



INNOVCRETE WORKSHOPS

***Innovation Management/awareness
Innovation capacity building***

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IPR MANAGEMENT IN HORIZON 2020



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CONTRACTUAL ISSUES IN H2020

A. Legal Base of the H2020: Decision 1291/2013 European Parliament

B. Participation Rules (Regulation (EC) No 1290/2013)

Direct applicable and legally binding for everyone

C. Grant Agreement (H2020 Grant Agreement)

Agreement between the Commission and the participants on rights and duties

D. Consortium Agreement (CA)

Agreement among the partners (Duty to agree on a CA, unless otherwise specified in the call)

Shall not affect participants' obligations to the Community and to another arising out of the Regulation or the grant agreement

Agreement on IPR should definitely be part of the CA

Internal organisation of the consortium

Settlement of internal disputes, pertaining to the Consortium Agreement, etc.

http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html

IP IS A STRATEGIC FACTOR IN H2020

Before Project

- ***Proposal preparation, incl. plan for the Use and Dissemination of Foreground***
- ***Defining project-related know-how***
- ***Defining IP-protected areas***
- ***Negotiating a CA***

During Project

- ***Strategy for protection & management of foreground***
- ***Granting of access rights***

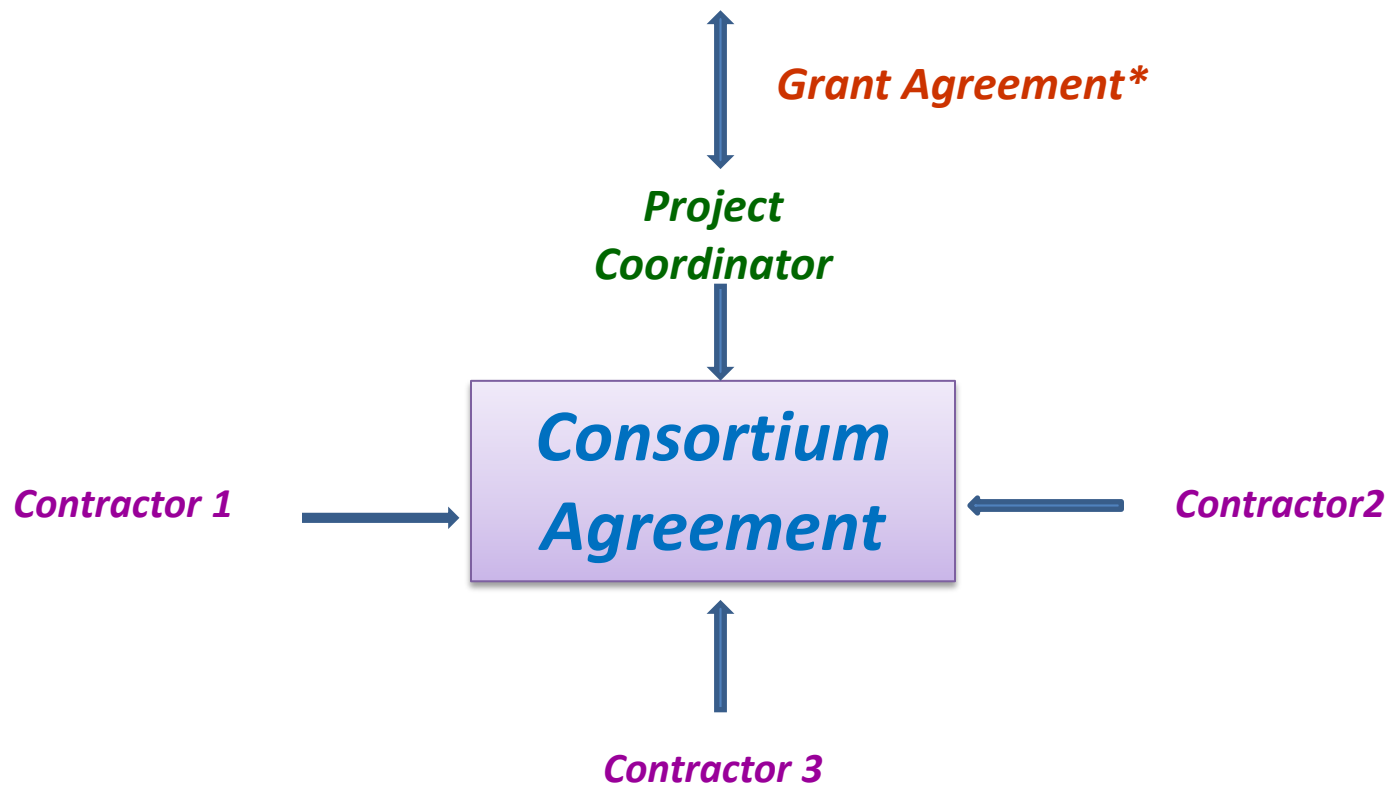
After Project

- ***Protection of generated IP***
- ***Exploitation of the results***
- ***Dissemination***

IPR IS A STRATEGIC FACTOR AT ALL STAGES OF A PROJECT

LEGAL FRAMEWORK FOR IPR IN H2020

European Community



***Additional rules on intellectual property, namely in terms of access rights, exploitation and dissemination of results, can be established in the grant agreement, depending on the type of grant and work programme**

IP MANAGEMENT IN H2020

DEFINITIONS

1. Participants and third parties

- a. Participant***
- b. Consortium***
- c. Third party***
- d. Legal entity***
- e. Coordinator***
- f. Grant Agreement (GA) (core agreement + annexes + special clauses)***
Public funding contract concluded between the participants and the EC, largely based on standard provisions
- g. Consortium Agreement (CA)***
Private contract concluded between the participants to specify or supplement the provisions of the GA

Guide to intellectual property rules for H2020 projects

www.iprhelphdesk.eu

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DEFINITIONS (cont.)

2. Background and Foreground

a. Background

- ***Information and knowledge (including inventions, databases, know-how etc in the form of tangibles or intangibles) held by the participants prior to their accession to the EC grant agreement, as well as any IPRs which are needed for carrying out the project or for exploit the results***
- ***Remains the property of the participant that brings it to the project***
- ***Participants shall inform each other on any limitations to access background***
- ***The CA may clarify what to be defined as necessary and identify which background is made available to the project***
- ***The participants must identify and agree (in writing) on the background for the action***

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DEFINITIONS (cont.)

2. Background and Foreground

b. Foreground

- *The results, including information, materials and knowledge, generated in a given project, whether or not they can be protected*
- *Each participant is the owner of the results it generates during the project implementation*
- *Participants may modify the ownership regime*
- *Participants must conclude a joint ownership agreement to deal with the allocation and exercise of the joint ownership*
- *Personnel rights to be taken into consideration*

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DEFINITIONS (cont.)

2. Background and Foreground

c. Transfer of ownership

- *A beneficiary may transfer ownership of its foreground (pass all its obligations to an new owner)*
- *The envisaged transfer should be notified to the other participants which may object if their access rights are not preserved*
- *No notification for transfers towards specifically identified third parties may be agreed*

d. Licensing

- *Each beneficiary may grant licenses to its results if this does not impede the access rights*
- *A beneficiary may grant an exclusive license to foreground (or background) but the other participants shall waive their access rights in writing*
- *The EC may object to transfer/exclusive licensing to third parties established in third countries to safeguard European interests.*

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DEFINITIONS (cont.)

3. Access rights, Use and Dissemination

a. Access rights

Licences and user rights to foreground and background

b. Use

Direct or indirect utilization of foreground in further research activities, other than those covered by the project or for developing, creating and marketing a product or process or for creating and providing a service.

c. Dissemination

Disclosure of foreground by any appropriate means other than the resulting from the formalities for protecting it and including the publication of foreground in any medium.

H2020 ACCESS RIGHTS

	<i>BACKGROUND</i>	<i>FOREGROUND</i>
<i>Needed to carry out the project</i>	<i>Royalty-free unless otherwise agreed before the grant agreement is signed</i>	<i>Royalty-free</i>
<i>Needed to exploit own foreground</i>	<i>If a participant needs them for using its own foreground: Royalty-free or on fair and reasonable conditions (to be agreed)</i>	

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CONFIDENTIALITY

- ***A general obligation of confidentiality applies to all participants for information exchanged during the execution of the project and identified as “confidential”***
- ***The confidentiality obligation persists up to 5 years after the project end***
- ***It is crucial to preserve confidential data, until protection and use activities have been planned (and implemented)***

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PROTECTION OF RESULTS (FOREGROUND)

➤Each beneficiary must examine the possibility of protecting its results and must adequately protect them if:

➤The results can reasonably be expected to be commercially or industrially exploited

➤Protecting them is possible, reasonable and justified

➤When a participant is not interested in protecting its foreground it shall transfer it to another entity that is willing to protect it

➤If nobody is interested in protecting the foreground, the Commission shall be informed before any dissemination activity takes place

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EXPLOITATION OF RESULTS

➤ Each beneficiary must – up to 4 years after the end of the project- take measures aiming to ensure “exploitation” of results by:

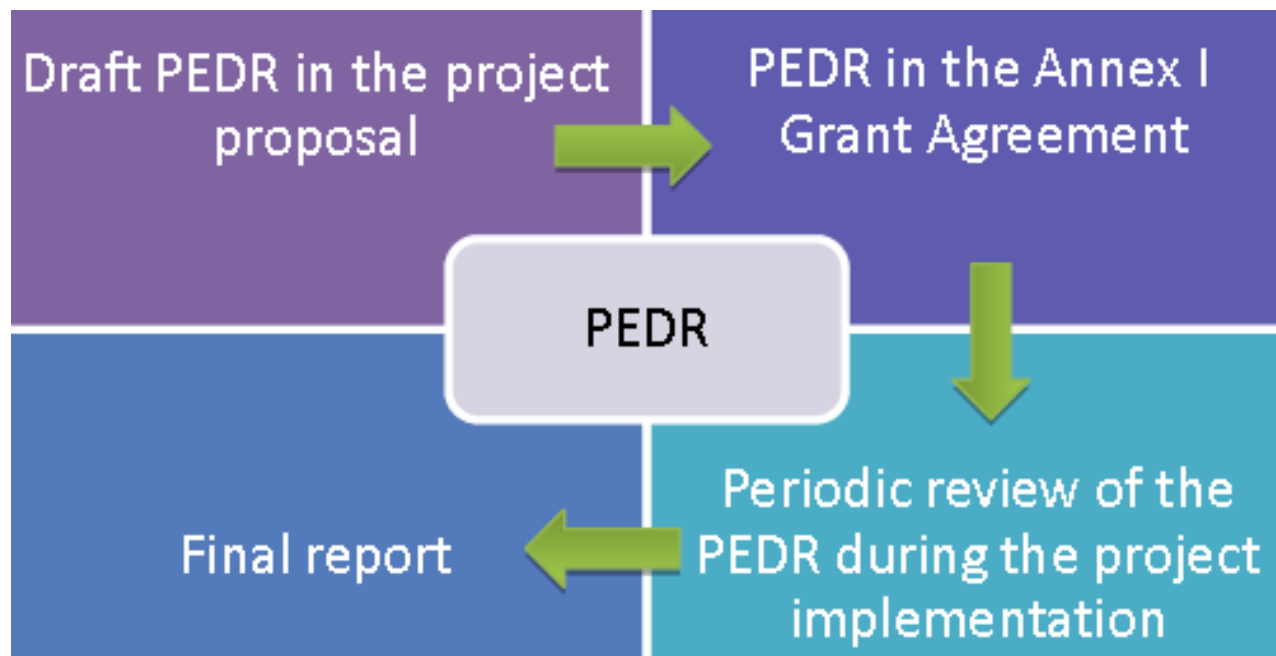
- Using them in further research activities***
- Developing, creating or marketing a product or process***
- Creating and providing a service***
- Using them in standardisation activities***

Article 44, Regulation 1290/2013, Rules for participation in H2020

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EXPLOITATION OF RESULTS

Plan for the Exploitation and Dissemination of Results (PEDR)

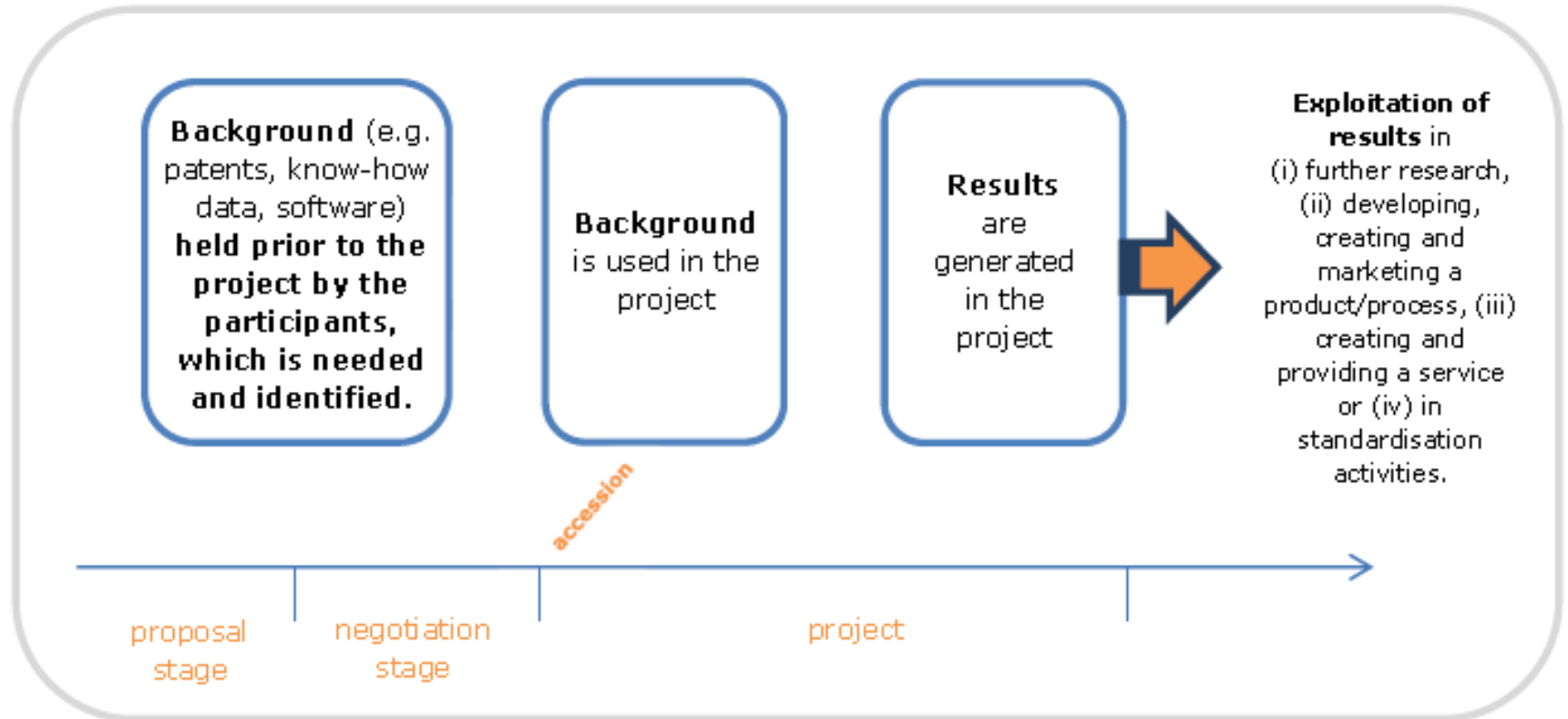


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DISSEMINATION OF RESULTS

- ***The participants shall disseminate the foreground as swiftly as possible, but filing a patent is not considered as a dissemination***
- ***Dissemination activities shall be compatible with IP protection, confidentiality obligations and the legitimate interests of the owner(s) of the foreground (45 days prior notice of any dissemination activity to the other participants)***
- ***The participants shall ensure the visibility of the EU funding***

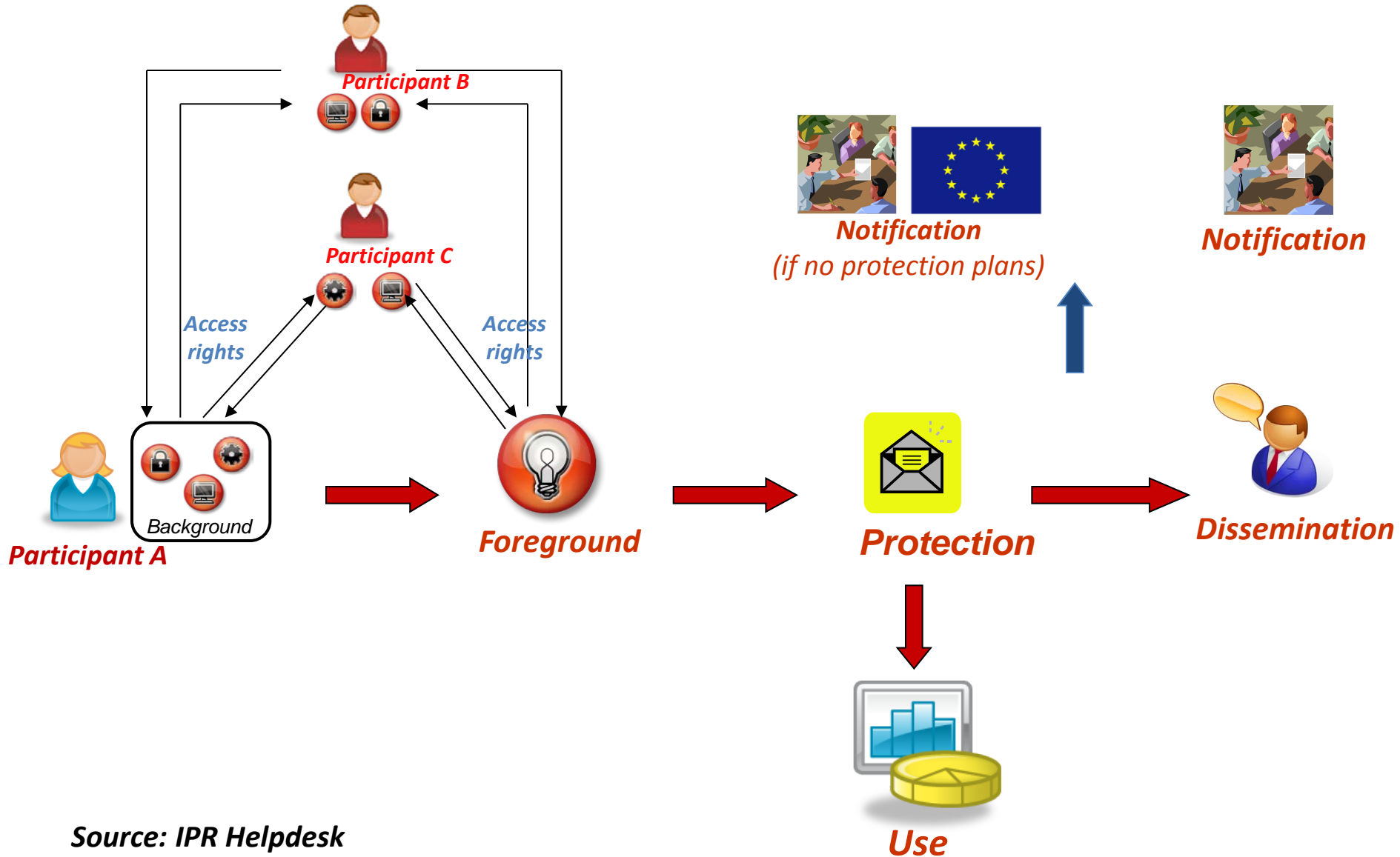
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Source: www.iprhelpdesk.eu

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Diagram of the project developments



Source: IPR Helpdesk

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ACTIVITY

USE OF IP AND RESPONSIBILITY

Further internal research

- These research activities must be beyond the project.
- Relevant for research organisations and research intensive companies.

Collaborative Research

- The results used as background of future collaborative research projects.
- Relevant for research organisations and research intensive companies.

Internal product development

- Results used in developing, creating and marketing a product/process.
- Relevant for companies.

Internal service creation

- Results used in creating and providing a service.
- Relevant for companies.

Licensing

- Results exploited by other organisations through out-licensing.
- Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

Assignment

- Results exploited by other organisations by the transfer of ownership.
- Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

Joint Venture

- Results used as background of a joint venture.
- Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

Spin-off

- A separate company established in order to bring to the market technology resulting from the project.
- Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

Standardisation activities

- Results used either to develop new standardisation activities, or to contribute to on-going standardisation work.
- Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

MORE INFORMATION

PARTICIPANT PORTAL

http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html

IPR HELPDESK

www.iprhelpdesk.eu