



Overview of the legal principles, objectives and instruments in the Research and Innovation area

**DG Research and Innovation
European Commission**

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union.

Overview

Historical background - Innovations brought by the Lisbon Treaty:

- **Research policy: a new objective of the Treaty**
- **New legal bases : the European Research Area (ERA) and space policy**
- **Shared competences / parallel competences EU-MS (Article 4.3 TFEU)**
- **Comitology arrangements**
- **Euratom issues**

Other important Treaty provisions (Articles 181, 185, 187 TFEU)

- **Joint Programming Initiatives**
- **Partnerships**

Horizon 2020 Framework Programme (2014-2020)

- **a single set of Rules for Participation and Dissemination**
- **H2020 and Associated Countries**

The Research chapter in the EU Treaties - Historical background

- **European Coal and Steel Community (ECSC)** Treaty mentioned R&D in relation to an assistance programme in 1955
- A **Joint Research Center** set up under Euratom;
- **EEC Treaty (Treaty of Rome)** -no specific chapter on research
- **The Single European Act (1987)** introduced **RTD** as a separate Title XVIII in the EEC Treaty → formalised RTD policy to be implemented through **multiannual framework programmes (FPs)**;
- **The Lisbon Treaty** is **an amending Treaty**: Treaty on European Union (TEU) + Treaty on the Functioning of the European Union (TFEU/former EC Treaty) → renumbering of Titles + Articles → **new Title XIX TFEU « Research, technological development and space »** Articles 179-190 TFEU);

Research and Innovation under the Lisbon Treaty

- Title XIX **prevalence**: all RTD activities under the Treaties are decided in accordance with the provisions of this Title (Article 179.3 TFEU);
- **The Framework Programmes** (e.g. Horizon 2020 FP) are **multi-annual**, aligned to the MFF (7 Years), adopted through **Ordinary Legislative Procedure** (Art 182.1 TFEU): Council and EP on equal footing (QMV in Council + majority in the European Parliament), consultation of ESC
- **The Specific Programme (SP)** - detailed rules for FPs implementation, duration and means (budget)-Art 182. 3 TFEU
 - are adopted through a special legislative procedure (Art.182.4 TFEU) - mere consultation of the European Parliament and ESC;

NEW: a **single SP** for H2020 compared to FP7; this continues under **Horizon Europe**

Innovations by the Lisbon Treaty (1)

NEW legal bases:

- 'scientific and technological advance' –**objective** of the Treaty (Art 3.3 TEU)
- a far-reaching legal basis for achieving **the European Research Area (ERA -Art 179 TFEU)** in relation to the Union objective of strengthening its scientific and technological bases;
 - key features: free movement of researchers, scientific knowledge and technology, removal of legal and fiscal barriers;
 - measures necessary to implement ERA are adopted through ordinary legislative procedure (Article 182.5 TFEU);
- Commission role in **coordinating mutual consistency EU-MS** in R&I policies (Article 181 TFEU): legal basis for Joint Programming Initiatives = structured and strategic processes whereby MS agree on a voluntary basis to set up common visions and Strategic Research Agendas to address major societal challenges (e.g. Alzheimer, agriculture, food and climate change, water challenges etc.)
- A legal basis for a **European space policy** (Art 189 TFEU)

Innovations by the Lisbon Treaty (2)

- **NEW:** legal basis for **sharing competences EU-MS** in the research area : «**Union has competence** BUT in so far its exercise **does not prevent MS** to exercise theirs» (Article 4.3 TFEU) (so called « parallel competences »)
- very important when adopting legally binding acts: **some limitation for the EU action**

Difference: in other cases of shared competence MS act **only in so far as the Union has not exercised / stopped exercising its competences** (Article 4.2 TFEU) = « occupying the field » approach

- **NEW: comitology regime:** under H2020 one programme committee with different configurations → formal opinion on the adoption of the work programmes except for JRC and ERC when opinion is needed only if COM deviates from text by ERC Scientific Council

Euratom Programme

- Euratom Community was NOT replaced by the EU; some parts of TEU and TFEU apply to Euratom (Art 106 a Euratom Treaty)
- Multiannual research and training programme (5 +2 years) complementing H2020 FP - promotion of nuclear research in MS
- H2020 rules for participation and dissemination apply with only a few derogations
- Separate association agreements - under H2020 only CH and Ukraine are associated to Euratom Programme
- ITER-set up by international agreement (2006) - collaboration in fusion
- Council decision for participation of Euratom in Fusion for Energy JU (Art 47 Euratom Treaty)

Institutionalised Partnerships

Public to Public partnerships: the EU can participate in R&D joint programmes undertaken by several Member States (**Article 185 initiatives**), incl. their structures 5

- part of the Innovation Investment Package :
EDCTP 2, EMPIR, AAL 2, Eurostars 2, PRIMA

Private-Public partnerships : the EU may set up joint undertakings for the efficient execution of the Union RTD programmes (**Article 187 TFEU**) → legal basis for **the Joint Technology Initiatives (JTIs JUs)** in areas of strategic importance for the EU

- JTIs **under H2020:** Clean Sky 2, IMI 2, FCH 2, ECSEL, BBI
SESAR JU + Shift 2 Rail

NEW: H2020 Rules for participation **apply** to these initiatives unless specific duly justified derogations in the basic acts

Contractual public-private partnerships

8 contractual Public-Private Partnerships in areas of strategic importance for the European industry - to leverage more than €6 billion of investments to develop new technologies, products and services.

- **Factories of the Future**
- **Energy-efficient Buildings**
- **European Green Vehicles Initiative**
- **Sustainable Process Industry**
- **Photonics**
- **Robotics**
- **High Performance Computing**
- **Advanced 5G networks for the Future Internet**

H2020 Rules for participation and dissemination (RfP) - overview

- **Under Horizon 2020 - NOVELTY: a single set of rules**
- Covering **all** research programmes and funding bodies (art.185 initiatives, art. 187 initiatives, CIP, EIT) but flexible to accommodate specificities where needed → derogations possible if justified
- In accordance with the general frame under the Financial Regulation with specific deviations (*lex specialis*)
- Grants as the main form of funding following open calls for proposals
- Reimbursement of actual costs as the main funding method
- One project-one funding rate for all beneficiaries
- No double funding

H2020 and associated countries (AC)

- **Legal basis:** Art 7 Horizon 2020 FP Regulation 1291/2013
- **Association agreements** to Horizon 2020 concluded in 2014 providing for specific terms and conditions regarding the participation including the financial contribution
- **General rule:** Legal entities from AC can participate under **the same conditions** as legal entities from MS, subject to specific terms and conditions in the Association Agreement
- **Conditions for participation** (Art 9.1 RfP Regulation 1290/2013): three legal entities, independent of each other, established in a different MS or AC
- **Eligibility for funding** (Art 10.1 a): YES, automatic for AC
- **Participation in Programme Committees** meetings as observers

Useful references

- *The EU Treaties: <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-overview.html?locale=en>*
- *The EU Funding and Tenders portal -all reference documents on Horizon 2020: <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/reference-documents>*

***Thank you very much for your
attention!***