

# EUROPEAN ECONOMIC AREA

## STANDING COMMITTEE OF THE EFTA STATES

Ref. 18-3718

31 October 2018

### SUBCOMMITTEE IV ON FLANKING AND HORIZONTAL POLICIES

#### EEA EFTA Comment

**on the Commission proposal for a Regulation of the European Parliament and of the Council establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination and repealing Regulation (EU) No 1290/2013**

#### I. EXECUTIVE SUMMARY

- The EEA EFTA States – Iceland, Liechtenstein and Norway – welcome the Commission’s proposal for the Framework Programme for Research and Innovation (Horizon Europe) and appreciate that the Proposal makes specific reference to the EEA Agreement, underlining the principle that the EEA EFTA States are provided with the same rights and obligations as those applicable to EU Member States.
- However, based on prior experience, the EEA EFTA States see a need to underline the legal basis of their participation and association, as providing for equal access to all parts of the programme, the same rights and obligations to partner institutions, undertakings, organizations and nationals, as well as the same rights and obligations regarding dissemination, evaluation and exploitation of results for EEA EFTA States, as those applicable to the EU Member States.
- The EEA EFTA States would also like to propose amendments to the text in article 18.5 of the Proposal, to provide certainty that the provision does not apply to the EEA EFTA States participating on the basis of the EEA Agreement.

#### II. INTRODUCTION

1. The EEA EFTA States welcome the Commission’s proposal for the next EU Framework Programme on Research and innovation. The States have participated in the EU framework programmes on R&I since the EEA Agreement came into force, with active and full involvement and foresee a continuation of their participation under Horizon Europe.
2. However, the EEA EFTA States take note of provisions in the Proposal which could be interpreted in such a way to impose restrictions or limitations on EEA EFTA participation or eligibility under parts of the Programme. In order to ensure successful implementation of Horizon Europe across all part of the Programme, the EEA EFTA States would like to underline and clarify the relevant provisions of the

EEA Agreement, which are referenced as the legal basis for association in the Horizon Europe Programme Proposal.

3. The EEA EFTA States take specific note of article 18.5 in the Proposal, which they do not interpret as being in line with the provisions for EU Programme association as set out in the EEA Agreement.

### III. THE EEA AGREEMENT AND ASSOCIATION TO EU PROGRAMMES

1. Participation in the Framework Programme on R&I is vital for the integration of the EEA EFTA States into the European Research Area and a key instrument for cooperation with EU Research Institutions. It is therefore of central importance that Horizon Europe – as proposed by the Commission – is understood to allow for full participation of the EEA EFTA States, and that these provisions are well known by everyone involved in the implementation of the programme.
2. EEA EFTA State participation is regulated in the EEA Agreement as follows:
  - Where cooperation takes the form of participation by EEA EFTA States in an EU framework programme, specific programme, project or other action, the EEA EFTA States shall have **access to all parts of the programme**.<sup>1</sup>
  - At the project level, institutions, undertakings, organisations and nationals of EEA EFTA States shall have the **same rights and obligations** in the EU programme or other action in question as those applicable to partner institutions, undertakings, organisations and nationals of EU Member States.<sup>2</sup> The EEA EFTA States, their institutions, undertakings, organisations and nationals shall also have the same rights regarding dissemination, evaluation and exploitation of results as those applicable to EU Member States, their institutions, undertakings, organisations and nationals.<sup>3</sup>
  - The EEA EFTA States, when a decision to participate in an EU programme has been taken, **contribute financially** to the programme through annual payments towards the relevant budget lines of the Commission budget as determined by the EEA EFTA proportionality factor<sup>4</sup>. The EEA EFTA financial contribution is added onto the EU budget of the programme.

### IV. PROPOSAL FOR AMENDMENT TO ARTICLE 18.5

3. Article 18.5 of the Regulation states that: "For actions related to Union strategic assets, interests, autonomy or security, the work programme may provide that the participation can be limited to those legal entities established in Member States

---

<sup>1</sup> Article 81(a) of the EEA Agreement.

<sup>2</sup> Article 81 (d) of the EEA Agreement.

<sup>3</sup> Article 81(e) of the EEA Agreement.

<sup>4</sup> Article 82.1(a) of the EEA Agreement; *EEA EFTA proportionality factor* =  $\frac{\text{EEA EFTA GDP}}{\text{EEA EFTA GDP} + \text{EU GDP}}$

only, or to those legal entities established in specified associated or other third countries in addition to Member States".

4. The scope of calls and activities which may fall under this provision is broad and leads to a high degree of legal uncertainty regarding the access of the EEA EFTA States to all parts of the programme and as to whether participants from Member States and EEA EFTA States enjoy the same rights and obligations in the programme. The EEA EFTA States thus believe that Article 18.5 is not in line with the provisions of the EEA Agreement Article 81.
5. The EEA EFTA States propose an amendment of Article 18.5 in the Regulation to provide certainty that the provision to limit participation does not apply to the EEA EFTA States which are associated to the Programme through the EEA Agreement, and to avoid having to rely on knowledge of two legal texts in its interpretation: the Regulation itself and the EEA Agreement.

<b>Horizon Europe article</b>	<b>Amendments of the text</b>	<b>Comment</b>
<p><b>Article 18 – Entities eligible for participation</b></p> <p>5. For actions related to Union strategic assets, interests, autonomy or security, the work programme may provide that the participation can be limited to those legal entities established in Member States only, or to those legal entities established in specified associated or other third countries in addition to Member States.</p>	<p>5. For actions related to Union strategic assets, interests, autonomy or security, the work programme may provide that the participation can be limited to those legal entities established in Member States <b>and EEA EFTA Member States</b> only, or to those legal entities established in specified associated or other third countries in addition to Member States <b>and EEA EFTA Member States</b>.</p>	<p>To avoid the need of relying on the interpretation of two legal texts (this article and article 81 of the EEA Agreement), the proposal ensures certainty that the provision to limit participation does not apply to the EEA EFTA States which are associated to the Programme through the EEA Agreement. Moreover, this wording provides more clarity and transparency as to the implementation of this Regulation.</p>