

No-deal Brexit and Horizon 2020 participation of stakeholders located in Flanders

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(Updated news compared to the previous version is written in red)

As a no-deal scenario BREXIT becomes a realistic possibility, the concern arises about participation in Horizon 2020 where UK partners are involved, or where researchers are located in the UK. When a no-deal scenario will be the case, then the UK is from that point onwards a **third country** in Horizon 2020 actions.

A comprehensive explanation is given by the NCP colleagues from Austria – cfr.

<https://www.ffg.at/en/europe/brexit>.

The latest news:

The Brexit has been postponed to 31 October 2019 the latest. In case of an earlier ratification of a withdrawal agreement, the Brexit takes effect on the first day of the month following the ratification. If there is no withdrawal agreement ratified until 22 May 2019, the UK has to hold European elections (23 to 26 May 2019) or otherwise has to leave on 1 June 2019.

1. Information from the UK including the underwrite agreement

1.1. UKRO

The UKRO (UK Research Office) has a dedicated webpage with information about BREXIT:

<https://www.ukro.ac.uk/Pages/brexit.aspx> mainly focusing on the commitment of the British government towards Horizon 2020 participation, and their underwrite agreement.

The UKRO fact sheet provides a good overview:

https://www.ukro.ac.uk/Documents/factsheet_brexit.pdf?pubdate=20180824

And the following document “UK PARTICIPATION IN HORIZON 2020 - UK government overview” explains all details: https://www.ukro.ac.uk/authoring/public/Documents/uk_participation_h2020.pdf

There is also a FAQ available:

https://www.ukro.ac.uk/authoring/public/documents/170719_h2020_qa_underwrite.pdf

1.2. UK government

The government has made available **no-deal scenario pages** – through the following links:

- [Mobility \(in case of no deal\)](#)
- [Important EU Exit information for UK nationals if there's no deal](#) (useful for academic institutions with British staff or students)
- [Horizon2020 funding guarantee](#) (no-deal Brexit)
- [Visiting the UK after Brexit](#)

This information includes the recommendation that **UK partners** in H2020 projects should register on <https://apply-for-innovation-funding.service.gov.uk/eu-grant/overview>.

2. European Commission and no-deal scenario

The European Commission installed a [Brexit preparedness page](#), containing a.o notices and legislative initiatives.

2.1. HORIZON 2020 and UK partners, coordinators or host institutes

A proposal of the [COUNCIL REGULATION on measures concerning the implementation and financing of the general budget of the Union in 2019 in relation to the withdrawal of the United Kingdom from the Union](#) - is online from 31.01.2019.

It states: *The proposed contingency framework provides for the possibility to maintain the eligibility to benefit from Union financing for the UK and UK entities under legal commitments entered into before the withdrawal date beyond that date and for a limited time period (until 31 December 2019). This is subject to **the condition that the UK makes a written commitment and continues to contribute to the financing of the budget for 2019 under the terms set in this proposal.***

*The UK and UK entities, **as well as entities from the other Member States** whose eligibility is affected by the UK withdrawal, would continue benefiting from the Union financing **under the conditions of this proposal.** This would mitigate the disruptive effect of the withdrawal on existing agreements and decisions. It would allow for an orderly budget implementation of legal commitments with the UK and UK entities signed or adopted before the date of withdrawal.*

BUT the condition is that the UK pays its contribution till end of 2019.

So what if there is no agreement by the UK, a “real” no-deal? Then UK becomes a third country, meaning that they have not the same rights to participate as member states or associated countries.

Some of the **questions in case of no-deal scenario** for running Horizon 2020 projects, from the viewpoint of Flemish researchers or stakeholders located in Flanders:

- a MSCA individual fellow cannot be located in a third country. Can he/she still continue after a no-deal brexit? What has he/she to do and when?
- an ERC grantee cannot fulfil his research in a third country. Can he/she still continue after a no-deal brexit? What has he/she to do and when?
- if a consortium has only 3 beneficiaries and one of them is from the UK, then this consortium is not compliant anymore if the project type demands a minimum of 3 participants. Can the project continue after a no-deal brexit? What has to be done and when by the coordinator, by the other partners?
- which administrative steps coordinators have to fulfil having a UK partner in their consortium after a no-deal brexit, and when?

The above questions have been raised to the Research Inquiry Service (RES) by NCP Flanders but the following reply has been received, without answers on these specific questions above.

The RES has indicated that it does not validate individual cases/calls but only provides general guidance. RES points to the applicable eligibility conditions in the work programmes 2018-2020 and any specific conditions set out under the corresponding calls and the short message that was included on 6/10/17 in the news section on the Horizon 2020 Participant Portal, now the Funding and Tender Portal, [“News for British applicants to horizon 2020”](#); *“These warnings state that the eligibility criteria must be complied with for the entire duration of the grant. If the UK withdraws from the EU without an agreement ensuring that UK entities continue to be eligible, they will no longer be eligible to receive EU funding and their participation in the grant may be terminated.”*

RES furthermore refers to the adoption on 30/1/19 by the European Commission of a set of contingency proposals; *“Furthermore, and still in terms of contingency planning for a possible no-deal scenario, the European Commission adopted on 30 January 2019 a proposal to avoid, or at least minimise, any unnecessary disruption for beneficiaries of EU spending programmes and other actions at the time of withdrawal. UK entities shall continue to be eligible in 2019 provided that the UK continues to honour its financial obligations under the EU budget in 2019. This issue is separate from and without prejudice to the financial settlement between the EU and the United Kingdom in a no-deal scenario.”*

Also the following question has been raised (with no answer from RES till today): can a coordinator of a Horizon 2020 project from UK still handle the budget of a Horizon 2020 programme as third country (also uttered in a press article by the 5 rectors of the Flemish universities – Knack-29.01.2019)? If not, what has to be done so that the project can continue?

Recently a list has been made available of running or terminated Horizon 2020 projects in which a stakeholder from a third country is or has been a coordinator - some examples:

- CSA
 - o with a beneficiary from Switzerland as coordinator (signed in the period they were not an associated country):
<https://cordis.europa.eu/project/rcn/206098/factsheet/en>
 - o With a beneficiary from Uruguay as a coordinator:
<https://cordis.europa.eu/project/rcn/196897/factsheet/en>
- a RIA with a beneficiary from Switzerland as coordinator (signed in the period they were not an associated country):
 - o <https://cordis.europa.eu/project/rcn/198796/factsheet/en>
 - o <https://cordis.europa.eu/project/rcn/199296/factsheet/en>

Mrs. Gauer, deputy secretary-general of the European Commission, announced in the meeting regarding Brexit-Preparedness on 15/02/19 in Brussels, that at latest in week 9 a portal would be made available by the commission for all questions and answers regarding no-deal Brexit and Horizon 2020. **Though a communication was received that this will not be installed.**

2.2. HORIZON 2020 – projects using/producing EUCI (EU Classified Information)

The current legislations allows participants from associated countries or third countries to be included in projects using/producing EUCI **IF a security agreement** (on council level) exists. Though participants from third countries and associated countries **without** a security agreement with the EU can participate in projects involving/producing EUCI **IF no access** to sensitive information has been foreseen.

In case of a no-deal scenario (and most probably no existence of a security agreement between UK and EU) coordinators of such projects with UK partners should take measures after a no-deal brexit to fulfil the above described rules.

The following questions arise:

- which measures has to be taken after a no-deal brexit in an on-going project using/producing EUCI with UK partners since UK has had access to this sensitive information till that date?
- what has to be done if a UK beneficiary is coordinator of a project using/producing EUCI? Can he still continue as a coordinator since he cannot have access anymore to sensitive information?

These questions have been sent to the RES by NCP Flanders, though no specific answer has been received.

2.3. Transfer of data (GDPR)

In case of no-deal scenario, the EU General Data Protection Regulation (GDPR) rules for transferring personal data **to third countries** will apply to the UK. Companies/institutions that transfer personal data to the UK will need to have **appropriate safeguards** in place, which is explained in a note by DG Justice: [“Notice to stakeholders: withdrawal of the United Kingdom and EU rules in the field of data protection”](#)

To avoid the safeguard measures, an agreement between UK and EU will have to be established as already exists with Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland, Uruguay and the United States of America (limited to the Privacy Shield framework), an under discussion with South Korea and Japan.

More information: https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en

Interesting compilation made by the Irish IT Governance Blog:

<https://www.itgovernance.eu/blog/en/how-to-transfer-data-to-a-third-country-under-the-gdpr>

2.4. Intellectual property rights

The “Netherlands Enterprise Agency” made a comprehensive overview in Dutch of what are the possible consequences with protected ideas, patents, author rights,after Brexit.

Link: <https://www.rvo.nl/actueel/nieuws/octrooiblog-wat-gebeurt-er-met-beschermde-ideeën-na-brexit>

3. COST action and no-deal scenario

The COST Association (European Cooperation in Science&Technology) has launched a [communication](#) regarding a potential no-deal Brexit in which COST has requested UK grant holders to transfer their role to another grant holder in the COST Action they are participating in in the framework, by the 1st of May (starting date of the new Grant Holder Agreement). A petition has been announced [on Twitter](#) as a reaction towards this decision.

4. Information sources in Flanders

4.1. Flemish government

The website <https://www.fdfa.be/en/brexit> (in Dutch: <https://www.fdfa.be/nl/brexit>) gives information about:

- the Flemish Framework Decree that ensures that the most serious shocks of a no-deal Brexit are mitigated.
- FAQs
- Helplines as there are:
 - www.brexitready.be for information regarding export to UK
 - email to brexit@fitagency.be for information regarding export to UK
 - telephone line: 1700 (option 3) for all stakeholders

In the Flemish Framework Decree the following points might be of interest to researchers:

- UK nationals will not need a work permit or professional card (“Arbeids- en beroepskaart”) for a stay in Belgium shorter than 90 days. For a stay longer than 90 days there will be installed a fast track application procedure.

- Professional qualification: the obtained qualification will remain valid. After Brexit the applications that are already in process will follow the same procedure as before Brexit. Applications that have been initiated after Brexit will follow the procedure as for third countries.

4.2. NCP Flanders

All stakeholders can contact NCP Flanders (info@ncpflanders.be - 02/550 15 65) for questions related to Horizon 2020