

# REGULATIONS

## COUNCIL REGULATION (EU) 2023/1782

of 25 July 2023

**amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 187 and Article 188, first paragraph, thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

- (1) Council Regulation (EU) 2021/2085 <sup>(3)</sup> establishes the Joint Undertakings under Horizon Europe – the Framework Programme for Research and Innovation laid down in Regulation (EU) 2021/695 of the European Parliament and of the Council <sup>(4)</sup> ('Horizon Europe'), including the Key Digital Technologies Joint Undertaking.
- (2) The Key Digital Technologies Joint Undertaking addresses clearly defined topics that enable European industries at large to design, manufacture and use the most innovative technologies in electronic components and systems.
- (3) Regulation (EU) 2023/1781 of the European Parliament and of the Council <sup>(5)</sup> establishes a framework for increasing the Union's resilience in the field of semiconductor technologies, reinforcing the Union's semiconductor ecosystem by reducing dependencies, enhancing digital sovereignty, stimulating investment, strengthening the capabilities, security, adaptability and resilience of the Union's semiconductor supply chain, and increasing cooperation among the Member States, the Commission and international strategic partners. To create the conditions necessary to strengthen the Union's industrial innovation capacity, the Chips for Europe Initiative (the 'Initiative') was established by that Regulation. In order to ensure the consistent implementation of the Initiative, the European Semiconductor Board established by Article 28 of that Regulation should provide advice to the Public Authorities Board established by Article 131 of Regulation (EU) 2021/2085.
- (4) The activities supported under the Initiative should be funded from Horizon Europe and from the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council <sup>(6)</sup> (DEP), and should be implemented in accordance with the rules of those Programmes.

<sup>(1)</sup> Opinion of 15 February 2023 (not yet published in the Official Journal).

<sup>(2)</sup> OJ C 365, 23.9.2022, p. 40.

<sup>(3)</sup> Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 (OJ L 427, 30.11.2021, p. 17).

<sup>(4)</sup> 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 (OJ L 170, 12.5.2021, p. 1).

<sup>(5)</sup> Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act) (OJ L 229, 18.9.2023, p. 1).

<sup>(6)</sup> 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).

- (5) The Initiative aims to reinforce the competitiveness and resilience of the semiconductor technological and industrial base, whilst strengthening the innovation capacity of its semiconductor ecosystem across the Union, reducing dependence on a limited number of third-country companies and geographies, and strengthening its capacity to design and produce, package, reuse and recycle advanced semiconductors. The Initiative should support those aims by bridging the gap between the Union's advanced research and innovation capabilities and their sustainable industrial exploitation. The Initiative should promote capacity building to enable design, production and system integration in next-generation semiconductor technologies, and should enhance collaboration among key players across the Union, strengthening the Union's semiconductor supply and value chains, serving key industrial sectors and creating new markets.
- (6) The Initiative's operational objectives referred to in Article 4(2), points (a) to (d), of Regulation (EU) 2023/1781 ('operational objectives 1 to 4') should be implemented through actions that should build upon the strong knowledge base acquired by the ECSEL Joint Undertaking established by Council Regulation (EU) No 561/2014 <sup>(7)</sup>, which was replaced by the Key Digital Technologies Joint Undertaking. The Key Digital Technologies Joint Undertaking should be renamed the Chips Joint Undertaking and should be tasked with providing financial support, through any instrument or procedure provided for in Horizon Europe or DEP, to actions funded under the Initiative. Throughout the lifetime of the Chips Joint Undertaking, up to EUR 2,875 billion should be dedicated to the Initiative. Of that amount, EUR 1,450 billion should be for capacity-building activities for operational objectives 1 to 4 and EUR 1,425 billion should be for research and innovation activities related to operational objectives 1 to 4. Furthermore, EUR 1,3 billion should be dedicated to research and innovation activities not covered under the Initiative.
- (7) The activities funded by the Chips Joint Undertaking should be covered in one single work programme, which should be adopted by the Governing Board of the Chips Joint Undertaking set up in accordance with Article 14(1) of Regulation (EU) 2021/2085 (the 'Governing Board'). The work programme should include two specific parts. The first specific part should include a subsection on capacity-building activities for operational objectives 1 to 4 and a subsection on research and innovation activities related to operational objectives 1 to 4. The second specific part should be dedicated to research and innovation activities not covered under the Initiative.
- (8) All research and innovation activities, including those related to the Initiative, should be financed through Horizon Europe to implement the Strategic Research and Innovation Agenda as defined in Article 2, point (12), of Regulation (EU) 2021/2085. The subsection dedicated to capacity-building activities should be financed through DEP.
- (9) The work programme should include the conditions for access to publicly funded infrastructure, such as pilot and testing facilities and the competence centres, ensure openness to a wide range of users and grant access on a transparent and non-discriminatory basis and on market terms, or on a cost-plus-reasonable-margin basis, for large undertakings, while including preferential access or reduced prices for small and medium-sized enterprises ('SMEs') and academic institutes.
- (10) Before the work programme is prepared, the Public Authorities Board, taking into account the advice of the private members to ensure the industrial relevance of the activities set out in the work programme and, where appropriate, the advice of the European Semiconductor Board and input from other relevant stakeholders, should outline the specific parts and relevant subsections, including their corresponding expenditure estimates. For that purpose, the Public Authorities Board should include only the Commission and Member States. Subsequently, on the basis of this outline and the Strategic Research and Innovation Agenda, the Executive Director of the Chips Joint Undertaking should prepare the work programme for both specific parts and relevant subsections and their corresponding expenditure estimates.

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<sup>(7)</sup> Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking (OJ L 169, 7.6.2014, p. 152).

- (11) All representatives of the Governing Board should participate in the preparation of the work programme and in the relevant discussions, and should receive the necessary information. When the Governing Board adopts the work programme, the voting rights for the subsection on capacity-building activities of the specific part of the work programme dedicated to the implementation of the Initiative should be limited to the Commission and Member States only. For the subsection on research and innovation activities of the specific part of the work programme dedicated to the implementation of the Initiative, the Commission and the Member States should hold 45 % of the votes each and the private members 10 %. The voting rights for the specific part of the work programme dedicated to research and innovation activities not covered under the Initiative should be equally shared among the Commission, the participating states and the private members. In the event that a decision on one of the two parts of the work programme cannot be reached, the work programme should be adopted including only the part on which a positive decision has been reached.
- (12) The Public Authorities Board should be responsible for the selection of proposals. For the selection of proposals related to the implementation of the Initiative, the Public Authorities Board should include only the Commission and Member States.
- (13) The calls for proposals under the Initiative should be open to different legal forms of cooperation and other participants, and the selection of proposals for funding should not be based on a specific legal form of cooperation. With a view to facilitating the implementation of the specific actions of the Initiative, such as the design platform or pilot lines, a European chips infrastructure consortium (ECIC) may be established in accordance with Article 7 of Regulation (EU) 2023/1781. An ECIC should involve the participation of at least three members, namely Member States or public or private legal entities from at least three Member States, or a combination thereof, with a view to achieving broad representation across the Union.
- (14) Given that the activities supported under the Initiative and implemented by the Chips Joint Undertaking are financed from Horizon Europe and DEP, the Union financial contribution to the Chips Joint Undertaking should be increased accordingly. The administrative costs of the Chips Joint Undertaking should also be increased in accordance with the increase of operational tasks. The participating states should not contribute to the administrative costs. The private members should not contribute to the additional administrative costs of the Chips Joint Undertaking as their voting rights for the part of the work programme dedicated to the Initiative are reduced and limited to the research and innovation activities.
- (15) Exceptionally, participating states should be allowed to report financial contributions made since 8 February 2022, provided that the corresponding national activities comply with this Regulation in particular and with the objective of enhancing existing and developing new advanced pilot lines across the Union, given that some participating states started to implement those capacity-building activities after the Commission presented the proposal for Regulation (EU) 2023/1781 due to the political urgency to respond to the seriousness of the chips crisis. The underlying costs of those activities should be eligible under certain conditions, in particular the condition that the proposals are evaluated and selected by the Chips Joint Undertaking.
- (16) The provision of financial support for activities from DEP should comply with Regulation (EU) 2021/694.
- (17) Since the objective of this Regulation, namely to establish the Chips Joint Undertaking, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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.
- (18) Regulation (EU) 2021/2085 should therefore be amended accordingly.
- (19) In order to allow for the implementation of this Regulation to start as soon as possible, with a view to reaching its objectives, it should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) 2021/2085 is amended as follows:

- (1) in the entire Regulation, the words ‘Key Digital Technologies Joint Undertaking’ are replaced by the words ‘Chips Joint Undertaking’;
- (2) in Article 2, points 2, 3 and 4 are replaced by the following:
  2. “founding member” means any legal entity established in a Member State, a country associated to Horizon Europe or, where applicable, associated with DEP, or an international organisation that is identified as a member of a joint undertaking in this Regulation or in one of its Annexes;
  3. “associated member” means any legal entity established in a Member State, a country associated to Horizon Europe or, where applicable, associated to DEP, or an international organisation that accedes to a joint undertaking by signing a letter of commitment in accordance with Article 6(3) and subject to an approval in accordance with Article 7;
  4. “participating state” means any Member State or country associated to Horizon Europe or, where applicable, associated to DEP upon notification of its participation in the activities of the relevant joint undertaking by means of a letter of commitment;’;
- (3) in Article 3, paragraph 3 is replaced by the following:

‘3. In order to take into account the duration of Horizon Europe and, where applicable, DEP, calls for proposals under the joint undertakings shall be launched at the latest by 31 December 2027. In duly justified cases, calls for proposals may be launched by 31 December 2028, at the latest.’;
- (4) in Article 4(1), the following subparagraph is added:

‘The Chips Joint Undertaking shall also contribute to the general objective referred to in Article 4(1) of Regulation (EU) 2023/1781 of the European Parliament and of the Council (\*), the operational objectives referred to in Article 4(2), points (a) to (d), of Regulation (EU) 2023/1781 (“operational objectives 1 to 4”) and the general objectives of DEP referred to in Article 3(1) of Regulation (EU) 2021/694.

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(\*) Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe’s semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act) (OJ L 229, 18.9.2023, p. 1).’;
- (5) in Article 10, paragraphs 2 and 3 are replaced by the following:
  2. The amount of the Union contribution specified in Part Two may be increased with contributions from third countries associated to Horizon Europe in line with Article 16(5) of the Horizon Europe Regulation and, where applicable, to DEP in accordance with Article 10(1), point (d), of Regulation (EU) 2021/694, provided that the total amount by which the Union contribution is increased is at least matched by the contribution of members other than the Union, or their constituent or affiliated entities.
  3. The Union contribution shall be paid from the appropriations in the general budget of the Union allocated to the Specific Programme implementing Horizon Europe and, where applicable, to DEP, in accordance with Article 62(1), point (c)(iv), and Article 154 of Regulation (EU, Euratom) 2018/1046 in the case of bodies referred to in Article 71 of that Regulation.’;
- (6) in Article 12(1), the second and third subparagraphs are replaced by the following:

‘In addition to criteria set out in Article 22 of the Horizon Europe Regulation or, in the case of the Chips Joint Undertaking, in Article 18 of Regulation (EU) 2021/694, the work programme may include, as an annex, eligibility criteria regarding national legal entities.

Each participating state shall entrust the joint undertaking with the evaluation of the proposals according to the Horizon Europe Regulation and, where applicable, to Regulation (EU) 2021/694.;

(7) in Article 29, paragraph 2 is replaced by the following:

'2. Budgetary commitments of the joint undertakings referred to in Article 3(1), points (b), (d), (g) and (h), may be divided into annual instalments. Until 31 December 2024, the cumulative amount of those budgetary commitments in instalments shall not exceed 50 % of the maximum Union contribution set out in Article 10. From January 2025, at least 20 % of the cumulative budget of the residual years shall not be covered by annual instalments.;

(8) Article 126 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

'(b) establish Union scientific excellence and innovation leadership in emerging components and systems technologies, including in activities related to lower TRLs; and promote the active involvement of SMEs, which, for all research and innovation activities, including those related to the Chips for Europe Initiative established by Regulation (EU) 2023/1781, shall represent at least one third of the total number of participants in indirect actions and at least 20 % of public funding should go to them;'

(ii) the following point is added:

'(d) achieve large-scale technological capacity building and support related research and innovation activities throughout the Union's semiconductor value chain to enable development and deployment of cutting-edge semiconductor technologies, next-generation semiconductor technologies and cutting-edge quantum technologies and the innovation of established technologies that will reinforce advanced design, systems integration and chip production capabilities in the Union, thereby increasing the competitiveness of the Union; and contribute to the achievement of the green and digital transitions, in particular by reducing the climate impact of electronic systems, improving the sustainability of next-generation chips and strengthening the circular economy processes, contribute to quality jobs within the semiconductor ecosystem and address security-by-design principles, which provide protection against cybersecurity threats.;

(b) in paragraph 2, the following points are added:

'(g) build up advanced design capacities for integrated semiconductor technologies;

(h) enhance existing and develop new advanced pilot lines across the Union to enable development and deployment of cutting-edge semiconductor technologies and next-generation semiconductor technologies;

(i) build advanced technology and engineering capacities for accelerating the innovative development of cutting-edge quantum chips and associated semiconductor technologies;

(j) establish a network of competence centres across the Union by enhancing existing or creating new facilities.;

(9) Article 128 is replaced by the following:

*'Article 128*

### **Union financial contribution**

1. The Union financial contribution to the Chips Joint Undertaking, including EEA appropriations, shall be up to EUR 4 175 000 000, including up to EUR 62 287 000 for administrative costs distributed as follows:

(a) up to EUR 2 725 000 000 from Horizon Europe;

(b) up to EUR 1 450 000 000 from DEP.

2. The Union financial contribution referred to in paragraph 1, point (a), of this Article shall be used for the Chips Joint Undertaking to provide financial support for indirect actions as defined in Article 2, point (43), of the Horizon Europe Regulation, corresponding to the research and innovation activities of the Chips Joint Undertaking, including research and innovation activities related to operational objectives 1 to 4.

3. The Union financial contribution referred to in paragraph 1, point (b), shall be used for capacity-building activities of operational objectives 1 to 4.

4. The Union financial contribution referred to in paragraph 1, point (b), shall not exceed 50 % of the total costs of the capacity-building activities.

5. Access to capacities resulting from the implementation by the Chips Joint Undertaking of operational objectives 1 to 4 shall be open to a wide range of users across the Union and granted on a transparent and non-discriminatory basis directly proportional to the financial contribution by the Union to the total costs of those activities.;

(10) in Article 129, paragraphs 3 and 4 are replaced by the following:

‘3. By way of derogation from Article 28(4), the private members shall make or arrange for their constituent and affiliated entities to make a financial contribution of up to EUR 26 331 000 for administrative costs of the Chips Joint Undertaking. The share of the total contribution on an annual basis for administrative costs of the Chips Joint Undertaking by the private members shall be 30 %.

4. The contributions referred to in paragraph 1 of this Article shall consist of contributions laid down in Article 11(3). Exceptionally, by way of derogation from Article 11(3), the participating states are allowed to report financial contributions made since 8 February 2022. The underlying costs of the related activities may be considered eligible as of that date, even if they were incurred before the grant application was submitted, provided that all the following conditions are fulfilled:

(a) the activities comply with this Regulation;

(b) the activities contribute to the objective referred to in Article 126(2), point (h), and the related costs incurred consist of capital expenditure;

(c) the grant applications are evaluated and selected by the Chips Joint Undertaking in accordance with Article 12(1);

(d) the activities continue to be carried out at the moment the grant is awarded;

(e) the participating state's contribution linked to those costs are not taken into account for the purpose of calculating the voting rights of participating states referred to in Articles 133(2), 133(3) and 136(1);

(f) the participating state's contribution linked to those costs do not exceed 25 % of the total financial contribution by that participating state envisaged for the activities that contribute to the objective referred to in Article 126(2), point (h).

5. The contributions referred to in paragraph 2 of this Article shall consist of contributions laid down in Article 11(1), including at least 90 % of contributions laid down in Article 11(1), point (a).;

(11) in Article 133, the following paragraph is inserted:

‘3a. By way of derogation from paragraph 1, the Governing Board shall solely include the Commission and Member States when voting on the subsection on capacity-building activities of the specific part of the work programme dedicated to the implementation of the Chips for Europe Initiative. The Commission shall hold 50 % of the voting rights. For the subsection on research and innovation activities of the specific part of the work programme dedicated to the implementation of the Chips for Europe Initiative, the Commission and the Member States shall hold 45 % of the voting rights each and the private members 10 %. Paragraphs 2 and 3 shall apply *mutatis mutandis* to the voting rights of the Member States. All representatives of the Governing Board shall participate in the preparation of that specific part of the work programme.;

(12) the following article is inserted:

'Article 133a

#### **Rules applicable to the activities funded under DEP**

1. In addition to Article 24(2), Regulation (EU) 2021/694 shall apply to the activities funded by the Chips Joint Undertaking under DEP.
2. The work programme and the calls for proposals of the Chips Joint Undertaking shall be published on the DEP website.
3. *Ex post* audits of expenditure on activities funded by the DEP budget shall be carried out by the Chips Joint Undertaking in accordance with Article 27 of Regulation (EU) 2021/694.;

(13) Article 134 is replaced by the following:

'Article 134

#### **Limitations on and conditions for participation in specific actions**

1. For actions funded under Horizon Europe, by way of derogation from Article 17(2), point (l), of this Regulation, where the Commission so requests, following approval of the Public Authorities Board, participation in specific actions shall be limited in accordance with Article 22(5) of the Horizon Europe Regulation.
2. For actions funded under DEP, where the Commission so requests, following approval of the Public Authorities Board, participation in specific actions shall be limited in accordance with Article 12(6) and Article 18 of Regulation (EU) 2021/694.
3. The calls for proposals provided in the specific part of the work programme dedicated to the Chips for Europe Initiative shall be open to different legal forms of cooperation and to other participants. The selection of proposals for funding shall not be based on a specific legal form of cooperation. Actions may also be carried out by legal entities cooperating within a consortium structured in a form of an European chips infrastructure consortium (ECIC) established in accordance with Article 7 of Regulation (EU) 2023/1781. The specific part of the work programme dedicated to the Chips for Europe Initiative shall specify that, where an ECIC applies for funding for a specific action, the ECIC itself, and not individual entities forming the ECIC, shall be the applicant.;

(14) the following article is inserted:

'Article 134a

#### **Additional tasks of the Executive Director**

By way of derogation from Article 19(4), point (c), the Executive Director of the Chips Joint Undertaking shall prepare the work programme for the Chips Joint Undertaking on the basis of the outline prepared by the Public Authorities Board as referred to in Article 137, point (aa), and of the Strategic Research and Innovation Agenda and submit it for adoption to the Governing Board.;

(15) Article 136 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. For the purposes of Article 134(1) and (2), the Public Authorities Board shall include only the Member States. Paragraph 1 of this Article shall apply *mutatis mutandis*.;

(b) the following paragraph is inserted:

'2a. For the purpose of Article 137, point (aa), and for the selection of proposals corresponding to the implementation of the Chips for Europe Initiative under Article 137, point (d), the Public Authorities Board shall include only the Commission and Member States. Paragraph 1 of this Article shall apply *mutatis mutandis*.;

(16) Article 137 is amended as follows:

(a) the following point is inserted:

‘(aa) before each work programme is prepared and taking into account the advice of the private members and, where appropriate, the advice of the European Semiconductor Board established by Article 28 of Regulation (EU) 2023/1781 and input from other relevant stakeholders, outline two specific parts of the work programme, including the corresponding expenditure estimates, the first of which shall include a subsection on capacity-building activities for operational objectives 1 to 4 and a subsection on research and innovation activities related to operational objectives 1 to 4, including conditions for access to publicly funded infrastructure, and the second of which shall be dedicated to research and innovation activities not covered under the Chips for Europe Initiative;’;

(b) point (d) is replaced by the following:

‘(d) select proposals in accordance with Article 12(1) and Article 17(2), point (u);’;

(c) the following point is added:

‘(f) recommend, if necessary, that an ECIC take remedial action, such as an amendment to its statutes, where a Member State has brought the matter to the Public Authorities Board’s attention following a refusal by the ECIC to accept a new member without providing sufficient reasons for such a refusal on the basis of the fair and reasonable terms specified in its statutes.’;

(17) Article 141 is replaced by the following:

*‘Article 141*

#### **Funding rates and rules for participation**

1. For indirect actions funded under Horizon Europe, in accordance with Article 17(2) of the Horizon Europe Regulation and by way of derogation from Article 34 of that Regulation, and for activities funded under DEP, the Chips Joint Undertaking may apply different funding rates for the Union funding within an action depending on the type of participant, in particular SMEs and non-profit legal entities, and the type of action. The funding rates shall be indicated in the work programme.

2. By way of derogation from paragraph 1 of this Article and Article 34 of the Horizon Europe Regulation, research and innovation actions up to TRL 4 shall be funded by the Union at 100 % of the total eligible costs.

3. By way of derogation from Article 22(2) of the Horizon Europe Regulation or Article 18 of Regulation (EU) 2021/694, a competence centre or a single legal entity composed of at least three independent legal entities established in at least three different participating states, including at least one Member State, shall be eligible to participate in calls for proposals funded by the Chips Joint Undertaking under Article 134(4) of this Regulation, provided that this derogation is duly justified in the description of relevant topics in the work programme.’.

#### *Article 2*

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

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

Done at Brussels, 25 July 2023.

*For the Council*  
*The President*  
L. PLANAS PUCHADES