

Horizon 2020 forms the successor of the Seventh Framework Programme (“FP7”). It implements the innovation union and should be a driving force to create growth and jobs in the EU. A major goal when implementing Horizon 2020 is the simplification of the access to EU funding. Therefore, Horizon 2020 will encompass all research and innovation funding.

The provisions in the FP7 were deemed to be adequate. Therefore, the changes are mainly small improvement or clarifications.

1. Changes of terminology

Certain changes in terminology occur. The definitions of background, foreground and affiliated entity have changed. Regarding background, Horizon 2020 will be more stringent. Participants will be obliged to identify the background, needed for the project. This should be done in a written agreement. In FP7 the term foreground was used. In Horizon 2020, the term ‘result’ will be used. Regarding affiliated entity it should be noted that the scope has been extended. Legal entities that have direct or indirect control over participants are comprised in the new definition of affiliated entity. This can enlarge the access rights for parent companies.

2. Ownership

Few differences occur in comparison with the FP7. Participants will still own the results they generate as is the default joint ownership regime. Transfers of results and exclusive licensing of results is also allowed under Horizon 2020. Participants should inform the European Commission (or other funding bodies) if they do not seek an extension of protection for non commercial exploitations reasons or when they want to abandon the protection of results.

3. Access rights

Few differences can be observed regarding access rights to background for other participants. Due to the extended scope of ‘affiliated entity’, parent companies can have access rights to results or background. This would be under the same conditions as other affiliates if such access is needed to exploit and unless the participants agreed otherwise in the consortium agreement.

A new development in Horizon 2020 is the granting of access rights to the results of a project to the European Union, but in certain cases also to the Member States. This access will be granted on a royalty-free basis. As limitation it is imposed that it can’t be used for commercial or competitive reasons.

4. Exploitation of results

Under Horizon 2020, participants will have to exploit their own results. This regime is comparable with the regime under FP7. This can be done commercially, by further research or by allowing exploitation by other entities. The latter can be done by licensing, assignments etc. A reservation on this point is included. An additional exploitation obligation can be imposed as part of the grant agreement. Participants have a duty to exploit their results in their best efforts.

Regarding dissemination, certain changes occur in Horizon 2020. Open access is seen to be a general principle in the event of dissemination by research publications. For other results (e.g. research data), the open access platform will only be mandatory if stated in the grant agreement. The scope of open access will be dependent on the model of the grant agreement.

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6. Confidentiality

The grant model agreement (article 36) made available by the European Commission comprises certain clauses regarding confidentiality. During a period of 4 years after the termination, parties must keep confidential data disclosed. The funding body may agree to keep such information confidential for an additional period beyond the initial four years. Only under certain stringent conditions such confidential information can be disclosed to personnel or third parties involved in the action.

7. Liability

The grant model agreement (article 46) states expressly that the funding body cannot be held liable for any damage caused to or by the beneficiary as a consequence of the implementation of the grant agreement. This includes gross negligence.

8. Reports

Article 20.1 of the Grant agreement model states: *"The beneficiary must submit technical and financial reports set out in this Article. These reports include the requests for payment and must be drawn up using the forms and templates provided in the electronic exchange system"*.

9. Conclusion

The provisions of Horizon 2020 rely on the regulations of FP7. These new rules should make the participation of small and medium-sized companies, universities, etc... more easy. The open access principle to research publications is probably the major development in Horizon 2020. A second item is the best effort principle regarding the exploitation of their own results by the participants. This should lead to the creation of industrial leadership, growth and employment in the EU.