



## EREA Comments and proposed amendments for Horizon Europe's Regulation 2018/0224 & its Rules for Participation

EREA welcomes the effort and commitment that is expressed in the European Commission's proposal for the future framework programme Horizon Europe (HE). While we appreciate the evolutionary development succeeding the current framework programme, we see some aspects that need to be considered in order to extend and maximise Horizon Europe's success.

Due to the "partial general approach" many aspects of the legislative package lack a comprehensive definition and prevent a full assessment as key stakeholder for the framework programme. This is particularly tangible with regard to missions, partnerships and clusters. Their design will have a significant impact on the research landscape and in particular on collaborative research in the programme. Therefore, we urge the co-regulators to apply an adequate degree of details in the legislation that

- implements political emphasis on particular topics with specific budgets within clusters,
- clarifies budgets of missions, and their implementation within the second pillar, and
- identifies key partnerships, their topics and budget.

AIT Austrian Institute of Technology (AT)  
CEIIA Centro para a Excelência e Inovação na Indústria Automóvel (PT)  
CIRA Centro Italiano Ricerche Aerospaziali (IT)  
CSEM Centre Suisse d'Electronique et Microtechnique (CH)  
DLR Deutsches Zentrum für Luft- und Raumfahrt (DE)  
FOI Totalförsvarets Forskningsinstitut (SE)

ILOT Institute of Aviation (PL)  
INCAS National Institute for Aerospace Research "Elie Carafoli" (RO)  
INTA Instituto Nacional de Técnica Aeroespacial (ES)  
NLR Nationaal Lucht- en Ruimtevaartlaboratorium (NL)  
ONERA Office National d'Études et de Recherches Aéropatiales (FR)  
VZLU Výzkumný a Zkušební Letecký Ústav, a.s. (CZ)

Topic	Rationale	Proposed amendments
<b>Budget</b>	<p>Horizon Europe is broadening its scope, hosts missions, and is urged to consent with expectations of citizens. This burdens the budget particularly in the second pillar (collaborative research). It is crucial to maintain a proper balance within the full research chain (from low to high TRL). Focussing on particular topics or specific levels of maturity disturbs the balance in this pillar. Missions focus on very particular topics, market-uptake is pursued in missions and their focus is on implementation of research outcomes. Hence they should be considered as an <b>additional effort</b>. This needs to be reflected in the budget.</p> <p>Where many parts of Horizon Europe clearly benefit from the rise in budget, both transport and space do not. In addition, considering that the respective clusters will contribute 10-15% to missions, they are likely to decrease in budget significantly.</p>	<p><b>Article 9 – Budget</b></p> <ol style="list-style-type: none"> <li>1. The financial envelope for the implementation of the Framework Programme for the period 2021 – 2027 shall be <b>EUR 120 000 000 000</b> in current prices [...]</li> <li>2. (b) <b>EUR 72 000 000 000</b> for Pillar II 'Global Challenges and Industrial Competitiveness' for the period 2021 - 2027  (b) (3) <b>EUR 20 000 000 000</b> for cluster 'Digital and Industry'  (b) (4) <b>EUR 20 000 000 000</b> for cluster 'Climate, Energy and Transport'</li> </ol>
<b>Revised funding rules for PPP</b>	<p>PPPs are an adequate measure to push specific topics and develop selected technologies to market maturity.</p> <p>The attractiveness of these partnerships comes from their long-term commitment and the associated funding.</p> <p>A low EU-funding will weaken their efforts in lower TRL as this work usually shows less synergy with potential future product development in the private sector.</p> <p>A low funding will undermine the PPP's capability to pursue research and hamper innovation by focussing on short term gains in very evolutionary advances.</p>	<p><b>Annex III – Partnerships</b></p> <p><b>1. Selection</b></p> <p>(e) Ex-ante demonstration of the partners' long term commitment, including a minimum share of public and/or private investments;</p> <p>In the case of institutionalised European Partnerships, <b>the in-kind</b> contributions from partners other than the Union, <b>may reach up to 50% for partnerships between the EU and private partners</b>, and may reach up to 75% <b>- in case of partnerships involving also Member States –</b> of the aggregated European Partnership budgetary commitments.</p>
<b>Missions</b>	<p>Missions, as described in Mazzucato's report are designed to pursue implementation of technologies. E.g. 100 carbon free cities are designed to actually implement new technologies in cities. This aspect is not part of a research and innovation framework program and hence should be addressed by EU-instruments (e.g. structural funds) that are dedicated to this purpose.</p>	<p><b>Article 7 – Missions</b></p> <p><b>Please add:</b></p> <ol style="list-style-type: none"> <li>3. <b>(g) focus on the scientific and technological advancements to prepare market-uptake and enabling implementation by other EU, national or regional instruments.</b></li> </ol>
<b>Synergies</b>	<p>EREA strongly supports the Commission proposal to encourage further synergies between HE and other Union programmes. The provision that allows for a 5% transfer of funds from the European Structural and Investment Funds to HE is a key measure in doing so. This is in particular key for the involvement of Member States and Regions in European Partnerships, such as Clean Sky.</p>	<p><b>Article 11 - Complementary and combined funding (Article 67 in the Common Provisions Regulation)</b></p> <p>No change requested</p>

<p><b>Existing policies</b></p>	<p>The Commission and stakeholder groups have developed strategies and roadmaps, such as the ‘Roadmap to a single European transport area’, the ‘Strategic Transport Research &amp; Innovation Agenda (STRIA)’ or ‘Flightpath 2050 and the related ACARE Strategic Research and Innovation Agenda (SRIA)’. Their uptake into the strategic programming should be explicit.</p>	<p><b>(Recital 7)</b></p> <p><u>Please add:</u> Activities supported under the Programme should contribute towards the achievement of the Union's objectives and priorities, the monitoring and assessment of progress against those objectives and priorities and for the development of revised or new priorities. <u>The Programme shall seek alignment with European Research and Innovation roadmaps and strategies prepared and agreed upon by all involved stakeholders under the guidance of the European Commission.</u></p>
<p><b>Research Infrastructures</b></p>	<p>Research and innovation in the aviation sector is characterised by its need for large, state-of-the-art research infrastructures, to ensure innovations are demonstrated, validated and safe. However, these infrastructures are not supported under the current schemes. EREA welcomes the efforts of the Commission to recognize the importance of these infrastructures. Deleting the word ‘scientific’ from the definition is an important first step in doing so.</p>	<p><b>Article 2: Definitions (2)</b> <b>‘research infrastructures’</b></p> <p>No change requested</p>
<p><b>Open Access</b></p>	<p>The Commission proposal for Horizon Europe takes new steps in furthering the Open Access agenda, of which the principle is endorsed by EREA. However, one must also recognise the commercial interests of involved industrial parties. One may only leverage private funds when there is a commercial gain; this can only be achieved by protection of IPR.</p> <p>EREA fully endorses the Council position, advocating the ‘as open as possible, as closed as necessary’ principle, adopted by the Council in May 2016. In its position, EARTO provided an addition to the definition of Open Access that serves this purpose.</p> <p>In addition to the above mentioned argument of ‘as open as possible, as closed as necessary’, EREA supports EARTO in their request for absolute coherence and alignment in terminology across the regulations.</p>	<p><b>Article 2 – Definitions (4)</b> <b>‘open access’</b></p> <p><u>Please change text:</u> ‘open access’ means the practice of providing online access to <del>research outputs scientific publications and research data</del> resulting from actions funded under the Programme. <del>in particular scientific publications and research data, free of charge to the enduser.</del> <u>With regard to research data, relevant privacy and security interests, as well as IPR, confidentiality, European Union global economic competitiveness and other legitimate interests need to be addressed, following the principle “as open as possible, as closed as necessary”; and according to the “robust opt-outs” (as quoted in page 12, line 3).</u></p> <p><b>Article 10 - Open access and open data:</b></p> <p><u>Please change text:</u></p> <ol style="list-style-type: none"> <li>Open access to scientific publications resulting from research funded under the Programme shall be ensured in accordance with Article 35(3). Open access to research data shall be ensured in line with the principle ‘as open as possible, as closed as necessary’, <b>in accordance with Article 35(3) and according to the “robust opt-outs” (as quoted in page 12, line 3).</b> <del>Open access to other research outputs shall be encouraged.</del></li> <li>Responsible management of research data shall be ensured in line with the principles ‘Findability’, ‘Accessibility’, ‘Interoperability’ and ‘Reusability’ (FAIR).</li> </ol>

		3. <b>When appropriate</b> , open science practices beyond open access <del>to research outputs</del> <b>scientific publications and research data</b> and responsible management of research data shall be promoted.
<b>Rules for participation</b>		
<b>Annual productive hours</b>	<p>Whereas Horizon 2020 contained an article on this topic (Article 31, Regulation 1290/2013), the HE-regulation does not. EREA sees this as a potential threat to the funding rate of beneficiaries.</p> <p>The Horizon 2020 article falls short on a crucial aspect, namely that for Research Establishments having a fixed number of productive hours does not work. It fails to take into account differences in country, type of organisation and the REs usual accounting practices. For instance, the number of annual productive hours differs per country.</p>	<p><b>Please add text similar to Article 31 of H2020 Rules for Participation:</b></p> <p><b><u>“Annual productive hours</u></b></p> <p><b>1. Eligible personnel costs shall cover only the actual hours worked by the persons directly carrying out work under the action. Evidence regarding the actual hours worked shall be provided by the participant, usually through a time recording system.</b></p> <p><b>2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action.</b></p> <p><b>3. The grant agreement shall contain:</b></p> <p><b>(a) the minimum requirements for the time recording system;</b></p> <p><b>(b) the option to choose between a fixed number of annual productive hours and the method for establishing the number of annual productive hours to be used for the calculation of the hourly personnel rates, taking account of (i) the participant's usual accounting practices, (ii) the type of organisation and (iii) the country of the beneficiary.”</b></p>
<b>Indirect costs</b>	<p>EREA welcomes the continuation of the simplification brought about in Horizon 2020. However, the flat rate for indirect costs greatly limited the innovative capacity of Europe’s leading research and innovation organisations, such as the EREA partners. The actual costs are usually much higher than what is covered under the current funding rates.</p> <p>EREA urges to adopt a similar approach as is proposed by the Commission for the European Defence Fund. Here, the Commission proposes to allow for usual cost accounting practices based on actual indirect costs, given that they are accepted by national authorities.</p>	<p><b>Article 31 - Indirect costs</b></p> <p><b><u>Please add:</u></b></p> <p><b><u>3. Where appropriate, indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.</u></b></p>
<b>Implementation of the grant, conditions for termination of a project</b>	<p>A project which has been selected and a grant awarded shall go to its end, except if all parties consider that the action is not relevant any more.</p> <p>Should this clause remain, an indemnification of the beneficiary should at minimum include the reimbursement of all costs incurred up to such a termination, including the reimbursement of the partners’ industrial contribution.</p>	<p><b>Article 29 - Implementation of the grant, para 3</b></p> <p><b><u>Please add:</u></b></p> <p><b>“The action may also be terminated where expected results have lost their relevance for <u>both</u> the Union <u>and/or the stakeholders</u> due to scientific, technological or economic reasons, (...)”</b></p>

<b>Ownership and Protection</b>	<p>This particular change would bring the HE-regulation in line with the point mentioned under Open Access.</p>	<p><b>Article 34 - Ownership and protection</b></p> <p><b>Please add text:</b></p> <p>2. Beneficiaries having 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 <u>and any other legitimate interests, such as data protection rules, privacy and security rules or as well as intellectual property rights, confidentiality, or European Union global economic competitiveness</u>. When deciding on protection, beneficiaries shall also consider the legitimate interests of the other beneficiaries in the action.</p>
<b>Exploitation and Dissemination</b>	<p>This obligation exceeds the duration of the project with extra expenses and no end date. It is not feasible in practice since the consortium does not exist anymore after the end of the project</p>	<p><b>Article 35 – Exploitation and dissemination</b></p> <p><b>Please change text:</b></p> <p>1. Beneficiaries having received Union funding shall use their best efforts to exploit their results, in particular in the Union. Exploitation may be done directly by the beneficiaries or indirectly in particular through the transfer and licensing of results in accordance with Article 36. The work programme may provide for additional exploitation obligations. If despite the beneficiary’s best efforts to exploit its results directly or indirectly <u>as outlined in its (updated) Dissemination and Exploitation plan, such beneficiary shall inform the Funding Authority. After such notification the Funding Authority shall consult the beneficiary and investigate the reasons for the lack of exploitation. After such consultation, this obligation shall be waived if justified e.g. exploitation of results is not yet possible or reasonable given the circumstances, by beneficiary. If not so waived, the Funding Authority may investigate whether third party(ies) are interested in the exploitation of the results subject to the obligations detailed in this agreement (e.g. access rights)</u> (similar to what applies in article 36 below).</p> <p>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, <u>following the principle “as open as possible, as closed as necessary” and according to the “robust opt-outs” (as quoted in page 12, line 3)</u>. Exceptions shall apply if justified, taking into consideration the legitimate interests of the beneficiaries and any other constraints, such as data protection rules, <u>privacy and security rules</u> <del>or</del> <u>as well as</u> intellectual property</p>

		<p>rights, <a href="#">confidentiality, or European Union global economic competitiveness</a>. The work programme may provide for additional obligations to adhere to open science practices.</p> <p>4. Beneficiaries shall manage all research data in accordance with the terms and conditions laid down in the grant agreement and shall establish a Data Management Plan. The work programme may provide for additional <del>obligations</del> <a href="#">incentives</a> to use the European Open Science Cloud for storing and giving access to research data.</p> <p>6. Unless the work programme provides otherwise, proposals shall include a plan for the exploitation and dissemination of the results. If the expected exploitation 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 exploitation primarily in non-associated third countries, the legal entities shall explain how that exploitation is still in the Union interest.</p> <p>The beneficiaries shall further develop the plan during <del>and after the end of</del> the action.</p> <p>7. For the purposes of monitoring and dissemination by the Commission or funding body, the beneficiaries shall provide any requested information regarding the exploitation and dissemination of their results, <a href="#">in accordance with the conditions laid down in the grant agreement</a>. Subject to the legitimate interests of the beneficiaries, such information shall be made publicly available.</p>
<p><b>Transfer and Licensing</b></p>	<p>The term in which you may request access can vary, even beyond the duration of the project. As one can differentiate between partners that have access rights and those who have the right to request this, EREA recommends to also include this second group.</p>	<p><b>Article 36 - Transfer and licensing</b></p> <p><b>Please add text:</b></p> <p>2. Unless agreed otherwise in writing for specifically-identified third parties 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 <a href="#">results or still may request the granting of access rights</a>. The notification must include sufficient information on the new owner to enable a beneficiary to assess the effects on its access rights. Unless agreed otherwise in writing for specifically identified third parties, a beneficiary may object to the transfer if it can show that the transfer would adversely affect its access rights. In this case, the transfer may not take place until agreement has been reached between the beneficiaries concerned.</p>

<b>Access Rights</b>	H2020 RfP wording “Such access rights shall not extend to the participants <b>background</b> ” has been deleted in Horizon Europe. For the avoidance of any doubt, this sentence should be reinstated.	<b>Article 37 – Access rights, para 5</b>  <u>Please add:</u> <u>“Such access rights shall not extend to the participants background.”</u>
<b>Access Rights (cont’d)</b>	This sentence entitles the EC to modify any rule dealing with access rights. This kind of statement should be avoided, especially for access right which bring to many uncertainties to the bidder.	<b>Article 37, para 6</b>  Please delete: <del>“The work programme may provide for additional access rights.”</del>
<b>Specific provisions on exploitation and dissemination</b>	The ownership of results should not be granted to the EC.	<b>Article 38</b>  Please delete: “Specific rules on <del>ownership</del> , exploitation and dissemination, transfer and licensing as well as access rights may apply for (...)”
<b>Consortium Agreement (CA)</b>	Nothing is said about the conclusion of a Consortium Agreement (CA). However, a CA is crucial for further clarifying rights and obligations of the consortium partners.	<b>Please refer to RfP H2020, Article 24.</b> It would be highly appreciated if the conclusion of a CA was made (i) <b>mandatory</b> and (ii) mandatory <b>before</b> signature of the GA.