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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2021/695 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 28 April 2021

establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(1), Article 183, and the second paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinions of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) It is an objective of the Union to strengthen its scientific and technological bases by strengthening the European research area (ERA) in which researchers, scientific knowledge and technology circulate freely and encouraging it to become more competitive, including in its industry, while promoting all research and innovation (R&I) activities to deliver on the Union's strategic priorities and commitments, which ultimately aim to promote peace, the Union's values and the well-being of its peoples.
- (2) To deliver scientific, technological, economic, environmental and societal impact in pursuit of this general objective and to maximise the added value of the Union's R&I investments, the Union should invest in R&I through Horizon Europe - the Framework Programme for Research and Innovation 2021-2027 (the 'Programme'). The Programme should support the creation, better diffusion and transfer of high-quality and excellent knowledge and high-quality technologies in the Union, attract talent at all levels and contribute to full engagement of the Union's talent pool, facilitate collaborative links and strengthen the impact of R&I in developing, supporting and implementing Union policies, support and strengthen the uptake and deployment of innovative and sustainable solutions in the Union's economy, in particular in small and medium-sized enterprises (SMEs), and in society, address global challenges, including climate change and the United Nations Sustainable Development Goals (SDGs), create jobs, boost economic growth, promote industrial competitiveness and boost the attractiveness of the Union in the field of R&I. The Programme should foster all forms of innovation, including breakthrough innovation, foster market deployment of innovative solutions, and optimise the delivery of such investment for increased impact within a strengthened ERA.

⁽¹⁾ OJ C 62, 15.2.2019, p. 33 and OJ C 364, 28.10.2020, p. 124.

⁽²⁾ OJ C 461, 21.12.2018, p. 79.

⁽³⁾ Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 16 March 2021 (not yet published in the Official Journal). Position of the European Parliament of ... (not yet published in the Official Journal).

- (3) The Programme should be established for the duration of the multiannual financial framework (MFF) 2021-2027 as laid down in Council Regulation (EU, Euratom) 2020/2093 ⁽⁴⁾, without prejudice to the time limits set out in Council Regulation (EU) 2020/2094 ⁽⁵⁾.
- (4) The Programme should contribute to increasing public and private investment in R&I in Member States, thereby helping to reach an overall investment target of at least 3 % of the Union's gross domestic product (GDP) in research and development. Achieving that target would require Member States and the private sector to complement the Programme with their own reinforced investment actions in research, development and innovation.
- (5) With a view to achieving the objectives of the Programme and while respecting the principle of excellence, the Programme should aim to strengthen, among other things, collaborative links in Europe thereby contributing to reducing the R&I divide.
- (6) To help achieve Union policy objectives, activities supported under this Programme should, where relevant, take advantage of and inspire innovation-friendly regulation, in line with the innovation principle, to support a faster and more intensive transformation of the Union's substantial knowledge assets into innovation.
- (7) The concepts of 'open science', 'open innovation' and 'open to the world' should ensure excellence and the impact of the Union's investment in R&I, while safeguarding the Union's interests.
- (8) Open science, including open access to scientific publications and research data, as well as optimal dissemination and exploitation of knowledge have the potential to increase the quality, impact and benefits of science. They also have the potential to accelerate the advancement of knowledge by making it more reliable, efficient and accurate, more easily understood by society and responsive to societal challenges. Provisions should be laid down to ensure that beneficiaries provide open access to peer-reviewed scientific publications. Likewise, it should be ensured that beneficiaries provide open access to research data following the principle 'as open as possible, as closed as necessary', while ensuring the possibility of exceptions taking into account the legitimate interests of the beneficiaries. More emphasis should in particular be given to the responsible management of research data, which should comply with the principles of 'findability', 'accessibility', 'interoperability' and 'reusability' (the 'FAIR principles'), in particular through the mainstreaming of data management plans. Where appropriate, beneficiaries should make use of the possibilities offered by the European Open Science Cloud (EOSC) and the European Data Infrastructure and adhere to further open science principles and practices. Reciprocity in open science should be encouraged in all association and cooperation agreements with third countries.
- (9) Beneficiaries of the Programme, especially SMEs, are to be encouraged to make use of the relevant existing Union's instruments, such as the European IP Helpdesk that supports SMEs and other participants in the Programme in both protecting and enforcing their intellectual property (IP) rights.
- (10) The conception and design of the Programme should respond to the need for establishing a critical mass of supported activities throughout the Union, encouraging excellence-based participation of all Member States, and through international cooperation, in line with the 2030 Agenda for Sustainable Development (the '2030 Agenda'), the SDGs and the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ⁽⁶⁾ (the 'Paris Agreement'). Programme implementation should reinforce the pursuit of the SDGs and the commitment of the Union and its Member States to implementing the 2030 Agenda to achieving its three dimensions – economic, social and environmental – in a coherent and integrated manner.
- (11) Activities supported under the Programme should contribute towards the achievement of the Union's objectives, priorities and international commitments.

⁽⁴⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

⁽⁵⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

⁽⁶⁾ OJ L 282, 19.10.2016, p. 4.

- (12) The Programme should benefit from complementarity with existing relevant European R&I roadmaps and strategies, as well as with important projects of common European interest (IPCEIs), where relevant, provided that related R&I needs are identified in the Programme's strategic planning.
- (13) The Programme should ensure transparency and accountability of public funding in R&I projects, thereby preserving the public interest.
- (14) The Programme should support R&I activities in the field of social sciences and humanities (SSH). This entails advancing scientific knowledge in that domain and making use of insights and progress from SSH to increase the economic and societal impact of the Programme. Under the pillar 'Global Challenges and European Industrial Competitiveness', SSH should be fully integrated across all clusters. Beyond the promotion of SSH in projects, the integration of SSH should also be supported through the inclusion, whenever appropriate, of independent external experts from the field of SSH in expert committees and evaluation panels, and through timely monitoring and reporting of SSH in funded research actions. In particular, the level of mainstreaming of SSH should be monitored across the Programme.
- (15) The Programme should maintain a balanced approach between research on the one hand and innovation on the other, as well as between bottom-up funding (investigator or innovator driven) and top-down funding (determined by strategically defined priorities), by reference to the nature of the R&I communities that are engaged across the Union, the types and purpose of the activities carried out and the impacts that are sought. The mix of those factors should determine the choice of approach for the relevant parts of the Programme, all of which contribute to all general and specific objectives of the Programme.
- (16) The overall budget for the 'widening participation and spreading excellence' component of the 'Widening Participation and Strengthening the ERA' part of the Programme should be at least 3,3 % of the overall Programme budget and should mainly benefit legal entities established in the widening countries.
- (17) Excellence initiatives should aim to strengthen R&I excellence in the eligible countries, including supporting training to improve R&I managerial skills, prizes, strengthening innovation ecosystems as well as the creation of R&I networks, including on the basis of research infrastructures financed by the Union. Applicants should clearly show that projects are linked with national and/or regional R&I strategies to be eligible to apply for funding under the 'widening participation and spreading excellence' component of the 'Widening Participation and Strengthening the ERA' part of the Programme.
- (18) It should be possible to apply a fast track to R&I procedure, where time-to-grant should not exceed six months, to allow for faster, bottom-up access to funds for small collaborative consortia covering actions from fundamental research to market application.
- (19) The Programme should support all stages of R&I especially within collaborative projects and in missions and European Partnerships, as appropriate. Fundamental research is an essential asset of and an important condition for increasing the Union's ability to attract the best scientists in order to become a global hub of excellence. A balance between basic and applied research should be ensured in the Programme. Coupled with innovation, that balance will support the Union's economic competitiveness, growth and jobs.
- (20) Evidence shows that embracing diversity, in all senses, is key to doing good science, as science benefits from diversity. Diversity and inclusiveness contribute to excellence in collaborative R&I: collaboration across disciplines, sectors and throughout the ERA makes for better research and higher quality project proposals, can lead to higher rates of societal take-up and can foster the benefits of innovation, thus advancing Europe.
- (21) In order to maximise the impact of the Programme, particular consideration should be given to multidisciplinary, interdisciplinary and transdisciplinary approaches as key elements for major scientific progress.

- (22) Research activities carried out under the pillar 'Excellent Science' should be determined according to the needs and opportunities of science and should promote scientific excellence. The research agenda should be set in close liaison with the scientific community and include emphasis on attracting new R&I talents, early stage researchers, while strengthening the ERA, avoiding brain drain and promoting brain circulation.
- (23) The Programme should support the Union and its Member States in attracting the best talents and skills, taking into account the reality of very intense international competition.
- (24) The pillar 'Global Challenges and European Industrial Competitiveness' should be established through clusters of R&I activities, in order to maximise integration across the respective thematic areas while securing high and sustainable levels of impact for the Union in relation to the resources that are expended. It would encourage cross-disciplinary, cross-sectoral, cross-policy and cross-border collaboration in pursuit of the SDGs by following the principles of the 2030 Agenda, the Paris Agreement and the competitiveness of the Union's industries. The organisation of high-ambition, wide-scale initiatives in the form of R&I missions would enable the Programme to achieve a transformative and systemic impact for society in support of the SDGs, also through international cooperation and science diplomacy. The activities under that pillar should cover the full range of R&I activities to ensure that the Union remains at the cutting-edge in strategically defined priorities.
- (25) The cluster 'Culture, Creativity and Inclusive Society' should contribute substantially to the research on cultural and creative sectors, including on the Union's cultural heritage and in particular allowing the establishment of a European cultural heritage collaborative space.
- (26) Full and timely engagement of all types of industry in the Programme, from individual entrepreneurs and SMEs to large scale enterprises, would substantially contribute to the realisation of the objectives of the Programme and specifically towards the creation of sustainable jobs and growth in the Union. Such engagement by the industry should see its participation in the actions supported at levels at least commensurate with those under the framework programme Horizon 2020 established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁷⁾ (Horizon 2020).
- (27) Actions under the Programme would substantially contribute towards unlocking the potential of the Union's strategic sectors, including key enabling technologies that reflect the Union's industrial policy strategy objectives.
- (28) Multi-stakeholder consultations, including of civil society and industry, should contribute to the perspectives and priorities established through the strategic planning. This should result in periodic strategic R&I plans adopted by means of implementing acts for preparing the content of work programmes.
- (29) For a particular action to be funded, the work programme should take into account the outcome of specific previous projects as well as the state of science, technology and innovation at national, Union and international level and of the relevant policy, market and societal developments.
- (30) It is important to support the Union's industry in remaining or in becoming a world leader in innovation, digitisation and climate neutrality, in particular through investments in key enabling technologies that will underpin tomorrow's business. The Programme's actions should address market failures or sub-optimal investment situations, boost investments in a proportionate and transparent manner, without duplicating or crowding out private financing and have a clear European added value and public return on investments. This will ensure consistency between the actions of the Programme and Union State aid rules, in order to incentivise innovation and avoid undue distortions of competition in the internal market.

⁽⁷⁾ 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).

- (31) The Programme should support R&I in an integrated manner, respecting all relevant provisions in the framework of the World Trade Organization. The concept of research, including experimental development, should be used in accordance with the Frascati Manual developed by the Organisation for Economic Co-operation and Development (OECD), whereas the concept of innovation should be used in accordance with the Oslo Manual developed by the OECD and Eurostat, which follows a broad approach that covers social innovation and design. As in Horizon 2020, the OECD definitions regarding technological readiness levels (TRLs) should continue to be taken into account in the classification of technological research, product development and demonstration activities, and in the definition of types of action available in calls for proposals. Grants should not be awarded for actions where activities go above TRL 8. It should be possible for the work programme to allow grants for large-scale product validation and market replication for a given call under the pillar 'Global Challenges and European Industrial Competitiveness'.
- (32) The Programme should contribute to space objectives at a level of spending that is at least proportionally commensurate with that under Horizon 2020.
- (33) The Commission communication of 11 January 2018 entitled 'Horizon 2020 interim evaluation: maximising the impact of EU research and innovation', the resolution of the European Parliament of 13 June 2017 on the assessment of Horizon 2020 implementation in view of its interim evaluation and the Framework Programme 9 proposal⁽⁸⁾ and the Council Conclusions of 1 December 2017 entitled 'From the Interim Evaluation of Horizon 2020 towards the ninth Framework Programme' have provided a set of recommendations for the Programme, including for its rules for participation and dissemination. Those recommendations build on the lessons learnt from Horizon 2020 as well as input from Union institutions and stakeholders. Those recommendations include the proposal of measures to promote brain circulation and facilitate openness of R&I networks to invest more ambitiously in order to reach critical mass and maximise impact; to support breakthrough innovation; to prioritise Union R&I investments in areas of high added value, in particular through mission-orientation, full, well-informed and timely citizen involvement and wide communication; to rationalise the Union funding landscape in order to fully use the R&I potential, including research infrastructures across the Union, such as by streamlining the range of European Partnership initiatives and co-funding schemes; to develop more and concrete synergies between different Union funding instruments, in particular by overcoming non-complementary intervention logics and complexity of the various funding and other regulations also with the aim of helping to mobilise under-exploited R&I potential across the Union; to strengthen international cooperation and reinforce openness to third countries' participation; and to continue simplification based on implementation experiences of Horizon 2020.
- (34) Given that special attention needs to be paid to coordination and complementarity between different Union policies, the Programme should seek synergies with other Union programmes, from their design and strategic planning, to project selection, management, communication, dissemination and exploitation of results, monitoring, auditing and governance. Regarding funding for R&I activities, synergies should allow for the harmonisation of rules, including cost eligibility rules, as much as possible. With a view to avoiding duplication or overlaps, to increasing the leverage of Union funding and to decreasing the administrative burden for applicants and beneficiaries, it should be possible to promote synergies, in particular by alternative, combined, cumulative funding and transfers of resources.
- (35) In accordance with Regulation (EU) 2020/2094 and within the limits of the resources allocated therein, recovery and resilience measures under the Programme should be carried out to address the unprecedented consequences of the COVID-19 crisis. Such additional resources should be used in such a way as to ensure compliance with the time limits provided for in Regulation (EU) 2020/2094. Such additional resources should be allocated exclusively to actions for R&I directed at addressing the consequences of the COVID-19 crisis and in particular its economic, social and societal consequences.
- (36) In order for Union funding to have the greatest possible impact and to make the most effective contribution to the Union's policy objectives and commitments, it should be possible for the Union to enter into European Partnerships with private and/or public sector partners. Such partners include industry, SMEs, universities, research organisations, R&I stakeholders, bodies with a public service mission at local, regional, national or international level or civil society organisations, including foundations and non-governmental organisations (NGOs) that support and/or carry out R&I, provided that the desired impacts can be achieved more effectively in partnership than by the Union alone.

⁽⁸⁾ OJ C 331, 18.9.2018, p. 30.

- (37) It should be possible, depending on the Member State's decision, that the contributions from programmes co-financed by the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the European Maritime, Fisheries and Aquaculture Fund (EMFAF) and the European Agricultural Fund for Rural Development (EAFRD) be considered to be a contribution of the participating Member State to European Partnerships under the Programme. However, that possibility should be without prejudice to the need to comply with all provisions applicable to those contributions as set out in a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (the 'Common Provisions Regulation for 2021-2027') and the fund-specific regulations.
- (38) The Programme should strengthen cooperation between European Partnerships and private and/or public sector partners at international level, including by joining up R&I programmes and cross-border investment in R&I bringing mutual benefits to people and businesses while ensuring that the Union can uphold its interests in strategic areas.
- (39) Future Emerging Technologies (FET) Flagships have proven to be an effective and efficient instrument, delivering benefits for society in a joint, coordinated effort by the Union and its Member States. Activities carried out within the FET Flagships on Graphene, the Human Brain Project and Quantum Technology, which are supported under Horizon 2020, will continue to be supported under the Programme through calls for proposals included in the work programme. Preparatory actions supported under the FET Flagships part of Horizon 2020 will feed the strategic planning under the Programme and inform the work on missions, co-funded and/or co-programmed European Partnerships and regular calls for proposals.
- (40) The Joint Research Centre (JRC) should continue to provide independent customer-driven scientific evidence and technical support for Union policies throughout the whole policy cycle. The direct actions of the JRC should be implemented in a flexible, efficient and transparent manner, taking into account the needs of Union policies and the relevant needs of the users of the JRC and ensuring the protection of the Union's financial interests. The JRC should continue to generate additional resources.
- (41) The pillar 'Innovative Europe' should establish a series of measures for the provision of integrated support to respond to the needs of entrepreneurs and entrepreneurship aiming to realise and accelerate breakthrough innovation for rapid market growth as well as to promote the Union's strategic autonomy while preserving an open economy. It should provide a one-stop shop to attract and support all types of innovators and innovative companies, such as SMEs, including start-ups, and, in exceptional cases, small mid-caps, with potential for scaling up at Union and international level. The pillar should offer fast, flexible grants and co-investments, including with private investors. Those objectives should be pursued through the creation of a European Innovation Council (EIC). The pillar should also support the European Institute of Innovation and Technology (EIT) and European innovation ecosystems at large, in particular through European Partnerships with national and regional innovation support actors.
- (42) For the purpose of this Regulation and in particular for the activities carried out under the EIC, a 'start-up' should be understood as an SME in the early stage of its life cycle, including those that are created as spin-offs from university research activities, which aims to find innovative solutions and scalable business models, and which is autonomous within the meaning of Article 3 of the Annex to Commission Recommendation 2003/361/EC⁽⁹⁾; a 'mid-cap' should be understood as an enterprise that is not an SME and that has between 250 and 3 000 employees, where the staff headcount is calculated in accordance with Articles 3 to 6 of Title I of the Annex to that Recommendation; and a 'small mid-cap' should be understood as a mid-cap that has up to 499 employees.

⁽⁹⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (43) The policy objectives of the Programme are to be addressed also through financial instruments and budgetary guarantee of the InvestEU Programme, thereby promoting synergies between the two programmes.
- (44) The EIC, together with other components of the Programme, should stimulate all forms of innovation, ranging from incremental to breakthrough and disruptive innovation, targeting especially market-creating innovation. Through its Pathfinder and Accelerator instruments, the EIC should aim to identify, develop and deploy high-risk innovations of all kinds, including incremental innovations, with a main focus on breakthrough, disruptive and deep-tech innovations that have the potential to become market-creating innovations. Through coherent and streamlined support, the EIC should fill the current vacuum in public support and private investment for breakthrough innovation. The instruments of the EIC require dedicated legal and management features in order to reflect its objectives, in particular market deployment action.
- (45) The Accelerator is intended to bridge the 'valley of death' between research, pre-mass commercialisation and the scaling-up of companies. The Accelerator will provide support to high-potential operations presenting such technological, scientific, financial, management or market risks that they are not yet considered to be bankable and therefore cannot raise significant investments from the market, hence complementing the InvestEU Programme.
- (46) In close synergy with the InvestEU Programme, the Accelerator, in its blended finance and equity financial support forms, should finance projects run by SMEs, including start-ups, and, in exceptional cases, small mid-caps, which are either not yet able to generate revenues, or not yet profitable, or not yet able to attract sufficient investment to implement fully their projects' business plan. Such eligible entities would be considered to be non-bankable, while a part of their investment needs could have been or could be provided by one or several investors, such as a private or public bank, a family office, a venture capital fund or a business angel. In that way the Accelerator is intended to overcome a market failure and finance promising, but not yet bankable entities engaged in breakthrough market-creating innovation projects. Once they become bankable, those projects could be financed under the InvestEU Programme.
- (47) While the Accelerator budget should be mainly distributed through blended finance, for the purpose of Article 48, its grant-only support to SMEs, including start-ups, should correspond to that under the SME instrument budget of Horizon 2020.
- (48) The EIT, primarily through its Knowledge and Innovation Communities (KICs) and by expanding its Regional Innovation Scheme, should aim to strengthen innovation ecosystems that tackle global challenges. This should be achieved by fostering the integration of innovation, research, higher education and entrepreneurship. In accordance with a Regulation of the European Parliament and of the Council on the European Institute of Innovation and Technology (the 'EIT Regulation') and its Strategic Innovation Agenda as referred to in a Decision of the European Parliament and of the Council on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027 the EIT should foster innovation through its activities and should significantly step up its support to the integration of higher education within the innovation ecosystem, in particular by stimulating entrepreneurial education, fostering strong non-disciplinary collaboration between industry and academia, and identifying prospective skills for future innovators to address global challenges, which include advanced digital and innovation skills. Support schemes provided by the EIT should benefit EIC beneficiaries, while start-ups emerging from the EIT's KICs should have simplified and thereby faster access to EIC actions. While the EIT's focus on innovation ecosystems should make it naturally fit within the pillar 'Innovative Europe', it should also support the other pillars, as appropriate. Unnecessary duplication between KICs and other instruments in the same field, in particular other European Partnerships, should be avoided.
- (49) A level playing field for competing companies in a given market should be ensured and preserved, since it is a key requirement for all types of innovation, including breakthrough, disruptive and incremental innovation, to flourish thereby enabling in particular a large number of small and medium-size innovators to build-up their R&I capacity, to reap the benefits of their investment and to capture a share of the market.

- (50) The Programme should promote and integrate cooperation with third countries and international organisations and initiatives based on the Union's interests, mutual benefits, international commitments, science diplomacy and, as far as possible, reciprocity. International cooperation should aim to strengthen the Union's excellence in R&I, attractiveness, capacity to retain best talents and economic and industrial competitiveness, to tackle global challenges including the SDGs by following the principles of the 2030 Agenda and the Paris Agreement, and to support the Union's external policies. An approach of general openness to international participation and targeted international cooperation actions should be followed, including through appropriate eligibility for funding of entities established in low to middle-income countries. The Union should aim to conclude international cooperation agreements in the field of R&I with third countries. At the same time, association of third countries, in particular for collaborative parts to the Programme, should be promoted, in accordance with association agreements and focusing on added value for the Union. When allocating associated countries' financial contributions to the Programme, the Commission should take into account the level of participation of legal entities of those third countries in the different parts of the Programme.
- (51) With the aim of deepening the relationship between science and society and maximising the benefits of their interactions, the Programme should engage and involve all societal actors, such as citizens and civil society organisations, in co-designing and co-creating responsible research and innovation (RRI) agendas, content and throughout processes that address citizens' and civil society's concerns, needs and expectations, promoting science education, making scientific knowledge publicly accessible, and facilitating participation by citizens and civil society organisations in its activities. This should be done across the Programme and through dedicated activities in the part 'Widening Participation and Strengthening the ERA'. The engagement of citizens and civil society in R&I should be coupled with public outreach activities to generate and sustain public support for the Programme. The Programme should also seek to remove barriers and boost synergies between science, technology, culture and the arts to obtain a new quality of sustainable innovation. The measures taken to improve the involvement of citizens and civil society in the supported projects should be monitored.
- (52) Where appropriate, the Programme should take into account the specific characteristics of the outermost regions as identified in Article 349 of the Treaty on the Functioning of the European Union (TFEU) and in line with the Commission's communication of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', as welcomed by the Council.
- (53) The activities developed under the Programme should aim to eliminate gender bias and inequalities, enhancing work-life balance and promoting equality between women and men in R&I, including the principle of equal pay without discrimination based on sex, in accordance with Articles 2 and 3 of the Treaty on European Union (TEU) and Articles 8 and 157 TFEU. The gender dimension should be integrated in R&I content and followed through at all stages of the research cycle. In addition, the activities under the Programme should aim to eliminate inequalities and promote equality and diversity in all aspects of R&I with regard to age, disability, race and ethnicity, religion or belief, and sexual orientation.
- (54) In light of the specificities of the defence industry sector, the detailed provisions for Union funding to defence research projects should be fixed in Regulation (EU) 2021/697 of the European Parliament and of the Council⁽¹⁰⁾ (the 'European Defence Fund') which defines the rules of participation for defence research. Activities to be carried out under the European Defence Fund should have an exclusive focus on defence research and development, while activities carried out under the specific programme established by Council Decision (EU) 2021/764⁽¹¹⁾ (the 'specific programme') and the EIT should have an exclusive focus on civil applications. Unnecessary duplication should be avoided.

⁽¹⁰⁾ Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (see page 149 of this Official Journal).

⁽¹¹⁾ Council Decision (EU) 2021/764 of 10 May 2021 on establishing the specific programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L167, 12.5.2021, p. 1).

- (55) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽¹²⁾, for the European Parliament and the Council during the annual budgetary procedure. That financial envelope comprises an amount of EUR 580 000 000 in current prices for the specific programme established by Decision (EU) 2021/764 and for the EIT, in line with the joint declaration by the European Parliament, Council and Commission of 16 December 2020 on the reinforcement of specific programmes and adaptation of basic acts ⁽¹³⁾.
- (56) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁴⁾ (the 'Financial Regulation') applies to this Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (57) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to Union's interests, it should be possible to provide in the financing decision, during a limited period of time at the beginning of the MFF 2021-2027, and only in duly justified cases, for eligibility of activities and costs from the beginning of the 2021 financial year, even if they were implemented and incurred before the grant application was submitted.
- (58) Continually throughout the Programme, administrative simplification should be sought, in particular the reduction of the administrative burden for beneficiaries. The Commission should further simplify its tools and guidance in such a way that they impose a minimal burden on beneficiaries. In particular, the Commission should consider issuing an abridged version of the guidance.
- (59) The completion of the Digital Single Market and the growing opportunities from the convergence of digital and physical technologies require investments to be increased. The Programme should contribute to those efforts with a substantial increase in spending on main digital R&I activities compared to Horizon 2020 ⁽¹⁵⁾. This should ensure that Europe remains at the forefront of global R&I in the digital field.
- (60) Quantum research under the 'Digital, Industry and Space' cluster under Pillar II should be prioritised, given its crucial role in the digital transition, namely by expanding the European scientific leadership and excellence in quantum technologies, enabling the envisaged budget set in 2018 to be achieved.

⁽¹²⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽¹³⁾ OJ C 444 I, 22.12.2020, p. 1.

⁽¹⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁵⁾ Communication from the Commission of 14 February 2018 entitled 'A new, modern Multiannual Financial Framework for a European Union that deliver efficiently on its priorities post-2020' identifies EUR 13 billion spent in main digital activities under the Research and Innovation Framework Programme Horizon 2020.

- (61) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹⁶⁾ and Council Regulations (EC, Euratom) No 2988/95 ⁽¹⁷⁾, (Euratom, EC) No 2185/96 ⁽¹⁸⁾ and (EU) 2017/1939 ⁽¹⁹⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties.

In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ⁽²⁰⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (62) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the Agreement on the European Economic Area ⁽²¹⁾, which provides for the implementation of the programmes on the basis of a decision adopted under that Agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (63) Pursuant to Article 94 of Council Decision 2013/755/EU ⁽²²⁾, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (64) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 for Better Law-Making ⁽²³⁾, this Programme should be evaluated on the basis of information collected in accordance with specific reporting and monitoring requirements, while avoiding overregulation and an administrative burden, in particular on the Member States and the beneficiaries of the Programme. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme on the ground.

⁽¹⁶⁾ 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 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).

⁽¹⁷⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽¹⁸⁾ 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).

⁽¹⁹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁽²⁰⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽²¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²²⁾ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

⁽²³⁾ OJ L 123, 12.5.2016, p. 1.

- (65) In order to ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending Annex V with regard to the impact pathway indicators, where considered to be necessary, and to set baselines and targets as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (66) Coherence and synergies between the Programme and the Union Space Programme will foster a globally competitive and innovative European space sector, reinforce Europe's autonomy in accessing and using space in a secure and safe environment and strengthen Europe's role as a global actor. Excellence in research, breakthrough solutions and downstream users in the Programme will be supported by data and services made available by the Union Space Programme.
- (67) Coherence and synergies between the Programme and Erasmus+ will foster the uptake of research results through training activities, diffuse innovation spirit to the education system and ensure that education and training activities rely on the most updated R&I activities. In that regard, following the pilot actions launched under Erasmus+ 2014-2020 concerning European Universities, the Programme will, where appropriate, complement in a synergetic way the support provided by Erasmus+ to European Universities.
- (68) In order to increase the impact of the Programme in addressing Union priorities, synergies with programmes and instruments aiming to responding to emerging Union needs should be encouraged and sought, including with the Just Transition Mechanism, the Recovery and Resilience Facility and EU4Health Programme.
- (69) The rules for participation and dissemination should adequately reflect the needs of the Programme taking into account the concerns raised and the recommendations made by various stakeholders, as well as in the interim evaluation of Horizon 2020 carried out with the assistance of independent external experts.
- (70) Common rules across the Programme should ensure a coherent framework which facilitates participation in programmes financially supported by the budget of the Programme, including participation in programmes managed by funding bodies such as the EIT, joint undertakings or any other structures under Article 187 TFEU, and participation in programmes undertaken by Member States under Article 185 TFEU. Adopting specific rules should be possible, but such exceptions should be limited to when strictly necessary and duly justified.
- (71) Actions which fall within the scope of the Programme should respect fundamental rights and observe the principles acknowledged in particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). Such actions should be in conformity with any legal obligation including international law and with any relevant Commission decisions such as the Commission notice of 28 June 2013 ⁽²⁴⁾, as well as with ethical principles, which include avoiding any breach of research integrity. The opinions of the European Group on Ethics in Science and New Technologies, the European Union Agency for Fundamental Rights and the European Data Protection Supervisor should be taken into account, where appropriate. Article 13 TFEU should also be taken into account in research activities, and the use of animals in research and testing should be reduced, with a view ultimately to replacing their use.
- (72) In order to guarantee scientific excellence, and in line with Article 13 of the Charter, the Programme should promote the respect of academic freedom in all countries benefiting from its funds.

⁽²⁴⁾ OJ C 205, 19.7.2013, p. 9.

- (73) In accordance with the objectives of international cooperation as set out in Articles 180 and 186 TFEU, the participation of legal entities established in third countries and of international organisations should be promoted, based on mutual benefits and the Union's interests. The implementation of the Programme should be in conformity with the measures adopted in accordance with Articles 75 and 215 TFEU and should be in compliance with international law. For actions related to Union strategic assets, interests, autonomy or security, it should be possible for participation in specific actions of the Programme to be limited to legal entities established only in Member States or to legal entities established in specified associated or other third countries in addition to Member States. Any exclusion of legal entities established in the Union or in associated countries directly or indirectly controlled by non-associated third countries or by legal entities of non-associated third countries should take into account the risks the inclusion of such entities would represent, on the one hand, and the benefits that their participation would generate, on the other hand.
- (74) The Programme acknowledges climate change as one of the biggest global and societal challenges and reflects the importance of tackling climate change in accordance with the Union's commitment to implement the Paris Agreement and the SDGs. Accordingly, the Programme should contribute to mainstream climate actions and to the achievement of an overall target of 30 % of the Union budget expenditures supporting climate objectives. Climate mainstreaming should be adequately integrated in R&I content and applied at all stages of the research cycle.
- (75) In the context of the impact pathway related to climate, the Commission should report on the results, innovations and aggregated estimated effects of projects that are climate-relevant, including by Programme part and by implementation mode. In carrying out its analysis, the Commission should take account of the long-term economic, societal and environmental costs and benefits to Union citizens of activities under the Programme, including the uptake of innovative climate mitigation and adaptation solutions, the estimated impact on jobs and company creation, economic growth and competitiveness, clean energy, health and well-being, including air, soil and water quality. The results of that impact analysis should be made public, should be assessed in the context of the Union's climate and energy goals and should contribute to the subsequent strategic planning and future work programmes.
- (76) Reflecting the importance of tackling the dramatic loss of biodiversity, R&I activities under the Programme should contribute to the preservation and restoration of biodiversity and to the achievement of the overall ambition of providing 7,5 % of annual spending under the MFF to biodiversity objectives in 2024 and 10 % of annual spending under the MFF to biodiversity objectives in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals in accordance with the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources.
- (77) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (78) It is possible that the use of sensitive background information or access by unauthorised individuals to sensitive results have an adverse impact on the interests of the Union or of one or more of the Member States. Thus handling of confidential data and classified information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision (EU, Euratom) 2015/444 ⁽²⁵⁾.

⁽²⁵⁾ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

- (79) It is necessary to establish the minimum conditions for participation, both as a general rule where a consortium should include at least one legal entity from a Member State, and with regard to the specificities of particular types of action under the Programme.
- (80) It is necessary to establish the terms and conditions for providing Union funding to participants in actions under the Programme. Grants should be the main form of support in the Programme. They should be implemented taking into account all forms of contribution set out in the Financial Regulation, including lump sums, flat rates or unit costs, with a view to further simplification. The grant agreement should establish the rights and obligations of the beneficiaries, including the role and tasks of the coordinator where applicable. Close cooperation with Member States experts should be ensured in the drawing up of the model grant agreements and in any substantial amendment to them, in view, among other things, of further simplification for beneficiaries.
- (81) The funding rates in this Regulation are referred to as maximums in order to comply with the co-financing principle.
- (82) In accordance with the Financial Regulation, the Programme should provide the basis for a wider acceptance of the usual cost-accounting practices of the beneficiaries as regards personnel costs and unit costs for internally invoiced goods and services, including for large research infrastructures within the meaning of Horizon 2020. The use of unit costs for internally invoiced goods and services calculated in accordance with the usual accounting practices of the beneficiaries combining actual direct costs and indirect costs should be an option which could be chosen by all beneficiaries. In that respect, beneficiaries should be able to include actual indirect costs calculated on the basis of allocation keys in such unit costs for internally invoiced goods and services.
- (83) The current system of reimbursement of actual personnel costs should be further simplified, building on the project-based remuneration approach developed under Horizon 2020, and further aligned to the Financial Regulation, with the aim of reducing the remuneration gap between Union researchers involved in the Programme.
- (84) The Participant Guarantee Fund set up pursuant to Horizon 2020 and managed by the Commission has proved to be an important safeguard mechanism which mitigates the risks associated with the amounts due and not reimbursed by defaulting participants. Therefore, the Participant Guarantee Fund, renamed the mutual insurance mechanism (the 'Mechanism'), should be continued and enlarged to other funding bodies in particular to initiatives pursuant to Article 185 TFEU. It should be possible to extend the Mechanism to beneficiaries of any other directly managed Union programme. On the basis of close monitoring of the possible negative returns on the investments made by the Mechanism, the Commission should take appropriate mitigating measures in order to allow the Mechanism to continue its interventions for the protection of the financial interests of the Union and to return contributions to beneficiaries at the payment of the balance.
- (85) Rules governing the exploitation and dissemination of results should be laid down to ensure that beneficiaries protect, exploit, disseminate and provide access to those results as appropriate. More emphasis should be placed on to exploiting those results, and the Commission should identify and help maximise opportunities for beneficiaries to exploit results, in particular in the Union. The exploitation of results should take into consideration the principles of the Programme, including promoting innovation in the Union and strengthening the ERA.
- (86) The key elements of the proposal evaluation and selection system of Horizon 2020 with its particular focus on excellence and, where applicable, on 'impact' and 'quality and efficiency of implementation', should be maintained. Proposals should continue to be selected based on the evaluation made by independent external experts. The evaluation process should be designed to avoid conflicts of interest and bias. The possibility of a two-stage submission procedure should be taken into account and, where appropriate, anonymised proposals could be evaluated during the first stage of evaluation. The Commission should continue to involve independent observers in the evaluation process, where applicable. For Pathfinder activities, missions and in other duly justified cases as set out in the work programme, the necessity to ensure the overall coherence of the portfolio of projects may be taken into account, provided that the proposals have passed the applicable thresholds. The objectives and procedures for doing so should be published in advance. In accordance with Article 200(7) of the Financial Regulation, applicants should receive feedback on the evaluation of their proposal, including, in particular, where applicable, the reasons for rejection.

- (87) Systematic cross-reliance on assessments and audits with other Union programmes should be implemented in accordance with Articles 126 and 127 of the Financial Regulation for all parts of the Programme, where possible, in order to reduce administrative burden for beneficiaries of Union funds. Cross-reliance should be explicitly provided for by considering also other elements of assurance such as system and process audits.
- (88) Specific challenges in the areas of R&I should be addressed by prizes, including common or joint prizes where appropriate, organised by the Commission or the relevant funding body with other Union bodies, associated countries, other third countries, international organisations or non-profit legal entities. Prizes should support the achievement of the objectives of the Programme.
- (89) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and scales of unit costs.
- (90) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the MFF 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021.
- (91) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding duplication, reaching critical mass in key areas and maximising Union added value, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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 those objectives.
- (92) Regulation (EU) No 1290/2013 of the European Parliament and of the Council⁽²⁶⁾ and Regulation (EU) No 1291/2013 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes Horizon Europe - the Framework Programme for Research and Innovation (the 'Programme') for the duration of the MFF 2021-2027, sets out the rules for participation and dissemination concerning indirect actions under the Programme and determines the framework governing Union support for R&I activities for the same duration.

This Regulation lays down the objectives of the Programme, the budget for the period 2021 to 2027, the forms of Union funding and the rules for providing such funding.

2. The Programme shall be implemented through:

- (a) the specific programme established by Decision (EU) 2021/764;
- (b) a financial contribution to the European Institute of Innovation and Technology established by the EIT Regulation;

⁽²⁶⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for 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).

(c) the specific programme on defence research established by Regulation (EU) 2021/697.

3. This Regulation does not apply to the specific programme on defence research referred to in point (c) of paragraph 2 of this Article, with the exception of Articles 1 and 5, Article 7(1) and Article 12(1).

4. The terms 'Horizon Europe', 'the Programme' and 'specific programme' used in this Regulation refer to matters relevant only to the specific programme referred to in point (a) of paragraph 2, unless otherwise specified.

5. The EIT shall implement the Programme in accordance with its strategic objectives for the period 2021 to 2027, as laid down in the Strategic Innovation Agenda of the EIT, taking into account the strategic planning referred to in Article 6 and in the specific programme referred to in point (a) of paragraph 2 of this Article.

Article 2

Definitions

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

- (1) 'research infrastructures' means facilities that provide resources and services for the research communities to conduct research and foster innovation in their fields, including the associated human resources, major equipment or sets of instruments; knowledge-related facilities such as collections, archives or scientific data infrastructures; computing systems, communication networks and any other infrastructure of a unique nature and open to external users, essential to achieve excellence in R&I; they may, where relevant, be used beyond research, for example for education or public services and they may be 'single sited', 'virtual' or 'distributed';
- (2) 'smart specialisation strategy' means the national or regional innovation strategies which set priorities in order to build competitive advantage by developing and matching R&I own strengths to business needs in order to address emerging opportunities and market developments in a coherent manner, while avoiding duplication and fragmentation of efforts, including those that take the form of, or are included in, a national or regional R&I strategic policy framework, and fulfilling the enabling condition set out in the relevant provisions of the Common Provisions Regulation for 2021-2027;
- (3) 'European Partnership' means an initiative, prepared with the early involvement of Member States and associated countries, where the Union together with private and/or public partners (such as industry, universities, research organisations, bodies with a public service mission at local, regional, national or international level or civil society organisations including foundations and NGOs) commit to jointly supporting the development and implementation of a programme of R&I activities, including those related to market, regulatory or policy uptake;
- (4) 'open access' means online access, provided free of charge to the end user, to research outputs resulting from actions under the Programme in accordance with Article 14 and Article 39(3);
- (5) 'open science' means an approach to the scientific process based on open cooperative work, tools and diffusing knowledge, and includes the elements listed in Article 14;
- (6) 'mission' means a portfolio of excellence-based and impact-driven R&I activities across disciplines and sectors, intended to: (i) achieve, within a set timeframe, a measurable goal that could not be achieved through individual actions; (ii) have an impact on society and policy-making through science and technology; and (iii) be relevant for a significant part of the European population and a wide range of European citizens;
- (7) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;
- (8) 'public procurement of innovative solutions' means procurement where contracting authorities act as a launch customer for innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformity testing;

- (9) 'access rights' means rights to use results or background under terms and conditions laid down in accordance with this Regulation;
- (10) 'background' means any data, know how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, that is: (i) held by beneficiaries prior to their accession to a given action; and (ii) identified by the beneficiaries in a written agreement as needed for implementing the action or for exploiting its results;
- (11) 'dissemination' means the public disclosure of the results by appropriate means, other than resulting from protecting or exploiting the results, including by scientific publications in any medium;
- (12) 'exploitation' means the use of results in further R&I activities other than those covered by the action concerned, including among other things, commercial exploitation such as developing, creating, manufacturing and marketing a product or process, creating and providing a service, or in standardisation activities;
- (13) 'fair and reasonable conditions' means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged;
- (14) 'funding body' means a body or organisation, as referred to in point (c) of Article 62(1) of the Financial Regulation, to which the Commission has entrusted budget implementation tasks under the Programme;
- (15) 'international European research organisation' means an international organisation, the majority of whose members are Member States or associated countries, whose principal objective is to promote scientific and technological cooperation in Europe;
- (16) 'legal entity' means a natural person, or a legal person created and recognised as such under Union, national or international law, which has legal personality and the capacity to act in its own name, exercise rights and be subject to obligations, or an entity which does not have legal personality as referred to in point (c) of Article 197(2) of the Financial Regulation;
- (17) 'widening countries' or 'low R&I performing countries' means countries where legal entities need to be established in order to be eligible as coordinators under the 'widening participation and spreading excellence' component of the 'Widening Participation and Strengthening ERA' part of the Programme; from the Member States, those countries are Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia, for the whole duration of the Programme; for associated countries, it means the list of eligible countries as defined based on an indicator and published in the work programme. Legal entities from outermost regions as defined in Article 349 TFUE shall be also fully eligible as coordinators under this component;
- (18) 'non-profit legal entity' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members;
- (19) 'small or medium-sized enterprise' or 'SME' means a micro, small or medium-sized enterprise as defined in Article 2 of the Annex to Recommendation 2003/361/EC ⁽²⁷⁾;
- (20) 'small mid-cap' means an entity that is not an SME and that has up to 499 employees where the staff headcount is calculated in accordance with Articles 3 to 6 of Annex to Recommendation 2003/361/EC;
- (21) 'results' means any tangible or intangible effect of a given action, such as data, knowhow or information, whatever its form or nature and whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;

⁽²⁷⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (22) 'research output' means the results generated by a given action to which access can be given in the form of scientific publications, data or other engineered results and processes such as software, algorithms, protocols and electronic notebooks;
- (23) 'Seal of Excellence' means a quality label which shows that a proposal submitted to a call for proposals exceeded all of the evaluation thresholds set out in the work programme, but could not be funded due to lack of budget available for that call for proposals in the work programme and might receive support from other Union or national sources of funding;
- (24) 'strategic R&I plan' means an implementing act laying out a strategy for realising content in the work programme covering a maximum period of four years, follows a broad mandatory multi-stakeholder consultation process and specifies the priorities, suitable types of action and forms of implementation to be used;
- (25) 'work programme' means a document adopted by the Commission for the implementation of the specific programme in accordance with Article 14 of Decision (EU) 2021/764 or a document equivalent in content and structure adopted by a funding body;
- (26) 'contract' means an agreement concluded between the Commission or the relevant funding body with a legal entity implementing an innovation and market deployment action and supported by Horizon Europe blended finance or EIC blended finance;
- (27) 'reimbursable advance' means the part of the Horizon Europe blended finance or EIC blended finance that corresponds to a loan under Title X of the Financial Regulation, but that is directly awarded by the Union on a non-profit basis to cover the costs of activities corresponding to an innovation action, and which is to be reimbursed by the beneficiary to the Union under the conditions provided for in the contract;
- (28) 'classified information' means European Union classified information as defined in Article 3 of Decision (EU, Euratom) 2015/444 as well as classified information of Member States, classified information of third countries with which the Union has a security agreement and classified information of international organisation with which the Union has a security agreement;
- (29) 'blending operation' means an action supported by the Union budget, including within a blending facility or platform as defined in point (6) of Article 2 of the Financial Regulation, that combines non-repayable forms of support and/or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (30) 'Horizon Europe blended finance' means financial support to a programme implementing innovation and market deployment action, consisting of a specific combination of a grant or reimbursable advance and an investment in equity or any other repayable form of support;
- (31) 'EIC blended finance' means direct financial support provided under the EIC to an innovation and market deployment action consisting of a specific combination of a grant or reimbursable advance and an investment in equity or any other repayable form of support;
- (32) 'research and innovation action' means an action primarily consisting of activities aiming to establish new knowledge or to explore the feasibility of a new or improved technology, product, process, service or solution. This may include basic and applied research, technology development and integration, testing, demonstration and validation on a small-scale prototype in a laboratory or simulated environment;
- (33) 'innovation action' means an action primarily consisting of activities directly aiming to produce plans and arrangements or designs for new, altered or improved products, processes or services, possibly including prototyping, testing, demonstrating, piloting, large-scale product validation and market replication;
- (34) 'ERC frontier research action' means a principal investigator-led research action, including ERC Proof of Concept, hosted by single or multiple beneficiaries receiving funding from the European Research Council (ERC);
- (35) 'training and mobility action' means an action geared towards the improvement of the skills, knowledge and career prospects of researchers, based on mobility between countries and, if relevant, between sectors or disciplines;

- (36) 'programme co-fund action' means an action to provide multi-annual co-funding to a programme of activities established or implemented by legal entities managing or funding R&I programmes, other than Union funding bodies; such a programme of activities may support networking and coordination, research, innovation, pilot actions, and innovation and market deployment actions, training and mobility actions, awareness raising and communication, dissemination and exploitation, and provide any relevant financial support, such as grants, prizes and procurement, as well as Horizon Europe blended finance or a combination thereof. The programme co-fund action may be implemented by those legal entities directly or by third parties on their behalf;
- (37) 'pre-commercial procurement action' means an action the primary aim of which is to realise the pre-commercial procurement implemented by beneficiaries that are contracting authorities or contracting entities;
- (38) 'public procurement of innovative solutions action' means an action the primary aim of which is to realise the joint or coordinated public procurement of innovative solutions implemented by beneficiaries that are contracting authorities or contracting entities;
- (39) 'coordination and support action' means an action contributing to the objectives of the Programme, excluding R&I activities, except when undertaken under the component 'widening participation and spreading excellence' of the part 'Widening participation and strengthening the ERA'; and bottom-up coordination without co-funding of research activities from the Union that allows for cooperation between legal entities from Member States and associated countries in order to strengthen the ERA;
- (40) 'inducement prize' means a prize to spur investment in a given direction by specifying a target prior to the performance of the work;
- (41) 'recognition prize' means a prize to reward past achievements and outstanding work after it has been performed;
- (42) 'innovation and market deployment action' means an action which embeds an innovation action and other activities necessary to deploy an innovation in the market, including the scaling-up of companies, Horizon Europe blended finance or EIC blended finance;
- (43) 'indirect actions' means R&I activities to which the Union provides financial support and which are undertaken by participants;
- (44) 'direct actions' means R&I activities undertaken by the Commission through its JRC;
- (45) 'procurement' means procurement as defined in point (49) of Article 2 of the Financial Regulation;
- (46) 'affiliated entity' means an entity as defined in Article 187(1) of the Financial Regulation;
- (47) 'innovation ecosystem' means an ecosystem that brings together at Union level actors or entities whose functional goal is to enable technology development and innovation; it encompasses relations between material resources (such as funds, equipment, and facilities), institutional entities (such as higher education institutions and support services, research and technology organisations, companies, venture capitalists and financial intermediaries) and national, regional and local policy-making and funding entities;
- (48) 'project-based remuneration' means remuneration that is linked to the participation of a person in projects, is part of the beneficiary's usual remuneration practices and is paid in a consistent manner.

Article 3

Programme objectives

1. The general objective of the Programme is to deliver scientific, technological, economic and societal impact from the Union's investments in R&I so as to strengthen the scientific and technological bases of the Union and foster the competitiveness of the Union in all Member States including in its industry, to deliver on the Union strategic priorities and to contribute to the realisation of Union objectives and policies, to tackle global challenges, including the SDGs by following the principles of the 2030 Agenda and the Paris Agreement, and to strengthen the ERA. The Programme shall thus maximise Union added value by focusing on objectives and activities that cannot be effectively realised by Member States acting alone, but in cooperation.

2. The Programme has the following specific objectives:
 - (a) to develop, promote and advance scientific excellence, to support the creation and diffusion of high-quality new fundamental and applied knowledge, of skills, technologies and solutions, to support training and mobility of researchers, to attract talent at all levels and contribute to the full engagement of the Union's talent pool in actions supported under the Programme;
 - (b) to generate knowledge, strengthen the impact of R&I in developing, supporting and implementing Union policies and support the access to and uptake of innovative solutions in European industry, in particular SMEs, and in society to address global challenges, including climate change and the SDGs;
 - (c) to foster all forms of innovation, facilitate technological development, demonstration and knowledge and technology transfer, strengthen deployment and exploitation of innovative solutions;
 - (d) to optimise the Programme's delivery with a view to strengthening and increasing the impact and attractiveness of the ERA, to foster excellence-based participation from all Member States, including low R&I performing countries, in the Programme and to facilitate collaborative links in European R&I.

Article 4

Programme structure

1. For the specific programme referred to in point (a) of Article 1(2) and the EIT, the Programme shall be structured in parts as follows, which contribute to the general and specific objectives set out in Article 3:
 - (a) Pillar I 'Excellent Science', with the following components:
 - (i) the ERC;
 - (ii) Marie Skłodowska-Curie Actions (MSCA);
 - (iii) research infrastructures;
 - (b) Pillar II 'Global Challenges and European Industrial Competitiveness', with the following components, taking into account that SSH play an important role across all clusters:
 - (i) cluster 'Health';
 - (ii) cluster 'Culture, Creativity and Inclusive Society';
 - (iii) cluster 'Civil Security for Society';
 - (iv) cluster 'Digital, Industry and Space';
 - (v) cluster 'Climate, Energy and Mobility';
 - (vi) cluster 'Food, Bioeconomy, Natural Resources, Agriculture and Environment';
 - (vii) non-nuclear direct actions of the JRC;
 - (c) Pillar III 'Innovative Europe', with the following components:
 - (i) the EIC;
 - (ii) European innovation ecosystems;
 - (iii) the EIT;
 - (d) Part 'Widening Participation and Strengthening the ERA', with the following components:
 - (i) widening participation and spreading excellence;
 - (ii) reforming and enhancing the European R&I System.
2. The broad lines of activities of the Programme are set out in Annex I of this Regulation.

*Article 5***Defence research and development**

Activities to be carried out under the specific programme referred to in point (c) of Article 1(2) and which are laid down in Regulation (EU) 2021/697, shall have an exclusive focus on defence research and development, with objectives and broad lines of activities aiming to foster the competitiveness, efficiency and innovation capacity of the European defence technological and industrial base.

*Article 6***Strategic planning and implementation and forms of Union funding**

1. The Programme shall be implemented by means of direct management or by means of indirect management by the funding bodies.
2. Funding under the Programme may be provided by means of indirect actions in any of the forms laid down in the Financial Regulation, however grants shall be the main form of support under the Programme. Funding under the Programme may also be provided through prizes, procurements and financial instruments within blending operations and equity support under the Accelerator.
3. The rules for participation and dissemination laid down in this Regulation shall apply to indirect actions.
4. The main types of action to be used under the Programme are defined in Article 2. The forms of funding referred to in paragraph 2 of this Article shall be used in a flexible manner across all objectives of the Programme with their use being determined on the basis of the needs and the characteristics of the particular objectives.
5. The Programme shall also support direct actions. Where those direct actions contribute to initiatives established under Article 185 or 187 TFEU, that contribution shall not be considered to be part of the financial contribution allocated to those initiatives.
6. The implementation of the specific programme referred to in point (a) of Article 1(2) and the EIT's KICs shall be supported by a transparent and strategic planning of R&I activities as laid down in the specific programme referred to in point (a) of Article 1(2), in particular for the pillar 'Global Challenges and European Industrial Competitiveness' and cover also relevant activities in other pillars and the 'Widening participation and strengthening the ERA' part.

The Commission shall ensure the early involvement of Member States and extensive exchanges with the European Parliament, to be complemented by consultations with stakeholders and the general public.

Strategic planning shall ensure alignment with other relevant Union programmes and consistency with Union priorities and commitments and increase complementarity and synergies with national and regional funding programmes and priorities, thereby strengthening the ERA. Areas for possible missions and areas for possible Institutionalised European Partnerships shall be established in Annex VI.

7. Where appropriate, in order to allow faster access to funds for small collaborative consortia, a fast track to research and innovation procedure (FTRI procedure) may be proposed under some of the calls for proposals dedicated to select research and innovation actions or innovation actions under the pillar 'Global Challenges and European Industrial Competitiveness' and the European Innovation Council Pathfinder.

A call for proposals under the FTRI procedure shall have the following cumulative characteristics:

- (a) bottom-up calls for proposals;
- (b) a shorter time-to-grant, not exceeding six months;
- (c) a support provided only to small collaborative consortia composed of maximum six different and independent eligible legal entities;

(d) a maximum financial support per consortium not exceeding EUR 2,5 million.

The work programme shall identify the calls for proposals which use the FTRI procedure.

8. Activities of the Programme shall be delivered primarily through open, competitive calls for proposals, including within missions and European Partnerships.

Article 7

Principles of the Programme

1. Research and innovation activities carried out under the specific programme referred to in point (a) of Article 1(2) and under the EIT shall have an exclusive focus on civil applications. Budgetary transfers between the amount allocated to the specific programme referred to in point (a) of Article 1(2) and the EIT and the amount allocated to the specific programme referred to in point (c) of Article 1(2) shall not be allowed and unnecessary duplication between the two programmes shall be avoided.

2. The Programme shall ensure a multidisciplinary approach and shall, where appropriate, provide for the integration of SSH across all clusters and activities developed under the Programme, including specific calls for proposals on SSH related topics.

3. The collaborative parts of the Programme shall ensure a balance between lower and higher TRLs, thereby covering the whole value chain.

4. The Programme shall ensure the effective promotion and integration of cooperation with third countries and international organisations and initiatives based on mutual benefits, the Union interests, international commitments and, where appropriate, reciprocity.

5. The Programme shall assist widening countries to increase their participation in it and to promote a broad geographical coverage in collaborative projects, including through spreading scientific excellence, boosting new collaborative links, stimulating brain circulation as well as through the implementation of Article 24(2) and Article 50(5). Those efforts shall be mirrored by proportional measures by Member States, including through setting attractive salaries for researchers, with the support of Union, national and regional funds. Without undermining the excellence criteria, particular attention shall be paid to geographical balance, subject to the situation in the field of R&I concerned, in evaluation panels and bodies such as boards and expert groups.

6. The Programme shall ensure the effective promotion of equal opportunities for all and the implementation of gender mainstreaming, including the integration of the gender dimension in R&I content. It shall aim to address the causes of gender imbalance. Particular attention shall be paid to ensuring, to the extent possible, gender balance in evaluation panels and in other relevant advisory bodies such as boards and expert groups.

7. The Programme shall be implemented in synergy with other Union programmes while aiming for maximal administrative simplification. A non-exhaustive list of synergies with other Union programmes is included in Annex IV.

8. The Programme shall contribute to increasing public and private investment in R&I in Member States, thereby helping to reach an overall investment of at least 3 % of Union GDP in research and development.

9. When implementing the Programme, the Commission shall continue to aim for administrative simplification and a reduction of the burden for the applicants and beneficiaries.

10. As part of the general Union objective of mainstreaming climate actions into Union sectoral policies and Union funds, actions under this Programme shall contribute at least 35 % of the expenditure to climate objectives where appropriate. Climate mainstreaming shall be adequately integrated in R&I content.

11. The Programme shall promote co-creation and co-design through the engagement of citizens and civil society.

12. The Programme shall ensure transparency and accountability of public funding in R&I projects, thereby preserving the public interest.

13. The Commission or the relevant funding body shall ensure that sufficient guidance and information is made available to all potential participants at the time of publication of the call for proposals, in particular the applicable model grant agreement.

Article 8

Missions

1. Missions shall be programmed within the pillar 'Global Challenges and European Industrial Competitiveness', but may also benefit from actions carried out within other parts of the Programme as well as complementary actions carried out under other Union programmes. Missions shall allow for competing solutions, resulting in pan-European added value and impact.

2. Missions shall be defined and implemented in accordance with this Regulation and the specific programme, ensuring the active and early involvement of the Member States and extensive exchanges with the European Parliament. The missions, their objectives, budget, targets, scope, indicators and milestones shall be identified in strategic R&I plans or the work programmes as appropriate. Evaluations of proposals under the missions shall be carried out in accordance with Article 29.

3. During the first three years of the Programme, a maximum of 10 % of the annual budget of Pillar II shall be programmed through specific calls for proposals for implementing the missions. For the remaining years of the Programme that percentage may be increased subject to a positive assessment of the mission selection and of the management process. The Commission shall communicate the total budgetary share of each work programme dedicated to missions.

4. Missions shall:

- (a) using SDGs as sources for their design and implementation, have a clear R&I content and Union added value, and contribute to reaching Union priorities and commitments and the Programme objectives referred to in Article 3;
- (b) cover areas of common European relevance, be inclusive, encourage broad engagement and active participation from various types of stakeholders from the public and private sector, including citizens and end-users, and deliver R&I results that could benefit all Member States;
- (c) be bold and inspirational, hence have wide, scientific, technological, societal, economic, environmental or policy relevance and impact;
- (d) indicate a clear direction and clear objectives, be targeted, measurable and time-bound and have a clear budgetary envelope;
- (e) be selected in a transparent manner and be centred on ambitious, excellence-based and impact-driven, but realistic goals and on research, development and innovation activities;
- (f) have the necessary scope, scale and mobilisation of the resources and leverage of additional public and private funds required to deliver their outcome;
- (g) stimulate activities across disciplines (including SSH) and encompass activities from a broad range of TRLs, including lower TRLs;
- (h) be open to multiple, bottom-up approaches and solutions which take into account human and societal needs and benefits and recognise the importance of diverse contributions to their achievement;
- (i) benefit from synergies with other Union programmes in a transparent manner as well as with national and, where relevant, regional innovation ecosystems.

5. The Commission shall monitor and evaluate each mission in accordance with Articles 50 and 52 and Annex V, including progress towards short, medium and long-term targets, covering the implementation, monitoring and phasing-out of the missions. An assessment of the first missions established under the Programme shall take place no later than 2023 and before any decision is taken on creating new missions, or on continuing, terminating or redirecting ongoing missions. The results of that assessment shall be made public and shall include, but not be limited to, an analysis of their selection process and of their governance, budget, focus and progress to date.

*Article 9***The European Innovation Council**

1. The Commission shall establish the EIC as a centrally managed one-stop shop for implementing actions under Pillar III 'Innovative Europe' which relate to the EIC. The EIC shall focus mainly on breakthrough and disruptive innovation, targeting especially market-creating innovation, while also supporting all types of innovation, including incremental.

The EIC shall operate in accordance with the following principles:

- (a) clear Union added value;
- (b) autonomy;
- (c) ability to take risk;
- (d) efficiency;
- (e) effectiveness;
- (f) transparency;
- (g) accountability.

2. The EIC shall be open to all types of innovators including individuals, universities, research organisations and companies (SMEs, including start-ups, and, in exceptional cases, small mid-caps) as well as single beneficiaries and multi-disciplinary consortia. At least 70 % of EIC budget shall be dedicated to SMEs, including start-ups.

3. The EIC Board and the management features of the EIC are described in Decision (EU) 2021/764.

*Article 10***European Partnerships**

1. Parts of the Programme may be implemented through European Partnerships. The involvement of the Union in European Partnerships shall take any of the following forms:

- (a) participation in European Partnerships set up on the basis of memoranda of understanding or contractual arrangements between the Commission and the partners referred to in point (3) of Article 2, specifying the objectives of the European Partnership, related commitments of the Union and of the other partners regarding their financial and/or in-kind contributions, key performance and impact indicators, the results to be delivered and reporting arrangements. They include the identification of complementary R&I activities that are implemented by the partners and by the Programme (Co-programmed European Partnerships);
- (b) participation in and financial contribution to a programme of R&I activities, specifying the objectives, key performance and impact indicators, and the results to be delivered, based on the commitment of the partners regarding their financial and/or in-kind contributions and the integration of their relevant activities using a Programme co-fund action (Co-funded European Partnerships);
- (c) participation in and financial contribution to R&I programmes undertaken by several Member States in accordance with Article 185 TFEU or by bodies established pursuant to Article 187 TFEU, such as Joint Undertakings or by the EIT's KICs in accordance with the EIT Regulation (Institutionalised European Partnerships).

Institutionalised European Partnerships shall be implemented only where other parts of the Programme, including other forms of European Partnerships, would not achieve the objectives or would not generate the necessary expected impacts, and where justified by a long-term perspective and a high degree of integration. European Partnerships in accordance with Article 185 or Article 187 TFEU shall implement a central management of all financial contributions, except in duly justified cases. In the case of central management of all financial contributions, project level contributions from one participating state shall be made on the basis of the funding requested in proposals from legal entities established in that participating state, unless otherwise agreed among all participating states.

The rules for Institutionalised European Partnerships shall specify, among other things, the objectives, key performance and impact indicators, and the results to be delivered, as well as the related commitments for financial and/or in-kind contributions of the partners.

2. European Partnerships shall:

- (a) be established for the purpose of addressing European or global challenges only in cases where the objectives of the Programme would be achieved more effectively through a European Partnership than by the Union alone and when compared to other forms of support under the Programme; an appropriate share of the budget of the Programme shall be allocated to those actions of the Programme that are implemented through European Partnerships; the majority of the budget in Pillar II shall be allocated to actions outside European Partnerships;
- (b) adhere to the principles of Union added value, transparency and openness, and to having impact within and for Europe, strong leverage effect on sufficient scale, long-term commitments of all involved parties, flexibility in implementation, coherence, coordination and complementarity with Union, local, regional, national and, where relevant, international initiatives or other European Partnerships and missions;
- (c) have a clear life-cycle approach, be limited in time and include conditions for phasing-out the Programme funding.

3. European Partnerships under points (a) and (b) of paragraph 1 of this Article shall be identified in strategic R&I plans before being implemented in work programmes.

4. Provisions and criteria for the selection, implementation, monitoring, evaluation and phasing-out of European Partnerships are set out in Annex III.

Article 11

Review of missions and partnership areas

By 31 December 2023, the Commission shall carry out a review of Annex VI to this Regulation as part of the overall monitoring of the Programme, including missions and Institutionalised European Partnerships established pursuant to Article 185 or 187 TFEU and present a report on the main findings to the European Parliament and to the Council.

Article 12

Budget

1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 shall be EUR 86 123 000 000 in current prices for the specific programme referred to in point (a) of Article 1(2) and for the EIT and EUR 7 953 000 000 in current prices for the specific programme referred to in point (c) of Article 1(2).

2. The indicative distribution of the amount referred to in paragraph 1 for the specific programme referred to in point (a) of Article 1(2) and for the EIT shall be:

(a) EUR 23 546 000 000 for Pillar I 'Excellent Science' for the period 2021 to 2027, of which:

- (i) EUR 15 027 000 000 for the ERC;
- (ii) EUR 6 333 000 000 for MSCA;
- (iii) EUR 2 186 000 000 for research infrastructures;

(b) EUR 47 428 000 000 for Pillar II 'Global Challenges and European Industrial Competitiveness' for the period 2021 to 2027, of which:

- (i) EUR 6 893 000 000 for cluster 'Health';
- (ii) EUR 1 386 000 000 for cluster 'Culture, Creativity and Inclusive Society';
- (iii) EUR 1 303 000 000 for cluster 'Civil Security for Society';

- (iv) EUR 13 462 000 000 for cluster 'Digital, Industry and Space';
 - (v) EUR 13 462 000 000 for cluster 'Climate, Energy and Mobility';
 - (vi) EUR 8 952 000 000 for cluster 'Food, Bioeconomy, Natural Resources, Agriculture and Environment';
 - (vii) EUR 1 970 000 000 for the non-nuclear direct actions of the JRC;
- (c) EUR 11 937 000 000 for Pillar III 'Innovative Europe' for the period 2021 to 2027, of which:
- (i) EUR 8 752 000 000 for the EIC;
 - (ii) EUR 459 000 000 for European innovation ecosystems;
 - (iii) EUR 2 726 000 000 for the EIT;
- (d) EUR 3 212 000 000 for Part 'Widening Participation and Strengthening the ERA' for the period 2021 to 2027, of which:
- (i) EUR 2 842 000 000 for 'widening participation and spreading excellence';
 - (ii) EUR 370 000 000 for 'reforming and enhancing the European R&I System'.

3. As a result of the Programme specific adjustment provided for in Article 5 of Regulation (EU, Euratom) 2020/2093 the amount referred to in the paragraph 1 for the specific programme referred to in point (a) of Article 1(2) of this Regulation and for the EIT shall be increased by an additional allocation of EUR 3 000 000 000 in constant 2018 prices as specified in Annex II to Regulation (EU, Euratom) 2020/2093.

4. The indicative distribution of the amount referred to in paragraph 3 shall be as follows:

- (a) EUR 1 286 000 000 in constant 2018 prices for Pillar I 'Excellent Science', of which:
- (i) EUR 857 000 000 in constant 2018 prices for the ERC;
 - (ii) EUR 236 000 000 in constant 2018 prices for MSCA;
 - (iii) EUR 193 000 000 in constant 2018 prices for research infrastructures;
- (b) EUR 1 286 000 000 in constant 2018 prices for Pillar II 'Global Challenges and European Industrial Competitiveness', of which:
- (i) EUR 686 000 000 in constant 2018 prices for cluster 'Culture, Creativity and Inclusive Society';
 - (ii) EUR 257 000 000 in constant 2018 prices for cluster 'Civil Security for Society';
 - (iii) EUR 171 000 000 in constant 2018 prices for cluster 'Digital, and Industry and Space';
 - (iv) EUR 171 000 000 in constant 2018 prices for cluster 'Climate, Energy and Mobility';
- (c) EUR 270 000 000 in constant 2018 prices for Pillar III 'Innovative Europe', of which:
- (i) EUR 60 000 000 in constant 2018 prices for European innovation ecosystems;
 - (ii) EUR 210 000 000 in constant 2018 prices for the EIT;
- (d) EUR 159 000 000 in constant 2018 prices for Part 'Widening Participation and Strengthening the ERA', of which:
- (i) EUR 99 000 000 in constant 2018 prices for 'widening participation and spreading sharing excellence';
 - (ii) EUR 60 000 000 in constant 2018 prices for 'reforming and enhancing the European R&I System'.

5. In order to respond to unforeseen situations or to new developments and needs, the Commission may, within the annual budgetary procedure, deviate from the amounts referred to in paragraph 2 up to a maximum of 10 %. There shall be no such deviation in respect of the amounts referred to in point (b)(vii) of paragraph 2 and the total amount set out for Part 'Widening Participation and Strengthening the ERA' of paragraph 2.

6. The amount referred to in paragraphs 1 and 3 of this Article for the specific programme referred to in point (a) of Article 1(2) and for the EIT, may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities and expenditures necessary for managing and implementing the Programme, including all administrative expenditure, as well as evaluating the achievement of its objectives. The administrative expenses related to indirect actions shall not exceed 5 % of the total amount of indirect actions of the specific programme referred to in point (a) of Article 1(2) and of the EIT. Moreover, the amount referred to in paragraphs 1 and 3 of this Article for the specific programme referred to in point (a) of Article 1(2) and for the EIT may also cover:

- (a) in so far as they are related to the objectives of the Programme: expenses relating to studies, to meetings of experts, information and communication actions;
- (b) expenses linked to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.

7. If necessary to enable the management of actions not completed by 31 December 2027, appropriations may be entered in the Union budget beyond 2027 to cover the expenses provided for in paragraph 6.

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

9. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, in duly justified cases specified in the financing decision and for a limited period, activities supported under this Regulation and the underlying costs may be considered eligible as of 1 January 2021, even if they were implemented and incurred before the grant application was submitted.

Article 13

Resources from the European Union Recovery Instrument

1. Subject to Article 3(3), (4), (7) and (9) of Regulation (EU) 2020/2094 the measures referred to in Article 1(2) of that Regulation shall be implemented under the Programme through amounts referred to in point (a)(iv) of Article 2(2) of that Regulation.

2. The amounts referred to in point (a)(iv) of Article 2(2) of Regulation (EU) 2020/2094 shall constitute external assigned revenue as set out in Article 3(1) of that Regulation. Those additional amounts shall exclusively be allocated to actions for R&I directed at addressing the consequences of the COVID-19 crisis, in particular its economic, social and societal consequences. Priority shall be given to innovative SMEs and special attention shall be paid to their integration in collaborative projects under Pillar II.

3. The indicative distribution of the amounts referred to in point (a)(iv) of Article 2(2) of Regulation (EU) 2020/2094 shall be:

- (a) 25 % to cluster 'Health';
- (b) 25 % to cluster 'Digital, Industry and Space';
- (c) 25 % to cluster 'Climate, Energy and Mobility';
- (d) 25 % to the EIC.

Article 14

Open science

1. The Programme shall encourage open science as an approach to the scientific process based on cooperative work and diffusing knowledge, in particular in accordance with the following elements which shall be ensured in accordance with Article 39(3) of this Regulation:

- (a) open access to scientific publications resulting from research funded under the Programme;

- (b) open access to research data, including those underlying scientific publications, in accordance with the principle 'as open as possible, as closed as necessary'.
2. The principle of reciprocity in open science shall be promoted and encouraged in all association and cooperation agreements with third countries, including agreements signed by funding bodies entrusted with the indirect management of the Programme.
3. Responsible management of research data shall be ensured in line with the principles 'findability', 'accessibility', 'interoperability' and 'reusability' (the 'FAIR principles'). Attention shall also be paid to the long-term preservation of data.
4. Other open science practices shall be promoted and encouraged, including for the benefit of SMEs.

Article 15

Alternative, combined and cumulative funding and transfers of resources

1. The Programme shall be implemented in synergy with other Union programmes, in accordance with the principle set out in Article 7(7).
2. The Seal of Excellence shall be awarded for calls for proposals specified in the work programme. In accordance with the relevant provision of the Common Provisions Regulation for 2021-2027 and the relevant provision of the 'CAP Strategic Plan Regulation', the ERDF, the ESF+ or the EAFRD may support:
- (a) co-funded actions selected under the Programme; and
- (b) actions which were awarded a Seal of Excellence provided that they comply with all of the following conditions:
- (i) they have been assessed in a call for proposals under the Programme;
- (ii) they comply with the minimum quality requirements of that call for proposals; and
- (iii) they have not been financed under that call for proposals only due to budgetary constraints.
3. Financial contributions under programmes co-financed by the ERDF, the ESF+, the EMFAF and the EAFRD may be considered to be a contribution of the participating Member State to European Partnerships under points (b) and (c) of Article 10(1) of this Regulation, provided that the relevant provisions of the Common Provisions Regulation for 2021-2027 and the fund-specific regulations are complied with.
4. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
5. Resources allocated to Member States under shared management may, at the request of the Member State concerned, be transferred to the Programme subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.
6. Where the Commission has not entered into a legal commitment under direct or indirect management for resources transferred in accordance with paragraph 5, the corresponding uncommitted resources may be transferred back to one or more respective source programmes, at the request of the Member State, in accordance with the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027.

*Article 16***Third countries associated to the Programme**

1. The Programme shall be open to association of the following third countries (associated countries):
 - (a) Members of the European Free Trade Association, which are members of the EEA, in accordance with the conditions laid down in the Agreement on the European Economic Area;
 - (b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries;
 - (c) European Neighbourhood Policy countries, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or in similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries;
 - (d) third countries and territories that fulfil all of the following criteria:
 - (i) a good capacity in science, technology and innovation;
 - (ii) commitment to a rules-based open market economy, including fair and equitable dealing with intellectual property rights, respect of human rights, backed by democratic institutions;
 - (iii) active promotion of policies to improve the economic and social well-being of citizens.
2. Association to the Programme of each of the third countries under point (d) of paragraph 1 shall be in accordance with the conditions laid down in an agreement covering the participation of the third country to any Union programme, provided that the agreement:
 - (a) ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
 - (b) lays down the conditions of participation in the Union programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;
 - (c) does not confer on the third country any decision-making power in respect of the Union programme;
 - (d) guarantees the rights of the Union to ensure sound financial management and to protect the Union's financial interests.

The contributions referred to in point (b) of the first subparagraph of this paragraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.
3. The scope of association of each third country to the Programme shall take into account an analysis of the benefits for the Union and the objective of driving economic growth in the Union through innovation. Accordingly, with the exception of EEA members, acceding countries, candidate countries and potential candidates, parts of the Programme may be excluded from an association agreement for a specific country.
4. The association agreement shall, as far as possible, provide for the reciprocal participation of legal entities established in the Union in equivalent programmes of associated countries in accordance with the conditions laid down in those programmes.
5. The conditions determining the level of financial contribution shall ensure a regular automatic correction of any significant imbalance compared to the amount that entities established in the associated country receive through participation in the Programme, taking into account the costs in the management, execution and operation of the Programme. The allocation of the financial contributions shall take into account the level of participation of the legal entities of the associated countries in each part of the Programme.

TITLE II

RULES FOR PARTICIPATION AND DISSEMINATION

CHAPTER I

General provisions*Article 17***Funding bodies and direct actions of JRC**

1. The rules set out in this Title do not apply to direct actions undertaken by the JRC.
2. In duly justified cases, funding bodies may depart from the rules set out in this Title, except for Articles 18, 19 and 20, if:
 - (a) such a departure is provided for in the basic act setting up the funding body or entrusting budget implementation tasks to it; or
 - (b) for funding bodies under points (ii), (iii) or (v) of point (c) of Article 62(1) of the Financial Regulation if it is provided for in the contribution agreement and if their specific operating needs or the nature of the action so require.

*Article 18***Eligible actions and ethical principles**

1. Without prejudice to paragraph 2 of this Article, only actions implementing the objectives referred to in Article 3 shall be eligible for funding.

The following fields of research shall not be financed:

- (a) activities aiming at human cloning for reproductive purposes;
- (b) activities intended to modify the genetic heritage of human beings which could make such modifications heritable⁽²⁸⁾;
- (c) activities intended to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.

2. Research on human stem cells, both adult and embryonic, may be financed depending both on the contents of the scientific proposal and the legal framework of the Member States involved. No funding shall be provided within or outside the Union for research activities that are prohibited in all Member States. No funding shall be provided in a Member State for a research activity which is forbidden in that Member State.

*Article 19***Ethics**

1. Actions carried out under the Programme shall comply with ethical principles and relevant Union, national and international law, including the Charter and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Supplementary Protocols.

Particular attention shall be paid to the principle of proportionality, to the right to privacy, the right to the protection of personal data, the right to the physical and mental integrity of a person, the right to non-discrimination and to the need to ensure protection of the environment and high levels of human health protection.

⁽²⁸⁾ Research relating to cancer treatment of the gonads can be financed.

2. Legal entities participating in an action shall provide:
 - (a) an ethics self-assessment identifying and detailing all the foreseeable ethics issues related to the objective, implementation and likely impact of the activities to be funded, including a confirmation of compliance with paragraph 1 and a description of how it will be ensured;
 - (b) a confirmation that the activities will comply with the European Code of Conduct for Research Integrity published by All European Academies and that no activities excluded from funding will be conducted;
 - (c) for activities carried out outside the Union, a confirmation that the same activities would have been allowed in a Member State; and
 - (d) for activities making use of human embryonic stem cells, as appropriate, details of licensing and control measures that shall be taken by the competent authorities of the Member States concerned as well as details of the ethics approvals that shall be obtained before the activities concerned start.
 3. Proposals shall be systematically screened to identify actions which raise complex or serious ethics issues and submit them to an ethics assessment. The ethics assessment shall be carried out by the Commission unless it is delegated to the funding body. All actions involving the use of human embryonic stem cells or human embryos shall be subject to an ethics assessment. Ethics screenings and assessments shall be carried out with the support of ethics experts. The Commission and the funding bodies shall ensure the transparency of the ethics procedures without prejudice to the confidentiality of the content of those procedures.
 4. Legal entities participating in an action shall obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies, such as data protection authorities, before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission or the relevant funding body upon request.
 5. If appropriate, ethics checks shall be carried out by the Commission or the relevant funding body. For serious or complex ethics issues, ethics checks shall be carried out by the Commission unless the Commission delegates this task to the funding body.
- Ethics checks shall be carried out with the support of ethics experts.
6. Actions which do not fulfil the ethics requirements referred to in paragraphs 1 to 4 and are therefore not ethically acceptable, shall be rejected or terminated once the ethical unacceptability has been established.

Article 20

Security

1. Actions carried out under the Programme shall comply with the applicable security rules and in particular rules on the protection of classified information against unauthorised disclosure, including compliance with any relevant Union and national law. In the case of research carried out outside the Union using or generating classified information, it shall also be necessary that, in addition to the compliance with those requirements, a security agreement shall have been concluded between the Union and the third country in which the research is to be conducted.
2. Where appropriate, proposals shall include a security self-assessment identifying any security issues and detailing how those issues will be addressed in order to comply with the relevant Union and national law.
3. Where appropriate, the Commission or the relevant funding body shall carry out a security scrutiny procedure for proposals raising security issues.
4. Where appropriate, the actions carried out under the Programme shall comply with Decision (EU, Euratom) 2015/444 and its implementing rules.

5. Legal entities participating in an action shall ensure the protection against unauthorised disclosure of classified information used or generated by the action. They shall provide proof of personal security clearance or facility security clearance from the relevant national security authorities, prior to the start of the activities concerned.
6. If independent external experts have to deal with classified information, the appropriate security clearance shall be required before those experts are appointed.
7. Where appropriate, the Commission or the relevant funding body may carry out security checks.
8. Actions which do not comply with the security rules under this Article may be rejected or terminated at any time.

CHAPTER II

Grants

Article 21

Grants

Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation, unless otherwise specified in this Chapter.

Article 22

Legal entities eligible for participation

1. Any legal entity, regardless of its place of establishment and including legal entities from non-associated third countries or international organisations, may participate in actions under the Programme, provided that the conditions laid down in this Regulation have been met together with any conditions laid down in the work programme or call for proposals.
2. Except in duly justified cases where the work programme otherwise provides, legal entities forming a consortium shall be eligible for participation in actions under the Programme provided that the consortium includes:
 - (a) at least one independent legal entity established in a Member State; and
 - (b) at least two other independent legal entities each established in different Member States or associated countries;
3. ERC frontier research actions, EIC actions, training and mobility actions or programme co-fund actions may be implemented by one or more legal entities, provided that one of those legal entities shall be established in a Member State or associated country on the basis of an agreement concluded in accordance with Article 16.
4. Coordination and support actions may be implemented by one or more legal entities, which may be established in a Member State, associated country or, in exceptional cases, in another third country.
5. For actions related to Union strategic assets, interests, autonomy or security, the work programme may provide that the participation can be limited to legal entities established only in Member States or to legal entities established in specified associated or other third countries in addition to Member States. Any limitation of the participation of legal entities established in associated countries which are EEA members shall be in accordance with the terms and conditions of the Agreement on the European Economic Area. For duly justified and exceptional reasons, in order to guarantee the protection of the strategic interests of the Union and its Member States, the work programme may also exclude the participation of legal entities established in the Union or in associated countries directly or indirectly controlled by non-associated third countries or by legal entities of non-associated third countries from individual calls for proposals, or make their participation subject to conditions set out in the work programme.

6. Where appropriate and duly justified, the work programme may provide for eligibility criteria in addition to those set out in paragraphs 2 to 5 to take into account specific policy requirements or the nature and objectives of the action, including the number of legal entities, the type of legal entity and the place of establishment.
7. For actions benefiting from amounts under Article 15(5), the participation shall be limited to a single legal entity established in the jurisdiction of the delegating managing authority, except if otherwise agreed with that managing authority.
8. Where indicated in the work programme, the JRC may participate in actions.
9. The JRC, international European research organisations and legal entities created under Union law shall be deemed to be established in a Member State other than the ones in which other legal entities participating in the action are established.
10. For ERC frontier research actions, training and mobility actions and when provided for in the work programme, international organisations with headquarters in a Member State or associated country shall be deemed to be established in that Member State or associated country. For other parts of the Programme, international organisations other than international European research organisations shall be deemed to be established in a non-associated third country.

Article 23

Legal entities eligible for funding

1. Legal entities shall be eligible for funding if they are established in a Member State or an associated country. Only legal entities established in the jurisdiction of the delegating managing authority shall be eligible for funding for actions benefiting from amounts under Article 15(5), except if otherwise agreed by that managing authority.
2. Legal entities established in a non-associated third country shall bear the cost of their participation. However, a legal entity established in low to middle income non-associated third countries and, exceptionally, other non-associated third countries, shall be eligible for funding in an action if:
 - (a) the third country is identified in the work programme adopted by the Commission; or
 - (b) the Commission or the relevant funding body considers that the participation of the legal entity concerned is essential for implementing the action.
3. Affiliated entities are eligible for funding in an action if they are established in a Member State, an associated country or in a third country identified in the work programme adopted by the Commission.
4. The Commission shall make available on a regular basis to the European Parliament and to the Council information concerning the amount of the Union's financial contributions provided to legal entities established in associated and non-associated third countries. As regards associated countries, that information shall also include information on their financial balance.

Article 24

Calls for proposals

1. The content of the calls for proposals for all actions shall be included in the work programme.
2. If necessary to achieve their objectives, calls for proposals may, in exceptional cases, be restricted in order to develop additional activities or to add additional partners to existing actions. In addition, the work programme may provide for the possibility for legal entities from low R&I performing countries to join already selected collaborative R&I actions, subject to the agreement of the respective consortium and provided that legal entities from such countries are not yet participating in it.

3. A call for proposals is not required for coordination and support actions or programme co-fund actions which:
 - (a) are to be carried out by the JRC or legal entities identified in the work programme;
 - (b) do not fall within the scope of a call for proposals, in accordance with point (e) of Article 195 of the Financial Regulation.
4. The work programme shall specify calls for proposals for which Seals of Excellence may be awarded. With prior authorisation from the applicant, information concerning the application and the evaluation may be shared with interested financing authorities, subject to the conclusion of confidentiality agreements.

Article 25

Joint calls for proposals

The Commission or the relevant funding body may issue a joint call for proposals with:

- (a) third countries, including their scientific and technological organisations or agencies;
- (b) international organisations;
- (c) non-profit legal entities.

In the case of a joint call for proposals, the applicants shall fulfil the requirements under Article 22 and joint procedures shall be established for the selection and evaluation of proposals. Such procedures shall involve a balanced group of experts appointed by each party.

Article 26

Pre-commercial procurement and public procurement of innovative solutions

1. Actions may involve or have as their primary aim the pre-commercial procurement or public procurement of innovative solutions that shall be carried out by beneficiaries which are contracting authorities or contracting entities as defined in Directives 2014/24/EU ⁽²⁹⁾ and 2014/25/EU ⁽³⁰⁾ of the European Parliament and of the Council.
2. The procurement procedures:
 - (a) shall comply with competition rules and with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality;
 - (b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);
 - (c) shall provide for the award of the contracts to the tenders offering best value for money while ensuring absence of conflicts of interest.

In the case of pre-commercial procurement, where appropriate and without prejudice to the principles enumerated in point (a), the procurement procedure may be simplified or accelerated and may provide for specific conditions such as limiting the place of performance of the procured activities to the territory of the Member States and of the associated countries.

3. The contractor generating results in pre-commercial procurement shall own at least the intellectual property rights attached to those results. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results for the contracting authority under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, the contracting authorities, after having consulted the contractor on the reasons for the non-exploitation, may require it to transfer any ownership of the results to the contracting authorities.

⁽²⁹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽³⁰⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Article 27

Financial capacity of applicants

1. In addition to the exceptions mentioned in Article 198(5) of the Financial Regulation, the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union for the action is equal to or greater than EUR 500 000.
2. Notwithstanding paragraph 1, if there are grounds to doubt the financial capacity of an applicant, or if there is a higher risk due to the participation in several ongoing actions funded by Union R&I programmes, the Commission or the relevant funding body shall also verify the financial capacity of other applicants, or of coordinators even where the requested funding is below the threshold referred to in paragraph 1.
3. If the financial capacity is structurally guaranteed by another legal entity, the financial capacity of that other legal entity shall be verified.
4. In the case where the financial capacity of an applicant is weak, the Commission or the relevant funding body may make participation of the applicant conditional on provision of a declaration on joint and several liability by an affiliated entity.
5. The contribution to the Mechanism set out in Article 37 of this Regulation shall be considered to be a sufficient guarantee under Article 152 of the Financial Regulation. No additional guarantee or security shall be accepted from beneficiaries or imposed upon them.

Article 28

Award criteria and selection

1. A proposal shall be evaluated on the basis of the following award criteria:
 - (a) excellence;
 - (b) impact;
 - (c) quality and efficiency of the implementation.
2. Only the criterion referred to in point (a) of paragraph 1 shall apply to proposals for ERC frontier research actions.
3. The work programme shall lay down further details concerning the application of the award criteria laid down in paragraph 1 including any weighting, thresholds and where relevant rules for dealing with *ex aequo* proposals, taking into consideration the objectives of the call for proposals. The conditions for dealing with *ex aequo* proposals may include, but shall not be limited to, the following criteria: SMEs, gender, and geographical diversity.
4. The Commission and other funding bodies shall take into account the possibility of a two-stage submission and evaluation procedure and where appropriate, anonymised proposals may be evaluated during the first stage of evaluation based on one or more of the award criteria referred to in paragraph 1.

Article 29

Evaluation

1. Proposals shall be evaluated by the evaluation committee which shall be composed of independent external experts.

For EIC activities, missions and in duly justified cases as set out in the work programme adopted by the Commission, the evaluation committee may be composed partially or, in the case of coordination and support actions, partially or fully of representatives of Union institutions or bodies as referred to in Article 150 of the Financial Regulation.

The evaluation process may be followed by independent observers.

2. Where applicable, the evaluation committee shall rank the proposals that have passed the applicable thresholds, according to:

- (a) the evaluation scores;
- (b) their contribution to the achievement of specific policy objectives, including the constitution of a consistent portfolio of projects namely for Pathfinder activities, missions and in other duly justified cases as set out in the work programme adopted by the Commission in detail.

For EIC activities, missions and in other duly justified cases as set out in the work programme adopted by the Commission in detail, the evaluation committee may also propose adjustments to the proposals insofar as those adjustments are needed for the consistency of the portfolio approach. Those adjustments shall be in conformity with the conditions for participation and comply with the principle of equal treatment. The Programme Committee shall be informed of such cases.

3. The evaluation process shall be designed to avoid conflicts of interest and bias. The transparency of the evaluation criteria and of the proposal scoring method shall be guaranteed.

4. In accordance with Article 200(7) of the Financial Regulation, applicants shall receive feedback at all stages of the evaluation and, where the proposal is rejected, the reasons for rejection.

5. Legal entities established in low R&I performing countries who have participated successfully in the component 'widening participation and spreading excellence' shall receive, upon request, a record of their participation, that may accompany proposals to the collaborative parts of the Programme that they coordinate.

Article 30

Evaluation review procedure, enquiries and complaints

1. An applicant may request an evaluation review if it considers that the applicable evaluation procedure has not been correctly applied to its proposal ⁽³¹⁾.
2. Only the procedural aspects of an evaluation may be the subject of a request for an evaluation review. The evaluation of the merits of a proposal shall not be the subject of an evaluation review.
3. A request for an evaluation review shall relate to a specific proposal and shall be submitted within 30 days after the communication of evaluation results.

An evaluation review committee shall provide an opinion on the procedural aspects of the evaluation, and shall be chaired by and include staff of the Commission or of the relevant funding body who were not involved in the evaluation of the proposals. The evaluation review committee may recommend one of the following:

- (a) a re-evaluation of the proposal to be carried out primarily by evaluators who were not involved in the previous evaluation; or
 - (b) confirmation of the initial evaluation.
4. An evaluation review shall not delay the selection process for proposals that are not the subject of that review.

5. The Commission shall ensure the existence of a procedure for participants to make direct enquiries and complaints about their involvement in the Programme. Information on how to register enquiries or complaints shall be made available online.

⁽³¹⁾ The procedure will be explained in a document published before the start of the evaluation process.

*Article 31***Time-to-grant**

1. By way of derogation from the first subparagraph of Article 194(2) of the Financial Regulation, the following periods shall apply:
 - (a) for informing all applicants of the outcome of the evaluation of their application, a maximum period of five months from the final date for submission of complete proposals;
 - (b) for signing grant agreements with applicants, a maximum period of eight months from the final date for submission of complete proposals.
2. The work programme may establish shorter periods than those provided for in paragraph 1.
3. In addition to the exceptions laid down in the second subparagraph of Article 194(2) of the Financial Regulation, the periods referred to in paragraph 1 of this Article may be exceeded for actions of the ERC, for missions and when actions are submitted to an ethics assessment or security scrutiny.

*Article 32***Implementation of the grant**

1. If a beneficiary fails to comply with its obligations regarding the technical implementation of the action, the other beneficiaries shall comply with those obligations without any additional Union funding, unless they are expressly relieved of that obligation. The financial responsibility of each beneficiary shall be limited to its own debt subject to the provisions relating to the Mechanism.
2. The grant agreement may establish milestones and related pre-financing instalments. If milestones are not reached, the action may be suspended, amended, or, where duly justified, terminated.
3. An action may also be terminated where expected results have lost their relevance for the Union for scientific or technological reasons or, in the case of the Accelerator, also for economic reasons or, in the case of EIC and missions, also due to their relevance as part of a portfolio of actions. The Commission shall undergo a procedure with the action coordinator and, if appropriate, with independent external experts, before deciding to terminate an action, in accordance with Article 133 of the Financial Regulation.

*Article 33***Grant agreements**

1. The Commission shall, in close cooperation with Member States, draw up model grant agreements between the Commission or the relevant funding body and the beneficiaries in accordance with this Regulation. If a significant modification of a model grant agreement is required, in view, among other things, of further simplification for beneficiaries, the Commission shall, in close cooperation with Member States, revise that model grant agreement as appropriate.
2. Grant agreements shall establish the rights and obligations of the beneficiaries and of either the Commission or the relevant funding body in compliance with this Regulation. They shall also establish the rights and obligations of legal entities which become beneficiaries during the implementation of the action, as well as the role and tasks of a coordinator.

*Article 34***Funding rates**

1. A single funding rate per action shall apply for all activities it funds. The maximum rate per action shall be fixed in the work programme.

2. Up to 100 % of total eligible costs of an action under the Programme may be reimbursed, except for:
 - (a) innovation actions where, up to 70 % of the total eligible costs may be reimbursed, except for non-profit legal entities where up to 100 % of the total eligible costs may be reimbursed;
 - (b) programme co-fund actions where, at least 30 % and, in identified and duly justified cases, up to 70 % of the total eligible costs may be reimbursed.
3. The funding rates determined in this Article shall also apply for actions where flat-rate, unit or lump-sum financing is fixed for the whole action or part thereof.

Article 35

Indirect costs

1. Indirect eligible costs shall be 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.

Where appropriate, indirect costs included in unit costs or lump sums shall be calculated using the flat rate referred to in the first subparagraph, except for unit costs for internally invoiced goods and services, which shall be calculated on the basis of actual costs, in accordance with the beneficiaries' usual cost accounting practice.

2. Notwithstanding paragraph 1, if provided for in the work programme, indirect costs may be declared in the form of a lump sum or unit costs.

Article 36

Eligible costs

1. In addition to the criteria set out in Article 186 of the Financial Regulation, for beneficiaries with project-based remuneration, personnel costs are eligible up to the remuneration that the person would be paid for work in R&I projects funded by national schemes including social security charges and other costs linked to the remuneration of personnel assigned to the action, arising from national law or from the employment contract.
2. By way of derogation from Article 190(1) of the Financial Regulation, costs of resources made available by third parties by means of in-kind contributions shall be eligible up to the direct eligible costs of the third party.
3. By way of derogation from Article 192 of the Financial Regulation, income generated by the exploitation of the results shall not be considered to be receipts of the action.
4. Beneficiaries may use their usual accounting practices to identify and declare the costs incurred in relation to an action in compliance with all terms and conditions set out in the grant agreement, in accordance with this Regulation and Article 186 of the Financial Regulation.
5. By way of derogation from Article 203(4) of the Financial Regulation, a certificate on the financial statements shall be mandatory at payment of the balance, if the amount claimed as actual costs and unit costs calculated in accordance with usual cost accounting practices is equal to or greater than EUR 325 000.

Certificates on financial statements may be produced by an approved external auditor or, in the case of public bodies, issued by a competent and independent public officer in accordance with Article 203(4) of the Financial Regulation.

6. Where appropriate, for MSCA training and mobility actions, the Union contribution shall take due account of any additional costs of the beneficiary related to maternity leave, parental leave, sick leave, special leave or to a change of recruiting host organisation or a change in the family status of researcher during the duration of the grant agreement.

7. Costs related to open access including data management plans shall be eligible for reimbursement as further stipulated in the grant agreement.

Article 37

Mutual insurance mechanism

1. A mutual insurance mechanism (the 'Mechanism') is hereby established which shall replace and succeed the fund set up in accordance with Article 38 of Regulation (EU) No 1290/2013. The Mechanism shall cover the risk associated with non-recovery of sums due by the beneficiaries:

- (a) to the Commission under Decision No 1982/2006/EC of the European Parliament and of the Council ⁽³²⁾;
- (b) to the Commission and Union bodies under 'Horizon 2020';
- (c) to the Commission and funding bodies under the Programme.

The coverage of the risk regarding the funding bodies referred to in point (c) of the first subparagraph may be implemented through an indirect coverage system set out in the applicable agreement and taking into account the nature of the funding body.

2. The Mechanism shall be managed by the Union, represented by the Commission acting as executive agent. The Commission shall set up specific rules for the operation of the Mechanism.

3. Beneficiaries shall make a contribution of 5 % of the Union funding for the action. On the basis of periodic transparent evaluations, the Commission may increase that contribution up to 8 % or reduce it to under 5 %. The contribution of the beneficiaries to the Mechanism shall be offset against the initial pre-financing and paid to the Mechanism on behalf of the beneficiaries. That contribution shall not exceed the amount of the initial pre-financing.

4. The contribution of the beneficiaries shall be returned at the payment of the balance.

5. Any financial return generated by the Mechanism shall be added to the Mechanism. If the return is insufficient the Mechanism shall not intervene, and the Commission or the relevant funding body shall recover any amount owed directly from the beneficiaries or third parties.

6. The amounts recovered shall constitute revenue assigned to the Mechanism within the meaning of Article 21(5) of the Financial Regulation. Once all grants for which the risk is covered directly or indirectly by the Mechanism are completed, any sums outstanding shall be recovered by the Commission and entered into the budget of the Union, subject to decisions of the legislative authority.

7. The Mechanism may be extended to beneficiaries of any other directly managed Union programme. The Commission shall adopt conditions for participation of beneficiaries of other programmes.

Article 38

Ownership and protection

1. Beneficiaries shall own the results they generate. They shall ensure that any rights of their employees or any other parties in relation to the results can be exercised in a manner compatible with the beneficiaries' obligations in the grant agreement.

Two or more beneficiaries shall own results jointly where:

- (a) they have jointly generated them; and

⁽³²⁾ 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).

(b) it is not possible to:

- (i) establish the respective contribution of each beneficiary; or
- (ii) separate them when applying for, obtaining or maintaining their protection.

The joint owners shall agree in writing on the allocation and terms of exercise of their joint ownership. Unless otherwise agreed in the consortium agreement or in the joint ownership agreement, each joint owner may grant non-exclusive licences to third parties to exploit the jointly-owned results (without any right to sub-license), if the other joint owners are given advance notice and fair and reasonable compensation. The joint owners may agree in writing to apply another regime than joint ownership.

2. Beneficiaries which have received Union funding shall adequately protect their results if protection is possible and justified, taking into account all relevant considerations, including the prospects for commercial exploitation and any other legitimate interests. When deciding on protection, beneficiaries shall also consider the legitimate interests of the other beneficiaries in the action.

Article 39

Exploitation and dissemination

1. Each beneficiary that has received Union funding shall use its best efforts to exploit the results it owns, or to have them exploited by another legal entity. Exploitation may be direct by the beneficiaries or indirect in particular through the transfer and licensing of results in accordance with Article 40.

The work programme may provide for additional exploitation obligations.

If, despite a beneficiary's best efforts to exploit its results directly or indirectly, the results are not exploited within a given period as established in the grant agreement, the beneficiary shall use an appropriate online platform as identified in the grant agreement to find interested parties to exploit those results. That obligation may be waived at the request of the beneficiary if justified.

2. Beneficiaries shall disseminate their results as soon as feasible, in a publicly available format, subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests.

The work programme may provide for additional dissemination obligations while safeguarding the Union's economic and scientific interests.

3. Beneficiaries shall ensure that open access to scientific publications applies under the terms and conditions laid down in the grant agreement. In particular, the beneficiaries shall ensure that they or the authors retain sufficient intellectual property rights to comply with their open access requirements.

Open access to research data shall be the general rule under the terms and conditions laid down in the grant agreement, ensuring the possibility of exceptions following the principle 'as open as possible, as closed as necessary', taking into consideration the legitimate interests of the beneficiaries including commercial exploitation and any other constraints, such as data protection rules, privacy, confidentiality, trade secrets, Union competitive interests, security rules or intellectual property rights.

The work programme may provide for additional incentives or obligations for the purpose of adhering to open science practices.

4. Beneficiaries shall manage all research data generated in an action under the Programme in line with the FAIR principles and in accordance with the grant agreement and shall establish a Data Management Plan.

The work programme may provide, where justified, for additional obligations to use the EOSC for storing and giving access to research data.

5. Beneficiaries that intend to disseminate their results shall give advance notice to the other beneficiaries in the action. Any other beneficiary may object if it can show that dissemination of the results would significantly harm its legitimate interests in relation to its results or background. In such cases, the results shall not be disseminated unless appropriate steps are taken to safeguard those legitimate interests.

6. Unless the work programme provides otherwise, proposals shall include a plan for the exploitation and dissemination of the results. If the expected exploitation of the results entails developing, creating, manufacturing and marketing a product or process, or in creating and providing a service, the plan shall include a strategy for such exploitation. If the plan provides for the exploitation of the results primarily in non-associated third countries, the legal entities shall explain how that exploitation is still to be considered to be in the Union interest.

The beneficiaries shall update the plan for the exploitation and dissemination of the results during and after the end of the action, in accordance with the grant agreement.

7. For the purposes of monitoring and dissemination by the Commission or the relevant funding body, the beneficiaries shall provide any information requested regarding the exploitation and dissemination of their results, in accordance with the grant agreement. Subject to the legitimate interests of the beneficiaries, such information shall be made publicly available.

Article 40

Transfer and licensing

1. Beneficiaries may transfer ownership of their results. They shall ensure that their obligations also apply to the new owner and that the latter has the obligation to pass them on in any subsequent transfer.

2. Unless otherwise agreed in writing for specifically identified third parties including affiliated entities or unless impossible under applicable law, beneficiaries that intend to transfer ownership of results shall give advance notice to any other beneficiary that still has access rights to the results. The notification shall include sufficient information on the new owner to enable a beneficiary to assess the effects on its access rights.

Unless otherwise agreed in writing for specifically identified third parties including affiliated entities, a beneficiary may object to the transfer of ownership of results by another beneficiary if it can show that the transfer would adversely affect its access rights. In this case, the transfer shall not take place until agreement has been reached between the beneficiaries concerned. The grant agreement shall lay down time limits in this respect.

3. Beneficiaries may grant licences to their results or otherwise give the right to exploit them, including on an exclusive basis, if this does not affect compliance with their obligations. Exclusive licences for results may be granted subject to consent by all the other beneficiaries concerned that they will waive their access rights thereto.

4. Where justified, the grant agreement shall provide for the right for the Commission or the relevant funding body to object to transfers of ownership of results, or to grants of an exclusive licence regarding results, if:

- (a) the beneficiaries which generated the results have received Union funding;
- (b) the transfer or licensing is to a legal entity established in a non-associated third country; and
- (c) the transfer or licensing is not in line with Union interests.

If the right to object is provided for, the beneficiary shall give advance notice of its intention to transfer ownership of results or to grant an exclusive licence regarding results. The right to object may be waived in writing regarding transfers or grants to specifically identified legal entities if measures safeguarding Union interests are in place.

*Article 41***Access rights**

1. Requests to exercise access rights and the waiver of access rights shall be in writing.
2. Unless otherwise agreed with the grantor, access rights shall not include the right to sub-license.
3. Before acceding to the grant agreement the beneficiaries shall inform each other of any restrictions to granting access to their background.
4. If a beneficiary is no longer involved in an action, this shall not affect its obligations to grant access.
5. If a beneficiary defaults on its obligations, the beneficiaries may agree that that beneficiary no longer has access rights.
6. Beneficiaries shall grant access to:
 - (a) their results on a royalty-free basis to any other beneficiary in the action that needs them to implement its own tasks;
 - (b) their background to any other beneficiary in the action that needs it to implement its own tasks, subject to any restrictions referred to in paragraph 3; that access shall be granted on a royalty-free basis, unless otherwise agreed by the beneficiaries before their accession to the grant agreement;
 - (c) their results and, subject to any restrictions referred to in paragraph 3, to their background to any other beneficiary in the action that needs them to exploit its own results; that access shall be granted under fair and reasonable conditions to be agreed upon.
7. Unless otherwise agreed by the beneficiaries, they shall also grant access to their results and, subject to any restrictions referred to in paragraph 3, to their background to a legal entity that:
 - (a) is established in a Member State or associated country;
 - (b) is under the direct or indirect control of another beneficiary, or is under the same direct or indirect control as that beneficiary, or is directly or indirectly controlling that beneficiary; and
 - (c) needs the access to exploit the results of that beneficiary, in accordance with the beneficiary's exploitation obligations.

Access shall be granted under fair and reasonable conditions to be agreed upon.

8. A request for access for exploitation purposes may be made up to one year after the end of the action, unless the beneficiaries agree on a different time limit.
9. Beneficiaries that have received Union funding shall grant access to their results on a royalty-free basis to the Union institutions, bodies, offices or agencies for developing, implementing and monitoring Union policies or programmes. Access shall be limited to non-commercial and non-competitive use.

Such access rights shall not extend to the beneficiaries' background.

In actions under the cluster 'Civil Security for Society', beneficiaries that have received Union funding shall also grant access to their results on a royalty-free basis to Member States' national authorities, for developing, implementing and monitoring their policies or programmes in that area. Access shall be limited to non-commercial and non-competitive use and shall be subject to a bilateral agreement defining specific conditions aimed at ensuring that those access rights are used only for the intended purpose and that appropriate confidentiality obligations are in place. The requesting Member State, Union institution, body, office or agency shall notify all Member States of such requests.

10. The work programme may provide, where appropriate, for additional access rights.

*Article 42***Specific provisions**

1. Specific provisions on ownership, exploitation and dissemination, transfer and licensing as well as access rights may apply for ERC actions, training and mobility actions, pre-commercial procurement actions, public procurement of innovative solutions actions, programme co-fund actions and coordination and support actions.
2. The specific provisions referred to in paragraph 1 shall be set out in the grant agreement and shall not change the principles and obligations on open access.

*Article 43***Prizes**

1. Unless otherwise specified in this Chapter, inducement or recognition prizes under the Programme shall be awarded and managed in accordance with Title IX of the Financial Regulation.
2. Unless otherwise provided in the work programme or the contest rules, any legal entity, regardless of its place of establishment, may participate in a contest.
3. The Commission or the relevant funding body may, where appropriate, organise prize contests with:
 - (a) other Union bodies;
 - (b) third countries, including their scientific and technological organisations or agencies;
 - (c) international organisations; or
 - (d) non-profit legal entities.
4. Work programmes or contest rules shall include obligations regarding communication and, where appropriate, exploitation and dissemination, ownership and access rights including licensing provisions.

*CHAPTER III***Procurement***Article 44***Procurement**

1. Unless otherwise specified in this Chapter, procurement under the Programme shall be carried out in accordance with Title VII of the Financial Regulation.
2. Procurement may also take the form of pre-commercial procurement or public procurement of innovative solutions carried out by the Commission or the relevant funding body on its own behalf or jointly with contracting authorities from Member States and associated countries. In such cases, the rules set out in Article 26 shall apply.

CHAPTER IV

Blending operations and blended finance

Article 45

Blending operations

Blending operations under the Programme shall be implemented in accordance with the InvestEU Programme and Title X of the Financial Regulation.

Article 46

Horizon Europe blended finance and EIC blended finance

1. The grant and reimbursable advance components of Horizon Europe blended finance and EIC blended finance shall be subject to Articles 34 to 37.
2. EIC blended finance shall be implemented in accordance with Article 48 of this Regulation. Support under EIC blended finance may be granted until the action can be financed as a blending operation or as a financing and investment operation fully covered by the Union guarantee under the InvestEU Programme. By way of derogation from Article 209 of the Financial Regulation, the conditions laid down in paragraph 2 of that Article and, in particular points (a) and (d) thereof, do not apply at the time of the award of EIC blended finance.
3. Horizon Europe blended finance may be awarded to a programme co-fund action where a joint programme of Member States and associated countries provides for the deployment of financial instruments in support of selected actions. The evaluation and selection of such actions shall be made in accordance with Articles 15, 23, 24, 27, 28 and 29. The conditions for implementation of Horizon Europe blended finance shall comply with Article 32, by analogy with Article 48(10) and with any additional and justified conditions set out in the work programme.
4. Repayments including reimbursed advances and revenues of Horizon Europe blended finance and EIC blended finance shall be considered to be internal assigned revenues in accordance with point (f) of Article 21(3) and Article 21(4) of the Financial Regulation.
5. Horizon Europe blended finance and EIC blended finance shall be provided in a manner that promotes the Union's competitiveness while not distorting competition in the internal market.

Article 47

The Pathfinder

1. The Pathfinder shall provide grants to high-risk cutting-edge projects, implemented by consortia or single beneficiaries, aiming to develop radical innovations and new market opportunities. The Pathfinder shall provide support for the earliest stages of scientific, technological or deep-tech research and development, including proof of concept and prototypes for technology validation.

The Pathfinder shall be implemented mainly through an open call for proposals for bottom-up proposals with regular cut-off dates per year and shall also provide for competitive challenges to develop key strategic objectives calling for deep-tech and radical thinking.

2. The Pathfinder's transition activities shall help all types of researchers and innovators develop the pathway to commercial development in the Union, such as demonstration activities and feasibility studies to assess potential business cases, and shall support the creation of spin-offs and start-ups.

The launch and the content of the calls for proposals for Pathfinder's transition activities shall be determined taking account of objectives and budget established by the work programme in relation with the portfolio of actions concerned.

Additional grants for a fixed amount not exceeding EUR 50 000 may be awarded to each proposal already selected under the Pathfinder, and where relevant Pathfinder's transition activities, through a call for proposals to carry out complementary activities, including urgent coordination and support actions, for reinforcing the portfolio's community of beneficiaries, such as assessing possible spin-offs, potential market-creating innovations or developing a business plan. The Programme Committee established under the specific programme shall be informed of such cases.

3. The award criteria referred to in Article 28 shall apply to the Pathfinder.

Article 48

The Accelerator

1. The Accelerator shall aim to support essentially market-creating innovation. It shall support only single beneficiaries and shall mainly provide blended finance. Under certain conditions, it may also provide grant-only and equity-only supports.

The Accelerator shall provide the following types of support:

- (a) blended finance support to SMEs, including start-ups, and, in exceptional cases, small mid-caps, carrying out breakthrough and disruptive non-bankable innovation;
- (b) a grant-only support to SMEs, including start-ups, carrying out any type of innovation ranging from incremental to breakthrough and disruptive innovation and aiming to subsequently scale-up;
- (c) equity-only support to non-bankable SMEs, including start-ups, which have already received a grant-only support, may also be provided.

Grant-only support under the Accelerator shall be provided only under the following cumulative conditions:

- (a) the project shall include information on the capacities and willingness of the applicant to scale-up;
- (b) the beneficiary shall be a start-up or an SME;
- (c) a grant-only support under the Accelerator shall be provided only once to a beneficiary during the period of implementation of the Programme for a maximum of EUR 2,5 million.

2. The beneficiary of the Accelerator shall be a legal entity qualifying as a start-up, an SME or in exceptional cases as a small mid-cap intending to scale up, established in a Member State or associated country. The proposal may be submitted either by the beneficiary or, subject to the prior agreement by the beneficiary, by one or more natural persons or legal entities intending to establish or support that beneficiary. In the latter case, the funding agreement shall be signed only with the beneficiary.

3. A single award decision shall cover and provide funding for all forms of Union contribution provided under EIC blended finance.

4. Proposals shall be evaluated on their individual merits by independent external experts and selected for funding through an open call for proposals with cut-off dates, based on Articles 27, 28 and 29, subject to paragraph 5 of this Article.

5. The proposals submitted shall be evaluated on the basis of the following award criteria:

- (a) excellence;
- (b) impact;
- (c) the level of risk of the action that would prevent investments, the quality and efficiency of the implementation, and the need for Union support.

6. With the agreement of the applicants concerned, the Commission or the funding bodies implementing the Programme (including the EIT's KICs) may directly submit for evaluation under the award criterion referred to in point (c) of paragraph 5 a proposal for an innovation and market deployment action which already fulfils the award criteria referred to in points (a) and (b) of paragraph 5, subject to the following cumulative conditions:

- (a) the proposal shall stem from any other action funded under Horizon 2020, from the Programme or, subject to an exploratory pilot phase to be launched under the first work programme, from national and/or regional programmes, starting with the mapping of the demand for such a scheme, detailed provisions of which shall be laid down in the specific programme referred to in point (a) of Article 1(2);
- (b) the proposal is based on a project review which was carried out within the previous two years assessing the excellence and the impact of the proposal and subject to conditions and processes further detailed in the work programme.

7. A Seal of Excellence may be awarded subject to the following cumulative conditions:

- (a) the beneficiary is a start-up, an SME or a small mid-cap;
- (b) the proposal was eligible and has passed the applicable thresholds for the award criteria referred to in points (a) and (b) of paragraph 5;
- (c) the activity would be eligible under an innovation action.

8. For a proposal having passed the evaluation, independent external experts shall propose a corresponding Accelerator support, based on the risk incurred and the resources and time necessary to bring and deploy the innovation to the market.

The Commission may reject, for justified reasons, a proposal retained by independent external experts, including due to non-compliance with the objectives of Union policies. The Programme Committee shall be informed of the reasons for such a rejection.

9. The grant or the reimbursable advance component of the Accelerator support shall not exceed 70 % of the total eligible costs of the selected innovation action.

10. The conditions for implementation of the equity and the repayable support components of the Accelerator support are set out in Decision (EU) 2021/764

11. The contract for the selected action shall establish specific measurable milestones and the corresponding pre-financing and payments by instalments of the Accelerator support.

In the case of EIC blended finance, activities corresponding to an innovation action may be launched and the first pre-financing of the grant or the reimbursable advance paid, prior to the implementation of other components of the awarded EIC blended finance. The implementation of those components shall be subject to reaching specific milestones established in the contract.

12. In accordance with the contract, the action shall be suspended, amended or, if duly justified, terminated if measurable milestones are not reached. It may also be terminated where the expected market deployment, especially in the Union, cannot be met.

In exceptional cases and upon advice by the EIC board, the Commission may decide to increase the Accelerator support subject to a project review by independent external experts. The Programme Committee shall be informed of such cases.

CHAPTER V

Experts

Article 49

Appointment of independent external experts

1. Independent external experts shall be identified and selected on the basis of calls for expression of interest from individuals and through calls addressed to relevant organisations such as research agencies, research institutions, universities, standardisation organisations, civil society organisations or enterprises with a view to establishing a database of candidates.

By way of derogation from Article 237(3) of the Financial Regulation, the Commission or the relevant funding body may, exceptionally and in duly justified cases, select in a transparent manner any individual expert with the appropriate skills not included in the database provided that a call for expression of interest has not identified suitable independent external experts.

Such experts shall declare their independence and capacity to support the objectives of the Programme.

2. In accordance with Article 237(2) and (3) of the Financial Regulation, the independent external experts shall be remunerated based on standard conditions. If justified, and in exceptional cases, an appropriate level of remuneration beyond the standard conditions based on relevant market standards, especially for specific high-level experts, may be granted. Such costs shall be covered by the Programme.

3. In addition to the information referred to in Article 38(2) and (3) of the Financial Regulation, the names of independent external experts evaluating grant applications who are appointed in a personal capacity shall be published, together with their area of expertise, at least once a year on the website of the Commission or of the funding body. Such information shall be collected, processed and published in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³³⁾.

4. The Commission or the relevant funding body shall take the appropriate measures to prevent conflicts of interest as regards the involvement of independent external experts in accordance with Article 61 and Article 150(5) of the Financial Regulation.

The Commission or the relevant funding body shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.

5. When appointing independent external experts, the Commission or the relevant funding body shall take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of skills, experience, knowledge, including in terms of specialisation, in particular on SSH, geographical diversity and gender, taking into account the situation in the field of the action.

6. Where appropriate, an adequate number of independent external experts shall be ensured for each proposal in order to guarantee the quality of the evaluation.

7. The information on the level of remuneration of all independent external experts shall be made available to the European Parliament and to the Council.

TITLE III

PROGRAMME MONITORING, COMMUNICATION, EVALUATION AND CONTROL

Article 50

Monitoring and reporting

1. The Commission shall monitor continuously the management and implementation of the Programme, the specific programme referred to in point (a) of Article 1(2) and the activities of the EIT. In order to enhance transparency, data shall also be made publicly available in an accessible manner on the Commission's website according to the latest update. In particular, data for projects funded under ERC, European Partnerships, missions, the EIC and the EIT shall be included in the same database.

⁽³³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

The database shall include:

- (a) time-bound indicators to report on an annual basis on the progress of the Programme towards achievement of the objectives referred to in Article 3 and set out in Annex V along impact pathways;
- (b) information on the level of mainstreaming SSH, the ratio between lower and higher TRLs in collaborative research, the progress on the participation of widening countries, the geographical composition of consortia in collaborative projects, the evolution of researchers salaries, the use of a two-stage submission and evaluation procedure, the measures aimed at facilitating collaborative links in European R&I, the use of the evaluation review and the number and types of complaints, the level of climate mainstreaming and related expenditures, SME participation, private sector participation, gender participation in funded actions, evaluation panels, boards and advisory groups, the 'Seals of Excellence', the European Partnerships as well as the co-funding rate, the complementary and cumulative funding from other Union programmes, research infrastructures, time-to-grant, the level of international cooperation, engagement of citizens and civil society participation;
- (c) the levels of expenditure disaggregated at project level in order to allow for specific analysis, including per intervention area;
- (d) the level of oversubscription, in particular the number of proposals and per call for proposals, their average score, the share of proposals above and below quality thresholds.

2. To ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 55 to amend Annex V with regard to the impact pathway indicators, where considered to be necessary, and to set baselines and targets as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

3. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme are collected efficiently, effectively and in a timely manner, without increasing the administrative burden for beneficiaries. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds, including at the level of researchers involved in the actions in order to be able to track their career and mobility, and where appropriate, on Member States.

4. Qualitative analysis from the Commission and Union or national funding bodies shall complement as much as possible quantitative data.

5. The measures aimed at facilitating collaborative links in European R&I shall be monitored and reviewed in the context of the work programmes.

Article 51

Information, communication, publicity and dissemination and exploitation

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results (including for prizes), by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

2. The Commission shall implement information and communication actions relating to the Programme, to actions under the Programme and to the results obtained. In addition, it shall provide timely and thorough information to Member States and beneficiaries. Evidence-based matchmaking services informed by analytics and network affinities shall be provided to interested entities in order to form consortia for collaborative projects, with particular attention to identifying networking opportunities for legal entities from low R&I performing countries. On the basis of such analysis, targeted matchmaking events may be organised in function of specific calls for proposals.

3. The Commission shall also establish a dissemination and exploitation strategy for increasing the availability and diffusion of the Programme's R&I results and knowledge to accelerate exploitation towards market uptake and boost the impact of the Programme.

4. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union as well as information, communication, publicity, dissemination and exploitation activities insofar as those priorities are related to the objectives referred to in Article 3.

Article 52

Programme evaluation

1. Programme evaluations shall be carried out in a timely manner to feed into the decision-making process of the Programme, the next framework programme and other initiatives relevant to R&I.
2. The interim evaluation of the Programme shall be carried out with the assistance of independent experts selected on the basis of a transparent process once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of that implementation. It shall include a portfolio analysis and an assessment of the long-term impact of previous framework programmes and shall form the basis to adjust or re-orientate the Programme, as appropriate. It shall assess the Programme's effectiveness, efficiency, relevance, coherence, and Union added value.
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be completed by the Commission. It shall include an assessment of the long-term impact of previous framework programmes.
4. The Commission shall publish and communicate the conclusions of the evaluations accompanied by its observations and shall present them to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Article 53

Audits

1. The control system for the Programme shall ensure an appropriate balance between trust and control, taking into account administrative and other costs of controls at all levels, especially for beneficiaries. Audit rules shall be clear, consistent and coherent throughout the Programme.
2. The audit strategy for the Programme shall be based on the financial audit of a representative sample of expenditure across the Programme as a whole. The representative sample shall be complemented by a selection based on an assessment of the risks related to expenditure. Actions that receive joint funding from different Union programmes shall be audited only once, covering all programmes involved and their respective applicable rules.
3. In addition, the Commission or the relevant funding body may rely on system and processes audits at beneficiary level. Those audits shall be optional for certain types of beneficiaries and shall examine the systems and processes of a beneficiary, complemented by an audit of transactions. They shall be carried out by a competent independent auditor qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council ⁽³⁴⁾. The system and processes audits may be used by the Commission or the relevant funding body to determine the overall assurance on the sound financial management of expenditure and for reconsideration of the level of *ex post* audits and certificates on financial statements.
4. In accordance with Article 127 of the Financial Regulation, the Commission or the relevant funding body may rely on audits on the use of Union contributions carried out by other independent and competent persons or entities, including by other than those mandated by the Union institutions or bodies.
5. Audits may be carried out up to two years after the payment of the balance.

⁽³⁴⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

6. The Commission shall publish audit guidelines, aiming to ensure the reliable and uniform application and interpretation of the audit procedures and rules throughout the duration of the Programme.

Article 54

Protection of financial interests of the Union

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

Article 55

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 50(2) shall be conferred on the Commission until 31 December 2028.
3. The delegation of power referred to in Article 50(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 50(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Article 56

Repeal

Regulations (EU) No 1290/2013 and (EU) No 1291/2013 are repealed with effect from 1 January 2021.

*Article 57***Transitional provisions**

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to Regulations (EU) No 1290/2013 and (EU) No 1291/2013, which shall continue to apply to those actions until their closure. Work plans and actions provided for in work plans adopted under Regulation (EU) No 1290/2013 and under the corresponding funding bodies' basic acts shall also continue to be governed by Regulation (EU) No 1290/2013 and those basic acts until their completion.
2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted pursuant to Regulation (EU) No 1291/2013.

*Article 58***Entry into force**

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 April 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

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ANNEX I

BROAD LINES OF ACTIVITIES

The general and specific objectives referred to in Article 3 of this Regulation shall be pursued across the Programme, through the areas of intervention and the broad lines of activities described in this Annex and in Annex II to this Regulation, as well as in Annex I to Decision (EU) 2021/764.

(1) Pillar I 'Excellent Science'

Through the following activities, this pillar shall, in line with Article 4, promote scientific excellence, attract the best talent to Europe, provide appropriate support to early-stage researchers and support the creation and diffusion of scientific excellence, high-quality knowledge, methodologies and skills, technologies and solutions to global social, environmental and economic challenges. It shall also contribute to the other specific objectives of the Programme as referred to in Article 3.

- (a) ERC: providing attractive and flexible funding to enable talented and creative individual researchers, with an emphasis on early stage researchers, and their teams to pursue the most promising avenues at the frontier of science, regardless of their nationality and country of origin and on the basis of Union-wide competition based solely on the criterion of excellence.

Area of intervention: Frontier science.

- (b) MSCA: equipping researchers with new knowledge and skills through mobility and exposure across borders, sectors and disciplines, enhancing training and career development systems as well as structuring and improving institutional and national recruitment, taking into account the European Charter for Researchers and the Code of Conduct for the recruitment of researchers; in so doing, the MSCA help to lay the foundations of Europe's excellent research landscape across the whole of Europe, contributing to boosting jobs, growth, and investment, and solving current and future societal challenges.

Areas of intervention: nurturing excellence through the mobility of researchers across borders, sectors and disciplines; fostering new skills through the excellent training of researchers; strengthening human resources and skills development across the ERA; improving and facilitating synergies; promoting public outreach.

- (c) Research infrastructures: endowing Europe with world-class sustainable research infrastructures which are open and accessible to the best researchers from Europe and beyond. Encouraging the use of existing research infrastructures, including those financed from funds under Union Cohesion Policy. In so doing, enhancing the potential of the research infrastructure to support scientific advance and innovation, and to enable open and excellent science in accordance with the FAIR principles, alongside activities related to Union policies and international cooperation.

Areas of intervention: consolidating and developing the landscape of European research infrastructures; opening, integrating and interconnecting research infrastructures; the innovation potential of European research infrastructures and activities for innovation and training; reinforcing European research infrastructure policy and international cooperation.

(2) Pillar II 'Global Challenges and European Industrial Competitiveness'

Through the following activities, this pillar shall, in line with Article 4, support the creation and better diffusion of high-quality new knowledge, technologies and sustainable solutions, reinforce the European industrial competitiveness, strengthen the impact of R&I in developing, supporting and implementing Union policies, and support the uptake of innovative solutions in industry, in particular in SMEs and start-ups, and society to address global challenges. It shall also contribute to the other specific objectives of the Programme as referred to in Article 3.

SSH shall be fully integrated across all clusters, including specific and dedicated activities.

To maximise impact, flexibility and synergies, R&I activities shall be organised in six clusters, interconnected through pan-European research infrastructures, which individually and together incentivise interdisciplinary, cross-sectoral, cross-policy, cross-border and international cooperation. Pillar II of the Programme shall cover activities from a broad range of TRLs, including lower TRLs.

Each cluster contributes towards several SDGs and many SDGs are supported by more than one cluster.

The R&I activities shall be implemented in and across the following clusters:

- (a) Cluster 'Health': improving and protecting the health and well-being of citizens of all ages by generating new knowledge, developing innovative solutions, ensuring to integrate, where relevant, a gender perspective to prevent, diagnose, monitor, treat and cure diseases, and developing health technologies; mitigating health risks; protecting populations and promoting good health and well-being, also in the work place; making public health systems more cost-effective, equitable and sustainable; preventing and tackling poverty-related diseases; and supporting and enabling patients' participation and self-management.

Areas of intervention: health throughout the life course; environmental and social health determinants; non-communicable and rare diseases; infectious diseases, including poverty-related and neglected diseases; tools, technologies and digital solutions for health and care, including personalised medicine; health care systems.

- (b) Cluster 'Culture, Creativity and Inclusive Society': strengthening democratic values, including rule of law and fundamental rights; safeguarding our cultural heritage; exploring the potential of cultural and creative sectors, and promoting socio-economic transformations that contribute to inclusion and growth, including migration management and integration of migrants.

Areas of intervention: democracy and governance; culture, cultural heritage and creativity; social and economic transformations.

- (c) Cluster 'Civil Security for Society': responding to the challenges arising from persistent security threats, including cybercrime, as well as natural and man-made disasters.

Areas of intervention: disaster-resilient societies; protection and security; cybersecurity.

- (d) Cluster 'Digital, Industry and Space': reinforcing capacities and securing Europe's sovereignty in key enabling technologies for digitisation and production, and in space technology, all along the value chain; to build a competitive, digital, low-carbon and circular industry; ensure a sustainable supply of raw materials; develop advanced materials and provide the basis for advances and innovation in global societal challenges.

Areas of intervention: manufacturing technologies; key digital technologies, including quantum technologies; emerging enabling technologies; advanced materials; artificial intelligence and robotics; next generation internet; advanced computing and Big Data; circular industries; low carbon and clean industries; space, including earth observation.

- (e) Cluster 'Climate, Energy and Mobility': fighting climate change by better understanding its causes, evolution, risks, impacts and opportunities, by making the energy and transport sectors more climate and environment-friendly, more efficient and competitive, smarter, safer and more resilient, promote the use of renewable energy sources and energy efficiency, improve the resilience of the Union to external shocks and adapt social behaviour in view of the SDGs.

Areas of intervention: climate science and solutions; energy supply; energy systems and grids; buildings and industrial facilities in energy transition; communities and cities; industrial competitiveness in transport; clean, safe and accessible transport and mobility; smart mobility; energy storage.

- (f) Cluster 'Food, Bioeconomy, Natural Resources, Agriculture and Environment': protecting the environment, restoring, sustainably managing and using natural and biological resources from land, inland waters and sea to stop biodiversity erosion, to address food and nutrition security for all and the transition to a low carbon, resource efficient and circular economy and sustainable bioeconomy.

Areas of intervention: environmental observation; biodiversity and natural resources; agriculture, forestry and rural areas; seas, oceans and inland waters; food systems; bio-based innovation systems in the Union's bioeconomy; circular systems.

- (g) Non-nuclear direct actions of the JRC: generating high-quality scientific evidence for efficient and affordable good public policies. New initiatives and proposals for Union legal acts need transparent, comprehensive and balanced evidence to be sensibly designed, whereas implementation of policies needs evidence to be measured and monitored. The JRC provides Union policies with independent scientific evidence and technical support throughout the policy cycle. The JRC focuses its research on Union policy priorities.

Areas of intervention: strengthening the knowledge base for policy making; global challenges (health; culture, creativity and inclusive society; civil security for society; digital, industry and space; climate, energy and mobility; food, bioeconomy, natural resources, agriculture and environment); innovation, economic development, and competitiveness; scientific excellence; territorial development and support for Member States and regions.

(3) Pillar III 'Innovative Europe'

Through the following activities, this pillar shall, in line with Article 4, foster all forms of innovation, including non-technological innovation, primarily within SMEs including start-ups, by facilitating technological development, demonstration and knowledge transfer, and strengthen deployment of innovative solutions. It shall also contribute to the other specific objectives of the Programme as referred to in Article 3. The EIC shall be implemented primarily through two instruments, the Pathfinder, implemented mainly through collaborative research, and the Accelerator.

- (a) EIC: focusing mainly on breakthrough and disruptive innovation, targeting especially market-creating innovation, while also supporting all types of innovation, including incremental innovation.

Areas of intervention: Pathfinder for advanced research, supporting future and emerging breakthrough, market-creating and/or deep tech technologies; the Accelerator, bridging the financing gap between late stages of R&I activities and market take-up, to effectively deploy breakthrough, market-creating innovation and scale up companies where the market does not provide viable financing; additional EIC activities such as prizes and fellowships, and business added-value services.

- (b) European innovation ecosystems

Areas of intervention: activities including in particular connecting, where relevant in cooperation with the EIT, with national and regional innovation actors and supporting the implementation of joint cross-border innovation programmes by Member States, Regions and associated countries, from the exchange of practice and knowledge on innovation regulation to the enhancement of soft skills for innovation to research and innovation activities, including open or user-led innovation, to boost the effectiveness of the European innovation system. This should be implemented in synergy with, among others, the ERDF support for innovation eco-systems and interregional partnerships around smart specialisation topics.

- (c) The European Institute of Innovation and Technology

Areas of intervention (defined in Annex II): sustainable innovation ecosystems across Europe; innovation and entrepreneurial skills in a lifelong learning perspective, including increasing capacities of higher education institutions across Europe; new solutions to market to address global challenges; synergies and value added within the Programme.

(4) Part 'Widening Participation and Strengthening the ERA'

Through the following activities, this part shall pursue the specific objectives as set out in point (d) of Article 3(2). It shall also contribute to the other specific objectives of the Programme as referred to in Article 3. While underpinning the entire Programme, this part shall support activities that contribute to attracting talent, fostering brain circulation and preventing brain drain, a more knowledge-based and innovative and gender-equal Europe, at the front edge of global competition, fostering transnational cooperation and thereby optimising national strengths and potential across the whole Europe in a well-performing ERA, where knowledge and a highly skilled workforce circulate freely in a balanced manner, where the results of R&I are widely disseminated to as well as understood and trusted by informed citizens and benefit society as a whole, and where Union policy, in particular R&I policy, is based on high quality scientific evidence.

This Part shall also support activities aimed at improving the quality of proposals from legal entities from low R&I performing countries, such as professional pre-proposal checks and advice, and boosting the activities of National Contact Points to support international networking, as well as activities aimed at supporting legal entities from low R&I performing countries joining already selected collaborative projects in which legal entities from such countries are not participating.

Areas of intervention: widening participation and spreading excellence, including through teaming, twinning, ERA-Chairs, European Cooperation in Science and Technology (COST), excellence initiatives and activities to foster brain circulation; reforming and enhancing the European R&I system, including through for example supporting national R&I policy reform, providing attractive career environments, and supporting gender and citizen science.

ANNEX II

EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

The following shall apply in the implementation of the programme activities of the EIT:

(1) Rationale

As the report of the High Level Group on maximising the impact of Union R&I (the Lamy High Level Group) clearly states, the way forward is 'to educate for the future and invest in people who will make the change'. In particular, European higher education institutions are called to stimulate entrepreneurship, tear down disciplinary borders and institutionalise strong inter-disciplinary academia-industry collaborations. According to recent surveys, access to talented people is by far the most important factor influencing the location choices of European founders of start-ups. Entrepreneurship education, training opportunities and the development of creative skills play a key role in cultivating future innovators and in developing the abilities of existing ones to grow their business to greater levels of success. Access to entrepreneurial talent, together with access to professional services, capital and markets on the Union level, and bringing key innovation actors together around a common goal are key ingredients for nurturing an innovation ecosystem. There is a need to coordinate efforts across the Union in order to create a critical mass of interconnected Union-wide entrepreneurial clusters and ecosystems.

The EIT is today's Europe's largest integrated innovation ecosystem which brings together partners from business, research, education and beyond. The EIT continues to support its KICs, which are large-scale European Partnerships addressing specific global challenges, and strengthen the innovation ecosystems around them. It does so by fostering the integration of education, R&I of the highest standards, thereby creating environments conducive to innovation, and by promoting and supporting a new generation of entrepreneurs and stimulating the creation of innovative companies in close synergy and complementarity with the EIC.

Throughout Europe, efforts are still needed to develop ecosystems where researchers, innovators, industries and governments can easily interact. Innovation ecosystems, in fact, still do not work optimally due to a number of reasons such as:

- (a) interaction among innovation players is still hampered by organisational, regulatory and cultural barriers between them;
- (b) efforts to strengthen innovation ecosystems shall benefit from coordination and a clear focus on specific objectives and impact.

To address future societal challenges, embrace the opportunities of new technologies and contribute to environmentally friendly and sustainable economic growth, jobs, competitiveness and the well-being of Europe's citizens, there is the need to further strengthen Europe's capacity to innovate by: strengthening existing and fostering the creation of new environments conducive to collaboration and innovation; strengthening the innovation capabilities of academia and the research sector; supporting a new generation of entrepreneurial people; stimulating the creation and the development of innovative ventures, as well as strengthening the visibility and recognition of Union funded R&I activities, in particular the EIT funding to the wider public.

The nature and scale of the innovation challenges require liaising and mobilising players and resources at European scale, by fostering cross-border collaboration. There is a need to break down silos between disciplines and along value chains and nurture the establishment of a favourable environment for an effective exchange of knowledge and expertise, and for the development and attraction of entrepreneurial talents. The Strategic Innovation Agenda of the EIT shall ensure coherence with the challenges of the Programme, as well as complementarity to the EIC.

(2) Areas of Intervention

2.1. Sustainable innovation ecosystems across Europe

In accordance with the EIT Regulation and the Strategic Innovation Agenda of the EIT, the EIT plays a reinforced role in strengthening sustainable challenges-based innovation ecosystems throughout Europe. In particular, the EIT continues to operate primarily through its KICs, the large-scale European Partnerships that address specific societal challenges. It continues to strengthen innovation ecosystems around them, by opening them up and by fostering the integration of research, innovation and education. Furthermore, the EIT strengthens innovation ecosystems throughout Europe by expanding its Regional Innovation Scheme (RIS). The EIT works with innovation ecosystems that exhibit high innovation potential based on strategy, thematic alignment and envisaged impact, in close synergy with smart specialisation strategies and Platforms.

Broad lines

- (a) reinforcing the effectiveness and the openness to new partners of the existing KICs, enabling the transition to self-sustainability in the long-term and analysing the need of setting up new ones to tackle global challenges. The specific thematic areas are defined in the Strategic Innovation Agenda of the EIT, taking into account the strategic planning;
 - (b) accelerating regions towards excellence in countries that are referred to in the Strategic Innovation Agenda of the EIT in close cooperation with structural funds and other relevant Union programmes where appropriate.
- 2.2. Innovation and entrepreneurial skills in a lifelong learning perspective, including increasing capacities of higher education institutions across Europe

The EIT education activities are reinforced to foster innovation and entrepreneurship through purposeful education and training. A stronger focus on human capital development is based on the expansion of the EIT's KICs existing education programmes in the view of continuing to offer students and professionals high quality curricula based on innovation, creativity and entrepreneurship in line in particular with the Union's industrial and skills strategy. This may include researchers and innovators supported by other parts of the Programme, in particular MSCA. The EIT also supports the modernisation of higher education institutions across Europe and their integration in innovation ecosystems by stimulating and increasing their entrepreneurial potential and capabilities and encouraging them to better anticipate new skills requirements.

Broad lines

- (a) development of innovative curricula, taking into account the future needs of society and industry, and cross-cutting programmes to be offered to students, entrepreneurs and professionals across Europe and beyond where specialist and sector specific knowledge is combined with innovation-oriented and entrepreneurial skills, such as high-tech skills related to digital and sustainable key enabling technologies;
 - (b) strengthening and expanding the EIT label in order to improve the visibility and the recognition of EIT education programmes based on partnerships between different higher education institutions, research centres and companies while enhancing its overall quality by offering learning-by-doing curricula and purposeful entrepreneurship education as well as international, inter-organisational and cross-sectorial mobility;
 - (c) development of innovation and entrepreneurship capabilities of the higher education sector, by leveraging and promoting the EIT community expertise in linking education, research and business;
 - (d) reinforcing the role of the EIT Alumni community as role model for new students and strong instrument to communicate EIT impact.
- 2.3. New solutions to the market to address global challenges

The EIT facilitates, empowers and awards entrepreneurs, innovators, researchers, educators, students and other innovation actors, while ensuring gender mainstreaming, to work together in cross-disciplinary teams to generate ideas and transform them into both incremental and disruptive innovations. Activities are characterised by an open innovation and cross-border approach, with a focus on including relevant Knowledge Triangle activities that are pertinent to making them a success (such as project's promoters can improve their access to specifically qualified graduates, lead users, start-ups with innovative ideas, non-domestic firms with relevant complementary assets etc.).

Broad lines

- (a) support the development of new products, services and market opportunities where Knowledge Triangle actors collaborate to bring solutions to global challenges;
- (b) fully integrate the entire innovation value chain: from student to entrepreneur, from idea to product, from lab to customer. This includes support for start-ups and scaling-up businesses;

- (c) provision of high-level services and support to innovative businesses, including technical assistance to fine-tuning of products or services, substantive mentoring, support to secure target customers and raise capital, in order to swiftly reach the market and speed up their growth process.

2.4. Synergies and value added within the Programme

The EIT steps up its efforts to capitalise on synergies and complementarities between existing KICs and with different actors and initiatives at Union and global levels and extend its network of collaborating organisations at both strategic and operational levels, while avoiding duplications.

Broad lines

- (a) close cooperation with the EIC and the InvestEU Programme in streamlining the support (namely funding and services) offered to innovative ventures in both start-up and scale-up stages, in particular through KICs;
 - (b) planning and implementation of EIT activities in order to maximise synergies and complementarities with other parts of the Programme;
 - (c) engage with Member States, at both national and regional level, establishing a structured dialogue and coordinating efforts to enable synergies with national and regional initiatives, including smart specialisation strategies, also considering through the implementation of the 'European innovation ecosystems', in order to identify, share and disseminate best practices and learnings;
 - (d) share and disseminate innovative practices and learnings throughout Europe and beyond, so as to contribute to innovation policy in Europe in coordination with other parts of the Programme;
 - (e) provision of input to innovation policy discussions and contribution to the design and implementation of Union policy priorities by continuously working with all relevant Commission services, other Union programmes and their stakeholders, and further exploring opportunities within policy implementing initiatives;
 - (f) exploitation of synergies with other Union programmes, including those supporting human capital development and innovation (such as COST, ESF+, ERDF, Erasmus+, Creative Europe and COSME Plus/Single Market, the InvestEU Programme);
 - (g) building strategic alliances with key innovation actors at Union and international level, and support to KICs to develop collaboration and linkages with key Knowledge Triangle partners from third countries, with the aim of opening new markets for KICs'-backed solutions and attract financing and talents from abroad. Participation of third countries shall be promoted with regard to the principles of reciprocity and mutual benefits.
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ANNEX III

EUROPEAN PARTNERSHIPS

European Partnerships shall be selected and implemented, monitored, evaluated, phased-out or renewed on the basis of the following criteria:

1. Selection

Demonstrating that the European Partnership is more effective in achieving the related objectives of the Programme through involvement and commitment of partners, in particular in delivering clear impacts for the Union and its citizens, in particular in view of delivering on global challenges and R&I objectives, securing Union competitiveness, sustainability and contributing to the strengthening of the ERA and, where relevant, international commitments.

In the case of Institutionalised European Partnerships established in accordance with Article 185 TFEU, the participation of at least 40 % of the Member States is mandatory:

- (a) coherence and synergies of the European Partnership within the Union R&I landscape, following the Programme's rules to the largest extent possible;
- (b) transparency and openness of the European Partnership as regards the identification of priorities and objectives in terms of expected results and impacts and as regards the involvement of partners and stakeholders from across the entire value chain, from different sectors, backgrounds and disciplines, including international ones when relevant and not interfering with European competitiveness; clear arrangements for promoting participation of SMEs and for disseminating and exploiting results, in particular by SMEs, including through intermediary organisations;
- (c) *ex ante* demonstration of additionality and directionality of the European Partnership, including a common strategic vision of the purpose of the European Partnership. That vision includes in particular:
 - (i) identification of measurable expected outcomes, results and impacts within specific timeframes, including key economic and/or societal value for the Union;
 - (ii) demonstration of expected qualitative and significant quantitative leverage effects, including a method for the measurement of key performance indicators;
 - (iii) approaches to ensure flexibility of implementation and to adjust to changing policy, societal and/or market needs, or scientific advances, to increase policy coherence between regional, national and Union level;
 - (iv) exit-strategies and measures for phasing-out from the Programme;
- (d) *ex ante* demonstration of the partners' long-term commitment, including a minimum share of public and/or private investments.

In the case of Institutionalised European Partnerships, established in accordance with Article 185 or 187 TFEU, the financial and/or in-kind contributions from partners other than the Union, is at least equal to 50 % and may reach up to 75 % of the aggregated European Partnership budgetary commitments. For each such Institutionalised European Partnership, a share of the contributions from partners other than the Union will be in the form of financial contributions. For partners other than the Union and participating states, financial contributions should be aimed primarily at covering administrative costs as well as coordination and support and other non-competitive activities.

2. Implementation:

- (a) systemic approach ensuring active and early involvement of Member States and achievement of the expected impacts of the European Partnership through the flexible implementation of joint actions of high Union added value also going beyond joint calls for proposals for R&I activities, including those related to market, regulatory or policy uptake;
- (b) appropriate measures ensuring continuous openness of the initiative and transparency during implementation, in particular for priority setting and for participation in calls for proposals, information on the functioning of the governance, visibility of the Union, communication and outreach measures, dissemination and exploitation of results, including clear open access/user strategy along the value chain; appropriate measures for informing SMEs and promoting their participation;

- (c) coordination or joint activities with other relevant R&I initiatives to secure optimum level of interconnections and ensure effective synergies, among other things, to overcome potential implementation barriers at national level and increase cost-effectiveness;
- (d) commitments, for financial and/or in-kind contributions, from each partner in accordance with national provisions throughout the duration of the initiative;
- (e) in the case of Institutionalised European Partnership access to the results and other action related information for the Commission for the purpose of developing, implementing and monitoring of Union policies or programmes.

3. Monitoring:

- (a) a monitoring system in accordance with Article 50 to track progress towards specific policy objectives, deliverables and key performance indicators allowing for an assessment over time of achievements, impacts and potential needs for corrective measures;
- (b) periodic dedicated reporting on quantitative and qualitative leverage effects, including on committed and actually provided financial and in-kind contributions, visibility and positioning in the international context, impact on R&I related risks of private sector investments;
- (c) detailed information on the evaluation process and results from all calls for proposals within European Partnerships, to be made available timely and accessible in a common e-database.

4. Evaluation, phasing-out and renewal:

- (a) evaluation of impacts achieved at Union and national level in relation to defined targets and key performance indicators, feeding into the Programme evaluation set out in Article 52, including an assessment of the most effective policy intervention mode for any future action; and the positioning of any possible renewal of a European Partnership in the overall European Partnerships landscape and its policy priorities;
 - (b) in the absence of renewal, appropriate measures ensuring phasing-out of the Programme funding according to the conditions and timeline agreed with the legally committed partners *ex ante*, without prejudice to possible continued transnational funding by national or other Union programmes, and without prejudice to private investment and on-going projects.
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ANNEX IV

SYNERGIES WITH OTHER UNION PROGRAMMES

Synergies with other Union programmes are based on complementarity between programme design and objectives and on compatibility of financing rules and processes at implementation level.

Funding from the Programme shall be used only to finance R&I activities. The strategic planning shall ensure the alignment of priorities for the different Union programmes and ensure coherent funding options at different stages of the R&I cycle. Missions and European Partnerships shall, among other things, benefit from synergies with other Union programmes and policies.

The deployment of research results and innovative solutions developed in the Programme shall be facilitated with the support of other Union programmes, in particular through dissemination and exploitation strategies, transfer of knowledge, complementary and cumulative funding sources and accompanying policy measures. Funding for R&I activities shall profit from harmonised rules that are designed to ensure Union added value, to avoid overlaps with different Union programmes and to seek maximum efficiency and administrative simplification.

More detail as to how the synergies shall apply between the Programme and the different Union programmes is set out in the following paragraphs:

1. Synergies with the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) under the Common Agricultural Policy (CAP) shall ensure that:
 - (a) the R&I needs of the agricultural sector and of rural areas within the Union are identified, for example, within the European Innovation Partnership 'Agricultural Productivity and Sustainability' and taken into consideration in both the Programme's strategic planning and the work programmes;
 - (b) the CAP makes the best use of R&I results and promotes the use, implementation and deployment of innovative solutions, including those stemming from projects funded by the framework programmes for R&I, from the European Innovation Partnership 'Agricultural Productivity and Sustainability' and relevant KICs of the EIT;
 - (c) the EAFRD supports the uptake and dissemination of knowledge and solutions stemming from the Programme's results leading to a more dynamic farming sector and new openings for the development of rural areas.
2. Synergies with the European Maritime, Fisheries and Aquaculture Fund (EMFAF) shall ensure that:
 - (a) the Programme and the EMFAF are closely interlinked, since Union R&I needs in the field of marine and integrated maritime policy are translated through the Programme's strategic planning;
 - (b) the EMFAF supports the rolling out of novel technologies and innovative products, processes and services, in particular those resulting from the Programme in the fields of marine and integrated maritime policy; the EMFAF also promotes ground data collection, processing and monitoring, and disseminates relevant actions supported under the Programme, which in turn contributes to the implementation of the Common Fisheries Policy, the EU Integrated Maritime Policy, International Ocean Governance and international commitments.
3. Synergies with the European Regional Development Fund (ERDF) shall ensure that:
 - (a) with the aim of strengthening the ERA and of contributing to the SDGs, arrangements for alternative and cumulative funding from ERDF and the Programme support activities that provide a bridge, in particular, between smart specialisation strategies and excellence in R&I, including joint trans-regional/trans-national programmes and pan European Research Infrastructures;
 - (b) the ERDF focuses, among other things, on the development and strengthening of regional and local R&I ecosystems, networks and industrial transformation, including support to building R&I capacities, to the take-up of results and to the rolling out of novel technologies and innovative and climate-friendly solutions from the framework programmes for R&I through the ERDF.

4. Synergies with the European Social Fund Plus (ESF+) shall ensure that:
 - (a) through national or regional programmes, the ESF+ can mainstream and scale up innovative curricula supported by the Programme, in order to equip people with the skills and competences needed for evolving demands of the labour market;
 - (b) arrangements for alternative and combined funding from ESF+ can be used to support activities of the Programme that promote human capital development in R&I with the aim of strengthening the ERA;
 - (c) the ESF+ mainstreams innovative technologies and new business models and solutions, in particular those resulting from the Programme, so as to contribute to innovative, efficient and sustainable health systems and facilitate access to better and safer healthcare for European citizens.
5. Synergies with the EU4Health Programme shall ensure that:
 - (a) Union R&I needs in the field of health are identified and established through the Programme's strategic planning;
 - (b) the EU4Health Programme contributes to ensuring best use of research results, in particular those resulting from the Programme.
6. Synergies with the Connecting Europe Facility (CEF) shall ensure that:
 - (a) the R&I needs in the areas of transport, energy and in the digital sector within the Union are identified and established through the Programme's strategic planning;
 - (b) the CEF supports the large-scale roll-out and deployment of innovative new technologies and solutions in the fields of transport, energy and digital physical infrastructures, in particular those resulting from the framework programmes for R&I;
 - (c) the exchange of information and data between the Programme and CEF projects are facilitated, for example by highlighting technologies from the Programme with a high market readiness that could be further deployed through the CEF.
7. Synergies with the Digital Europe Programme (DEP) shall ensure that:
 - (a) whereas several thematic areas addressed by the Programme and DEP converge, the type of actions to be supported, their expected results and their intervention logic are different and complementary;
 - (b) the R&I needs related to digital aspects of the Programme are identified and established through its strategic planning; this includes, for example, R&I for high performance computing, artificial intelligence, cybersecurity, distributed ledger technologies, quantum technologies combining digital with other enabling technologies and non-technological innovations; support for the scale-up of companies introducing breakthrough innovations (many of which combine digital and physical technologies); and support to digital research infrastructures;
 - (c) DEP focuses on large-scale digital capacity and infrastructure building in, for example, high performance computing, artificial intelligence, cybersecurity, distributed ledger technologies, quantum technologies and advanced digital skills aiming at wide uptake and deployment across the Union of critical existing or tested innovative digital solutions within a Union framework in areas of public interest (such as health, public administration, justice and education) or market failure (such as the digitisation of businesses, in particular SMEs); DEP is mainly implemented through coordinated and strategic investments with Member States, in particular through joint public procurement, in digital capacities to be shared across the Union and in Union-wide actions that support interoperability and standardisation as part of developing the Digital Single Market;
 - (d) DEP capacities and infrastructures are made available to the R&I community, including for activities supported under the Programme including testing, experimentation and demonstration across all sectors and disciplines;
 - (e) novel digital technologies developed through the Programme are to be progressively taken up and deployed by DEP;
 - (f) the Programme's initiatives for the development of skills and competencies curricula, including those delivered at the relevant EIT KICs, are complemented by DEP supported capacity-building in advanced digital skills;
 - (g) strong coordination mechanisms for strategic programming, operating procedures and governance structures exist for both programmes.

8. Synergies with the Single Market Programme shall ensure that:
 - (a) the Single Market Programme addresses the market failures which affect SMEs and promotes entrepreneurship and the creation and growth of companies, and complementarity exists between the Single Market Programme and the actions of both the EIT and the EIC for innovative companies, as well as in the area of support services for SMEs, in particular where the market does not provide viable financing;
 - (b) the Enterprise Europe Network may serve, in addition to other existing SME support structures (e.g. National Contact Points, Innovation Agencies, Digital Innovation Hubs, Competence Centres, incubators), to deliver support services under the Programme, including the EIC.
9. Synergies with the LIFE - Programme for Environment and Climate Action (LIFE) shall ensure that:
 - (a) the R&I needs to tackle environmental, climate and energy challenges within the Union are identified and established through the Programme's strategic planning;
 - (b) LIFE continues to act as a catalyst for implementing the Union's environment, climate and relevant energy policy and legislation, including by taking up and applying R&I results from the Programme and help deploying them at national, interregional and regional scale where it can help address environmental, climate or clean energy transition issues. In particular LIFE continues to incentivise synergies with the Programme through the award of a bonus during the evaluation for proposals which feature the uptake of results from the Programme;
 - (c) LIFE standard action projects support the development, testing or demonstration of suitable technologies or methodologies for the implementation of the Union's environment and climate policy, which can subsequently be deployed on a large scale, funded by other sources, including by the Programme. The EIT as well as the EIC can provide support to scale up and commercialise new breakthrough ideas that may result from the implementation of LIFE projects.
10. Synergies with Erasmus+ shall ensure that:
 - (a) combined resources from the Programme, including from the EIT, and Erasmus+ are used to support activities dedicated to strengthening, modernising and transforming European higher education institutions. Where appropriate, the Programme complements the Erasmus+'s support for the European Universities Initiative in its research dimension, as part of the development of new joint and integrated long-term and sustainable strategies on education, R&I based on trans-disciplinary and cross-sectoral approaches to make the knowledge triangle a reality. The EIT's activities could complement the strategies to be implemented by the European Universities Initiative;
 - (b) the Programme and Erasmus+ foster the integration of education and research through assisting higher education institutions to formulate and set up common education, R&I strategies and networks, through informing education systems, teachers and trainers of the latest findings and practices in research and in offering active research experience to all students and higher education staff and in particular researchers, and to support other activities that integrate higher education and R&I.
11. Synergies with the Union Space Programme shall ensure that:
 - (a) the R&I needs of the Union Space Programme and those of the space upstream and downstream sector within the Union are identified and established as part of the Programme's strategic planning; space research actions implemented through the Programme are implemented with regard to procurement and eligibility of legal entities in accordance with the Union Space Programme, where appropriate;
 - (b) space data and services made available as a public good by the Union Space Programme are used to develop breakthrough solutions through R&I, including in the Programme, in particular for sustainable food and natural resources, climate monitoring, atmosphere, land, coastal and marine environment, smart cities, connected and automated mobility, security and disaster management;
 - (c) the Copernicus Data and Information Access Services contribute to the EOSC and thus facilitate access to Copernicus data for researchers, scientists and innovators; research infrastructures, in particular *in situ* observing networks constitute essential elements of the *in situ* observation infrastructure enabling the Copernicus services, and in turn, they benefit from information produced by Copernicus services.

12. Synergies with the Neighbourhood, Development and International Cooperation Instrument (NDICI) and the Instrument for Pre-accession Assistance (IPA III) shall ensure that:
 - (a) the R&I needs in the areas of NDICI and IPA III are identified through the Programme's strategic planning, in line with the SDGs;
 - (b) the Programme's R&I activities, with the participation of third countries and targeted international cooperation actions, seek alignment and coherence with parallel market uptake and capacity-building actions strands under the NDICI and IPA III, based on joint definition of needs and of areas of intervention.
13. Synergies with the Internal Security Fund and the instrument for border management as part of the Integrated Border Management Fund shall ensure that:
 - (a) the R&I needs in the areas of security and integrated border management are identified and established through the Programme's strategic planning;
 - (b) the Internal Security Fund and the Integrated Border Management Fund support the deployment of innovative new technologies and solutions, in particular those resulting from the framework programmes for R&I in the field of security research.
14. Synergies with the InvestEU Programme shall ensure that:
 - (a) the Programme provides Horizon Europe blended finance and EIC blended finance for innovators, characterised by a high level of risk and for which the market does not provide sufficient and viable financing; at the same time, the Programme supports the effective delivery and management of the private part of blended finance through funds and intermediaries supported by the InvestEU Programme and others;
 - (b) financial instruments for R&I and SMEs are grouped together under the InvestEU Programme, in particular through a dedicated R&I thematic window, and through products deployed under the SME window, thereby helping to deliver the objectives of both programmes as well as establishing strong complementary links between both programmes;
 - (c) the Programme provides appropriate support to help the reorientation of bankable projects, not suitable for EIC funding, towards the InvestEU Programme, where relevant.
15. Synergies with the Innovation Fund under the Emission Trading Scheme (the 'Innovation Fund') shall ensure that:
 - (a) the Innovation Fund specifically targets innovation in low-carbon technologies and processes, including environmentally safe carbon capture and utilisation that contributes substantially to mitigate climate change, as well as products substituting carbon intensive ones, and to help stimulate the construction and operation of projects that aim towards the environmentally safe capture and geological storage of CO₂ as well as innovative renewable energy and energy storage technologies, and to enable and to incentivise 'greener' products;
 - (b) the Programme funds the development and demonstration of technologies, including breakthrough solutions, that can deliver on the Union's climate neutrality, energy and industrial transformation objectives, especially through its Pillar II and Pillar III activities;
 - (c) the Innovation Fund may, subject to fulfilment of its selection and award criteria, support the demonstration phase of eligible projects that may have received the support from the Programme and strong complementary links shall be established between both programmes.
16. Synergies with the Just Transition Mechanism shall ensure that:
 - (a) R&I needs are identified through the Programme's strategic planning to support a just and fair transition towards climate-neutrality;
 - (b) the take-up and deployment of innovative and climate-friendly solutions, in particular those resulting from the Programme, are promoted.
17. Synergies with the Euratom Research and Training Programme shall ensure that:
 - (a) the Programme and the Euratom Research and Training Programme develop comprehensive actions supporting education and training (including MSCA) with the aim of maintaining and developing relevant skills in Europe;

- (b) the Programme and the Euratom Research and Training Programme develop joint research actions focussing on cross-cutting aspects of the safe and secure use of non-power applications of ionising radiation in sectors such as medicine, industry, agriculture, space, climate change, security and emergency preparedness and contribution of nuclear science.
18. Potential synergies with the European Defence Fund shall benefit civil and defence research with a view to avoiding unnecessary duplication and in accordance with Article 5 and Article 7(1).
 19. Synergies with the Creative Europe Programme shall be fostered by identifying R&I needs in the field of cultural and creative policies in the Programme's strategic planning.
 20. Synergies with the Recovery and Resilience Facility shall ensure that:
 - (a) R&I needs to support making Member States economies and society more resilient and better prepared for the future are identified through the Programme's strategic planning;
 - (b) the take-up and deployment of innovative solutions, in particular those resulting from the Programme, are supported.
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ANNEX V

KEY IMPACT PATHWAY INDICATORS

Impact pathways, and related key impact pathway indicators, shall structure the monitoring of the Programme’s progress towards its objectives as referred to in Article 3. The impact pathways shall be time-sensitive and reflect three complementary impact categories reflecting the non-linear nature of R&I investments: scientific, societal and technological or economic. For each of those impact categories, proxy indicators are used to track progress distinguishing between the short, medium and longer terms, including beyond the Programme’s duration, with possibilities for breakdowns, including by Member States and associated countries. Those indicators shall be compiled using quantitative and qualitative methodologies. Individual Programme parts contribute to those indicators to a different degree and through different mechanisms. Additional indicators can be used to monitor individual Programme parts, where relevant.

The micro-data behind the key impact pathway indicators are collected for all parts of the Programme and for all delivery mechanisms in a centrally managed and harmonised way and at the appropriate level of granularity with minimal reporting burden on the beneficiaries.

In addition and beyond key impact pathways indicators, data on the optimised delivery of the Programme for strengthening the ERA, fostering the excellence-based participations from all Member States in the Programme as well as facilitating collaborative links in European R&I are collected and reported in close to real-time as part of implementation and management data, referred to in Article 50. This includes the monitoring of collaborative links, of network analytics, of data on proposals, applications, participations, projects, applicants and participants (including data on the type of organisation, such as civil society organisations, SMEs and private sector), country (such as a specific classification for country groups such as Member States, associated countries and third countries), gender, role in project, scientific discipline or sector, including SSH), and the monitoring of the level of climate mainstreaming and related expenditures.

Scientific impact pathway indicators

The Programme is expected to have scientific impact by creating high-quality new knowledge, strengthening human capital in R&I, and fostering diffusion of knowledge and open science. Progress towards this impact is monitored through proxy indicators set along the following three key impact pathways.

Table 1

Towards scientific impact	Short-term	Medium-term	Longer-term
Creating high-quality new knowledge	Publications - Number of peer-reviewed scientific publications resulting from the Programme	Citations - Field-Weighted Citation Index of peer-reviewed Publications resulting from the Programme	World-class science - Number and share of peer-reviewed publications resulting from the projects funded by the Programme that are core contribution to scientific fields
Strengthening human capital in R&I	Skills - Number of researchers involved in upskilling (training, mentoring/ coaching, mobility and access to R&I infrastructures) activities in projects funded by the Programme	Careers - Number and share of upskilled researchers involved in the Programme with increased individual impact in their R&I field	Working conditions - Number and share of upskilled researchers involved in the Programme with improved working conditions, including researchers’ salaries

Towards scientific impact	Short-term	Medium-term	Longer-term
Fostering diffusion of knowledge and open science	Shared knowledge - Share of research outputs (open data/publication/software etc.) resulting from the Programme shared through open knowledge infrastructures	Knowledge diffusion - Share of open access research outputs resulting from the Programme actively used/cited	New collaborations - Share of Programme beneficiaries which have developed new transdisciplinary/transsectoral collaborations with users of their open access research outputs resulting from the Programme

Societal impact pathway indicators

The Programme is expected to have societal impact by addressing the Union's policy priorities and global challenges, including SDGs, following the principles of the 2030 Agenda and the goals of the Paris Agreement, through R&I, delivering benefits and impact through R&I missions and European Partnerships and strengthening the uptake of innovation in society ultimately contributing to people's well-being. Progress towards this impact is monitored through proxy indicators set along the following three key impact pathways.

Table 2

Towards societal impact	Short-term	Medium-term	Longer-term
Addressing Union policy priorities and global challenges through R&I	Results - Number and share of results aimed at addressing identified Union policy priorities and global challenges (including SDGs) (multidimensional: for each identified priority) Including: Number and share of climate-relevant results aimed at delivering on the Union's commitment under the Paris Agreement	Solutions - Number and share of innovations and research outcomes addressing identified Union policy priorities and global challenges (including SDGs) (multidimensional: for each identified priority) Including: Number and share of climate-relevant innovations and research outcomes delivering on Union's commitment under the Paris Agreement	Benefits - Aggregated estimated effects from use/exploitation of results funded by the Programme on tackling identified Union policy priorities and global challenges (including SDGs), including contribution to the policy and law-making cycle (such as norms and standards) (multidimensional: for each identified priority) Including: Aggregated estimated effects from use/exploitation of climate-relevant results funded by the Programme on delivering on the Union's commitment under the Paris Agreement including contribution to the policy and law-making cycle (such as norms and standards)
Delivering benefits and impact through R&I missions	R&I mission results - Results in specific R&I missions (multidimensional: for each identified mission)	R&I mission outcomes - Outcomes in specific R&I missions (multidimensional: for each identified mission)	R&I mission targets met - Targets achieved in specific R&I missions (multidimensional: for each identified mission)

Towards societal impact	Short-term	Medium-term	Longer-term
Strengthening the uptake of R&I in society	Co-creation - Number and share of projects funded by the Programme where Union citizens and end-users contribute to the co-creation of R&I content	Engagement - Number and share of participating legal entities which have citizen and end-users engagement mechanisms in place after the end of projects funded by the Programme	Societal R&I uptake - Uptake and outreach of co-created scientific results and innovative solutions generated under the Programme

Technological and Economic impact pathway indicators

The Programme is expected to have technological and economic impact especially within the Union by influencing the creation and growth of companies, especially SMEs including start-ups, creating direct and indirect jobs especially within the Union, and by leveraging investments for R&I. Progress towards this impact is monitored through proxy indicators set along the following three key impact pathways.

Table 3

Towards technological / economic impact	Short-term	Medium-term	Longer-term
Generating innovation-based growth	Innovative results - Number of innovative products, processes or methods resulting from the Programme (by type of innovation) & Intellectual Property Rights (IPR) applications	Innovations - Number of innovations resulting from the projects funded by the Programme (by type of innovation) including from awarded IPRs	Economic growth - Creation, growth & market shares of companies having developed innovations in the Programme
Creating more and better jobs	Supported employment - Number of full time equivalent (FTE) jobs created, and jobs maintained in participating legal entities for the project funded by the Programme (by type of job)	Sustained employment - Increase of FTE jobs in participating legal entities following the project funded by the Programme (by type of job)	Total employment - Number of direct & indirect jobs created or maintained due to diffusion of results from the Programme (by type of job)
Leveraging investments in R&I	Co-investment - Amount of public & private investment mobilised with the initial investment from the Programme	Scaling-up - Amount of public & private investment mobilised to exploit or scale-up results from the Programme (including foreign direct investments)	Contribution to '3 % target' - Union progress towards 3 % GDP target due to the Programme

ANNEX VI

AREAS FOR POSSIBLE MISSIONS AND AREAS FOR POSSIBLE INSTITUTIONALISED EUROPEAN PARTNERSHIPS TO BE ESTABLISHED UNDER ARTICLE 185 OR 187 TFEU

In accordance with Articles 8 and 12 of this Regulation, the areas for possible missions and possible European Partnerships to be established under Article 185 or 187 TFEU are set out in this Annex.

I. Areas for possible missions:

- Missions Area 1: Adaptation to Climate Change, including Societal Transformation.
- Mission Area 2: Cancer.
- Mission Area 3: Healthy Oceans, Seas, Coastal and Inland Waters.
- Mission Area 4: Climate-Neutral and Smart Cities.
- Mission Area 5: Soil Health and Food.

Each mission follows the principles set out in Article 8(4) of this Regulation.

II. Areas for possible Institutionalised European Partnerships on the basis of Article 185 or 187 TFEU:

- Partnership Area 1: Faster development and safer use of health innovations for European patients, and global health.
- Partnership Area 2: Advancing key digital and enabling technologies and their use, including but not limited to novel technologies such as artificial intelligence, photonics and quantum technologies.
- Partnership Area 3: European leadership in Metrology including an integrated Metrology system.
- Partnership Area 4: Accelerate competitiveness, safety and environmental performance of Union air traffic, aviation and rail.
- Partnership Area 5: Sustainable, inclusive and circular bio-based solutions.
- Partnership Area 6: Hydrogen and sustainable energy storage technologies with lower environmental footprint and less energy-intensive production.
- Partnership Area 7: Clean, connected, cooperative, autonomous and automated solutions for future mobility demands of people and goods.
- Partnership Area 8: Innovative and R&D intensive SMEs.

The process of assessing the need for an Institutionalised European Partnership in one of the abovementioned Partnership Areas may result in a legislative proposal in accordance with the Commission's right of initiative. Otherwise the respective Partnership Area can also be subject to a European Partnership following point (a) of Article 10(1) or point (b) of Article 10(1) of this Regulation or be implemented by other calls for proposals within this Programme.

As the possible areas for Institutionalised European Partnerships cover broad thematic fields, they can, based on the assessed needs, be implemented by more than one European Partnership.

REGULATION (EU) 2021/696 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 28 April 2021****establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 189(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Space technology, data and services have become indispensable in the daily lives of Europeans and play an essential role in preserving many strategic interests. The Union's space industry is already one of the most competitive in the world. However, the emergence of new players and the development of new technologies are revolutionising traditional industrial models. Therefore, for the Union to remain a leading international player with extensive freedom of action in the space domain, it is crucial that it encourages scientific and technical progress and supports the competitiveness and innovation capacity of space sector industries within the Union, in particular small and medium-sized enterprises (SMEs), start-ups and innovative businesses.
- (2) The possibilities that space offers for the security of the Union and its Member States should be exploited, as referred to in particular in the Global Strategy for the European Union's Foreign and Security Policy of June 2016, while retaining the civil nature of the Union Space Programme ('the Programme') and respecting the possible neutrality or non-alignment provisions stipulated in the constitutional law of Member States. Historically, the space sector's development has been linked to security. In many cases, the equipment, components and instruments used in the space sector, as well as space data and services, are dual-use. However, the Union's security and defence policy is determined within the framework of the Common Foreign and Security Policy, in accordance with Title V of the Treaty on European Union (TEU).
- (3) The Union has been developing its own space initiatives and programmes since the end of the 1990s, namely the European Geostationary Navigation Overlay Service (EGNOS) and then Galileo and Copernicus, which respond to the needs of Union citizens and the requirements of public policies. The continuity of those initiatives and programmes should be ensured and the services they provide should be improved, so that they meet the new needs of users, remain at the forefront in view of new technology development and the transformations in the digital and information and communications technology domains, and are able to meet political priorities such as climate change, including monitoring changes in the polar region, transport, security and defence.
- (4) It is necessary to exploit synergies between the transport, space and digital sectors in order to foster the broader use of new technologies, such as e-call, digital tachograph, traffic supervision and management, autonomous driving and unmanned vehicles and drones, and to respond to the need of secure and seamless connectivity, robust positioning, inter modality and interoperability. Such exploitation of synergies would enhance the competitiveness of transport services and industry.

⁽¹⁾ Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 19 April 2021 (not yet published in the Official Journal). Position of the European Parliament of 28 April 2021 (not yet published in the Official Journal).

- (5) To reap the maximum benefits of the Programme, in all Member States and by all their citizens, it is also essential to promote the use and the uptake of the data, information and services provided, as well as to support the development of downstream applications based on those data, information and services. To that end, the Member States, the Commission and the entities responsible could, in particular, periodically run information campaigns regarding the benefits of the Programme.
- (6) To achieve the objectives of freedom of action, independence and security, it is essential that the Union benefits from an autonomous access to space and is able to use it safely. It is therefore essential that the Union supports autonomous, reliable and cost-effective access to space, especially as regards critical infrastructure and technology, public security and the security of the Union and its Member States. The Commission should therefore have the possibility to aggregate launch services at European level, both for its own needs and, at their request, for those of other entities, including Member States, in accordance with Article 189(2) of the Treaty on the Functioning of the European Union (TFEU). To remain competitive in a rapidly evolving market, it is also crucial that the Union continues to have access to modern, efficient and flexible launch infrastructure facilities and benefits from appropriate launch systems. Therefore, without prejudice to measures taken by Member States or the European Space Agency (ESA), it should be possible for the Programme to support adaptations to the space ground infrastructure, including new developments, which are necessary for the implementation of the Programme and adaptations, including technology development, to space launch systems which are necessary for launching satellites, including alternative technologies and innovative systems, for the implementation of the Programme's components. Those activities should be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ^(?) (the 'Financial Regulation'), and with a view to achieving better cost-efficiency for the Programme. Since there will be no dedicated budget, the actions in support of access to space should be without prejudice to the implementation of the Programme's components.
- (7) To strengthen the competitiveness of the Union space industry and increase capacity in designing, building and operating its own systems, the Union should support the creation, growth, and development of the entire space industry. The emergence of a business- and innovation-friendly model should be supported at European, regional and national levels by initiatives such as space hubs that bring together the space, digital and other sectors, as well as users. Those space hubs should aim to foster entrepreneurship and skills while pursuing synergies with the digital innovation hubs. The Union should foster the creation and expansion of Union-based space companies to help them succeed, including by supporting them in accessing risk finance in view of the lack of appropriate access within the Union to private equity for space start-ups and by fostering demand, known as the first contract approach.
- (8) The space value chain is generally segmented between upstream activities and downstream activities. Upstream activities comprise those leading to an operational space system, including development, manufacturing and launch activities and the operations of such a system. Downstream activities comprise those covering the provision of space-related services, and products to users. Digital platforms are also an important element supporting the development of the space sector. They allow access to data and products as well as toolboxes, storage and computing facilities.
- (9) In the area of space, the Union exercises its competences in accordance with Article 4(3) TFEU. The Commission should ensure the coherence of activities performed in the context of the Programme.
- (10) Whilst a number of Member States have a tradition of active space-related industries, the need to develop and mature space industries in Member States with emerging capabilities and the need to respond to the challenges faced by the traditional space industries posed by New Space should be recognised. Actions to develop space industry capacity across the Union and facilitate collaboration across space industry active in all Member States should be promoted.

^(?) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (11) Actions under the Programme should build on and benefit from national and European capacities, which exist at the time the action is being carried out.
- (12) Owing to the Programme's coverage and its potential to help resolve global challenges, space activities have a strong international dimension. In close coordination with the Member States, and with their agreement, the relevant bodies of the Programme might participate in matters pertaining to the Programme, in international cooperation and to collaborate in relevant sectoral bodies of the United Nations (UN). For matters relating to the Programme, the Commission might coordinate, on behalf of the Union and in its field of competence, the activities on the international scene, in particular to defend the interests of the Union and its Member States in international fora, including in the area of frequencies as regards the Programme, without prejudice to Member States' competence in that area. It is particularly important for the Union, represented by the Commission, to collaborate in the bodies of the International Cospas-Sarsat Programme.
- (13) International cooperation is paramount in promoting the role of the Union as a global actor in the space sector and the Union's technology and industry, fostering fair competition at international level, bearing in mind the need to ensure the reciprocity of the rights and obligations of the parties, and to encourage cooperation in the field of training. International cooperation is a key element of the Space Strategy for Europe, as set out by the Commission in its Communication of 26 October 2016. The Commission should use the Programme to contribute to and benefit from international efforts through initiatives, to promote European technology and industry internationally, for example bi-lateral dialogues, industry workshops and support for SME internationalisation, and to facilitate access to international markets and foster fair competition, also leveraging economic diplomacy initiatives. European space diplomacy initiatives should be in full coherence and complementarity with the existing Union policies, priorities and instruments, while the Union has a key role to play, together with Member States, in remaining at the forefront of the international scene.
- (14) Without prejudice to the competence of Member States, the Commission should promote, alongside the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') and in close coordination with Member States, responsible behaviour in space when implementing the Programme including reducing space debris proliferation. The Commission should also explore the possibility of the Union's acceptance of the rights and obligations provided for in the relevant UN Treaties and Conventions and make, if necessary, appropriate proposals.
- (15) The Programme shares similar objectives with other Union programmes, particularly Horizon Europe established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾, the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council ⁽⁴⁾, the European Defence Fund established by Regulation (EU) 2021/697 of the European Parliament and of the Council ⁽⁵⁾ and Funds under a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (the 'Common Provisions Regulation'). Therefore, cumulative funding from those programmes should be provided for, provided that they do not cover the same cost items, in particular through arrangements for complementary funding from Union programmes where management modalities permit - either in sequence, in an alternating way, or through the combination of funds including for the joint funding of actions, allowing, where possible, innovation partnerships and blending operations. During the implementation of the Programme, the Commission should therefore promote synergies with other related Union programmes and financial instruments, which would allow, where possible, use of access to risk finance, innovation partnerships, and cumulative or blended funding. The Commission should also ensure synergies and coherence between the solutions developed under those programmes, particularly Horizon Europe, and the solutions developed under the Programme.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (see page 1 of this Official Journal).

⁽⁴⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

⁽⁵⁾ Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (see page 149 of this Official Journal).

- (16) In accordance with Article 191(3) of the Financial Regulation, in no circumstances are the same costs to be financed twice by the Union budget.
- (17) The policy objectives of the Programme would also be addressed as eligible areas for financing and investment operations through financial instruments and budgetary guarantee of the InvestEU Programme, in particular under its sustainable infrastructure and research, innovation and digitisation policy windows. Financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value.
- (18) Coherence and synergies between Horizon Europe and the Programme should foster a competitive and innovative European space sector, reinforce Europe's autonomy in accessing and using space in a secure and safe environment and strengthen Europe's role as a global actor. Breakthrough solutions in Horizon Europe would be supported by data and services made available by the Programme to the research and innovation community.
- (19) To maximise the socio-economic return from the Programme, it is essential to maintain state-of-the-art systems, to upgrade them to meet evolving users' needs and that new developments occur in the space-enabled downstream applications sector. The Union should support activities relating to research and technology development, or the early phases of evolution relating to the infrastructures established under the Programme, as well as the research and development activities relating to applications and services based on the systems established under the programme, thereby stimulating upstream and downstream economic activities. The appropriate instrument at Union level to finance those research and innovation activities is Horizon Europe. However, a very specific part of development activities should be financed from the budget allocated to the Galileo and EGNOS components under this Regulation, in particular where such activities concern fundamental elements such as Galileo-enabled chipsets and receivers, which would facilitate the development of applications across different sectors of the economy. Such financing should nevertheless not jeopardise the deployment or exploitation of the infrastructures established under the Programme.
- (20) To ensure the competitiveness of the European space industry in the future, the Programme should support the development of advanced skills in space-related fields and support education and training activities, promoting equal opportunities, including gender equality, in order to realise the full potential of Union citizens in that area.
- (21) Infrastructure dedicated to the Programme could require additional research and innovation, which could be supported under Horizon Europe, aiming for coherence with activities in this domain by ESA. Synergies with Horizon Europe should ensure that the research and innovation needs of the space sector are identified and established as part of the strategic research and innovation planning process. Space data and services made freely available by the Programme would be used to develop breakthrough solutions through research and innovation, including in Horizon Europe, in support of the Union's policy priorities. The strategic planning process under Horizon Europe would identify research and innovation activities that should make use of Union-owned infrastructure such as Galileo, EGNOS and Copernicus. Research infrastructures, in particular in-situ observing networks would constitute essential elements of the in-situ observation infrastructure enabling the Copernicus Services.
- (22) It is important that the Union own all tangible and intangible assets created or developed through public procurement that it finances as part of the Programme. In order to ensure full compliance with any fundamental rights relating to ownership, the necessary arrangements should be made with any existing owners. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them.
- (23) To encourage the widest possible use of the services offered by the Programme, it would be useful to stress that data, information and services are provided without warranty, without prejudice to obligations imposed by legally binding provisions.

- (24) The Commission, in performing certain of its tasks of a non-regulatory nature, should be able to have recourse, as required and insofar as necessary, to the technical assistance of certain external parties. Other entities involved in the public governance of the Programme should also be able to make use of the same technical assistance in performing tasks entrusted to them under this Regulation.
- (25) This Regulation lays down a financial envelope for the entire duration of the Programme, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽⁶⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (26) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ⁽⁷⁾, and the commitment to the UN Sustainable Development Goals, the actions under this Regulation should contribute to mainstream climate actions and to the achievement of an overall target of at least 30 % of the Union budget expenditure supporting climate objectives. Relevant actions should be identified during the Programme's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes. The European Parliament, the Council and the Commission will cooperate on an effective, transparent and comprehensive methodology, to be set out by the Commission, in order to assess the spending under all multiannual financial framework programmes to biodiversity objectives, while considering the existing overlaps between climate and biodiversity objectives.
- (27) Revenue generated by the Programme's components should accrue to the Union in order to partially offset the investments that it has already made, and that revenue should be used to support the achievement of the objectives of the Programme. For the same reason, it should be possible to provide for a revenue-sharing mechanism in contracts concluded with private sector entities.
- (28) The Financial Regulation applies to the Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (29) As the Programme is, in principle, financed by the Union, procurement contracts concluded under the Programme for activities financed by the Programme should comply with Union rules. In that context, the Union should also be responsible for defining the objectives to be pursued as regards public procurement. The Financial Regulation provides that, on the basis of the results of an ex ante assessment, the Commission is to be able to rely on the systems and the procedures of the persons or entities implementing Union funds. Specific adjustments necessary to those systems and procedures, as well as the arrangements for the prolongation of the existing contracts, should be defined in the corresponding financial framework partnership agreement (FFPA) or contribution agreement.
- (30) The Programme relies on complex and constantly changing technologies. The reliance on such technologies results in uncertainty and risk for public contracts concluded under the Programme, insofar as those contracts involve long-term commitments to equipment or services. Specific measures concerning public contracts are therefore required in addition to the rules laid down in the Financial Regulation. It should thus be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or impose a minimum level of subcontracting, particularly in order to enable SMEs and start-ups to participate. Finally, given the technological uncertainties that characterise the Programme's components, contract prices cannot always be forecast accurately and it should therefore be possible to conclude contracts without stipulating a firm fixed price and to include clauses to safeguard the financial interests of the Union.

⁽⁶⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽⁷⁾ OJ L 282, 19.10.2016, p. 4.

- (31) To foster public demand and public sector innovation, the Programme should promote the use of its data, information and services to support the development of customised solutions by industry and SMEs at regional and local levels through space-related innovation partnerships, as referred to in point 7 of Annex I to the Financial Regulation, allowing all stages, from development up to deployment and procurement of customised interoperable space solutions for public services, to be covered.
- (32) In order to meet the objectives of the Programme, it is important to be able to call, where appropriate, on capacities offered by Union public and private entities active in the space domain and also to be able to work at international level with third countries or international organisations. For that reason, provision should be made for the possibility of using all the relevant tools and management methods provided for by the TFEU and the Financial Regulation and joint procurement procedures.
- (33) On grants more specifically, experience has shown that user and market uptake and general outreach work better in a decentralised manner than top-down by the Commission. Vouchers, which are a form of financial support from a grant beneficiary to third parties, have been among the actions with the highest success rate to new entrants and SMEs. However, they have been hindered by the ceiling on financial support imposed by the Financial Regulation. That ceiling should therefore be raised for the Programme in order to keep pace with the growing potential of market applications in the space sector.
- (34) The forms of funding and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (35) Pursuant to Council Decision 2013/755/EU⁽⁸⁾, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (36) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (37) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽⁹⁾ and Council Regulations (EC, Euratom) No 2988/95⁽¹⁰⁾, (Euratom, EC) No 2185/96⁽¹¹⁾ and (EU) 2017/1939⁽¹²⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013 the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal

⁽⁸⁾ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

⁽⁹⁾ 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 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).

⁽¹⁰⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

⁽¹¹⁾ 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).

⁽¹²⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁽¹³⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (38) Members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), acceding countries, candidate countries and potential candidates as well as the European Neighbourhood Policy countries may participate in the Programme, with the exception of Galileo, EGNOS, GOVSATCOM and the SST sub-component, in accordance with their respective agreements. Other third countries may also participate in the Programme, with the exception of Galileo, EGNOS, GOVSATCOM and the SST sub-component, on the basis of an agreement to be concluded in accordance with Article 218 TFEU. Galileo and EGNOS should be open to the participation of the members of EFTA which are members of the EEA, in accordance with the conditions laid down in the Agreement on the European Economic Area⁽¹⁴⁾. Other third countries may participate in Galileo and EGNOS on the basis of an agreement to be concluded in accordance with Article 218 TFEU. GOVSATCOM should be open to any third country only on the basis of an agreement to be concluded in accordance with Article 218 TFEU.
- (39) A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (40) International organisations which do not have their headquarters in the Union and which wish to access the SST services which are not publicly available should be required to conclude an agreement in accordance with Article 218 TFEU. International organisations which have their headquarters in the Union and are public spacecraft owners and operators should be considered SST core users.
- (41) Publicly available information for SST services should be understood to mean any information that a user has a reasonable basis for finding lawfully accessible. Collision avoidance, re-entry and fragmentation SST services are based on external publicly accessible SST information which is available after a request for access. Consequently, collision avoidance, re-entry and fragmentation SST services should be understood as being publicly available services and should not require conclusion of an agreement in accordance with Article 218 TFEU. Access to them should be available at the request of the potential user.
- (42) Sound public governance of the Programme requires the clear distribution of responsibilities and tasks among the different entities involved to avoid unnecessary overlap and reduce cost overruns and delays. All the actors of the governance should support, in their field of competence and in accordance with their responsibilities, the achievement of the objectives of the Programme.
- (43) Member States have long been active in the field of space. They have systems, infrastructure, national agencies and bodies linked to space. They can therefore make a major contribution to the Programme, especially its implementation. They might cooperate with the Union to promote the Programme's services and applications. The Commission might be able to mobilise the means at Member States' disposal, benefit from their assistance and, subject to mutually agreed conditions, entrust the Member States with non-regulatory tasks in the implementation of the Programme. Moreover, the Member States concerned should take all necessary measures to ensure the protection of the ground stations established on their territories. In addition, Member States and the Commission should work together and with appropriate international bodies and regulatory authorities to ensure that the

⁽¹³⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽¹⁴⁾ OJ L 1, 3.1.1994, p. 3.

frequencies necessary for the Programme are available and protected at the adequate level to allow for the full development and implementation of applications based on the services offered, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council ⁽¹⁵⁾.

- (44) As promoter of the Union's general interest, it is the Commission's responsibility to implement the Programme, assume overall responsibility and promote its use. In order to optimise the resources and competences of the various stakeholders, the Commission should be able to entrust certain tasks to other entities under justifiable circumstances. Having the overall responsibility for the Programme, the Commission should determine the main technical and operational requirements necessary to implement systems and services evolution. It should do so after having consulted Member States' experts, users and other relevant stakeholders. Finally, noting that in the area of space, in accordance with Article 4(3) TFEU, the exercise of competence by the Union does not result in Member States being prevented from exercising theirs, the Commission should ensure the coherence of activities performed in the context of the Programme.
- (45) The mission of the European Union Agency for the Space Programme ('the Agency'), which replaces and succeeds the European GNSS Agency established by Regulation (EU) No 912/2010 of the European Parliament and of the Council ⁽¹⁶⁾, is to contribute to the Programme, particularly as regards security accreditation as well as market and downstream applications development. Certain tasks linked to those areas should therefore be assigned to the Agency. In relation to security in particular, and given its experience in this area, the Agency should be responsible for the security accreditation tasks for all the Union actions in the space sector. Building on its positive track-record in promoting the user and market uptake of Galileo and EGNOS, the Agency should also be entrusted with user-uptake activities relating to the Programme's components other than Galileo and EGNOS, as well as downstream application development activities for all the Programme's components. This would allow the Agency to benefit from economies of scale and provide an opportunity for the development of applications based on several Programme's components (integrated applications). However, those activities should not prejudice the service and the user-uptake activities entrusted by the Commission to Copernicus entrusted entities. The entrustment of downstream applications development to the Agency should not prevent other entrusted entities from developing downstream applications. Furthermore, the Agency should perform the tasks which the Commission confers on it by means of one or more contribution agreements under an FPPA covering other specific tasks associated with the Programme. When entrusting tasks to the Agency, adequate human, administrative and financial resources should be made available.
- (46) In certain duly justified circumstances, the Agency should be able to entrust specific tasks to Member States or groups of Member States. That entrustment should be limited to activities the Agency does not have the capacity to execute itself and should not prejudice the governance of the Programme and the allocation of tasks as defined in this Regulation.
- (47) Galileo and EGNOS are complex systems that require intensive coordination. Since they are the Programme's components, that coordination should be performed by a Union institution or body. Building on the expertise developed in the past years, the Agency is the most appropriate body to coordinate all the operational tasks relating to the exploitation of those systems, except for the international cooperation. The Agency should therefore be entrusted with the management of the exploitation of EGNOS and Galileo. Nevertheless, this does not mean that the Agency should perform alone all the tasks relating to the exploitation of those systems. It could rely on the

⁽¹⁵⁾ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

⁽¹⁶⁾ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 276, 20.10.2010, p. 11).

expertise of other entities, in particular ESA. This should include the activities on systems evolution, design and development of parts of the ground segment and satellites which should be entrusted to ESA. The allocation of tasks to other entities builds on the competences of such entities and should avoid duplication of work.

- (48) ESA is an international organisation with extensive expertise in the space domain and which concluded a Framework Agreement with the European Community in 2004 ('2004 Framework Agreement')⁽¹⁷⁾. It is therefore an important partner in the implementation of the Programme, with which appropriate relations should be established. In that regard, and in compliance with the Financial Regulation, the Commission should conclude a FPPA with ESA and the Agency that governs all financial relations between the Commission, the Agency and ESA, ensures their consistency and conforms to the 2004 Framework Agreement, in particular with Articles 2 and 5 thereof. However, as ESA is not a Union body and is not subject to Union law, it is essential that such an agreement provides that ESA takes appropriate measures to ensure the protection of the interests of the Union and its Member States and, as regards budget implementation, that tasks entrusted to it comply with the decisions taken by the Commission. The agreement should also contain all the clauses necessary to safeguard the Union's financial interests.
- (49) The functioning of the European Union Satellite Centre (SATCEN) as a European autonomous capability providing access to information and services resulting from exploitation of relevant space assets and collateral data was already acknowledged in the implementation of Decision No 541/2014/EU of the European Parliament and of the Council⁽¹⁸⁾.
- (50) To structurally embed the user representation in the governance of GOVSATCOM and to aggregate user needs and requirements across national and civil-military boundaries, the relevant Union entities with close user-ties, such as the European Defence Agency, the European Border and Coast Guard Agency (Frontex), the European Maritime Safety Agency, the European Fisheries Control Agency, the European Union Agency for Law Enforcement Cooperation, the Military Planning and Conduct Capability/Civilian Planning and Conduct Capability and the Emergency Response Coordination Centre may have coordinating roles for specific user groups. At an aggregated level the Agency should coordinate user-related aspects for the civilian user communities and may monitor operational use, demand, conformity with requirements and evolving needs and requirements.
- (51) Owing to the importance of space-related activities for the Union economy and the lives of Union citizens, the dual-use nature of the systems and of the applications based on those systems, achieving and maintaining a high degree of security should be a key priority for the Programme, particularly in order to safeguard the interests of the Union and of its Member States, including in relation to classified and other sensitive non-classified information.
- (52) Without prejudice to Member States' prerogatives in the area of national security, the Commission and the High Representative, each within their respective area of competence, should ensure the security of the Programme in accordance with this Regulation and, where relevant, Council Decision (CFSP) 2021/698⁽¹⁹⁾.
- (53) Given the specific expertise of the European External Action Service (EEAS) and its regular contact with authorities of third countries and international organisations, the EEAS may assist the Commission in performing certain of its tasks relating to the security of the Programme in the field of external relations, in accordance with Council Decision 2010/427/EU⁽²⁰⁾.

⁽¹⁷⁾ OJ L 261, 6.8.2004, p. 64.

⁽¹⁸⁾ Decision No 541/2014/EU of the European Parliament and of the Council of 16 April 2014 establishing a Framework for Space Surveillance and Tracking Support (OJ L 158, 27.5.2014, p. 227).

⁽¹⁹⁾ Council Decision (CFSP) 2021/698 of 30 April 2021 on the security of systems and services deployed, operated and used under the Union Space Programme which may affect the security of the Union, and repealing Decision 2014/496/CFSP (see page 178 of this Official Journal).

⁽²⁰⁾ Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU) (OJ L 201, 3.8.2010, p. 30).

- (54) Without prejudice to the sole responsibility of the Member States in the area of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346 TFEU, a specific governance of security should be established to ensure a smooth implementation of the Programme. That governance should be based on three key principles. Firstly, it is imperative that Member States' extensive, unique experience in security matters be taken into consideration to the greatest possible extent. Secondly, in order to prevent conflicts of interest and any shortcomings in applying security rules, operational functions should be segregated from security accreditation functions. Thirdly, the entity in charge of managing all or part of the Programme's components is also the best placed to manage the security of the tasks entrusted to it. The security of the Programme would build upon the experience gained in the implementation of Galileo, EGNOS and Copernicus over the past years. Sound security governance also requires that roles be appropriately distributed among the various players. As it is responsible for the Programme, the Commission, without prejudice to Member States prerogatives in the area of national security, should determine the general security requirements applicable to each of the Programme's components.
- (55) The cybersecurity of European space infrastructures, both ground and space, is key to ensuring the continuity of the operations of the systems and service continuity. The need to protect the systems and their services against cyber-attacks, including by making use of new technologies, should therefore be duly taken into account when establishing security requirements.
- (56) A security monitoring structure should be identified by the Commission when appropriate after the risk and threat analysis. That security monitoring structure should be the entity responding to instructions developed under the scope of Decision (CFSP) 2021/698. For Galileo, that body should be the Galileo Security Monitoring Centre. With regard to the implementation of Decision (CFSP) 2021/698, the role of the Security Accreditation Board should be limited to providing the Council or the High Representative with inputs linked to the security accreditation of the system.
- (57) In view of the uniqueness and complexity of the Programme and its link to security, recognised and well-established principles should be followed for security accreditation. It is thus indispensable that security accreditation activities be carried out on the basis of collective responsibility for the security of the Union and its Member States, by endeavouring to build consensus and involving all those concerned with the issue of security, and that a procedure for permanent risk monitoring be put in place. It is also imperative that technical security accreditation activities be entrusted to professionals who are duly qualified in the field of accrediting complex systems and who have an adequate level of security clearance.
- (58) EU classified information (EUCI) is to be handled in accordance with the security rules as set out in Council Decision 2013/488/EU⁽²¹⁾ and Commission Decision (EU, Euratom) 2015/444⁽²²⁾. In accordance with Decision 2013/488/EU, the Member States are to respect the principles and minimum standards laid down therein, in order to ensure that an equivalent level of protection is afforded to EUCI.
- (59) To ensure the secure exchange of information, appropriate agreements should be established to ensure the protection of EUCI provided to third countries and international organisations in the context of the Programme.
- (60) An important objective of the Programme is to ensure its security and to strengthen strategic autonomy across key technologies and value chains, while preserving an open economy including free and fair trade, and taking advantage of the possibilities that space offers for the security of the Union and its Member States. In specific cases, that objective requires the requisite conditions for eligibility and participation to be set, to ensure the protection of the integrity, security and resilience of the operational systems of the Union. That should not undermine the need

⁽²¹⁾ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU) (OJ L 274, 15.10.2013, p. 1).

⁽²²⁾ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

for competitiveness and cost-effectiveness. In the evaluation of legal entities subject to control by a third country or third country entity, the Commission should take into account the principles and criteria provided for in Regulation (EU) 2019/452 of the European Parliament and of the Council ⁽²³⁾.

- (61) In the context of the Programme, there is some information which, although not classified, is to be handled in accordance with Union legal acts already in force or with national laws, rules and regulations, including through distribution limitations.
- (62) A growing number of key economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation and Earth observation systems. The Programme should exploit the synergies between those sectors, taking into consideration the benefits that space technologies bring to those sectors, support the development of compatible equipment and promote the development of relevant standards and certifications. Synergies between space activities and activities linked to the security and defence of the Union and its Member States are also increasing. Having full control of satellite navigation should therefore guarantee the Union's technological independence, including in the longer term for the components of infrastructure equipment, and ensure its strategic autonomy.
- (63) The aim of Galileo is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes, which can be used by a variety of public and private actors in Europe and worldwide. Galileo functions independently of other existing or potential systems, thus contributing amongst other things to the strategic autonomy of the Union. The second generation of Galileo should be progressively rolled out before 2030, initially with reduced operational capacity.
- (64) The aim of EGNOS is to improve the quality of open signals from existing global navigation satellite systems, in particular those emitted by Galileo. The services provided by EGNOS should cover, as a priority, the Member States' territories geographically located in Europe, including for that purpose Cyprus, the Azores, the Canary Islands and Madeira, by the end of 2026. In the aviation domain, all those territories should benefit from EGNOS for air navigation services for all the performance levels supported by EGNOS. Subject to technical feasibility and, for the safety of life, on the basis of international agreements, the geographical coverage of the services provided by EGNOS could be extended to other regions of the world. Without prejudice to Regulation (EU) 2018/1139 of the European Parliament and of the Council ⁽²⁴⁾ and the necessary monitoring of Galileo service quality for aviation purposes, it should be noted that while the signals emitted by Galileo may effectively be used to facilitate the positioning of aircraft, in all phases of flight, through the necessary augmentation system, including regional, local and on-board avionics, only regional or local augmentation systems such as EGNOS in Europe may constitute air-traffic management (ATM) services and air navigation services (ANS). The EGNOS safety-of-life service should be provided in compliance with applicable standards of the International Civil Aviation Organisation ('ICAO standards').
- (65) It is imperative to ensure the sustainability of the Galileo and EGNOS and the continuity, availability, accuracy, reliability and security of their services. In a changing environment and rapidly developing market, their development should also continue and new generations of those systems, including associated space and ground segment evolution, should be prepared.

⁽²³⁾ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79 I, 21.3.2019, p. 1).

⁽²⁴⁾ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

- (66) The term ‘commercial service’ used in Regulation (EU) No 1285/2013 of the European Parliament and of the Council ⁽²⁵⁾ is no longer suitable in the light of the evolution of that service. Instead, two separate services have been identified in Commission Implementing Decision (EU) 2017/224 ⁽²⁶⁾, namely the high-accuracy service and the authentication service.
- (67) In order to optimise the use of the services provided, the services provided by Galileo and EGNOS should be compatible and interoperable with one another, including at user level, and, insofar as possible, with other satellite navigation systems and with conventional means of radio navigation where such compatibility and interoperability is laid down in an international agreement, without prejudice to the objective of strategic autonomy of the Union.
- (68) Considering the importance for Galileo and EGNOS of their ground-based infrastructure and the impact thereof on their security, the determination of the location of the infrastructure should be made by the Commission. The deployment of the ground-based infrastructure of the systems should continue to follow an open and transparent process, which could involve the Agency where appropriate based on its field of competence.
- (69) To maximise the socio-economic benefits of Galileo and EGNOS, while contributing to Union’s strategic autonomy, particularly in sensitive sectors and in the area of safety and security, the use of the services provided by EGNOS and Galileo in other Union policies should be promoted also by regulatory means where that is justified and beneficial. Measures to encourage the use of those services in all Member States are also an important part of the process.
- (70) The Programme’s components should stimulate the application of digital technology in space systems, data and service distribution, downstream development. In that context the particular attention should be given to the initiatives and actions proposed by the Commission in its Communications of 14 September 2016 entitled ‘Connectivity for a Competitive Digital Single Market – Towards a European Gigabit Society’ and Communication of 14 September 2016 entitled ‘5G for Europe: An Action Plan’.
- (71) Copernicus should ensure an autonomous access to environmental knowledge and key technologies for Earth observation and geo-information services, thereby supporting the Union to achieve independent decision-making and actions in the fields of, inter alia, the environment, climate change, marine, maritime, agriculture and rural development, preservation of cultural heritage, civil protection, land and infrastructure monitoring, security, as well as the digital economy.
- (72) Copernicus should build on, ensure continuity with and enhance the activities and achievements under Regulation (EU) No 377/2014 of the European Parliament and of the Council ⁽²⁷⁾ establishing the Union Earth observation and monitoring programme (Copernicus) as well as Regulation (EU) No 911/2010 of the European Parliament and of the Council ⁽²⁸⁾ establishing the predecessor Global Monitoring for Environment and Security (GMES) programme and the rules for implementation of its initial operations, taking into account recent trends in research, technological advances and innovations impacting the Earth observation domain, as well as developments in big data analytics and artificial intelligence and related strategies and initiatives at Union level as outlined by the Commission in its White Paper On Artificial Intelligence of 19 February 2020 entitled ‘A European approach to excellence and trust’ and its Communication of 19 February 2020 entitled ‘A European strategy for data’. For the development of new assets, the Commission should work closely with Member States, ESA, the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) and, where appropriate, other entities owning relevant space and in-situ assets. To the greatest extent possible, Copernicus should make use of capacities for space-based Earth

⁽²⁵⁾ Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 347, 20.12.2013, p. 1).

⁽²⁶⁾ Commission Implementing Decision (EU) 2017/224 of 8 February 2017 setting out the technical and operational specifications allowing the commercial service offered by the system established under the Galileo programme to fulfil the function referred to in Article 2(4)(c) of Regulation (EU) No 1285/2013 of the European Parliament and of the Council (OJ L 34, 9.2.2017, p. 36).

⁽²⁷⁾ Regulation (EU) No 377/2014 of the European Parliament and of the Council of 3 April 2014 establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010 (OJ L 122, 24.4.2014, p. 44).

⁽²⁸⁾ Regulation (EU) No 911/2010 of the European Parliament and of the Council of 22 September 2010 on the European Earth monitoring programme (GMES) and its initial operations (2011 to 2013) (OJ L 276, 20.10.2010, p. 1).

observations of the Member States, ESA, EUMETSAT, as well as other entities, including commercial initiatives in the Union, thereby also contributing to the development of a viable commercial space sector in Europe. Where feasible and appropriate, Copernicus should also make use of the available in-situ and ancillary data provided mainly by the Member States in accordance with Directive 2007/2/EC of the European Parliament and of the Council ⁽²⁹⁾. The Commission should work together with the Member States and the European Environment Agency to ensure an efficient access and use of the in-situ data sets for Copernicus.

- (73) Copernicus should be implemented in accordance with the objectives of Directive 2003/98/EC of the European Parliament and of the Council ⁽³⁰⁾, in particular transparency, the creation of conditions conducive to the development of services, and contributing to economic growth and job creation in the Union. Copernicus data and Copernicus information should be available freely and openly.
- (74) The full potential of Copernicus for the Union's society and economy should be fully unleashed beyond direct beneficiaries by means of an intensification of user uptake measures, which requires further action to render the data usable by non-specialists and thereby stimulate growth, job creation and knowledge transfers.
- (75) Copernicus is a user-driven programme. Its evolution should therefore be based on the evolving requirements of the Copernicus core users, while also recognising the emergence of new user communities, whether public or private. Copernicus should base itself on an analysis of options to meet evolving user needs, including those related to implementation, and monitoring of Union policies which require the continuous, effective involvement of users, particularly regarding the definition and validation of requirements.
- (76) Copernicus is already operational. It is therefore important to ensure the continuity of the infrastructure and services already in place, whilst adapting to the changing user needs, market environment, particularly the emergence of private actors in space and socio-political developments for which a rapid response is needed. That requires an evolution of the functional structure of Copernicus to better reflect the shift from the first stage of operational services to the provision of advanced and more targeted services to new user communities and the fostering of added-value downstream markets. To that end, its further implementation should adopt an approach following the data value chain, i.e. data acquisition, data and information processing, distribution and exploitation, user, market uptake and capacity building activities, while the strategic planning process under Horizon Europe would identify research and innovation activities that should make use of Copernicus.
- (77) With regard to data acquisition, the activities under Copernicus should aim at completing and maintaining the existing space infrastructure, preparing the long-term replacement of the satellites at the end of their lifetime, as well as initiating new missions addressing in particular new observation systems to support meeting the challenge of global climate change, such as anthropogenic CO₂ and other greenhouse gas emissions monitoring. Activities under Copernicus should expand their global monitoring coverage over the polar regions and support environmental compliance assurance, statutory environmental monitoring and reporting and innovative environmental applications in agriculture, forest, water and marine resources management and cultural heritage, such as for crops monitoring, water management and enhanced fire monitoring. In doing so, Copernicus should leverage and take maximum advantage of the investments made under the previous funding period (2014-2020), including those made by Member States, ESA and EUMETSAT, while exploring new operational and business models to further complement the Copernicus capacities. Copernicus might also build on successful partnerships with Member States to further develop its security dimension under appropriate governance mechanisms, in order to respond to evolving user needs in the security domain.

⁽²⁹⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

⁽³⁰⁾ Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

- (78) As part of the data and information processing function, Copernicus should ensure the long-term sustainability and further development of Copernicus Services, providing information in order to satisfy public sector needs and those arising from the Union's international commitments, and to maximise opportunities for commercial exploitation. In particular, Copernicus should deliver, at the European, national, local and global scale, information on the composition of the atmosphere and air quality; information on the state and dynamics of the oceans; information in support of land and ice monitoring supporting the implementation of Union, national and local policies; information in support of climate change adaptation and mitigation; geospatial information in support of emergency management, including through prevention activities, environmental compliance assurance, as well as civil security including support for the Union's external action. The Commission should identify appropriate contractual arrangements fostering the sustainability of service provision.
- (79) In the implementation of the Copernicus Services, the Commission should rely on competent entities, relevant Union agencies, groupings or consortia of national bodies, or any relevant body potentially eligible for conclusion of a contribution agreement. In the selection of those entities, the Commission should ensure that there is no disruption in the operations and provision of services and that, as regards security-sensitive data, the entities concerned have early warning and crisis monitoring capabilities within the context of the Common Foreign and Security Policy and, in particular, of the Common Security and Defence Policy. In accordance with Article 154(2) of the Financial Regulation, persons and entities entrusted with the implementation of Union funds are obliged to comply with the principle of non-discrimination towards all Member States. Compliance with that principle should be ensured through the relevant contribution agreements relating to the provision of the Copernicus Services.
- (80) The implementation of the Copernicus Services should facilitate the public uptake of services as users would be able to anticipate the availability and evolution of services as well as cooperation with Member States and other parties. To that end, the Commission and its entrusted entities providing services should engage closely with Copernicus core users' communities across Europe in further developing the Copernicus Services and information portfolio to ensure that evolving public sector and policy needs are met and thus the uptake of Earth observation data can be maximised. The Commission and Member States should work together to develop the in-situ component of Copernicus and to facilitate the integration of Copernicus in-situ data with space datasets for upgraded Copernicus Services.
- (81) Copernicus' free, full and open data policy has been evaluated as one of the most successful elements of Copernicus' implementation and has been instrumental in driving strong demand for its data and information, establishing Copernicus as one of the largest Earth observation data providers in the world. There is a clear need to guarantee the long-term and secure continuity of the free, full and open data provision and access should be safeguarded in order to realise the ambitious goals as set out in the Space Strategy for Europe. Copernicus data is created primarily for the benefit of the Europeans, and by making that data freely available worldwide collaboration opportunities are maximised for Union businesses and academics and contribute to an effective European space ecosystem. Should any limitation be placed on the access to Copernicus data and Copernicus information, it should be in line with the Copernicus data policy as laid down in this Regulation and in Commission Delegated Regulation (EU) No 1159/2013⁽³¹⁾.
- (82) The data and information produced in the framework of Copernicus should be made available on a full, open and free-of-charge basis subject to appropriate conditions and limitations, in order to promote their use and sharing, and to strengthen the European Earth observation markets, in particular the downstream sector, thereby enabling growth and job creation in the Union. Such provision should continue to provide data and information with high levels of consistency, continuity, reliability, and quality. This calls for large-scale and user-friendly access to, processing and exploitation of Copernicus data and Copernicus information, at various timeliness levels, for which the Commission should continue to follow an integrated approach, both at Union and Member States level, enabling also integration with other sources of data and information. Therefore the Commission should take the

⁽³¹⁾ Commission Delegated Regulation (EU) No 1159/2013 of 12 July 2013 supplementing Regulation (EU) No 911/2010 of the European Parliament and of the Council on the European Earth monitoring programme (GMES) by establishing registration and licensing conditions for GMES users and defining criteria for restricting access to GMES dedicated data and GMES service information (OJ L 309, 19.11.2013, p. 1).

necessary measures to ensure that Copernicus data and Copernicus information is easily and efficiently accessible and usable, particularly by promoting the Data and Information Access Services (DIAS) within Member States and when possible fostering interoperability between the existing European Earth observation data infrastructures to establish synergies with those assets in order to maximise and strengthen market uptake of Copernicus data and Copernicus information.

- (83) The Commission should work with data providers to agree licensing conditions for third-party data to facilitate their use within Copernicus, in compliance with this Regulation and applicable third-party rights. As some Copernicus data and Copernicus information, including high-resolution images, may have an impact on the security of the Union or Member States, in duly justified cases, measures in order to deal with risks and threats to the security of the Union or Member States may be adopted.
- (84) To promote and facilitate the use of Earth observation data and technologies by national, regional and local authorities, SMEs, scientists and researchers, dedicated networks for Copernicus data distribution, including national and regional bodies such as Copernicus Relays and Copernicus Academies, should be promoted through user uptake activities. To that end, the Commission and the Member States should strive to establish closer links between Copernicus and Union and national policies in order to drive the demand for commercial applications and services and enable enterprises, in particular SMEs and start-ups, to develop applications based on Copernicus data and Copernicus information aiming at developing a competitive Earth observation data eco-system in Europe.
- (85) In the international domain, Copernicus should provide accurate and reliable information for cooperation with third countries and international organisations, and in support of the Union's external and development cooperation policies. Copernicus should be considered as a European contribution to the Global Earth Observation System of Systems, the Committee on Earth Observation Satellites, the Conference of the Parties to the 1992 United Nations Framework Convention on Climate Change, the achievement of the UN Sustainable Development Goals and the Sendai Framework for Disaster Risk Reduction. The Commission should establish or maintain appropriate cooperation with relevant sectoral UN bodies and the World Meteorological Organisation.
- (86) In the implementation of Copernicus, the Commission should rely, where appropriate, on European international organisations with which it has already established partnerships, in particular ESA, for the development, coordination, implementation and evolution of the space components, access to third party data where appropriate and, when not undertaken by other entities, the operation of dedicated missions. In addition, the Commission should rely on EUMETSAT for the operation of dedicated missions or parts thereof and, where appropriate, access to contributing mission data in accordance with its expertise and mandate.
- (87) In the domain of services, the Commission should benefit appropriately from the specific capacities provided by Union agencies, such as the European Environment Agency, the European Maritime Safety Agency, Frontex, SATCEN, as well as the intergovernmental European Centre for Medium-Range Weather Forecasts and the European investments already made in marine environment monitoring services through Mercator Ocean. On security, a comprehensive approach at Union level would be sought with the High Representative. The Joint Research Centre (JRC) of the Commission has been actively involved from the start of the GMES initiative and has supported developments for Galileo and the SWE sub-component. Under Regulation (EU) No 377/2014, the JRC is managing the Copernicus emergency management service and the global component of the Copernicus land monitoring service, it is contributing to the review of the quality and fitness for purpose of data and information, and to the future evolution. The Commission should continue relying on JRC's scientific and technical advice for the implementation of the Programme.
- (88) Following the requests of the European Parliament and of the Council, the Union established a support framework for space surveillance and tracking (SST) by means of Decision No 541/2014/EU. Space debris has become a serious threat to the security, safety and sustainability of space activities. The SST sub-component is therefore essential to preserving the continuity of the Programme's components and their contributions to Union policies. By

seeking to prevent the proliferation of space debris, the SST sub-component contributes to ensuring the sustainable and guaranteed access to and use of space, which is a global common objective. In that context, it could support the preparation of European Earth orbit 'clean-up' projects.

- (89) The performance and autonomy of capabilities under the SST sub-component should be further developed. To that end, the SST sub-component should lead to the establishment of an autonomous European catalogue of space objects, building on data from the network of SST sensors. Where appropriate, the Union could consider making some of its data available for commercial, non-commercial and research purposes. The SST sub-component should also continue to support the operation and provision of SST services. As SST services are user-driven, appropriate mechanisms should be put in place to collect user requirements, including those relating to security and the transmission of relevant information to and from public institutions to improve the effectiveness of the system, while respecting national safety and security policies.
- (90) The provision of SST services should be based on cooperation between the Union and the Member States and on the use of existing as well as future national expertise and assets, including those developed through ESA or by the Union. It should be possible to provide financial support for the development of new SST sensors. In view of the sensitive nature of the SST, the control over national sensors and their operations, maintenance and renewal and the processing of data leading to the provision of SST services should remain with the Member States participating in the SST sub-component.
- (91) Member States with ownership or access to adequate capabilities available for the SST sub-component should be able to participate in the provision of SST services. Participating Member States in the Consortium established under Decision No 541/2014/EU should be deemed to have ownership or access to adequate capabilities available for the SST sub-component. Member States wishing to participate in the provision of SST services should submit a single joint proposal and demonstrate compliance with further elements related to the operational set up. Appropriate rules should be established for the selection and organisation of those Member States.
- (92) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of the detailed procedures and elements for establishing the participation of Member States in the provision of SST services. Where no joint proposal of the Member States wishing to participate in the provision of SST services has been submitted or where the Commission considers that such proposal does not comply with the criteria set, the Commission should be able to initiate a second step for establishing the participation of Member States in the provision of SST services. The procedures and elements for that second step should define the orbits to be covered, and take into account the need to maximise the participation of Member States in the provision of SST services. Where those procedures and elements provide for the possibility for the Commission to select several proposals to cover all the orbits, appropriate coordination mechanisms between the groups of Member States and an efficient solution to cover all the SST services should also be provided. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³²⁾.
- (93) Once the SST sub-component is set up, it should respect the principles of complementarity of activities and continuity of high quality user-driven SST services, and be based on the best expertise. The SST sub-component should therefore avoid unnecessary duplication. Redundant capabilities should ensure SST services' continuity, quality and robustness. The activities of the Expert Teams should help to avoid such unnecessary duplication.
- (94) In addition, the SST sub-component should be conducive to existing mitigation measures, such as the COPUOS Space Debris Mitigation Guidelines and Guidelines for the Long-term Sustainability of Outer Space Activities, or other initiatives to ensure the safety, security and sustainability of outer space activities. With a view to reducing risks of collision, the SST sub-component would also seek synergies with initiatives of active removal and

⁽³²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

passivation measures of space debris. The SST sub-component should contribute to ensuring the peaceful use and exploration of outer space. The increase in space activities may have implication on the international initiatives in the area of the space traffic management. The Union should monitor those developments and may take them into consideration in the context of the mid-term review of the current multiannual financial framework.

- (95) The activities under the SST, SWE and NEO sub-components should have regard to cooperation with international partners, in particular the United States, international organisations and other third parties, particularly to avoid collisions in space, to prevent the proliferation of space debris and to increase preparedness for the effects of extreme space weather events and near-Earth objects.
- (96) The Security Committee of the Council recommended the creation of a risk management structure to ensure that data security issues are duly taken into account in the implementation of Decision No 541/2014/EU. For that purpose and taking account of the work already performed, the appropriate risk management structures and procedures should be established by the Member States participating in the SST sub-component.
- (97) Extreme and major space weather events may threaten the safety of citizens and disrupt the operations of space-based and ground-based infrastructure. A SWE sub-component should therefore be established as part the Programme with an aim of assessing the space weather risks and corresponding user needs, raising the awareness of space weather risks, ensuring the provision of user-driven SWE services, and improving Member States' capabilities to provide the SWE services. The Commission should prioritise the sectors to which the operational SWE services are to be provided taking into account the user needs, risks and technological readiness. In the long term, the needs of other sectors may be addressed. The provision of services at Union level according to the users' needs would require targeted, coordinated and continued research and development activities to support SWE services evolution. The provision of the SWE services should build on the existing national and Union capabilities and enable a broad participation of Member States, European and international organisations, and involvement of the private sector.
- (98) The Commission White Paper of 1 March 2017 on the future of Europe, the Rome Declaration of the Heads of State and Government of 27 EU Member States of 25 March 2017, and several European Parliament resolutions, recall that the Union has a major role to play in ensuring a safe, secure and resilient Europe that is capable of addressing challenges such as regional conflicts, terrorism, cyber threats, and growing migration pressures. Secure and guaranteed access to satellite communications is an indispensable tool for security actors, and pooling and sharing of that key security resource at Union level strengthens a Union that protects its citizens.
- (99) The conclusions of the European Council of 19-20 December 2013 welcomed the preparations for the next generation of Governmental Satellite Communication (GOVSATCOM) through close cooperation between the Member States, the Commission and ESA. GOVSATCOM has also been identified as one of the elements of the Global Strategy for the European Union's Foreign and Security Policy of June 2016. GOVSATCOM should contribute to the EU response to Hybrid Threats and provide support to the EU Maritime Security Strategy and to the EU Arctic policy.
- (100) GOVSATCOM is a user-centric programme with a strong security dimension. The GOVSATCOM use-cases should be able to be analysed by the relevant actors for three main families: crisis management, which may include civilian and military Common Security and Defence missions and operations, natural and man-made disasters, humanitarian crises, and maritime emergencies; surveillance, which may include border surveillance, pre-frontier surveillance, sea-border surveillance, maritime surveillance and surveillance of illegal trafficking; and key infrastructures, which may include diplomatic network, police communications, digital infrastructure, such as data centres and servers, critical infrastructures, such as energy, transport and water barriers, such as dams, and space infrastructures.

- (101) GOVSATCOM capacity and services should be used in security and safety critical missions and operations by Union and Member State actors. Therefore an appropriate level of non-dependence from third parties (third countries and entities from third countries) is needed, covering all GOVSATCOM elements, such as space and ground technologies at component, subsystem and system level, manufacturing industries, owners and operators of space systems, and physical location of ground system components.
- (102) Satellite communications is a finite resource limited by the satellite capacity, frequency and geographical coverage. Therefore, in order to be cost-effective and to capitalise on economies of scale, GOVSATCOM needs to optimise the match between the demand from GOVSATCOM users, and the supply provided under contracts for GOVSATCOM capacities and services. Since the demand and the potential supply both change with time, this requires constant monitoring and flexibility to adjust GOVSATCOM services.
- (103) Operational requirements should be based on the use-case analysis. From those operational requirements, in combination with security requirements, the service portfolio should be developed. The service portfolio should establish the applicable baseline for the GOVSATCOM services. In order to maintain the best possible match between the demand and supplied services, the service portfolio for GOVSATCOM services should be able to be regularly updated.
- (104) In the first phase of GOVSATCOM, approximately until 2025, existing capacity would be used. In that context, the Commission should procure GOVSATCOM capacities from Member States with national systems and space capacities and from commercial satellite communication or service providers, taking into account the essential security interests of the Union. In that first phase GOVSATCOM services would be introduced in a stepped approach. If in the course of the first phase a detailed analysis of future supply and demand reveals that this approach is insufficient to cover the evolving demand, it should be possible to take a decision to move to a second phase and develop additional bespoke space infrastructure or capacities through one or several public-private partnerships, e.g. with Union satellite operators.
- (105) In order to optimise the available satellite communication resources, to guarantee access in unpredictable situations, such as natural disasters, and to ensure operational efficiency and short turn-around times, the necessary ground segment, such as GOVSATCOM Hubs and potential other ground elements, is required. It should be designed on the basis of operational and security requirements. In order to mitigate risks a GOVSATCOM Hub may consist of several physical sites. Other ground segment elements, such as anchoring stations, may be needed.
- (106) For users of satellite communications the user equipment is the all-important operational interface. The GOVSATCOM approach should make it possible for most users to continue to use their existing user equipment for GOVSATCOM services.
- (107) In the interest of operational efficiency, users have indicated that it is important to aim for interoperability of user equipment, and user equipment that can make use of different satellite systems. Research and development in this domain may be required.
- (108) At implementation level the tasks and responsibilities should be distributed amongst specialised entities, such as EDA, EEAS, ESA, the Agency, and other Union agencies in such a manner as to ensure that they align with their principal role, especially for user-related aspects.
- (109) The competent GOVSATCOM authority has an important role in terms of monitoring whether users, and other national entities that play a role in GOVSATCOM, comply with the sharing and prioritisation rules and security procedures as laid down in the security requirements. A Member State which has not designated a competent GOVSATCOM authority should in any event designate a point of contact for the management of any detected jamming affecting GOVSATCOM.
- (110) Member States, the Council, the Commission and the EEAS should be able to become GOVSATCOM participants, insofar as they choose to authorise GOVSATCOM users or provide capacities, sites or facilities. Taking into consideration that it is for the Member States to decide whether to authorise GOVSATCOM users or provide capacities, sites or facilities, Member States could not be obliged to become GOVSATCOM participants or to host

GOVSATCOM infrastructure. The GOVSATCOM component would therefore be without prejudice to the right of Member States not to participate in GOVSATCOM, including in accordance with its national law or constitutional requirements in relation to policies concerning non-alignment and non-participation in military alliances.

- (111) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of the operational requirements for GOVSATCOM services and of the service portfolio for GOVSATCOM services. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (112) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to adoption of detailed rules on sharing and prioritisation for the use of pooled GOVSATCOM satellite communication capacities. When defining detailed rules on sharing and prioritisation, the Commission should take into account the operational and security requirements and an analysis of risks and expected demand by GOVSATCOM participants. Although GOVSATCOM services should in principle be provided free of charge to GOVSATCOM users, if that analysis concludes there is a shortage of capacities and in order to avoid a distortion of the market, a pricing policy might be developed as part of those detailed rules on sharing and prioritisation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (113) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to the location of the ground segment infrastructure for GOVSATCOM should be conferred on the Commission. For the selection of such locations, the Commission should be able to take into account the operational and security requirements, as well as the existing infrastructure. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (114) Regulation (EU) No 912/2010 established a Union agency, called the European GNSS Agency, to manage certain aspects of the Galileo and EGNOS satellite navigation programmes. This Regulation entrusts the European GNSS Agency with new tasks, especially security accreditation, not only in respect of Galileo and EGNOS but also in respect of other Programme's components. The name, tasks and organisational aspects of the European GNSS Agency should therefore be adapted accordingly.
- (115) In accordance with Decision 2010/803/EU ⁽³³⁾, the seat of the Agency is located in Prague. For the implementation of the Agency's tasks, staff of the Agency might be located in one of the Galileo or EGNOS ground-based centres referred to in Commission Implementing Decision (EU) 2016/413 ⁽³⁴⁾ to execute Programme activities provided for in the relevant agreement. In addition, for the Agency to operate in the most efficient and effective manner, a limited number of staff could be assigned to local offices in one or more Member States. Such assignment of staff outside the seat of the Agency or Galileo and EGNOS ground-based centres should not lead to transfer of the Agency's core activities to such local offices.
- (116) In view of its extended scope, which should no longer be limited to Galileo and EGNOS, the name of the European GNSS Agency should henceforth be changed. However, the continuity of the activities of the European GNSS Agency, including continuity as regards rights and obligations, staff and the validity of any decisions taken, should be ensured under the Agency.
- (117) Given the Agency's mandate and the role of the Commission in implementing the Programme, it is appropriate to provide that some of the decisions taken by the Administrative Board should not be adopted without the favourable vote of the representatives of the Commission.

⁽³³⁾ Decision taken by common accord between the Representatives of the Governments of the Member States of 10 December 2010 on the location of the seat of the European GNSS Agency (2010/803/EU) (OJ L 342, 28.12.2010, p. 15).

⁽³⁴⁾ Commission Implementing Decision (EU) 2016/413 of 18 March 2016 determining the location of the ground-based infrastructure of the system established under the Galileo programme and setting out the necessary measures to ensure that it functions smoothly, and repealing Implementing Decision 2012/117/EU (OJ L 74, 19.3.2016, p. 45).

- (118) Without prejudice to the powers of the Commission, the Administrative Board, the Security Accreditation Board and the Executive Director should be independent in the performance of their duties and should act in the public interest.
- (119) It is possible, and indeed probable, that some of the Programme's components would be based on the use of sensitive or security-related national infrastructure. In such cases, for reasons of national security, it would be necessary to stipulate that meetings of the Administrative Board and Security Accreditation Board be attended by the representatives of the Member States and the representatives of the Commission, on a need-to-know basis. In the Administrative Board, only those representatives of Member States which possess such infrastructure and a representative of the Commission are to take part in voting. The rules of procedure of the Administrative Board and of the Security Accreditation Board should set out the situations in which that procedure is to apply.
- (120) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽³⁵⁾, this Programme should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme on the ground.
- (121) The use of Copernicus and Galileo-based services is predicted to have a major impact in the European economy in general. However, ad hoc measurements and case studies seem to dominate the picture today. The Commission (Eurostat) should define relevant statistical measurements and indicators that would form the basis for monitoring the impact of the Union's space activities in a systematic and authoritative way.
- (122) The European Parliament and the Council should be promptly informed of the work programmes.
- (123) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to the reallocation of funds between the categories of expenditure of the Programme's budget, the adoption of contribution decisions regarding the contribution agreements, determining the technical and operational requirements needed for the implementation of and evolution of the Programme's components and of the services they provide, deciding on the FFPA, the adoption of measures necessary for the smooth functioning of Galileo and EGNOS and their adoption by the market, the adoption of the detailed provisions concerning the access to SST services and relevant procedures, the adoption of the multiannual plan and the key performance indicators for development of Union SST services, the adoption of detailed rules on the functioning of the organisational framework of the participation of Member States in the SST sub-component, the selection of SWE services, and the adoption of the work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. The Commission should be assisted by the Programme committee, which should meet in specific configuration.
- (124) Since the Programme's components are user-driven, they require the continuous, effective involvement of users for their implementation and development, particularly regarding the definition and validation of service requirements. In order to increase the value for the users, their input should be actively sought through regular consultation with end-users from the public and private sectors of Member States and, where appropriate, with international organisations. For that purpose, a working group ('User Forum') should be set up to assist the Programme committee with the identification of user requirements, and the verification of service compliance, as well as the identification of gaps in services provided. The rules of procedure of the Programme committee should establish the organisation of the User Forum to take into account the specificities of each of the Programme's components and each service within the components. Whenever possible, Member States should contribute to the User Forum based on a systematic and coordinated consultation of users at national level.

⁽³⁵⁾ OJ L 123, 12.5.2016, p. 1.

- (125) As sound public governance requires uniform management of the Programme, faster decision-making and equal access to information, representatives of the entities entrusted with tasks related to the Programme might be able to take part as observers in the work of the Programme committee established in application of Regulation (EU) No 182/2011. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union, relating to the Programme or its components or sub-components, might be able to take part in the work of the Programme committee subject to security constraints and as provided for in the terms of such agreement. The representatives of entities entrusted with tasks related to the Programme, third countries and international organisations should not be entitled to take part in the Programme committee voting procedures. The conditions for the participation of observers and ad hoc participants should be laid down in the rules of procedure of the Programme committee.
- (126) In order to ensure effective assessment of progress of the Programme towards the achievement of its objectives, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing the provisions on the Copernicus data and Copernicus information to be provided to Copernicus users as regards the specifications and conditions and procedures for the access to and use of such data and such information, of amending the Annex to this Regulation with regard to the indicators where considered necessary and of supplementing this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (127) Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action that go beyond the financial and technical capacities of any single Member State, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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.
- (128) In order to ensure uniform conditions for the implementation of the Programme's security requirements, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. Member States should be able to exert a maximum of control over the Programme's security requirements. When adopting implementing acts in the area of security of the Programme, the Commission should be assisted by the Programme committee meeting in a dedicated security configuration. In view of the sensitivity of security matters, the chair of the Programme committee should endeavour to find solutions which command the widest possible support within the committee. The Commission should not adopt implementing acts determining the general security requirements of the Programme in cases where no opinion is delivered by the Programme committee.
- (129) The Programme should be established for a period of seven years to align its duration with that of the multiannual financial framework for the years 2021 to 2027 laid down in Council Regulation (EU, Euratom) 2020/2093 ⁽³⁶⁾ (the 'MFF 2021-2027'). The Agency, which carries out its own tasks, should not be subject to that time limitation.
- (130) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the MFF 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021.
- (131) Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU should therefore be repealed,

⁽³⁶⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the Union Space Programme ('the Programme') for the duration of the MFF 2021-2027. It lays down the objectives of the Programme, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding, as well as the rules for the implementation of the Programme.

This Regulation establishes the European Union Agency for the Space Programme ('the Agency') which replaces and succeeds the European GNSS Agency established by Regulation (EU) No 912/2010 and lays down the rules of operation of the Agency.

Article 2

Definitions

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

- (1) 'spacecraft' means an orbiting object designed to perform a specific function or mission, such as communications, navigation or Earth observation, including satellites, launcher upper stages, and a re-entry vehicle; a spacecraft that can no longer fulfil its intended mission is considered non-functional; spacecraft in reserve or standby modes awaiting possible reactivation are considered functional;
- (2) 'space object' means any man-made object in outer space;
- (3) 'near-Earth objects' or 'NEO' means natural objects in the solar system which are approaching the Earth;
- (4) 'space debris' means any space object including spacecraft or fragments and elements thereof in Earth's orbit or re-entering Earth's atmosphere, that are non-functional or no longer serve any specific purpose, including parts of rockets or artificial satellites, or inactive artificial satellites;
- (5) 'space weather events' or 'SWE' means naturally occurring variations in the space environment at the Sun and around the Earth, including solar flares, solar energetic particles, variations in the solar wind, coronal mass ejections, geomagnetic storms and dynamics, radiation storms and ionospheric disturbances, potentially impacting Earth and space-based infrastructures;
- (6) 'space situational awareness' or 'SSA' means a holistic approach, including comprehensive knowledge and understanding, of the main space hazards, encompassing collision between space objects, fragmentation and re-entry of space objects into the atmosphere, space weather events, and near-Earth objects;
- (7) 'space surveillance and tracking system' or 'SST system' means a network of ground-based and space-based sensors capable of surveying and tracking space objects, together with processing capabilities aiming to provide data, information and services on space objects that orbit around the Earth;
- (8) 'SST sensor' means a device or a combination of devices, such as ground-based or space-based radars, lasers and telescopes, which is able to perform space surveillance or tracking and that can measure physical parameters related to space objects, such as size, location and velocity;
- (9) 'SST data' means physical parameters of space objects, including space debris, acquired by SST sensors, or orbital parameters of space objects derived from SST sensors' observations in the framework of the SST sub-component;

- (10) 'SST information' means processed SST data which are readily meaningful to the recipient;
- (11) 'return link' means a functional capacity of the Galileo search and rescue support (SAR) service; the Galileo SAR service will contribute to the global monitoring service of aircraft, as defined by the International Civil Aviation Organisation (ICAO);
- (12) 'Copernicus Sentinels' means the Copernicus dedicated satellites, spacecraft or spacecraft payloads for space-based Earth observation;
- (13) 'Copernicus data' means data provided by the Copernicus Sentinels, including their metadata;
- (14) 'Copernicus third-party data and information' means spatial data and information licensed or made available for use under Copernicus which originate from sources other than the Copernicus Sentinels;
- (15) 'Copernicus in-situ data' means observation data from ground-based, seaborne or airborne sensors, as well as reference and ancillary data licensed or provided for use in Copernicus;
- (16) 'Copernicus information' means information generated by the Copernicus Services following processing or modelling, including their metadata;
- (17) 'Copernicus Participating States' means third countries which contribute financially and participate in Copernicus under the terms of an international agreement concluded with the Union;
- (18) 'Copernicus core users' means the Union institutions and bodies and European, national, or regional public bodies in the Union or Copernicus Participating States entrusted with a public service mission for the definition, implementation, enforcement or monitoring of civilian public policies, such as environmental, civil protection, safety, including safety of infrastructure, or security policies, which benefit from Copernicus data and Copernicus information and have the additional role of driving the evolution of Copernicus;
- (19) 'other Copernicus users' means research and education organisations, commercial and private bodies, charities, non-governmental organisations and international organisations, which benefit from Copernicus data and Copernicus information;
- (20) 'Copernicus users' means Copernicus core users and other Copernicus users;
- (21) 'Copernicus Services' means value-added services of general and common interest to the Union and the Member States, which are financed by the Programme and which transform Earth observation data, Copernicus in-situ data and other ancillary data into processed, aggregated and interpreted information tailored to the needs of Copernicus users;
- (22) 'GOVSATCOM user' means a public authority, a body entrusted with the exercise of public authority, an international organisation or a natural or legal person, duly authorised and entrusted with tasks relating to the supervision and management of security-critical missions, operations and infrastructures;
- (23) 'GOVSATCOM Hub' means an operational centre the main function of which is to link, in a secure manner, the GOVSATCOM users to the providers of GOVSATCOM capacity and services and thereby optimise the supply and demand at any given moment;
- (24) 'GOVSATCOM use-case' means an operational scenario in a particular environment in which GOVSATCOM services are required;
- (25) 'EU classified information' or 'EUCI' means any information or material designated by an EU security classification, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the Union or of one or more of the Member States;
- (26) 'sensitive non-classified information' means non-classified information within the meaning of Article 9 of Commission Decision (EU, Euratom) 2015/443 ⁽³⁷⁾, under which an obligation to protect sensitive non-classified information applies solely to the Commission and to Union agencies and bodies obliged by law to apply the security rules of the Commission;

⁽³⁷⁾ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security on the Commission (OJ L 72, 17.3.2015, p. 41).

- (27) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support or financial instruments or budgetary guarantees from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (28) 'legal entity' means a natural person, or a legal person created and recognised as such under Union, national, or international law, which has legal personality and capacity to act in its own name, exercise rights and be subject to obligations, or an entity which does not have legal personality as referred to in point (c) of Article 197(2) of the Financial Regulation;
- (29) 'fiduciary entity' means a legal entity that is independent from the Commission or a third party and that receives data from the Commission or that third party for the purpose of safe storage and treatment of those data.

Article 3

Components of the Programme

1. The Programme shall consist of the following components:
 - (a) 'Galileo', an autonomous civil global navigation satellite system (GNSS) under civil control, which consists of a constellation of satellites, centres and a global network of stations on the ground, offering positioning, navigation and timing services and integrating the needs and requirements of security;
 - (b) 'European Geostationary Navigation Overlay Service' (EGNOS), a civil regional satellite navigation system under civil control which consists of centres and stations on the ground and several transponders installed on geosynchronous satellites and which augments and corrects the open signals emitted by Galileo and other GNSSs, inter alia for air-traffic management, for air navigation services and for other transport systems;
 - (c) 'Copernicus', an operational, autonomous, user-driven, civil Earth observation system under civil control, building on the existing national and European capacities, offering geo-information data and services, comprising satellites, ground infrastructure, data and information processing facilities, and distribution infrastructure, based on a free, full and open data policy and, where appropriate, integrating the needs and requirements of security;
 - (d) 'Space Situational Awareness' or 'SSA', which includes the following sub-components:
 - (i) 'SST sub-component', a space surveillance and tracking system aiming to improve, operate and provide data, information and services related to the surveillance and tracking of space objects that orbit the Earth;
 - (ii) 'SWE sub-component', observational parameters related to space weather events; and
 - (iii) 'NEO sub-component', the risk monitoring of near-Earth objects approaching the Earth;
 - (e) 'GOVSATCOM', a satellite communications service under civil and governmental control enabling the provision of satellite communications capacities and services to Union and Member State authorities managing security critical missions and infrastructures.
2. The Programme shall include additional measures to ensure efficient and autonomous access to space for the Programme and to foster an innovative and competitive European space sector, upstream and downstream, to strengthen the Union's space ecosystem and to reinforce the Union as a global player.

Article 4

Objectives

1. The general objectives of the Programme are to:
 - (a) provide or contribute to the provision of high-quality and up-to-date and, where appropriate, secure space-related data, information and services without interruption and wherever possible at global level, meeting existing and future needs and able to support the Union's political priorities and related evidence-based and independent decision making, inter alia for climate change, transport and security;

- (b) maximise the socio-economic benefits, in particular by fostering the development of innovative and competitive European upstream and downstream sectors, including SMEs and start-ups, thereby enabling growth and job creation in the Union and promoting the widest possible uptake and use of the data, information and services provided by the Programme's components both within and outside the Union; while ensuring synergies and complementarity with the Union's research and technological development activities carried out under Regulation (EU) 2021/695;
- (c) enhance the safety and security of the Union and its Member States and reinforce the autonomy of the Union, in particular in terms of technology;
- (d) promote the role of the Union as a global actor in the space sector; encourage international cooperation, reinforce European space diplomacy including by fostering the principles of reciprocity and fair competition, and to strengthen its role in tackling global challenges, supporting global initiatives including with regard to sustainable development and raising awareness of space as a common heritage of humankind;
- (e) enhance the safety, security and sustainability of all outer space activities pertaining to space objects and debris proliferation, as well as space environment, by implementing appropriate measures, including development and deployment of technologies for spacecraft disposal at the end of operational lifetime and for space debris disposal.

2. The specific objectives of the Programme are:

- (a) for Galileo and EGNOS: to provide long-term, state-of-the-art and secure positioning, navigation and timing services whilst ensuring service continuity and robustness;
- (b) for Copernicus: to deliver accurate and reliable Earth observation data, information and services integrating other data sources, supplied on a long-term sustainable basis, to support the formulation, implementation and monitoring of the Union and its Member States' policies and actions based on user requirements;
- (c) for SSA: to enhance capabilities to monitor, track and identify space objects and space debris with the aim of further increasing the performance and autonomy of capabilities under the SST sub-component at Union level, to provide SWE services and to map and network Member States' capacities under the NEO sub-component;
- (d) for GOVSATCOM: to ensure the long-term availability of reliable, secure and cost-effective satellite communications services for GOVSATCOM users;
- (e) to support an autonomous, secure and cost-efficient capability to access space, taking into account the essential security interests of the Union;
- (f) to foster the development of a strong Union space economy, including by supporting the space ecosystem and by reinforcing competitiveness, innovation, entrepreneurship, skills and capacity building in all Member States and Union regions, with particular regard to SMEs and start-ups or natural and legal persons from the Union who are active or wishing to become active in that sector.

Article 5

Access to space

1. The Programme shall support the procurement and aggregation of launching services for the needs of the Programme and, at their request, the aggregation for Member States and international organisations.
2. In synergies with other Union programmes and funding schemes, and without prejudice to ESA's activities in the area of access to space, the Programme may support:
 - (a) adaptations, including technology development, to space launch systems which are necessary for launching satellites, including alternative technologies and innovative systems on access to space, for the implementation of the Programme's components;
 - (b) adaptations to the space ground infrastructure, including new developments, which are necessary for the implementation of the Programme.

*Article 6***Actions in support of an innovative and competitive Union space sector**

1. The Programme shall promote capacity building across the Union, by supporting:
 - (a) innovation activities for making best use of space technologies, infrastructure or services and measures to facilitate the uptake of innovative solutions resulting from research and innovation activities and to support the development of the downstream sector, in particular through synergies with other Union programmes and financial instruments, including the InvestEU Programme;
 - (b) activities aiming to foster public demand and public sector innovation, to realise the full potential of public services for citizens and businesses;
 - (c) entrepreneurship, including from early stage to scaling-up, in accordance with Article 21, by relying on other provisions on access to finance as referred to in Article 18 and Chapter I of Title III, and by using a first contract approach;
 - (d) the emergence of a business-friendly space ecosystem through cooperation amongst undertakings in the form of a network of space hubs which:
 - (i) bring together, at national and regional levels, actors from the space, digital and other sectors, as well as users; and
 - (ii) aim to provide support, facilities and services to citizens and companies to foster entrepreneurship and skills, to enhance synergies in the downstream sector and to foster cooperation with the digital innovation hubs established under the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council ⁽³⁸⁾;
 - (e) the provision of education and training activities, in particular for professionals, entrepreneurs, graduates and students, notably through synergies with initiatives at national and regional levels, for the development of advanced skills;
 - (f) access to processing and testing facilities for private and public sector professionals, students and entrepreneurs;
 - (g) certification and standardisation activities;
 - (h) the reinforcement of European supply chains across the Union through wide participation of enterprises, in particular SMEs and start-ups, in all the Programme's components, particularly through Article 14, and of measures to underpin their competitiveness at global level.
2. When implementing activities referred to in paragraph 1, the need to develop capacity in Member States with an emerging space industry shall be supported, in order to provide an equal opportunity to all Member States to participate in the Programme.

*Article 7***Participation of third countries and international organisations in the Programme**

1. Galileo, EGNOS and Copernicus, as well as the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of the members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the Agreement on the European Economic Area.

Copernicus and the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of the following third countries:

- (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

⁽³⁸⁾ Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p.1).

(b) European Neighbourhood Policy countries, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or in similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries.

2. In accordance with the conditions laid down in a specific agreement concluded in accordance with Article 218 TFEU covering the participation of a third country or of an international organisation to any Union programme:

- (a) Galileo and EGNOS shall be open to the participation of third countries referred to in points (a) and (b) of the second subparagraph of paragraph 1;
- (b) GOVSATCOM shall be open to the participation of members of EFTA which are members of the EEA, as well as of third countries referred to in points (a) and (b) of the second subparagraph of paragraph 1; and
- (c) Galileo, EGNOS, Copernicus, GOVSATCOM, as well as the SWE and NEO sub-components, but excluding the SST sub-component, shall be open to the participation of third countries, other than those third countries covered by paragraph 1, and international organisations.

The specific agreement referred to in the first subparagraph of this paragraph shall:

- (a) ensure a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;
- (b) lay down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;
- (c) not confer on the third country or international organisation any decision-making power in respect of the Union programme;
- (d) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests.

The contributions referred to in point (b) of the second subparagraph of this paragraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

3. The Programme's components or sub-components, excluding the SST sub-component, shall only be open to the participation of third countries and international organisations under this Article provided that the essential security interests of the Union and its Member States are preserved, including as regards the protection of classified information under Article 43.

Article 8

Access to SST services, GOVSATCOM services and the Galileo Public Regulated Service by third countries and international organisations

1. Third countries and international organisations may have access to GOVSATCOM services provided that:

- (a) they conclude an agreement, in accordance with Article 218 TFEU, laying down the terms and conditions for access to GOVSATCOM services; and
- (b) they comply with Article 43 of this Regulation.

2. Third countries and international organisations not having their headquarters in the Union may have access to SST services referred to in point (d) of Article 55(1) provided that:

- (a) they conclude an agreement, in accordance with Article 218 TFEU, laying down the terms and conditions for access to such SST services; and
- (b) they comply with Article 43 of this Regulation.

3. No agreement concluded in accordance with Article 218 TFEU shall be required to access SST services which are publicly available, as referred to in points (a), (b) and (c) of Article 55(1). Access to those services shall be subject to a request from the potential users in accordance with Article 56.

4. The access of third countries and international organisations to the Public Regulated Service (PRS) provided by Galileo shall be governed by Article 3(5) of Decision No 1104/2011/EU of the European Parliament and of the Council ⁽³⁹⁾.

Article 9

Ownership and use of assets

1. Except as provided under paragraph 2, the Union shall be the owner of all tangible and intangible assets created or developed under the Programme's components. To that effect, the Commission shall ensure that relevant contracts, agreements and other arrangements relating to the activities which may result in the creation or development of such assets contain provisions ensuring the Union's ownership of those assets.

2. Paragraph 1 does not apply to the tangible and intangible assets created or developed under the Programme's components, where the activities which may result in the creation or development of such assets:

- (a) are carried out pursuant to grants or prizes fully financed by the Union;
- (b) are not fully financed by the Union; or
- (c) relate to the development, manufacture or use of PRS receivers incorporating EUCI, or components of such receivers.

3. The Commission shall ensure that the contracts, agreements and other arrangements relating to the activities referred to in paragraph 2 of this Article contain provisions setting out the appropriate ownership regime for those assets and, as regards point (c) of paragraph 2 of this Article, that they ensure that the Union can use the PRS receivers in accordance with Decision No 1104/2011/EU.

4. The Commission shall seek to conclude contracts, agreements or other arrangements with third parties with regard to:

- (a) pre-existing ownership rights in respect of tangible and intangible assets created or developed under the Programme's components;
- (b) the acquisition of the ownership or license rights in respect of other tangible and intangible assets necessary for the implementation of the Programme.

5. The Commission shall ensure, by means of an appropriate framework, the optimal use of the tangible and intangible assets referred to in paragraphs 1 and 2 owned by the Union.

6. Where the assets referred to in paragraphs 1 and 2 consist of intellectual property rights, the Commission shall manage those rights as effectively as possible, taking account of:

- (a) the need to protect and give value to the assets;
- (b) the legitimate interests of all stakeholders concerned;
- (c) the need for harmonious development of markets and new technologies; and
- (d) the need for the continuity of the services provided by the Programme's components.

The Commission shall ensure in particular that the relevant contracts, agreements and other arrangements include the possibility of transferring those intellectual property rights to third parties or of granting third-party licences for those rights, including to the creator of the intellectual property, and that the Agency can freely enjoy those rights where necessary for carrying out its tasks under this Regulation.

The FFPA provided for in Article 28(4) or the contribution agreements referred to in Article 32(1) shall contain relevant provisions to allow the use of the intellectual property rights referred to in the first subparagraph of this paragraph by ESA and the other entrusted entities where necessary to perform their tasks under this Regulation, and the conditions for that use.

⁽³⁹⁾ Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ L 287, 4.11.2011, p. 1).

*Article 10***Warranty**

1. Without prejudice to the obligations imposed by legally binding provisions, the services, data and information provided by the Programme's components shall be provided without any express or implied warranty as regards their quality, accuracy, availability, reliability, speed and suitability for any purpose.
2. The Commission shall ensure that the users of those services, data and information are duly informed of paragraph 1.

TITLE II

BUDGETARY CONTRIBUTION AND MECHANISMS*Article 11***Budget**

1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 and for covering the associated risks shall be EUR 14,880 billion in current prices.

The distribution of the amount referred to in the first subparagraph shall be broken down in the following categories of expenditure:

- (a) for Galileo and EGNOS: EUR 9,017 billion;
- (b) for Copernicus: EUR 5,421 billion;
- (c) for SSA and GOVSATCOM: EUR 0,442 billion.

2. The Commission may reallocate funds between the categories of expenditure referred to in paragraph 1 of this Article, up to a ceiling of 7,5 % of the category of expenditure that receives the funds or the category that provides the funds. The Commission may, by means of implementing acts, reallocate funds between the categories of expenditure referred to in paragraph 1 of this Article when that reallocation exceeds a cumulative amount greater than 7,5 % of the amount allocated to the category of expenditure that receives the funds or the category that provides the funds. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. Additional measures as provided for in Article 3(2), namely activities referred to in Articles 5 and 6, shall be financed under the Programme's components.

4. The Union budget appropriations assigned to the Programme shall cover all the activities required to fulfil the objectives referred to in Article 4. Such expenditure may cover:

- (a) studies and meetings of experts, in particular compliance with its cost and time constraints;
- (b) information and communication activities, including corporate communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, with a particular view to creating synergies with other Union policies;
- (c) the information technology networks whose function it is to process or exchange information, and the administrative management measures, including in the field of security, implemented by the Commission;
- (d) technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

5. Actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.

6. The budgetary commitments relating to the Programme and which cover activities extending over more than one financial year may be broken down over several years into annual instalments.

7. Resources allocated to Member States under shared management may, at the request of the Member State concerned, be transferred to the Programme, subject to the conditions set out in Article 26 of the Common Provisions Regulation. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

Article 12

Assigned revenue

1. The revenue generated by the Programme's components shall be paid into the Union budget and used to finance the component which generated the revenue.

2. The Member States may endow a component of the Programme with an additional financial contribution to cover additional elements, on condition that such additional elements do not create any financial or technical burden or any delay for the component concerned. The Commission shall, by means of implementing acts, decide whether those conditions have been met. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. The additional financial contribution referred to in this Article shall be treated as external assigned revenue in accordance with Article 21(2) of the Financial Regulation.

Article 13

Implementation and forms of Union funding

1. The Programme shall be implemented under direct management in accordance with the Financial Regulation or under indirect management with bodies referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.

3. Where the Copernicus budget is implemented under indirect management, the procurement rules of the entities entrusted with budget implementation tasks may apply to the extent allowed under Articles 62 and 154 of the Financial Regulation. Specific adjustments necessary to those procurement rules shall be defined in the relevant contribution agreements.

TITLE III

FINANCIAL PROVISIONS

CHAPTER I

Procurement

Article 14

Principles of procurement

1. In procurement procedures for the purpose of the Programme, the contracting authority shall act in accordance with the following principles:

- (a) to promote in all Member States throughout the Union and throughout the supply chain, the widest and most open participation possible by economic operators, in particular start-ups, new entrants and SMEs, including in the case of sub-contracting by the tenderers;
- (b) to ensure effective competition and, where possible, to avoid reliance on a single provider, in particular for critical equipment and services, while taking into account the objectives of technological independence and continuity of services;
- (c) by way of derogation from Article 167 of the Financial Regulation, to use, wherever appropriate, multiple supply sources in order to ensure better overall control of all the Programme's components, their cost and schedule;
- (d) to follow the principles of open access and fair competition throughout the industrial supply chain, by tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules and procedures, selection and award criteria and any other relevant information allowing a level-playing field for all potential tenderers, including SMEs and start-ups;
- (e) to reinforce the autonomy of the Union, in particular in technological terms;
- (f) to comply with the security requirements of the Programme's components and to contribute to the protection of the essential security interests of the Union and its Member States;
- (g) to promote service continuity and reliability;
- (h) to satisfy appropriate social and environmental criteria.

2. The procurement board, within the Commission, shall scrutinise the procurement process related to all of the Programme's components and monitor the contractual implementation of the Union budget delegated to entrusted entities. A representative of each of the entrusted entities shall be invited where appropriate.

Article 15

Conditional stage-payment contracts

1. With regard to operational and infrastructure-specific activities, the contracting authority may award a contract in the form of a conditional stage-payment contract in accordance with this Article.
2. The procurement documents for a conditional stage-payment contract shall refer to the specific features of conditional stage-payment contracts. In particular, they shall specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for the provision of works, supplies and services at each stage.
3. A conditional stage-payment contract shall include:
 - (a) a fixed stage which results in a firm commitment to provide the works, supplies or services contracted for that stage; and
 - (b) one or more stages, which are conditional in terms of both budget and execution.
4. The obligations under the fixed stage and the obligations under each conditional stage shall be part of a consistent whole, taking into account the obligations under the previous or subsequent stages.
5. Performance of each conditional stage shall be subject to a decision by the contracting authority, notified to the contractor in accordance with the contract.

Article 16

Cost-reimbursement contracts

1. The contracting authority may opt for a full or partial cost-reimbursement contract under the conditions laid down in paragraph 3.
2. The price to be paid under a cost-reimbursement contract shall consist of the reimbursement of:

- (a) all direct costs actually incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables and use of the equipment and infrastructures necessary to perform the contract;
 - (b) indirect costs;
 - (c) a fixed profit; and
 - (d) an appropriate incentive fee based on achieving objectives in respect of performance and delivery schedules.
3. The contracting authority may opt for a full or partial cost-reimbursement contract in cases where it is difficult or unsuitable to provide an accurate fixed price due to the uncertainties inherent in the performance of the contract because:
- (a) the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks; or
 - (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine an accurate fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.
4. Cost-reimbursement contracts shall stipulate a maximum ceiling price. The maximum ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. The price may be modified in accordance with Article 172 of the Financial Regulation.

Article 17

Subcontracting

1. To encourage new entrants, SMEs and start-ups and their cross-border participation, and to offer the widest possible geographical coverage while protecting the Union's autonomy, the contracting authority shall request that the tenderer subcontracts part of the contract by competitive tendering at the appropriate levels of subcontracting to companies other than those which belong to the tenderer's group.
2. The tenderer shall justify any derogation from a request made under paragraph 1.
3. For contracts above EUR 10 million, the contracting authority shall aim to ensure that at least 30 % of the value of the contract is subcontracted by competitive tendering at various levels of subcontracting to companies outside the group of the prime tenderer, particularly in order to enable the cross-border participation of SMEs. The Commission shall inform the Programme committee referred to in Article 107(1) on the fulfilment of that objective for contracts signed after the entry into force of this Regulation.

CHAPTER II

Grants, prizes and blending operations

Article 18

Grants and prizes

1. The Union may cover up to 100 % of the eligible costs, without prejudice to the co-financing principle.
2. By way of derogation from Article 181(6) of the Financial Regulation when applying flat rates, the authorising officer responsible may authorise or impose funding of the beneficiary's indirect costs up to a maximum of 25 % of total eligible direct costs for the action.
3. Notwithstanding paragraph 2 of this Article, indirect costs may be declared in the form of a lump sum or unit costs when provided for in the work programme referred to in Article 100.

4. By way of derogation from Article 204 of the Financial Regulation, the maximum amount of financial support that can be paid to a third party shall not exceed EUR 200 000.

Article 19

Joint calls for grants

1. The Commission or an entrusted entity in the context of the Programme may issue a joint call for proposals with entities, bodies or persons referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation.
2. In the case of a joint call referred to in paragraph 1 of this Article:
 - (a) the rules referred to in Title VIII of the Financial Regulation shall apply;
 - (b) the evaluation procedures shall involve a balanced group of experts appointed by each party; and
 - (c) the evaluation committees shall comply with Article 150 of the Financial Regulation.
3. The grant agreement shall specify the arrangement applicable to intellectual property rights.

Article 20

Grants for pre-commercial procurement and procurement of innovative solutions

1. Actions may involve or have as their primary aim pre-commercial procurement or public procurement of innovative solutions that shall be carried out by beneficiaries which are contracting authorities or contracting entities as defined in Directives 2014/24/EU⁽⁴⁰⁾, 2014/25/EU⁽⁴¹⁾ and 2009/81/EC⁽⁴²⁾ of the European Parliament and of the Council.
2. The procurement procedures for innovative solutions:
 - (a) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality and competition rules;
 - (b) in the case of pre-commercial procurement, may provide for specific conditions such as the place of performance of the procured activities being limited to the territory of the Member States and of the third countries participating in the Programme;
 - (c) may authorise the award of multiple contracts within the same procedure (multiple sourcing); and
 - (d) shall provide for the award of the contracts to the tender(s) offering best value for money while ensuring the absence of conflicts of interest.
3. The contractor generating results in pre-commercial procurement shall own at least the intellectual property rights attached to the results. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the contractor to grant, non-exclusive licences to third parties to exploit the results for the contracting authority under fair and reasonable conditions without any right to sub-licence. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, the contracting authorities may require it to transfer any ownership of the results to the contracting authorities.

⁽⁴⁰⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽⁴¹⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁴²⁾ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

*Article 21***Blending operations**

Blending operations decided under the Programme shall be implemented in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

CHAPTER III

Other financial provisions*Article 22***Cumulative and alternative funding**

1. An action that has received a contribution under the Programme may also receive a contribution from another Union programme, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

2. Actions awarded a Seal of Excellence label under the Programme may receive support from the European Regional Development Fund or the European Social Fund Plus, in accordance with Article 73(4) of the Common Provisions Regulation, if they comply with the following cumulative conditions:

- (a) they have been assessed in a call for proposals under the Programme;
- (b) they comply with the minimum quality requirements of that call for proposals;
- (c) they cannot be financed under that call for proposals due to budgetary constraints.

*Article 23***Joint procurement**

1. In addition to the provisions of Article 165 of the Financial Regulation, the Commission or the Agency may carry out joint procurement procedures with ESA or other international organisations involved in implementing the Programme's components.

2. The procurement rules applicable under Article 165 of the Financial Regulation shall apply by analogy provided that in any case the procedural provisions applicable to the Union institutions are applied.

*Article 24***Eligibility and participation conditions for the preservation of the security, integrity and resilience of operational systems of the Union**

1. The Commission shall apply the eligibility and participation conditions set out in paragraph 2 to the procurement, grants or prizes under this Title if it deems that this is necessary and appropriate to preserve the security, integrity and resilience of the operational Union systems, taking into account the objective to promote the Union's strategic autonomy, in particular in terms of technology across key technologies and value chains, while preserving an open economy.

Before applying the eligibility and participation conditions in accordance with the first subparagraph of this paragraph the Commission shall inform the Programme committee referred to in point (e) of Article 107(1) and shall take utmost account of the Member States' views on the scope of application of and the justification for those eligibility and participation conditions.

2. The eligibility and participation conditions shall be as follows:

- (a) the eligible legal entity is established in a Member State and its executive management structures are established in that Member State;
- (b) the eligible legal entity commits to carry out all relevant activities in one or more Member States; and
- (c) the eligible legal entity is not to be subject to control by a third country or by a third country entity.

For the purpose of this Article, 'control' means the ability to exercise a decisive influence over a legal entity directly, or indirectly through one or more intermediate legal entities.

For the purpose of this Article, 'executive management structure' means the body of a legal entity appointed in accordance with national law, and which, where applicable, reports to the chief executive officer or any other person having comparable decisional power, and which is empowered to establish the legal entity's strategy, objectives and overall direction, and oversees and monitors management decision-making.

3. The Commission may waive the conditions under points (a) or (b) of the first subparagraph of paragraph 2 for a particular legal entity upon evaluation based on the following cumulative criteria:

- (a) for specific technologies, goods or services needed for the activities referred to in paragraph 1 no substitutes are readily available in the Member States;
- (b) the legal entity is established in a country which is a member of the EEA or EFTA and which has concluded an international agreement with the Union as referred to in Article 7, its executive management structures are established in that country and the activities linked to the procurement, grant or prize are carried out in that country or in one or more such countries; and
- (c) sufficient measures are implemented to ensure the protection of EUCI under Article 43 and the integrity, security and resilience of the Programme's components, their operation and their services.

By way of derogation from point (b) of the first subparagraph of this paragraph, the Commission may waive the conditions under points (a) or (b) of the first subparagraph of paragraph 2 for a legal entity established in a third country which is not a member of the EEA or EFTA if no substitutes are readily available in countries which are members of the EEA or EFTA and the criteria set out in points (a) and (c) of the first subparagraph are met.

4. The Commission may waive the condition under point (c) of the first subparagraph of paragraph 2 if the legal entity established in a Member State provides the following guarantees:

- (a) control over the legal entity is not exercised in a manner that restrains or restricts its ability to:
 - (i) carry out the procurement, grant or prize; and
 - (ii) deliver results, in particular through reporting obligations;
- (b) the controlling third country or third country entity commits to refrain from exercising any controlling rights over or imposing reporting obligations on the legal entity in relation to the procurement, grant or prize; and
- (c) the legal entity complies with Article 34(7).

5. The competent authorities of the Member State in which the legal entity is established shall assess whether the legal entity complies with the criteria set out in point (c) of paragraph 3 and guarantees referred to in paragraph 4. The Commission shall comply with that assessment.

6. The Commission shall provide the following to the Programme committee referred to in point (e) of Article 107(1):

- (a) the scope of application of eligibility and participation conditions referred to in paragraph 1 of this Article;
- (b) details and justifications on the waivers granted in accordance with this Article; and

(c) the evaluation that formed the basis for a waiver, subject to paragraphs 3 and 4 of this Article, without divulging commercially sensitive information.

7. The conditions set out in paragraph 2, the criteria set out in paragraph 3 and the guarantees set out in paragraph 4 shall be included in the documents relating to the procurement, grant or prize, as applicable, and, in the case of procurement, they shall apply to the full life cycle of the resulting contract.

8. This Article is without prejudice to Decision No 1104/2011/EU and Commission Delegated Decision of 15.9.2015⁽⁴³⁾, Regulation (EU) 2019/452, Decision 2013/488/EU and Decision (EU, Euratom) 2015/444 and to the security vetting carried out by Member States with regard to legal entities involved in activities requiring access to EUCI subject to the applicable national laws and regulations.

If contracts resulting from the application of this Article are classified, eligibility and participation conditions applied by the Commission in accordance with paragraph 1 shall be without prejudice to the competence of national security authorities.

This Article shall not interfere with, amend or contradict any existing Facility Security Clearance and Personnel Security Clearance procedure within a Member State.

Article 25

Protection of the financial interests of the Union

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

TITLE IV

GOVERNANCE OF THE PROGRAMME

Article 26

Principles of governance

The governance of the Programme shall be based on the following principles:

- (a) clear distribution of tasks and responsibilities between the entities involved in the implementation of each of the Programme's components and measures, in particular between the Member States, the Commission, the Agency, ESA and EUMETSAT, building on their respective competences and avoiding any overlap in tasks and responsibilities;
- (b) relevance of the governance structure to the specific needs of each of the Programme's components and measures, as appropriate;
- (c) strong control of the Programme, including strict adherence to cost, schedule and performance by all the entities, within their respective roles and tasks in accordance with this Regulation;
- (d) transparent and cost-efficient management;
- (e) service continuity and necessary infrastructure continuity, including protection from relevant threats;

⁽⁴³⁾ Commission Delegated Decision of 15.9.2015 supplementing Decision No 1104/2011/EU of the European Parliament and of the Council as regards the common minimum standards to be complied with by the competent PRS authorities C(2015) 6123.

- (f) systematic and structured consideration of the needs of users of the data, information and services provided by the Programme's components, as well as of related scientific and technological evolutions;
- (g) constant efforts to control and reduce risks.

Article 27

Role of the Member States

1. The Member States may participate in the Programme. Member States which participate in the Programme shall contribute with their technical competence, know-how and assistance, in particular in the field of safety and security, or, where appropriate and possible, by making available to the Union the data, information, services and infrastructure in their possession or located on their territory, including by ensuring an efficient and obstacle free access and use of Copernicus in-situ data and cooperating with the Commission to improve the availability of Copernicus in-situ data required by the Programme, taking into account applicable licences and obligations.
2. The Commission may entrust, by means of contribution agreements, specific tasks to Member State organisations, where such organisations have been designated by the Member State concerned. The Commission shall adopt the contribution decisions regarding the contribution agreements by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2).
3. In certain duly justified circumstances, for the tasks referred to in Article 29 the Agency may entrust, by means of contribution agreements, specific tasks to Member State organisations, where such organisations have been designated by the Member State concerned.
4. The Member States shall take all the necessary measures to ensure the smooth functioning of the Programme, including by helping to protect, at the appropriate level, the frequencies required for the Programme.
5. The Member States and the Commission may cooperate to widen the uptake of data, information and services provided by the Programme's components.
6. Whenever possible, the contribution of Member States to the User Forum referred to in Article 107(6) shall be based on a systematic and coordinated consultation of end user communities at national level, in particular regarding Galileo, EGNOS and Copernicus.
7. The Member States and the Commission shall cooperate in order to develop the in-situ component of Copernicus and ground calibration services necessary for the uptake of space systems and to facilitate the use of Copernicus in-situ data and reference data sets to their full potential, building on existing capacities.
8. In the field of security, the Member States shall perform the tasks referred to in Article 34(6).

Article 28

Role of the Commission

1. The Commission shall have overall responsibility for the implementation of the Programme, including in the field of security, without prejudice to Member States' prerogatives in the area of national security. The Commission shall, in accordance with this Regulation, determine the priorities and long-term evolution of the Programme, in line with the user requirements, and shall supervise its implementation, without prejudice to other policies of the Union.
2. The Commission shall manage any of the Programme's components or sub-components not entrusted to another entity, in particular GOVSATCOM, NEO sub-component, SWE sub-component and the activities referred to in point (d) of Article 55(1).

3. The Commission shall ensure a clear division of tasks and responsibilities between the various entities involved in the Programme and shall coordinate the activities of those entities. The Commission shall also ensure that all the entrusted entities involved in the implementation of the Programme protect the interest of the Union, guarantee the sound management of the Union's funds and comply with the Financial Regulation and this Regulation.

4. The Commission shall conclude with the Agency and, taking into account the 2004 Framework Agreement, ESA, an FPPA as provided for in Article 130 of the Financial Regulation.

5. Where necessary for the smooth functioning of the Programme and the smooth provision of the services provided by the Programme's components, the Commission shall, by means of implementing acts, determine the technical and operational requirements needed for the implementation of and evolution of those components and of the services they provide after having consulted users, including through the User Forum referred to in Article 107(6), and other stakeholders. When determining those technical and operational requirements, the Commission shall avoid reducing the general security level and shall imperatively meet backwards compatibility requirements.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

6. Without prejudice to the tasks of the Agency or of other entrusted entities, the Commission shall ensure that the uptake and use of the data and services provided by the Programme's components is promoted and maximised in the public and private sectors, including by supporting appropriate development of those services and user-friendly interfaces, and by fostering a stable long-term environment. It shall develop appropriate synergies between the applications of the Programme's various components. It shall ensure complementarity, consistency, synergies and links between the Programme and other Union actions and programmes.

7. Where appropriate, the Commission shall ensure the coherence of activities performed in the context of the Programme with activities carried out in the space domain at Union, national or international level. It shall encourage cooperation between the Member States and, when relevant to the Programme, facilitate convergence of their technological capacities and developments in the space domain. To that end, the Commission shall, where appropriate and in their respective field of competence, cooperate with the Agency and ESA.

8. The Commission shall inform the Programme committee referred to in Article 107 of the interim and final results of the evaluation of any procurement procedures and of any contracts, including subcontracts, with public and private entities.

Article 29

Role of the Agency

1. The Agency shall have the following own tasks:

- (a) to ensure, through its Security Accreditation Board, the security accreditation of all the Programme's components in accordance with Chapter II of Title V;
- (b) to perform tasks referred to in Article 34(3) and (5);
- (c) to undertake communication, market development and promotion activities as regards the services offered by Galileo and EGNOS, in particular activities relating to the market uptake and coordination of user needs;
- (d) to undertake communication, market development and promotion activities as regards data, information and services offered by Copernicus, without prejudice to the activities performed by other entrusted entities and the Commission;
- (e) to provide expertise to the Commission, including for the preparation of the downstream space-related research priorities.

2. The Commission shall entrust the following tasks to the Agency:
 - (a) managing the exploitation of EGNOS and Galileo, as provided for in Article 44;
 - (b) overarching coordination of user-related aspects of GOVSATCOM in close collaboration with Member States, relevant Union agencies, EEAS and other entities for the purpose of crisis management missions and operations;
 - (c) implementing activities relating to the development of downstream applications based on the Programme's components and fundamental elements and integrated applications based on the data and services provided by Galileo, EGNOS and Copernicus, including where funding has been made available for such activities in the context of the Horizon Europe or where necessary to fulfil the objectives referred to in point (b) of Article 4(1);
 - (d) undertaking activities related to user uptake of data, information and services, offered by the Programme's components other than Galileo and EGNOS; without affecting Copernicus activities and Copernicus Services entrusted to other entities;
 - (e) specific actions referred to in Article 6.
3. The Commission may, on the basis of the assessments referred to in Article 102(5), entrust other tasks to the Agency, provided that they do not duplicate activities performed by other entrusted entities in the context of the Programme and provided that they aim to improve the efficiency of the implementation of the Programme's activities.
4. Whenever activities are entrusted to the Agency, appropriate financial, human and administrative resources shall be ensured for their implementation.
5. By way of derogation from Article 62(1) of the Financial Regulation and subject to the Commission's assessment of the protection of the Union's interests, the Agency may entrust, by means of contribution agreements, specific activities to other entities, in areas of their respective competence, under the conditions of indirect management applying to the Commission.

Article 30

Role of ESA

1. Provided that the interest of the Union is protected, ESA shall be entrusted with the following tasks:
 - (a) as regards Copernicus:
 - (i) coordination of the space component and of the implementation of the space component and its evolution;
 - (ii) design, development and construction of the Copernicus space infrastructure, including the operations of that infrastructure and related procurement, except when those operations are done by other entities; and
 - (iii) where appropriate, provision of access to third party data;
 - (b) as regards Galileo and EGNOS: systems evolution and design and development of parts of the ground segment, and of satellites, including testing and validation;
 - (c) as regards all of the Programme's components: upstream research and development activities in ESA's fields of expertise.
2. On the basis of an assessment by the Commission, ESA may be entrusted with other tasks based on the needs of the Programme, provided that those tasks do not duplicate activities performed by another entrusted entity in the context of the Programme and that they aim to improve the efficiency of the implementation of the Programme's activities.
3. Without prejudice to the FFPA provided for in Article 31, the Commission or the Agency may request ESA to provide technical expertise and the information necessary to perform the tasks which are assigned to them by this Regulation under conditions to be mutually agreed.

Article 31

The financial framework partnership agreement

1. The FFPA referred to in Article 28(4) shall:
 - (a) clearly define the roles, responsibilities and obligations of the Commission, the Agency and ESA with regard to each of the Programme's components and necessary coordination and control mechanisms;
 - (b) require that ESA applies the Union security rules defined in the security agreements concluded between the Union, and its institutions and agencies, with ESA, in particular with regard to the processing of classified information;
 - (c) stipulate the conditions of the management of funds entrusted to ESA, particularly with regard to public procurement, including the application of Union procurement rules when procuring in the name and on behalf of the Union or the application of the rules of the entrusted entity in accordance with Article 154 of the Financial Regulation, management procedures, the expected results measured by performance indicators, applicable measures in the event of deficient or fraudulent implementation of the contracts in terms of costs, schedule and results, as well as the communication strategy and the rules regarding ownership of all tangible and intangible assets; those conditions shall be in conformity with Titles III and V of this Regulation and with the Financial Regulation;
 - (d) require that, whenever a Tender Evaluation Board is established by the Agency or ESA for a procurement performed under the FFPA, experts from the Commission and, where relevant, from the other entrusted entity shall participate as members in the Tender Evaluation Board meetings. Such participation shall not affect the technical independence of the Tender Evaluation Board;
 - (e) establish the monitoring and control measures, which shall include, in particular:
 - (i) a cost forecast system;
 - (ii) the systematic provision of information to the Commission or, where appropriate, to the Agency, on costs and schedule; and
 - (iii) in the event of a discrepancy between the planned budgets, performance and schedule, corrective action ensuring performance of the tasks within the allocated budgets;
 - (f) establish the principles for the remuneration of ESA for each of the Programme's components, which shall be commensurate with the conditions under which the actions are implemented, taking due account of situations of crisis and fragility and which, where appropriate, shall be performance based; the remuneration shall only cover general overheads which are associated with the activities entrusted to ESA by the Union;
 - (g) provide that ESA takes appropriate measures to ensure the protection of the interests of the Union and to comply with the decisions taken by the Commission for each of the Programme's components in application of this Regulation.
2. The Commission shall, by means of implementing acts, decide on the FFPA. Those implementing acts shall be adopted in accordance with the examination procedure referred in Article 107(3). The European Parliament and the Council shall be fully informed about the FFPA well in advance of its conclusion and about its implementation.
3. Under the FFPA referred to in paragraph 1 of this Article, the tasks referred to in Article 29(2) and (3) shall be entrusted to the Agency and the tasks referred to in Article 30(1) shall be entrusted to ESA, by means of contribution agreements. The Commission shall, by means of implementing acts, adopt the contribution decision regarding the contribution agreements. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2). The European Parliament and the Council shall be fully informed about the contribution agreements well in advance of their conclusion and about their implementation.

*Article 32***Role of EUMETSAT and other entities**

1. The Commission may entrust, in full or in part, by means of contribution agreements, the implementation of the following tasks to entities other than those referred to in Articles 29 and 30:
 - (a) the upgrading, operations preparation and operation of the Copernicus space infrastructure or parts thereof and, where appropriate, management of access to contributing mission data, which may be entrusted to EUMETSAT;
 - (b) the implementation of the Copernicus Services or parts thereof to relevant agencies, bodies or organisations, such as the European Environment Agency, Frontex, the European Maritime Safety Agency, the SATCEN and the European Centre for Medium-Range Weather Forecasts; the tasks entrusted to those agencies, bodies or organisations shall be performed in sites located in the Union; an agency, body or organisation, already in the process of relocating its entrusted tasks to the Union, may continue to perform those tasks in a location outside the Union for a limited period, ending at the latest by 31 December 2023.
2. The criteria for the selection of such entrusted entities shall, in particular, reflect their ability to ensure the continuity and, where appropriate, the security of the operations with no disruption of the Programme's activities.
3. Whenever possible, the conditions of the contribution agreements referred to in paragraph 1 of this Article shall be coherent with the conditions of the FPPA referred to in Article 31(1).
4. The Programme committee shall be consulted on the contribution decision regarding the contribution agreement referred to in paragraph 1 of this Article in accordance with the advisory procedure referred to in Article 107(2). The Programme committee shall be informed in advance of the contribution agreements to be concluded by the Union, represented by the Commission and the entities referred to in paragraph 1 of this Article.

TITLE V

SECURITY OF THE PROGRAMME

CHAPTER I

Security of the Programme*Article 33***Principles of security**

The security of the Programme shall be based on the following principles:

- (a) to take account of the experience of the Member States in the field of security and draw inspiration from their best practices;
- (b) to use the security rules of the Council and of the Commission, which provide, inter alia, for a separation between operational functions and those associated with accreditation.

*Article 34***Governance of security**

1. The Commission shall, in its field of competence and with the support of the Agency, ensure a high degree of security with regard, in particular, to:

- (a) the protection of infrastructure, both ground and space, and of the provision of services, particularly against physical or cyber-attacks, including interference with data streams;
- (b) the control and management of technology transfers;
- (c) the development and preservation within the Union of the competences and know-how acquired;
- (d) the protection of sensitive non-classified information and classified information.

2. For the purpose of paragraph 1 of this Article, the Commission shall ensure that a risk and threat analysis is performed for each of the Programme's components. Based on that analysis, it shall determine by the end of 2023, by means of implementing acts, for each of the Programme's components, the general security requirements. In doing so, the Commission shall take account of the impact of those requirements on the smooth functioning of that component, in particular in terms of cost, risk management and schedule, and shall ensure that the general level of security is not reduced and that the functioning of the existing equipment based on that component is not undermined and shall take into account cybersecurity risks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

After the entry into force of this Regulation, the Commission shall communicate an indicative list of implementing acts to be submitted to and discussed by the Programme committee in security configuration. That list shall be accompanied by an indicative timetable for submission of those implementing acts.

3. The entity responsible for the management of a component of the Programme shall be responsible for the operational security of that component and shall, to that end, carry out risk and threat analysis and all the necessary activities to ensure and monitor the security of that component, in particular setting of technical specifications and operational procedures, and monitor their compliance with the general security requirements referred to in paragraph 2 of this Article. Pursuant to Article 29, for Galileo and EGNOS that entity shall be the Agency.

4. Based on the risk and threat analysis, the Commission shall, where appropriate, identify a structure to monitor security and to follow the instructions developed under the scope of Decision (CFSP) 2021/698. The structure shall operate in accordance with the security requirements referred to in paragraph 2. For Galileo, that structure shall be the Galileo Security Monitoring Centre.

5. The Agency shall:

- (a) ensure the security accreditation of all the Programme's components in accordance with Chapter II of this Title and without prejudice to the competences of the Member States;
- (b) ensure the operation of the Galileo Security Monitoring Centre in accordance with the requirements referred to in paragraph 2 of this Article and the instructions developed under the scope of Decision (CFSP) 2021/698;
- (c) perform the tasks assigned to it under Decision No 1104/2011/EU;
- (d) provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation.

6. To ensure the protection of the ground infrastructures which form an integral part of the Programme and which are located on their territory the Member States shall:

- (a) take measures which are at least equivalent to those necessary for:
 - (i) the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC ⁽⁴⁴⁾; and
 - (ii) the protection of their own national critical infrastructures;
- (b) perform the security accreditation tasks referred to in Article 42 of this Regulation.

7. The entities involved in the Programme shall take all the necessary measures, including in light of the issues identified in the risk analysis, to ensure the security of the Programme.

⁽⁴⁴⁾ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

*Article 35***Security of systems and services deployed**

Whenever the security of the Union or its Member States may be affected by the operation of the systems, the procedures set out in Decision (CFSP) 2021/698 shall apply.

CHAPTER II

Security accreditation*Article 36***Security Accreditation Authority**

The Security Accreditation Board established within the Agency shall be the security accreditation authority for all of the Programme's components.

*Article 37***General principles of security accreditation**

Security accreditation activities for all of the Programme's components shall be conducted in accordance with the following principles:

- (a) security accreditation activities and decisions shall be undertaken in a context of collective responsibility for the security of the Union and of the Member States;
- (b) efforts shall be made for decisions within the Security Accreditation Board to be reached by consensus;
- (c) security accreditation activities shall be carried out using a risk assessment and management approach, considering risks to the security of the component concerned as well as the impact on cost or schedule of any measure to mitigate the risks, taking into account the objective not to lower the general level of security of that component;
- (d) decisions of the Security Accreditation Board on security accreditation shall be prepared and taken by professionals who are duly qualified in the field of accrediting complex systems, have an appropriate level of security clearance and who act objectively;
- (e) efforts shall be made to consult all relevant parties with an interest in security issues for the component concerned;
- (f) security accreditation activities shall be carried out by all relevant stakeholders of the component concerned in accordance with a security accreditation strategy, without prejudice to the role of the Commission;
- (g) decisions of the Security Accreditation Board on security accreditation shall, following the process defined in the relevant security accreditation strategy defined by that Board, be based on local decisions on security accreditation taken by the respective national security accreditation authorities of the Member States;
- (h) a permanent, transparent and fully understandable monitoring process shall ensure that the security risks for the component concerned are known, that security measures are defined to reduce such risks to an acceptable level, in view of the security needs of the Union and of its Member States, and for the smooth running of the component and that those measures are applied in accordance with the concept of defence in depth. The effectiveness of such measures shall be continuously evaluated. The process relating to security risk assessment and management shall be conducted as an iterative process jointly by the stakeholders of the component concerned;
- (i) the Security Accreditation Board shall take decisions on security accreditation in a strictly independent manner, including with regard to the Commission and the other bodies responsible for the implementation of the component concerned and for the provision of related services, and with regard to the Executive Director and the Administrative Board of the Agency;

- (j) security accreditation activities shall be carried out with due regard for the need for adequate coordination between the Commission and the authorities responsible for implementing security rules;
- (k) the security accreditation of EGNOS performed by the Security Accreditation Board shall be without prejudice to the accreditation activities performed, for aviation, by the European Aviation Safety Agency.

Article 38

Tasks of the Security Accreditation Board

1. The Security Accreditation Board shall perform its tasks without prejudice to the responsibilities of the Commission or to those entrusted to the Agency's other bodies, in particular for matters relating to security, and without prejudice to the competences of the Member States as regards security accreditation.
2. The Security Accreditation Board shall have the following tasks:
 - (a) defining and approving a security accreditation strategy which sets out:
 - (i) the scope of the activities necessary to perform and maintain the accreditation of the Programme's components or parts of those components and any interconnections between them and other systems or components;
 - (ii) a security accreditation process for the Programme's components or parts of those components, with a degree of detail commensurate with the required level of assurance and clearly stating the accreditation conditions;
 - (iii) the role of relevant stakeholders involved in the accreditation process;
 - (iv) an accreditation schedule that complies with the phases of the Programme's components, in particular as regards the deployment of infrastructure, service provision and evolution;
 - (v) the principles of security accreditation for networks connected to systems set up under the Programme's components or for parts of those components, and for equipment connected to systems established by those components, which shall be performed by the national entities of the Member States competent in security matters;
 - (b) taking decisions on security accreditation, in particular on the approval of satellite launches, the authorisation to operate the systems set up under the Programme's components or the elements of those components in their different configurations and for the various services they provide, up to and including the signal in space, and the authorisation to operate the ground stations;
 - (c) taking decisions concerning the networks and the equipment connected to the PRS service referred to in Article 45, or connected to any other secure service stemming from the Programme's components, only on the authorisation of bodies to develop or manufacture sensitive PRS technologies, PRS receivers or PRS security modules, or any other technology or equipment which has to be checked under the general security requirements referred to in Article 34(2), taking into account the advice provided by national entities competent in security matters and the overall security risks;
 - (d) examining and, except as regards documents which the Commission is to adopt under Article 34(2) of this Regulation and Article 8 of Decision No 1104/2011/EU, approving all documentation relating to security accreditation;
 - (e) advising, within its field of competence, the Commission on the production of draft texts for acts referred to in Article 34(2) of this Regulation and Article 8 of Decision No 1104/2011/EU, including for the establishment of security operating procedures, and providing a statement with its concluding position;
 - (f) examining and approving the security risk assessment drawn up in accordance with the monitoring process referred to in point (h) of Article 37 of this Regulation, taking into account compliance with the documents referred to in point (c) of this paragraph and those drawn up in accordance with Article 34(2) of this Regulation, and with Article 8 of Decision No 1104/2011/EU; and cooperating with the Commission to define risk mitigation measures;

- (g) checking the implementation of security measures in relation to the security accreditation of the Programme's components by undertaking or sponsoring security assessments, inspections, audits or reviews, in accordance with Article 42(2) of this Regulation;
- (h) endorsing the selection of approved products and measures which protect against electronic eavesdropping (TEMPEST) and of approved cryptographic products used to provide security for the Programme's components;
- (i) approving or, where relevant, participating in the joint approval, together with the relevant entities competent in security matters, of the interconnection between the systems established under the Programme's components or under parts of those components and other systems;
- (j) agreeing with the relevant Member State on the template for access control referred to in Article 42(4);
- (k) preparing risk reports and informing the Commission, the Administrative Board and the Executive Director of its risk assessment and advising them on residual risk treatment options for a given decision on security accreditation;
- (l) assisting, in close liaison with the Commission, the Council and the High Representative, with the implementation of Decision (CFSP) 2021/698 upon a specific request from the Council or the High Representative;
- (m) carrying out consultations which are necessary to perform its tasks;
- (n) adopting and publishing its rules of procedure.

3. Without prejudice to the powers and responsibilities of the Member States, a special subordinate body representing the Member States shall be set up under the supervision of the Security Accreditation Board to perform in particular the following tasks:

- (a) the management of the Programme flight keys;
- (b) the verification, monitoring and assessment of the establishment and enforcement of procedures for accounting, secure handling, storage, distribution and disposal of the PRS keys of Galileo.

Article 39

Composition of the Security Accreditation Board

1. The Security Accreditation Board shall be composed of a representative of each Member State, a representative of the Commission and a representative of the High Representative. The term of office of the members of the Security Accreditation Board shall be four years and shall be renewable.

2. Participation in Security Accreditation Board meetings shall be on a need-to-know-basis. Where appropriate, representatives of ESA and representatives of the Agency not involved in security accreditation may be invited to attend the meetings of the Security Accreditation Board as observers. On an exceptional basis, representatives of Union Agencies, third countries or international organisations may also be invited to attend meetings of the Security Accreditation Board as observers for matters directly relating to those third countries or international organisations, especially matters concerning the infrastructure belonging to them or established on their territory. Arrangements for such participation of representatives of third countries or international organisations and the condition for such participation shall be laid down in the relevant agreements and shall comply with the rules of procedure of the Security Accreditation Board.

Article 40

Voting rules of the Security Accreditation Board

If consensus according to the general principle referred to in point (b) of Article 37 of this Regulation cannot be reached, the Security Accreditation Board shall take decisions on the basis of qualified majority voting, in accordance with Article 16 TEU. The representative of the Commission and the representative of the High Representative shall not vote. The Chairperson of the Security Accreditation Board shall sign, on behalf of the Security Accreditation Board, the decisions adopted by the Security Accreditation Board.

*Article 41***Communication and impact of decisions of the Security Accreditation Board**

1. The decisions of the Security Accreditation Board shall be addressed to the Commission.
2. The Commission shall keep the Security Accreditation Board continuously informed of the impact of any decisions envisaged by the Security Accreditation Board on the proper conduct of the Programme's components and of the implementation of residual risk treatment plans. The Security Accreditation Board shall take note of any such information received from the Commission.
3. The Commission shall keep the European Parliament and the Council informed, without delay, of the impact of the adoption of the decisions on security accreditation on the proper conduct of the Programme's components. If the Commission considers that a decision taken by the Security Accreditation Board could have a significant effect on the proper conduct of those components, for example in terms of costs, schedule or performance, it shall immediately inform the European Parliament and the Council.
4. The Administrative Board shall be kept periodically informed of the evolution of the work of the Security Accreditation Board.
5. The timetable for the work of the Security Accreditation Board shall not hamper the timetable of activities provided in the work programme referred to in Article 100.

*Article 42***Role of the Member States in security accreditation**

1. Member States shall transmit to the Security Accreditation Board all information they consider relevant for the purposes of security accreditation.
2. In agreement with and under the supervision of national entities competent in security matters, Member States shall permit duly authorised persons appointed by the Security Accreditation Board to have access to any information and to any areas and sites related to the security of systems falling within their jurisdiction, in accordance with their national laws and regulations, including for the purposes of security inspections, audits and tests as decided by the Security Accreditation Board and of the security risk monitoring process referred to in point (h) of Article 37. That access shall be without any discrimination on the grounds of nationality against nationals of Member States.
3. Audits and tests referred to in paragraph 2 shall be performed in accordance with the following principles:
 - (a) the importance of security and effective risk management within the entities inspected shall be emphasised;
 - (b) countermeasures to mitigate the specific impact of loss of confidentiality, integrity or availability of classified information shall be recommended.
4. Each Member State shall be responsible for devising a template for access control, which outlines or lists the areas or sites to be accredited. The template for access control shall be agreed in advance between the Member States and the Security Accreditation Board, thereby ensuring that the same level of access control is being provided by all Member States.
5. Member States shall be responsible, at local level, for the accreditation of the security of sites that are located within their territory and form part of the security accreditation area for the Programme's components, and report, to this end, to the Security Accreditation Board.

CHAPTER III

Protection of classified information

Article 43

Protection of classified information

1. The exchange of classified information related to the Programme shall be subject to the existence of an international agreement between the Union and a third country or international organisation on the exchange of classified information or, where applicable, an arrangement entered into by the competent Union institution or body and the relevant authorities of a third country or international organisation on the exchange of classified information, and to the conditions laid down therein.

2. Natural persons resident in and legal persons established in third countries may deal with EUCI regarding the Programme only where they are subject, in those third countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including, if relevant, industrial security matters, concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU.

3. Without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to EUCI where deemed necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.

TITLE VI

GALILEO AND EGNOS

Article 44

Eligible actions

The exploitation of Galileo and EGNOS shall cover the following eligible actions:

- (a) the management, operation, maintenance, continuous improvement, evolution and protection of space-based infrastructure, including upgrades and obsolescence management;
- (b) the management, operation, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular ground-based centres and stations referred to in Implementing Decision (EU) 2016/413 or Commission Implementing Decision (EU) 2017/1406 ⁽⁴⁵⁾, networks, including upgrades and obsolescence management;
- (c) the development of future generations of the systems and the evolution of the services provided by Galileo and EGNOS, including by taking into account the needs of relevant stakeholders; this shall not affect future decisions on the Union financial perspectives;
- (d) support the development of Galileo and EGNOS downstream applications and the development and evolution of fundamental technological elements, such as Galileo-enabled chipsets and receivers;
- (e) the support of certification and standardisation activities related to Galileo and EGNOS, in particular in the transport sector;

⁽⁴⁵⁾ Commission Implementing Decision (EU) 2017/1406 of 31 July 2017 determining the location of the ground-based infrastructure of the EGNOS system (OJ L 200, 1.8.2017, p. 4).

- (f) the continuous provision of the services provided by Galileo and EGNOS and, in complementarity with Member States and private sector initiatives, the market development of those services, in particular in order to maximise the socio-economic benefits referred to in point (b) of Article 4(1);
- (g) cooperation with other regional or global satellite navigation systems, including to facilitate compatibility and interoperability;
- (h) elements to monitor the reliability of the systems and their exploitation, and the performance of the services;
- (i) activities related to the provision of services and to the coordination of the extension of their coverage.

Article 45

Services provided by Galileo

1. The services provided by Galileo shall comprise:
 - (a) a Galileo open service (GOS), which shall be free of charge for users and shall provide positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
 - (b) a high-accuracy service (HAS), which shall be free of charge for users and shall provide, through additional data disseminated in a supplementary frequency band, high-accuracy positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use;
 - (c) a signal authentication service (SAS), based on the encrypted codes contained in the signals, intended mainly for satellite navigation applications for professional or commercial use;
 - (d) a public regulated service (PRS), which shall be restricted to government-authorised users for sensitive applications which require a high level of service continuity, including in the area of security and defence, using strong, encrypted signals; it shall be free of charge for the Member States, the Council, the Commission, EEAS and, where appropriate, duly authorised Union agencies; the question of whether to charge the other PRS participants referred to in Article 2 of Decision No 1104/2011/EU shall be assessed on a case-by-case basis and appropriate provisions shall be specified in the agreements concluded pursuant to Article 3(5) of that Decision; access to PRS shall be regulated in accordance with Decision No 1104/2011/EU;
 - (e) an emergency service (ES), which shall be free of charge for users and shall broadcast, through emitting signals, warnings regarding natural disasters or other emergencies in particular areas; where appropriate, it shall be provided in cooperation with Member States national civil protection authorities;
 - (f) a timing service (TS), which shall be free of charge for users and shall provide an accurate and robust reference time, as well as realisation of the coordinated universal time, facilitating the development of timing applications based on Galileo and the use in critical applications.
2. Galileo shall also contribute to:
 - (a) the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting distress signals transmitted by beacons and relaying messages to them via a return link;
 - (b) integrity-monitoring services standardised at the Union or international level for use by safety-of-life services, on the basis the signals of Galileo open service and in combination with EGNOS and other satellite navigation systems;
 - (c) space weather information via the GNSS Service Centre as referred to in Implementing Decision (EU) 2016/413 and early warning services via the Galileo ground-based infrastructure, intended mainly to reduce the potential risks to users of the services provided by Galileo and other GNSSs related to space.

*Article 46***Services provided by EGNOS**

1. The services provided by EGNOS shall comprise:
 - (a) an EGNOS open service (EOS), which shall be free of direct user charges and shall provide positioning and synchronisation information intended mainly for high-volume satellite navigation applications for use by consumers;
 - (b) EGNOS data access service (EDAS), which shall be free of direct user charges and shall provide positioning and synchronisation information intended mainly for satellite navigation applications for professional or commercial use, offering improved performance and data with greater added value than those obtained through the EOS;
 - (c) a safety-of-life (SoL) service, which shall be free of direct user charges and shall provide positioning and time synchronisation information with a high level of continuity, availability and accuracy, including an integrity message alerting users to any failure in, or out-of-tolerance signals emitted by, Galileo and other GNSSs which EGNOS augments in the coverage area, intended mainly for users for whom safety is essential, in particular in the sector of civil aviation for the purpose of air navigation services, in accordance with ICAO standards, or other transport sectors.
2. The services referred to in paragraph 1 shall be provided as a priority on the territory of all Member States geographically located in Europe, including for that purpose Cyprus, the Azores, the Canary Islands and Madeira, by the end of 2026.
3. The geographical coverage of EGNOS may be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of third countries in the European Neighbourhood Policy, subject to technical feasibility and in conformity with security requirements referred to in Article 34(2), and, for the SoL service, on the basis of international agreements.
4. The cost of the extension of the geographical coverage of EGNOS under paragraph 3 of this Article, including the related operating costs specific to these regions, shall not be covered by the budget referred to in Article 11. The Commission shall consider other programmes or instrument to finance such activities. Such extension shall not delay the offering of the services referred to in paragraph 1 of this Article throughout the territory of Member States geographically located in Europe.

*Article 47***Implementing measures for Galileo and EGNOS**

Where necessary for the smooth functioning of Galileo and EGNOS and their adoption by the market, the Commission shall, by means of implementing acts, lay down, where necessary, measures required to:

- (a) manage and reduce the risks inherent in the operation of Galileo and EGNOS, in particular to ensure service continuity;
- (b) specify the key decision stages to monitor and evaluate the implementation of Galileo and EGNOS;
- (c) determine the location of the centres belonging to the ground-based infrastructure of Galileo and EGNOS in accordance with security requirements, following an open and transparent process, and ensure their operation;
- (d) determine the technical and operational specifications relating to the services referred to in points (c), (e) and (f) of Article 45(1) and point (c) of Article 45(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

*Article 48***Compatibility, interoperability and standardisation**

1. Galileo and EGNOS, and the services which they provide, shall be compatible and interoperable from a technical point of view, including at user level.
2. Galileo and EGNOS, and the services which they provide, shall be compatible and interoperable with other satellite navigation systems and with conventional means of radio navigation, where the necessary compatibility and interoperability requirements and conditions thereof are laid down in international agreements.

TITLE VII

COPERNICUS

CHAPTER I

General provisions*Article 49***Scope of Copernicus**

1. Copernicus shall be implemented building on prior investments, including by stakeholders such as ESA and EUMETSAT and, where appropriate and cost-effective, drawing on the national or regional capacities of Member States and taking into account the capacities of commercial suppliers of comparable data and information and the need to foster competition and market development, while maximising opportunities for European users.
2. Copernicus shall deliver data and information building on the needs of the Copernicus users and based on a free, full and open data policy.
3. Copernicus shall support the formulation, implementation and monitoring of the Union's and its Member States' policies in particular in the fields of the environment, climate change, marine, maritime, atmosphere, agriculture and rural development, preservation of cultural heritage, civil protection, infrastructure monitoring, safety and security, as well as the digital economy with the aim to further reduce the administrative burden.
4. Copernicus shall comprise the following elements:
 - (a) data acquisition, which shall include:
 - (i) development and operations of the Copernicus Sentinels;
 - (ii) access to third party space-based Earth observation data;
 - (iii) access to in-situ and other ancillary data;
 - (b) data and information processing through Copernicus Services, which shall include activities for the generation of value-added information to support environmental monitoring, reporting and compliance assurance, civil protection and security services;
 - (c) data access and distribution, which shall include infrastructure and services to ensure the discovery, viewing, access to, distribution and exploitation and long-term preservation of Copernicus data and Copernicus information, in a user-friendly manner;
 - (d) user uptake, market development and capacity building in accordance with Article 28(6), which shall include relevant activities, resources and services to promote Copernicus, Copernicus data and Copernicus Services, as well as related downstream applications and their development at all levels to maximise socio-economic benefits, as referred to in Article 4(1), as well as the collection and analysis of Copernicus users' needs.
5. Copernicus shall promote the international coordination of observation systems and related exchanges of data in order to strengthen its global dimension and complementarity taking account of international agreements and coordination processes.

CHAPTER II

Eligible actions

Article 50

Eligible actions for data acquisition

Eligible actions under Copernicus shall cover:

- (a) actions to provide enhanced continuity of existing Copernicus Sentinel missions and to develop, launch, maintain and operate further Copernicus Sentinels expanding the observation scope, giving priority in particular to observation capacities for monitoring anthropogenic CO₂ and other greenhouse gas emissions, allowing for monitoring polar regions and enabling innovative environmental applications in agriculture, forest, water and marine resources management, and cultural heritage;
- (b) actions to provide access to Copernicus third-party data and information necessary to generate Copernicus Services or for use by the Union's institutions, agencies, decentralised services and, where appropriate and cost-effective, national or regional public bodies;
- (c) actions to provide and coordinate access to Copernicus in-situ and other ancillary data necessary for the generation, calibration and validation of Copernicus data and Copernicus information, including where appropriate and cost-effective the use of existing national capacities and avoiding duplications.

Article 51

Eligible actions for Copernicus services

1. Eligible actions under the Copernicus Services shall include:

- (a) environmental monitoring, reporting and compliance assurance services covering:
 - (i) atmosphere monitoring on a global level to provide information on air quality, with a particular focus at European level, and on the composition of the atmosphere;
 - (ii) marine environment monitoring to provide information on the state and dynamics of ocean, sea and coastal ecosystems, their resources and use;
 - (iii) land monitoring and agriculture to provide information on land cover, land use and land use change, cultural heritage sites, ground motion, urban areas, inland water quantity and quality, forests, agriculture and other natural resources, biodiversity and cryosphere;
 - (iv) climate change monitoring to provide information on anthropogenic CO₂ and other greenhouse gas emissions and absorptions, essential climate variables, climate reanalyses, seasonal forecasts, climate projections and attribution, information on the changes in the polar regions and the Arctic, as well as indicators at relevant temporal and spatial scales;
- (b) emergency management service to provide information in support of and in coordination with public authorities concerned with civil protection, supporting civil protection and emergency response operations (improving early warning activities and crisis response capacities), and prevention and preparedness actions (risk and recovery analyses) in relation to different types of disasters;
- (c) security service to support surveillance within the Union and at its external borders, maritime surveillance, Union external action responding to security challenges facing the Union and Common Foreign and Security Policy objectives and actions.

2. The Commission, supported where relevant by external independent expertise, shall ensure the relevance of the Copernicus Services by:

- (a) validating the technical feasibility and fitness for purpose of the requirements expressed by the user communities;
- (b) assessing the means and solutions, proposed or executed, to meet the requirements of the user communities and the objectives of the Programme.

*Article 52***Eligible actions for data and information access and distribution**

1. Copernicus shall include actions to provide enhanced access to all Copernicus data and Copernicus information and, where appropriate, provide additional infrastructure and services to foster the distribution, access and use of those data and information.
2. Where Copernicus data or Copernicus information are considered to be security sensitive within the meaning of Articles 12 to 16 of Delegated Regulation (EU) No 1159/2013, the Commission may entrust the procurement, the supervision of the acquisition, the access to and the distribution of those data and information to one or more fiduciary entities. Such entities shall set up and maintain a registry of accredited users and grant access to the restricted data through a segregated workflow.

*CHAPTER III***Copernicus data policy***Article 53***Copernicus data and Copernicus information policy**

1. Copernicus data and Copernicus information shall be provided to Copernicus users under the following free, full and open data policy:
 - (a) Copernicus users may, on a free and worldwide basis, reproduce, distribute, communicate to the public, adapt, and modify all Copernicus data and Copernicus information and combine them with other data and information;
 - (b) the free, full and open data policy shall include the following limitations:
 - (i) the formats, timeliness and dissemination characteristics of Copernicus data and Copernicus information shall be pre-defined;
 - (ii) the licensing conditions of Copernicus third-party data and information used in the production of Copernicus information shall be abided by where applicable;
 - (iii) the security limitations resulting from the general security requirements referred to in Article 34(2);
 - (iv) the protection against the risk of disruption of the system producing or making available Copernicus data and Copernicus information and of the data itself shall be ensured;
 - (v) the protection of reliable access to Copernicus data and Copernicus information for European users shall be ensured.
2. The Commission shall adopt delegated acts in accordance with Article 105 to supplement the specific provisions set out in paragraph 1 of this Article as regards the specifications and conditions and procedures for the access to and use of Copernicus data and Copernicus information.
3. Where imperative grounds of urgency so require, the procedure provided for in Article 106 shall apply to delegated acts adopted pursuant to this Article.
4. The Commission shall issue licences and notices for access and use of Copernicus data and Copernicus information, including attribution clauses, in compliance with the Copernicus data policy as set out in this Regulation and applicable delegated acts adopted pursuant to paragraph 2.

TITLE VIII

OTHER COMPONENTS OF THE PROGRAMME

CHAPTER I

SSA

Section 1

SST sub-component*Article 54***Scope of SST sub-component**

1. The SST sub-component shall support the following activities:
 - (a) the establishment, development and operation of a network of ground-based and space-based SST sensors of the Member States, including sensors developed through ESA or the Union private sector, and nationally operated Union sensors, to survey and track space objects and to produce a European catalogue of space objects;
 - (b) the processing and analysis of SST data at national level in order to produce SST information and SST services referred to in Article 55(1);
 - (c) the provision of the SST services referred to in Article 55(1) to the SST users referred to in Article 56;
 - (d) monitoring and seeking synergies with initiatives promoting development and deployment of technologies for spacecraft disposal at the end of operational lifetime and of technological systems for the prevention and elimination of space debris, as well as with the international initiatives in the area of the space traffic management.
2. The SST sub-component shall also provide technical and administrative support to ensure the transition between the Programme and the SST support framework established by Decision No 541/2014/EU.

*Article 55***SST services**

1. SST services shall comprise:
 - (a) the risk assessment of collision between spacecraft or between spacecraft and space debris and the potential generation of collision avoidance alerts during the phases of launch, early orbit, orbit raising, in-orbit operations and disposal phases of spacecraft missions;
 - (b) the detection and characterisation of in-orbit fragmentations, break-ups or collisions;
 - (c) the risk assessment of the uncontrolled re-entry of space objects and space debris into the Earth's atmosphere and the generation of related information, including the estimation of the timeframe and likely location of possible impact;
 - (d) the development of activities in preparation of:
 - (i) space debris mitigation in order to reduce their generation; and
 - (ii) space debris remediation by managing the existing space debris.
2. SST services shall be free of charge, available at any time without interruption and adapted to the needs of the SST users referred to in Article 56.
3. Member States participating in the SST sub-component, the Commission and, where relevant, the SST Front desk referred to in Article 59(1), shall not be held liable for:

- (a) damage resulting from the lack of or interruption in the provision of SST services;
- (b) delay in the provision of SST services;
- (c) inaccuracy of the information provided through the SST services;
- (d) action undertaken in response to the provision of SST services.

Article 56

SST users

1. Union SST users shall comprise:

- (a) SST core users: Member States, the EEAS, the Commission, the Council, the Agency as well as public and private spacecraft owners and operators established in the Union;
- (b) SST non-core users: other public and private entities established in the Union.

SST core users shall have access to all SST services referred to in Article 55(1).

SST non-core users may have access to SST services referred to in points (b), (c) and (d) of Article 55(1).

2. International SST users shall comprise third countries, international organisations which do not have their headquarters in the Union and private entities which are not established in the Union. They shall have access to SST services referred to in point (d) of Article 55(1) under the following conditions:

- (a) third countries and international organisations which do not have their headquarters in the Union may have access to SST services pursuant to Article 8(2);
- (b) private entities which are not established in the Union may have access to SST services subject to an international agreement concluded by the Union, in accordance with Article 8(2), with the third country in which they are established granting them that access.

No international agreement shall be required to access publicly available SST services referred to in points (a), (b) and (c) of Article 55(1).

3. The Commission may adopt, by means of implementing acts, detailed provisions concerning the access to SST services and relevant procedures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 57

Participation of Member States in the SST sub-component

1. Member States wishing to participate in the provision of SST services referred to in Article 55(1) covering all orbits shall submit a single joint proposal to the Commission demonstrating compliance with the following criteria:

- (a) ownership of, or access to, either adequate SST sensors available for the SST sub-component and human resources to operate them, or adequate operational analysis and data processing capabilities specifically designed for SST and available for the SST sub-component;
- (b) initial security risk assessment of each SST asset performed and validated by the relevant Member State;
- (c) an action plan taking into account the coordination plan adopted under Article 6 of Decision No 541/2014/EU, for the implementation of the activities set out in Article 54 of this Regulation;
- (d) the distribution of the different activities among the Expert Teams as designated pursuant to Article 58 of this Regulation;
- (e) the rules on the sharing of data necessary for achieving the objectives referred to in Article 4 of this Regulation.

As concerns criteria set out in points (a) and (b) of the first subparagraph, each Member State wishing to participate in the provision of SST services shall demonstrate compliance with those criteria separately.

As concerns criteria set out in points (c), (d) and (e) of the first subparagraph, all Member States wishing to participate in the provision of SST services shall demonstrate compliance with those criteria collectively.

2. The criteria referred to in points (a) and (b) of the first subparagraph of paragraph 1 of this Article shall be deemed to be fulfilled by the Member States participating in the SST sub-component whose designated national entities are members of the Consortium established under Article 7(3) of Decision No 541/2014/EU as of 12 May 2021.

3. Where no joint proposal has been submitted in accordance with paragraph 1 or where the Commission considers that a joint proposal thus submitted does not comply with the criteria referred to in paragraph 1, at least five Member States may submit a new joint proposal to the Commission, demonstrating compliance with the criteria referred to in paragraph 1.

4. The Commission may adopt, by means of implementing acts, the detailed provisions concerning the procedures and elements referred to in paragraphs 1 to 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 58

Organisational framework of Member States' participation in the SST sub-component

1. Each Member State which has submitted a joint proposal that has been found compliant by the Commission in accordance with Article 57(1) or that has been selected by the Commission pursuant to the procedure referred to in Article 57(3) shall designate a Constituting National Entity established on its territory to represent it. The designated Constituting National Entity shall be a Member State public authority or a body entrusted with the exercise of such public authority.

2. The Constituting National Entities designated pursuant to paragraph 1 of this Article shall conclude an agreement creating an SST partnership ('SST partnership agreement') and laying down the rules and mechanisms for their cooperation in implementing the activities referred to in Article 54. In particular, the SST partnership agreement shall include the elements mentioned in points (c), (d) and (e) of Article 57(1) and the establishment of a risk management structure to ensure the implementation of the provisions on the use and secure exchange of SST data and SST information.

3. The Constituting National Entities shall develop Union SST services of high quality in accordance with a multiannual plan, relevant key performance indicators and users' requirements, on the basis of the activities of the Expert Teams referred to in paragraph 6 of this Article. The Commission may adopt, by means of implementing acts, the multiannual plan and the key performance indicators. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

4. The Constituting National Entities shall network existing and possible future sensors to operate them in a coordinated and optimised way with a view to establishing and maintaining an up-to-date common European catalogue, without affecting Member States' prerogatives in the area of national security.

5. Member States participating in the SST sub-component shall perform security accreditation on the basis of the general security requirements referred to in Article 34(2).

6. Expert Teams shall be designated by the Member States participating in the SST sub-component to be in charge of specific issues related to the different SST activities. The Expert Teams shall be permanent, managed and staffed by the Constituting National Entities of the Member States which designated them and may include experts from every Constituting National Entity.

7. The Constituting National Entities and Expert Teams shall ensure the protection of SST data, SST information and SST services.

8. The Commission shall adopt, by means of implementing acts, detailed rules on the functioning of the organisational framework of the participation of Member States in the SST sub-component. Those rules shall also cover for the inclusion at a later stage of a Member State in the SST partnership by becoming a party to the SST partnership agreement referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

Article 59

SST Front desk

1. The Commission, taking into account the recommendation of the Constituting National Entities, shall select the SST Front Desk on the basis of the best expertise in security issues and in service provision. The SST Front desk shall:
 - (a) provide the necessary secure interfaces to centralise, store and make available SST information to SST users referred to in Article 56, ensuring their adequate handling and traceability;
 - (b) provide reporting on the performance of the SST services to the SST partnership referred to in Article 58(2) and the Commission;
 - (c) gather the necessary feedback for the SST partnership referred to in Article 58(2) to ensure the required alignment of services with SST users' expectations;
 - (d) support, promote and encourage the use of the SST services.
2. The Constituting National Entities shall conclude the necessary implementing arrangements with the SST Front Desk.

Section 2

SWE and NEO sub-components

Article 60

SWE activities

1. The SWE sub-component may support the following activities:
 - (a) the assessment and identification of the needs of the users in the sectors identified in point (b) of paragraph 2, with the aim of setting out SWE services to be provided;
 - (b) the provision of SWE services to the SWE services' users, according to the identified users needs and technical requirements.
2. SWE services shall be available at any time without interruption. The Commission shall select those services, by means of implementing acts, in accordance with the following rules:
 - (a) the Commission shall prioritise the SWE services to be provided at Union level according to the needs of SWE users, the technological readiness of the services and the result of a risk assessment;
 - (b) SWE services may contribute to civil protection activities and to the protection of a wide range of sectors such as space, transport, GNSSs, electric power grids and communications.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 107(2).

3. The selection of public or private entities to provide SWE services shall be performed through a call for tenders.

*Article 61***NEO activities**

1. The NEO sub-component may support the following activities:
 - (a) the mapping of Member States' capacities for detecting and monitoring near-Earth objects;
 - (b) the promotion of the networking of Member States' facilities and research centres;
 - (c) the development of the service referred to in paragraph 2;
 - (d) the development of a routine rapid response service able to characterise newly discovered near-Earth objects;
 - (e) the creation of a European catalogue of near-Earth objects.
2. The Commission, in its field of competence, may put in place procedures to coordinate, with the involvement of the appropriate UN bodies, the actions of the Union and national public authorities concerned with civil protection in the event a near-Earth object is found to be approaching Earth.

*CHAPTER II***GOVSATCOM***Article 62***Scope of GOVSATCOM**

Under the GOVSATCOM component, satellite communication capacities and services shall be combined into a common Union pool of satellite communication capacities and services, with appropriate security requirements. This component comprises:

- (a) the development, construction and the operations of the ground segment infrastructure; referred to in Article 67 and possible space infrastructure referred to in Article 102(2);
- (b) the procurement of governmental and commercial satellite communication capacities, services, and user equipment necessary for the provision of GOVSATCOM services;
- (c) measures necessary to further interoperability and standardisation of GOVSATCOM user equipment.

*Article 63***GOVSATCOM capacities and services**

1. The provision of GOVSATCOM capacities and services shall be ensured as laid down in the service portfolio referred to in paragraph 3 of this Article and in accordance with the operational requirements referred to in paragraph 2 of this Article, GOVSATCOM specific security requirements referred to in Article 34(2) and within the limits of the sharing and prioritisation rules referred to in Article 66.

Access to GOVSATCOM capacities and services shall be free of charge for institutional and governmental GOVSATCOM users unless the Commission defines a pricing policy in accordance with Article 66(2).

2. The Commission shall adopt, by means of implementing acts, the operational requirements for GOVSATCOM services, in the form of technical specifications for GOVSATCOM use-cases related in particular to crisis management, surveillance and key infrastructure management, including diplomatic communication networks. Those operational requirements shall be based on the detailed analysis of the requirements of GOVSATCOM users and shall take into account requirements stemming from existing user equipment and networks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. The Commission shall adopt, by means of implementing acts, the service portfolio for GOVSATCOM services, in the form of a list of categories of satellite communication capacities and services and their attributes, including geographical coverage, frequency, bandwidth, user equipment, and security features. The service portfolio shall take into consideration existing commercially available services in order not to distort competition in the internal market. Those implementing acts shall be regularly updated and shall be based on the operational and security requirements referred to in paragraph 1 of this Article and shall prioritise services provided to users according to their relevance and criticality. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

4. GOVSATCOM users shall have access to the GOVSATCOM capacities and services listed in the service portfolio referred to in paragraph 3 of this Article. That access shall be provided through the GOVSATCOM Hubs referred to in Article 67(1).

Article 64

Providers of satellite communication capacities and services

Satellite communication capacities and services under GOVSATCOM may be provided by the following entities:

- (a) GOVSATCOM participants as referred to in Article 68; and
- (b) legal persons duly accredited to provide satellite communication capacities or services in accordance with the security accreditation procedure referred to in Article 37, which shall be done in compliance with the general security requirements for the GOVSATCOM component, as referred to in Article 34(2).

Article 65

GOVSATCOM users

1. The following entities may be GOVSATCOM users provided that they are entrusted with tasks relating to the supervision and management of emergency and security-critical missions, operations and infrastructures:

- (a) a Union or Member State public authority or a body entrusted with the exercise of such public authority;
- (b) a natural or legal person acting on behalf of and under the control of an entity referred to under point (a) of this paragraph.

2. GOVSATCOM users referred to in paragraph 1 of this Article shall be duly authorised by a GOVSATCOM participant referred to in Article 68 to use GOVSATCOM capacities and services and shall comply with the general security requirements referred to in Article 34(2), defined for GOVSATCOM.

Article 66

Sharing and prioritisation

1. Pooled satellite communication capacities, services and user equipment shall be shared and prioritised between GOVSATCOM participants referred to in Article 68 on the basis of an analysis of safety and security risks of the users. Such analysis shall take into account existing communication infrastructure and availability of existing capabilities as well as their geographical coverage, at Union and national level. That sharing and prioritisation shall prioritise GOVSATCOM users according to their relevance and criticality.

2. The Commission shall adopt, by means of implementing acts, the detailed rules on the sharing and prioritisation of satellite communication capacities, services, and user equipment, taking into account expected demand for the different GOVSATCOM use-cases, the analysis of security risks for those use-cases and, where appropriate, cost-efficiency.

By defining a pricing policy in those rules, the Commission shall ensure that the provision of GOVSATCOM capacities and services does not distort the market and that there is no shortage of GOVSATCOM capacities.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

3. The sharing and prioritisation of satellite communication capacities and services between GOVSATCOM users which are authorised by the same GOVSATCOM participant shall be determined and implemented by that GOVSATCOM participant.

Article 67

Ground segment infrastructure and operation

1. The ground segment shall include infrastructure necessary to enable the provision of services to GOVSATCOM users in accordance with Article 66, particularly the GOVSATCOM Hubs which shall be procured under this component to connect GOVSATCOM users with providers of satellite communication capacities and services. The ground segment and its operation shall comply with the general security requirements referred to in Article 34(2), defined for GOVSATCOM.

2. The Commission shall determine, by means of implementing acts, the location of the ground segment infrastructure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3), and shall be without prejudice to the right of a Member State to decide not to host any such infrastructure.

Article 68

GOVSATCOM participants and competent authorities

1. Member States, the Council, the Commission and the EEAS shall be GOVSATCOM participants insofar as they authorise GOVSATCOM users, or provide satellite communication capacities, ground segment sites or part of the ground segment facilities.

Where the Council, the Commission or the EEAS authorise GOVSATCOM users, or provide satellite communication capacities, ground segment sites or part of the ground segment facilities, on the territory of a Member State, such authorisation or provision shall not contravene neutrality or non-alignment provisions stipulated in the constitutional law of that Member State.

2. Union agencies may become GOVSATCOM participants only insofar as necessary to fulfil their tasks and in accordance with detailed rules laid down in an administrative arrangement concluded between the agency concerned and the Union institution that supervises it.

3. Third countries and international organisations may become GOVSATCOM participants in accordance with Article 7.

4. Each GOVSATCOM participant shall designate one competent GOVSATCOM authority.

5. A competent GOVSATCOM authority shall ensure that:

- (a) the use of services is in compliance with the applicable security requirements;
- (b) the access rights for GOVSATCOM users are determined and managed;
- (c) user equipment and associated electronic communication connections and information are used and managed in accordance with applicable security requirements;
- (d) a central point of contact is established to assist as necessary in the reporting of security risks and threats, in particular the detection of potentially harmful electromagnetic interference affecting the services under this component.

*Article 69***Monitoring of supply and demand for GOVSATCOM**

In order to optimise the balance between supply and demand for GOVSATCOM services, the Commission shall continuously monitor the evolution of supply, including existing GOVSATCOM capacities in orbit for pooling and sharing, and demand for GOVSATCOM capacities and services, taking into account new risks and threats, as well as new developments in technology.

TITLE IX

THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME

CHAPTER I

General provisions relating to the Agency*Article 70***Legal status of the Agency**

1. The Agency shall be a body of the Union. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their national laws. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.
3. The Agency shall be represented by its Executive Director.

*Article 71***Seat and local offices of the Agency**

1. The seat of the Agency is located in Prague, Czechia.
2. Staff of the Agency may be located in one of the Galileo or EGNOS ground-based centres referred to in Implementing Decision (EU) 2016/413 or (EU) 2017/1406, to execute Programme activities provided for in the relevant agreement.
3. Depending on the needs of the Programme, local offices may be established in the Member States in accordance with the procedure laid down in Article 79(2).

CHAPTER II

Organisation of the Agency*Article 72***Administrative and management structure**

1. The Agency's administrative and management structure shall comprise:
 - (a) the Administrative Board;
 - (b) the Executive Director;
 - (c) the Security Accreditation Board.

2. The Administrative Board, the Executive Director and the Security Accreditation Board shall cooperate to ensure the operation of the Agency and coordination in accordance with the procedures determined by the Agency's internal rules, such as the rules of procedure of the Administrative Board, the rules of procedure of the Security Accreditation Board, the financial rules applicable to the Agency, the implementing rules of the Staff Regulations of Officials of the European Union ('Staff Regulations') and the rules governing access to documents.

Article 73

Administrative Board

1. The Administrative Board shall be composed of one representative from each Member State, and three representatives of the Commission, all with voting rights. The Administrative Board shall also include one member designated by the European Parliament, with no voting rights.
2. The Chairperson or the Deputy Chairperson of the Security Accreditation Board, a representative of the Council, a representative of the High Representative and a representative of ESA shall be invited to attend the meetings of the Administrative Board as observers for matters related directly to them, under the conditions laid down in the rules of procedure of the Administrative Board.
3. Each member of the Administrative Board shall have an alternate member. The alternate member shall represent the member in his or her absence.
4. Each Member State shall nominate a member and an alternate member of the Administrative Board taking account of their knowledge in the field of the Agency's tasks and relevant managerial, administrative and budgetary skills. In order to ensure continuity of the Administrative Board's activities, the European Parliament, the Commission and the Member States shall endeavour to limit changes of their representatives on the Administrative Board. All parties shall aim to achieve a balanced representation between men and women on the Administrative Board.
5. The term of office of the members of the Administrative Board and their alternates shall be four years and shall be renewable.
6. Where appropriate, the participation of representatives of third countries or international organisations and the conditions for such participation shall be established in the agreements referred to in Article 98 and shall comply with the rules of procedure of the Administrative Board. Those representatives shall have no voting rights.

Article 74

Chairperson of the Administrative Board

1. The Administrative Board shall elect a Chairperson and a Deputy Chairperson from among its members having voting rights. The Deputy Chairperson shall automatically replace the Chairperson if he or she is prevented from attending to his or her duties.
2. The term of office of the Chairperson and of the Deputy Chairperson shall be two years, and shall be renewable once. Each term of office shall end when that person ceases to be a member of the Administrative Board.
3. The Administrative Board shall have the power to dismiss the Chairperson, the Deputy Chairperson or both of them.

Article 75

Meetings of the Administrative Board

1. Meetings of the Administrative Board shall be convened by its Chairperson.

2. The Executive Director shall take part in the deliberations of the Administrative Board, unless the Chairperson decides otherwise. The Executive Director shall not have the right to vote.
3. The Administrative Board shall hold ordinary meetings on a regular basis, at least twice a year. In addition, it shall meet on the initiative of its Chairperson or at the request of at least one third of its members.
4. The Administrative Board may invite any person whose opinion may be of interest to attend its meetings as an observer. The members of the Administrative Board may, subject to its rules of procedure, be assisted by advisers or experts.
5. Where discussion concerns the use of sensitive national infrastructure, the representatives of Member States and the representatives of the Commission may attend the meetings and deliberations of the Administrative Board, on a need-to-know basis. However, only those representatives of Member States which possess such infrastructure and the representatives of the Commission are to take part in voting. Where the Chairperson of the Administrative Board does not represent one of the Member States which possess such infrastructure, he or she shall be replaced by the representatives of Member States which possess such infrastructure. The rules of procedure of the Administrative Board shall set out the situations in which this procedure may apply.
6. The Agency shall provide the secretariat of the Administrative Board.

Article 76

Voting rules of the Administrative Board

1. Unless this Regulation provides otherwise, the Administrative Board shall take its decisions by a majority of its voting members.

A majority of two thirds of all voting members shall be required for the election and dismissal of the Chairperson and Deputy Chairperson of the Administrative Board and for the adoption of the budget, work programmes, approval of arrangements referred to in Article 98(2), security rules of the Agency, adoption of the rules of procedure, for the establishment of local offices and for the approval of the hosting agreements referred to in Article 92.

2. Each representative of the Member States and of the Commission shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote. Decisions based on point (a) of Article 77(2), except for matters under Chapter II of Title V, or on Article 77(5), shall only be adopted with a favourable vote of the representatives of the Commission.
3. The rules of procedure of the Administrative Board shall establish more detailed voting arrangements, in particular the conditions for a member to act on behalf of another member as well as any quorum requirements as appropriate.

Article 77

Tasks of the Administrative Board

1. The Administrative Board shall ensure that the Agency carries out the work entrusted to it, under the conditions set out in this Regulation, and shall take any necessary decision to that end. This shall not affect the competences entrusted to the Security Accreditation Board for the activities under Chapter II of Title V.
2. The Administrative Board shall also:
 - (a) adopt, by 15 November each year, the Agency's work programme for the following year after incorporating, without any change, the section drafted by the Security Accreditation Board, in accordance with point (b) of Article 80, and after having received the Commission's opinion;

- (b) adopt, by 30 June of the first year of the multiannual financial framework provided for under Article 312 TFEU, the multiannual work programme of the Agency for the period covered by that multiannual financial framework after incorporating, without any change, the section drafted by the Security Accreditation Board in accordance with point (a) of Article 80 of this Regulation and after having received the Commission's opinion. The European Parliament shall be consulted on the multiannual work programme, provided that the purpose of the consultation is an exchange of views and the outcome is not binding on the Agency;
- (c) perform the budgetary functions laid down in Article 84(5), (6), (10) and (11);
- (d) oversee the operation of the Galileo Security Monitoring Centre as referred to in point (b) of Article 34(5);
- (e) adopt arrangements to implement Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁶⁾, in accordance with Article 94 of this Regulation;
- (f) approve the arrangements referred to in Article 98, after consulting the Security Accreditation Board on the provisions of the arrangements concerning security accreditation;
- (g) adopt the technical procedures necessary to perform its tasks;
- (h) adopt the annual report on the activities and prospects of the Agency, having incorporated, without any change, the section drafted by the Security Accreditation Board in accordance with point (c) of Article 80 and forward it to the European Parliament, the Council, the Commission and the Court of Auditors by 1 July each year;
- (i) ensure adequate follow-up to the findings and recommendations arising from the evaluations and audits referred to in Article 102, as well as those arising from investigations conducted by OLAF and all internal or external audit reports, and forward all information relevant to the outcome of the evaluation procedures to the budgetary authority;
- (j) be consulted by the Executive Director on the FPPA referred to in Article 31 and contribution agreements referred to in Article 27(3) and Article 29(5) before they are signed;
- (k) adopt the security rules of the Agency as referred to in Article 96;
- (l) approve an anti-fraud strategy, on the basis of a proposal from the Executive Director;
- (m) where necessary and on the basis of proposals from the Executive Director, approve the organisational structures referred to in point (l) of Article 79(1);
- (n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be:
 - (i) subject to the Staff Regulations and the Conditions of Employment of Other Servants of the Union ('Conditions of Employment'), laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽⁴⁷⁾; and
 - (ii) totally independent in the performance of his or her duties;
- (o) adopt and publish its rules of procedure.

3. With regard to the Agency's staff, the Administrative Board shall exercise the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment on the authority empowered to conclude employment contracts (the 'powers of the appointing authority').

The Administrative Board shall adopt, in accordance with the procedure provided for in 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 powers of the appointing authority to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director shall report back to the Administrative Board on the exercise of those delegated powers. The Executive Director shall be authorised to sub-delegate those powers.

⁽⁴⁶⁾ 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).

⁽⁴⁷⁾ OJ L 56, 4.3.1968, p. 1.

In application of the second subparagraph of this paragraph, where exceptional circumstances so require, the Administrative Board may, by decision, temporarily suspend the delegation of the powers of the appointing authority to the Executive Director and those subdelegated by the Executive Director and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

By way of derogation from the second subparagraph of this paragraph, the Administrative Board shall be required to delegate to the Chairperson of the Security Accreditation Board the powers referred to in the first subparagraph with regard to the recruitment, assessment and reclassification of staff involved in the activities under Chapter II of Title V and the disciplinary measures to be taken with regard to such staff.

The Administrative Board shall adopt the implementing measures of the Staff Regulations and the Conditions of Employment in accordance with the procedure laid down in Article 110 of the Staff Regulations. It shall first consult the Security Accreditation Board and duly take into account its observations with regard to the recruitment, assessment and reclassification of the staff involved in the activities under Chapter II of Title V of this Regulation and the relevant disciplinary measures to be taken.

The Administrative Board shall also adopt a decision laying down rules on the secondment of national experts to the Agency. Before adopting that decision, the Administrative Board shall consult the Security Accreditation Board with regard to the secondment of national experts involved in the security accreditation activities under Chapter II of Title V and shall duly take account of its observations.

4. The Administrative Board shall appoint the Executive Director and may extend or end his or her term of office pursuant to Article 89.

5. Except in respect of activities undertaken in accordance with Chapter II of Title V, the Administrative Board shall exercise disciplinary authority over the Executive Director in relation to his or her performance, in particular as regards security matters falling within the Agency's competence.

Article 78

Executive Director

1. The Agency shall be managed by its Executive Director. The Executive Director shall be accountable to the Administrative Board.

This paragraph shall not affect the autonomy or independence of the Security Accreditation Board and of the Agency staff under its supervision in accordance with Article 82 and the powers granted to the Security Accreditation Board and the Chairperson of the Security Accreditation Board in accordance with Articles 38 and 81 respectively.

2. Without prejudice to the powers of the Commission and the Administrative Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.

Article 79

Tasks of the Executive Director

1. The Executive Director shall perform the following tasks:

- (a) represent the Agency and sign the agreements referred to in Article 27(3), Article 29(5) and Article 31;
- (b) prepare the work of the Administrative Board and participate, without having the right to vote, in the work of the Administrative Board, subject to the second subparagraph of Article 75(2);
- (c) implement the decisions of the Administrative Board;

- (d) prepare the multiannual and annual work programmes of the Agency and submit them to the Administrative Board for approval, with the exception of the parts prepared and adopted by the Security Accreditation Board in accordance with points (a) and (b) of Article 80;
- (e) implement the multiannual and annual work programmes, with the exception of the parts implemented by the Chairperson of the Security Accreditation Board;
- (f) prepare a progress report on the implementation of the annual work programme and, where relevant, of the multiannual work programme for each meeting of the Administrative Board, incorporating, without any change, the section prepared by the Chairperson of the Security Accreditation Board;
- (g) prepare the annual report on the activities and prospects of the Agency with the exception of the section prepared and approved by the Security Accreditation Board in accordance with point (c) of Article 80 concerning the activities under Title V, and submit it to the Administrative Board for approval;
- (h) handle the day-to-day administration of the Agency and take all necessary measures to ensure the functioning of the Agency in accordance with this Regulation, including the adoption of internal administrative instructions and the publication of notices;
- (i) draw up a draft statement of estimates of revenue and expenditure for the Agency in accordance with Article 84 and implement the budget in accordance with Article 85;
- (j) ensure that the Agency, as the operator of the Galileo Security Monitoring Centre, is able to respond to instructions provided under Decision (CFSP) 2021/698 and to fulfil its role as referred to in Article 6 of Decision No 1104/2011/EU;
- (k) ensure the circulation of all relevant information, in particular as regards security, within the Agency structure referred to in Article 72(1);
- (l) determine, in close cooperation with the Chairperson of the Security Accreditation Board for matters relating to security accreditation activities under Chapter II of Title V, the organisational structures of the Agency and submit them to the Administrative Board for approval; those structures shall reflect the specific characteristics of the Programme's various components;
- (m) with regard to the Agency's staff, exercise the powers of the appointing authority referred to in the first subparagraph of Article 77(3) to the extent that those powers have been delegated to him or her in accordance with the second subparagraph of Article 77(3);
- (n) ensure that secretarial services and all the resources necessary for their proper functioning are provided to the Security Accreditation Board, the bodies referred to in Article 38(3) and Article 82(3) and the Chairperson of the Security Accreditation Board;
- (o) with the exception of the section of the action plan concerning the activities under Chapter II of Title V, prepare an action plan for ensuring the follow-up of the findings and recommendations of the evaluations referred to in Article 102 and, after having incorporated, without any change, the section drafted by the Security Accreditation Board, submit a twice-yearly progress report to the Commission, which shall also be submitted to the Administrative Board for information;
- (p) take the following measures to protect the financial interests of the Union:
 - (i) preventive measures against fraud, corruption or any other illegal activity and making use of effective supervisory measures;
 - (ii) recover sums unduly paid where irregularities are detected and, where appropriate, apply effective, proportionate and dissuasive administrative and financial penalties;
- (q) draw up an anti-fraud strategy for the Agency that is proportionate to the risk of fraud, having regard to a cost-benefit analysis of the measures to be implemented and taking into account findings and recommendations arising from OLAF investigations and submit it to the Administrative Board for approval;
- (r) provide reports to the European Parliament on the performance of his or her duties when invited to do so; the Council may invite the Executive Director to report on the performance of his or her duties.

2. The Executive Director shall decide whether it is necessary to locate one or more members of staff in one or more Member States for the purpose of carrying out the Agency's tasks in an efficient and effective manner. Before deciding to establish a local office the Executive Director shall obtain the prior approval of the Commission, the Administrative Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency. Where possible, the impact in terms of staff allocation and budget shall be incorporated in the draft single programming document referred to in Article 84(6).

Article 80

Management tasks of the Security Accreditation Board

Apart from the tasks referred to in Article 38, the Security Accreditation Board shall, as part of the management of the Agency:

- (a) prepare and approve that part of the multiannual work programme concerning the operational activities under Chapter II of Title V and the financial and human resources needed to accomplish those activities, and submit it to the Administrative Board in good time for it to be incorporated into the multiannual work programme;
- (b) prepare and approve that part of the annual work programme concerning the operational activities under Chapter II of Title V and the financial and human resources needed to accomplish those activities, and submit it to the Administrative Board in good time for it to be incorporated into the annual work programme;
- (c) prepare and approve that part of the annual report concerning the Agency's activities and prospects under Chapter II of Title V and the financial and human resources needed to accomplish those activities and prospects, and submit it to the Administrative Board in good time for it to be incorporated into the annual report.

Article 81

The Chairperson of the Security Accreditation Board

1. The Security Accreditation Board shall elect a Chairperson and a Deputy Chairperson from among its members by a two-thirds majority of all members with the right to vote. Where a two-thirds majority has not been achieved following two meetings of the Security Accreditation Board, a simple majority shall be required.
2. The Deputy Chairperson shall automatically replace the Chairperson if the Chairperson is unable to attend to his or her duties.
3. The Security Accreditation Board shall have the power to dismiss the Chairperson, the Deputy Chairperson or both of them. It shall adopt the decision to dismiss by a two-thirds majority.
4. The term of office of the Chairperson and of the Deputy Chairperson of the Security Accreditation Board shall be two years, renewable once. Each term of office shall end when that person ceases to be a member of the Security Accreditation Board.

Article 82

Organisational aspects of the Security Accreditation Board

1. The Security Accreditation Board shall have access to all the human and material resources required to perform its tasks independently. It shall have access to any information useful for the performance of its tasks in the possession of the other bodies of the Agency, without prejudice to the principles of autonomy and independence referred to in point (i) of Article 37.

2. The Security Accreditation Board and the Agency staff under its supervision shall perform their work in a manner ensuring autonomy and independence in relation to the other activities of the Agency, in particular operational activities associated with the exploitation of the systems, in accordance with the objectives of the Programme's various components. A member of the Agency's staff under the supervision of the Security Accreditation Board shall not at the same time be assigned to other tasks within the Agency.

To that end, an effective organisational segregation shall be established within the Agency between the staff involved in activities under Chapter II of Title V and the other staff of the Agency. The Security Accreditation Board shall immediately inform the Executive Director, the Administrative Board and the Commission of any circumstances that could hamper its autonomy or independence. In the event that no remedy is found within the Agency, the Commission shall examine the situation, in consultation with the relevant parties. On the basis of the outcome of that examination, the Commission shall take appropriate mitigation measures to be implemented by the Agency and shall inform the European Parliament and the Council thereof.

3. The Security Accreditation Board shall set up special subordinate bodies, acting on its instructions, to deal with specific issues. In particular, while ensuring necessary continuity of work, it shall set up a panel to conduct security analysis reviews and tests and produce the relevant risk reports in order to assist it in preparing its decisions. The Security Accreditation Board may set up and disband expert groups to contribute to the work of the panel.

Article 83

Tasks of the Chairperson of the Security Accreditation Board

1. The Chairperson of the Security Accreditation Board shall ensure that the Board carries out its security accreditation activities independently and shall perform the following tasks:

- (a) manage security accreditation activities under the supervision of the Security Accreditation Board;
- (b) implement the part of the Agency's multiannual and annual work programmes under Chapter II of Title V under the supervision of the Security Accreditation Board;
- (c) cooperate with the Executive Director to help to draw up the draft establishment plan referred to in Article 84(4) and the organisational structures of the Agency;
- (d) prepare the section of the progress report concerning the operational activities under Chapter II of Title V, and submit it to the Security Accreditation Board and the Executive Director in good time for it to be incorporated into the progress report;
- (e) prepare the section of the annual report and of the action plan, concerning the operational activities under Chapter II of Title V, and submit it to the Executive Director in good time;
- (f) represent the Agency for the activities and decisions under Chapter II of Title V;
- (g) with regard to the Agency's staff involved in the activities under Chapter II of Title V, exercise the powers referred to in the first subparagraph of Article 77(3), delegated to him or her in accordance with the fourth subparagraph of Article 77(3).

2. For activities under Chapter II of Title V, the European Parliament and the Council may call upon the Chairperson of the Security Accreditation Board for an exchange of views before those institutions on the work and prospects of the Agency, including with regard to the multiannual and annual work programmes.

CHAPTER III

Financial provisions relating to the Agency

Article 84

The Agency's budget

1. Without prejudice to other resources and dues, the revenue of the Agency shall include a Union contribution entered in Union budget in order to ensure a balance between revenue and expenditure. The Agency may receive ad hoc grants from the Union budget.
2. The expenditure of the Agency shall cover staff, administrative and infrastructure expenditure, operating costs and expenditure associated with the functioning of the Security Accreditation Board, including the bodies referred to in Article 38(3) and Article 82(3), and the contracts and agreements concluded by the Agency in order to accomplish the tasks entrusted to it.
3. Revenue and expenditure shall be in balance.
4. The Executive Director shall, in close collaboration with the Chairperson of the Security Accreditation Board for activities under Chapter II of Title V, draw up a draft statement of estimates of revenue and expenditure for the Agency for the next financial year, making clear the distinction between those elements of the draft statement of estimates which relate to security accreditation activities and those relating to the Agency's other activities. The Chairperson of the Security Accreditation Board may write a statement on that draft and the Executive Director shall forward both the draft statement of estimates and the statement to the Administrative Board and the Security Accreditation Board, together with a draft establishment plan.
5. Each year, based on the draft statement of estimates of revenue and expenditure and in close cooperation with the Security Accreditation Board for activities under Chapter II of Title V, the Administrative Board shall draw up the statement of estimates of revenue and expenditure for the Agency for the next financial year.
6. By 31 January each year, the Administrative Board shall forward a draft single programming document including inter alia a statement of estimates, a draft establishment plan and a provisional annual work programme to the Commission and to the third countries or international organisations with which the Agency has entered into arrangements in accordance with Article 98.
7. The Commission shall forward the statement of estimates of revenue and expenditure to the European Parliament and to the Council (the 'budgetary authority') together with the draft general budget of the European Union.
8. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget. The Commission is to submit the draft general budget to the budgetary authority in accordance with Article 314 TFEU.
9. The budgetary authority shall authorise the appropriations for the contribution to the Agency and shall adopt the establishment plan for the Agency.
10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, the budget shall be adjusted accordingly.
11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which would have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.
12. Where an arm of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks from the date of notification of the project.

*Article 85***Implementation of the Agency's budget**

1. The Executive Director shall implement the Agency's budget.
2. Each year, the Executive Director shall communicate to the budgetary authority all the information needed for the exercise of their evaluation duties.

*Article 86***Presentation of the Agency's accounts and discharge**

The presentation of the Agency's provisional and final accounts and the discharge shall follow the rules and timetable of the Financial Regulation and of the framework financial regulation for the bodies referred to in Article 70 of the Financial Regulation.

*Article 87***Financial provisions relating to the Agency**

The financial rules applicable to the Agency shall be adopted by the Administrative Board after consulting the Commission. Those rules shall not depart from the framework financial regulation for the bodies referred to in Article 70 of the Financial Regulation unless such a departure is specifically required for the Agency's operation and the Commission has given its prior consent.

*CHAPTER IV****The Agency's human resources****Article 88***The Agency's staff**

1. The Staff Regulations, the Conditions of Employment and the rules adopted jointly by the institutions of the Union for the purposes of the application of those Staff Regulations and Conditions of Employment shall apply to the staff employed by the Agency.
2. The staff of the Agency shall consist of servants recruited by the Agency as necessary to perform its tasks. They shall have security clearance appropriate to the classification of the information they handle.
3. The Agency's internal rules, such as the rules of procedure of the Administrative Board, the rules of procedure of the Security Accreditation Board, the financial rules applicable to the Agency, the rules implementing the Staff Regulations and the rules for access to documents, shall ensure the autonomy and independence of staff performing the security accreditation activities vis-à-vis staff performing the other activities of the Agency, pursuant to point (i) of Article 37.

*Article 89***Appointment and term of office of the Executive Director**

1. The Executive Director shall be recruited as a temporary member of staff of the Agency in accordance with point (a) of Article 2 of the Conditions of Employment.

The Executive Director shall be appointed by the Administrative Board on grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, from a list of at least three candidates proposed by the Commission, after an open and transparent competition, following the publication of a call for expressions of interest in the *Official Journal of the European Union* or elsewhere.

The candidate selected by the Administrative Board for the post of Executive Director may be invited at the earliest opportunity to make a statement before the European Parliament and to answer questions from its members.

The Chairperson of the Administrative Board shall represent the Agency for the purpose of concluding the contract of the Executive Director.

The Administrative Board shall take its decision to appoint the Executive Director by a two-thirds majority of its members.

2. The term of office of the Executive Director shall be five years. At the end of that term of office, the Commission shall carry out an assessment of the performance of the Executive Director, taking into account the future tasks and challenges facing the Agency.

On the basis of a proposal from the Commission, taking into account the assessment referred to in the first subparagraph, the Administrative Board may extend the term of office of the Executive Director once for a period of up to five years.

Any decision to extend the term of office of the Executive Director shall be adopted by a two-thirds majority of the members of the Administrative Board.

An Executive Director whose term of office has been extended shall not thereafter take part in a selection procedure for the same post.

The Administrative Board shall inform the European Parliament of its intention to extend the term of office of the Executive Director. Before the extension, the Executive Director may be invited to make a statement before the relevant committees of the European Parliament and answer their members' questions.

3. The Administrative Board may dismiss the Executive Director, on the basis of a proposal by the Commission or of one third of its members, by means of a decision adopted by a two-thirds majority of its members.

4. The European Parliament and the Council may call upon the Executive Director for an exchange of views before those institutions on the work and prospects of the Agency, including with regard to the multiannual and annual work programmes. That exchange of views shall not touch upon matters relating to the security accreditation activities under Chapter II of Title V.

Article 90

Secondment of national experts to the Agency

The Agency may employ national experts from Member States, as well as, pursuant to Article 98(2), national experts from third countries and international organisations participating in the work of the Agency. Those experts shall have security clearance appropriate to the classification of the information they handle, pursuant to Article 43(2). The Staff Regulations and the Conditions of Employment shall not apply to such staff.

CHAPTER V

Other provisions

Article 91

Privileges and immunities

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the TEU and to the TFEU shall apply to the Agency and its staff.

Article 92

Headquarters agreement and local offices hosting agreements

1. Necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State where the seat of the Agency is located and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Administrative Board, Agency staff and members of their families shall be laid down in a headquarters agreement. The headquarters agreement shall be concluded between the Agency and the Member State concerned where the seat of the Agency is located, after obtaining the approval of the Administrative Board.
2. Where necessary for the operation of a local office of the Agency, established in accordance with Article 79(2), a hosting agreement between the Agency and the Member State concerned where the local office is located shall be concluded after obtaining the approval of the Administrative Board.
3. The Agency's host Member States shall provide the best possible conditions to ensure the smooth and efficient functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Article 93

Linguistic arrangements for the Agency

1. Council Regulation No 1 ⁽⁴⁸⁾ shall apply to the Agency.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

Article 94

Policy on access to documents held by the Agency

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.
2. The Administrative Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001.
3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or an action before the Court of Justice of the European Union, under Articles 228 and 263 TFEU respectively.

⁽⁴⁸⁾ Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

*Article 95***Fraud prevention by the Agency**

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013, the Agency shall, within six months from the day it becomes operational, accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽⁴⁹⁾ and adopt appropriate provisions applicable to all employees of the Agency using the model decision set out in the Annex to that Agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors that have received Union funds from the Agency.
3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (Euratom, EC) No 2185/96 and in Regulation (EU, Euratom) No 883/2013.
4. Cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences. This shall not affect paragraphs 1, 2 and 3.

*Article 96***Protection of EUCI or sensitive non-classified information by the Agency**

The Agency shall, subject to prior consultation of the Commission, adopt its own security rules equivalent to the Commission's security rules for protecting EUCI and sensitive non-classified information, including rules concerning the exchange, processing and storage of such information, in accordance with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444.

*Article 97***Liability of the Agency**

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the event of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for the damage referred to in paragraph 3.
5. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

*Article 98***Cooperation with third countries and international organisations**

1. The Agency shall be open to the participation of third countries and international organisations that have entered into international agreements with the Union to this effect.

⁽⁴⁹⁾ OJ L 136, 31.5.1999, p. 15.

2. Under the relevant provisions of the agreements referred to in paragraph 1 of this Article and in Article 43, arrangements shall be developed specifying, in particular, the nature, extent and manner in which the third countries and international organisations concerned are to participate in the work of the Agency, including provisions relating to participation in the initiatives undertaken by the Agency, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations. When relevant, they shall also include provisions on the exchange and protection of classified information with third countries and international organisations. Those provisions shall be subject to the Commission's prior approval.

3. The Administrative Board shall adopt a strategy on relations with third countries and international organisations, in the framework of the international agreements referred to in paragraph 1, concerning matters for which the Agency is competent.

4. The Commission shall ensure that, in its relations with third countries and international organisations, the Agency acts within its mandate and the existing institutional framework by concluding an appropriate working arrangement with the Executive Director.

Article 99

Conflicts of interest

1. Members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts and observers shall make a declaration of commitments and a declaration of interests indicating the absence or existence of any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be:

- (a) accurate and complete;
- (b) made in writing upon the entry into service of the persons concerned;
- (c) renewed annually; and
- (d) updated whenever necessary, in particular in the event of relevant changes in the personal circumstances of the persons concerned.

2. Before any meeting which they are to attend, members of the Administrative Board and of the Security Accreditation Board, the Executive Director, seconded national experts, observers and external experts participating in ad hoc working groups shall accurately and completely declare the absence or existence of any interest which might be considered prejudicial to their independence in relation to any items on the agenda, and, if such an interest exists, shall abstain from participating in the discussion of and from voting upon such points.

3. The Administrative Board and the Security Accreditation Board shall lay down, in their rules of procedure, the practical arrangements for the rules on declaration of interest referred to in paragraphs 1 and 2 and for the prevention and management of conflicts of interest.

TITLE X

PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 100

Work programme

The Programme shall be implemented by the work programmes referred to in Article 110 of the Financial Regulation, which shall be specific and fully separate work programmes for each of the Programme's components. Work programmes shall set out the actions and associated budget required to meet the objectives of the Programme and, where applicable, the overall amount reserved for blending operations.

The Commission shall adopt work programmes by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(3).

*Article 101***Monitoring and reporting**

1. Indicators to report on progress of the Programme towards the achievement of the general and specific objectives laid down in Article 4 are set out in the Annex.
2. To ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 105, to amend the Annex with regard to the indicators where considered necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. Where imperative grounds of urgency so require, the procedure provided for in Article 106 shall apply to delegated acts adopted pursuant to this Article.
4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme are collected efficiently, effectively, and in a timely manner.

To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.

5. For the purposes of paragraph 1, the recipients of Union funds shall provide appropriate information. The data necessary for the verification of the performance shall be collected in an efficient, effective and timely manner.

*Article 102***Evaluation**

1. The Commission shall carry out evaluations of the Programme in a timely manner to feed into the decision-making process.
2. By 30 June 2024, and every four years thereafter, the Commission shall evaluate the implementation of the Programme. The evaluation shall cover all of the Programme's components and actions. It shall assess:
 - (a) the performance of the services provided under the Programme;
 - (b) the evolution of needs of the users of the Programme; and
 - (c) when evaluating the implementation of SSA and GOVSATCOM, the evolution of available capacities for sharing and pooling, or, when evaluating the implementation of Galileo, Copernicus and EGNOS, the evolution of data and services offered by competitors.

For each of the Programme's components, the evaluation shall, on the basis of a cost-benefit analysis, also assess the impact of the evolutions referred to in point (c) of the first subparagraph, including the need for changing the pricing policy or the need for additional space or ground infrastructure.

If necessary, the evaluation shall be accompanied by an appropriate proposal.

3. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.
4. The entities involved in the implementation of this Regulation shall provide the Commission with the data and information necessary for the evaluation referred to in paragraph 1.
5. By 30 June 2024, and every four years thereafter, the Commission shall assess the Agency's performance, in relation to its objectives, mandate, and tasks, in accordance with Commission guidelines. The evaluation shall be based on a cost-benefit analysis. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency and the financial implications of any such modification. It shall also address the Agency's policy on conflicts of interest and the

independence and autonomy of the Security Accreditation Board. The Commission may also evaluate the Agency's performance to assess the possibility to entrust it with additional tasks, in accordance with Article 29(3). If necessary, the evaluation shall be accompanied by an appropriate proposal.

Where the Commission considers that there are no longer grounds for the Agency to continue pursuing its activities, given its objectives, mandate and tasks, it may propose to amend this Regulation accordingly.

The Commission shall submit a report on the evaluation of the Agency and its conclusions to the European Parliament, the Council, the Administrative Board and the Security Accreditation Board of the Agency. The findings of the evaluation shall be made public.

Article 103

Audits

Audits on the use of the Union contribution carried out by persons or entities, including by others than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

Article 104

Personal data and privacy protection

1. All personal data handled in the context of the tasks and activities provided for in this Regulation, including by the Agency, shall be processed in accordance with the applicable law on personal data protection, in particular Regulations (EU) 2016/679 ⁽⁵⁰⁾ and (EU) 2018/1725 ⁽⁵¹⁾ of the European Parliament and of the Council.
2. The Administrative Board shall establish measures for the application of Regulation (EU) 2018/1725 by the Agency, including those concerning the appointment of a Data Protection Officer of the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.

TITLE XI

DELEGATION AND IMPLEMENTING MEASURES

Article 105

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 53 and 101 shall be conferred on the Commission until 31 December 2028.

⁽⁵⁰⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁵¹⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. The delegation of power referred to in Articles 53 and 101 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 53 and 101 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 106

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 105(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 107

Committee procedure

1. The Commission shall be assisted by the Programme committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

The Programme committee shall meet in specific different configurations as follows:

- (a) Galileo and EGNOS;
 - (b) Copernicus;
 - (c) SSA;
 - (d) GOVSATCOM;
 - (e) Security configuration: all security aspects of the Programme, without prejudice to the role of the Security Accreditation Board; representatives of ESA and the Agency may be invited to participate as observers; the EEAS shall also be invited to assist;
 - (f) Horizontal configuration: strategic overview of the implementation of the Programme, coherence across the Programme's different components, cross-cutting measures and budget reallocation as referred to in Article 11.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
 3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4. Where the Programme committee delivers no opinion on the draft implementing act referred to in Article 34(2) of this Regulation, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

5. In accordance with international agreements concluded by the Union, representatives of third countries or international organisations may be invited as observers in the meetings of the Programme committee under the conditions laid down in its rules of procedure, taking into account the security of the Union.

6. The Programme committee shall, in accordance with its rules of procedure, set up the 'User Forum', as a working group to advise the Programme committee on user requirements aspects, evolution of the services and user uptake. The User Forum shall aim to guarantee a continuous and effective involvement of users and meet in specific configurations for each of the Programme's components.

TITLE XII

TRANSITIONAL AND FINAL PROVISIONS

Article 108

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

2. The Commission shall implement information and communication actions relating to the Programme, to actions taken pursuant to the Programme and to the results obtained.

Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 4.

3. The Agency may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 29. Such communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Administrative Board.

Article 109

Repeals

1. Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU are repealed with effect from 1 January 2021.

2. References to the repealed acts shall be construed as references to this Regulation.

Article 110

Transitional provisions and continuity of services after 2027

1. This Regulation shall not affect the continuation or modification of the actions initiated pursuant to Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014, and Decision No 541/2014/EU, which shall continue to apply to those actions until their closure. In particular, the Consortium established under Article 7(3) of Decision No 541/2014/EU shall provide SST services until three months after the signature by the Constituting National Entities of the SST partnership agreement provided for in Article 58 of this Regulation.

2. The financial envelope for the Programme may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted pursuant to Regulations (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU.

3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses necessary to fulfil the objectives provided for in Article 4, to enable the management of actions not completed by the end of the Programme, as well as expenses covering critical operational activities and services provision, including through the FPPA and contribution agreements.

Article 111

Entry into force and application

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 April 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

ANNEX

KEY INDICATORS

Key indicators shall structure the monitoring of the Programme performance towards its objectives referred to in Article 4, with a view to minimising administrative burdens and costs.

1. To that end, for annual reporting, data shall be collected as regards the following set of key indicators for which implementation details, such as metrics, figures and associated nominal values and thresholds, including quantitative data and qualitative case studies, according to applicable mission requirements and expected performance, shall be defined in the agreements concluded with the entrusted entities:

- 1.1. Specific objective referred to in point (a) of Article 4(2)

Indicator 1: Accuracy of navigation and timing services provided by Galileo and EGNOS separately

Indicator 2: Availability and continuity of services provided by Galileo and EGNOS separately

Indicator 3: EGNOS services geographical coverage and number of EGNOS procedures published (both APV-I and LPV-200)

Indicator 4: Union user satisfaction with respect to Galileo and EGNOS services

Indicator 5: Share of Galileo and EGNOS enabled receivers in the worldwide and the EU Global Navigation Satellite Systems/ Satellite Based Augmentation System (GNSS/SBAS) receivers market.

- 1.2. Specific objective referred to in point (b) of Article 4(2)

Indicator 1: Number of Union users of Copernicus Services, Copernicus data, and Data and Information Access Services (DIAS) providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Where applicable, number of activations of Copernicus Services requested or served

Indicator 3: Union user satisfaction with respect to Copernicus Services and DIAS

Indicator 4: Reliability, availability and continuity of the Copernicus Services and Copernicus data stream

Indicator 5: Number of new information products delivered in the portfolio of each Copernicus Service

Indicator 6: Amount of data generated by the Copernicus Sentinels

- 1.3. Specific objective referred to in point (c) of Article 4(2)

Indicator 1: Number of users of SSA component providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Availability of Services

- 1.4. Specific objective referred to in point (d) of Article 4(2)

Indicator 1: Number of GOVSATCOM users providing, where possible, information such as the type of user, geographical distribution and sector of activity

Indicator 2: Availability of Services

- 1.5. Specific objective referred to in point (e) of Article 4(2)
Indicator 1: Number of launches for the Programme (including numbers by type of launchers)
 - 1.6. Specific objective referred to in point (f) of Article 4(2)
Indicator 1: Number and location of space hubs in the Union
Indicator 2: Share of SMEs established in the Union as a proportion of the total value of the contracts relating to the Programme
 2. The evaluation referred to in Article 102 shall take into account additional elements such as:
 - 2.1. Performance of competitors in the areas of navigation and Earth observation
 - 2.2. User uptake of Galileo and EGNOS services
 - 2.3. Integrity of EGNOS services
 - 2.4. Uptake of Copernicus Services by Copernicus core users
 - 2.5. Number of Union or Member State policies exploiting or benefiting from Copernicus
 - 2.6. Analysis of the autonomy of the SST sub-component and of the level of independence of the Union in this area
 - 2.7. State-of-play of networking for the activities of NEO sub-component
 - 2.8. Assessment of GOVSATCOM capacities as regards user needs as referred to in Articles 69 and 102
 - 2.9. User satisfaction of the SSA and GOVSATCOM services
 - 2.10. Share of Ariane and Vega launches in the total market based on publicly available data
 - 2.11. Development of the downstream sector measured, when available, by the number of new companies using Union space data, information and services, jobs created and turnover, by Member State, using surveys of the Commission (Eurostat) when available
 - 2.12. Development of the Union space upstream sector measured, when available, by number of jobs created and turnover by Member State and the global market share of European space industry, using surveys of the Commission (Eurostat) when available
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REGULATION (EU) 2021/697 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 29 April 2021
establishing the European Defence Fund and repealing Regulation (EU) 2018/1092
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Union's geopolitical context has changed dramatically in the last decade. The situation in Europe's neighbouring regions is unstable and the Union faces a complex and challenging environment, combining the emergence of new threats, such as hybrid attacks and cyber attacks, and the return of more conventional challenges. Given that context, both European citizens and their political leaders share the view that more has to be done collectively in the area of defence.
- (2) The defence sector is characterised by increasing costs of defence equipment and by high research and development (R & D) costs that limit the launch of new defence programmes and have a direct impact on the competitiveness and innovation capacity of the European defence technological and industrial base (EDTIB). In view of that cost escalation, the development of a new generation of major defence systems and of new defence technologies should be supported at Union level in order to increase cooperation between Member States with regard to defence equipment investments.
- (3) In its communication of 30 November 2016 'European Defence Action Plan', the Commission undertook to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry throughout the Union and beyond. Moreover, the Commission committed itself to supporting the creation of a more integrated defence market in the Union and fostering the uptake of European defence products and technologies in the internal market, thus increasing the non-dependency on non-Union sources. The Commission proposed in particular to launch a European Defence Fund to support investments in joint research and the joint development of defence products and technologies, thereby fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. The European Defence Fund should complement national funding already used for that purpose, act as an incentive for Member States to cooperate and invest more in defence and support cooperation during the whole life cycle of defence products and technologies.

⁽¹⁾ OJ C 110, 22.3.2019, p. 75.

⁽²⁾ Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 16 March 2021 (not yet published in the Official Journal). Position of the European Parliament of 29 April 2021 (not yet published in the Official Journal).

- (4) The European Defence Fund should contribute to a strong, competitive and innovative EDTIB and complement the Union's initiatives towards a more integrated European defence market and, in particular, Directives 2009/43/EC ⁽³⁾ and 2009/81/EC ⁽⁴⁾ of the European Parliament and of the Council on Union transfers and procurement in the defence sector adopted in 2009.
- (5) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund (the 'Fund') should be established for a period of seven years to align its duration with that of the multiannual financial framework 2021-2027 (MFF 2021-2027) laid down in Council Regulation (EU, Euratom) 2020/2093 ⁽⁵⁾ on the basis of an integrated approach. The aim of the Fund is to enhance the competitiveness, innovation, efficiency and technological autonomy of the Union's defence industry, thereby contributing to the Union's strategic autonomy by supporting the cross-border cooperation between Member States as well as cooperation between enterprises, research centres, national administrations, international organisations and universities throughout the Union, both in the research and in the development phases of defence products and technologies. To achieve more innovative solutions and to foster an open internal market, the Fund should support and facilitate the widening of cross-border cooperation of small- and medium-sized enterprises (SMEs) and middle capitalisation companies (mid-caps) in the defence sector. Within the Union, common defence capability shortfalls are identified within the framework of the Common Security and Defence Policy, in particular through the Capability Development Plan (CDP), while the Overarching Strategic Research Agenda (OSRA) also identifies common defence research objectives.

Other Union processes such as the Coordinated Annual Review on Defence (CARD) and Permanent Structured Cooperation (PESCO) have the purpose of supporting the implementation of relevant priorities by identifying and taking up opportunities for enhanced cooperation with a view to fulfilling the Union's level of ambition in the area of security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organization context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or associated country from participating, while seeking to avoid unnecessary duplication.

- (6) The research phase linked to the development of defence capabilities is crucial, as it underpins the capacity and the autonomy of the European industry to develop defence products and the independence of Member States as the end-users of such products. The research phase may include significant risks, in particular in relation to the low level of maturity and the disruptive nature of technologies. The development phase, which usually follows the research phase, also entails significant risks and costs that hamper the further exploitation of the results of research and have an adverse impact on the competitiveness and innovation of the Union's defence industry. The Fund should thus foster the link between the research and the development phases.
- (7) The Fund does not support basic research, which should instead be supported through other funding programmes, but its support may include defence-oriented fundamental research likely to form the basis of the solution to recognised or expected problems or to create new possibilities.
- (8) The Fund could support actions pertaining to both new defence products and technologies and the upgrade of existing defence products and technologies, including the interoperability thereof. Actions for the upgrade of existing defence products and technologies should be eligible only where pre-existing information needed to carry out the action is not subject to any restriction by a non-associated third country or a non-associated third-country entity in such a way that the action cannot be carried out. When applying for Union funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, there should be no Union funding.

⁽³⁾ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

⁽⁴⁾ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

⁽⁵⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I, 22.12.2020, p. 11).

- (9) The Fund should support actions that are conducive to developing disruptive technologies for defence. As disruptive technologies can be based on concepts or ideas originating from non-traditional defence actors, the Fund should allow for sufficient flexibility with regard to the consultation of stakeholders and the carrying out such actions.
- (10) In order to ensure that, in the implementation of this Regulation, the international obligations of the Union and its Member States are respected, actions relating to products or technologies the use, development or production of which is prohibited by international law should not be supported by the Fund. In that respect, the eligibility of actions related to new defence products or technologies should also be subject to developments in international law. Moreover, actions for the development of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans should not be eligible for support from the Fund, without prejudice to the possibility of providing funding for actions for the development of early warning systems and countermeasures for defensive purposes.
- (11) The fact that it is difficult to agree on harmonised defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities established in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays, inflated costs, unnecessary duplication as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities leading to harmonised defence capability requirements as well as activities aiming to support the creation of a common definition of technical specifications or standards should also be eligible for support from the Fund, in particular where they foster interoperability.
- (12) As the objective of the Fund is to support the competitiveness, efficiency and innovation of the Union's defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and the development phases of a defence product or technology should be eligible for support from the Fund.
- (13) Given that the aim of the Fund is, in particular, to enhance cooperation between legal entities and Member States across the Union, an action should be eligible for funding only if it is to be carried out by legal entities cooperating within a consortium of at least three eligible legal entities which are established in at least three different Member States or associated countries. At least three of those eligible legal entities established in at least two different Member States or associated countries should not, during the entire period in which the action is carried out, be controlled, directly or indirectly, by the same legal entity and should not control each other. In that context, control should be understood to be the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities. Taking into account the specificities of disruptive technologies for defence, as well as of studies, the actions could be carried out by a single legal entity. In order to boost cooperation between Member States, it should also be possible for the Fund to support joint pre-commercial procurement.
- (14) Pursuant to Council Decision 2013/755/EU ⁽⁶⁾, entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and to possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (15) As the Fund aims to enhance the competitiveness and efficiency of the Union's defence industry, only legal entities which are established in the Union or in associated countries and are not subject to control by non-associated third countries or by non-associated third-country entities should, in principle, be eligible for support. In that context, control should be understood to be the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources of the recipients and subcontractors involved in an action supported by the Fund should be located on the territory of a

⁽⁶⁾ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

Member State or of an associated country for the entire duration of an action, and the recipients and subcontractors involved in an action should have their executive management structures in the Union or in an associated country. Accordingly, a legal entity which is established in a non-associated third country or a legal entity which is established in the Union or in an associated country but which has its executive management structures in a non-associated third country should not be eligible to be a recipient or subcontractor involved in an action. In order to safeguard the essential security and defence interests of the Union and its Member States, those eligibility criteria should also apply to funding provided through procurement, by way of derogation from Article 176 of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁷⁾ (the 'Financial Regulation').

- (16) In certain circumstances, it should be possible to derogate from the principle that recipients and subcontractors involved in an action supported by the Fund are not subject to control by non-associated third countries or non-associated third-country entities. In that context, legal entities established in the Union or in an associated country that are controlled by a non-associated third country or a non-associated third-country entity should be eligible to be recipients or subcontractors involved in an action provided that strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such legal entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action. Member States' concerns regarding security of supply should also be taken into account in that respect.
- (17) In the framework of the Union's restrictive measures, adopted on the basis of Article 29 of the Treaty on European Union (TEU) and 215(2) of the Treaty on the Functioning of the European Union (TFEU), no funds or economic resources may be made available, directly or indirectly, to or for the benefit of designated legal persons, entities or bodies. Such designated entities, and entities owned or controlled by them, therefore cannot be supported by the Fund.
- (18) Union funding should be granted following competitive calls for proposals issued in accordance with the Financial Regulation. However, in certain duly substantiated and exceptional circumstances, it should also be possible for Union funding to be granted without a call for proposals in accordance with point (e) of the first paragraph of Article 195 of the Financial Regulation. As the award of funding in accordance with point (e) of the first paragraph of Article 195 of the Financial Regulation constitutes a derogation from the general rule that funding is to be granted following competitive calls for proposals, those exceptional circumstances should be interpreted strictly. In that context, for a grant to be awarded without a call for proposals, the degree to which the proposed action corresponds to the objectives of the Fund with respect to cross-border industrial collaboration and competition throughout the supply chain should be assessed by the Commission, with the assistance of a committee of Member States (the 'committee').
- (19) If a consortium wishes to participate in an eligible action and the Union support is to take the form of a grant, the consortium should appoint one of its members as a coordinator. The coordinator should be the principal point of contact for the purpose of the consortium's relations with the Commission.
- (20) Where an action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should consult the project manager on progress made with regard to the action prior to executing the payment to the recipients, so that the project manager can ensure that the time-frames are respected by the recipients. The project manager should provide the Commission with observations on progress made with regard to the action so that the Commission can determine whether the conditions for proceeding with the payment have been fulfilled.

⁽⁷⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (21) The Fund should be implemented under direct management so as to maximise the effectiveness and efficiency of the delivery and to ensure full consistency with other Union initiatives. Therefore, the Commission should remain responsible for the selection and award procedures, including as regards ethics screening and assessment. In substantiated cases, however, the Commission should be able to entrust budget implementation tasks for specific actions supported by the Fund to bodies as referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation, for example where a project manager has been appointed by Member States co-financing an action, provided that the requirements of the Financial Regulation are met. Such entrusting of budget implementation tasks would help to streamline the management of co-financed actions and ensure smooth coordination between the financing agreement and the contract signed by the consortium and the project manager appointed by Member States which co-finance the action.
- (22) In order to ensure that the funded development actions are financially viable, it is necessary that the applicants demonstrate that the costs of the action not covered by Union funding are covered by other means of financing.
- (23) Different types of financial arrangements should be at the disposal of Member States for the joint development and acquisition of defence capabilities. The Commission could provide different types of arrangements that Member States could use on a voluntary basis to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative and cross-border defence projects and increase the efficiency of defence spending, including for projects supported by the Fund.
- (24) Given the specificities of the defence industry, where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence R & D projects, and Member States and associated countries often fully fund all R & D costs. To achieve the objectives of the Fund, in particular to foster cooperation between legal entities from different Member States and associated countries, and taking into account the specificities of the defence sector, up to the totality of the eligible costs should be covered for actions that take place before the prototype phase.
- (25) The prototype phase is a crucial phase where Member States or associated countries usually decide on their consolidated investment and start the acquisition process of their future defence products or technologies. This is the reason why, at this specific stage, Member States and associated countries agree on the necessary commitments, including cost-sharing and ownership of the project. To ensure the credibility of their commitment, support from the Fund should, in normal cases, not exceed 20 % of the eligible costs.
- (26) For actions beyond the prototype phase, funding up to 80 % should be provided for. Such actions, which are closer to product and technology finalisation, may still involve substantial costs.
- (27) Stakeholders in the defence sector face specific indirect costs, such as with regard to security. Furthermore, stakeholders work in a specific market where they – absent demand on the buyers' side – cannot recover the R & D costs in the same manner as those in the civilian sector. Therefore, it is appropriate to allow a flat rate of 25 % of the total direct eligible costs of the action as well as the possibility to charge indirect eligible costs determined in accordance with the usual cost accounting practices of the recipients if those practices are accepted by their national authorities for comparable activities in the defence domain and if they have been communicated to the Commission by the recipient.
- (28) Actions comprising the participation of cross-border SMEs and mid-caps support the opening-up of supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased rate of funding that benefits all participating legal entities.

- (29) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States intend to jointly procure the final product or use the technology, in particular through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular through a central purchasing body.
- (30) In order to ensure that the actions supported by the Fund contribute to the competitiveness and efficiency of the European defence industry, they should be market-oriented, demand-driven and commercially viable in the medium-to-long term. The eligibility criteria for development actions should therefore take into account the fact that Member States intend, including through a memorandum of understanding or a letter of intent, to procure the final product, or use the technology, in a coordinated manner. The award criteria for development actions should in addition take into account the fact that Member States have undertaken, politically or legally, to jointly use, own or maintain the final product or technology in a coordinated manner.
- (31) The promotion of innovation and technological development in the Union's defence industry should take place in a manner consistent with the security and defence interests of the Union. Accordingly, the contributions of actions to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion.
- (32) Eligible actions developed in the context of PESCO projects in the institutional framework of the Union should ensure enhanced cooperation between legal entities in the different Member States on a continuous basis and should thus directly contribute to the objectives of the Fund. If selected, such actions should therefore be eligible for an increased funding rate.
- (33) The Commission will take into account other activities financed under Horizon Europe – the Framework Programme for Research and Innovation established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽⁸⁾ – in order to avoid unnecessary duplication and ensure cross-fertilisation and synergies between civil and defence research.
- (34) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative of the Union for Foreign Affairs and Security Policy recognised the need to establish synergies between cyber-defence actions within the scope of this Regulation and Union initiatives in the field of cybersecurity, such as those announced in the joint communication of the Commission of 13 September 2017 'Resilience, Deterrence and Defence: Building strong cybersecurity for the EU'. In particular, stakeholders should seek synergies between the civilian and defence dimensions of cybersecurity, with a view to increasing cyber resilience.
- (35) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research (PADR), launched by the Commission in accordance with point (b) of Article 58(2) of the Financial Regulation and the European Defence Industrial Development Programme (EDIDP) established by Regulation (EU) 2018/1092 of the European Parliament and of the Council ⁽⁹⁾, as well as by harmonising the conditions for participation. Such an integrated approach should create a more coherent set of instruments and increase the innovative, collaborative and economic impact of the Fund, while avoiding unnecessary duplication and fragmentation. It would also ensure that the Fund contributes to the better exploitation of the results of defence research, covering the gap between the research and the development phases taking into account the specificities of the defence sector, and promoting all forms of innovation, including disruptive technologies for defence. Moreover, positive spillover effects to the civilian sector can also be expected, where applicable.

⁽⁸⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (see page 1 of this Official Journal).

⁽⁹⁾ Regulation (EU) 2018/1092 of the European Parliament and of the Council of 18 July 2018 establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's defence industry (OJ L 200, 7.8.2018, p. 30).

- (36) Where appropriate in view of the specificities of the action, the objectives of the Fund should also be addressed through financial instruments and budgetary guarantees under the InvestEU Fund established by Regulation (EU) 2021/523 of the European Parliament and of the Council ⁽¹⁰⁾.
- (37) Support from the Fund should be used to address market failures or sub-optimal investment situations in a proportionate manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear added value for the Union.
- (38) The forms of Union funding and the methods of implementation of the Fund should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account in particular the costs of controls, the administrative burden and the expected risk of non-compliance. That choice should include the consideration of the use of lump sums, flat-rate financing and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (39) The Commission should, by means of implementing acts, adopt annual work programmes in line with the objectives of the Fund, and taking into account the initial lessons learned from the EDIDP and the PADR. The Commission should be assisted in the establishment of the work programmes by the committee. The Commission should endeavour to find solutions which command the widest possible support within the committee. In that context, the committee should be able to meet in the configuration of national defence and security experts to provide specific assistance to the Commission, including advice with regard to the protection of classified information in the framework of the actions. It is for the Member States to designate their respective representatives on that committee. Committee members should be given early and effective opportunities to examine the draft implementing acts and express their views.
- (40) The categories set out in the work programmes should contain functional requirements where appropriate in order to clarify for industry what functionalities and tasks are to be carried out by the capabilities which are to be developed. Such requirements should give a clear indication of the expected performance but should not be directed towards specific solutions or specific legal entities and should not prevent competition at the level of calls for proposals.
- (41) During the development of the work programmes, the Commission should also ensure, through the appropriate consultation of the committee, that the proposed research actions or development actions avoid unnecessary duplication. In that context, the Commission may carry out a prior assessment of possible duplication cases with existing capabilities or already funded research or development projects within the Union.
- (42) The Commission should ensure the coherence of the work programmes throughout the industrial life cycle of defence products and technologies.
- (43) The work programmes should also ensure that a credible proportion of the overall budget benefits actions enabling the cross-border participation of SMEs.
- (44) In order to benefit from its expertise in the defence sector, the European Defence Agency should have observer status within the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee.
- (45) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in order to amend the Annex to this Regulation with regard to the indicators where considered to be necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹¹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁽¹⁰⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

⁽¹¹⁾ OJ L 123, 12.5.2016, p. 1.

- (46) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the adoption of work programmes and the award of funding to selected research and development actions. In particular, while carrying out research and development actions, the specificities of the defence sector, in particular the responsibility of Member States, associated countries or both for the planning and acquisition process, should be taken into account. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹²⁾.
- (47) The Commission should establish a list of independent experts. The security credentials of those independent experts should be validated by the relevant Member States. That list should not be made public. The independent experts should be chosen on the basis of their skills, experience and knowledge, taking account of the tasks to be assigned to them. As far as possible, when appointing the independent experts, the Commission should take appropriate measures to seek a balanced composition within the independent expert groups and evaluation panels in terms of variety of skills, experience, knowledge, geographical diversity and gender, taking into account the situation in the field of the action. An appropriate rotation of the independent experts and appropriate private-public sector balance should also be sought.
- (48) The independent experts should not evaluate, advise or assist on matters with regard to which they have any conflicts of interest, in particular as regards their position at the time of the evaluation. In particular, they should not be in a position where they could use the information received to the detriment of the consortium that they evaluate.
- (49) After evaluation of the proposals with the help of independent experts, the Commission should select the actions to be supported by the Fund. Member States should be informed of the evaluation results with the ranking list of selected actions and of progress of the funded actions.
- (50) When proposing new defence products or technologies or the upgrade of existing defence products and technologies, applicants should undertake to comply with ethical principles, such as those relating to the welfare of human beings and the protection of the human genome, reflected also in relevant Union, national and international law, including the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms and, where relevant, the protocols thereto. The Commission should screen the proposals systematically in order to identify those that raise serious ethical issues. Where appropriate, such proposals should be subject to an ethics assessment.
- (51) In order to support an open internal market, the participation of cross-border SMEs and mid-caps, as members of consortia, subcontractors or other legal entities in the supply chain, should be encouraged.
- (52) The Commission should endeavour to maintain a dialogue with Member States and industry to ensure the success of the Fund. As co-legislator and a key stakeholder, the European Parliament should also be engaged in that regard.
- (53) This Regulation lays down a financial envelope for the Fund, which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽¹³⁾ (Interinstitutional Agreement of 16 December 2020), for the European Parliament and for the Council during the annual budgetary procedure. The Commission should ensure that administrative procedures are kept as simple as possible and incur a minimum amount of additional expenses.

⁽¹²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽¹³⁾ OJ L 433I, 22.12.2020, p. 28.

- (54) The Financial Regulation applies to the Fund, unless otherwise specified. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees and financial assistance.
- (55) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, prizes, procurement, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (56) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹⁴⁾ and Council Regulations (EC, Euratom) No 2988/95 ⁽¹⁵⁾, (Euratom, EC) No 2185/96 ⁽¹⁶⁾ and (EU) 2017/1939 ⁽¹⁷⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ⁽¹⁸⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (57) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the Agreement on the European Economic Area ⁽¹⁹⁾, which provides for the implementation of the programmes on the basis of a decision adopted under that Agreement. A specific provision should be introduced in this Regulation requiring those third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (58) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the implementation period of the Fund, including with a view to submitting proposals for any appropriate amendments to this Regulation. The Commission should also carry out a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results of implementation and impact of the Fund. In that context,

⁽¹⁴⁾ 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 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).

⁽¹⁵⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽¹⁶⁾ 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).

⁽¹⁷⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁽¹⁸⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽¹⁹⁾ OJ L 1, 3.1.1994, p. 3.

the final evaluation report should also help identify where the Union is dependent on third countries for the development of defence products and technologies. The final report should also analyse the cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain, and the contribution of the Fund to addressing the shortfalls identified in the CDP, and should include information on the countries of origin of the recipients, the number of Member States and associated countries involved in individual actions and the distribution of the generated intellectual property rights (IPRs). The Commission may also propose amendments to this Regulation to react to possible developments during the implementation of the Fund.

- (59) The Commission should monitor the implementation of the Fund on a regular basis and should submit an annual report on progress made, including how lessons identified and lessons learned from the EDIDP and the PADR are taken into account in the implementation of the Fund, to the European Parliament and to the Council. To that end, the Commission should put in place necessary monitoring arrangements. The report should not contain sensitive information.
- (60) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ⁽²⁰⁾ and the United Nations Sustainable Development Goals, the Fund contributes to the mainstreaming of climate actions in Union policies and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its interim evaluation.
- (61) Reflecting the importance of tackling the dramatic loss of biodiversity, this Regulation contributes to the mainstreaming of biodiversity action in Union policies and to the achievement of the overall ambition of providing 7,5 % of annual spending under the MFF 2021-2027 to biodiversity objectives in 2024 and 10 % thereof in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals in accordance with the Interinstitutional Agreement of 16 December 2020.
- (62) As the Fund should support only the research and the development phases of defence products and technologies, the Union should not, in principle, have ownership of or IPRs in the defence products or technologies resulting from the funded actions unless the Union support is provided through public procurement. However, for research actions, interested Member States and associated countries should be able to use the results of funded actions to participate in follow-up cooperative development.
- (63) The Union's support should not affect the transfer of defence-related products within the Union, in accordance with Directive 2009/43/EC, or the export of products, equipment or technologies. The export of military equipment and technologies by the Member States is regulated by Council Common Position 2008/944/CFSP ⁽²¹⁾.
- (64) The use of sensitive background information, including data, knowhow or information, generated before or outside the operation of the Fund, or access by unauthorised individuals to results generated in connection to actions supported by the Fund could have an adverse impact on the interests of the Union or of one or more of the Member States. The handling of sensitive information should therefore be governed by relevant Union and national law.
- (65) In order to ensure the security of classified information at the requisite level, the minimum standards on industrial security should be complied with when signing classified funding and financing agreements. To that end, and in accordance with Commission Decision (EU, Euratom) 2015/444 ⁽²²⁾, the Commission is to communicate the Programme Security Instructions, including the Security Classification Guide, for advice to the independent experts designated by Member States.

⁽²⁰⁾ OJ L 282, 19.10.2016, p. 4.

⁽²¹⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

⁽²²⁾ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

- (66) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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 those objectives.
- (67) The Commission should manage the Fund while having due regard to the requirements of confidentiality and security, in particular those relating to sensitive information including classified information.
- (68) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the MFF 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021.
- (69) Regulation (EU) 2018/1092 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

TITLE I

COMMON PROVISIONS APPLICABLE FOR RESEARCH AND DEVELOPMENT

Article 1

Subject matter

This Regulation establishes the European Defence Fund (the 'Fund'), as set out in point (c) of Article 1(2) of Regulation (EU) 2021/695, for the period from 1 January 2021 to 31 December 2027. The duration of the Fund is aligned with the duration of the MFF 2021-2027.

This Regulation lays down the objectives of the Fund, its budget for the period from 1 January 2021 to 31 December 2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

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

- (1) 'legal entity' means a legal person created and recognised as such under Union, national or international law, which has legal personality and the capacity to act in its own name, exercise rights and be subject to obligations, or an entity which does not have legal personality as referred to in point (c) of Article 197(2) of the Financial Regulation;
- (2) 'applicant' means a legal entity that submits an application for support from the Fund after a call for proposals or in accordance with point (e) of the first paragraph of Article 195 of the Financial Regulation;
- (3) 'recipient' means a legal entity with which a funding or financing agreement has been signed or to which a funding or financing decision has been notified;
- (4) 'consortium' means a collaborative grouping of applicants or recipients that is subject to an agreement and constituted for the purpose of carrying out an action under the Fund;
- (5) 'coordinator' means a legal entity which is a member of a consortium and has been appointed by all the members of the consortium to be the principal point of contact for the purpose of the consortium's relations with the Commission;

- (6) 'control' means the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities;
- (7) 'executive management structure' means a body of a legal entity, appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;
- (8) 'system prototype' means a model of a product or technology that can demonstrate performance in an operational environment;
- (9) 'qualification' means the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements, providing objective evidence by which particular requirements of a design are demonstrated to have been met;
- (10) 'certification' means the process by which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;
- (11) 'research action' means an action consisting primarily of research activities, in particular applied research and where necessary fundamental research, with the aim of acquiring new knowledge and with an exclusive focus on defence applications;
- (12) 'development action' means an action consisting of defence-oriented activities primarily in the development phase, covering new defence products or technologies or the upgrading of existing ones, excluding the production or use of weapons;
- (13) 'disruptive technology for defence' means an enhanced or completely new technology that brings about a radical change, including a paradigm shift in the concept and conduct of defence affairs such as by replacing existing defence technologies or rendering them obsolete;
- (14) 'small and medium-sized enterprises' or 'SMEs' means small and medium-sized enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC ⁽²³⁾;
- (15) 'middle capitalisation company' or 'mid-cap' means an enterprise that is not a SME and that employs a maximum of 3 000 persons, where the headcount of staff is calculated in accordance with Articles 3 to 6 of the Annex to Recommendation 2003/361/EC;
- (16) 'blending operation' means an action supported by the Union budget, including within a blending facility or platform as defined in point (6) of Article 2 of the Financial Regulation, that combines non-repayable forms of support or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions as well as from commercial finance institutions and investors;
- (17) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;
- (18) 'project manager' means a contracting authority established in a Member State or an associated country, appointed by a Member State or an associated country or a group of Member States or associated countries to manage multinational armament projects on an on-going or ad-hoc basis;
- (19) 'results' means any tangible or intangible effect of a given action, such as data, knowhow or information, whatever its form or nature and whether or not it can be protected, as well as any rights attached to it, including IPRs;
- (20) 'foreground information' means data, knowhow or information generated in the operation of the Fund, whatever its form or nature;

⁽²³⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (21) 'classified information' means information or material, in any form, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the Union, or of one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, as established in the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union ⁽²⁴⁾;
- (22) 'sensitive information' means information and data, including classified information, that is to be protected from unauthorised access or disclosure because of obligations laid down in Union or national law or in order to safeguard the privacy or security of a natural or legal person;
- (23) 'special report' means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the outcomes, the basic properties, the tests performed, the potential benefits, the potential defence applications and the expected exploitation path of the research towards development, including information on the ownership of IPRs but not requiring the inclusion of IPR information;
- (24) 'non-associated third-country entity' means a legal entity that is established in a non-associated third country or, where it is established in the Union or in an associated country, that has its executive management structures in a non-associated third country.

Article 3

Objectives

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence technological and industrial base (EDTIB) throughout the Union, which contributes to the Union strategic autonomy and its freedom of action, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, in particular SMEs and mid-caps, as well as by strengthening and improving the agility of both defence supply and value chains, widening cross-border cooperation between legal entities and fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle of defence products and technologies.
2. The Fund shall have the following specific objectives:
 - (a) to support collaborative research that could significantly boost the performance of future capabilities throughout the Union, aiming to maximise innovation and introduce new defence products and technologies, including disruptive technologies for defence, and aiming to make the most efficient use of defence research spending in the Union;
 - (b) to support the collaborative development of defence products and technologies, thus contributing to the greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and thereby fostering the market uptake of European defence products and technologies and reducing the fragmentation of defence products and technologies throughout the Union, ultimately leading to an increase in the standardisation of defence systems and a greater interoperability between Member States' capabilities.

Such collaboration shall be consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy (CFSP) and in particular in the context of the CDP.

In that regard, regional and international priorities, when they serve the security and defence interests of the Union as determined under the CFSP, and taking into account the need to avoid unnecessary duplication, may also be taken into account, where appropriate, where they do not exclude the possibility of participation of any Member State or associated country.

⁽²⁴⁾ Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union (OJ C 202, 8.7.2011, p. 13).

*Article 4***Budget**

1. In accordance with Article 12(1) of Regulation (EU) 2021/695, the financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 7 953 000 000 in current prices.
2. The distribution of the amount referred to in paragraph 1 shall be:
 - (a) EUR 2 651 000 000 for research actions;
 - (b) EUR 5 302 000 000 for development actions.

In order to respond to unforeseen situations or to new developments and needs, the Commission may reallocate the amount allocated to research or development actions, by up to a maximum of 20 %.

3. The amount referred to in paragraph 1 may also be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities, including the design, set up, operation and maintenance of corporate information technology systems.
4. At least 4 % and up to 8 % of the financial envelope referred to in paragraph 1 shall be allocated to calls for proposals or awards of funding supporting disruptive technologies for defence.

*Article 5***Associated countries**

The Fund shall be open to the participation of members of the European Free Trade Association which are members of the EEA, in accordance with the conditions laid down in the Agreement on the European Economic Area (associated countries).

*Article 6***Support for disruptive technologies for defence**

1. The Commission shall, by means of implementing acts, award funding following open and public consultations on disruptive technologies for defence in the areas of intervention defined in the work programmes referred to in Article 24. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).
2. The work programmes shall lay down the most appropriate forms of funding for disruptive technologies for defence.

*Article 7***Ethics**

1. Actions carried out under the Fund shall comply with relevant Union, national and international law, including the Charter of Fundamental Rights of the European Union. Moreover, those actions shall comply with ethical principles also reflected in relevant Union, national and international law.
2. Before the signature of a funding agreement, proposals shall be screened by the Commission on the basis of an ethics self-assessment prepared by the consortium, in order to identify those that raise serious ethical issues, including with regard to conditions under which the activities are to be carried out. Where appropriate, such proposals shall be subject to an ethics assessment.

Ethics screening and assessment shall be carried out by the Commission with the support of independent experts appointed in accordance with Article 26. Those independent experts shall have a variety of backgrounds, in particular recognised expertise in defence ethics, and shall be nationals of as broad a range of Member States as possible.

The conditions under which the activities with ethically sensitive issues are to be carried out shall be specified in the funding agreement.

The Commission shall ensure that the ethics procedures are as transparent as possible and shall include them in its interim evaluation report in accordance with Article 29.

3. Legal entities participating in the action shall obtain all relevant approvals, or other documents required by national or local ethics committees and other bodies such as data protection authorities, before the start of the relevant activities. Those approvals and other documents shall be kept and provided to the Commission upon request.

4. Proposals which are considered not to be ethically acceptable shall be rejected.

Article 8

Implementation and forms of Union funding

1. The Fund shall be implemented under direct management in accordance with the Financial Regulation.
2. By way of derogation from paragraph 1 of this Article, specific actions may, in substantiated cases, be carried out under indirect management by bodies as referred to in point (c) of Article 62(1) of the Financial Regulation. This shall not include the selection and award procedure referred to in Article 11 of this Regulation.
3. The Fund may provide funding in accordance with the Financial Regulation, through grants, prizes and procurement, and, where appropriate in view of the specificities of the action, financial instruments within blending operations.
4. Blending operations shall be carried out in accordance with Title X of the Financial Regulation and Regulation (EU) 2021/523.
5. Financial instruments shall be strictly directed only to the recipients.

Article 9

Eligible legal entities

1. Recipients and subcontractors involved in an action shall be established in the Union or in an associated country.
2. The infrastructure, facilities, assets and resources of the recipients and subcontractors involved in an action which are used for the purposes of an action supported by the Fund shall be located on the territory of a Member State or of an associated country for the entire duration of an action, and their executive management structures shall be established in the Union or in an associated country.
3. For the purposes of an action supported by the Fund, the recipients and subcontractors involved in an action shall not be subject to control by a non-associated third country or by a non-associated third-country entity.
4. By way of derogation from paragraph 3, a legal entity established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third-country entity shall be eligible to be a recipient or subcontractor involved in an action only if guarantees approved by the Member State or the associated country in which it is established in accordance with its national procedures are made available to the Commission. Those guarantees may refer to the legal entity's executive management structure established in the Union or in an associated country. If considered to be appropriate by the Member State or associated country in which the legal entity is established, those guarantees may also refer to specific governmental rights in the control over the legal entity.

The guarantees shall provide assurances that the involvement in an action of such a legal entity would not contravene the security and defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3 of this Regulation. The guarantees shall also comply with Articles 20 and 23 of this Regulation. The guarantees shall in particular substantiate that, for the purposes of an action, measures are in place to ensure that:

- (a) control over the legal entity is not exercised in a manner that restrains or restricts its ability to carry out the action and to deliver results, that imposes restrictions concerning its infrastructure, facilities, assets, resources, intellectual property or knowhow needed for the purposes of the action, or that undermines its capabilities and standards necessary to carry out the action;
- (b) access by a non-associated third country or by a non-associated third-country entity to sensitive information relating to the action is prevented and the employees or other persons involved in the action have national security clearance issued by a Member State or an associated country, where appropriate;
- (c) ownership of the intellectual property arising from, and the results of, the action remain within the recipient during and after completion of the action, are not subject to control or restriction by a non-associated third country or by a non-associated third-country entity, and are neither exported outside the Union or outside associated countries nor accessible from outside the Union or outside associated countries without the approval of the Member State or the associated country in which the legal entity is established and in accordance with the objectives set out in Article 3.

If considered to be appropriate by the Member State or the associated country in which the legal entity is established, additional guarantees may be provided.

The Commission shall inform the committee referred to in Article 34 of any legal entity considered to be eligible in accordance with this paragraph.

5. Where no competitive substitutes are readily available in the Union or in an associated country, recipients and subcontractors involved in an action may use their assets, infrastructure, facilities and resources located or held outside the territory of the Member States or of the associated countries provided that such use does not contravene the security and defence interests of the Union and its Member States, is consistent with the objectives set out in Article 3 and complies with Articles 20 and 23.

The costs related to those activities shall not be eligible for support from the Fund.

6. When carrying out an eligible action, recipients and subcontractors involved in an action may also cooperate with legal entities established outside the territory of the Member States or of associated countries, or controlled by a non-associated third country or by a non-associated third-country entity, including by using the assets, infrastructure, facilities and resources of such legal entities, provided that this does not contravene the security and defence interests of the Union and its Member States. Such cooperation shall be consistent with the objectives set out in Article 3 and shall comply with Articles 20 and 23.

There shall be no unauthorised access by a non-associated third country or other non-associated third-country entity to classified information relating to the carrying out of the action and potential negative effects over security of supply of inputs critical to the action shall be avoided.

The costs related to those activities shall not be eligible for support from the Fund.

7. Applicants shall provide all relevant information necessary for the assessment of the eligibility criteria. In the event of a change during the carrying out of an action which might put into question the fulfilment of the eligibility criteria, the relevant legal entity shall inform the Commission, which shall assess whether those eligibility criteria continue to be met and shall address the potential impact of that change on the funding of the action.

8. For the purposes of this Article, 'subcontractors involved in an action' refers to subcontractors with a direct contractual relationship to a recipient, other subcontractors to which at least 10 % of the total eligible costs of the action is allocated, and subcontractors which may require access to classified information in order to carry out the action. Subcontractors involved in an action are not members of the consortium.

*Article 10***Eligible actions**

1. Only actions implementing the objectives set out in Article 3 shall be eligible for funding.
2. The Fund shall provide support for actions covering new defence products and technologies and the upgrade of existing defence products and technologies provided that the use of pre-existing information needed to carry out the action for the upgrade is not subject to a restriction by a non-associated third country or a non-associated third-country entity directly, or indirectly through one or more intermediary legal entities, in such a way that the action cannot be carried out.
3. An eligible action shall relate to one or more of the following activities:
 - (a) activities that aim to create, underpin and improve knowledge, products and technologies, including disruptive technologies for defence, which can achieve significant effects in the area of defence;
 - (b) activities that aim to increase interoperability and resilience, including secured production and exchange of data, to master critical defence technologies, to strengthen the security of supply or to enable the effective exploitation of results for defence products and technologies;
 - (c) studies, such as feasibility studies to explore the feasibility of new or upgraded products, technologies, processes, services and solutions;
 - (d) the design of a defence product, tangible or intangible component or technology as well as the definition of the technical specifications on which such a design has been developed, including any partial tests for risk reduction in an industrial or representative environment;
 - (e) the system prototyping of a defence product, tangible or intangible component or technology;
 - (f) the testing of a defence product, tangible or intangible component or technology;
 - (g) the qualification of a defence product, tangible or intangible component or technology;
 - (h) the certification of a defence product, tangible or intangible component or technology;
 - (i) the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies.
4. The action shall be carried out by legal entities cooperating within a consortium of at least three eligible legal entities which are established in at least three different Member States or associated countries. At least three of those eligible legal entities established in at least two different Member States or associated countries shall not, during the entire period in which the action is carried out, be controlled, directly or indirectly, by the same legal entity and shall not control each other.
5. Paragraph 4 shall not apply to actions relating to disruptive technologies for defence or to activities referred to in point (c) of paragraph 3.
6. Actions for the development of products and technologies the use, development or production of which is prohibited by applicable international law shall not be eligible for support from the Fund.

Moreover, actions for the development of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans shall not be eligible for support from the Fund, without prejudice to the possibility of providing funding for actions for the development of early warning systems and countermeasures for defensive purposes.

*Article 11***Selection and award procedure**

1. Union funding shall be granted following competitive calls for proposals issued in accordance with the Financial Regulation.

In certain duly substantiated and exceptional circumstances, Union funding may also be granted without a call for proposals in accordance with point (e) of the first paragraph of Article 195 of the Financial Regulation.

2. The Commission shall, by means of implementing acts, award the funding referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 12***Award criteria**

Each proposal shall be assessed on the basis of the following criteria:

- (a) its contribution to excellence or potential of disruption in the defence domain, in particular by showing that the expected results of the proposed action present significant advantages over existing defence products or technologies;
- (b) its contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector, while avoiding unnecessary duplication;
- (c) its contribution to the competitiveness of the European defence industry by showing that the proposed action is a demonstrably positive balance of cost-efficiency and effectiveness thus creating new market opportunities across the Union and beyond and accelerating the growth of companies throughout the Union;
- (d) its contribution to the autonomy of the EDTIB, including by increasing the non-dependency on non-Union sources and strengthening security of supply, and to the security and defence interests of the Union in line with the priorities referred to in Article 3;
- (e) its contribution to the creation of new cross-border cooperation between legal entities established in Member States or associated countries, in particular SMEs and mid-caps with a substantial participation in the action, as recipients, subcontractors or as other legal entities in the supply chain, and which are established in Member States or associated countries other than those where the legal entities cooperating within a consortium which are not SMEs or mid-caps are established;
- (f) the quality and efficiency of the carrying out the action.

*Article 13***Co-financing rate**

1. The Fund shall finance up to 100 % of the eligible costs of an activity referred to in Article 10(3) of this Regulation without prejudice to Article 190 of the Financial Regulation.

2. By way of derogation from paragraph 1 of this Article:

- (a) for activities referred to in point (e) of Article 10(3), support from the Fund shall not exceed 20 % of the eligible costs;
- (b) for activities referred to in points (f), (g) and (h) of Article 10(3), support from the Fund shall not exceed 80 % of the eligible costs.

3. For development actions, the funding rates shall be increased in the following cases:
- (a) an action developed in the context of a project of PESCO, as established by Council Decision (CFSP) 2017/2315 ⁽²⁵⁾, may benefit from a funding rate increased by an additional 10 percentage points;
 - (b) an activity may benefit from an increased funding rate, as referred to in this point, where at least 10 % of the total eligible costs of the activity are allocated to SMEs established in Member States or in associated countries and which participate in the activity as recipients, subcontractors or other legal entities in the supply chain.

The funding rate may be increased by percentage points equivalent to the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries in which recipients that are not SMEs are established and which participate in the activity as recipients, subcontractors or other legal entities in the supply chain, up to an additional 5 percentage points.

The funding rate may be increased by percentage points equivalent to twice the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries other than those in which recipients that are not SMEs are established and which participate in the activity as recipients, subcontractors or other legal entities in the supply chain;

- (c) an activity may benefit from a funding rate increased by an additional 10 percentage points where at least 15 % of the total eligible costs of the activity are allocated to mid-caps established in Member States or in associated countries.

The overall increase in the funding rate of an activity following the application of points (a), (b) and (c) shall not exceed 35 percentage points.

Support from the Fund, including increased funding rates, shall not cover more than 100 % of the eligible costs of the action.

Article 14

Financial capacity

1. Notwithstanding Article 198(5) of the Financial Regulation, only the financial capacity of a coordinator shall be verified and only where the requested funding from the Union is at least EUR 500 000.

However, where there are grounds to doubt the financial capacity of one of the applicants or of the coordinator, the Commission shall also verify the financial capacity of all of the applicants and of the coordinator where the requested funding from the Union is below EUR 500 000.

2. Financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by Member States' relevant authorities.
3. If financial capacity is structurally guaranteed by another legal entity, the financial capacity of that other legal entity shall be verified.

Article 15

Indirect costs

1. By way of derogation from Article 181(6) of the Financial Regulation, indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs of the action, excluding direct eligible costs of subcontracting and support to third parties and any unit costs or lump sums which include indirect costs.

2. As an alternative, indirect eligible costs may be determined in accordance with the recipient's usual cost accounting practices on the basis of actual indirect costs provided that those cost accounting practices are accepted by national authorities for comparable activities in the defence domain, in accordance with Article 185 of the Financial Regulation, and that they have been communicated to the Commission by the recipient.

⁽²⁵⁾ Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States (OJ L 331, 14.12.2017, p. 57).

Article 16

Use of contribution not linked to costs or single lump sum

Where the Union grant co-finances less than 50 % of the total costs of the action, the Commission may use either:

- (a) a contribution not linked to costs referred to in Article 180(3) of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or
- (b) a single lump sum referred to in Article 182 of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.

Indirect costs shall be included in the lump sum referred to in point (b) of the first paragraph.

Article 17

Pre-commercial procurement

1. The Union may support pre-commercial procurement by awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU ⁽²⁶⁾ and 2014/25/EU ⁽²⁷⁾ of the European Parliament and of the Council which jointly procure defence research and development services or coordinate their procurement procedures.
2. The procurement procedures referred to in paragraph 1:
 - (a) shall comply with this Regulation;
 - (b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);
 - (c) shall provide for the award of the contracts to the tenders offering best value for money while ensuring the absence of conflicts of interest.

Article 18

Guarantee Fund

Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of sums due by recipients and shall be considered to be a sufficient guarantee under the Financial Regulation. Article 37 of Regulation (EU) 2021/695 shall apply.

Article 19

Eligibility criteria for procurement and prizes

1. Articles 9 and 10 shall apply *mutatis mutandis* to prizes.
2. By way of derogation from Article 176 of the Financial Regulation, Article 9 of this Regulation as well as Article 10 of this Regulation shall apply *mutatis mutandis* for the procurement of studies referred to in point (c) of Article 10(3) of this Regulation.

⁽²⁶⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽²⁷⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

TITLE II

SPECIFIC PROVISIONS APPLICABLE FOR RESEARCH ACTIONS

Article 20

Ownership of results of research actions

1. The results of research actions that are supported by the Fund shall be owned by the recipients generating them. Where legal entities generate results jointly and where their respective contributions cannot be ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results. Joint owners shall enter into an agreement regarding the allocation of their shares and the terms of exercise of their joint ownership in accordance with their obligations under the grant agreement.
2. By way of derogation from paragraph 1, where Union support is provided in the form of public procurement, results of research actions supported by the Fund shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon written request.
3. The results of research actions supported by the Fund shall not be subject to any control or restriction by a non-associated third country or by a non-associated third-country entity, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.
4. With regard to results generated by recipients through research actions supported by the Fund and without prejudice to paragraph 9 of this Article, the Commission shall be notified prior to any transfer of ownership or granting of an exclusive licence to a non-associated third country or to a non-associated third-country entity. Where such transfer of ownership or granting of an exclusive licence contravenes the security and defence interests of the Union and its Member States or the objectives set out in Article 3, the support provided from the Fund shall be reimbursed.
5. The national authorities of Member States and associated countries shall enjoy access rights to the special reports. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after the Commission has ensured that appropriate confidentiality obligations are in place.
6. The national authorities of Member States and associated countries shall use the special report solely for purposes related to the use by or for their armed forces, or security or intelligence forces, including within the framework of their cooperative programmes. Such use shall include study, evaluation, assessment, research, design, product acceptance and certification, operation, training and disposal, as well as the assessment and drafting of technical requirements for procurement.
7. The recipients shall grant access rights to the results of research actions supported by the Fund on a royalty-free basis to the Union institutions, bodies, offices or agencies, for the duly substantiated purpose of developing, implementing and monitoring existing Union policies or programmes in the fields of its competence. Such access rights shall be limited to non-commercial and non-competitive use.
8. Specific provisions regarding ownership, access rights and licensing shall be laid down in the funding agreements and the contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or to require the recipients to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sublicense. All Member States and associated countries shall have royalty-free access to the special report. Where a contractor fails to exploit the results commercially within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.
9. This Regulation shall not affect the export of products, equipment or technologies integrating results of research actions supported by the Fund, and shall not affect the Member States' discretion as regards their policy on the export of defence-related products.

10. Where two or more Member States or associated countries have, multilaterally or within the framework of the Union, jointly concluded one or several contracts with one or more recipients to further develop together results of research actions supported by the Fund, they shall enjoy access rights to those results insofar as they are owned by such recipients and are necessary for the execution of the contract or contracts. Such access rights shall be granted on a royalty-free basis and under specific conditions aiming to ensure that those rights are used only for the purposes of the contract or contracts and that appropriate confidentiality obligations are put in place.

TITLE III

SPECIFIC PROVISIONS APPLICABLE FOR DEVELOPMENT ACTIONS

Article 21

Additional eligibility criteria for development actions

1. The consortium shall demonstrate that the costs of an action that are not covered by Union support are to be covered by other means of financing, such as by Member States' or associated countries' contributions or co-financing from legal entities.
2. Activities referred to in point (d) of Article 10(3) shall be based on harmonised defence capability requirements jointly agreed by at least two Member States or associated countries.
3. With regard to activities referred to in points (e) to (h) of Article 10(3), the consortium shall demonstrate by means of documents issued by national authorities that:
 - (a) at least two Member States or associated countries intend to procure the final product or use the technology in a coordinated manner, including through joint procurement where applicable;
 - (b) the activity is based on common technical specifications jointly agreed by the Member States or associated countries that are to co-finance the action or that intend to jointly procure the final product or to jointly use the technology.

Article 22

Additional award criteria for development actions

In addition to the award criteria referred to in Article 12, the work programme shall also take into consideration:

- (a) the contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement, maintenance and disposal processes;
- (b) the contribution to the further integration of the European defence industry throughout the Union through the demonstration by the recipients that Member States have undertaken to jointly use, own or maintain the final product or technology in a coordinated manner.

Article 23

Ownership of results of development actions

1. The Union shall neither own the defence products or technologies resulting from development actions supported by the Fund, nor have any IPRs claim pertaining to those actions.
2. The results of development actions supported by the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third-country entities, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.

3. This Regulation shall not affect the Member States' discretion as regards their policy on the export of defence-related products.
4. With regard to results generated by recipients through development actions supported by the Fund, and without prejudice to paragraph 3 of this Article, the Commission shall be notified prior to any transfer of ownership to a non-associated third country or to a non-associated third-country entity. Where such a transfer of ownership contravenes the security and defence interests of the Union and its Member States or the objectives set out in Article 3, the support provided from the Fund shall be reimbursed.
5. Where Union support is provided in the form of the public procurement of a study, all Member States or associated countries shall have the right, free of charge, to a non-exclusive licence for the use of the study upon written request.

TITLE IV

GOVERNANCE, MONITORING, EVALUATION AND CONTROL

Article 24

Work programmes

1. The Fund shall be implemented by means of annual work programmes as referred to in Article 110(2) of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations. Work programmes shall set out the overall budget benefiting the cross-border participation of SMEs.
2. The Commission shall, by means of implementing acts, adopt the work programmes referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).
3. The work programmes shall set out in detail the research topics and the categories of actions to be supported by the Fund. Those categories shall be in line with the defence priorities referred to in Article 3.

With the exception of the part of the work programme dedicated to disruptive technologies for defence, the research topics and categories of actions referred to in the first subparagraph shall cover defence products and technologies in the fields of:

- (a) preparation, protection, deployment and sustainability;
 - (b) information management and superiority, and command, control, communication, computers, intelligence, surveillance and reconnaissance (C4ISR), cyber defence and cybersecurity; and
 - (c) engagement and effectors.
4. The work programmes shall contain functional requirements where appropriate and shall specify the form of Union funding under Article 8, while not preventing competition at the level of calls for proposals.

The transition of results of research actions demonstrating added value already supported by the Fund into the development phase may also be taken into consideration in the work programmes.

Article 25

Consultation of the project manager

Where a project manager is appointed, the Commission shall consult the project manager on progress made with regard to the action before the payment is executed.

*Article 26***Independent experts**

1. The Commission shall appoint independent experts to assist in the ethics screening and assessment as referred to in Article 7 of this Regulation and in the evaluation of proposals pursuant to Article 237 of the Financial Regulation.
2. The independent experts referred to in paragraph 1 of this Article shall be nationals of as broad a range of Member States as possible and shall be selected on the basis of calls for expressions of interest addressed to ministries of defence and subordinated agencies, other relevant governmental bodies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of independent experts. By way of derogation from Article 237 of the Financial Regulation, the list of independent experts shall not be made public.
3. The security credentials of appointed independent experts shall be validated by the relevant Member State.
4. The committee referred to in Article 34 shall be informed of the list of independent experts, in order to be transparent as to their security credentials, on an annual basis. The Commission shall ensure that independent experts do not evaluate, advise or assist on matters with regard to which they have any conflicts of interest.
5. The independent experts shall be chosen on the basis of their skills, experience and knowledge relevant to the tasks to be assigned to them.

*Article 27***Application of the rules on classified information**

1. Within the scope of this Regulation:
 - (a) each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to that provided by the security rules of the Council set out in Council Decision 2013/488/EU ⁽²⁸⁾;
 - (b) the Commission shall protect classified information in accordance with the security rules set out in Decision (EU, Euratom) 2015/444;
 - (c) natural persons who are resident in and legal persons that are established in a third country may handle EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the security rules of the Commission and of the Council, as set out in Decision (EU, Euratom) 2015/444 and Decision 2013/488/EU, respectively;
 - (d) the equivalence of the security regulations applied in a third country or by an international organisation shall be laid down in a security of information agreement, including industrial security matters if relevant, concluded or to be concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU; and
 - (e) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security set out in Decision (EU, Euratom) 2015/444, a natural or legal person, third country or international organisation may be given access to EU classified information where considered to be necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need to know and the degree of advantage to the Union.
2. When actions involve, require or contain classified information, the relevant funding body shall specify in the documents concerning the call for proposals or tenders the measures and requirements necessary to ensure the security of such information at the requisite level.

⁽²⁸⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

3. The Commission shall set up a secured exchange system in order to facilitate the exchange of sensitive information, including classified information, between the Commission and the Member States and associated countries and, where appropriate, with the applicants and the recipients. That system shall take into account the Member States' national security regulations.

4. The originatorship of classified foreground information generated in carrying out a research or development action shall be decided upon by the Member States on whose territory the recipients are established. To that end, those Member States may decide on a specific security framework for the protection and handling of classified information relating to the action and shall inform the Commission thereof. Such a security framework shall be without prejudice to the possibility for the Commission to have access to the necessary information for carrying out the research or development action.

If no such specific security framework is set up by those Member States, the Commission shall set up the security framework for the action in accordance with the Decision (EU, Euratom) 2015/444.

The applicable security framework for the action shall in any event be put in place before the signature of the funding agreement or the contract.

Article 28

Monitoring and reporting

1. Indicators to report on the progress of the Fund towards the achievement of the specific objectives laid down in Article 3(2) are set out in the Annex.

2. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 33, to amend the Annex with regard to the indicators where considered to be necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

3. The Commission shall monitor the implementation of the Fund on a regular basis and shall report annually on progress made, including how lessons identified and lessons learned from the EDIDP and the PADR are taken into account in the implementation of the Fund, to the European Parliament and to the Council. To that end, the Commission shall put in place necessary monitoring arrangements.

4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Fund are collected efficiently, effectively and in a timely manner.

To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.

Article 29

Evaluation of the Fund

1. Evaluations of the Fund shall be carried out to feed into the decision-making process in a timely manner.

2. The interim evaluation of the Fund shall be carried out once there is sufficient information available about its implementation, but no later than four years after the start of the implementation period of the Fund.

The interim evaluation report covering the period until 31 July 2024, shall include in particular:

(a) an assessment of the governance of the Fund, including as regards:

(i) the provisions related to independent experts;

(ii) the implementation of the ethics procedures set out in Article 7 of this Regulation;

- (b) the lessons learned from the EDIDP and the PADR;
- (c) the implementation rates;
- (d) the project award results, including the level of involvement of SMEs and mid-caps and the degree of their cross-border participation;
- (e) the rates of reimbursement of indirect costs as set out in Article 15 of this Regulation;
- (f) the amounts allocated to disruptive technologies for defence in calls for proposals; and
- (g) funding granted in accordance with Article 195 of the Financial Regulation.

The interim evaluation shall also contain information on the countries of origin of the recipients, the number of countries involved in individual projects and, where possible, the distribution of the generated IPRs. The Commission may submit proposals for any appropriate amendments to this Regulation.

3. At the end of the implementation period but no later than 31 December 2031, the Commission shall carry out a final evaluation and prepare a report on the implementation of the Fund.

The final evaluation report shall:

- (a) include the results of the implementation and, to the extent possible, the impact of the Fund;
- (b) build on relevant consultations of Member States and associated countries and key stakeholders and shall in particular assess progress made towards the achievement of the objectives set out in Article 3;
- (c) help to identify where the Union is dependent on third countries for the development of defence products and technologies;
- (d) analyse cross-border participation, including of SMEs and mid-caps, in actions carried out under the Fund as well as the integration of SMEs and mid-caps in the global value chain and the contribution of the Fund to addressing the shortfalls identified in the CDP; and
- (e) contain information on the countries of origin of the recipients and, where possible, the distribution of the generated IPRs.

4. The Commission shall communicate the conclusions of the evaluations, accompanied by its observations, to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions.

Article 30

Audits

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union in accordance with Article 287 TFEU.

Article 31

Protection of the financial interests of the Union

Where a third country participates in the Fund by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

*Article 32***Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public. The funding or financing agreement shall contain provisions regulating the possibility to publish academic papers based on the results of research actions.
2. The Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 3.

3. Financial resources allocated to the Fund may also contribute to the organisation of dissemination activities, match-making events and awareness-raising activities, in particular aiming at opening up supply chains to foster the cross-border participation of SMEs.

TITLE V

DELEGATED ACTS, IMPLEMENTING ACTS, TRANSITIONAL AND FINAL PROVISIONS*Article 33***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 28 shall be conferred on the Commission for an indeterminate period of time from 12 May 2021.
3. The delegation of power referred to in Article 28 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 28 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 34***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

The European Defence Agency shall be invited to provide its views and expertise to the committee as an observer. The European External Action Service shall also be invited to assist in the committee.

The committee shall also meet in special configurations, including in order to discuss defence and security aspects relating to actions carried out under the Fund.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 35

Repeal

Regulation (EU) 2018/1092 is repealed with effect from 1 January 2021.

Article 36

Transitional provisions

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to Regulation (EU) 2018/1092 or the PADR, which shall continue to apply to those actions until their closure as well as to their results.

2. The financial envelope for the Fund may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to Regulation (EU) 2018/1092 and the PADR.

3. If necessary, appropriations may be entered in the Union budget beyond 31 December 2027 to cover the expenses provided for in Article 4(4), to enable the management of actions not completed by the end of the duration of the Fund.

Article 37

Entry into force and application

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 April 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

ANNEX

INDICATORS TO REPORT ON THE PROGRESS OF THE FUND TOWARDS THE ACHIEVEMENT OF ITS SPECIFIC OBJECTIVES

Specific objective set out in point (a) of Article 3(2):

Indicator 1: participants

Measured by: number of legal entities involved (subdivided by size, type and country of establishment)

Indicator 2: collaborative research

Measured by:

2.1. number and value of funded projects

2.2. cross-border collaboration: share of contracts awarded to SMEs and mid-caps, with value of contracts to cross-border collaboration

2.3. share of recipients that did not carry out research activities with defence applications before 12 May 2021

Indicator 3: innovation products

Measured by:

3.1. number of new patents deriving from projects supported by the Fund

3.2. aggregated distribution of patents among SMEs, mid-caps and legal entities that are neither SMEs nor mid-caps

3.3. aggregated distribution of patents per Member State

Specific objective set out in point (b) of Article 3(2):

Indicator 4: collaborative capability development

Measured by: number and value of funded actions that address the capability shortfalls identified in the CDP

Indicator 5: continuous support throughout the full R & D cycle

Measured by: the presence in the background of IPRs or results generated in previously supported actions

Indicator 6: job creation/support

Measured by: number of supported defence R & D employees per Member State

II

(Non-legislative acts)

DECISIONS

COUNCIL DECISION (CFSP) 2021/698

of 30 April 2021

on the security of systems and services deployed, operated and used under the Union Space Programme which may affect the security of the Union, and repealing Decision 2014/496/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas

- (1) In view, in particular, of its strategic dimension, regional and global coverage and multiple usage, the European Global Navigation Satellite System (GNSS) constitutes sensitive infrastructure the deployment and usage of which are susceptible to affect the security of the Union and its Member States.
- (2) Where the international situation requires operational action by the Union and where the operation of the GNSS could affect the security of the Union or its Member States, or in the event of a threat to the operation of the GNSS, the Council should decide on the necessary measures to be taken.
- (3) For this reason, the Council adopted Decision 2014/496/CFSP ⁽¹⁾.
- (4) Regulation (EU) 2021/696 of the European Parliament and of the Council ⁽²⁾ establishes the Union Space Programme (the 'Programme') and the European Union Agency for the Space Programme (the 'Agency'). Article 3 thereof provides that the Programme consists of five components: a global navigation satellite system (Galileo); a regional satellite navigation system (EGNOS); an Earth observation system (Copernicus); a space surveillance and tracking system complemented by observational parameters related to space weather and near-Earth objects ('space situational awareness'); and a satellite communications service (GOVSATCOM).
- (5) Space technology, data and services have become indispensable to the daily lives of Europeans and play an essential role in preserving many strategic interests of the Union and its Member States. In addition, space-related systems and services themselves are potential targets for security threats.
- (6) A range of potential threats to the security and the essential interests of the Union and of its Member States could arise from the deployment, operation and use of each of the components of the Programme. It is therefore appropriate to extend the scope of Decision 2014/496/CFSP to the systems and services set up under those

⁽¹⁾ Council Decision 2014/496/CFSP of 22 July 2014 on aspects of the deployment, operation and use of the European Global Navigation Satellite System affecting the security of the European Union and repealing Joint Action 2004/552/CFSP (OJ L 219, 25.7.2014, p. 53).

⁽²⁾ Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (see page 69 of this Official Journal).

components that have been determined as security-sensitive by the security configuration of the committee established under Article 107(1)(e) of Regulation (EU) 2021/696 and taking into account the differences between the components of the Programme, in particular as regards Member States' authority and control over sensors, systems or other capacities relevant to the Programme.

- (7) Lessons have been drawn from the experience acquired in implementing Decision 2014/496/CFSP in recent years. The operational procedure foreseen in Decision 2014/496/CFSP should therefore be adapted accordingly.
- (8) Information and expertise concerning whether an event related to a space-related system or service constitutes a threat to the Union, to the Member States or to the space-related systems and services should be provided to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') by the Agency or by the relevant structure designated, where appropriate, to monitor the security of a system set up, or a service provided, under a component of the Programme pursuant to Article 34(4) of Regulation (EU) 2021/696 ('appointed security monitoring structure'), or by Member States or by the European Commission. In addition, third States may also provide such information.
- (9) The respective roles of the Council, the High Representative, the Agency, any appointed security monitoring structure and the Member States should be clarified within the chain of operational responsibilities to be set up in order to react to a threat to the Union, to the Member States or to any of the systems and services set up under the Programme.
- (10) Article 28 of Regulation (EU) 2021/696 establishes that the Commission has overall responsibility for the implementation of the Programme, including in the field of security. This Decision should define the responsibilities of the Council and of the High Representative to avert threats arising from the deployment, operation and use of space-related systems and services, or in the event of a threat to those systems or services.
- (11) In this regard, the basic references to threats are contained in the System-specific Security Requirement Statements which contain the main generic threats to be addressed by each component of the Programme, and the respective System Security Plans which include the security risk registers set up in the security accreditation processes for each component. Those basic references will serve as references to identify the threats specifically to be dealt with by this Decision and to complete the operational procedures for the implementation of this Decision.
- (12) In urgent cases, decisions may have to be taken within a few hours of receipt of information concerning a threat. If the circumstances do not allow for the Council to take a decision in order to avert a threat or to mitigate serious harm to the essential interests of the Union or of one or more of its Member States, or in the event of a threat to the space-related systems or services, the High Representative should be empowered to issue the necessary provisional instructions. In such circumstances, the Council should be informed immediately and review the provisional instructions as soon as possible.
- (13) In accordance with Article 34(5)(b) of Regulation (EU) 2021/696, the Agency, within its area of responsibility, should ensure the operation of the Galileo Security Monitoring Centre (GSMC) in accordance with the requirements referred to in paragraph 2 of that Article and the instructions developed under the scope of this Decision. In accordance with Article 79(1)(j) of Regulation (EU) 2021/696, the Agency's Executive Director should ensure that the Agency, as the operator of the GSMC, is able to respond to instructions provided under this Decision.
- (14) The relevant appointed security monitoring structures should operate in accordance with the security requirements referred to in the first subparagraph of Article 34(2) of Regulation (EU) 2021/696 and with the instructions developed under this Decision.

- (15) In addition, Decision No 1104/2011/EU of the European Parliament and of the Council ^(?) lays down the rules under which the Member States, the Council, the Commission, the European External Action Service, Union agencies, third States and international organisations may access the public regulated service provided by the global navigation satellite system established under the Galileo programme. In particular, Article 6 of Decision No 1104/2011/EU states that the GSMC provides the operational interface between the competent public regulated service authorities, the Council and the High Representative and the control centres,

HAS ADOPTED THIS DECISION:

Article 1

1. This Decision sets out the responsibilities to be exercised by the Council and the High Representative:
 - (a) to avert a threat to the security of the Union or of one or more of its Member States or to mitigate serious harm to the essential interests of the Union or of one or more of its Member States arising from the deployment, operation or use of the systems set up and services provided under the components of the Union Space Programme (the 'Programme'); or
 - (b) in the event of a threat to the operation of any of those systems or the provision of those services.
2. In the implementation of this Decision, due account shall be given to the differences between the components of the Programme, in particular as regards Member States' authority and control over sensors, systems or other capacities relevant to the Programme.

Article 2

1. In the event of such a threat, the Member States, the Commission, the European Union Agency for the Space Programme (the 'Agency') or any security monitoring structure appointed in accordance with Article 34(4) of Regulation (EU) 2021/696 ('appointed security monitoring structure'), as appropriate, shall immediately inform the High Representative of all the elements at their disposal which they consider relevant.
2. The High Representative shall immediately inform the Council of the threat and of its potential impact on the security of the Union or of one or more of its Member States and on the operation of the systems or the provision of the services concerned.

Article 3

1. The Council, acting unanimously upon a proposal from the High Representative, shall decide on the necessary instructions to the Agency or to any appointed security monitoring structure, as appropriate.
2. The Agency or the relevant appointed security monitoring structure and the Commission shall provide advice to the High Representative on the likely wider impact on the systems set up and services provided under the components of the Programme of any instructions which the High Representative intends to propose to the Council pursuant to paragraph 1.
3. The proposal from the High Representative referred to in paragraph 1 shall include an impact assessment of the proposed instructions.
4. The Political and Security Committee (PSC) shall provide an opinion to the Council on any instructions proposed, as appropriate.

^(?) Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ L 287, 4.11.2011, p. 1).

Article 4

1. If the urgency of the situation requires immediate action to be taken before the Council has taken a decision under Article 3(1), the High Representative is authorised to issue the necessary provisional instructions to the Agency or to the relevant appointed security monitoring structure. The High Representative may direct the Secretary-General of the European External Action Service to issue such instructions to the Agency or to the relevant appointed security monitoring structure on the High Representative's behalf.
2. The High Representative shall immediately inform the Council and the Commission of any instructions issued pursuant to paragraph 1.
3. The Council shall confirm, modify or revoke the provisional instructions of the High Representative as soon as possible.
4. The High Representative shall keep those provisional instructions under constant review, amend them as appropriate or revoke them if immediate action is no longer required. In any event, the provisional instructions shall expire four weeks after being issued, or upon a decision by the Council pursuant to paragraph 3.

Article 5

1. Within a year after the security configuration of the committee established under Article 107(1)(e) of Regulation (EU) 2021/696 has determined, on the basis of the risk and threat analysis performed by the Commission pursuant to Article 34(2) of Regulation (EU) 2021/696, under the procedure referred to in Article 107(3) thereof, whether a system set up or a service provided, or both, under a particular component of the Programme is security-sensitive, the High Representative shall prepare, and submit for approval to the PSC, the necessary operational procedures for the practical implementation of the provisions set out in this Decision as regards the system or service concerned, or both. For that purpose, the High Representative shall be supported by experts from Member States, the Commission, the Agency and the relevant appointed security monitoring structure, as appropriate.
2. The operational procedures referred to in paragraph 1 may include predefined instructions to be implemented by the Agency or any relevant appointed security monitoring structure, as appropriate.
3. The operational procedures shall be reviewed by the High Representative at least every two years, in particular as a result of a lessons-learned review process following a yearly exercise on the implementation of this Decision, or at the request of a Member State, and shall be submitted to the PSC for approval.
4. The High Representative shall inform the PSC at least once a year on the ongoing activities carried out for the practical implementation of this Decision.

Article 6

1. In accordance with international agreements concluded by the Union or by the Union and its Member States, including those granting access to the public regulated service pursuant to Article 3(5) of Decision No 1104/2011/EU, the High Representative shall have the authority to conclude administrative arrangements with third States concerning cooperation for the purpose of implementing this Decision. Such arrangements shall be subject to approval by the Council acting unanimously.
2. If such arrangements require access to Union classified information, the release or exchange of classified information shall be approved in accordance with the applicable security rules.

Article 7

The Council shall review and, as necessary, amend the rules and procedures set out in this Decision no later than three years from the date of its entry into force, or at the request of a Member State.

Article 8

The Member States shall take the necessary measures to ensure the implementation of this Decision in their respective area of responsibility, in accordance with, inter alia, Article 34(6)(a) of Regulation (EU) 2021/696. For that purpose, the Member States shall designate one or more points of contact to assist in the operational management of a threat. Those points of contact may be natural or legal persons.

Article 9

Decision 2014/496/CFSP is hereby repealed.

The operational procedures developed under Decision 2014/496/CFSP as regards the Galileo system shall remain applicable until they are updated under this Decision.

Article 10

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

Done at Brussels, 30 April 2021.

For the Council
The President
A. P. ZACARIAS

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