

Third Country Participants Not Eligible for EU Funding - Legal and Financial Considerations

Introduction

EU Framework Programmes for Research and Technological Development have traditionally been open to non-EU countries, although the rules concerning their eligibility for EU funding has varied across the consecutive programmes. With its 'Open to the World' approach, Horizon 2020 continues the tradition of allowing the participation of legal entities from the so-called 'non-associated third countries' in projects, making a distinction between those that can automatically receive EU funding (listed in **Annex A** to the Work Programme) and those that cannot. The non-eligible third countries include industrialised countries such as the USA, Canada or Japan, as well as emerging economies, such as the BRIC countries and Mexico.

This guidance document aims to provide subscribers with an easy overview of the legal and financial aspects of third country participation in EU-funded research and innovation projects.

This factsheet focuses specifically on the participation of non-eligible third countries (Countries not included in Annex A to the Work Programme)

How can organisations/researchers from third countries be involved in Horizon 2020 actions?

Collaborative Projects

Research and Innovation Actions, Innovation Actions and Coordination and Support Actions

Organisations from a third country can fully participate in those parts of Horizon 2020 that are open to third country participants, provided the minimum eligibility criteria are met (e.g. at least three legal entities from three different EU Member States or Associated Countries). Such collaborative opportunities can be found in all pillars of Horizon 2020 (e.g. FET Open in Pillar 1, LEIT in Pillar 2 and all Societal Challenges in Pillar 3), as well as in some cross-cutting priorities (e.g. Science with and for society).

Beneficiaries from third countries **can coordinate collaborative projects** where third country participation is allowed. They would be required to sign the grant agreement, be subject to a mandatory financial check (if applicable) to ensure they had the capacity to manage EU funds. The third country coordinator would carry out all coordination tasks in exactly the same way as a coordinator from a Member State (MS) or Associated Country (AC).

This does not, however, apply to the Fast Track to Innovation or SME Instrument projects, which by default are not open to organisations from third countries. Furthermore, there are also specific rules for European Research Council (ERC) grants and Marie Skłodowska-Curie Actions (MSCA).

Prior to 1 January 2017, when Switzerland was considered a non-eligible third country in Pillars 2 and 3 of Horizon 2020, Swiss based institutes **coordinated** a number of Horizon 2020 projects. In these cases, the Swiss institutions did not receive EU funding themselves, but were still responsible for transferring the EU contribution to other partners in the consortium.

Other Horizon 2020 projects are **coordinated** by organisations in Chile and Uruguay.

European Research Council (ERC) Grants

ERC grants are open to researchers of any nationality. However the Principal Investigator (PI) must be hosted by an institution located in an EU Member State (MS) or Associated Country (AC), and must spend at least 50% of their total working time in one of these countries.

Team members supporting the PI can be based anywhere in the world, and provided that they are deemed essential for carrying out the project their participation will be fully funded even if based in non-eligible third countries.

Unlike with the standard ERC frontier research grants (Starting, Consolidator, Advanced), as of 2019, the ERC Synergy Grant group of PIs can include up to one PI based in a third country (ERC 2019 Work Programme). This third country PI will be eligible for funding following the same funding rules as the PIs from EU MS or ACs.

Marie Skłodowska-Curie Actions (MSCA)

Individual Fellowships

Individual Fellowships are open to researchers of any nationality who fulfil specific eligibility criteria.

Under the European Fellowships, researchers from any third country can apply for EU funding for their research and innovation projects. The fellows are required to move to a beneficiary/host institution located in an EU MS or AC.

Though the fellows will be based at the beneficiary/host institute in an EU MS or AC for the duration of the fellowship, they can spend periods of time in third countries, other EU MS or AC for research and training purposes.

Under Global fellowships, researchers will spend between 12 and 24 months at a partner organisation based in a third country, followed by a mandatory 12-month return period at the beneficiary/host organisation located in an EU MS or AC. In addition, for research and training purposes, they can spend short periods of time in third countries, other EU MS or AC.

Research and Innovation Staff Exchange (RISE)

RISE projects involve organisations from the academic and non-academic sectors based in EU MS, or AC and those based in third countries.

The 2018-2020 MSCA Work Programme explicitly states that “for RISE actions, only legal entities that are established in EU Member States or Horizon 2020 Associated Countries can be beneficiaries; only legal entities that are established in third countries can be partner organisations.”

Funding is available for secondments from beneficiaries in EU MS or AC to organisations based in third countries, including those based in countries not eligible for Horizon 2020 funding. However, only organisations based in third countries eligible for Horizon 2020 funding, as listed in Annex A of the Horizon 2020 Work Programme, will be able to receive funding for secondments to a beneficiary based in an EU MS or AC.

Innovative Training Networks (ITN)

While the 2018-2020 MSCA Work Programme does not explicitly address the issue of participation of organisations based in non-eligible third countries as beneficiaries, in the MSCA-ITN Guides for Applicants, “it is suggested that such institutions participate as partner organisations” (not receiving EU funding directly and not signing the GA). Such organisations can provide secondments, or other training opportunities.

In addition, the ITN application form allows organisations based in non-eligible third countries to be listed as beneficiaries. It is expected that they would contribute their own funding towards the recruitment of researchers.

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Legal and financial considerations for third country coordinators and beneficiaries not receiving EU Funding

Article 9 of the Model Grant Agreement (MGA), sets out the rules and regulations regarding the implementation of action task by beneficiaries that sign the GA, but do not receive EU funding. In principle, beneficiaries sign up to all articles of the Grant Agreement, but some provisions do not apply in particular cases. The article includes specific options to be used if:

- the beneficiary not receiving EU funding IS NOT the coordinator and does not have linked third parties receiving EU funding (Option A);
- the beneficiary/coordinator not receiving EU funding has linked third parties receiving EU funding (Option B); and
- the beneficiary not receiving EU funding IS the coordinator and does not have linked third parties receiving EU funding (Option C).

Beneficiaries that are not eligible for EU funding are responsible for the implementation of action tasks attributed to them in Annex 1 of the GA. They must also include their costs in Annex 2 of the GA, even though they will not be reimbursed or taken into account for the calculation of the grant amount.

Although they do not receive any EU funding, they are treated as any other beneficiary and as such are subject to the obligations set out in the grant agreement. However, there are specific obligations, which will depend on their role in the grant (e.g. coordinator), and if they have linked third parties that receive EU funding. Table 1 lists those GA obligations which do not apply to them.

Table 1. GA options that do not apply to beneficiaries not receiving EU funding

Article	Option A	Option B	Option C
Articles 5, 6: Grant amount, form of grant, reimbursement rates and forms of costs	N/A	N/A	N/A
Articles 10 to 15: Purchases, subcontracting, in-kind contributions, etc.	N/A	N/A	N/A
Article 18.1.2: Keeping records for costs	N/A	Applies	N/A
Article 20.3.(b) and Article 20.4.(b): Financial reports	N/A	Applies	Applies
Article 20.6: Currency for financial statements	N/A	N/A	N/A
Article 21: Payments	N/A	Applies	Applies
Article 22: Financial checks, reviews and audits	N/A	Applies to the linked third party receiving EU funds	Checks and technical audits are still applicable
Article 23a: Management of IP	N/A	N/A	N/A
Article 26.4 and Article 27.2: EU ownership to protect results	N/A	Only for results generated with EU funds	N/A
Article 28.1: Obligation to exploit results	N/A		N/A
Article 28.2: Results contributing to standards	N/A		N/A
Article 30.3: EU/Agency right to object to transfers or licensing	N/A		N/A
Article 31.5: Access rights for EU and MS	N/A		N/A
Article 40: Assignment of claims	N/A	N/A	N/A
Article 42 to 44: Rejection of costs, reduction, recovery	N/A	Applies	Applies
Articles 47 and 48: Suspension of payments	N/A	Applies	Applies

Other ways for organisations from third countries to participate in Horizon 2020 projects

There are also a wide range of ‘third party’ options available to organisations from third countries that cannot, or do not want to, sign the Grant Agreement (GA). Organisations from third countries can participate in collaborative projects, and European Research Council Grants as subcontractors, contractors, linked third parties, third parties provided in-kind contributions, or as international partners under Article 14a.

Detailed information about these options is available in UKRO’s dedicated **FAQ document**.

More information:

- UKRO Factsheet on International Cooperation in Horizon 2020

www.ukro.ac.uk/subscriber/Factsheets/factsheet_inco.pdf

- UKRO Factsheet and FAQs on Third Parties
www.ukro.ac.uk/subscriber/Factsheets/factsheet_faq_third_parties.pdf
- EC Guide: Funding of applicants from non-EU countries & international organisations
ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-3cpart_en.pdf
- General Annex A List of third countries eligible for funding in Horizon 2020
ec.europa.eu/research/participants/data/ref/h2020/other/wp/2018-2020/annexes/h2020-wp1820-annex-qa_en.pdf
- Horizon 2020 Annotated Model Grant Agreement
ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf