



Council of the  
European Union

Brussels, 30 April 2021  
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**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: COUNCIL DECISION on establishing the Specific Programme  
implementing Horizon Europe – the Framework Programme for Research  
and Innovation, and repealing Decision (EU) No 2013/743  
- Adoption  
- Commission declaration

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## COMMISSION DECLARATION TO THE SPECIFIC PROGRAMME DECISION

### Article 12(6) No-opinion clause

*“The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 (4) recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified. While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision, it regrets that such justification is not reflected in a recital.”*

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