Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking (Text with EEA relevance)

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Whereas:

(1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council[(2)].

(2) Council Decision 2006/971/EC[(3)] identified specific public-private partnerships to be supported, including public-private partnerships in the specific areas of the nanoelectronics (ENIAC) and embedded computing systems (ARTEMIS) Joint Technology Initiatives.

(3) Commission Communication entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' (the 'Europe 2020 strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.

(4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(4)] established Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020) (('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private-sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 561/2014. (See end of Document for details)*

range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union (TFEU) pursuant to Decision No 1982/2006/EC.

(5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU[(5)], further support should be provided to Joint Undertakings established under Decision No 1982/2006/EC under the conditions specified in Decision 2013/743/EU. The Industrial Leadership priority targets two specific activity lines under Information and Communication Technologies: 'micro- and nanoelectronics', and 'a new generation of components and systems, engineering of advanced and smart embedded components and systems'. ARTEMIS and ENIAC should be combined into a single initiative.

(6) The Commission Communication of 26 June 2012 entitled 'A European strategy for Key Enabling Technologies — A bridge to growth and jobs' identifies key enabling technologies, which include micro- and nanoelectronics, as indispensable sources of innovation. There is currently a gap between basic knowledge generation and its subsequent commercialisation into goods and services. This needs to be tackled, inter alia, through a focused effort on pilot manufacturing lines and innovation pilot projects, including those of a larger scale, to achieve technology and product validation under industrial conditions, and more integration and cross-fertilisation between the various key enabling technologies.

(7) According to the Commission Communication of 23 May 2013 entitled 'A European strategy for micro- and nanoelectronics components and systems', micro- and nanoelectronics components and systems underpin innovation and the competitiveness of all major economic sectors. The importance of the area and the challenges faced by the stakeholders in the Union require urgent action in order to leave no weak link in Europe's innovation and value chains. It is thus proposed to set up a mechanism at Union level to combine and focus the provision of support to research and innovation in electronic components and systems by Member States, the Union and the private sector.

(8) With a view to regaining a leading position in the nanoelectronics eco-system for Europe, the industrial and research stakeholders have proposed a strategic research and innovation programme with a total investment of EUR 100 billion for the period up to the year 2020, aiming at increasing Europe's nanoelectronics-based worldwide revenues by over EUR 200 billion per year and creating an additional 250 000 direct and induced jobs in Europe.

(9) The term 'electronic components and systems' should encompass the areas of micro- and nanoelectronics, embedded/cyber-physical and smart integrated systems and applications.

(10) The ENIAC Joint Undertaking set up by Council Regulation (EC) No 72/2008[(6)] successfully implemented a research agenda strengthening the relevant areas in nanoelectronics in which Europe had improved its competitiveness by leveraging investments in priority subjects and by engaging the whole ecosystem.

(11) The ARTEMIS Joint Undertaking set up by Council Regulation (EC) No 74/2008[7] has successfully demonstrated its strategic positioning which combines top-down guidance with bottom-up definition of the technical issues to be addressed, attracting projects with outcomes directly relevant for industry.

(12) The interim evaluations of the ENIAC and ARTEMIS Joint Undertakings have shown that they are useful and adapted tools to combine forces, and have a significant impact on their respective domains. The research areas covered by the ENIAC and ARTEMIS Joint Undertakings should, therefore, continue to be supported in order to further improve the competitiveness of the electronic components and systems industry in Europe, and focus efforts on a set of strategic activities commonly agreed among the private and public stakeholders engaged in the initiatives.

(13) Continued support for the nanoelectronics and embedded computing systems research programmes should build on the experience acquired from the operations of the ENIAC and ARTEMIS Joint Undertakings, including the results of their interim evaluations, the stakeholders' recommendations and the need to achieve an effective coordination and synergy of resources.

(14) There is increased interaction between the stakeholders of the European Technology Platforms ARTEMIS, ENIAC and the European Technology Platform on Smart Systems Integration (EPoSS), as detailed in the High Level Strategic Research and Innovation Agenda of the ICT Components and Systems Industries which they released in 2012. In order to best capture and build on the synergies stemming from those interactions, a single Joint Undertaking covering electronic components and systems including the previous activities of the ENIAC and ARTEMIS Joint Undertakings and using a more fit-for-purpose structure and rules in order to enhance efficiency and to ensure simplification (the 'ECSEL Joint Undertaking'), should be set up. To this effect, the ECSEL Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[8].

(15) The implementation of the High Level Strategic Research and Innovation agenda put forward by the industrial stakeholders relies on several sources of support: national, regional and intergovernmental programmes, the Union Framework Programme and a Joint Technology Initiative in the form of a public-private partnership.

(16) The public-private partnership on electronic components and systems should combine the financial and technical means that are essential to master the complexity of the ever escalating pace of innovation in this area. Therefore, the members of the ECSEL Joint Undertaking should be the Union, Member States and Associated Countries to Horizon 2020 ('Associated Countries') on a voluntary basis, and associations as private members representing their constituent companies and other organisations active in the field of electronic components and systems in Europe. The ECSEL Joint Undertaking should be open to new members.

(17) The ECSEL Joint Undertaking should address clearly defined topics that would enable European industries at large to design, manufacture and use the most innovative

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technologies in electronic components and systems. Structured and coordinated financial support at European level is necessary to help research teams and European industries remain at the leading edge in a highly competitive international context, to ensure the fast and broad industrial exploitation of technology leadership across Europe generating important spill-overs for society, to share risk-taking and the joining of forces by aligning strategies and investments towards a common European interest. The Commission may consider, upon notification by the Member State or group of Member States concerned, that the ECSEL Joint Undertaking's initiatives qualify as important projects of common European interest, provided that all relevant conditions are met.

(18) The private associations AENEAS, ARTEMISIA and EPoSS have expressed in writing their agreement to the research and innovation activities in the area of the ECSEL Joint Undertaking being pursued within a structure well adapted to the nature of a public-private partnership. It is appropriate that the private associations accept the Statutes set out in the Annex to this Regulation by means of a letter of endorsement.

(19) In order to achieve its objectives, the ECSEL Joint Undertaking should provide financial support mainly in the form of grants to participants following open and competitive calls for proposals. Such financial support should be targeted at proven market failures that prevent the development of the programme concerned, and should have an incentive effect in that it changes the behaviour of the recipient.

(20) The ECSEL Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the ECSEL Joint Undertaking should be made publicly available.

(21) In assessing the overall impact of the ECSEL Joint Undertaking, investments from all legal entities other than the Union and the states participating in the ECSEL Joint Undertaking (the 'ECSEL P Participating States') contributing to the objectives of the ECSEL Joint Undertaking should be taken into account. Those overall investments are expected to amount to at least EUR 2 340 000 000.

(22) In order to maintain a level playing field for all undertakings active in the internal market, funding provided by the Union Framework Programme should be designed in accordance with the State aid rules so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, the creation of ineffective market structures or the preservation of inefficient firms.

(23) Participation in indirect actions funded by the ECSEL Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council[9]. The ECSEL Joint Undertaking should, moreover, ensure the consistent application of those rules based on relevant measures adopted by the Commission. Specific criteria regarding the eligibility of individual applicants to receive funding from ECSEL Participating States may be determined by the relevant authorities. Specific rules regarding the eligibility of costs may be determined by an ECSEL Participating State when it does not entrust the ECSEL Joint Undertaking with the implementation of its contributions to the participants in indirect actions.

(24) The ECSEL Joint Undertaking should also use the electronic means managed by the Commission to ensure openness, transparency and facilitate participation in it. Therefore, the calls for proposals launched by the ECSEL Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the ECSEL Joint Undertaking for inclusion in Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

(25) The ECSEL Joint Undertaking should take into account the OECD definitions regarding Technological Readiness Level in the classification of technological research, product development and demonstration activities.

(26) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012[(10)].

(27) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.

(28) The financial interests of the Union and of the other members of the ECSEL Joint Undertaking should be protected by proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

(29) The Commission's internal auditor should exercise the same powers over the ECSEL Joint Undertaking as those exercised in respect of the Commission.

(30) In view of the specific nature and the current status of the Joint Undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Articles 60(7) and 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the ECSEL Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the ECSEL Joint Undertaking, but they should be aligned to the extent possible to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.

(31) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment