels, 26 January 2017.

The need for additional funding from the Participating States and the Private Members will be limited as the proposal relies to a large extent on commitments or investment plans that they already have for the coming years;

- Second, the funding instruments are already available, i.e. Horizon 2020 and Connecting Europe Facility. Beneficiaries and participants will be faced with no additional administrative burden compared with the present situation, and
- Third, the initiative builds on existing initiatives such as PRACE, the contractual-Public-Private-Partnerships ETP4HPC and BDVA, and the HPC Centres of Excellence which will continue to play a decisive role in implementing the objectives of the Joint Undertaking. In the future it will rely on them to provide access to HPC capacities in Europe, support user communities in developing and adapting their applications in operating supercomputers.
- **Choice of instrument**

The creation and operation of a Joint Undertaking in which the Union participates requires a Council Regulation.

### **3. RESULTS OF STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

Since the publication of the "European Cloud Initiative" Communication, which outlined the objectives of a European strategy on HPC, various steps have been taken to inform stakeholders of the objectives of the strategy and invite them to help shape it. The Commission has organized several workshops, including the Digital Day in Rome (23 March 2017) as have stakeholder organisations such as ETP4HPC, PRACE, and the European Science Cloud.

The Commission has had regular informal meetings with representatives of a core group of Member States that signed the EuroHPC declaration in March 2017 to discuss the roadmap and implementation of a joint European initiative on HPC. It also organized two workshops ( 5 and 26 October 2017), to which all Member States were invited where it presented presenting the objectives of the initiative and the proposed implementation model (Joint Undertaking) and asked Member States for their feedback and comments.

In August 2017, the Commission published a targeted consultation on a joint European initiative on HPC. This was advertised through social media, a website and targeted e-mail invitations. Views were sought from stakeholders considered to represent the European HPC community to the best extent, such as the scientific user communities of HPC infrastructures (e.g. the 29 large research infrastructures of the European Strategy Forum on Research Infrastructures (ESFRI), the PRACE scientific users, the European Data Infrastructure (EUDAT), and the European Grid Infrastructure (EGI)), ETP4HPC, BDVA, centres of excellence for supercomputing applications, supercomputing centres, HPC service providers, HPC access providers, HPC R&I associations and national and EU-funded HPC projects.

Almost 100 replies were received, some of which were the consolidated opinion of a stakeholder association. The outcome of the consultation was overwhelming support for a joint European initiative. It also revealed a broad consensus on the major HPC-related issues in Europe and the priorities for addressing them with scientific users, industrial users, supercomputing centres and the supply industry all expressing similar opinions.



- **Collection and use of expertise**

The Commission has experience in setting up and managing Joint Undertakings. In particular, it will benefit from the experience of implementing the Electronic Components and Systems for European Leadership (ECSEL) Joint Undertaking<sup>13</sup> in an area related to HPC, namely micro- and nano-electronics. The two Joint Undertakings have some industrial players in common and it is expected that the technology developments for the highly specialised of supercomputer markets will find their way into the mass-markets addressed by ECSL.

- **Impact assessment**

The Commission carried out an impact assessment of the following policy options:

- a baseline scenario (no policy intervention) including revision of the current instruments for achieving the objectives of the European HPC strategy;
- a European Research Infrastructure Consortium (ERIC), and;
- a Joint Undertaking.

Other options, such as a European Economic Investment Grouping (EEIG), Intergovernmental Organisations and Galileo-like structures were discarded as it was evident that their legal basis would not satisfy fundamental requirements for the implementation of a joint European HPC initiative.

The Commission examined the extent to which the three retained options would:

- be effective in achieving the objectives of the joint European initiative;
- meet the functional requirements of the legal and financial instrument;
- safeguard the interests of the Union, and
- have positive impacts on the economy, competitiveness, society and the environment.

In conclusion only the Joint Undertaking was considered to have the most positive impact on all those points.

The inherent risks of a public-private-partnership would be mitigated by the EuroHPC Joint Undertaking in the following ways:

- **procurement:** all the Joint Undertaking's procurement operations will be under the sole responsibility of the Governing Board (composed only of its public members). This will guarantee that sound procurement decisions can be made without interference of the Private Members (in particular of the HPC supply industry) either in the joint public procurement process for the pre-exascale machines or in decisions on how the public funds will be spent;
- **sound and timely implementation of activities:** the Joint Undertaking's objectives and tasks will be clearly defined and their implementation will be regularly monitored against well-defined deliverables and annually-set key performance indicators. Other measures will include an ex-post evaluation of its activities every two years, with corrective measures being implemented, as needed;:
  - **procurement programme:** The Joint Undertaking will benefit from the experience of many of its public members in procuring supercomputing

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<sup>13</sup> <http://www.ecsel.eu/>

systems. Furthermore, the programme will be planned and monitored with the help of the members of the Infrastructure Advisory Group whom the Governing Board will select carefully so as to include experts experienced in procuring and monitoring the operations of national HPC machines.

- **R&I programme:** this will be designed and implemented in a similar way to the current HPC programme under Horizon 2020. It will be based on research and innovation agendas prepared by its Private Members participating in the Scientific Advisory Board of the Joint Undertaking (including representatives of the two contractual public private partnerships, ETP4HPC and BDVA).
- **investment risks:** the contribution of the Union budget to the Joint Undertaking is already available and most of the Participating States have already planned their HPC commitments or investment plans for the coming years. The mid-term evaluation of ECSEL, which had similar objectives demonstrated a large leverage effect as regards private investment: the Joint Activities led to additional private investment of 4.26 Euro for each euro of public investment.

On 25 October 2017, the Regulatory Scrutiny Board delivered a positive opinion with reservations on the Impact Assessment. The proposal takes into account the Board's recommendation by providing in Article 4 that the Joint Undertaking would operate with funding from programmes under the current Multiannual Financial Framework and by describing in Article 3 the objectives, and in Article 1 of the Annex (Statutes) the tasks, that the Joint Undertaking should fulfil. Lessons learnt from the set-up and management of existing Joint Undertakings, in particular through the recently concluded mid-term evaluation of ECSEL, have been taken into account. Both Joint Undertakings are similar in their structure and objectives; the main difference is the large procurement activities in EuroHPC which is absent from ECSEL. This difference explains the attribution of voting rights in proportion to the contribution of the participants, as reflected in Recital 25 of the EuroHPC proposal and Article 6 of its Annex (Statutes).

- **Regulatory fitness and simplification**

This proposal for a Regulation establishing a Joint Undertaking is in line with the Commission's *Better Regulation Guidelines*, in particular it proposes regulating only where necessary and in a proportionate manner. It follows the ECSEL model as far as possible, drawing on experience gathered in that context and taking into account the recommendations of the ECSEL mid-term review.

Setting up a EuroHPC Joint Undertaking would help to simplify implementation of the HPC activities currently implemented by the Commission through Horizon 2020. Commission would delegate power to the Joint Undertaking to implement the Union's HPC activities over two different programmes (Horizon 2020 and the Connecting Europe Facility) and three parts of the Horizon 2020 work programme ('Future and Emerging Technologies' (FET), 'Leadership in Enabling and Industrial Technologies ICT' (LEIT-ICT) and 'Research Infrastructures'). This approach would alleviate the difficulties of synchronising and coordinating activities to achieve the objectives of the European HPC strategy, and reduce negotiations with four different Programme Committee configurations to a negotiation within a single Governing Board.

The proposal will benefit Member States, scientific users of HPC, industry (including SMEs), supercomputing centres and ultimately citizens. The Joint Undertaking will make Europe's HPC capabilities world-class, have a direct positive impact on societal challenges (e.g. health,

environment, climate, etc.), manufacturing and engineering, fundamental science, national security and safety, and foster a European supply industry for digital technologies.

#### **4. BUDGETARY IMPLICATIONS**

There are no additional budgetary implications under the current Multiannual Financial Framework, since the EuroHPC Joint Undertaking would draw its funds from the budgets already committed for High Performance Computing activities in the work-programmes for the last two years of Horizon 2020 and the Connecting Europe Facility. In total EUR 486 million would be available from both Programmes.

This is to be matched by the same amount from the Participating States, as part of their programmes to upgrade their national HPC infrastructure.

The private entities should provide a similar amount, as part of their current commitment to the contractual public-private-partnerships ETP4HPC and BDVA, for the remaining duration of Horizon 2020.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Once the two pre-exascale supercomputers go into operation, a mid-term evaluation will determine the effectiveness of the Joint Undertaking as a legal and financial instrument for achieving the objectives of the European HPC strategy. In particular, it will assess the level of the Participating States' and Private Members' participation in, and contribution to, the actions of the Joint Undertaking.

The Joint Undertaking will publish an annual activity report highlighting actions taken, corresponding expenditure, and the acquisition and operation of the HPC and data infrastructure procured and owned by the Joint Undertaking. Achievement of the general objectives will be assessed against the general key performance indicators for Joint Undertakings funded from Horizon 2020 and the key performance indicators specific to EuroHPC.

- **Detailed explanation of the specific provisions of the proposal**

**Article 1** establishes the EuroHPC **Joint Undertaking**, specifying the **duration** and its **seat**.

**Article 2** provides **definitions** of 'petascale', 'pre-exascale', 'exascale', 'supercomputer', 'hosting entity', 'hosting agreement', 'access time', 'acceptance test', 'Participating State', 'Private Member', 'affiliated entity', 'constituent entity' and user.

**Article 3** specifies the general and specific **objectives** and **activities** of the EuroHPC Joint Undertaking.

**Article 4** specifies the **Union's financial contribution** to the administrative and operational costs of the EuroHPC Joint Undertaking with funding from the **Horizon 2020** and **Connecting Europe Facility** Programmes.

**Article 5** specifies the **participating states'** and **private members' funding contributions** to the administrative and operational costs.

**Article 6** refers to the **hosting entity** which the Joint Undertaking is to entrust with the **operation of the pre-exascale** supercomputers and specifies the process whereby it is to be selected.

**Article 7** sets out the contents of the **hosting agreement** laying down the roles and responsibilities of the hosting entity.

**Article 8** provides that the **Joint Undertaking should be the owner of the pre-exascale supercomputers it procures** until the end of their economic lifetime when they are transferred to the hosting entity.

**Article 9** sets out the **access conditions** for users of the supercomputers.

**Article 10** specifies how the **European Commission** and the **EuroHPC Participating States** will be compensated for their financial contribution to the acquisition of the pre-exascale supercomputers: each contributor will be allocated a share of the total **access time in proportion to its financial contribution**.

**Article 11** specifies the financial rules of the Joint Undertaking; these are in line with the **Financial Regulation**.

**Article 12** specifies the conditions under which the Joint Undertaking will provide **commercial services**.

Proposal for a

## COUNCIL REGULATION

### on establishing the European High Performance Computing Joint Undertaking

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 187 and the first paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council<sup>14</sup>.
- (2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council<sup>15</sup> establishes Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020), ‘Horizon 2020’. It aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private-sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union’s wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union’s strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate.
- (3) In accordance with Regulation (EU) No 1291/2013<sup>16</sup> and Council Decision 2013/743/EU<sup>17</sup>, support may be provided to joint undertakings established in the framework of Horizon 2020 under the conditions specified in that Decision.

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<sup>14</sup> Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

<sup>15</sup> Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104)

<sup>16</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in ‘Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)’ and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

<sup>17</sup> Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme implementing Horizon 2020 (2014-2020) (OJ L 347, 20.12.2013, p. 965).

- (4) Regulation (EU) No 1316/2013 of the European Parliament and of the Council<sup>18</sup> established the Connecting Europe Facility (CEF). The CEF should enable projects of common interest to be prepared and implemented within the framework of the trans-European networks policy in the sectors of transport, telecommunications and energy. In particular, the CEF should support the implementation of those projects of common interest which aim at the development and construction of new infrastructures and services, or at the upgrading of existing infrastructures and services, in the transport, telecommunications and energy sectors. The CEF should contribute to supporting projects with a European added value and significant societal benefits which do not receive adequate financing from the market.
- (5) Regulation (EU) No 283/2014 of the European Parliament and of the Council<sup>19</sup> established the guidelines for trans-European networks in the area of telecommunications infrastructure and laid down the sector specific conditions for the telecommunications sector.
- (6) High Performance Computing qualifies as a project of common interest, in particular digital service infrastructure "access to re-usable public sector information – public open data", identified in Regulation (EU) No 283/2014. In accordance with Article 6(3) of Regulation (EU) No 1316/2013, the Commission may entrust part of the implementation of the CEF to the bodies referred to in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>20</sup>.
- (7) The Communication from the Commission entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth'<sup>21</sup> (the 'Europe 2020 strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.
- (8) The Communication from the Commission of 19 April 2016 entitled 'European Cloud Initiative – building a competitive data and knowledge economy in Europe'<sup>22</sup>, calls for the establishment of a European Data Infrastructure based on leading-class High Performance Computing capabilities and the development of a full European High Performance Computing ecosystem capable of developing new European technology and realise exascale supercomputers. The importance of the area and the challenges faced by the stakeholders in the Union require urgent action in order to gather the necessary resources and capabilities to close the chain from research and development

<sup>18</sup> Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (*OJ L 348, 20.12.2013, p. 129*).

<sup>19</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>20</sup> REGULATION (EU, EURATOM) No 966/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.

<sup>21</sup> COMMUNICATION FROM THE COMMISSION EUROPE 2020 - A strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final

<sup>22</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - European Cloud Initiative - Building a competitive data and knowledge economy in Europe, COM(2016) 178 final

to the delivery and operation of the exascale High Performance Computing systems. Therefore a mechanism should be set up at Union level to combine and concentrate the provision of support to the establishment of a world-leading European High Performance Computing infrastructure and for research and innovation in High Performance Computing by Member States, the Union and the private sector. This infrastructure should provide access to the public sector users, users from industry and users from academia, including the scientific communities being part of the European Open Science Cloud.

- (9) The Communication from the Commission of 10 May 2017 on the Mid-Term Review on the implementation of the Digital Single Market Strategy - A Connected Digital Single Market for All<sup>23</sup>, identifies High Performance Computing as a critical element for the digitisation of industry and the data economy. Substantial investments are needed to develop, acquire and operate supercomputers that rank among the top three in the world and no single European country has the resources to develop a full European High Performance Computing ecosystem alone. There is a need for the Member States, the Union and the private sector to coordinate their efforts and share their resources in order to meet the increasing demand for High Performance Computing, and to build up a strong High Performance Computing industry in the Union. The Communication proposes the creation of a legal instrument that provides a procurement framework for an integrated exascale supercomputing and data infrastructure.
- (10) In order to equip the Union with the computing performance needed to maintain its research at a leading edge the Member States investment in High Performance Computing should be coordinated and the industrial take-up of High Performance Computing technology have to be reinforced. The Union should increase its effectiveness in turning the technology developments into High Performance Computing systems that are procured in Europe, establishing an effective link between technology supply, co-design with users, and a joint procurement of world-class systems.
- (11) A Joint Undertaking represents the best instrument capable to implement the goals of the European High performance Computing Strategy as defined in the European Cloud Initiative<sup>24</sup>, to overcome the present limitations, while offering the highest economic, societal, and environmental impact and best safeguarding the Union's interests. It can pool resources from the Union, the Member States and the private sector. It can implement a procurement framework and operate world-class HPC systems via promotion of technology, particularly European one. It can launch research and innovation programmes for developing technologies and their subsequent integration in European exascale supercomputing systems and contribute to developing a competitive European technology supply industry.
- (12) The Joint Undertaking should be set up and start operating in 2019 to reach the target of equipping the Union with an pre-exascale infrastructure by 2020 and developing the necessary technologies for reaching exascale capabilities by 2022/2023. Since a development cycle of the next generation of technology typically takes 4-5 years, to stay competitive on the global market, the actions to reach this target have to start now.

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<sup>23</sup> COM(2017) 228 final

<sup>24</sup> COM(2016) 178 final

- (13) The public-private partnership in the form of the Joint Undertaking should combine the financial and technical means that are essential to master the complexity of the ever escalating pace of innovation in this area. Therefore, the members of the Joint Undertaking should be the Union, Member States and Associated Countries (hereinafter referred to as "Participating Countries") agreeing on a joint European Initiative in High Performance Computing, and associations (hereinafter referred to as "Private Members") representing their constituent entities and other organisations with an explicit and active engagement to produce research and innovation results and keep the know-how in Europe in the field of High Performance Computing. The Joint Undertaking should be open to new members provided they make a financial contribution, including to administrative costs and accept the statutes of the Joint Undertaking.
- (14) The Union, the Participating States and the Private Members of the Joint Undertaking should each provide a financial contribution to the administrative costs of the Joint Undertaking. Since, under the multiannual financial framework for the years 2014-2020 a contribution to the administrative costs by the Union can be frontloaded to cover the running costs only up to 2023, the Participating States and the Private Members of the Joint Undertaking should fully cover the administrative costs of the Joint Undertaking as of 2024.
- (15) With a view to regaining a leading position in High Performance Computing technologies, and develop a full High Performance Computing eco-system for the Union, the industrial and research stakeholders in the ETP4HPC private Association have established in 2014 a contractual Public Private Partnership with the Union. Its mission is to build a European world-class High Performance Computing technology value chain that should be globally competitive, fostering synergies between the three pillars of the High Performance Computing ecosystem (technology development, applications and computing infrastructure). Considering its expertise and as it is bringing together the relevant private stakeholders in High Performance Computing the ETP4HPC private Association should be eligible for membership in the Joint Undertaking.
- (16) With a view to strengthening the data value chain, enhance community building around data and set the grounds for a thriving data-driven economy in the Union the industrial and research stakeholders in the BDVA Association have established in 2014 a contractual Public Private Partnership with the Union. Considering its expertise and as it is bringing together the relevant private stakeholders of big data the BDVA private Association should be eligible for membership in the Joint Undertaking.
- (17) The private associations ETP4HPC and BDVA have expressed in writing their willingness to contribute to Joint Undertaking's technological strategy and bring their expertise into the realisation of the objectives of the Joint Undertaking. It is appropriate that the private associations accept the Statutes set out in the Annex to this Regulation by means of a letter of endorsement.
- (18) The Joint Undertaking should address clearly defined topics that would enable academia and European industries at large to design, develop and use the most innovative technologies in High Performance Computing, and to establish an integrated infrastructure across the Union with world-class High Performance Computing capability, high-speed connectivity and leading-edge applications and data and software services for its scientists and for other lead users from industry, including SMEs and the public sector. The Joint Undertaking should make efforts to reduce the



specific HPC-related skills gap. The Joint Undertaking should prepare the path towards building the first hybrid High Performance Computing infrastructure in Europe, integrating classical computing architectures with quantum computing devices, e.g. exploiting the quantum computer as an accelerator of High Performance Computing threads. Structured and coordinated financial support at European level is necessary to help research teams and European industries remain at the leading edge in a highly competitive international context by producing world-class results and their integration in competitive systems, to ensure the fast and broad industrial exploitation of European technology across the Union generating important spill-overs for society, to share risk-taking and joining of forces by aligning strategies and investments towards a common European interest. The Commission could consider, upon notification by a Member State or group of Member States concerned, that the Joint Undertaking's initiatives qualify as Important Projects of Common European Interest, provided that all relevant conditions are met in accordance with the Community Framework for state aid for research and development and innovation<sup>25</sup>.

- (19) In order to achieve its objectives in designing, developing and using the most innovative technologies in High Performance Computing, the Joint Undertaking should provide financial support in particular in the form of grants and procurement following open and competitive calls for proposals and calls for tender. Such financial support should be targeted in particular at proven market failures that prevent the development of the programme concerned, and should have an incentive effect in that it changes the behaviour of the recipient.
- (20) In order to achieve its objective the Joint Undertaking should provide a framework for acquisition of an integrated, world-class, exascale supercomputing and data infrastructure in the Union, to equip users with the strategic computation resource they need to remain competitive and solve societal, environmental, economic and security challenges.
- (21) The Joint Undertaking should be the owner of the pre-exascale supercomputers it has acquired. The operation of the pre-exascale supercomputers should be entrusted to a hosting entity, i.e. a legal entity in a Member State participating in the Joint Undertaking which provides facilities to host and operate a supercomputer. The hosting entity should ensure to the extent possible a physical and functional separation of the Joint Undertaking pre-exascale supercomputers and any other, national or regional computing systems it operates. The hosting entity should be selected by the Governing Board of the Joint Undertaking. The Joint Undertaking should remain the owner of the pre-exascale supercomputers until they are depreciated (typically after 4-5 years of operation). Then ownership should be transferred to the hosting entity for decommissioning, disposal or any other use and the hosting entity should reimburse the Joint Undertaking the residual value of the supercomputers.
- (22) The use of the pre-exascale and petascale supercomputers should be primarily for public research and innovation purposes, for any user from academia, industry or the public sector. The Joint Undertaking should be allowed to carry out some limited economic activities for private purposes. Access should be granted to users established in the Union or an Associated Country to Horizon 2020. The access rights should be

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<sup>25</sup> Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest, OJ C 188, 20.6.2014, p. 4.

equitable to any user and allocated in a transparent manner. The Governing Board should define the access rights to the Union's share of access time for each supercomputer.

- (23) The Joint Undertaking should support the acquisition of petascale computers by the Participating States, through the use of an appropriate instrument (e.g. public procurement of innovative solutions). The beneficiaries of this instrument should be the owners of the petascale computer. For each petascale computer the share of the Union's access time to each petascale computer should be directly proportional to the financial contribution of the Joint Undertaking to the eligible acquisition costs incurred by the beneficiaries.
- (24) Limited use of the supercomputers by users carrying out economic activities for non-research applications should be allowed. Access time should be primarily granted to any user established in the Union or a country associated to Horizon 2020. The access rights should be allocated in a transparent manner.
- (25) The Joint Undertaking governance should be assured by two bodies: a Governing Board, and an Industrial and Scientific Advisory Board. The Governing board should be composed of Representatives of the Union and Participating States. It should be responsible for strategic policy making and funding decisions related to the activities of the Joint Undertaking, in particular for all the public procurement activities. The Industrial and Scientific Advisory Board should include representatives of academia and industry as users and technology suppliers. It should provide independent advice to the Governing Board on the Strategic Research Agenda and on the acquisition and operation of the supercomputers owned by the Joint Undertaking.
- (26) Voting rights should be, in principle, proportional to the financial and in-kind contributions of its members. Participating States should only have the right to vote on activities related to procurement of the Joint Undertaking if they contribute resources to the procurement activities respectively should only vote on activities related to the indirect actions if they contribute resources. The voting rights should be calculated on an annually on the basis of the actual contributions.
- (27) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012<sup>26</sup>. Rules applicable for the Joint Undertaking to enter into public procurement procedure are to be set in its financial rules.
- (28) To foster a European High Performance Computing ecosystem, the Joint Undertaking should make appropriate use of the procurement and grant instruments, for example by using as appropriate pre-commercial procurement and public procurement of innovative solutions.
- (29) In assessing the overall impact of the Joint Undertaking, investments from the Private Members should be taken into account, as in-kind contributions consisting of the costs incurred by them in implementing actions less the contributions by the Joint Undertaking. Those overall investments should amount to at least EUR 420 000 000.

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<sup>26</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union ([OJ L 362, 31.12.2012, p. 1](#)).

- (30) In order to maintain a level playing field for all undertakings active in the internal market, funding from the Union Framework Programmes should be compatible with the State aid principles so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, the creation of ineffective market structures or the preservation of inefficient firms.
- (31) Participation in indirect actions funded by the Joint Undertaking should comply with Regulation (EU) No 1290/2013. The Joint Undertaking should, moreover, ensure the consistent application of those rules based on relevant measures adopted by the Commission.
- (32) Provision of financial support to activities from Connecting Europe Facility programme should comply with rules of this programme.
- (33) The financial interests of the Union and of the other members of the Joint Undertaking should be protected by proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (34) The Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the Joint Undertaking should be made publicly available.
- (35) In order to facilitate its establishment, the Commission should be responsible for the establishment and initial operation of the Joint Undertaking until it has the operational capacity to implement its own budget.
- (36) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. For actions funded from the Horizon 2020 Programme, audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013. For actions funded from the Connecting Europe Facility Programme audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) 1316/2013.
- (37) The Commission's internal auditor should exercise the same powers over the Joint Undertaking as those exercised in respect of the Commission.
- (38) The Commission, the Joint Undertaking, the Court of Auditors and OLAF should get access to all necessary information and the premises to conduct audits and investigations on the grants, contracts and agreement signed by the Joint Undertaking.
- (39) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities.
- (40) All calls for proposals and all calls for tender under the Joint Undertaking should take into account the duration of the Horizon 2020 Framework Programme and Connecting Europe Facility Programme, as appropriate, except in duly justified cases.
- (41) The Joint Undertaking should also use the electronic means managed by the Commission to ensure openness, transparency and facilitate participation in it. Therefore, the calls for proposals launched by the Joint Undertaking under Horizon

2020 funding programme should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the Joint Undertaking for inclusion in Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

- (42) Since the objective of this Regulation, namely the strengthening of industrial research and innovation, the acquisition of pre-exascale supercomputers, and access to High Performance Computing and data infrastructure across the Union by means of the implementation, by the Joint Undertaking, cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding unnecessary duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Establishment**

- (1) For the implementation of the Initiative on 'European High Performance Computing' a Joint Undertaking within the meaning of Article 187 of the Treaty (the 'European High performance Computing Joint Undertaking', hereinafter referred to as "Joint Undertaking"), is hereby established for a period until 31 December 2026.
- (2) In order to take into account the duration of the European Framework Programmes for Research and Innovation (Horizon 2020), established by Regulation (EU) No 1291/2013 and the Connecting Europe Facility (CEF), established by Regulation (EU) No 1316/2013, calls for proposals and calls for tenders under this Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals or calls for tender may be launched by 31 December 2021.
- (3) The Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership as referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
- (4) The Joint Undertaking shall have legal personality. In all Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
- (5) The seat of the Joint Undertaking shall be located in Luxembourg.
- (6) The Statutes of the Joint Undertaking ('the Statutes') are set out in the Annex.

#### *Article 2*

##### **Definitions**

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

- (1) "acceptance test" means a test conducted to determine if the requirements of the system specification are met.
- (2) "access time" means the computing time of a supercomputer that is made available to a user or a group of users to execute their programmes.
- (3) "affiliated" entity means an entity as defined in Article 2(1)(2) of Regulation 1290/2013.
- (4) "constituent entities" mean the entities that constitute each private member of the Joint Undertaking, as defined in that private member's statutes.
- (5) "exascale" means a performance level of computing systems capable of executing ten to the power of eighteen operations per second (or 1 Exaflop).
- (6) "hosting agreement" means an agreement, which may take the form of a service contract or other contract, concluded between the Joint Undertaking and a hosting entity to operate the pre-exascale supercomputers acquired by the Joint Undertaking.
- (7) "hosting entity" means a legal entity established in a Member State participating in the Joint Undertaking which includes facilities to host and operate a pre-exascale supercomputer.
- (8) "Participating States" means the countries that are members of the Joint Undertaking.
- (9) "petascale" means a performance level of computing systems capable of executing ten to the power of fifteen operations per second (or 1 Petaflop).
- (10) "pre-exascale" means a performance level of computing systems capable of executing more than 100 Petaflops and less than 1 Exaflop).
- (11) 'Private Members' means the private associations that are members of the Joint Undertaking.
- (12) "supercomputer" means any computing system having at least petascale computing performance.
- (13) "user" means any natural or legal person, entity or international organisation that has been granted access time to use a Joint Undertaking supercomputer.

### *Article 3*

#### **Objectives**

- (1) The Joint Undertaking shall have the following overall objectives:
  - (a) to provide scientists, industry and the public sector from the Union or an Associated Country to Horizon 2020 with latest High Performance Computing and Data Infrastructure and support the development of its technologies and its applications across a wide range of fields.
  - (b) to provide a framework for acquisition of an integrated world-class pre-exascale supercomputing and data infrastructure in the Union;
  - (c) to provide Union level coordination and adequate financial resources to support the development and acquisition of such infrastructure, which will be accessible to users from the public and private sector primarily for research and innovation purposes;

- (d) to support the development of an integrated High Performance Computing ecosystem in the Union covering all scientific and industrial value chain segments notably hardware, software, applications, services, engineering, interconnections, know-how and skills.
- (2) The Joint Undertaking shall have the following specific objectives:
- (a) to contribute to the implementation of Regulation (EU) No 1291/2013 and Decision 2013/743/EU, in particular Part II thereof, and to the implementation of Regulation (EU) No 1316/2013 and (EU) No 283/2014;
  - (b) to align strategies between Member States and the Union in a coordinated European High Performance Computing strategy and contribute to the effectiveness of public support by avoiding unnecessary duplication and fragmentation of efforts;
  - (c) to pool Union resources, national resources and private investment and bring the investments in High Performance Computing to a level comparable with its global competitors;
  - (d) to build and operate a leading-class integrated supercomputing and data infrastructure across the Union as an essential component for scientific excellence, and for the digitisation of industry, and the public sector, and for strengthening the innovation capabilities and global competitiveness for creating economic and employment growth in the Union;
  - (e) to provide access to High Performance Computing-based infrastructures and services to a wide range of users from the research and scientific community as well as the industry including SMEs, and the public sector, for new and emerging data and compute-intensive applications and services;
  - (f) to bridge the gap between research and development and the delivery of exascale High Performance Computing systems reinforcing the digital technology supply chain in the Union and enabling the acquisition by the Joint Undertaking of leadership-class supercomputers;
  - (g) to achieve excellence in High Performance Computing applications for world-class performance through development and optimisation of codes and applications in a co-design approach, supporting Centres of Excellence in High Performance Computing applications and large-scale High Performance Computing-enabled pilot demonstrators and test-beds for big data applications and services in a wide range of scientific and industrial areas;
  - (h) to interconnect and federate regional, national and European High Performance Computing supercomputers and other computing systems, data centres and associated software and applications;
  - (i) to increase the innovation potential of industry, and in particular of SMEs, using advanced High Performance Computing infrastructures and services;
  - (j) to improve understanding of High Performance Computing and contribute to reducing skills gaps in the Union related to High Performance Computing;
  - (k) to widen the scope of High Performance Computing usage.

#### *Article 4*

#### **Union's financial contribution**

- (1) The Union financial contribution to the Joint Undertaking including EFTA appropriations shall be up to EUR 486 000 000, distributed as follows:
  - (a) EUR 386 000 000 from the Horizon 2020 Programme, including up to EUR 10 000 000 for administrative costs;
  - (b) EUR 100 000 000 from the CEF Programme;
- (2) The Union's financial contribution referred to in point (a) of paragraph 1 shall be paid from the appropriations in the general budget of the Union allocated to the Specific Programme, implementing Horizon 2020, established by Decision 743/2013/EU.
- (3) The Union's financial contribution referred to in point (b) of paragraph 1 shall be paid from the appropriations in the general budget of the Union allocated to the Connecting Europe Facility Programme established by Regulation (EU) No 1316/2013 and shall be dedicated exclusively to the acquisition of infrastructure.
- (4) The budget implementation as regards the Union's financial contribution shall be entrusted to the Joint Undertaking acting as a body referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 in accordance with point (c)(iv) of Article 58(1), and Articles 60 and 61 of that Regulation.
- (5) The arrangements for the Union's financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the Joint Undertaking.
- (6) The delegation agreement referred to in paragraph 5 shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012 as well as, inter alia, the following:
  - (a) the requirements for the Joint Undertaking's contribution concerning the relevant performance indicators referred to in Annex II to Decision 2013/743/EU;
  - (b) the requirements for the Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision 2013/743/EU;
  - (c) the specific performance indicators related to the functioning of the Joint Undertaking;
  - (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations as referred to in Article 28 of Regulation (EU) No 1291/2013 and Article 28 of Regulation No (EU) 1316/2013, including on the single portal for participants as well as through other electronic means of dissemination managed by the Commission;
  - (e) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations as referred to in Article 8 of Regulation (EU) No 283/2014;
  - (f) provisions for the publication of calls for proposals of the Joint Undertaking also on the single portal for participants as well as through other electronic means of dissemination managed by the Commission;

- (g) provisions for the publication of tenders for procurement of the Joint Undertaking in the Official Journal as well as through other electronic means of dissemination managed by the Commission;
- (h) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

#### *Article 5*

##### **Contributions of members other than the Union**

- (1) The Participating States shall make a contribution to the operational and administrative costs of the Joint Undertaking for at least EUR 486 000 000, including EUR 10 000 000 for administrative costs.
- (2) The Private Members of the Joint Undertaking shall make or arrange for their constituent entities and affiliated entities to make contributions for at least EUR 422 000 000 to the Joint Undertaking , including EUR 2 000 000 for administrative costs.
- (3) The contributions referred to in paragraphs 1 and 2 shall consist of contributions to the Joint Undertaking as set out in Article 15 of the Statutes.
- (4) The members of the Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board on the value of the contributions referred to in paragraphs 1 and 2 made in each of the previous financial years.
- (5) For the purpose of valuing the contributions referred to in points (d), (e) and (f) of Article 15(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the Joint Undertaking, should there be any uncertainty arising from the certification. In case of remaining uncertainties, the valuation method may be audited by the Joint Undertaking.
- (6) The Commission may terminate, proportionally reduce or suspend the Union's financial contribution to the Joint Undertaking or trigger the winding-up procedure referred to in Article 25 of the Statutes if members other than the Union, including their constituent entities and affiliated entities, do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraphs 1 and 2 of this Article.

#### *Article 6*

##### **Hosting entity**

- (1) The Joint Undertaking shall entrust the operation of each individual pre-exascale supercomputer it owns to a hosting entity selected in accordance with paragraph 3 and the Joint Undertaking's financial rules referred to in Article 11.
- (2) Pre-exascale supercomputers shall be located in a Participating State that is a Member State of the Union. A Member State shall not host more than one pre-exascale supercomputer.



- (3) The hosting entity shall be selected by the Governing Board, based, inter alia on the following criteria:
- (a) compliance with the general system specifications defined in the selection procedure;
  - (b) total cost of acquiring, operating and maintaining the pre-exascale supercomputer, splitting capital expenditure (CAPEX) and operational expenditure (OPEX);
  - (c) experience of the hosting entity in installing and operating similar systems;
  - (d) quality of the hosting facility's physical and IT infrastructure, its security and its connectivity with the rest of the Union;
  - (e) quality of service to the users, namely capability to comply with the service-level-agreement provided among the documents accompanying the selection procedure.
  - (f) prior acceptance from the hosting entity of the essential terms and conditions set out in the draft hosting agreement including in particular the elements set out in Article 7(1) and those defined in the selection procedure;
  - (g) provision of a supporting document proving the commitment of the Member State where the hosting entity is established to cover all the costs related to the operation of the pre-exascale supercomputer until its ownership is transferred by the Joint Undertaking to that hosting entity;
- (4) The Joint Undertaking shall conclude a hosting agreement with each selected hosting entity prior to launching the procedure for the acquisition of the pre-exascale supercomputers.

#### *Article 7*

#### **Hosting agreement**

- (1) The hosting agreement shall address in particular the following:
- (a) the responsibilities of the hosting entity during the procedure for acquisition of the pre-exascale supercomputers, including the acceptance test of those supercomputers;
  - (b) the liability conditions for operating the pre-exascale supercomputer acquired by the Joint Undertaking;
  - (c) the quality of service offered to the users when operating the pre-exascale supercomputer, as set out in the service level agreement;
  - (d) the access conditions to the pre-exascale supercomputer, as decided by the Governing Board, in accordance with Article 9;
  - (e) the accounting modalities of the access times;
  - (f) the operation and maintenance costs to be covered by the Participating States;
  - (g) the conditions for the transfer of ownership referred to in Article 8(2);
  - (h) the obligation of the hosting entity to provide access to the pre-exascale supercomputers, while ensuring the security of the pre-exascale supercomputers, the protection of personal data in accordance with Regulation

(EU) No 2016/679, of privacy of electronic communications in accordance with Directive 2002/58/EC, of trade secrets in accordance with Directive (EU) 2016/943 and the protection of confidentiality of other data covered by the obligation of professional secrecy;

- (i) the obligation of the hosting entity to put in place a certified audit procedure covering the operational expenses of the Joint Undertaking's supercomputer and the access-times of the users;
  - (j) the obligation of the hosting entity to submit an audit report and data on access time once a year to the Governing Board.
- (2) The hosting agreement shall be governed by Union law, supplemented if necessary by the national law of the Member State where the hosting entity is seated.
  - (3) The hosting agreement shall contain an arbitration clause giving jurisdiction to the Court of Justice of the European Union.
  - (4) After the hosting agreement is concluded the Joint Undertaking, supported by the selected hosting entity, shall launch the procedures for the acquisition of the pre-exascale supercomputer in accordance with the financial rules of the Joint Undertaking referred to in Article 11.

#### *Article 8*

##### **Acquisition and ownership of the pre-exascale supercomputers**

- (1) The Union financial contribution referred to in Article 4(1) shall only cover the acquisition costs of the supercomputers, not their operational costs.
- (2) The Joint Undertaking shall be the owner of the pre-exascale supercomputers and associated infrastructure.
- (3) Without prejudice to Article 24(4) of the Statutes, at the earliest four years after the successful acceptance test by the Joint Undertaking of the pre-exascale supercomputers installed in a hosting entity the property of the pre-exascale supercomputer may be transferred to that hosting entity upon decision of the Governing Board. In this case the hosting entity shall reimburse the Joint Undertaking the residual value of the supercomputers that is transferred.

#### *Article 9*

##### **Access to the supercomputers**

- (1) The access to the supercomputers shall be primarily for research and innovation purposes falling under public funding programmes and shall be open to users from the public and private sectors.
- (2) The Governing Board shall define the general access conditions and may define specific access conditions for different types of users or applications. The quality of service shall be the same for all users.
- (3) Without prejudice to international agreements concluded by the Union, only users residing, established or located in a Member State or in a country associated to Horizon 2020, shall be granted access time, except if decided otherwise by the Governing Board in duly justified cases, taking into account the interests of the Union.

## *Article 10*

### **Access time to the supercomputers**

- (1) Users shall be granted access to the supercomputers in accordance with paragraphs 2 and 3 of this Article.
- (2) The share of the Union's access time to each pre-exascale supercomputer shall be directly proportional to the financial contribution of the Union to its acquisition cost in relation to the total cost of acquisition and operation of the pre-exascale supercomputer. The Governing Board shall define the access rights to the Union's share of access time.

Each Participating State shall be allocated a share of access time to each pre-exascale supercomputer that shall be directly proportional to the total value of its financial and in-kind contributions for the acquisition and operation costs of the pre-exascale supercomputer. Without prejudice of Article 12(3) the Participating State shall be responsible for defining the access rights for the users, in accordance with the access conditions defined by the Governing Board in accordance with Article 9(2).

## *Article 11*

### **Financial rules**

The Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014<sup>27</sup>.

## *Article 12*

### **Commercial services**

- (1) Specific conditions shall apply to industrial users applying for access right for private research purposes, non-research and innovation purposes or commercial purposes. This commercial service shall be a paying service, based on market prices. The level of the fee shall be established by the Governing Board.
- (2) Revenues generated shall constitute a revenue for the Joint Undertaking budget that shall be used exclusively to cover operational costs of the Joint Undertaking.
- (3) The total access time allocated to commercial services shall not exceed 10% of the total available access time of each supercomputer. The Governing Board shall decide on the allocation of the access time for commercial services.
- (4) The quality of commercial services shall be the same for all users.

## *Article 13*

### **Staff**

- (1) The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom,

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<sup>27</sup> Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ([OJ L 38, 7.2.2014, p. 2](#)).

ECSC) No 259/68<sup>28</sup> ('Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying the Staff Regulations and Conditions of Employment shall apply to the staff of the Joint Undertaking.

- (2) The Governing Board shall exercise, with respect to the staff of the Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment on the Authority empowered to conclude contracts ('the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases the Governing Board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the Joint Undertaking other than the Executive Director.

- (3) The Governing Board shall adopt appropriate implementing rules giving effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.
- (4) The staff resources shall be set out in the staff establishment plan of the Joint Undertaking, indicating the number of temporary posts by function group and by grade, as well as by the number of contract staff expressed in full-time equivalents, in accordance with its annual budget.
- (5) The staff of the Joint Undertaking shall consist of temporary staff and contract staff.
- (6) All costs related to staff shall be borne by the Joint Undertaking.

#### *Article 14*

##### **Seconded national experts and trainees**

- (1) The Joint Undertaking may make use of seconded national experts and trainees not employed by the Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff resources as referred to in Article 13(4) in accordance with the annual budget.
- (2) The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the Joint Undertaking and on the use of trainees.

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<sup>28</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission ([OJ L 56, 4.3.1968, p. 1](#)).

## *Article 15*

### **Privileges and Immunities**

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and Treaty on the Functioning of the European Union, shall apply to the Joint Undertaking and its staff.

## *Article 16*

### **Liability of the Joint Undertaking**

- (1) The contractual liability of the Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
- (2) In the event of non-contractual liability, the Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
- (3) Any payment by the Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in that connection shall be considered as expenditure of the Joint Undertaking and shall be covered by its resources.
- (4) The Joint Undertaking shall be solely responsible for meeting its obligations.
- (5) The Joint Undertaking shall not be liable for the operation of the supercomputers it owns by the hosting entity.

## *Article 17*

### **Evaluation**

- (1) By 30 June 2022 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the Joint Undertaking, which shall assess in particular the level of participation in, and contribution to, the actions by the Participating States, the Private Members and their constituent entities and affiliated entities, and also by other legal entities. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2022.
- (2) On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 5(6) or take any other appropriate action.
- (3) Within six months after the winding-up of the Joint Undertaking, but no later than two years after the triggering of the winding-up procedure referred to in Article 24 of the Statutes, the Commission shall conduct a final evaluation of the Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

## *Article 18*

### **Jurisdiction of the Court of Justice of the European Union and applicable law**

- (1) The Court of Justice of the European Union shall have jurisdiction:

- (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the Joint Undertaking, or in its decisions;
  - (b) in disputes relating to compensation for damage caused by the staff of the Joint Undertaking in the performance of their duties;
  - (c) in any dispute between the Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.
- (2) Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the Joint Undertaking is located shall apply.

#### *Article 19*

##### **Ex-post audits**

- (1) Ex-post audits of expenditure on actions funded by the Horizon 2020 budget shall be carried out by the Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013.
- (2) Ex-post audits of expenditure on activities funded by the CEF budget shall be carried out by the Joint Undertaking in accordance with Article 24 of Regulation (EU) No 1316/2013 as part of CEF actions.
- (3) The Commission may decide to carry out itself the audits referred to in paragraph 1 and 2. In such cases, it shall do so in accordance with the applicable rules, in particular Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013, (EU) No 1291/2013 and (EU) No 1316/2013.

#### *Article 20*

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

- (1) The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative sanctions.
- (2) The Joint Undertaking shall grant Commission staff and other persons authorised by the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format that is needed in order to conduct their audits.
- (3) The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96<sup>29</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>30</sup> with a view

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<sup>29</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ([OJ L 292, 15.11.1996, p. 2](#)).

<sup>30</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing

to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or a contract funded, directly or indirectly, in accordance with this Regulation.

- (4) Without prejudice to paragraphs 1, 2 and 3, contracts and grant agreements, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations in accordance with their respective competences. Where the implementation of an action is outsourced or sub-delegated, in whole or in part, or where it requires the award of a procurement contract or financial support to a third party, the contract, grant agreement shall include the contractor's or beneficiary's obligation to impose on any third party involved explicit acceptance of those powers of the Commission, the Joint Undertaking, the Court of Auditors and OLAF.
- (5) The Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls..
- (6) The Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-Fraud Office (OLAF)<sup>31</sup>. The Joint Undertaking shall adopt the necessary measures to facilitate internal investigations conducted by OLAF.

#### *Article 21*

#### **Confidentiality**

Without prejudice to Article 22, the Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its members or of participants in the activities of the Joint Undertaking.

#### *Article 22*

#### **Transparency**

- (1) Regulation (EC) No 1049/2001 of the European Parliament and of the Council<sup>32</sup> shall apply to documents held by the Joint Undertaking.
- (2) The Joint Undertaking's Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.
- (3) Without prejudice to Article 18 of this Regulation, decisions taken by the Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 of the Treaty.

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Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 ([OJ L 248, 18.9.2013, p. 1](#)).

<sup>31</sup> OJ L 136, 31.5.1999, p. 15.

<sup>32</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([OJ L 145, 31.5.2001, p. 43](#))

### *Article 23*

#### **Rules for participation and dissemination applicable to indirect actions funded under the Horizon 2020 programme**

Regulation (EU) No 1290/2013 shall apply to the indirect actions funded by the Joint Undertaking from the Horizon 2020 funding programme. In accordance with that Regulation, the Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in Article 1 of the Statutes.

### *Article 24*

#### **Rules applicable to the activities funded under CEF programme**

Regulation (EU) No 1316/2013 shall apply to the activities funded by the Joint Undertaking from the CEF funding programme.

### *Article 25*

#### **Support from the host Member State**

An administrative agreement may be concluded between the Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the Joint Undertaking.

### *Article 26*

#### **Initial Actions**

- (1) The Commission shall be responsible for the establishment and initial operation of the Joint Undertaking until it has the operational capacity to implement its own budget. The Commission shall carry out, in accordance with Union law, all necessary actions in collaboration with the other members and with the involvement of the competent bodies of the Joint Undertaking.
- (2) For the purpose of paragraph 1:
  - (a) until the Executive Director takes up his duties following his/her appointment by the Governing Board in accordance with Article 7 of the Statutes, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director who may be assisted by a limited number of Commission officials;
  - (b) by derogation from Article 13(2) of this Regulation, the interim Director shall exercise the appointing authority powers;
  - (c) the Commission may assign a limited number of its officials on an interim basis.
- (3) The interim Executive Director may authorise all payments covered by the appropriations provided in the annual budget of the Joint Undertaking once approved by the Governing Board and may conclude agreements, decisions and contracts, including staff contracts following the adoption of the Joint Undertaking's staff establishment plan.
- (4) The interim Executive Director shall determine, in common accord with the Executive Director of the Joint Undertaking and subject to the approval of the Governing Board, the date on which the Joint Undertaking shall have the capacity to



implement its own budget. From that date onwards, the Commission shall abstain from making commitments and executing payments for the activities of the Joint Undertaking.

*Article 27*

**Entry into force**

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 Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
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### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on operational appropriations*
  - 3.2.3. *Estimated impact on appropriations of an administrative nature*
  - 3.2.4. *Compatibility with the current multiannual financial framework*
  - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Common European initiative on High Performance Computing- "EuroHPC"

#### 1.2. Policy area(s) concerned

Policy area: Digital Single Market

Activity: European Data Infrastructure

#### 1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>33</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

The EuroHPC Joint Undertaking will draw its funds from the current Multiannual Financial Framework budgets already committed for High Performance Computing related activities in the different work-programmes of the last two years of Horizon 2020 and the Connecting Europe Facility.

#### 1.4. Objective(s)

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

- (a) Provide scientists, industry and the public sector from the Union or an Associated Country to Horizon 2020 with latest High Performance Computing and Data Infrastructure and support the development of its technologies and its applications across a wide range of fields.
- (b) Provide a framework for acquisition of an integrated world-class pre-exascale supercomputing and data infrastructure in Europe;
- (c) Provide Union level coordination and adequate financial resources to support the development and acquisition of such infrastructure, which will be accessible to public and private users from the public and private sector primarily for research and innovation purposes;
- (d) Support the development of an integrated European High Performance Computing and Big Data infrastructure ecosystem covering all scientific and industrial value chain segments notably hardware, software, applications, services, engineering, interconnections, know-how and skills.

<sup>33</sup>

As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

#### 1.4.2. *Specific objective(s)*

- (a) Contribute to the implementation of Regulation (EU) No 1291/2013 and Decision 2013/743/EU, in particular Part II thereof, and to the implementation of Regulation (EU) No 1316/2013 and (EU) No 283/2014;
- (b) Align strategies between Member States and the Union in a coordinated European High Performance Computing strategy and contribute to the effectiveness of public support by avoiding unnecessary duplication and fragmentation of efforts;
- (c) Pool Union resources, national resources and private investment and bring the investments in High Performance Computing to a level comparable with its global competitors;
- (d) Build and operate a leading-class integrated supercomputing and data infrastructure across the Union as an essential component for scientific excellence, and for the digitisation of European industry, and the public sector, and for strengthening the innovation capabilities and global competitiveness for creating economic and employment growth in the Union;
- (e) Provide access to High Performance Computing-based infrastructures and services to a wide range of research, scientific and industrial users from the research and scientific community as well as the industry including SMEs, and the public sector, for new and emerging data and compute-intensive applications and services;
- (f) Bridge the gap between research and development and the delivery of exascale High Performance Computing systems reinforcing the digital technology supply chain in the Union and enabling the acquisition by the Joint Undertaking of leadership-class supercomputers;
- (g) Achieve excellence in High Performance Computing applications for world-class performance through development and optimisation of codes and applications in a co-design approach, supporting Centres of Excellence in High Performance Computing applications and large-scale High Performance Computing-enabled pilot demonstrators and test-beds for big data applications and services in a wide range of scientific and industrial areas;
- (h) Interconnect and federate regional, national and European High Performance Computing supercomputers and other computing systems, data centres and associated software and applications;
- (i) Increase the innovation potential of industry, and in particular of SMEs, using advanced High Performance Computing infrastructures and services;
- (j) Improve understanding of High Performance Computing and contribute to reducing skills gaps in the Union related to High Performance Computing;
- (k) Widen the scope of High Performance Computing usage.

#### 1.4.3. *Expected result(s) and impact*

The EuroHPC initiative will enable Member States to coordinate together with the Commission their HPC investments and strategies. The end goal is to establish in the EU a world-class HPC and data infrastructure that Member States on their own cannot afford – in particular those with little or no significant HPC resources in place.

Member States will benefit from a world-class competitive infrastructure to provide improved public services and to support key policy making, e.g. strategic decision-making for energy, smart cities, civil protection, climate change, national security, cyber-criminality.

EuroHPC will provide European scientists with a world-class infrastructure, ensuring a European-wide access to supercomputers and data with a guaranteed high level of resources, indispensable to stay competitive in science.

Industry will see a reduction of R&D costs and development cycles, and produce higher quality products and services, for example in manufacturing and engineering industries (e.g. automotive, aerospace), health and pharma (e.g. drug discovery), energy (e.g. discovery of oil and gas resources, renewable energy generation and distribution). The initiative will also pave the way for new business and innovative applications in high added-value areas (e.g., in personalized medicine, bio-engineering, smart cities/autonomous transport, etc.), reinforcing the industrial innovation capabilities, in particular of SMEs.

European-wide initiative with a focus on the supply of a European source of HPC technology such as EuroHPC will have the necessary critical mass and a catalytic effect on the European suppliers. EuroHPC will provide a clear roadmap for technological implementation of leading-edge technologies in Europe and their integration in European systems, providing a unique opportunity for industry, including SMEs, to participate in the co-design and development of such new technologies and systems, and to develop IPR and solutions to be further used in their business endeavours. The benefits of this IPR will not be limited to HPC, but will span to broader sectors such as e.g. the ICT market within a few years of their introduction in high-end HPC – giving a competitive advantage to those developing them at an early stage.

EuroHPC would positively impact the workings of the European Commission. Currently, some the activities that EuroHPC will undertake are implemented through four different work-programme parts (e-infrastructures, FET, and LEIT in Horizon 2020, and through the Connecting Europe Facility annual Calls). This implementation of the HPC strategy is particularly complex (e.g. discussion with four committee configurations, synchronisation of budgets and activities with diverse budgetary and time constraints, etc.). The EuroHPC will provide a single structure to coordinate the different activities in synergy, and more importantly, will provide a single forum for strategic discussions with Member States and leverage EU and national efforts and resources.

EuroHPC will provide the appropriate frame to strategically plan for the further development of the European supercomputing centres, for example with a necessary European-wide planning of the different architectures across Europe (avoiding isolated and uncoordinated procurements that may end up in dependencies on single vendors and technological suppliers). In addition, the EuroHPC initiative will support the federation of these top-leading centres with a wider range of national (Tier-1) and regional (Tier-2) centres, providing a real pan-European infrastructure capable of responding to the increasing demands of scientific, industrial, public sector users, and other stakeholders.

#### 1.4.4. *Indicators of results and impact*

- At least two pre-exascale computers jointly procured by 2019/2020.
- Computing hours made available for European researchers increase with respect to the hours currently available through PRACE.
- Oversubscription of the systems made available at European level significantly decrease below the oversubscription level of the PRACE Tier-0 in 2018.

- The number of user communities served and number of scientists getting access to the European pre-exascale machines, compared to the number of scientists having to look for computing resources outside the EU increases above the level of 2018.
- Degree of integration of European technology in the jointly procured machines, stemming from R&D developed with European funding programs.
- Competitiveness of European suppliers increases, measured in terms of global market share of European HPC systems, components and tools, and in terms of share of European R&D results taken up by industry.
- Number of start-ups created out of HPC research.
- Contribution to next generation HPC technologies, measured in terms of patents, scientific publications and commercial products.
- Number of European applications adapted to exascale systems.
- Number of scientists, students, users (industrial and public administrations) trained.

**1.5. Quantitative and qualitative improvement of the services offered to scientific communities compared to the current services offered by organisations like PRACE). Grounds for the proposal/initiative**

*1.5.1. Requirement(s) to be met in the short or long term*

The overarching objective is to provide European scientists, industry and the public sector with the latest HPC and data infrastructure and support the development of its technologies and applications across a wide range of fields. To reach this objective the following activities are foreseen:

1. Provide a procurement framework for an integrated, world-class, exascale supercomputing and data infrastructure in Europe.
2. Provide an EU level coordination and adequate financial resources to support the development and procurement of such an infrastructure;
3. Support the research and development of an integrated European HPC ecosystem, covering all scientific and industrial value chain segments (hardware, software, applications, services, interconnections and skills).

*1.5.2. Added value of Union involvement*

Reasons for action at European level (ex-ante)

The fragmentation of public HPC services across the EU and within MS leads to inefficient use of resources and only partial cross-border exchange of expertise. The increasing costs of building and maintaining HPC infrastructures require stronger governance at EU level and the rationalisation of HPC resources to reduce the current fragmentation.

HPC is an essential instrument to address societal challenges like health and security. Both are policies of shared European interest, as exemplified in the NIS Directive or the Cybersecurity Communication, addressing issues that do not stop at national borders. The level of security or the quality of public health in one MS depends from the situation in the rest of the EU.

HPC is fundamental to build the data economy. Controlling how the data is used, who has the ownership and right for exploitation, where it is stored, and who has access to it are sensitive

issues. It touches commercial and copyright issues, but also data protection and privacy issues. All these issues have been identified as political priorities in the Digital Single Market (DSM). Sending sensitive European data for processing in other regions of the world, where the high European standards of privacy, data protection, copyright, etc. are not necessarily respected, undermines the intention to gain sovereignty on European data and its exploitation.

The scale of the resources that are needed to realise a sustainable exascale level HPC infrastructure and ecosystem is beyond what national governments can nowadays afford to invest. No single Member State has the financial means to acquire exascale computing capabilities and develop, acquire and operate the necessary exascale HPC ecosystem on its own and in competitive time frames with respect to the USA, China or Japan. Member States and national actors have now realised that they will only be able to remain competitive through a joint and coordinated EU-wide effort – c.f. the EuroHPC declaration of 23.03.2017.

#### Expected generated Union added value (ex-post)

Acting at EU level we allow pooling the necessary investments and create the critical mass to acquire leading, next-generation, exascale systems which are in the order of hundreds of millions of Euros. It is only by working at EU-level and combining investments, knowledge and skills that Europe has a chance to keep-up to its competitors. At the same time, pooling the investments to jointly acquire exascale machines will create significantly higher return-on-investment (ROI) for each of the partial-owners of the machines, than the ROI of the full ownership of a lesser performing machine.

Availability of top class HPC systems would enable European players to further develop a whole range of present and future scientific and industrial applications that would require exascale performance. It would permit developing the necessary expertise, skills and capabilities for programming such systems efficiently and exploiting their full potential. It will also enable all European scientists, public administrations and industry to access this infrastructure and foster a wide range of cross-border collaboration and new products and services.

By bringing together the fragmented knowledge and the expertise existing all around, Europe can build the full supply chain for HPC systems: from technology components and systems to full machines. These are at the same time essential technologies in a variety of other mass markets (such as automotive, consumer electronics, servers, etc.). The transition to exascale computing, supported by joint EU/MS investments acting as lead market users, would provide an opportunity for the European supply industry to leverage on such investments and get access to new markets estimated to EUR 1 trillion.

Overall, the creation of a globally competitive HPC environment in Europe, triggered by public intervention, creates goods and services that are of a truly public value for European science and industry: It will help the private and the public sectors to create leading-edge science, technologies and solutions benefiting all areas of the economy and society, contributing to the EU's objectives of economic growth, jobs and competitiveness.

#### 1.5.3. *Lessons learned from similar experiences in the past*

DG CNECT has established in 2014 the ECSEL Joint Undertaking (COUNCIL REGULATION (EU) No 561/2014), as a result and merger of the two Joint Undertakings ARTEMIS and ENIAC, created in 2008. In 2017 the interim evaluation highlighted its strengths and weaknesses, which will be taken into consideration for the establishment of the EuroHPC Joint Undertaking.

The ECSEL interim evaluation revealed that the Joint Undertaking is effective in reaching its strategic objectives, similar to the intended objectives of EuroHPC:

- A tri-partite organisation of a Joint Undertaking, assembling the European Commission, the Member States and the private sector, allows strategic alignment of Member States, Industry and the European Commission.
- It mobilises large investments, in particular from the industry.
- It is successful fostering a European industry and the development of competitive, European high tech technologies.

However, the interim evaluation also identifies shortcomings that we intend to address in the establishment of the EuroHPC Joint Undertaking:

- synchronise national activities, harmonise participation rules, funding rates and procedures
- provide a global strategy and provide incentives for a more systematic take-up by industry of the European HPC R&D results.

#### 1.5.4. *Compatibility and possible synergy with other appropriate instruments*

The scope of the initiative is complementing the activities running under Industrial Leadership, Excellence in Science and Research Infrastructures within Horizon 2020, as well as the "Open Data" Digital Service Infrastructure of the Connecting Europe Facility (CEF) Program.

#### 1.6. **Duration and financial impact**

Proposal/initiative of **limited duration**

- Proposal/initiative in effect from 01/01/2019 to 31/12/2026
- Financial impact from 2019 to 2020 for commitment appropriations and from 2019 to 2026 for payment appropriations.

Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

#### 1.7. **Management mode(s) planned**<sup>34</sup>

**Direct management** by the Commission through

- executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 208 and 209;

<sup>34</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: <https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>.



- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

By 30 June 2022 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the EuroHPC Joint Undertaking, which shall assess in particular the level of participation in, and contribution to, the activities of the Joint Undertaking by the EuroHPC Participating States, the Private Members and their constituent entities and affiliated entities. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2021.

Within six months of the winding up of the Joint Undertaking, but no later than two years after the decision to wind it up, the Commission will conduct a final evaluation of the Joint Undertaking. The results of the final evaluation will be presented to the European Parliament and to the Council.

The Executive Director of the Joint Undertaking shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the EuroHPC Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the EuroHPC Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include information on the following matters:

- (a) research, development, innovation actions and procurement carried out and the corresponding expenditure;
- (b) acquisition and operation of infrastructure, including the effectively used access-times;
- (c) the proposals and tenders submitted,;
- (d) the proposals and tenders selected for funding.

### 2.2. Management and control system

#### 2.2.1. Risk(s) identified

The main risk identified is incorrect payment of expenditure to participants.

The specific risk of conflicts of interest inherent to a Public-Private Partnership is addressed by a clear separation of decision powers between the Governing Board - setting the strategy and the work plans, determining the conditions for the calls for proposals and the calls for tender and deciding on the allocation of public funding.

Insufficient contributions from the Participating States puts at risk the acquisition or operation of the pre-exascale supercomputers, either the contributions are insufficient to acquire the supercomputers, to operate them over their economic lifecycle, or the contributions are insufficient to acquire supercomputers with a performance level that would rank them among the top three in the world.

### 2.2.2. *Information concerning the internal control system set up*

The Commission's internal auditor shall exercise the same powers over the Joint Undertaking as those exercised in respect of the Commission. Moreover, the Governing Board may arrange, as appropriate, for the establishment of an internal audit capability of the Joint Undertaking.

In compliance with Article 60 of Regulation (EU, Euratom) No 966/2012, the Joint Undertaking will respect the principles of sound financial management, transparency and non-discrimination and will guarantee a level of protection of the financial interests of its members equivalent to that required under that Regulation.

Ex-post audits of expenditure on indirect actions will be carried out in compliance with the Horizon 2020 Framework Programme as part of the Horizon 2020 Framework Programme indirect actions.

In order to protect the financial interests of the Union, the Commission will in compliance with the Financial Regulation supervise the activities of the Joint Undertaking, in particular by carrying out audits and evaluations on the programme implementation, apply procedures for the examination and acceptance of the accounts and exclude from Union financing expenditure disbursements which have been made in breach of the applicable rules. It may also suspend and interrupt payments if it detects financial or administrative irregularities.

### 2.3. **Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures.*

The Commission or its representatives and the Court of Auditors have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who receive EU funds.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Regulation (Euratom, EC) No 2185/96 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European Union in connection with a grant agreement or a contract concerning EU funding.

Without prejudice to the above, grant agreements and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1a Competitiveness for growth and jobs	09 04 07 33 H2020 EuroHPC JU – Support expenditure	Diff.	YES	YES	NO	YES
	09 04 07 34 H2020 EuroHPC JU					
	09 03 05 CEF EuroHPC JU					

\* The contribution to this budget line is expected to come from:

Commitment appropriations (EUR millions)

Budget line	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	TOTAL
09 01 05 01 Expenditure related to research staff	0.306	1.401	0.000	0.000	0.000	0.000	0.000	0.000	<b>1.707</b>
09 01 05 02 External staff for research	0.314	1.996	0.000	0.000	0.000	0.000	0.000	0.000	<b>2.310</b>
09 01 05 03 Other management expenditure for research	1.675	4.308	0.000	0.000	0.000	0.000	0.000	0.000	<b>5.983</b>
09 04 01 01 Strengthening research in future and emerging technologies	68.000	100.000	0.000	0.000	0.000	0.000	0.000	0.000	<b>168.000</b>
09 04 01 02 Strengthening European research infrastructure, including e-infrastructure	8.000	80.000	0.000	0.000	0.000	0.000	0.000	0.000	<b>88.000</b>
09 04 02 01 Leadership in information and communications technology	80.000	40.000	0.000	0.000	0.000	0.000	0.000	0.000	<b>120.000</b>

09 03 Connecting Europe Facility	40.000	60.000	0.000	0.000	0.000	0.000	0.000	0.000	<b>100.000</b>
Total expenditure	<b>198.295</b>	<b>287.705</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>486.000</b>

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

Heading of multiannual financial framework	1a	Competitiveness for growth and jobs																		
		Year 2019	Year 2020 <sup>37</sup>	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	TOTAL										
EuroHPC Joint Undertaking <sup>35, 36</sup>																				
	Commitments	-1	3.581	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.261
Title 1:	Payments	-2	1.460	1.148	0.726	0.247	0.000	0.000	0.000	0.247	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.261
Title 2:	Commitments	(1a)	4.124	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	5.739
	Payments	(2a)	1.715	1.298	0.865	0.247	0.000	0.000	0.000	0.247	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	5.739
Title 3:	Commitments	(3a)	280.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	476.000
	Payments	(3b)	84.400	113.200	103.600	40.400	32.000	18.000	14.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	476.000
<b>TOTAL appropriations</b>	Commitments	= 1+1a +3a	287.705	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	486.000

EUR million (to three decimal places)

<sup>35</sup> Amounts in Titles 1 and 2 represent the EU contribution (up to 10M€) to the administrative costs of the EuroHPC Joint Undertaking. The other remaining part comes from contributions by the other EuroHPC members as shown in section 3.2.5. EU contribution is 100% in first year then progressively reduced.

<sup>36</sup> Payment appropriations for Titles 1 and 2 are based on a yearly consumption of all corresponding commitment appropriations, while for Title 3 they are determined by taking into account the nature of the indirect actions and their payment schedule (prefinancing, interim payments and payment of the balance).

<sup>37</sup> Titles 1 and 2 for year 2020 contain the commitments for the year and the frontloading of the commitments for the remaining years of the JU in the period 2021-2026.

for EuroHPC Joint Undertaking	Payments =2+2a+3b	72.695	87.575	115.645	105.191	40.894	32.000	18.000	14.000	486.000
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EUR million (to three decimal places)

DG CONNECT		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	TOTAL
Human Resources (2 FTE STATUTORY AD, 1 FTE AC) <sup>38</sup>		0.346	0.346	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	<b>0.692</b>
Other administrative expenditure		0.000	0.000	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	<b>0.000</b>
<b>TOTAL DG CONNECT</b>	Appropriations	<b>0.346</b>	<b>0.346</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>0.692</b>

Heading of multiannual financial framework	5	'Administrative expenditure'									
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EUR million (to three decimal places)

DG CONNECT		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	TOTAL
Human Resources (2 FTE STATUTORY AD, 1 FTE AC) <sup>39</sup>		0.208	0.208	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	<b>0.416</b>
Other administrative expenditure		0.000	0.000	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	<b>0.000</b>
<b>TOTAL DG CONNECT</b>	Appropriations	<b>0.208</b>	<b>0.208</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>0.416</b>

<sup>38</sup> Covering the administration of the H2020 actions. The FTE costs are determined on the basis of the average yearly cost of AD (EUR 138 000) and AST (EUR 70 000) staff.

<sup>39</sup> Covering the administration of the CEF actions. The FTE costs are determined on the basis of the average yearly cost of AD (EUR 138 000) and AST (EUR 70 000) staff.

<b>TOTAL appropriations under HEADING 5</b> of the multiannual financial framework	(Total commitments = Total payments)	<b>0.208</b>	<b>0.208</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>0.416</b>

EUR million (to three decimal places)

		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	<b>TOTAL</b>
<b>TOTAL appropriations under HEADINGS 1 to 5</b> of the multiannual financial framework	Commitments <small>=1+1a+3a</small>	<b>198.849</b>	<b>288.259</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>487.108</b>
	Payments <small>=2+2a+3b</small>	<b>73.249</b>	<b>88.129</b>	<b>115.645</b>	<b>105.191</b>	<b>40.894</b>	<b>32.000</b>	<b>18.000</b>	<b>14.000</b>	<b>487.108</b>



3.2.2. *Estimated impact on EuroHPC Joint Undertaking's appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Indicate objectives and outputs	↓	OUTPUTS										TOTAL						
		Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Number	Cost		Number	Cost	Total number	Total cost		
		Average cost																
		Type																
		SPECIFIC OBJECTIVE No 1 Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020)																
- Output		Excellent Science – Future and Emerging Technologies	9	68	10	100	0	0	0	0	0	0	0	0	0	0	19	168
- Output		Excellent Science – Research Infrastructures	1	8	1	80	0	0	0	0	0	0	0	0	0	0	2	88

- Output	Leadership in Enabling and Industrial Technologies – Information and Communication Technologies	30.0	3	80	1	40	0	0	0	0	0	0	0	0	0	0	0	0	0	4	120
Subtotal for specific objective No 1			13	156	12	220	0	0	0	0	0	0	0	0	0	0	0	0	0	25	376
SPECIFIC OBJECTIVE No 2																					
Connecting Europe Facility (CEF)																					
- Output	Information and Communication Technologies	50.0	1	40	1	60	0	0	0	0	0	0	0	0	0	0	0	0	0	2	100
Subtotal for specific objective No 2			1	40	1	60	0	0	0	0	0	0	0	0	0	0	0	0	0	2	100
<b>TOTAL COST</b>			147	196	13	280	0	0	0	0	0	0	0	0	0	0	0	0	0	27	476

### 3.2.3. Estimated impact on EuroHPC JU's human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

Staffing numbers (in headcounts / FTE)

	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	TOTAL
Officials (AD Grades)	0	0	0	0	0	0	0	0	0
Officials (AST grades)	0	0	0	0	0	0	0	0	0
Contract staff	7	10	11	11	11	9	7	5	71

Temporary staff	4	4	4	4	4	4	4	4	4	4	3	31
Seconded National Experts	0	1	1	0	0	0	0	0	0	0	0	3

<b>TOTAL</b>	11	15	16	16	15	13	11	8	105
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EUR million (to three decimal places)

	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	<b>TOTAL</b>
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Officials (AD Grades)	0	0	0	0	0	0	0	0	0
Officials (AST grades)	0	0	0	0	0	0	0	0	0
Contract staff	0.25	0.7	0.77	0.77	0.77	0.63	0.49	0.35	4.725
Temporary staff	0.28	0.552	0.552	0.552	0.552	0.552	0.552	0.414	4.002
Seconded National Experts	0	0.078	0.078	0.078	0	0	0	0	0.234

<b>TOTAL</b>	0.521	1.33	1.4	1.4	1.322	1.182	1.042	0.764	8.961
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In order to ensure headcount neutrality, in compliance with Point 27 of the Interinstitutional Agreement of 2 December 2013 which requires all institutions, bodies and agencies to reduce staff by 5%, DG CNECT will partly compensate the additional staffing in the Joint Undertaking by reducing the number of officials and external staff from its current staffing (i.e. establishment plan and external personnel currently in place). The precise modalities will have to be fine-tuned bilaterally and would have to be compatible with CNECT's headcount reduction related to the Luxembourg agreement on the establishment of a digital pole.

Estimated impact on the staff (additional FTE) – establishment plan

Function group and grade	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026
AD16								
AD15								
AD14	1	1	1	1	1	1	1	1
AD13								
AD12	1	1	1	1	2	2	2	2
AD11	1	1	1	1				
AD10								
AD9								
AD8					1	1	1	0
AD7	1	1	1	1				
AD6								
AD5								
AD Total	4	4	4	4	4	4	4	3
AST11								
AST10								
AST9								
AST8								
AST7								
AST6								
AST5								
AST4								
AST3								
AST2								
AST1								
AST Total	0	0	0	0	0	0	0	0
AST/SC 6								
AST/SC 5								
AST/SC 4								
AST/SC 3								
AST/SC 2								
AST/SC 1								
AST/SC Total	0	0	0	0	0	0	0	0

Estimated impact on the staff (additional) – external personnel

Contract agents	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026
Function group IV	1	1	1	1	1	1	1	1
Function group III	4	7	8	9	9	8	6	4
Function group II	2	2	2	1	1			
Function group I								
Total	7	10	11	11	11	9	7	5

Seconded national experts	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026
Total	0	1	1	1	0	0	0	0

Staff recruitment for 2019 (first year) are estimated to take place on average in July 2019 (i.e . only 50 % of the average cost is taken into account for that year).

### 3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026
<b>Establishment plan posts (officials and temporary staff)</b>								
09 01 01 01 (Headquarters and Commission's Representation Offices)	1	1	p.m	p.m	p.m	p.m	p.m	p.m
09 01 01 02 (Delegations)			.	.	.	.	.	.
09 01 05 01 (Indirect research)	2	2	p.m	p.m	p.m	p.m	p.m	p.m
10 01 05 01 (Direct research)			.	.	.	.	.	.
<b>External staff (in Full Time Equivalent unit: FTE) <sup>40</sup></b>								
09 01 02 01 (AC, END, INT from the 'global envelope')	1	1	p.m	p.m	p.m	p.m	p.m	p.m
09 01 02 02 (AC, AL, END, INT and JED in the Delegations)			.	.	.	.	.	.
09 01 04 yy <sup>41</sup> - at Headquarters <sup>42</sup> - in delegations								
09 01 05 02 (AC, END, INT – Indirect research)	1	1	p.m	p.m	p.m	p.m	p.m	p.m
10 01 05 02 (AC, END, INT – Direct research)			.	.	.	.	.	.
Other budget lines (specify)								
<b>TOTAL</b>	<b>5</b>	<b>5</b>	<b>p.m</b>	<b>p.m</b>	<b>p.m</b>	<b>p.m</b>	<b>p.m</b>	<b>p.m</b>

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Membership in Governance bodies and monitoring/reporting of activities
External staff	Support to Officials

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

<sup>40</sup> AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JED = Junior Experts in Delegations.

<sup>41</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

<sup>42</sup> Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

### 3.2.4. Compatibility with the current multiannual financial framework

- The proposal/initiative is compatible the current multiannual financial framework.
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>43</sup>.

### 3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	<b>TOTAL</b>
EuroHPC Member States – contribution in cash to the administrative costs	0.000	0.000	0.679	1.326	1.973	2.252	2.043	1.727	<b>10.000</b>
EuroHPC Member States – contribution in cash to the operational costs*	70.40 0	84.40 0	113.20 0	103.60 0	40.40 0	32.00 0	18.00 0	14.00 0	<b>476.00 0</b>
Private Members – contribution in cash to the administrative costs	0.000	0.000	0.136	0.265	0.395	0.450	0.409	0.345	<b>2.000</b>
<b>TOTAL appropriations co-financed</b>	<b>70.40 0</b>	<b>84.40 0</b>	<b>114.01 5</b>	<b>105.19 1</b>	<b>42.76 8</b>	<b>34.70 2</b>	<b>20.45 2</b>	<b>16.07 2</b>	<b>488.00 0</b>

\* in-kind contributions from EuroHPC Member States are also possible

<sup>43</sup> See Articles 11 and 17 of Council Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020.

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue





Brussels, 11.1.2018  
COM(2018) 8 final

ANNEX 1

**ANNEX**

**to the**

**Proposal for a Council Regulation**

**on establishing the European High Performance Computing Joint Undertaking**

{SWD(2018) 5 final} - {SWD(2018) 6 final}

# **STATUTES OF THE EuroHPC JOINT UNDERTAKING**

## Article 1

### **Tasks**

The Joint Undertaking shall carry out the following tasks:

- (a) mobilise public and private sector funds for financing the activities of the Joint Undertaking;
- (b) acquire at least two pre-exascale supercomputers that rank amongst the top ten world-wide, funded by the Union's budget stemming from the Horizon 2020, Connecting Europe Facility Programmes and contributions from the Participating States, in compliance with Joint Undertaking's rules;
- (c) initiate and manage the procedure for the acquisition of the pre-exascale supercomputers, evaluate the offers received, award of funding within the limits of available funds, monitor the implementation of the contract and manage the contracts;
- (d) select the hosting entity of the pre-exascale supercomputers , in accordance with its financial rules referred to in Article 11 of this Regulation;
- (e) establish a hosting agreement in accordance with its financial rules referred to in Article 11 of this Regulation with the hosting entity for the operation and maintenance of the pre-exascale supercomputers and monitor the contractual compliance with the hosting agreement, including the acceptance test of the acquired supercomputers;
- (f) provide financial support to the acquisition of at least two peta-scale supercomputers;
- (g) define general and specific access conditions to the supercomputers and monitor access to the supercomputers;
- (h) provide financial support, mainly in the form of grants, focusing on developing the next generation of key High Performance Computing technologies and systems towards exascale addressing the whole European technology spectrum from low-power microprocessors and related technologies to software, algorithms, programming models and tools, to novel architectures and their system integration through a co-design approach.
- (i) provide financial support, mainly in the form of grants, focusing on applications, outreach activities, awareness raising actions and professional development activities for attracting human resources to High Performance Computing, as well as increasing skills and engineering know-how of the ecosystem;
- (j) initiate open calls for proposals and award funding to research, development and innovation actions within the limits of available funds;
- (k) monitor the implementation of the actions and manage grant agreements;
- (l) ensure sustainable management of the Joint Undertaking;
- (m) monitor overall progress towards achieving the objectives of the Joint Undertaking;

- (n) develop close cooperation and ensure coordination with Union and national activities, bodies and stakeholders, creating synergies and improving exploitation of research and innovation results in the area of high performance computing;
- (o) define the multiannual strategic plan, draw up and implement the corresponding work plans for their execution and make any necessary adjustments to the multiannual strategic plan;
- (p) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (q) any other task needed to achieve the objectives set out in Article 3 of this Regulation.

## Article 2

### Members

- (1) The members of the Joint Undertaking shall be:
  - (a) the Union, represented by the Commission;
  - (b) Belgium, Bulgaria, Croatia, France, Germany, Greece, Italy, Luxembourg, The Netherlands, Portugal, , Slovenia, Spain, and Switzerland;
  - (c) upon acceptance of these Statutes by means of a letter of endorsement, the European Technology Platform for High Performance Computing (ETP4HPC) Association registered under Dutch law with its registered office in Amsterdam (The Netherlands), the Big Data Value Association (BDVA) registered under Belgian law with its registered office in Brussels (Belgium).
- (2) Each Participating State shall appoint its representatives in the bodies of the Joint Undertaking and shall designate the national entity or entities responsible for fulfilling its obligations with respect to the activities of the Joint Undertaking.

## Article 3

### Changes to membership

- (1) Provided that they contribute to the funding referred to in Article 15 to achieve the objectives of the Joint Undertaking, Member States or Associated Countries that are not listed in point (b) of Article 2(1) shall become members of the Joint Undertaking upon notification to the Governing Board of their written acceptance of these Statutes and of any other provisions governing the functioning of the Joint Undertaking.
- (2) Provided that they contribute to the funding referred to in Article 15 to achieve the objectives of the Joint Undertaking set out in Article 3 of this Regulation, and accept the Statutes of the Joint Undertaking, any legal entity established in those countries that directly or indirectly supports research and innovation in a Member State or in a country associated to Horizon 2020 may apply to become a member of the Joint Undertaking.
- (3) Any application for membership of the Joint Undertaking made in accordance with paragraph 2 shall be addressed to the Governing Board. The Governing Board shall assess the application, taking into account the relevance and the potential added

value of the applicant as regards the achievement of the objectives of the Joint Undertaking and shall decide on the application.

- (4) Any member may terminate its membership of the Joint Undertaking. Such termination shall become effective and irrevocable six months after notification to the other members. As from the date of termination, the former member shall be discharged from any obligations other than those approved or incurred by the Joint Undertaking prior to the notification of termination of the membership.
- (5) Membership of the Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
- (6) Upon any change to membership pursuant to this Article, the Joint Undertaking shall immediately publish on its website an updated list of members together with the date of such change.

#### Article 4

### **Bodies of the Joint Undertaking**

The bodies of the Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Executive Director;
- (c) the Industrial and Scientific Advisory Board composed of the Research and Innovation Advisory Group and the Infrastructure Advisory Group.

#### Article 5

### **Composition of the Governing Board**

The Governing Board shall be composed of representatives of the Participating States and the Commission.

Each Participating State and the Commission shall appoint one representative who shall hold the voting rights of the Participating State and of the Commission, respectively, in the Governing Board.

#### Article 6

### **Functioning of the Governing Board**

- (1) The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible.

For the general administrative tasks referred to in Article 7(3), the voting rights of the Participating States shall be in proportion to their actual financial commitment to the activities of the Joint Undertaking over the duration of the Joint Undertaking.

- (2) For the tasks related to the implementation of the actions of the Joint Undertaking, as defined in Article 7(4), the voting rights of the Participating States shall be in proportion to their actual contributions to the activities of the Joint Undertaking over the duration of the Joint Undertaking.

Voting rights of the Participating States shall be calculated on an annual basis, taking into consideration the contributions made since their accession to the Joint Undertaking. For the calculation of the voting rights the contributions of the Participating States to the operational costs of the supercomputers acquired by the Joint Undertaking and for the contributions of the Participating States to the

acquisition costs of the petascale supercomputers shall only be taken into account if they have been certified ex-ante by an independent auditor.

The Participating States of the Joint Undertaking shall only have the right to vote on the issues related to the acquisition of a pre-exascale supercomputer by the Joint Undertaking on the condition that they provide a financial or in-kind contribution to the acquisition or operation of the pre-exascale supercomputer. In particular the Participating State shall have the right to vote on the work plan with corresponding expenditure estimates for the procurement, selection of hosting entity, the award of the contracts, the allocation of the access rights, and the transfer of ownership to the hosting entity.

The Participating States of the Joint Undertaking shall only have the right to vote on the issues related to the indirect actions implemented by the Joint Undertaking if they provide a financial contribution to the Joint Undertaking for the implementation of the corresponding parts of the workplan. In particular, in this case the Participating State shall have the right to vote on the work plan with corresponding expenditure estimates for the indirect actions, and the list of indirect actions selected for funding.

- (3) The members of the Governing Board shall make every effort to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75% of all votes, including the votes of the members who are absent.
- (4) Any member of the Joint Undertaking other than the Union that fails to meet its commitments concerning the contributions referred to in Article 5 of the Regulation within six months of the time-limit as defined by the Governing Board shall be disqualified from voting in the Governing Board and shall have no access to the pre-exascale supercomputers owned by the Joint Undertaking until such time as its obligations have been met.
- (5) The Governing Board shall elect a chair for a period of two years. The mandate of the chairperson shall be extended only once, following a decision by the Governing Board.
- (6) The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission, of a majority of the representatives of the Participating States, at the request of the chair, or at the request of the Executive Director in accordance with Article 15(5). The meetings of the Governing Board shall be convened by its chair and shall usually take place at the seat of the Joint Undertaking.

The quorum of the Governing Board shall be constituted by the Commission and at least three Participating States' representatives.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Governing Board, but shall have no voting rights. The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers.

Any Member State or Associated Country that is not a member of the Joint Undertaking may participate in the Governing Board as an observer. Observers shall receive all relevant documents and may give advice on any decision taken by the Governing Board. All such observers shall be bound by the confidentiality rules applying to the Governing Board members.

- (7) The representatives of the members shall not be personally liable for actions carried out in their capacity as representatives on the Governing Board.

- (8) The Governing Board shall adopt its own rules of procedure. These rules shall include specific procedures for identifying and avoiding conflicts of interest and ensure the confidentiality of any sensitive information.
- (9) The chair of the Research and Innovation Advisory Group, as well as the chair of the Infrastructure Advisory Group, shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

#### Article 7

#### **Tasks of the Governing Board**

- (1) The Governing Board shall have overall responsibility for the strategic orientation and the operations of the Joint Undertaking and shall supervise the implementation of its activities and shall ensure that the principles of fairness and transparency are properly applied in the allocation of public funding to participants in indirect actions.
- (2) The Commission, in its role in the Governing Board, shall seek to ensure coordination between the activities of the Joint Undertaking and the relevant activities of Union Funding Programmes with a view to promoting synergies when identifying priorities covered by collaborative research.
- (3) The Governing Board shall, in particular, carry out the following general administrative tasks of the Joint Undertaking:
  - (a) assess, accept or reject applications for a membership in accordance with Article 3(2) of these Statutes;
  - (b) decide on the termination of membership in the Joint Undertaking of any member that does not fulfil its obligations;
  - (c) adopt the financial rules of the Joint Undertaking in accordance with Article 11 of this Regulation;
  - (d) adopt the annual budget of the Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade, the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (e) exercise the appointing authority powers with respect to staff, in accordance with Article 13(2) of this Regulation;
  - (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
  - (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
  - (h) adopt the multiannual strategic plan referred to in Article 20(1);
  - (i) approve the annual activity report, including the corresponding expenditure referred to in Article 21(1);
  - (j) arrange as appropriate, for the establishment of an internal audit capability of the Joint Undertaking upon recommendation by the Executive Director;
  - (k) establish the Joint Undertaking's communications policy upon recommendation by the Executive Director;

- (l) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 13(3) of this Regulation;
  - (m) where appropriate, lay down rules on the secondment of national experts to the Joint Undertaking and on the use of trainees in accordance with Article 14(2) of this Regulation;
  - (n) where appropriate, set up advisory groups in addition to the bodies of the Joint Undertaking;
  - (o) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the Joint Undertaking;
  - (p) approve the model hosting agreement to be annexed to the documents for the procedure for the selection of the hosting entity;
  - (q) be responsible for any task that is not specifically allocated to a particular body of the Joint Undertaking; it may assign such tasks to any body of the Joint Undertaking.
- (4) The Governing Board shall, in particular, carry out the following tasks related to the operational activities of the actions of the Joint Undertaking:
- (a) adopt the work plan and the corresponding expenditure estimates referred to in Article 20(2);
  - (b) approve the launch of calls for proposals, in accordance with the work plan;
  - (c) approve the list of actions selected for funding on the basis of the ranking list produced by a panel of independent experts;
  - (d) approve the launch of calls for tenders, in accordance with the work plan;
  - (e) approve the tenders selected for funding
  - (f) define general and specific access conditions on how the users from academia, the public sector and industry can access the Joint Undertaking's infrastructure, including the pricing for paying services;
  - (g) define the access rights to the Union's share of access time of the peta-scale supercomputers for which the Joint Undertaking provides a financial contribution;
  - (h) define the access rights to the Unions share of access time of the pre-exascale supercomputers;
  - (i) establish the level of the fee of the Commercial services referred to in Article 12 of this Regulation, and decide on the allocation of the access time for these paying services;
  - (j) decide annually on the use of any revenue generated by the fees for commercial services referred to in Article 12 of this Regulation;
  - (k) decide on the possible transfer of ownership of the pre-exascale supercomputers to a hosting entity, in accordance with Article 8(2) of the Regulation.

#### Article 8

## **Appointment, dismissal or extension of the term of office of the Executive Director**

- (1) The Executive Director shall be appointed by the Governing Board from a list of candidates proposed by the Commission following an open and transparent selection procedure. The Commission may associate the representation from the other members of the Joint Undertaking in the selection procedure, as appropriate.

In particular, an appropriate representation from the other members of the Joint Undertaking may be ensured at the pre-selection stage of the selection procedure. For that purpose, the Participating States shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

- (2) The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the Joint Undertaking shall be represented by the chair of the Governing Board.

- (3) The term of office of the Executive Director shall be three years. By the end of that period, the Commission, associating the Participating States and the Private Members as appropriate, shall undertake an assessment of the performance of the Executive Director and the Joint Undertaking's future tasks and challenges.
- (4) The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.
- (5) An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
- (6) The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the Participating States and the Private Members as appropriate.

### Article 9

#### **Tasks of the Executive Director**

- (1) The Executive Director shall be the chief executive responsible for the day-to-day management of the Joint Undertaking in accordance with the decisions of the Governing Board.
- (2) The Executive Director shall be the legal representative of the Joint Undertaking. The Executive Director shall be accountable to the Governing Board and perform his or her duties with complete independence within the powers assigned to him or her.
- (3) The Executive Director shall implement the budget of the Joint Undertaking.
- (4) The Executive Director shall, in particular, carry out the following tasks in an independent manner:
  - (a) consolidate and submit for adoption to the Governing Board the draft multiannual strategic plan composed of the multiannual strategic research and innovation agenda as proposed by the Industrial and Scientific Advisory Board and the multiannual financial perspectives from the Participating States and the Commission;



- (b) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (c) prepare and submit for adoption to the Governing Board the draft annual work plan including the scope of the calls for proposals and call for tenders needed to implement the research and innovation activities plan and procurement plans as proposed by the Industrial and Scientific Advisory Board and the corresponding expenditure estimates as proposed by the Participating States and the Commission;
  - (d) submit for opinion to the Governing Board the annual accounts;
  - (e) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;
  - (f) sign individual grant agreements, decisions and contracts;
  - (g) sign procurement contracts;
  - (h) monitor the operations of the peta-scale and pre-exascale supercomputers owned or funded by the Joint Undertaking (including the allocation of access times, compliance with the access rights for academic and industrial users and quality of provided services);
  - (i) implement the Joint Undertaking's communication policy;
  - (j) organise, direct and supervise the operations and the staff of the Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 13(2) of this Regulation;
  - (k) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
  - (l) ensure that risk assessment and risk management are performed;
  - (m) take any other measures needed to assess the progress of the Joint Undertaking towards its objectives as set out in Article 3 of this Regulation;
  - (n) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.
- (5) The Executive Director shall set up a Programme Office for the execution, under his or her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the Joint Undertaking and shall in particular carry out the following tasks:
- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules referred to in Article 11 of this Regulation;
  - (b) manage the calls for proposals as provided for in the work plan and administer the grant agreements and decisions;
  - (c) manage the calls for tender as provided for in the work plan and administer the contracts;
  - (d) manage the process for the selection of the hosting entity and administer the decisions;

- (e) provide the members and the other bodies of the Joint Undertaking with all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (f) act as the secretariat of the bodies of the Joint Undertaking and provide support to advisory groups set up by the Governing Board.

#### Article 10

##### **Composition of the Industrial and Scientific Advisory Board**

- (1) The Industrial and Scientific Advisory Board shall be composed of a Research and Innovation Advisory Group and an Infrastructure Advisory Group.
- (2) The Research and Innovation Advisory Group shall consist of no more than twelve members, whereof no more than six shall be appointed by the Private Members and no more than six shall be appointed by the Governing Board. The Governing Board shall establish the specific criteria and selection process for the members it appoints.
- (3) The Infrastructure Advisory Group shall consist of no more than twelve members. The Governing Board shall establish the specific criteria and selection process and shall appoint its members. Only people without a conflict of interest are eligible to become members.

#### Article 11

##### **Functioning of the Research and Innovation Advisory Group**

- (1) The Research and Innovation Advisory Group shall meet at least twice a year.
- (2) The Research and Innovation Advisory Group may appoint working groups where necessary under the overall coordination of one or more members.
- (3) The Research and Innovation Advisory Group shall elect its chair.
- (4) The Research and Innovation Advisory Group shall adopt its rules of procedure, including the nomination of the constituent entities that shall represent the Advisory Group and the duration of their nomination.

#### Article 12

##### **Functioning of the Infrastructure Advisory Group**

- (1) The Infrastructure Advisory Group shall meet at least twice a year.
- (2) The Infrastructure Advisory Group may appoint working groups where necessary under the overall coordination of one or more members.
- (3) The Infrastructure Advisory Group shall elect its chair.
- (4) The Infrastructure Advisory Group shall adopt its rules of procedure, including the nomination of the constituent entities that shall represent the Advisory Group and the duration of their nomination.

#### Article 13

##### **Tasks of the Research and Innovation Advisory Group**

The Research and Innovation Advisory Group shall:

- (a) draw up and regularly update the draft multiannual strategic research and innovation agenda referred to in Article 20 for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. This draft multiannual

strategic research and innovation agenda should identify research and innovation priorities for the development and adoption of technologies and key competences for high performance computing across different application areas in order to strengthen European competitiveness and help create new markets and societal applications. It should be reviewed regularly in accordance with the evolution of the scientific and industrial needs in Europe.

- (b) submit to the Executive Director the draft multiannual strategic research and innovation agenda as a basis for the work plan within the deadlines set by the Governing Board;
- (c) organise public consultations open to all public and private stakeholders having an interest in the field of high performance computing, to inform them about and collect feedback on the draft multiannual strategic research and innovation agenda and the draft research and innovation activities plan for a given year.

#### Article 14

##### **Tasks of the Infrastructure Advisory Group**

- (1) The Infrastructure Advisory Group shall provide advice to the Governing Board for the acquisition and operation of the pre-exascale supercomputers of the Joint Undertaking. It shall:
  - (a) draw up and regularly update the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers referred to in Article 20 for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. This draft multiannual strategic plan should include the specifications for the selection of the hosting entities and the planning for the acquisition of infrastructure; for these, it should identify needed capacity increases, the types of applications and user communities to be addressed, the system architectures, and the integration with national High Performance Computing infrastructures.
  - (b) submit to the Executive Director the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers as a basis for the procedures referred to in 0 within the deadlines set by the Governing Board;
  - (c) organise public consultations open to all public and private stakeholders having an interest in the field of high performance computing, to inform them about and collect feedback on the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers and related activities plan for a given year.

#### Article 15

##### **Sources of financing**

- (1) The Joint Undertaking shall be jointly funded by its members through financial contributions paid in instalments and in kind contributions as set out in paragraphs (2) and (3).
- (2) The administrative costs of the Joint Undertaking shall not exceed EUR 22 000 000 and shall be covered by means of the financial contributions referred to in Article 4(1), 5(1) and 5(2) of this Regulation.

If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the Joint Undertaking.

- (3) The operational costs of the Joint Undertaking shall be covered by means of:
- (a) the Union's financial contribution;
  - (b) financial contributions from Participating States to the Joint Undertaking;
  - (c) financial contributions from Participating States to the operational costs of a hosting entity;
  - (d) in kind contributions by the Participating States consisting of the costs incurred by the hosting entities for the operational costs of the pre-exascale supercomputers owned by the Joint Undertaking, less the contributions by the Joint Undertaking and any other Union contribution to those costs;
  - (e) in kind contributions by the Participating States consisting of the costs incurred by the supercomputing centres for the co-funding of the petascale supercomputers, less the contributions by the Joint Undertaking and any other Union contribution to those costs;
  - (f) in kind contributions by the Private Members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing actions less the contributions by the Joint Undertaking and any other Union contribution to those costs.
- (4) The resources of the Joint Undertaking entered in its budget shall be composed of the following contributions:
- (a) members' financial contributions to the administrative costs;
  - (b) members' financial contributions to the operational costs;
  - (c) any revenue generated by the Joint Undertaking;
  - (d) any other financial contributions, resources and revenues.
- Any interest yielded by the contributions paid to the Joint Undertaking shall be considered to be its revenue.
- (5) Should any member of the Joint Undertaking be in default of its commitments concerning its financial contribution, the Executive Director shall put this in writing and shall set a reasonable period within which such default shall be remedied. If the situation is not remedied within that period, the Executive Director shall convene a meeting of the Governing Board to decide whether the defaulting member's membership is to be revoked or whether any other measures are to be taken until its obligations have been met. The defaulting member's voting rights shall be suspended until the default of its commitments is remedied
- (6) The resources and activities of the Joint Undertaking shall be intended for the achievement of the objectives set out in Article 3 of this Regulation.
- (7) The Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives set out in Article 3 of this Regulation. This shall not include the supercomputers whose ownership the Joint Undertaking may have transferred to a hosting entity in accordance with Article 8 of this Regulation.
- (8) Except when the Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the Joint Undertaking.

#### Article 16

### **Contributions of the Participating States**

- (1) The Participating States shall entrust the Joint Undertaking with the implementation of their financial contributions to the Joint Undertaking.
- (2) When providing their financial contribution to the Joint Undertaking the Participating States shall include a breakdown of their contribution, specifying the contribution to
  - (a) the acquisition of supercomputers;
  - (b) the operation of supercomputers and
  - (c) the other activities to be funded by the Joint Undertaking.
- (3) The Governing Board shall establish the detailed terms and conditions for the financial contribution of the Participating States to the Joint Undertaking.

#### Article 17

#### **Financial commitments**

The financial commitments of the Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

#### Article 18

#### **Financial year**

The financial year shall run from 1 January to 31 December.

#### Article 19

#### **Operational and financial planning**

- (1) The multiannual strategic plan shall specify the strategy and plans for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. The multiannual strategic plan shall be composed by a multiannual strategic research and innovation agenda and a multiannual strategic agenda for the acquisition of supercomputers from the Industrial and Scientific Advisory Board and multiannual financial perspectives from the Participating States and the Commission.
- (2) The Executive Director shall submit to the Governing Board for adoption a draft annual or multiannual work plan which shall include the research and innovation activities plan, the procurement plan, the administrative activities and the corresponding expenditure estimates.
- (3) The work plan shall be adopted by the end of the year prior to its implementation. The work plan shall be made publicly available.
- (4) The Executive Director shall prepare the draft annual budget for the following year and shall submit it to the Governing Board for adoption.
- (5) The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
- (6) The annual budget shall be adapted in order to take into account the amount of the Union's financial contribution as set out in the Union budget.

#### Article 20

#### **Operational and financial reporting**

- (1) The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
  - (b) acquisition and operation of infrastructure, including the use of and access to the infrastructure, including the access-times effectively used by each Participating State;
  - (c) the proposals and tenders submitted, including a breakdown by participant type, including SMEs, and by country;
  - (d) the proposals selected for funding, with a breakdown by participant type, including SMEs, and by country, and indicating the contributions of the Joint Undertaking to the individual participants and actions;
  - (e) the tenders selected for funding, with a breakdown by type of contractor, including SMEs, and by country, and indicating the contributions of the Joint Undertaking to the individual contractors and procurement actions;
  - (f) the outcome of the procurement activities;
  - (g) progress towards the achievement of the objectives set out in Article 3 of this Regulation and proposals for further necessary work to achieve these objectives
- (2) Once approved by the Governing Board, the annual activity report shall be made publicly available.
- (3) By 1 March of the following financial year, the accounting officer of the Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and to the Court of Auditors.

By 31 March of the following financial year, the Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, to the Council and to the Court of Auditors.

On receipt of the Court of Auditors' observations on the Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the Joint Undertaking shall draw up the Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, to the Council, to the Commission and to the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

#### Article 21

##### **Internal audit**

The Commission's internal auditor shall exercise the same powers over the Joint Undertaking as those exercised in respect of the Commission.

#### Article 22

##### **Liability of members and insurance**

- (1) The financial liability of the members of the Joint Undertaking for the debts of the Joint Undertaking shall be limited to their contributions already made to the administrative costs.
- (2) The Joint Undertaking shall take out and maintain appropriate insurance.

#### Article 23

##### **Conflict of interest**

- (1) The Joint Undertaking, its bodies and staff shall avoid any conflict of interest in carrying out their activities.
- (2) The Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies and staff. Those rules shall contain provisions intended to avoid a conflict of interest in respect of the representatives of the members of the Joint Undertaking serving on the Governing Board.

#### Article 24

##### **Winding-up**

- (3) The Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
- (4) In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union withdraws from the Joint Undertaking.
- (5) For the purpose of conducting the proceedings to wind up the Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
- (6) When the Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding-up. The supercomputers owned by the Joint Undertaking shall be transferred to the respective hosting entity. The hosting entity shall reimburse the Joint Undertaking the residual value of the supercomputers that are transferred. Any surplus shall be distributed among the members at the time of the winding-up in proportion to their financial contribution to the Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget. The supercomputers belonging to the Joint Undertaking installed

in a hosting entity shall be transferred to the hosting entities. In this case the hosting entity shall reimburse the Joint Undertaking the residual value of the supercomputers that is transferred.

- (7) An *ad hoc* procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the Joint Undertaking as well as any procurement contract with a duration longer than the duration of the Joint Undertaking.