

Intellectual Property Rights (IPR) in Horizon Europe – Joint Research Projects

„Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.” (Source: World Intellectual Property Organisation (WIPO)).

Intellectual property is either protected by copyright (e.g. texts, images, compositions) or can be protected commercially (inventions, designs). The handling of IP is regulated in the Grant Agreement (GA) including the Description of the action (Annex 1) and the Specific Rules (Annex 5). In the Horizon Europe framework programme, the Commission is increasingly focusing on the exploitation and dissemination of project results, even after the end of the projects. Therefore, a Results Ownership List is required in the final report, which identifies the owners of the rights to the results. Insofar as legitimate interests do not conflict with this, the results must be published immediately as open access (so-called "gold open access").

In a consortium the consortium partners have to negotiate the regulations for cooperation in the Consortium Agreement (CA). In this CA, it is possible to deviate from the requirements of the GA to a certain extent.

Terms

- **Background** is the knowledge or intellectual property of the contractual parties, which were obtained prior to accession to the EU GA and which are necessary to carry out the project and/or to exploit its results. Knowledge that is acquired parallel to the project is normally not part of the background and therefore does not need to be incorporated into the project. Background should be identified in writing in the CA.
- **Results** (previously "foreground") are project results, i.e. knowledge subject to intellectual property produced during the project and other knowledge, as well as the intellectual property relating to the produced knowledge (patents, copyright, etc.).

Further definitions of terms you will find in the [GA](#) and Annex 5.

Provisions in the CA

The following regulations are common in the CA. Other arrangements may be agreed, provided that they also sufficiently take into account the interests of the parties involved.

Background – Rights and Access

- Each party has the rights to their own background.
- Unless agreed otherwise by the parties prior to signing the GA, the project parties are entitled to use the background of the other contractual parties without charge in order to undertake their own project work.
- Access rights also apply, if the background of the other parties is necessary for exploiting own results, unless the relevant party informed the other contractual party of any legal restrictions prior to signing the EU grant agreement. In this case access shall be granted under fair and reasonable conditions.
- In the CA, the project parties must agree which background is necessary for the project and which should be excluded. Since the contract is not concluded with the participating institute, but rather with the institution, which has legal capacity (thus, for example the university), possible access rights concern the background of the entire institution. Thus, in the

consortium agreement, it is important to limit access rights to background available in the participating institute or work group.

Results – Rights and Access

- Results are the intellectual property of the parties that have produced the project outcomes.
- If results are the outcome of the joint work of two or more parties and cannot be separated, the results shall be considered the joint intellectual property of the parties involved.
- The project parties are entitled to use the results of the other parties, in order to undertake their own project work. Access shall be granted free of charge.
- Access rights also apply to results that are necessary for exploiting a parties own results, for which access shall be granted under fair and appropriate conditions.

Registration of intellectual property

- Each party shall ensure open access or protection of own results, for example through registration of patents or other intellectual property rights.

Dissemination of project results and open access

- Unless restrictions exist as a result of intellectual property rights, safety regulations or in the legitimate interest of the other participants, project results must be disseminated as soon as possible. The other parties must be informed of the intended publication in advance; however, this deadline can be reduced in the CA.
- As part of Horizon Europe, dissemination of results must occur in the form of scientific publication, through open access (“gold open access”). Thus, publications must be free of charge and accessible online for any user, usually in a repository.

This information aims to provide a simplified overview. For detailed information, it is recommended to consult chapter 4, of the [GA](#) “Grant Implementation”, Annex 5 as well as the explanations in the [Annotated Model Grant Agreement](#).

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Legal Matters

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