



**COUNCIL OF  
THE EUROPEAN UNION**

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**RECH 124  
COMPET 175  
MI 272**

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: **COUNCIL REGULATION** establishing the ECSEL Joint Undertaking

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**COUNCIL REGULATION (EU) No .../2014**

**of ...**

**establishing the ECSEL Joint Undertaking**

**(Text with EEA relevance)**

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<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

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<sup>1</sup> OJ C ....

<sup>2</sup> Opinion of 10 December 2013 (Not yet published in the Official Journal).

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<sup>1</sup>.
- (2) Council Decision 2006/971/EC<sup>2</sup> 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.

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<sup>1</sup> Decision (EC) No 1982/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

<sup>2</sup> Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 400, 30.12.2006, p. 86).

- (4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council<sup>1</sup> 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 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.

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<sup>1</sup> Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) (OJ L 347, 20.12.2013, p. 104).

- (5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU<sup>1</sup>, 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.

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<sup>1</sup> Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme implementing Horizon 2020 (2014-2020) (OJ L 347, 20.12.2013, p. 965).

- (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<sup>1</sup> 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.

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<sup>1</sup> Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

- (11) The ARTEMIS Joint Undertaking set up by Council Regulation (EC) No 74/2008<sup>1</sup> 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.

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<sup>1</sup> Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the ARTEMIS Joint Undertaking to implement a Joint Technology Initiative in Embedded Computing Systems (OJ L 30, 4.2.2008, p. 52).

- (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<sup>1</sup>.
- (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.

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<sup>1</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p. 1).

- (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 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<sup>1</sup>. 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.

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<sup>1</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)" (OJ L 347, 20.12.2013, p. 81).

- (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<sup>1</sup>.
- (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.

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<sup>1</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012, p. 1).

- (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 Funds (ESIF). Therefore the ECSEL Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the ECSEL Joint Undertaking and underpin smart specialisation efforts.
- (32) The ENIAC and ARTEMIS Joint Undertakings were set up for a period up to 31 December 2017. The ECSEL Joint Undertaking should provide continued support to the nanoelectronics and embedded computing systems research programmes by implementing the remaining actions initiated under Regulations (EC) No 72/2008 and No 74/2008 in accordance with those Regulations. The transition from the ENIAC and ARTEMIS Joint Undertakings to the ECSEL Joint Undertaking should be aligned and synchronised with the transition from the Seventh Framework Programme to Horizon 2020 to ensure the optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulations (EC) No 72/2008 and No 74/2008 should, therefore, be repealed and transitional provisions should be set out.
- (33) Given the aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals under the ECSEL Joint Undertaking should take into account the duration of Horizon 2020 Framework Programme.

(34) Since the objective of this Regulation, namely the strengthening of industrial research and innovation across the Union by means of the implementation, by the ECSEL Joint Undertaking, of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership', cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding unnecessary duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Establishment*

1. For the implementation of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership'), a joint undertaking within the meaning of Article 187 TFEU (the 'ECSEL Joint Undertaking'), shall be established for a period up to 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals under the ECSEL Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
2. The ECSEL Joint Undertaking shall replace and succeed the ENIAC and ARTEMIS Joint Undertakings, established by Regulations (EC) No 72/2008 and (EC) No 74/2008.
3. The ECSEL Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
4. The ECSEL Joint Undertaking shall have legal personality. In all Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
5. The seat of the ECSEL Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the ECSEL Joint Undertaking ('the Statutes') are set out in the Annex.

*Article 2*  
*Objectives and scope*

1. The ECSEL Joint Undertaking shall have the following objectives:
  - (a) to contribute to the implementation of Regulation (EU) No 1291/2013, and in particular part II of Council Decision 2013/743/EU;
  - (b) to contribute to the development of a strong and globally competitive electronics components and systems industry in the Union;
  - (c) to ensure the availability of electronic components and systems for key markets and for addressing societal challenges, aiming at keeping Europe at the forefront of technology development, bridging the gap between research and exploitation, strengthening innovation capabilities and creating economic and employment growth in the Union;
  - (d) to align strategies with Member States to attract private investment and contribute to the effectiveness of public support by avoiding an unnecessary duplication and fragmentation of efforts and by facilitating the participation of actors involved in research and innovation;
  - (e) to maintain and grow semiconductor and smart system manufacturing capability in Europe, including leadership in manufacturing equipment and materials processing;

- (f) to secure and strengthen a commanding position in design and systems engineering including embedded technologies;
- (g) to provide access of all stakeholders to a world-class infrastructure for the design and manufacture of electronic components and embedded/cyber-physical and smart systems; and
- (h) to build a dynamic ecosystem involving Small and Medium-Sized Enterprises (SMEs), thereby strengthening existing clusters and nurturing the creation of new clusters in promising new areas.

2. The scope of work for the ECSEL Joint Undertaking shall be built on the results obtained by the ENIAC and ARTEMIS Joint Undertakings, by the European Technology Platform EPoSS, and by work funded through other national and European programmes. It will foster in a proper and balanced way new developments in, and synergies between, the following main areas:

- (a) design technologies, process and integration, equipment, materials and manufacturing for micro- and nanoelectronics while targeting miniaturisation, diversification and differentiation, heterogeneous integration;
- (b) processes, methods, tools and platforms, reference designs and architectures, for software and/or control-intensive embedded/cyber-physical systems, addressing seamless connectivity and interoperability, functional safety, high availability, and security for professional and consumer type applications, and connected services; and

- (c) multi-disciplinary approaches for smart systems, supported by developments in holistic design and advanced manufacturing to realise self-reliant and adaptable smart systems having sophisticated interfaces and offering complex functionalities based on, for example, the seamless integration of sensing, actuating, processing, energy provision and networking.

### *Article 3*

#### *Union's financial contribution*

1. The Union financial contribution to the ECSEL Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs shall be up to EUR 1 184 874 000. The Union's financial contribution shall be paid from the appropriations in the general budget of the Union allocated to Specific Programme, implementing Horizon 2020 (2014-2020), established by Decision 743/2013/EU. The budget implementation as regards the Union's financial contribution shall be entrusted to the ECSEL Joint Undertaking acting as a body referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 in accordance with point (c)(iv) of Article 58(1), Articles 60 and 61 of that Regulation.
2. The arrangements for the Union's financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the ECSEL Joint Undertaking.

3. The delegation agreement referred to in paragraph 2 of this Article shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012 as well as, *inter alia*, the following:
- (a) the requirements for the ECSEL Joint Undertaking's contribution concerning the relevant performance indicators referred to in Annex II to Decision No 2013/743/EU;
  - (b) the requirements for the ECSEL Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision No 2013/743/EU;
  - (c) the specific performance indicators related to the functioning of the ECSEL Joint Undertaking;
  - (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations as referred to in Article 28 of Regulation (EU) No 1291/2013, including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
  - (e) provisions for the publication of calls for proposals of the ECSEL Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
  - (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

#### *Article 4*

##### *Contributions of members other than the Union*

1. The ECSEL Participating States shall make a financial contribution to the operational costs of the ECSEL Joint Undertaking that is commensurate with the Union's financial contribution. The amount of at least EUR 1 170 000 000 over the period referred to in Article 1 is envisaged.
2. The private members of the ECSEL Joint Undertaking shall make or arrange for their constituent entities and affiliated entities to make contributions to the ECSEL Joint Undertaking. The amount of at least EUR 1 657 500 000 over the period referred to in Article 1 is envisaged.
3. The contributions referred to in paragraphs 1 and 2 of this Article shall consist of contributions to the ECSEL Joint Undertaking as set out in Article 16(2), point (b) of Article 16(3) and point (c) of Article 16(3) of the Statutes.
4. The Members of the ECSEL Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board on the value of the contributions referred to in paragraphs 1 and 2 made in each of the previous financial years.

5. For the purpose of valuing the contributions referred to in point (c) of Article 16(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the ECSEL Joint Undertaking, should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be audited by the ECSEL Joint Undertaking.
6. The Commission may engage in remedial actions and possibly terminate, proportionally reduce or suspend the Union's financial contribution to the ECSEL Joint Undertaking or trigger the winding-up procedure referred to in Article 26(2) of the Statutes if members other than the Union, including their constituent entities and affiliated entities, do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraphs 1 and 2 of this Article.

*Article 5*  
*Financial rules*

Without prejudice to Article 12 of this Regulation, the ECSEL Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014<sup>1</sup>.

*Article 6*  
*Staff*

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>2</sup> ("Staff Regulations" and "Conditions of Employment") and the rules adopted jointly by the institutions of the Union for the purpose of applying the Staff Regulations and Conditions of Employment shall apply to the staff of the ECSEL Joint Undertaking.
2. The Governing Board shall exercise, with respect to the staff of the ECSEL Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment on the Authority empowered to conclude contracts ('the appointing authority powers').

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<sup>1</sup> Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

<sup>2</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 04.03.1968, p. 1).

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases the Governing Board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the ECSEL Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules giving effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.
4. The staff resources shall be set out in the staff establishment plan of the ECSEL Joint Undertaking, indicating the number of temporary posts by function group and by grade, as well as by the number of contract staff expressed in full-time equivalents, in accordance with its annual budget.
5. The staff of the ECSEL Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to staff shall be borne by the ECSEL Joint Undertaking.

*Article 7*

*Seconded national experts and trainees*

1. The ECSEL Joint Undertaking may make use of seconded national experts and trainees not employed by the ECSEL Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff resources as referred to in Article 6(4) in accordance with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the ECSEL Joint Undertaking and on the use of trainees.

*Article 8*

*Privileges and Immunities*

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and TFEU, shall apply to the ECSEL Joint Undertaking and its staff.

*Article 9*

*Liability of the ECSEL Joint Undertaking*

1. The contractual liability of the ECSEL Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.

2. In the event of non-contractual liability, the ECSEL Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the ECSEL Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in that connection shall be considered as expenditure of the ECSEL Joint Undertaking and shall be covered by its resources.
4. The ECSEL Joint Undertaking shall be solely responsible for meeting its obligations.

#### *Article 10*

##### *Jurisdiction of the Court of Justice of the European Union and applicable law*

1. The Court of Justice of the European Union shall have jurisdiction:
  - (a) pursuant to any arbitration clause contained in agreements and contracts concluded by the ECSEL Joint Undertaking, or in its decisions;
  - (b) in disputes relating to compensation for damage caused by the staff of the ECSEL Joint Undertaking in the performance of their duties;
  - (c) in any dispute between the ECSEL Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.

2. Regarding any matter involving an Associated Country, the specific provisions of the relevant agreements shall apply.
3. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the ECSEL Joint Undertaking is located shall apply.

### *Article 11*

#### *Evaluation*

1. By 30 June 2017 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the ECSEL Joint Undertaking, which shall assess in particular the level of participation in, and contribution to, the indirect actions both by the private members and their constituent entities and affiliated entities, and also by other legal entities. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the ECSEL Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 4(6) or take any other appropriate action.

3. Within six months after the winding-up of the ECSEL Joint Undertaking, but no later than two years after the triggering of the winding-up procedure referred to in Article 26 of the Statutes, the Commission shall conduct a final evaluation of the ECSEL Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

#### *Article 12*

##### *Discharge*

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the ECSEL Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the ECSEL Joint Undertaking.

#### *Article 13*

##### *Ex-post audits*

1. Ex-post audits of expenditure on indirect actions shall be carried out by the ECSEL Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of Horizon 2020 indirect actions.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1 of this Article. In such cases, it shall do so in accordance with the applicable rules, in particular Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

## *Article 14*

### *Protection of the Union's financial interests*

1. The ECSEL Joint Undertaking shall grant Commission staff and other persons authorised by the ECSEL Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96<sup>1</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>2</sup>, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the Union's financial interests in connection with an agreement, decision or contract funded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, agreements, decisions and contracts resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the ECSEL Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

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<sup>1</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>2</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

4. The ECSEL Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.
5. The ECSEL Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-Fraud Office (OLAF)<sup>1</sup>. The ECSEL Joint Undertaking shall adopt the necessary measures to facilitate internal investigations conducted by OLAF.

*Article 15*  
*Confidentiality*

Without prejudice to Article 16, the ECSEL Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its members or of participants in the activities of the ECSEL Joint Undertaking.

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<sup>1</sup> OJ L 136, 31.5.1999, p. 15.

*Article 16*  
*Transparency*

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>1</sup> shall apply to documents held by the ECSEL Joint Undertaking.
2. The ECSEL Joint Undertaking's Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.
3. Without prejudice to Article 10 of this Regulation, decisions taken by the ECSEL Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 TFEU.

*Article 17*  
*Rules for participation and dissemination*

1. Regulation (EU) No 1290/2013 shall apply to the actions funded by the ECSEL Joint Undertaking. In accordance with that Regulation, the ECSEL Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in point (a) of Article 1 of the Statutes.

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. Specific criteria regarding the eligibility of individual applicants to receive funding from ECSEL Participating States may be determined by the relevant funding authorities. Such criteria could cover, *inter alia*, the applicant type, including legal status and purpose, conditions of liability and viability, including financial soundness, and the fulfilment of fiscal and social obligations.
3. When an ECSEL Participating State does not entrust the ECSEL Joint Undertaking with the implementation of its contributions to the participants in indirect actions through the grant agreements with participants concluded by the ECSEL Joint Undertaking, it may determine specific rules regarding the eligibility of costs for the funding of participants.
4. The specific criteria and rules referred to in this Article shall be included in the work plan.

#### *Article 18*

#### *Support from the host state*

An administrative agreement may be concluded between the ECSEL Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the ECSEL Joint Undertaking.

*Article 19*

*Repeal and transitional provisions*

1. Regulation (EC) No 72/2008 and Regulation (EC) No 74/2008 are thereby repealed.
2. Without prejudice to paragraph 1, actions initiated under Regulations (EC) No 72/2008 and (EC) No 74/2008, including annual implementation plans adopted under those Regulations, shall continue to be governed by those Regulations until their completion.
3. In addition to the contributions referred to in Article 3(1) and Article 4(2) of this Regulation, the following contributions to the administrative costs of the ECSEL Joint Undertaking shall be paid over the period 2014-2017 for the completion of the actions launched under Regulations (EC) No 72/2008 and (EC) No 74/2008:
  - (a) EUR 2 050 000 by the Union;
  - (b) EUR 1 430 000 by the AENEAS Association;
  - (c) EUR 975 000 by the ARTEMISIA Association.

The interim evaluation referred to in Article 11(1) of this Regulation shall include a final evaluation of the ENIAC and ARTEMIS Joint Undertakings under Regulations (EC) No 72/2008 and (EC) No 74/2008.

4. The Executive Director appointed on the basis of Regulation (EC) No 72/2008 shall, for the remaining period of the term of office, be assigned to the functions of the Executive Director of the ECSEL Joint Undertaking as provided for in this Regulation with effect from ...\*. The other conditions of the Executive Director's contract shall remain unchanged.
5. If the Executive Director appointed in accordance with paragraph 4 of this Article was in his/her first term of office, he/she shall be appointed for the remaining period of that term of office with the possibility to extend the term of office up to 4 years in accordance with Article 8(4) of the Statutes. If the Executive Director appointed in accordance with paragraph 4 was in his/her second term of office, that term of office cannot be extended. The Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period of his/her term of office.
6. The contract of employment of the Executive Director appointed on the basis of Regulation (EC) No 74/2008 shall be terminated before...\*.
7. Without prejudice to paragraphs 4 and 5, this Regulation shall not affect the rights and obligations of staff engaged under Regulations (EC) No 72/2008 and (EC) No 74/2008. Their contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment and in accordance with the budgetary constraints of the ECSEL Joint Undertaking.

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\* OJ: please insert the date of entry into force of this Regulation.

8. The Executive Director of the ECSEL Joint Undertaking shall convene the first meeting of the Governing Board and of the Public Authorities Board.
9. Unless otherwise agreed between members of the ENIAC Joint Undertaking and of the ARTEMIS Joint Undertaking pursuant to Regulations (EC) No 72/2008 and (EC) No 74/2008, all rights and obligations, including assets, debts or liabilities of the members of the Joint Undertakings pursuant to those Regulations shall be transferred to the members of the ECSEL Joint Undertaking pursuant to this Regulation.
10. Any unused appropriations under Regulations (EC) No 72/2008 and (EC) No 74/2008 shall be transferred to the ECSEL Joint Undertaking. Any amount due by the AENEAS Association and the ARTEMISIA Association for the administrative appropriations of the ENIAC and ARTEMIS Joint Undertakings over the period 2008-2013 shall be transferred to the ECSEL Joint Undertaking in accordance with arrangements to be agreed with the Commission.

*Article 20*  
*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the Council*  
*The President*

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## ANNEX

### STATUTES OF THE ECSEL JOINT UNDERTAKING

#### *Article 1*

##### *Tasks*

The ECSEL Joint Undertaking shall carry out the following tasks:

- (a) support financially research and innovation indirect actions, mainly in the form of grants;
- (b) ensure sustainable management of the ECSEL Joint Undertaking;
- (c) develop close cooperation and ensure coordination with European (in particular Horizon 2020), national and transnational activities, bodies and stakeholders, aiming at fostering a fertile innovation environment in Europe, creating synergies and improving exploitation of research and innovation results in the area of electronic components and systems;
- (d) define and make any necessary adjustments to the multiannual strategic plan;
- (e) draw up and implement work plans for executing the multiannual strategic plan;
- (f) initiate open calls for proposals, evaluate proposals, and award funding to indirect actions through open and transparent procedures within the limits of available funds;

- (g) publish information on the indirect actions;
- (h) monitor the implementation of the indirect actions and manage the grant agreements or decisions;
- (i) monitor overall progress towards achieving the objectives of the ECSEL Joint Undertaking;
- (j) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (k) liaise with a broad range of stakeholders, including research organisations and universities;
- (l) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

## *Article 2*

### *Members*

1. The members of the ECSEL Joint Undertaking shall be:
  - (a) the Union, represented by the Commission,

- (b) Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom, and
- (c) upon acceptance of these Statutes by means of a letter of endorsement, the AENEAS Association, an association registered under French law with its registered office in Paris (France); the ARTEMISIA Association, an association registered under Dutch law with its registered office in Eindhoven (the Netherlands); the EPoSS Association, an association registered under German law with its registered office in Berlin (Germany).
2. The members of the ECSEL Joint Undertaking are referred to in these Statutes as the 'ECSEL Participating States'. Each ECSEL Participating State shall appoint its representatives in the bodies of the ECSEL Joint Undertaking and shall designate the national entity or entities responsible for fulfilling its obligations with respect to the activities of the ECSEL Joint Undertaking.
3. In these Statutes, the ECSEL Participating States together with the Commission are referred to as the 'public authorities' of the ECSEL Joint Undertaking.
4. In these Statutes, the private associations are referred to as the 'private members' of the ECSEL Joint Undertaking, and 'the entities that constitute each private member, as defined in that private member's statutes, are referred to as the 'constituent entities'.

*Article 3*  
*Changes to membership*

1. Member States or Associated Countries that are not listed in point (b) of Article 2(1) shall become members of the ECSEL Joint Undertaking upon notification to the Governing Board of their written acceptance of these Statutes and of any other provisions governing the functioning of the ECSEL Joint Undertaking.
2. Provided that they contribute to the financing referred to in Article 16(4) to achieve the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation and that they accept these Statutes, the following entities may apply to become a member of the ECSEL Joint Undertaking:
  - (a) any country other than those referred to in paragraph 1 pursuing research and innovation policies or programmes in the area of electronic components and systems;
  - (b) any other legal entity that directly or indirectly supports research and innovation in a Member State or in an Associated Country.
3. Any application for membership of the ECSEL Joint Undertaking made in accordance with paragraph 2 shall be addressed to the Governing Board of the ECSEL Joint Undertaking. It shall assess the application, taking into account the relevance and the potential added value of the applicant as regards the achievement of the objectives of the ECSEL Joint Undertaking and shall decide on the application.

4. Any member may terminate its membership of the ECSEL Joint Undertaking. Such termination shall become effective and irrevocable six months after notification to the other members. As from the date of termination, the former member shall be discharged from any obligations other than those approved or incurred by the ECSEL Joint Undertaking prior to the notification of termination of the membership.
5. Membership of the ECSEL Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
6. Upon any change to membership pursuant to this Article, the ECSEL Joint Undertaking shall immediately publish on its website an updated list of members together with the date of such change.

#### *Article 4*

#### *Bodies of the ECSEL Joint Undertaking*

The bodies of the ECSEL Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Executive Director;
- (c) the Public Authorities Board;
- (d) the Private Members Board.

*Article 5*

*Composition of the Governing Board*

The Governing Board shall be composed of representatives of the members of the ECSEL Joint Undertaking.

Each member of the ECSEL Joint Undertaking shall appoint its representatives and a lead delegate who shall hold the voting rights of the member in the Governing Board.

*Article 6*

*Functioning of the Governing Board*

1. The voting rights in the Governing Board shall be distributed as follows:

- (a) 1/3 for the private members collectively;
- (b) 1/3 for the Commission; and
- (c) 1/3 for the ECSEL Participating States collectively.

The members shall make every effort to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of the members who are absent.

2. For the first two financial years, the voting rights of the ECSEL Participating States shall be distributed as follows:
  - (a) one per cent for each ECSEL Participating State;
  - (b) the remaining percentage distributed annually among the ECSEL Participating States in proportion to their actual financial contributions over the past two years, including their contributions to the ENIAC and ARTEMIS Joint Undertakings.

For the subsequent financial years, the distribution of the voting rights of the ECSEL Participating States shall be established annually and in proportion to the funds they have committed to indirect actions over the past two financial years.

The voting rights of the private members shall be distributed equally amongst the private associations unless decided otherwise by the Private Members Board.

Voting rights for any new member of the ECSEL Joint Undertaking that is not a Member State or an Associated Country shall be determined by the Governing Board before that member joins the ECSEL Joint Undertaking.

3. The Governing Board shall elect a chairperson for a period of at least one year.

4. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission, of a majority of the representatives of the ECSEL Participating States, of a majority of the private members, at the request of the chairperson, or at the request of the Executive Director in accordance with Article 16(5). The meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the ECSEL Joint Undertaking.

The quorum of the Governing Board shall be constituted by the Commission, the private members and at least three ECSEL Participating States' lead delegates.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Governing Board, but shall have no voting rights.

The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

5. The representatives of the members of the ECSEL Joint Undertaking shall not be personally liable for actions carried out in their capacity as representatives on the Governing Board.
6. The Governing Board shall adopt its own rules of procedure.

*Article 7*  
*Tasks of the Governing Board*

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the ECSEL Joint Undertaking and shall supervise the implementation of its activities.
2. The Commission, in its role on the Governing Board, shall seek to ensure coordination between the activities of the ECSEL Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.
3. The Governing Board shall in, particular, carry out the following tasks:
  - (a) assess, accept or reject applications for a membership in accordance with Article 3(3) of these Statutes;
  - (b) decide on the termination of membership in the ECSEL Joint Undertaking of any member that does not fulfil its obligations;
  - (c) adopt the financial rules of the ECSEL Joint Undertaking in accordance with Article 5 of this Regulation;

- (d) adopt the annual budget of the ECSEL Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade, the number of contract staff and seconded national experts expressed in full-time equivalents;
- (e) exercise the appointing authority powers with respect to staff, in accordance with Article 6(2) of this Regulation;
- (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
- (h) adopt the multiannual strategic plan referred to in Article 21(1);
- (i) adopt the work plan and the corresponding expenditure estimates referred to in Article 21(2);
- (j) approve the annual activity report, including the corresponding expenditure referred to in Article 22(1);
- (k) arrange as appropriate, for the establishment of an internal audit capability of the ECSEL Joint Undertaking upon recommendation by the Executive Director;

- (l) establish the ECSEL Joint Undertaking's communications policy upon recommendation by the Executive Director;
- (m) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;
- (n) where appropriate, lay down rules on the secondment of national experts to the ECSEL Joint Undertaking and on the use of trainees in accordance with Article 7(2) of this Regulation;
- (o) where appropriate, set up advisory groups in addition to the bodies of the ECSEL Joint Undertaking;
- (p) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the ECSEL Joint Undertaking;
- (q) be responsible for any task that is not specifically allocated to a particular body of the ECSEL Joint Undertaking; it may assign such tasks to any body of the ECSEL Joint Undertaking.

## *Article 8*

### *Appointment, dismissal or extension of the term of office of the Executive Director*

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the other members of the ECSEL Joint Undertaking in the selection procedure, as appropriate.

In particular, an appropriate representation from the other members of the ECSEL Joint Undertaking shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the ECSEL Participating States and the private members shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the ECSEL Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the ECSEL Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission, associating the ECSEL Participating States and the private members as appropriate, shall undertake an assessment of the performance of the Executive Director and the ECSEL Joint Undertaking's future tasks and challenges.

4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.
5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the ECSEL Participating States and the private members as appropriate.

#### *Article 9*

##### *Tasks of the Executive Director*

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the ECSEL Joint Undertaking in accordance with the decisions of the Governing Board.
2. The Executive Director shall be the legal representative of the ECSEL Joint Undertaking. The Executive Director shall be accountable to the Governing Board.
3. The Executive Director shall implement the budget of the ECSEL Joint Undertaking.

4. The Executive Director shall, in particular, carry out the following tasks in an independent manner:
- (a) consolidate and submit for adoption to the Governing Board the draft multiannual strategic plan composed of the multiannual strategic research and innovation agenda as proposed by the Private Members Board and the multiannual financial perspectives from the public authorities;
  - (b) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (c) prepare and submit for adoption to the Governing Board the draft work plan including the scope of the calls for proposals needed to implement the research and innovation activities plan as proposed by the Private Members Board and the corresponding expenditure estimates as proposed by the public authorities;
  - (d) submit for opinion to the Governing Board the annual accounts;
  - (e) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;

- (f) sign individual grant agreements and decisions;
- (g) sign procurement contracts;
- (h) implement the ECSEL Joint Undertaking's communication policy;
- (i) organise, direct and supervise the operations and the staff of the ECSEL Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (j) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (k) ensure that risk assessment and risk management are performed;
- (l) take any other measures needed to assess the progress of the ECSEL Joint Undertaking towards its objectives as set out in Article 2 of this Regulation;
- (m) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.

5. The Executive Director shall set up a Programme Office for the execution, under his or her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the ECSEL Joint Undertaking and shall in particular carry out the following tasks:
- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the ECSEL Joint Undertaking;
  - (b) manage the calls for proposals as provided for in the work plan and administer the grant agreements and decisions;
  - (c) provide the members and the other bodies of the ECSEL Joint Undertaking with all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
  - (d) act as the secretariat of the bodies of the ECSEL Joint Undertaking and provide support to advisory groups set up by the Governing Board.

#### *Article 10*

##### *Composition of the Public Authorities Board*

The Public Authorities Board shall be composed of representatives of the public authorities of the ECSEL Joint Undertaking.

Each public authority shall appoint its representatives and a lead delegate who shall hold the voting rights in the Public Authorities Board.

*Article 11*

*Functioning of the Public Authorities Board*

1. The voting rights in the Public Authorities Board shall be assigned to the public authorities on an annual basis in proportion to their financial contribution to the activities of the ECSEL Joint Undertaking for that year in accordance with Article 18(4), and with an upper limit for any given member of 50 % of the total voting rights in the Public Authorities Board.

If fewer than three ECSEL Participating States have communicated to the Executive Director their financial contribution according to Article 18(4), the Commission shall hold 50 % of the voting rights and the remaining 50 % shall be distributed equally amongst the ECSEL Participating States.

The public authorities shall make every effort to achieve consensus. Failing consensus, the Public Authorities Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of the ECSEL Participating States that are not in attendance.

Each public authority shall have a right of veto on all issues concerning the use of its own contribution to the ECSEL Joint Undertaking.

2. The Public Authorities Board shall elect its chairperson for a period of at least two years.

3. The Public Authorities Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the ECSEL Participating States, or at the request of the chairperson. The meetings of the Public Authorities Board shall be convened by its chairperson and shall normally take place at the seat of the ECSEL Joint Undertaking.

The quorum of the Public Authorities Board shall be constituted by the Commission and at least three ECSEL Participating States' lead delegates.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Public Authorities Board, but shall have no voting rights.

Any Member State or Associated Country that is not a member of the ECSEL Joint Undertaking may participate in the Public Authorities Board as an observer. Observers shall receive all relevant documents and may give advice on any decision taken by the Public Authorities Board. All such observers will be bound by the confidentiality rules applying to the Public Authorities Board members.

The Public Authorities Board may appoint working groups where necessary under the overall coordination of one or more public authorities.

The Public Authorities Board shall adopt its own rules of procedure.

*Article 12*

*Tasks of the Public Authorities Board*

The Public Authorities Board shall:

- (a) ensure that the principles of fairness and transparency are properly applied in the allocation of public funding to participants in indirect actions;
- (b) approve the rules of procedure for calls for proposals, and for the evaluation, selection and monitoring of indirect actions;
- (c) approve the launch of calls for proposals, in accordance with the work plan;
- (d) rank proposals on the basis of the selection and award criteria, and taking into consideration their contribution towards the achievement of the objectives of the call and synergy with national priorities;
- (e) decide on the allocation of public funding to selected proposals up to the limit of the budgets available, taking into account the verifications carried out in accordance with Article 18(5). Such decision shall be binding on the ECSEL Participating States without any further evaluation or selection processes.

*Article 13*

*Composition of the Private Members Board*

The Private Members Board shall be composed of representatives of the private members of the ECSEL Joint Undertaking.

Each private member shall appoint its representatives and a lead delegate who shall hold the voting rights in the Private Members Board.

*Article 14*

*Functioning of the Private Members Board*

1. The Private Members Board shall meet at least twice a year.
2. The Private Members Board may appoint working groups where necessary under the overall coordination of one or more members.
3. The Private Members Board shall elect its chairperson.
4. The Private Members Board shall adopt its rules of procedure.

*Article 15*

*Tasks of the Private Members Board*

The Private Members Board shall:

- (a) draw up and regularly update the draft multiannual strategic research and innovation agenda referred to in Article 21(1) for achieving the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation;
- (b) prepare each year the draft research and innovation activities plan for the next year, as a basis for the calls for proposals referred to in Article 21(2);
- (c) submit to the Executive Director the draft multiannual strategic research and innovation agenda and the yearly draft research and innovation activities plan within the deadlines set by the Governing Board;
- (d) organise an advisory stakeholder forum that is open to all public and private stakeholders having an interest in the field of electronic components and systems, to inform them about and collect feedback on the draft multiannual strategic research and innovation agenda and draft research and innovation activities plan for a given year.

*Article 16*  
*Sources of financing*

1. The ECSEL Joint Undertaking shall be jointly funded by its members through financial contributions paid in instalments and in kind contributions consisting of the costs incurred by the private members or their constituent entities and affiliated entities in implementing indirect actions that are not reimbursed by the ECSEL Joint Undertaking.
2. The administrative costs of the ECSEL Joint Undertaking shall be covered by means of the financial contributions referred to in:
  - (a) Article 3(1) of this Regulation for the Union's financial contribution up to EUR 15 255 000;
  - (b) Article 4(2) of this Regulation for the contribution by the private members up to EUR 19 710 000 or 1 % of the sum of the total cost of all projects, whichever figure is higher, but not exceeding EUR 48 000 000; and
  - (c) Article 19(2) of this Regulation for the completion of the actions launched under Regulations (EC) No 72/2008 and (EC) No 74/2008.

If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the ECSEL Joint Undertaking.

3. The operational costs of the ECSEL Joint Undertaking shall be covered by means of:
- (a) the Union's financial contribution;
  - (b) financial contributions from ECSEL Participating States;
  - (c) in kind contributions by the private members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contributions by the ECSEL Joint Undertaking, the ECSEL Participating States and any other Union contribution to those costs.
4. The resources of the ECSEL Joint Undertaking entered in its budget shall be composed of the following contributions:
- (a) members' financial contributions to the administrative costs;
  - (b) members' financial contributions to the operational costs, including those from the ECSEL Participating States which entrust the ECSEL Joint Undertaking in accordance with Article 17(1);
  - (c) any revenue generated by the ECSEL Joint Undertaking;
  - (d) any other financial contributions, resources and revenues.

Any interest yielded by the contributions paid to the ECSEL Joint Undertaking shall be considered to be its revenue.

5. Should any member of the ECSEL Joint Undertaking be in default of its commitments concerning its agreed financial contribution, the Executive Director shall put this in writing and shall set a reasonable period within which such default shall be remedied. If the situation is not remedied within that period, the Executive Director shall convene a meeting of the Governing Board to decide whether the defaulting member's membership is to be revoked or whether if any other measures are to be taken until its obligations have been met.
6. The resources and activities of the ECSEL Joint Undertaking shall be intended for the achievement of the objectives set out in Article 2 of this Regulation.
7. The ECSEL Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives set out in Article 2 of this Regulation.
8. Except when the ECSEL Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the ECSEL Joint Undertaking.

*Article 17*

*ECSEL Participating States contributions*

1. The ECSEL Participating States may entrust the ECSEL Joint Undertaking with the implementation of their contributions to the participants in indirect actions through the grant agreements with participants concluded by the ECSEL Joint Undertaking. They may also entrust the ECSEL Joint Undertaking with the payment of their contributions to the participants or make the payments by themselves based on the verifications made by the ECSEL Joint Undertaking.
2. Where an ECSEL Participating State does not entrust the ECSEL Joint Undertaking as described in paragraph 1, it shall take all necessary measures to establish its own grant agreements within a similar timeframe as the ECSEL Joint Undertaking grant agreements. The verification of the eligibility of costs performed by the ECSEL Joint Undertaking as referred to in Article 18(7) may be used by the ECSEL Participating State as part of its own payment process.
3. The arrangements for the cooperation between the ECSEL Participating States and the ECSEL Joint Undertaking shall be established by means of an administrative arrangement to be concluded between the entities designated by the ECSEL Participating States for that purpose and the ECSEL Joint Undertaking.

4. When ECSEL Participating States entrust the ECSEL Joint Undertaking in accordance with paragraph 1, the administrative arrangements referred to in paragraph 3 shall be supplemented with annual arrangements between the entities designated by the ECSEL Participating States for that purpose and the ECSEL Joint Undertaking, laying down the terms and conditions for the financial contribution of the ECSEL Participating States to the ECSEL Joint Undertaking.
5. Member States, Associated Countries and third countries that are not members of the ECSEL Joint Undertaking may conclude similar arrangements with the ECSEL Joint Undertaking.

#### *Article 18*

##### *Funding of indirect actions*

1. The ECSEL Joint Undertaking shall support indirect actions through open and competitive calls for proposals, and allocations of public funding within the limits of the budgets available. Any public support under the ECSEL Joint Undertaking is without prejudice to State aid rules.
2. The financial contribution from the public authorities shall be that referred to in point (a) of Article 16(3) and point (b) of Article 16(3) disbursed as a reimbursement of eligible costs to the participants in indirect actions. The specific reimbursement rates by the Union and by each ECSEL Participating State shall be included in the work plan.

3. The public authorities shall communicate to the Executive Director their financial commitments reserved for each call for proposals to be included in the work plan and where applicable in accordance with Article 17(1) in time for the preparation of the draft budget of the ECSEL Joint Undertaking, taking into account the scope of the research and innovation activities addressed in the work plan.
4. The Executive Director shall verify the eligibility of applicants for funding from the Union and the ECSEL Participating States shall verify the eligibility of their applicants against any predetermined national criteria for funding and shall communicate the results to the Executive Director.
5. On the basis of the verifications provided in paragraph 4, the Executive Director shall establish the proposed list of indirect actions to be retained for funding, detailed by the applicants, and shall communicate it to the Public Authorities Board which shall decide on the maximum allocation of public funding in accordance with point (e) of Article 12 and mandate the Executive Director to establish agreements with the corresponding participants.
6. The ECSEL Joint Undertaking shall take all necessary measures, including the verification of the eligibility of costs, for the disbursement of the public funding to the respective participants in accordance with the arrangements referred to in Article 17(3) and (4).
7. The ECSEL Participating States shall not require additional technical monitoring and reporting other than those required by the ECSEL Joint Undertaking.

*Article 19*

*Financial commitments*

The financial commitments of the ECSEL Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

*Article 20*

*Financial year*

The financial year shall run from 1 January to 31 December.

*Article 21*

*Operational and financial planning*

1. The multiannual strategic plan shall specify the strategy and plans for achieving the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation in the form of a multiannual strategic research and innovation agenda from the Private Members Board and multiannual financial perspectives from the public authorities. It should identify research and innovation priorities for the development and adoption of key competences for electronic components and systems across different application areas in order to strengthen European competitiveness and help create new markets and societal applications. It should be reviewed regularly in accordance with the evolution of the industrial needs in Europe.

2. The Executive Director shall submit to the Governing Board for adoption a draft annual or multiannual work plan which shall include the research and innovation activities plan, the administrative activities and the corresponding expenditure estimates.
3. The work plan shall be adopted by the end of the year prior to its implementation. The work plan shall be made publicly available.
4. The Executive Director shall prepare the draft annual budget for the following year and shall submit it to the Governing Board for adoption.
5. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
6. The annual budget shall be adapted in order to take into account the amount of the Union's financial contribution as set out in the Union budget.

#### *Article 22*

#### *Operational and financial reporting*

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the ECSEL Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the ECSEL Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, *inter alia*, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
  - (b) the proposals submitted, including a breakdown by participant type, including SMEs, and by country;
  - (c) the proposals selected for funding, with a breakdown by participant type, including SMEs, and by country, and indicating the contributions of the ECSEL Joint Undertaking and the ECSEL Participating States to the individual participants and indirect actions.
2. Once approved by the Governing Board, the annual activity report shall be made publicly available.
  3. By 1 March of the following financial year, the accounting officer of the ECSEL Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and to the Court of Auditors.

By 31 March of the following financial year, the ECSEL Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, to the Council and to the Court of Auditors.

On receipt of the Court of Auditors' observations on the ECSEL Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the ECSEL Joint Undertaking shall draw up the ECSEL Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the ECSEL Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, to the Council, to the Commission and to the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

*Article 23*

*Internal audit*

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

*Article 24*

*Liability of members and insurance*

1. The financial liability of the members of the ECSEL Joint Undertaking for the debts of the ECSEL Joint Undertaking shall be limited to their contributions already made to the administrative costs.
2. The ECSEL Joint Undertaking shall take out and maintain appropriate insurance.

*Article 25*  
*Conflict of interest*

1. The ECSEL Joint Undertaking, its bodies and staff shall avoid any conflict of interest in carrying out their activities.
2. The ECSEL Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies and staff. Those rules shall contain provisions intended to avoid a conflict of interest in respect of the representatives of the members of the ECSEL Joint Undertaking serving on the Governing Board or on the Public Authorities Board.

*Article 26*  
*Winding-up*

1. The ECSEL Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
2. In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union or all private members withdraw from the ECSEL Joint Undertaking.
3. For the purpose of conducting the proceedings to wind up the ECSEL Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.

4. When the ECSEL Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding-up. Any surplus shall be distributed among the members at the time of the winding-up in proportion to their financial contribution to the ECSEL Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
  
  5. An *ad hoc* procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the ECSEL Joint Undertaking as well as any procurement contract with a duration longer than the duration of the ECSEL Joint Undertaking.
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