



# Meta-Evaluation of Article 185 Initiatives

Report of the Expert Group

Written by the Expert Group on Meta-Evaluation of Art. 185 initiatives  
*September – 2017*

*Research and  
Innovation*

## **Meta-Evaluation of Article 185 Initiatives, Report of the Expert Group**

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# **Meta-Evaluation of Article 185 Initiatives**

## ***Report of the Expert Group***

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## Foreword from the Chair

The evaluations of the individual Article 185 initiatives show that each of them meet the requirements of the evaluation criteria and underline their importance within their specific environment. On the other hand, after more than a decade since Article 185 was first used as a legal basis for Joint Programming, only five heterogeneous initiatives exist (a sixth is in preparation).

For me, that means that the experimentation period is over now and we have sufficient experience available to use Article 185 in a more effective and smarter way. Consequently, our Expert Group focused in particular on the conditions under which the use of Article 185 will bring most added value for all stakeholders, EU and national policies, scientists and eventually the citizen profiting from better policies. The most important condition, in our mind, is that the use of Article 185 should be focused on and limited to only those fields that are deeply embedded both in national and European policy priorities. Only joint priorities can lead to Joint Programmes that achieve the level of political attention and support that they need to succeed.

Europe can be understood as a three level system: The European Union/COM level, the national/Member States level (which is the dominant one by representing the overwhelming majority of total European R&D) and the intermediary level of MS/EU joint activities, intergovernmental institutions and joint programming. The latter is the playing field of Article 185. This playing field opens new opportunities. Why? Because it represents a 'Europe of partners' using principles such as variable geometry or inclusiveness to match mutual interests of MS, so far as they exist, with the strategies and priorities on the EU level. This needs a very careful orchestration of interests, strategies, programming and tools. Article 185 is one important opportunity here.

The identification and orchestration of mutual interests need proper procedures. Therefore, our Expert Group gives particular attention on the process of setting-up new or revised Article 185 initiatives in order to open up new room for manoeuvre.

Our Expert Group also analysed carefully the implementation of Article 185 initiatives and you will find dedicated chapters on a more efficient legal and administrative framework as well as on synergies with the R&I related measures funded through the Structural funds.

So, procedures for selection of Article 185 initiatives and implementation matter. Our Expert Group is convinced that, under the described conditions, the use of Article 185 will be useful and effective under the next Framework Programme.

As chairman I have to thank the other members of the Expert Group:

**Claire NAUWELAERS (BE):** Claire is one of the most renowned experts on national and regional R&D and innovation policies in Europe. She worked for the OECD, UNU-MERIT at the University of Maastricht and at the University of Louvain. Her specific expertise on policy design and evaluation proved to be very important in the context of the Article 185 initiatives.

**Filipe SANTOS (PT):** Filipe is for many years a consultant for DG DEVCO in the area of legal and administrative requirements in the field of development aid, notably for joint programmes and indirect management of Union funds. His experiences from another policy domain helped us in finding new and more effective ways for the use of Article 185.

**Prof. Dr. Diana-Urania GALETTA (IT):** Diana-Urania is Professor for Italian and European administrative law at the University of Milan. She is also a member of the Steering Committee of ReNEUAL, a Research Network on EU administrative law. Her knowledge and experience was instrumental when developing recommendations towards legal issues and administrative simplifications in the use of Article 185 as a legal basis for joint programmes.

**Angus HUNTER (UK):** Angus is a member of the ERA-LEARN team that provides the learning platform for the public-public partnership (P2P) community in Europe. He also supported the

European Commission already as the rapporteur for the recent evaluation of the Joint Programming Process. His deep knowledge about joint programming in all its forms in Europe was well appreciated.

The panel represented a team of complementary competences and cooperated in an extremely constructive way. It was a pleasure chairing the professional and inspiring discussions we had.

Finally I want to thank Alexander Grablowitz and Jörg Niehoff from the European Commission for their very supportive role and the representatives of the European Parliament, the Commission, the Council, the Member States and the Evaluation teams of the Article 185 initiatives we interviewed.

***Frieder Meyer-Krahmer<sup>1</sup> (Chair of the Expert Group)***

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<sup>1</sup> Prof. Dr. Frieder Meyer-Krahmer was former director of the Fraunhofer-Institute for Systems and Innovation Research in Germany and former State Secretary of the German Federal Ministry for Education and Research and experienced in evaluation and European research and innovation policy.

# **1. EXECUTIVE SUMMARY**

## *1.1 Introduction*

Article 185 initiatives (Article 185s) are long term public-public partnerships (P2P) established on a voluntary basis by EU Member States that are also eligible for a substantial financial contribution from the EU Research Framework programme. They are established through the EU ordinary legislative procedure and require a Dedicated Implementation Structure (DIS). They aim at addressing common challenges in specific research areas by creating economies of scale and synergies between national and EU research programmes and investments. Their ambition is to achieve scientific, managerial and financial integration amongst national research programmes in a given field. Five Article 185 initiatives are ongoing and a sixth one is in preparation: they feature a high degree of diversity in terms of scope, participation, management and funding modes.

The main evidence for the Meta-Evaluation was based on an online survey of EU Member States and a series of Hearings with important stakeholder groups. One of the Hearing sessions involved the evaluators of the individual Article 185 initiatives so that the Expert Group could gain an understanding of their emerging conclusions. Two specific reviews were also carried out to guide the recommendations. One focused on the legal basis for Article 185s and to what extent there is scope for simplification. The other considered the underexploited synergies between the ESIF and Article 185s.

The Key Findings of the Expert Group cover five pre-defined evaluation criteria (relevance, coherence, added value, effectiveness and efficiency).

## *1.2 Findings: Strengths*

Article 185 initiatives have a number of distinctive features that set them apart from other 'partnering' initiatives in Europe. This includes the long term perspective, the scale of national co-funding and their international visibility. They have demonstrated the attractiveness and versatility of the instrument across a wide variety of subjects that are of common interest to the relevant research funding organisations in different countries. Each Article 185 has been able to exploit these common interests in their own way and have been successful in mobilising significant investment in transnational research projects in important policy areas, both global and/or regional. The planning and approval process also ensures that their objectives and ex-ante impact potential are subject to detailed scrutiny with respect to European added value. At the implementation stage, the central infrastructure (DIS) provides the necessary management resource to support the participating States with the mobilisation of joint calls, associated financial administration and reporting to the Commission.

## *1.3 Findings: Challenges*

There are, however, a number of issues that (if addressed) could significantly improve the strategic impact of Article 185 initiatives beyond the research community. Firstly, their prominence and synergy within both the national and EU policy landscape is rather unclear and a coherent selection process is not apparent. Secondly, their joint and collaboration activities do not extend much beyond the research community. Thirdly, there are significant barriers to participation for the less R&D intensive countries including how the underexploited synergies with the Structural Funds can be realised in practice. Last, but not least, the current legal & administrative framework for the Article 185 instrument is a major inhibiting factor for all concerned and there is scope for substantial simplification and shared infrastructure.

## *1.4 Recommendations*

The Expert Group has therefore proposed 10 main recommendations. Together these will increase the attractiveness of Article 185 as a strategic tool for policy cooperation both between the EU and national research & innovation programmes and with key actors in the wider policy domains.

**Recommendation 1: Use Article 185 as a strategic opportunity to enable policy cooperation between MS and the EU.** The Article 185 instrument should only be used for strategic priorities shared between EU and its Member States with a strong focus on policy cooperation beyond transnational joint calls and R&I projects.

**Recommendation 2: Develop a coherent process for identification and selection of Article 185 initiatives.** The Member States and the Commission should work together to co-design a transparent and coherent process for the identification of future priorities for Article 185, involving end users to ensure cross-sectoral approach and maximise impacts.

**Recommendation 3: Define the exit strategy from the outset.** More consideration is needed of the life cycle for the portfolio of Article 185 initiatives and how they can be transitioned towards some form of sustainability outside the Article 185. Consequently, new Article 185 initiatives should be designed with an *a priori* integrated exit strategy so that room for new initiatives is constantly ensured, while cooperation and joint activities of existing initiatives can continue beyond the use of Article 185.

**Recommendation 4: Substantially improve efficiency of the Article 185 instrument within the existing legal and administrative framework.** There is scope to realise substantial efficiency gains by creating a single structure, preferably a public body, to serve all of the active Article 185 initiatives. Decisions concerning the Annual Work Programmes and the Delegation Agreements should be delegated to the level of Directorate General.

**Recommendation 5: Re-orientate the Article 185 more towards outcomes and impacts.** The governance of Article 185 initiatives, at the three levels of Commission, Participating States and implementation structures, should be more oriented towards the achievements of policy impacts, beyond pure research results, rather than driven by the implementation of calls and projects. This requires the implementation of a new set of key performance indicators measuring the success of the initiatives in a wider sense, as well as the participation of actors beyond the research community.

**Recommendation 6: Acknowledge more the needs and priorities of less research-intensive countries in shaping Article 185 initiatives.** To ensure a maximum added value stemming from the use of Article 185 at EU level, the use of Article 185 needs to accommodate better and more actively the priorities and needs of the less R&D intensive countries.

**Recommendation 7: Exploit opportunities to use ESIF to support Article 185.** Better synergies should be sought between EU Cohesion and R&D policy instruments: at selection stage, smart specializations strategies should be used in the priority setting process for new Article 185 initiatives; at implementation stage, capacity building opportunities from the Structural Funds should be used in the implementation of Article 185 initiatives and synergies between R&D activities funded through the two sources should be sought.

**Recommendation 8: Allow the Commission to play a more proactive role without compromising MS ownership.** The Commission has a key role to play as facilitator and guardian of the overall European added value. It could be more pro-active in the priority setting process for new Article 185 initiatives as well as providing advice and support in their effective and efficient implementation.

**Recommendation 9: Improve coherence amongst the landscape of P2P/partnering initiatives.** The EU and Member States should clarify the strategic position of the different P2P initiatives and thus improve their coherence within the EU and national R&I policy frameworks.

**Recommendation 10: Reinforce the international dimension and influence of Article 185.** Better strategies should be implemented to exploit the potential of Article 185 in proving the strength, relevance and added value of joint policy action, in the EU, in responding to global challenges, and to influence international policy agendas.

## **2. INTRODUCTION**

### *2.1 Mandate of the Expert Group*

The Commission formed the Expert Group to carry out a Meta-Evaluation as part of an overall Article 185 evaluation 'package' including both final and interim evaluations. It aims at taking stock of the experiences in their preparation, implementation and supervision so that general critical issues that need to be addressed could be identified beyond the remits of the individual initiatives. This is particularly important for the design of future initiatives and to assess how the Article 185, as a legal basis for joint programmes between the EU and Member States, can best contribute to policy objectives.

The main objectives of the evaluation is therefore to produce an overall assessment of the use of Article 185 as a legal basis for joint programmes between the EU and Member States and an outlook on the future use of the Article 185 instrument for the implementation of public-to-public (P2P) research & innovation partnering programmes.

### *2.2 Methodology for the Meta-Evaluation*

The methodology included:

- Online survey to all EU Member States (23 responses received)
- Hearings with several stakeholder groups including representatives of EU Member States, experts from the individual Article 185 evaluations, managers of the Dedicated Implementation Structures (DIS), EU policy stakeholders and international R&D experts (held on 23/24 March and 18/19 May 2017)
- Review of the legal basis for the Article 185
- Review of the problems and opportunities for the use of ESIF with Article 185 initiatives
- Review of the individual evaluations of Article 185 initiatives

A separate public consultation was carried out in parallel by the Commission and the main findings from this are included where appropriate.

Of course, the Meta-Evaluation takes a broad view of the available evidence and therefore cannot be considered as an exhaustive analysis of the subject.

### *2.3 Structure of the Report*

The report is structured as follows. Firstly, an overview of the main facts about Article 185 is provided (Section 3) followed by the Key Findings of the Expert Group (Section 4). These are segmented in accordance with the five pre-specified evaluation criteria: relevance, coherence, added value, effectiveness and efficiency. It concludes with a number of Recommendations (Section 5).

The Appendix includes an analysis of survey feedback (Appendix A); the review of the legal situation (Appendix B) and the review of the use of ESIF (Appendix C).

### 3. OVERVIEW OF THE ARTICLE 185 INITIATIVES

#### 3.1 What are Article 185 Initiatives

Article 185 initiatives are long term public-public partnerships (P2P) established on a voluntary basis by EU Member States with a financial contribution from the European Commission (on behalf of the EU). They have been framed within each of the EU multiannual framework programmes since FP6 when the first one (EDCTP) was launched. Under Horizon 2020 they are selected according to certain criteria (Article 26 of the Horizon 2020 regulation) and implemented under the Rules for Participation and possible derogations. They require a Co-Decision that is adopted through the EU ordinary legislative procedure. According to the 1291/2013 Regulation establishing Horizon 2020 they also require a Dedicated Implementation Structure (DIS); a legal entity that is responsible for the implementation of the programme and able to enter into a formal delegation agreement with the Commission.

A review paper on the legal situation is included in Appendix B.

#### 3.2 Rationale and Positioning

Article 185 initiatives are intended to address common challenges in specific research areas by creating economies of scale and synergies between national and EU research programmes and investments. They aim at scientific, managerial and financial integration amongst national research programmes in a given field.

At the beginning of FP7, the Article 185 initiatives had a clear position as the only large scale joint programming instrument that was available to EU Member States. Since then, ERA-NETs have increasingly implemented multi-annual calls and other instruments and initiatives have been introduced including ERA-NET Plus, Joint Programming Initiatives (JPIs), ERA-NET Cofund and (more recently) EJP Cofund<sup>2</sup>. These are collectively known as public-public partnerships (P2Ps). A simple comparison<sup>3</sup> of the main features of Article 185 initiatives and these other options for joint programming is shown below.

Characteristics	Article 185	ERA-NET Cofund	EJP Cofund	EUREKA
Origin	2003 (FP6)	2014 (H2020)	2016 (H2020)	Over 30 years
Main activity	Multiple EU co-funded calls	Single EU co-funded call	Multiannual joint programme	Bottom-up joint projects
Other activities	Defined in basic act	Joint call/activities without EU	Joint calls	Networks, clusters
EU contribution	Normally 50%	33%	Maximum 70%	None
Participating States contribution	Normally cash	Normally cash	Normally in-kind	Cash
Duration	Typically 10 or more years	5 years	5 years	Ongoing
Recipients of EU contributions	DIS	Typically RFOs	RPOs or RFOs	N/A

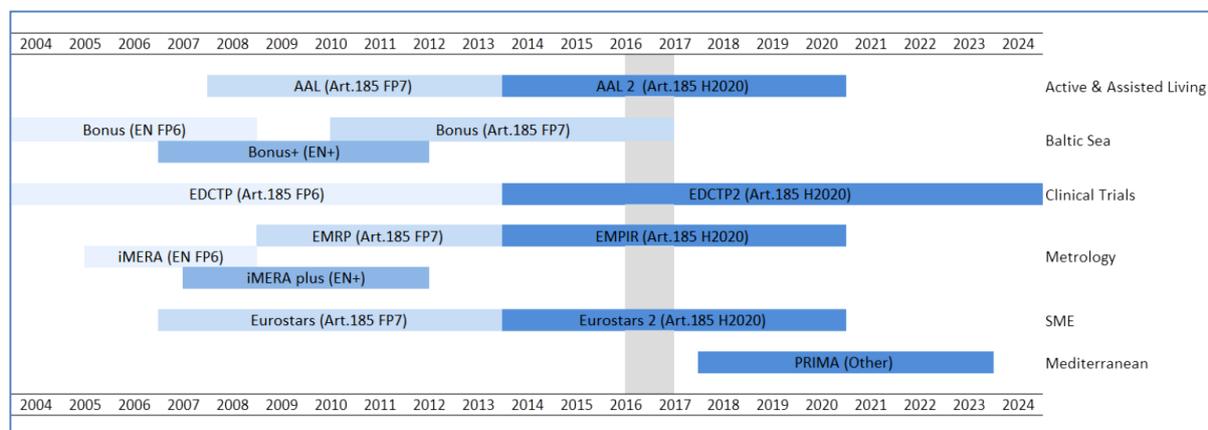
The main differentiating factors for the Article 185 initiatives are the long term dimension, the legislative procedure for establishment and the Dedicated Implementation Structure.

<sup>2</sup> <https://www.era-learn.eu/public-to-public-partnerships>

<sup>3</sup> Based on information from the Hearings and the Commission

### 3.3 Implementation

So far five Article 185 initiatives have been launched on specific topics and another is in preparation. The historical and planned implementation trajectory<sup>4</sup> of these is shown in the timeline below.



EDCTP (European & Developing Countries Clinical Trials Partnership) was the pioneer of the Article 185 initiatives. It was launched during FP6. Another four were launched within FP7, namely AAL (Ambient and Assisted Living)<sup>5</sup>, BONUS (Baltic Sea), EMRP (Metrology) and Eurostars (SMEs). So far, all except BONUS have continued with co-funding from Horizon 2020. Two of the Article 185s were preceded by FP6 ERA-NET Coordination Actions (EN) and FP7 ERA-NET Plus Actions (EN+). PRIMA, the Partnership for Research and Innovation in the Mediterranean Sea, is under preparation and its launch is foreseen by 2018.

The five existing Article 185 initiatives cover quite a diversity of subjects, types of participation and national budgets. They have also been implemented in different ways as shown below<sup>6</sup>.

Characteristics	AAL2	BONUS (FP7)	EDCTP2	EMPIR	EUROSTARS2
Overall budget (Mio €)	350	100	1366	600	1148
% EU contribution	50%	50%	50%	50%	25% minimum
Number of participating states (PS)	17MS + 3AC	8MS	15MS + 2AC	23MS + 5AC	28MS + 5AC
Management mode	Decentralised	Hybrid	Hybrid	Centralised	Decentralised
Funding rules	National	Hybrid	H2020	H2020	National
Type of PS contributions	Cash	Mainly cash	Cash and in-kind	Mainly in-kind	Cash
Matching mode	Project level	Project level	Programme level	Project level	Project level

Third countries are also involved in two of the initiatives but do not receive EU funding. For EDCTP2, there are 14 African countries that are part of the governance system. Also, some third countries (e.g. Canada, Korea) participate in Eurostars2 Calls as associates.

The term 'matching mode' describes how the EU contribution is used. Apart from EDCTP2, the EU co-funding is used to top up the national grants at R&D project level. For EDCTP2, the matching between national and EU funds is organised at the programme level.

Amongst the initiatives, one can distinguish between three models with respect to implementation:

- **Fully centralised implementation:** This model, used by EMPIR is clearly the most integrated one. The whole programme, including the management of the grants on the basis of the Horizon 2020 Model Grant Agreement, is implemented by the Dedicated Implementation Structure (DIS).

<sup>4</sup> Provided by ERA-LEARN

<sup>5</sup> The meaning of abbreviation AAL was later changed to 'Active and Assisted Living' in Horizon 2020

<sup>6</sup> Based on information from the Hearings and the Commission

- **Fully decentralised implementation:** In this model of AAL2 and Eurostars2, the DIS is mainly organising the central evaluation and distributes the EU co-funding to the national funding agencies, which manage the individual national grant agreements for the funded projects.
- **Hybrid implementation:** Two different models have been used. The EDCTP2 model combines the fully centralised implementation for the EU funds according to Horizon 2020 standards with national activities in the programme being implemented by national rules. The BONUS model applies common rules to all activities (on the basis of FP7) but splits the funding into an EU grant and a national grant.

Extensive details of the current Article 185 initiatives, including their objectives and achievements, can be found in the evaluation reports of the individual initiatives.

## 4. KEY FINDINGS

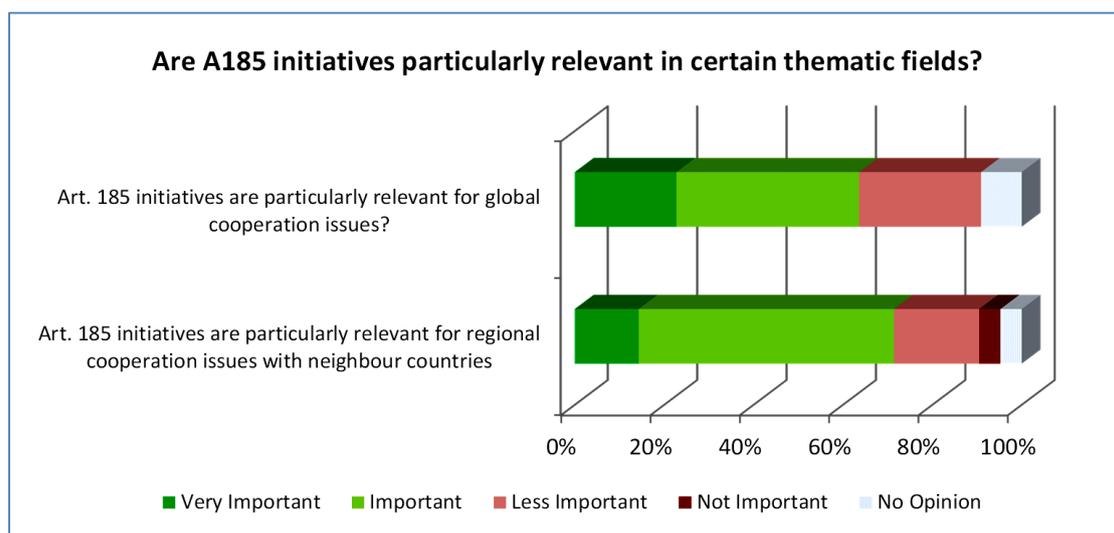
The following key findings are based on a mix of those from the evaluations of the individual Article 185 initiatives and the additional evidence gathered by the Expert Group for this Meta-Evaluation. This includes, but is not limited to, the survey feedback from representatives of the EU Member States in Appendix A.

They aim to highlight areas of possible improvement for the use of Article 185 as a legal basis for joint programming. Consequently, the overall achievements and strengths of the active Article 185 initiatives are not replicated here in detail, but can be found in the individual expert group reports.

### 4.1 Relevance

#### **The existing Article 185 initiatives all have relevance to one or more policy objectives**

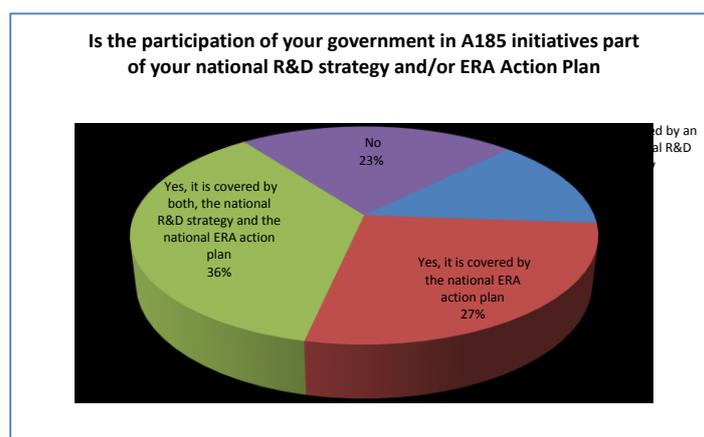
This is clearly the case according to the individual evaluations. Feedback from the MS survey<sup>7</sup>, also suggests that the Article 185s are particularly relevant for both global and regional cooperation issues. This is apparent in the subjects. For example, BONUS is concerned with the environment in the Baltic Sea regions and EDCTP is focussed on particular regions of Africa. Likewise, the forthcoming PRIMA initiative will be based on the Mediterranean regions. AAL (with its focus on the elderly) is clearly a global challenge and coordination in 'metrology' is not only important to competitiveness but the Article 185 is also enabling more investment on how it can help address societal challenges related to energy, the environment and health. Eurostars, on the other hand, is a target-group specific programme since it fosters cross-border cooperation between research-intensive SMEs.



Whilst the thematic relevance cannot be disputed the question of relevance of the specific initiatives must also be considered with respect to their synergy with the evolving priorities of Horizon 2020 and national policies in the thematic fields. This is not necessarily limited to just the research & innovation strategies, due to the wider socio-economic relevance of the subjects, as discussed in Section 4.4 below (Effectiveness).

<sup>7</sup> Appendix A: MS responses to Q13

## **Article 185 initiatives have limited prominence within national research & innovation strategies**



The MS survey does not suggest that the Article 185 initiatives are particularly prominent within national R&I strategies and in some cases, they are not even covered within the national ERA Action Plan<sup>8</sup>.

In at least one case (AAL2) it seems that the Article 185 initiative is no longer attractive to some of the most research-intensive countries, which have either decided to exit or are not willing to invest substantially in the joint calls. In others (e.g. EDCTP) it seems that there has been limited influence on the national activities that are integrated within the programme. The main exception to this is the metrology programme (EMRP/EMPIR), which is highly visible within the national measurement system community.

The level of national coherence is less apparent in the individual evaluations and there is also some doubt about why these specific subjects were selected for Article 185 initiatives. Overall, it seems that the potential synergies between Article 185 and national policies are not exploited.

### ***There is a limited level of synergy with H2020 priorities***

The Article 185 initiatives are primarily Member State driven but, of course, are also co-funded by the EU Framework Programme. In spite of the latter, it seems that the Article 185s do not always have a clear strategic position within the thematic work programmes of Horizon 2020 but appear to be complementary. Still, with the ex-ante impact assessment procedure, the relevance and coherence of the Strategic Research Agendas (SRAs) of the individual Article 185s was ensured.

### ***A coherent process for selecting Article 185s is not apparent***

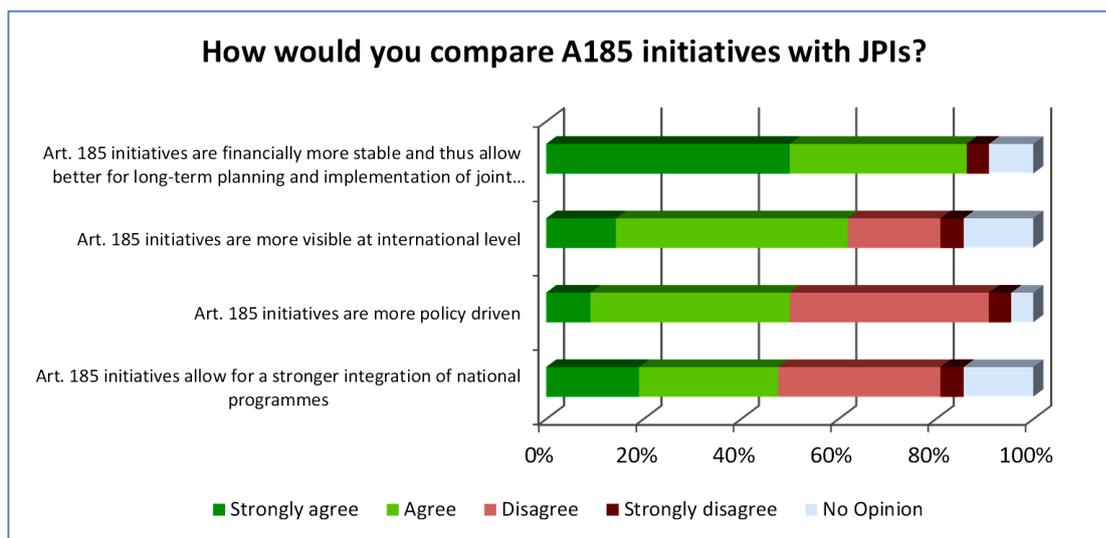
Unlike the JPIs, which focus on 'societal challenges' there does not appear to be any such thematic coherence between the Article 185s. They appear to be a quite diverse group of initiatives that include purely thematic subjects (AAL/Metrology), regional/thematic issues (EDCTP, BONUS, PRIMA) and target groups (Eurostars). Whilst it is good that there is scope for such a diversity of intermediate initiatives between national and EU programmes there needs to be more clarity on when the Article 185 instrument is the best option. The collective decisions made by the Member States to apply for the Article 185s that were launched in FP6 and FP7 seemed to be based on political considerations. There may now be more important subjects for consideration but it appears that neither the Commission nor the Member States are working on new potential candidates for future Article 185 initiatives.

<sup>8</sup> Appendix A: MS responses to Q1

## 4.2 Coherence

### **Article 185 initiatives have some distinctive features and advantages over other partnering options**

There are now many more options for research & innovation collaboration between Member States than was the case when the FP6/FP7 Article 185s were conceived. The main differentiators that separate the Article 185s from the others are the long term perspective, the scale of funding and international visibility. This is very clear from the MS Survey feedback below<sup>9</sup> that compared Article 185s with the JPIs.



### **Article 185 initiatives display synergies with other P2Ps but there is limited strategic cooperation**

The individual evaluations also indicate a high level of coherence between their research agenda and related policies at European and international level. Some have synergy with specific JPIs, EIPs and public/private partnerships but there is no evidence of any strategic integration trend. There are some specific examples, however, of cross-initiative collaboration such as between AAL2 and the thematically related JPI/MYBL (more years, better life) and EIP-AHA (active and healthy ageing).

### **The P2P landscape is now very crowded**

Over time, other related partnership models have been introduced through successive framework programmes (e.g. JPIs, EIPs, EJPs, PPPs, etc.) and there is now a lack of overall coherence between the different 'partnership' approaches. It has reached the stage that the multitude of instruments and approaches is perceived as a bottleneck for many national stakeholders.

### **The potential synergies with the ESIF are not being exploited**

In spite of the strong orientation of the European Structural and Investment Funds (ESIF) towards using more of these funds for research & innovation activities there is no indication that this is enabling the less research-intensive countries to improve their participation in the Article 185s. The issue of barriers to participation by such countries is discussed in the following Section 4.3. Of course, ESIF money cannot be used for joint calls that are EU co-funded but there are other options to exploit synergies, which are discussed in Appendix C.

<sup>9</sup> Appendix A: MS responses to Q5

### 4.3 Added Value (EU/National)

#### **The Article 185 initiatives have raised the level of coordinated national investment in their thematic fields**

There is no doubt that the Article 185s have mobilised a considerable level of financial resource to provide opportunities for European-level research & innovation projects in certain fields, in addition to the EU Framework Programme. This has been an important element in the ex-ante impact assessments for the Article 185 initiatives under Horizon 2020 and so the specific EU Added Value expectations are clear in their individual objectives. Prominent amongst these is the leveraging of significant national co-investments.

#### **The Article 185s are more orientated towards EU added value and the more research-intensive countries**

The general perception from the public consultation is that the Article 185s focus mainly on EU policy objectives and this may be an inevitable consequence of making the case for EU co-funding. Feedback from the Member State survey<sup>10</sup> also indicates a number of value adding features at the national level. Additional financial resources from EU co-funding is a quite obvious value adding feature but higher political visibility of joint programming, capacity building and access to foreign knowledge also seem important to many.

What is very clear, however, are the differences in perceived added value between those countries with a relatively high R&D intensity and those that are less R&D intense. The former are generally more positive about the benefits including higher quality R&D projects and capacity building.

<b>Perceptions of National Added Value from Participation in A185 Initiatives</b>	Countries with High R&D Intensity (%)	Countries with Low R&D Intensity (%)	Difference
Higher quality R&D projects compared to national programmes	40	15	25%
Clear knowledge gains with respect to programme development and implementation	25	27	-2%
Higher impact from national R&D investments when embedded in transnational programme	70	27	43%
Additional financial resources for national R&D from EU cofunding	70	55	15%
Higher political visibility for joint programmes at national and European level	84	41	43%
Better national R&D capacity building / access to foreign knowledge	55	41	14%
Higher attractiveness for foreign researchers to work in your country	12	12	0%
Positive effects on national level from simplification under H2020	12	0	12%

Additional financial resources from EU co-funding are the most important value added feature for the less R&D intensive countries. At the same time, competitive funds in these countries are even more 'scarce' than in the R&D intensive countries, making it even more challenging for them to co-fund national participants at a comparable level of the more research-intensive countries. This is made even worse if the only activity of an Article 185 initiative is to implement multiple joint calls for collaborative R&D projects that have a high level of scientific intensity.

This is, for example, one of the conclusions from the final evaluation of the BONUS Article 185. Also, the less research-intensive countries do not seem to be very influential in setting the strategic agenda for the Article 185s.

<sup>10</sup> Appendix A1: comparison of responses to Q4 (national added value) between high and low R&D intensity countries

**There are significant barriers to participation for the less R&D intensive countries**

The survey feedback<sup>11</sup> clearly shows that there are fundamental barriers to participation by the less research-intensive countries.

For the high R&D intensity countries, the dominant barrier was ‘administrative and supervision burden and/or lack of flexibility in implementation by the Commission’. The responses from low R&D intensity countries indicates that they are much less concerned with the administrative bureaucracy compared with more fundamental issues such as limited budgets, limited human capacity and the multiplicity of P2P instruments for joint programming. A lack of political will at MS level, to further exploit the Article 185 instrument, is also apparent.

<b>Perceptions of Barriers to Participation in A185 initiatives</b>	Countries with High R&D Intensity (%)	Countries with Low R&D Intensity (%)	Difference
Lack of political will at MS level to develop further the existing A185s or new ones	0	48	-48%
Lack of a transparent process for the identification of areas of joint interest amongst MS	41	27	14%
Multiplicity of P2P / joint programming options / instruments	41	80	-39%
Limited national coordination structures between government, funding agencies and R&D community	0	27	-27%
Limited national research capacities for participating in A185 initiatives	0	27	-27%
Limited human capacity to participate in A185s (R&D funding agency and/or research community)	41	84	-43%
Limited budget for participation in transnational R&D programmes	41	84	-43%
Limited relevance for national R&D policy priorities	0	27	-27%
Limited human capacity for active participation in the set up of legal/administrative framework for A185s	41	84	-43%
Administrative and supervision burden / lack of flexibility in the implementation by the Commission	100	41	59%
Legal and administrative barriers on national level for participation in A185 initiatives	12	12	0%

**4.4 Effectiveness**

**The Article 185 initiatives are making good progress towards their hierarchal objectives**

One of the distinctive features of the Article 185 initiatives is that they all have a hierarchal set of objectives. These are an inherent element of the mandatory ex-ante impact assessments and are framed at three levels: general, specific and operational. They are intended to show the intervention logic and how the operational activities will lead to the expected outcomes and impacts.

The individual evaluations indicate in general that the operational and specific objectives are being achieved and make recommendations where this is not the case or where the path towards the more general (strategic/policy level) could be improved.

**The Article 185s demonstrate good achievements in scientific and managerial integration whilst there is limited evidence of financial integration**

Up to now most of the Article 185 initiatives have achieved a good level of scientific integration and at least two (EDCTP, EMRP/EMPIR) have significantly increased the global influence of the EU within the international research community. There is also no doubt that economies of scale have been achieved in at least some of these fields due to the long term co-funding of joint research agendas.

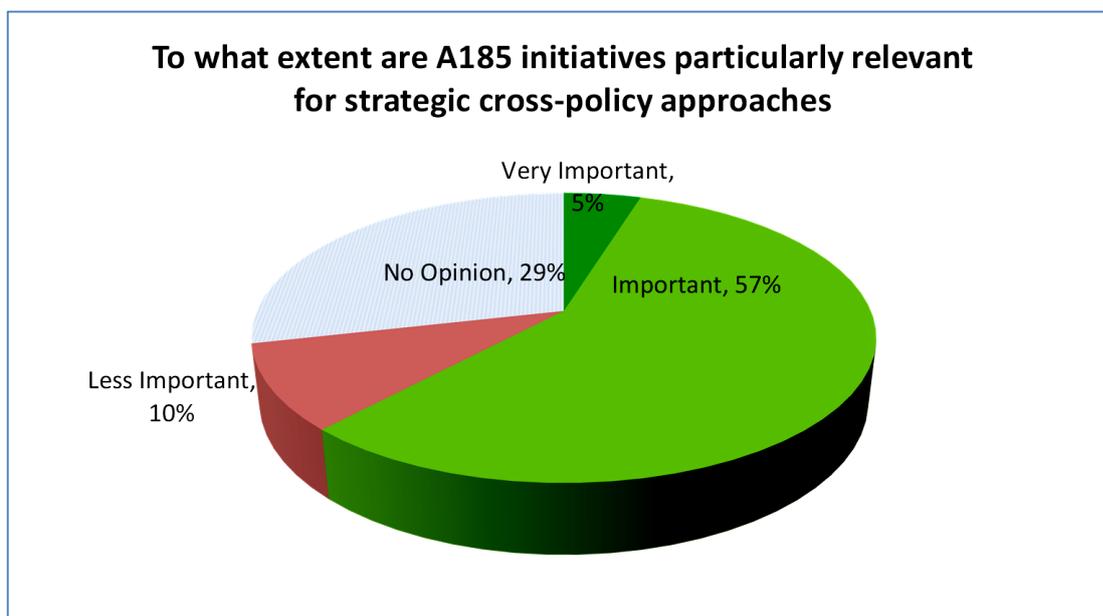
<sup>11</sup> Appendix A1: comparison of responses to Q8 (main barriers to participation) between high and low R&D intensity countries

Management integration has also been assured by the requirement to establish a Dedicated Implementation Structure (DIS) that is both responsible for managing the delegation agreement on behalf of the participating countries and receiving the EU contribution. One dimension of the management integration (central grant management) is directly linked to the financial integration and varies strongly between the individual initiatives.

There is, however, much less evidence of strong financial integration or that they are likely to achieve this in the future. The exception is the Article 185 on Metrology (EMRP/EMPIR), which integrates over 50% of national investments in metrology. Some of the feedback from the individual evaluations refers to the lack of a 'real common pot' for joint calls and/or lack of interoperability of the national funding systems as the main barrier to financial integration. These certainly have a negative effect on efficiency (Section 4.5) but there is no evidence of any correlation between the level of financial integration and the overall effectiveness of Article 185 initiatives.

***The scope of Article 185 initiatives are narrowly framed and neglect wider policy impacts***

In general it seems that the Article 185s are mostly focussed on a single activity, which is the implementation of multi-annual joint calls for R&D projects. EDCTP is an exception as it has a strong element of capacity building, both intellectual and physical. This narrow focus is also apparent in the performance metrics that are generally orientated towards scientific outputs rather than the wider policy impacts. One reason for this may be that the agenda is dictated by the perspective and functions of the national funding agencies in the more research-intensive countries. This narrow view may simply be due to the perspective of the national funding agencies rather than the national research & innovation policy of the country as a whole in the particular Article 185 domain.



***Opportunities for broader cross-sectoral activities are insufficiently exploited***

In order to achieve the general (policy-level) objectives of the Article 185s, and increase their relevance (for example) to the smart specialisation agendas, it will be necessary for them to widen their scope and level of stakeholder engagement. Their role in providing scientific input to policy including regulations and standards could be stronger overall. There are interesting features in some such as the dedicated budget for normative research within EMPIR that is based on the priorities of the European Standardization Bodies. The feedback from the MS survey indicates a majority view that Article 185 initiatives are particularly relevant for strategic cross-policy approaches but this opinion is much stronger for the more research-intensive country (86%

consider this to be an important feature). Less than half of the respondents from those countries with a low R&D intensity had a similar view.

### ***Strategy making activities are underdeveloped, both by the DIS and Commission***

It seems that the role of the Dedicated Implementation Structures (DIS) is mainly to implement the joint calls, manage the distribution of EU co-funding (either directly to beneficiaries via grant management or via the national funding bodies) and coordinate operational reporting to the Commission. They do not seem to have a strategic function and so it is left to the national governance framework to set the overall policy and direction.

In spite of the substantive EU investment in the Article 185s, the Commission does not seem to play an active role in either the governance structures or the strategic planning activities. The monitoring of the implementation tends to focus on operational measures when there is a clear need for them to be more outcome/impact orientated. The critical, and challenging, function to develop (and regularly update) a strategy that effectively positions a particular Article 185 between the national and EU policies, and programmes, seems to be missing.

### ***The contribution of Article 185s to other EU policies varies between the initiatives***

Whilst the coherence between the Article 185 initiatives and other EU policies is considered to be very high, the actual extent to which they have contributed is not always visible. EMRP/EMPIR and EDCTP provide excellent examples beyond individual research projects on how the results support EU regulations or were taken up either by European standardization committees and industry (in the case of EMRP/EMPIR) or the World Health Organization on guidelines for the treatment of poverty-related diseases (in the case of EDCTP). For the other Article 185s, the multidimensional impact within other policy domains is less clear.

## ***4.5 Efficiency***

### ***The Article 185 instrument is an efficient structure for implementing ambitious, long-term joint research programmes***

The specific features of the Article 185 instrument mean that a joint research programme can be implemented between EU Member States that is multi-annual, pre-negotiated in terms of financial commitments (MS and EU) and managed through a single legal entity. All of these imply efficiencies in operational management. As Article 185 initiatives can only be established through the use of the ordinary legislative procedure there is an opportunity to secure high level political leadership in areas where there is scope, or a need, for the research community to work together with other stakeholders in support of wider policy objectives.

### ***The governance of the DIS appears heavy***

It is clear, however, that there are a number of inefficiencies that are inherent in either the way that the legal framework is interpreted by the Commission or the political realities of committing national funding to joint programming. For example, the delegation agreements between the Commission and the Dedicated Implementation Structures appear to be very procedure-based rather than outcome/impact-based. This includes Commission approval of the annual work plans.

### ***There is a lack of flexibility or harmonisation of national co-funding models***

The political realities of joint programming are such that, in most cases, national funding organisations are only able, or willing, to co-invest through a well-proven model known as the 'virtual common pot' in spite of its inherent inefficiencies. This ensures that they only fund successful applicants from their own country. While the central evaluation system established in all Article 185 initiatives is perceived as a major strength, there is only limited evidence about further harmonisation of funding rules across the participating states.

### ***Sustainability issues and exit strategies for Article 185s are not considered***

The legislative procedure, heavy governance and scale of co-investment in an Article 185 initiative means that there is a practical limit (for both the Commission and the Member States) on how many can be active at any one time. In addition, as exit strategies are not incorporated in the

current initiatives, it is unclear how the portfolio of Article 185s will evolve in the future. Two evaluations (AAL2 and Eurostars2) discuss opportunities to continue with the joint programme without the use of Article 185 as the legal basis.

#### 4.6 *Legal & Administrative Findings*

A detailed review of the legal situation is included in **Appendix B** with key findings below.

##### ***There is no reason why the Commission cannot propose subjects for Article 185 initiatives to the MS***

Article 185 is an additional tool and is complementary to the other tools provided for in Title XIX TFEU. According to this provision, it is not excluded that the initiative to launch a cooperation ex Article 185 TFEU may come also from the European Commission. Nevertheless, to implement in practice the provision of the Article 185, via specific cooperations provided for in the Multiannual Framework Programme, the European Commission needs the Member States agreement as a prerequisite. In using Article 185 as a legal basis, the European Union (represented by the European Commission) has to be ensured of the Member States' participation, which shall be reflected on several stages of the implementation of the Annual Framework Agreement.

##### ***The creation of a separate Dedicated Implementation Structure (DIS) for each individual Article 185 initiative is not mandatory***

One of the major criticism concerning Article 185 initiatives is that, until now, the Art. 185 TFEU was interpreted by the Commission in such a way that each initiative had to create an ad hoc execution structure. Setting up such a structure (created each time anew) is a burdensome and time consuming activity, which has led to considerable time lags and delay in starting initiatives financed under Article 185.

The creation of an ad hoc execution structure is not mandatory under Article 185 of the TFEU. According to this provision it is not excluded that one and the same structure could serve as the DIS for different programmes ex art. 185. This could have the specific task of enhancing joint implementation of all initiatives falling under Article 185 of the TFEU that have similar characteristics and needs. According to Article 185 of the TFEU even a jointly set-up body (Member States, EU Commission) could be established and serve as a 'one-for-all' DIS.

##### ***There is room for simplification in the administrative procedures for the implementation of Article 185 initiatives***

Another major criticism concerns the administrative procedures followed by the Commission for the setting up of Article 185 initiatives. At present, the Commission performs the duties of Authorising Officer when it implements the budget with the consequence that the procedure is too long and implies that any change will need to go through the same procedure. Any Commission decision needs, in fact, the agreement of the College of commissioners (28 members).

Article 185 of the TFEU does not impose any restriction on the modalities and management modes either. There is therefore room for substantial simplification of the existing administrative procedures as far as the Delegation Agreement (DA) and the Annual Work Programme (AWP) are concerned.

## 5. RECOMMENDATIONS

### 5.1 *Use Article 185 as a strategic opportunity to enable policy cooperation between MS and the EU*

The use of Article 185 provides the legal framework for joint programming between the EU and Member States in the most long-term and ambitious way. It should therefore only be used for common political priorities shared between the EU and its Member States with cooperation extending well beyond transnational joint calls and R&I projects. Such a focus on policy cooperation will ensure that structural and political impacts are achieved, contributing in a more visible way to the overarching policy objectives of the Union, notably with respect to the realisation of the ERA and to the Europe 2020 strategy. The Article 185 instrument is an excellent tool to foster large scale and long term collaboration between Member States in areas of substantial common interest. It could, however, be exploited in a more strategic way to implement joint initiatives where there is a clear logic for scientific input to policy and a rationale for an action that is positioned between the EU Framework Programme and the Member States. This means that other actors, beyond the research funding community, would need to be involved in such Article 185s both at the national and EU level.

### 5.2 *Develop a coherent process for identification and selection of Article 185 initiatives*

The currently active Article 185 initiatives display a variety of original objectives and intervention logic, underlining the broad applicability of Article 185 as a legal framework for joint programming. However, the Member States and the Commission should work together to co-design a transparent and coherent process for the identification of future priorities for Article 185s. This should be realised as soon as possible in order to ensure a better strategic positioning of potential new Article 185 initiatives at the beginning of the new EU Framework Programme from 2021 onwards. In a first step, the EU and Member States need to agree on the criteria for priority setting – here this report and the individual assessments provide an excellent basis. This should then be the subject of a broader consultation process including end users to ensure that the needs of cross-sectoral approaches are fully considered.

### 5.3 *Define the exit strategy from the outset*

Article 185 initiatives are not intended to be research infrastructures and so the use of the instrument should be seen as a 'means-to-an-end'. They should be seen as a catalyst for cooperation, achieving positive impacts that prove the relevance of joint activities, to the end that the use of the Article 185 instrument is no longer necessary to continue and even deepen the cooperation. Hence, more consideration is needed of the life cycle for the portfolio of Article 185 initiatives and how they can be transitioned towards some form of sustainability outside the Article 185 frame. Consequently, new Article 185 initiatives should be designed with an *a priori* integrated exit strategy so that room for new initiatives is constantly ensured, while cooperation and joint activities of existing initiatives may continue beyond the use of Article 185.

### 5.4 *Substantially improve efficiency of the Article 185 instrument within the existing legal and administrative framework*

While the establishment of a Dedicated Implementation Structure (DIS) is required to allow for the indirect management of Union funds there is no reason why each individual Article 185 initiative should have one. There is scope to realise substantial efficiency gains by creating a single structure to serve all of the active Article 185s. This would also simplify the start-up of individual Article 185s and the exit process. The EU and Member States should actively pursue this option and seek to agree on the most suitable legal structure as soon as possible for such a centralised 'standard operations DIS', so that it can be operational for new Article 185 initiatives to be adopted under the new EU FP from 2021 onwards. In order to be in line with the Financial

Regulation the proposed structure should preferably be a public body, in order to avoid the obligation to lodge financial guarantees (see further in Appendix B).

### *5.5 Re-orientate the A185 more towards outcomes and impact*

The governance of Article 185 initiatives, at the three levels of Commission, Participating States and implementation structures, should be more oriented towards the achievements of objectives and policy impacts, rather than driven by supervision of the implementation of calls and projects. This starts with a clearer definition of the ultimate goals to be achieved by the initiatives in terms of contribution to solving societal challenges; supporting policies in various fields; achieving innovation impacts; supporting economic development, etc. The immediate outputs expected from the initiatives should cover typical research outputs but also go beyond these to encompass other outputs such as networking effects, more interdisciplinarity, global visibility, etc. Involvement of stakeholders from thematic fields of relevance to the initiatives is also necessary to ensure such an outcome-oriented management of Article 185s. Such a reinforced outcome orientation needs the implementation of a new set of key performance indicators measuring the success of the initiatives according to a wider set of outputs and impacts. The DIS would also need to be given a more flexible and strategic role to work under this orientation.

### *5.6 Acknowledge more the needs and priorities of the less research-intensive countries in shaping Article 185 initiatives*

While the Article 185 instrument is effective to step up national scientific capacity building through transnational R&I cooperation and creates a substantive leverage effect from EU contributions its use needs to accommodate better and more actively the priorities and needs of the less R&D intensive countries to increase the overall relevance. This would also ensure a maximum added value stemming from the use of Article 185 at EU level. The underlying variable geometry needs to be complemented by the principle of the 'Europe of partners' to avoid deepening asymmetries between Member States.

### *5.7 Exploit opportunities to use ESIF to support Article 185*

The forthcoming revision of ESIF and of the EU R&I policies for the next programming period provides a unique opportunity to fully exploit synergies between the two main EU funding schemes for research and innovation in Europe. The responsible DGs of the Commission and the Member States should seek better coordination for the use of these synergies. At the selection stage, the priorities of the regional smart specialisation strategies should be reflected in the priority setting process for new and/or revised Article 185 initiatives. At the implementation stage, interactions with ESIF Managing Authorities would need to be deployed in view of a better use of the capacity building opportunities from the Structural Funds. Increased synergies between projects financed by Article 185 and ESIF could also raise the impact from Article 185 initiatives. The search for such opportunities should be incorporated in the strategic preparation of programmes, both for ESIF (in Member States and regions interested in a specific research area), and in the development of the strategic agenda for Article 185 initiatives (see Appendix C).

### *5.8 Allow the Commission to play a more proactive role without compromising MS ownership*

One main strength of the use of Article 185 as a legal basis for Joint Programming is the ownership of Member States, ensuring that structural and coordination impacts can be achieved, in line with the requirements of Article 181 TFEU. The Commission has a key role to play as facilitator and guardian of the overall European added value. Consequently, the Commission should seek a more active role, in the priority setting process for new Article 185 initiatives as well as providing advice and support in their effective and efficient implementation. A proactive, facilitating role by the Commission could encourage them to be more strategic and help overcome barriers related to national funding constraints and engagement with stakeholders beyond the research community.

### *5.9 Improve coherence amongst the landscape of P2P/partnering initiatives*

The EU R&I landscape has evolved significantly over the last years, notably with the emergence of a broad variety of partnership approaches, designed for facilitating the cooperation among EU Member States and between the EU and its Member States. Today, this partnership landscape is for many stakeholders too complex and the different partnership approaches, including Article 185 initiatives, no longer have a clear strategic position within the overall European and national R&I landscape. To avoid further fragmentation and duplication, the EU and Member States should clarify the strategic position of the different P2P approaches, simplify the landscape and thus improve their coherence within the EU and national R&I policy frameworks

### *5.10 Reinforce the international dimension and influence of Article 185*

Europe would benefit significantly from better communicating its unique and successful internal cooperation efforts that benefit the European citizen and strengthen the European voice at the international level. Article 185 initiatives can be attractive and powerful testimonials for Europe's uniqueness, by proving the relevance and added value of joint policy action in responding to global challenges. In addition, the results from the Article 185 initiatives should inform increasingly international policy developments, so that the European principle of evidence-based policy making gains worldwide recognition and influence. Consequently, the design of new Article 185 initiatives should include an international dimension that represents Europe's global responsibility and stands effectively for the European interests in the world. One of the strategic options for future Article 185s is to consider using the instrument as a framework for a more coordinated EU/MS engagement within the international policy agenda. The 'Sustainable Development Goals (SDG)' of the United Nations might be one relevant point of departure here.

## APPENDIX A: ANALYSIS OF SURVEY FEEDBACK FROM EU MEMBER STATES

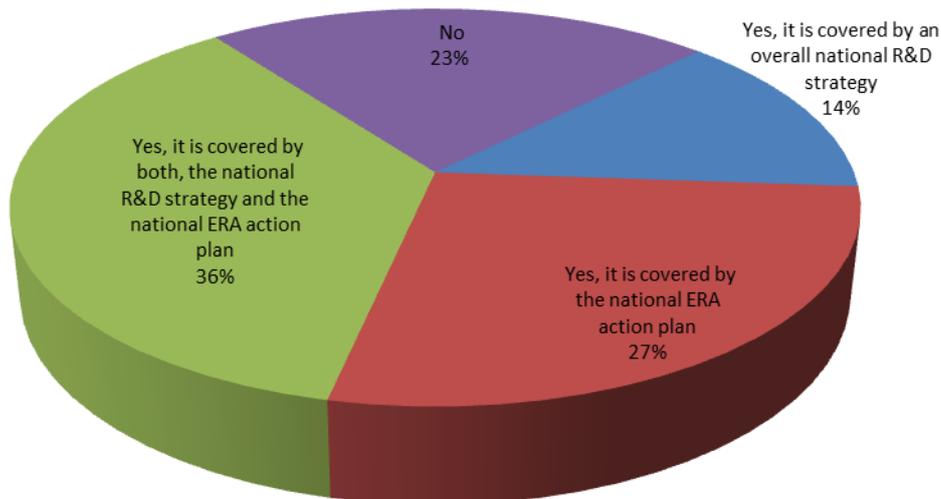
This paper presents the analysis and the Expert Group Findings from a survey of national joint programming stakeholders regarding the Article 185 instrument. Its purpose was to get the EU Member State (MS) perspective on the strengths & weaknesses of the instrument and inform the work of the Expert Group for the Meta-Evaluation.

Responses were received from 23 EU Member States and the individuals are acknowledged below.

Country	Respondent
Austria	Ingeborg Schachner-Nedherer (Austrian Federal Ministry of Science)
Belgium	Mathilde Reumaux (Innoviris) - <i>based on inputs from national and regional stakeholders</i>
Croatia	Miljenka Kuhar (Ministry of Science and Education)
Cyprus	Leonidas Antoniou (Research Promotion Foundation)
Denmark	Lisbet Elming (Danish Agency for Science and Higher Education)
Estonia	Maria Reinfeldt (Ministry of Education and Research)
France	Emmanuel Pasco-Viel (Ministry of Higher Education and Research)
Finland	Eeva-Liisa Kortekallio (Ministry of Economic Affairs and Employment)
Germany	Evelina Santa-Kahle (BMBF)
Greece	Vassiliki Karavangeli (Ministry of Education, Research and Religious Affairs)
Hungary	Agnes Divinyi (National Research, Development and Innovation Office)
Ireland	Caoimhe Gavn (Department of Jobs, Enterprise and Innovation)
Italy	Covello Aldo (Ministry for Education, University and Research )
Lithuania	Renata Razmaitė (Ministry of Education and Science)
Luxembourg	Lynn Wenandy (Ministry for Higher Education and Research)
Malta	Nadine Castillo (MCST)
Netherlands	Iris van Oortmerssen (Ministry of Economic Affairs), Jeannette Ridder-Numan (Ministry of Education and Science)
Poland	Aleksandra Mościcka-Studzińska (National Centre for Research and Development)
Portugal	Ana Quartin (Department for International Relations)
Romania	Ioana Ispas (ANCSI)
Slovenia	Petra Zagar (Ministry of Education, Science and Sport)
Spain	Joaquin Serrano (Ministry of Economy, Industry and Competitiveness)
Sweden	Karin Schmekel (Ministry of Education and Research)

For each specific question, a graphical representation of the overall feedback is provided along with some narrative and initial conclusions (Expert Group Findings). Some deeper analysis was also carried out that compares the responses between two contrasting groups of seven countries based their relative gross investment in R&D (**Appendix A1: Comparison between countries with high and low R&D intensity**). This shows some quite interesting differences between these two groups of countries and these are also discussed in the narrative.

**Q1: Is the participation of your government in Article 185 initiatives part of your national R&D strategy and/or part of your national ERA action plan?**



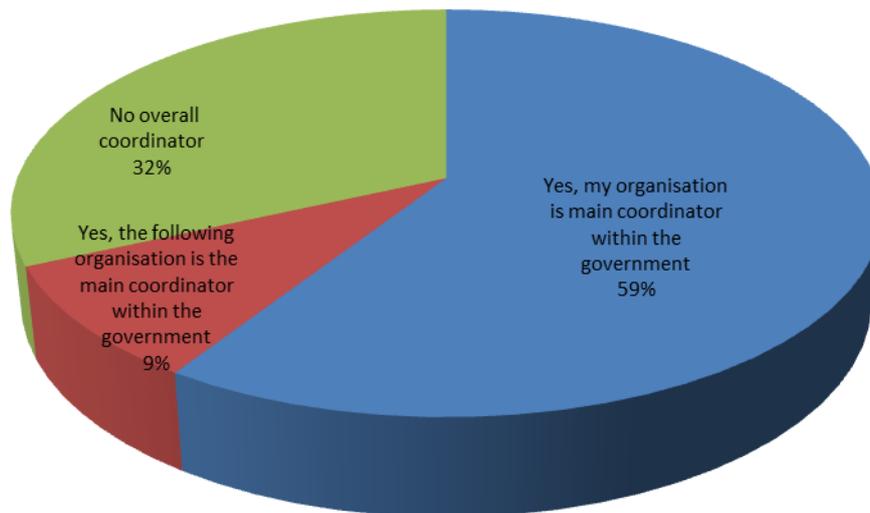
Overall, only 50% of the respondents indicate that the Article 185s are covered by the national R&D strategy. The proportions are somewhat higher, and similar, for both the high and low R&D intensity countries.

As far as the national ERA Action Plans are concerned, a sizeable minority of the respondents (37%) indicate that the Article 185s are not covered by these documents. The comparison of high and low R&D intensity countries shows some differences: the figure drops to 28% for the high R&D intensity countries whilst all of the low intensity countries that responded indicate that the ARTICLE 185s are covered in their ERA Action Plan.

Expert Group Findings

Although Article 185s are part of some national R&I strategies, they are not at the core of these strategies. They feature more frequently in ERA Actions Plans, especially for the low R&D intensity countries. This appears to be part of an overall trend to strengthen the international dimension of Member State policies on research & innovation.

**Q2: Does your government have an overall coordinator for your country's participation in Article 185 initiatives?**



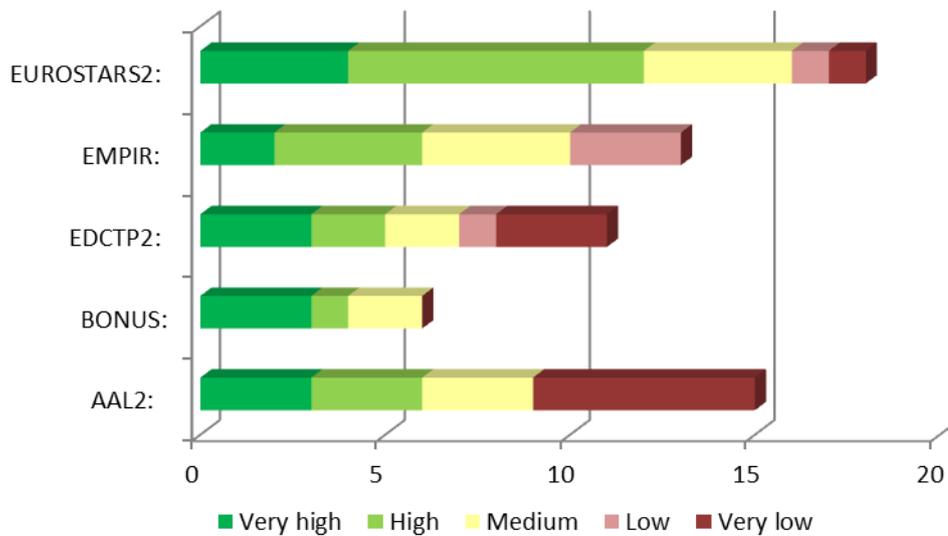
In general, the research or science ministry would appear to be the main coordination point for Article 185s (many of the respondents were from the research/science ministry). However, one third of the respondents indicated that there is no overall national coordinator in their country. One possible reason for this could be that the subjects for at least two of the Article 185s (EMPIR, EUROSTARS) fall within the domain of other ministries.

The comparative analysis shows much higher centralisation of Article 185 coordination for the low R&D intensity countries (only 14% have no central coordination point) than for the high R&D intensity countries (57% of them do not have a central coordination point).

Expert Group Findings

The responses highlight the distributed nature of Article 185 coordination, notably for high R&D intensity Member States. These tend to have a more differentiated national innovation system in which several administrations are involved, depending on the thematic area of the Article 185.

**Q3: How would you describe your government’s participation to Article 185 initiatives?**



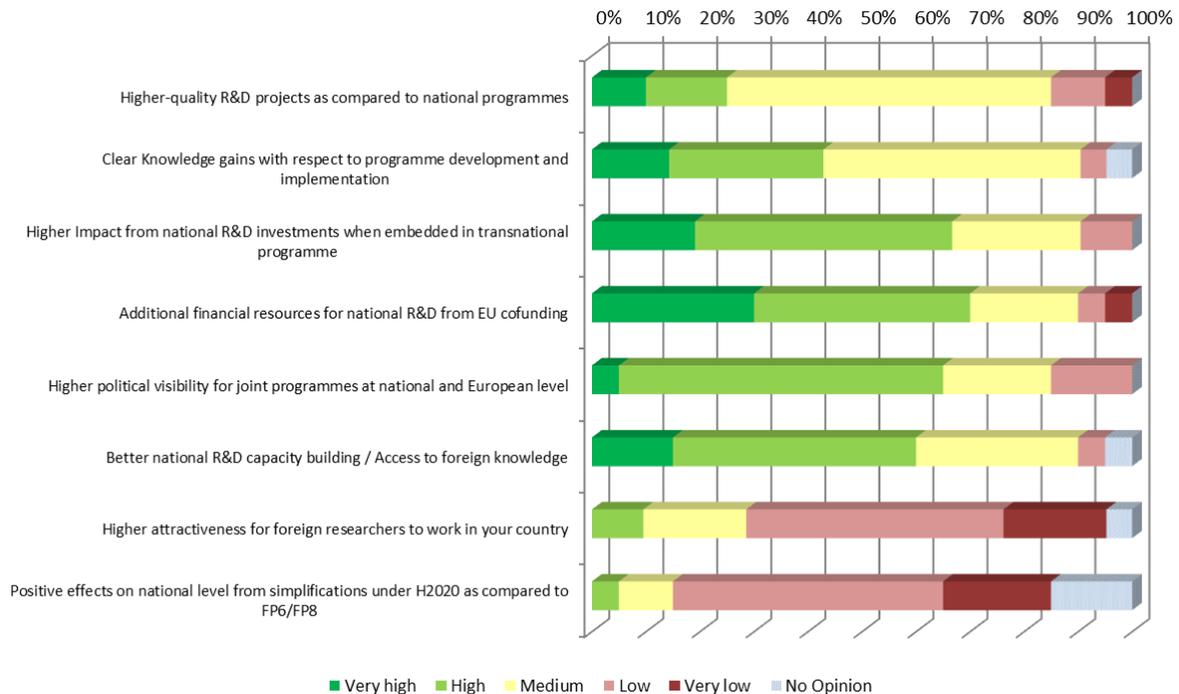
The chart shows that some Article 185 initiatives attract more countries than others. The level of participation seems to be highest for BONUS, EUROSTARS2 and EMPIR. The situation for AAL2 and EDCTP2 is more polarised. The main reasons given for low participation includes lack of budget, mismatch of eligibility criteria and small national research community.

There are some differences between the responses from the high and low R&D intensity countries. In general, the low R&D intensity countries are less involved in Article 185 initiatives and in particular report a much lower involvement and level of participation in EMPIR and EDCTP2. There is also a clear difference in level of participation for BONUS. In which the low R&D intensity countries are less involved. The highest level of participation for all types of countries is for EUROSTARS2.

Expert Group Findings

The variable geometry approach of participation in Article 185 allows Member States to participate selectively according to national interests. The level of participation in Article 185s depends on a number of factors, including overall political commitment, absorptive capacity of the R&I community, available national funding and available human resources for the management of Article 185 initiatives. Low R&D intensity countries are clearly less involved than those that have a high R&D intensity.

## Q4: How would you assess for your government the national added value from participating in Article 185 initiatives?



The chart indicates four clear areas of national added value, namely:

- *Additional financial resources for national R&D from EU co-funding.*
- *Higher impact from national R&D investments when embedded in transnational programmes.*
- *Better national R&D capacity building and/or access to foreign knowledge.*
- *Higher political visibility for joint programmes at national and European level.*

In general, the more R&D-intensive countries give a higher overall rating on national added value, including for 'national R&D capacity building/access to foreign researchers'.

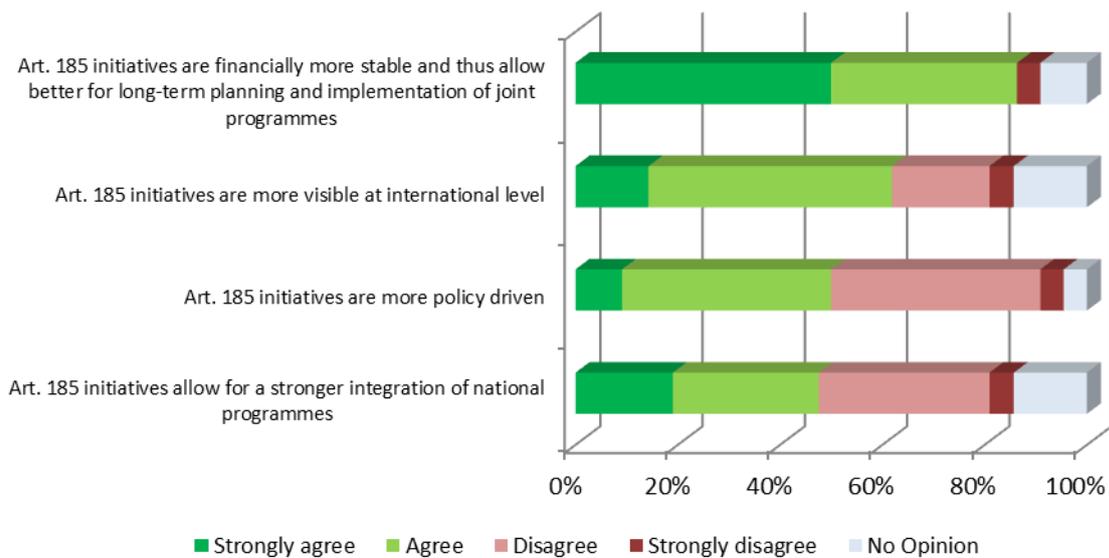
There is also a clear indication (from almost all respondents) that simplification under H2020 did not lead to a consequential effect for the Article 185 initiatives. Qualitative feedback suggests that additional controls were applied to the Article 185s for H2020 compared with FP7.

Some respondents found it difficult to generalise on this question as the relative perceived benefits can vary between the individual Article 185 initiatives.

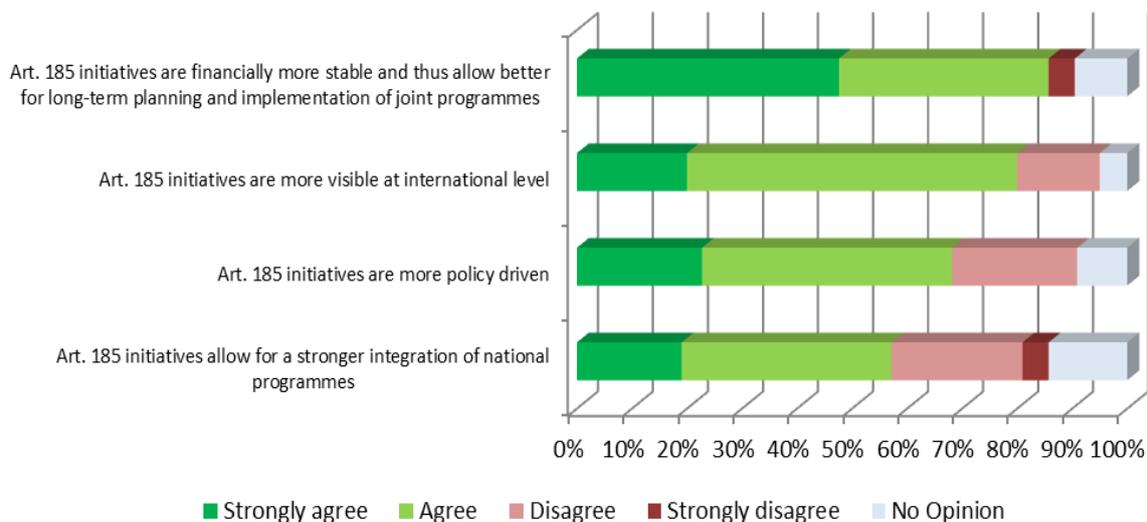
### Expert Group findings

Transnational cooperation to achieve better impacts, EU co-funding in the concerned thematic field and political visibility are the most valued benefits from participating in Article 185 initiatives. High R&D intensity countries indicate that they achieve more national added value from participation in A185 initiatives than the low R&D intensity countries.

**Q5: How would you compare the Article 185 initiatives with Joint Programming initiatives (JPIs)?**



**Q6: How would you compare the Article 185 initiatives with ERA-NETs?**



This feedback provides some insights into the relative strengths & weaknesses of the Article 185s compared with JPIs and ERA-NETs. The advantages of the Article 185s in terms of providing long term financial stability is very clear, whilst their power to enable stronger integration of national programmes is less clear.

There are some interesting differences between the responses of the high and low R&D intensity countries:

- *Most of the low R&D intensity countries agreed that the Article 185s are more policy driven than the JPIs (in contrast, nearly 80% of the high R&D intensity countries disagree about this).*

- *Most of the high R&D intensity countries agreed that the Article 185s allow for a stronger integration of national programmes than the ERA-NETs (only 40% of the low R&D intensity countries agreed that this was the case for them).*

Expert Group findings

Article 185 initiatives allow for more long-term and financially stable joint programmes with a higher political visibility than other forms of P2Ps (JPIs, ERA-NETs) and thus justify the necessary ordinary legislative procedure.

**Q7: Please describe in your own words the factors that make Article 185 initiatives attractive for your government and which factors make Article 185 less attractive**

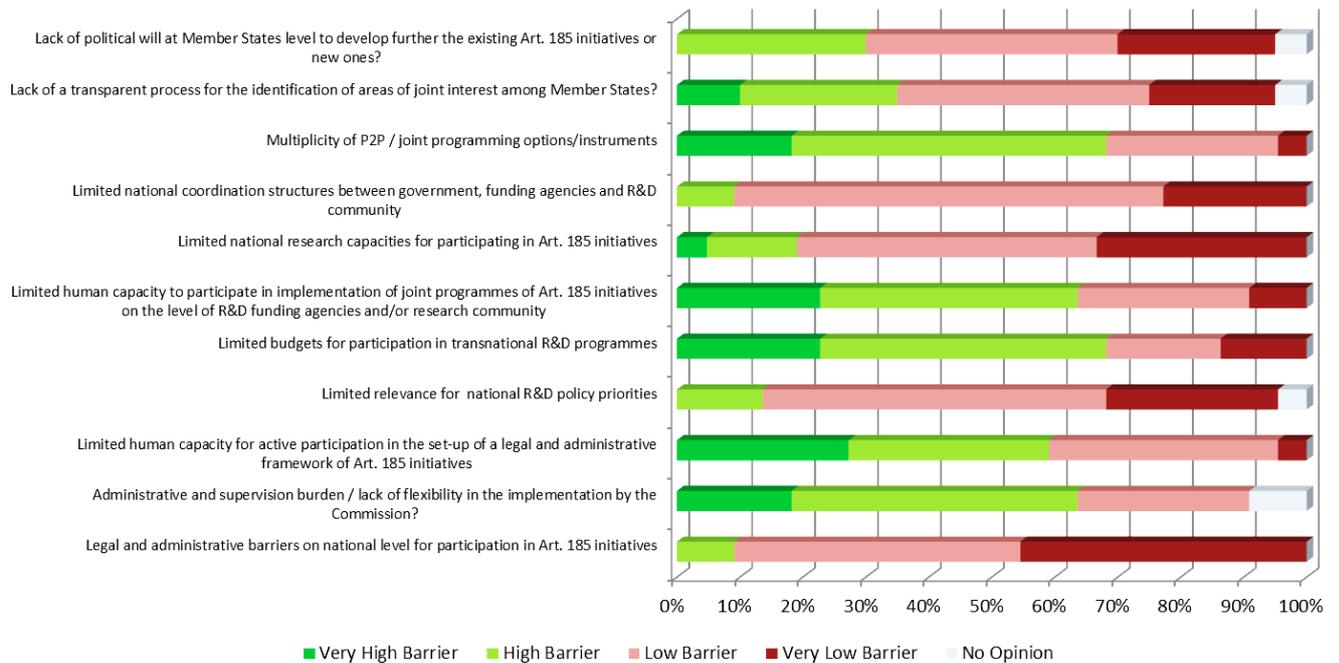
The main **attractiveness** factors that were mentioned include EU co-funding, need for national pre-commitments of budget and long term perspective. The focus on important societal challenges requiring strong and sustainable cooperation and generating potentially higher impact, thanks to critical mass, is also part of Article 185's attractiveness.

Factors that make Article 185s **less attractive** include the high administrative burden (at preparation, implementation and reporting phases), complicated procedure of negotiation, liability rules and need to commit funds long in advance. The multiplicity of instruments for P2Ps is also mentioned as a factor that weighs on Article 185's attractiveness.

Expert Group findings

The main attractiveness of Article 185 initiatives is that they provide long term continuity of national funding commitment. The less attractive aspects are related to the associated administrative burden.

## Q8: What are the main barriers that limit your government's participation in Article 185 initiatives?



The five highest barriers appear to be:

- *Multiplicity of P2P / joint programming options / instruments.*
- *Limited human capacity to participate in implementation of joint programmes of Article 185 initiatives on the level of R&D funding agencies and/or the research community.*
- *Limited budgets for participation in transnational R&D programmes.*
- *Limited human capacity for active participation in the set-up of a legal and administration framework of Article 185 initiatives.*
- *Administrative and supervision burden / lack of flexibility in the implementation by the Commission.*

Overall, the barriers to participation are much more limiting for low R&D intensity countries. The barriers related to limited human capacity and budgets are particularly dominant for them. In contrast, the administrative burden and lack of flexibility is clearly considered to be the most important barriers for the high spend countries.

### Expert Group findings

The highest barriers to participate in Article 185 initiatives, in particular for the low R&D intensity countries, are the high requirements in terms of human resources and budgets. The multiplicity of instruments and administrative burden are also important barriers.

## Q9: Does your government have concrete plans to overcome the identified barriers in the near future and if yes, which of the described barriers are your priority?

Respondents highlight initiatives at strategic level, for example:

- *Improving alignment between national and EU policy agendas.*
- *Developing better frames to decide on their Article 185 participation.*

as well as initiatives at the programme level, such as improving alignment between national and EU policy agendas.

A number of respondents also indicate plans to foster cross-ministerial work for Article 185 participation. For some, increasing public budgets for R&D in general, and for transnational R&D in particular, is at the forefront. Finally, addressing the simplification issue with the Commission is also on the agenda of some respondents.

#### Expert Group findings

A better articulation between national and EU R&I policies and programmes is the most frequently mentioned national policy priority to improve participation in P2Ps in general, including the Article 185s.

**Q10: What can the EU do to remove the existing barriers and make the use of Article 185 more attractive for your government?**

The dominant suggestions from many respondents are:

- *Administrative simplification.*
- *Adoption of a more flexible approach.*
- *Changing the rules of unlimited liability.*

Other suggestions include:

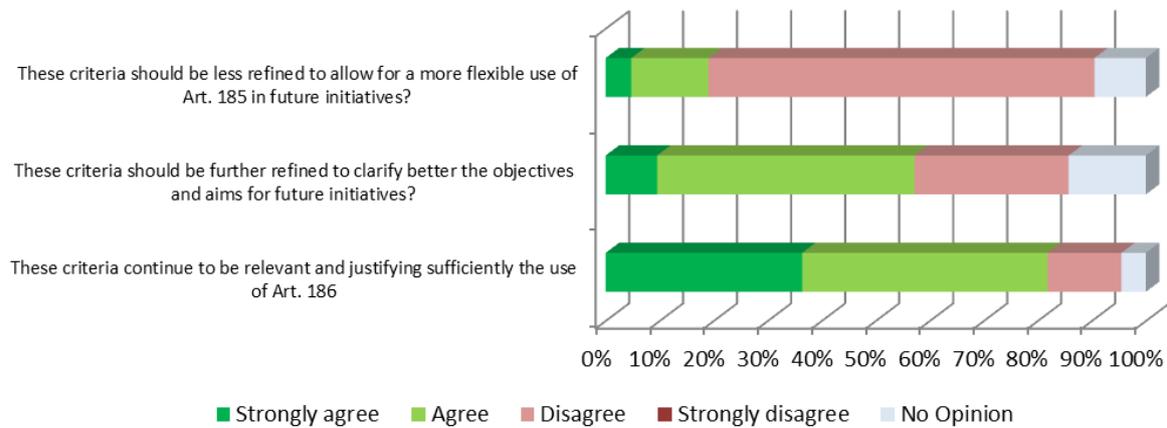
- *More integration of similar initiatives/instruments.*
- *Keeping the 50:50 funding share.*
- *Simplifying the use of Structural Funds.*
- *Reducing the preparation and decision procedure timescale.*

Expert Group findings

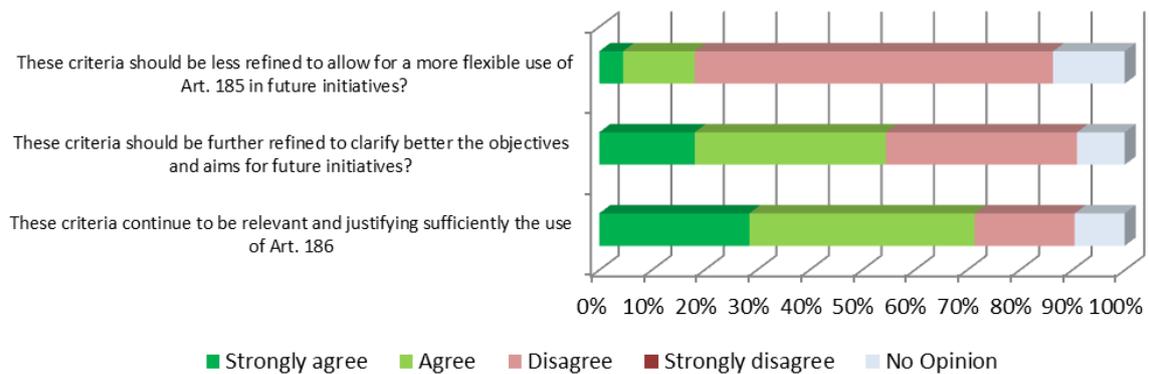
Respondents generally want the Commission to address the issue of simplification for the Article 185 initiatives. In a way that would allow more flexible funding arrangements. They are also keen to encourage a simplification of the overall P2P landscape.

**Q11: Article 26 of the H2020 regulation defines the criteria for the use of Article 185 as the legal basis for joint programmes between Member States and the EU, notably a high level of commitment to integration at scientific, managerial and financial levels.**

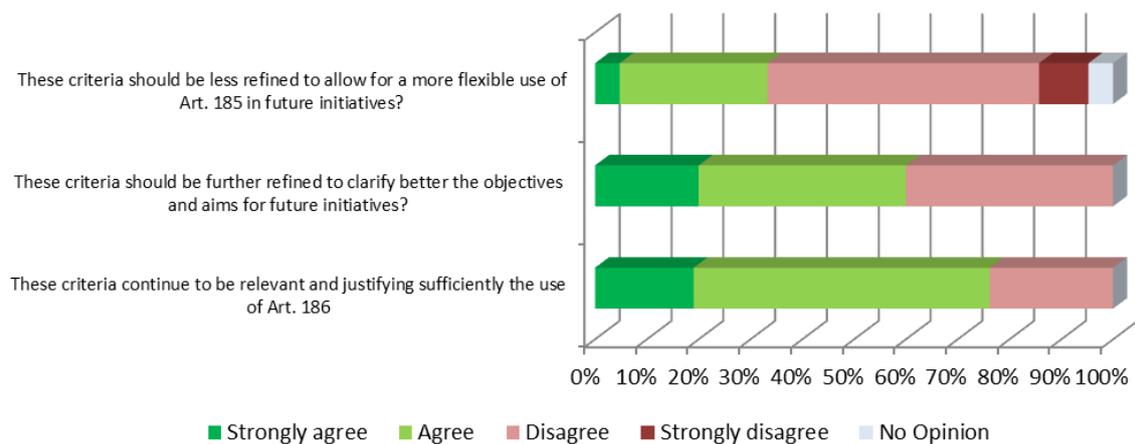
**With respect to scientific integration**



**With respect to managerial integration**



**With respect to financial integration**



The pattern of responses was similar for all three criteria regarding the use of the ARTICLE 185 instrument, i.e. scientific, managerial and financial integration. The majority did not agree that these criteria should be less refined to allow for a more flexible use of the instrument in the future. This pattern was also broadly similar for both the high and low spend countries.

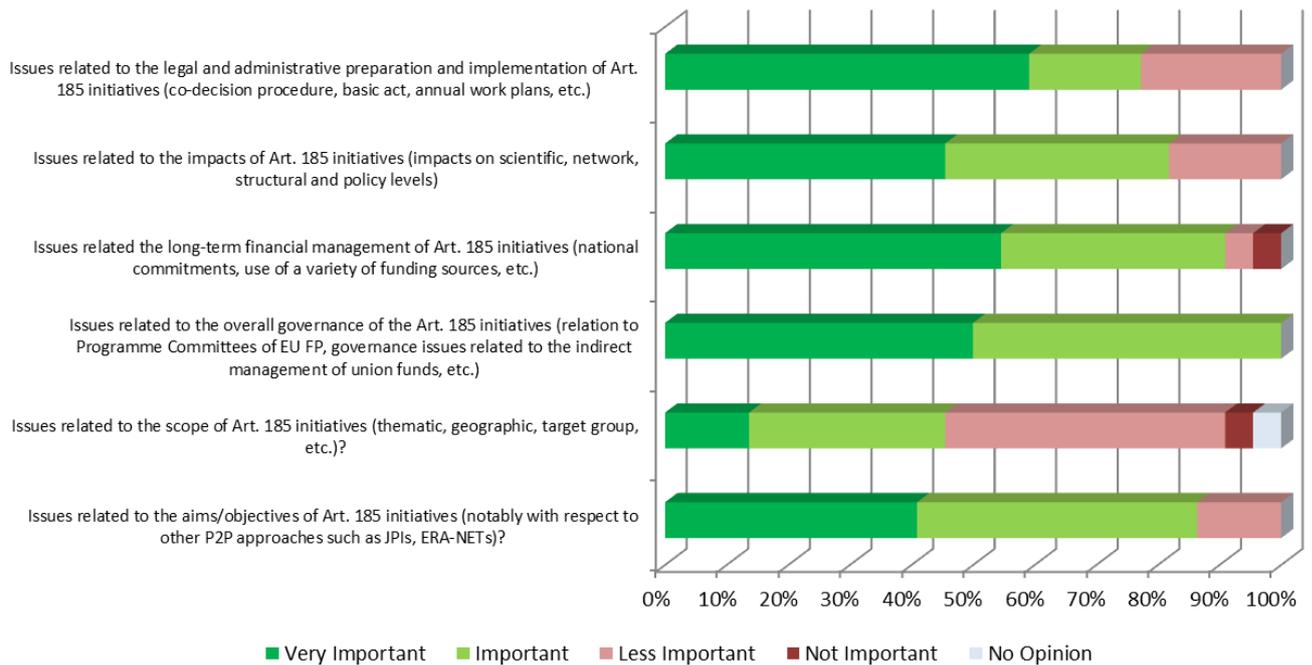
Some of the qualitative responses indicate a desire for more clarification on the definitions of integration and question the extent to which financial integration should be an objective of the Article 185s, given the EU Framework Programme. Examples of specific comments include:

- *The criteria for managerial and financial integration should be further refined to clarify objectives and aims and to allow more flexible use of Art. 185 in future initiatives.*
- *We think that the criteria should be further fine-tuned in order to ensure that the European added value of a candidate art.185 initiative is concretely defined compared to that of a dedicated horizontal call funded solely by the relevant FP.*
- *Financial integration of national funds is already sufficiently achieved through the Framework programme. The rest of the national money should be used also in accordance to national priorities and for the benefit of national beneficiaries.*
- *The meaning of scientific/managerial and financial integration should have been more precise in order to get meaningful results. By financial integration, we mean that Art 185 should be used whenever a significant number of countries/regions intend to commit resources in a given programmes.*

#### Expert Group findings

While scientific and managerial integration are clear, and accepted, principles at the heart of the use of Article 185, the principle of financial integration needs further clarification.

**Q12: The Article 185 Meta-Evaluation should provide recommendations for the future use of Article 185. To what extent should these recommendations focus on the following issues?**



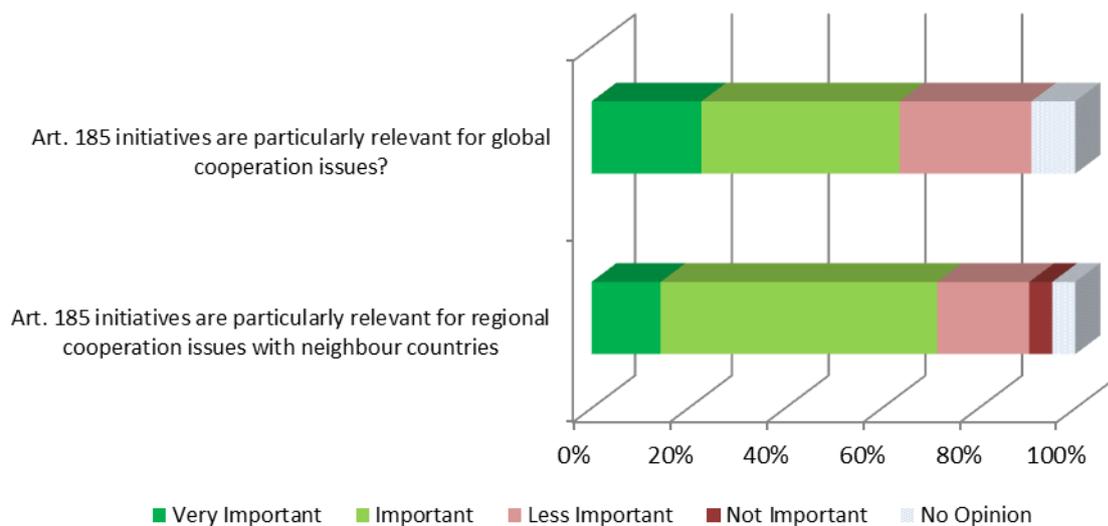
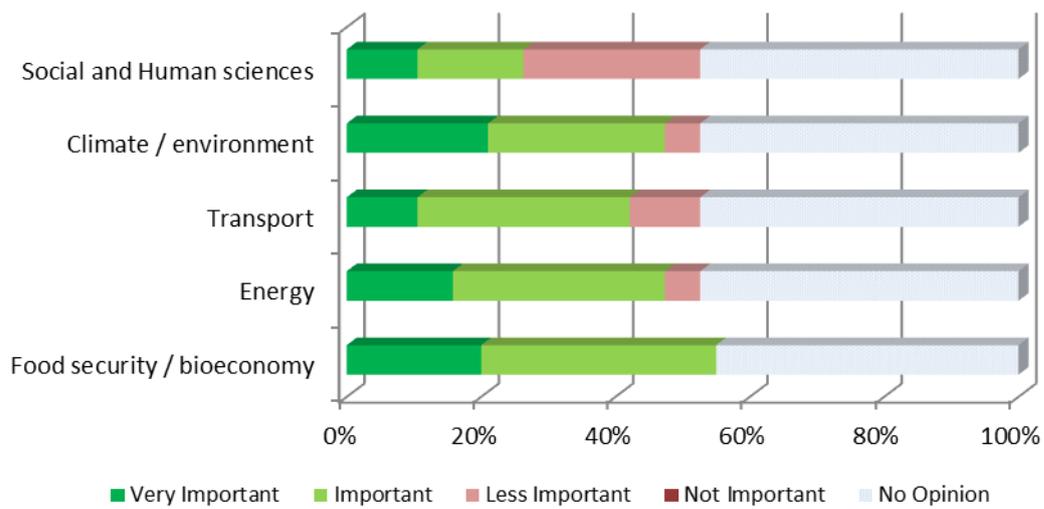
Apart from the scope of Article 185s, there was general agreement that all of the other issues are important. The pattern of responses from the high and low R&D intensity countries is broadly similar.

Expert Group findings

The focus of the planned recommendations meets the expectations of the Member States.

**Q13: Does your government have any preferences with respect to objectives and remits of future Article 185 initiatives?**

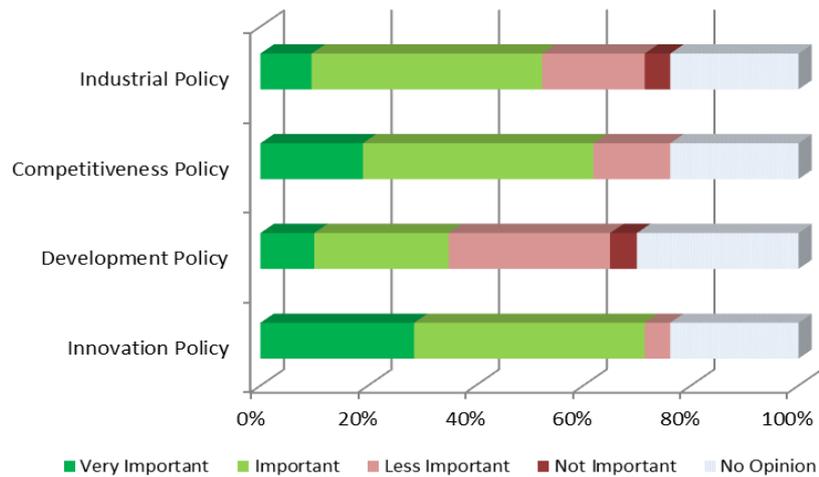
**Art. 185 initiatives are particularly relevant in certain thematic fields, notably:**



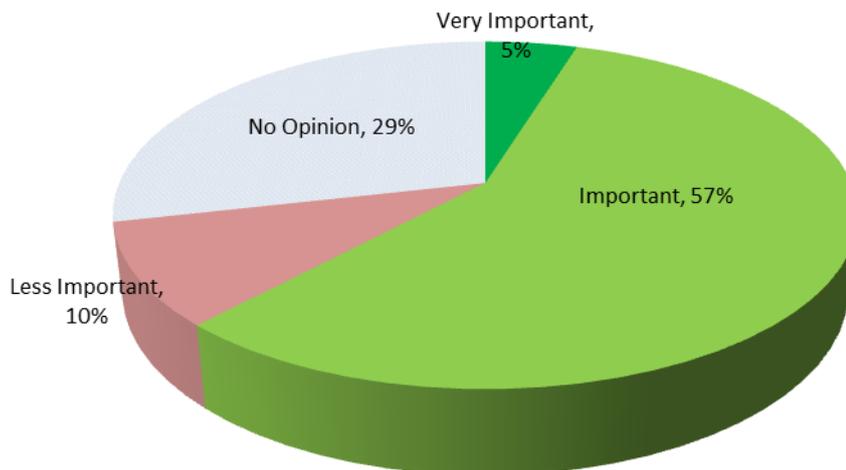
On the issue of which thematic priorities are relevant for Article 185 initiatives, around half of the respondents did not express an opinion. There was, however, a big difference between the high R&D intensity countries, which were rather neutral (nearly 90% had no opinion), compared with the low R&D intensity countries. The latter seem to regard societal challenges like climate/environment and food security/bioeconomy as relatively more important.

Global and regional cooperation are generally considered to be important for all, but the low R&D intensity countries express a rather stronger level of importance for global cooperation.

**Art. 185 initiatives are particularly relevant to underpin specific policy fields, notably:**



**Art. 185 initiatives are particularly relevant for strategic cross-policy approaches, linking R&D and regulation issues in a broader context**



The Article 185s are generally considered to have some relevance to other policy fields. This seems to be strongest for 'innovation policy' and weakest for 'development policy'. All of the low R&D intensity countries considered that the Article 185s are important to innovation policy. Several comments refer to the need to coordinate Article 185 initiatives with other types of complementary partnering initiatives.

As far as cross-policy approaches are concerned, these are considered as important by over 60% of respondents. There is a difference between the high and low R&D intensity country respondents. Almost all of the high R&D intensity country respondents indicated that this is an important issue compared with less than 50% of the low R&D intensity country respondents (with over 40% of the latter having no opinion on the subject).

Expert Group findings

Article 185 use can accommodate a broad field of topics with global/regional cooperation issues and strategic cross-policy approaches having the highest compatibility.

**Q14: Assuming you have to explain to a journalist in two sentences the main rationale/narrative linking the active and potential future of Article 185 initiatives – what would be your reply?**

*Long-term shared commitment between EU and member states addressing issues of high societal needs.*

*Alignment of national research agendas and enhanced cooperation around specific themes, strengthening Europe's R&I ecosystem – while keeping member states in the driving seat.*

*Europe-wide challenges (such as ageing) can be more efficiently addressed by international innovation projects financed jointly by partner states and the EU in order to mobilise more funding.*

*Art. 185 initiatives is the funding instrument which can mobilise both member states' and EU community's funding in long term for resolving large and complex challenges.*

*The purpose of Art. 185 initiatives is to give ground for better alignment and coordination between national research agendas, including the EU research agenda. Art. 185 initiatives can promote themes - highlight important areas/societal challenges - create financial volume.*

*Art. 185 initiatives focus on issues, where European Union objectives can be achieved via regional approach and as such they are an excellent supplement to R&D&I implemented under thematic priorities of the Framework Programme. Future initiatives can be based on rich experience accumulated by preceding activities, paving thus the way for enhanced policy development, new innovations and knowledge.*

*Art 185 allows a more coherent and systematic effort for a narrow scientific priorities to promote EU cooperation.*

*Joining forces by bringing National Programmes together to address common challenges.*

*Article 185 initiatives are large and long-term research and innovation programmes associating Member States, the European Commission as well as third countries in some cases. The art.185 initiative is a political instrument for shared strategic areas in the domain of research and innovation policy, which can address a specific topic, a specific sector or foster cooperation with a specific region in the world.*

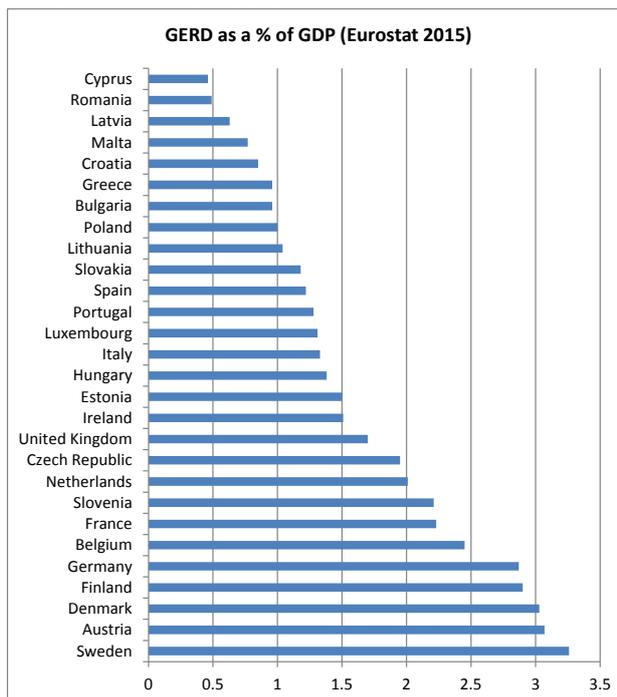
*Article 185 is a research and innovation funding scheme which can mobilise major and long term funding from both Member States and the EU for resolving large and complex challenges. For example mitigation and adaptation to the climate change needs to be informed by scientific knowledge and innovations delivered by the research community guided by a policy-driven research and innovation agenda.*

## **APPENDIX A1: COMPARISON BETWEEN COUNTRIES WITH HIGH AND LOW R&D INTENSITY**

The Expert Group considered that there might be some differences in the responses between those countries that could be described as 'research-intense' and those that are much less so. The indicator that was chosen for this deeper analysis was 'gross expenditure on R&D as a percentage of GDP (GERD)'. This led to the following categorisation of the 23 responding countries<sup>12</sup>:

- **High R&D intensity**: Sweden, Austria, Denmark, Finland, Germany, Belgium, France
- **Medium R&D intensity**: Slovenia, Netherlands, Ireland, Estonia, Hungary, Italy, Luxembourg, Portugal, Spain
- **Low R&D intensity**: Lithuania, Poland, Greece, Croatia, Malta, Romania, Cyprus

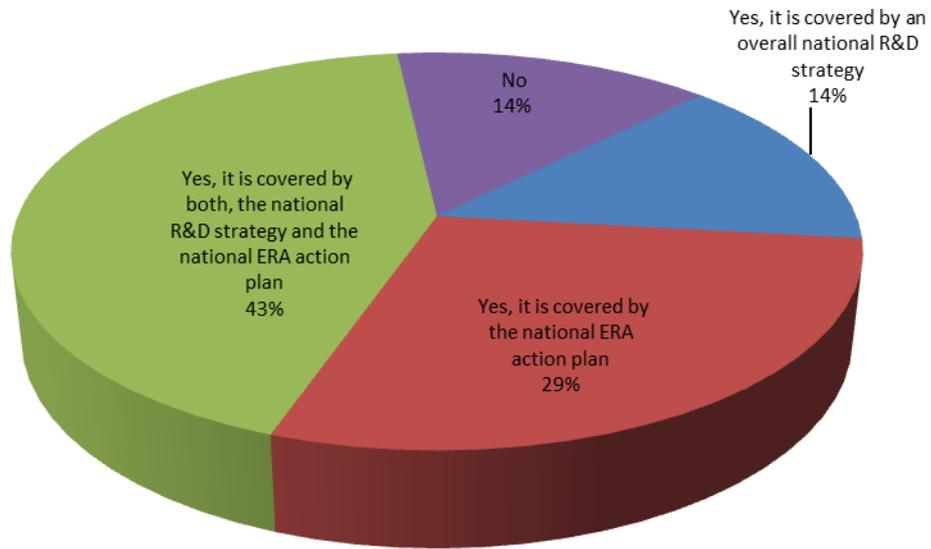
The following charts show the differences in responses between the high and low R&D intensity countries.



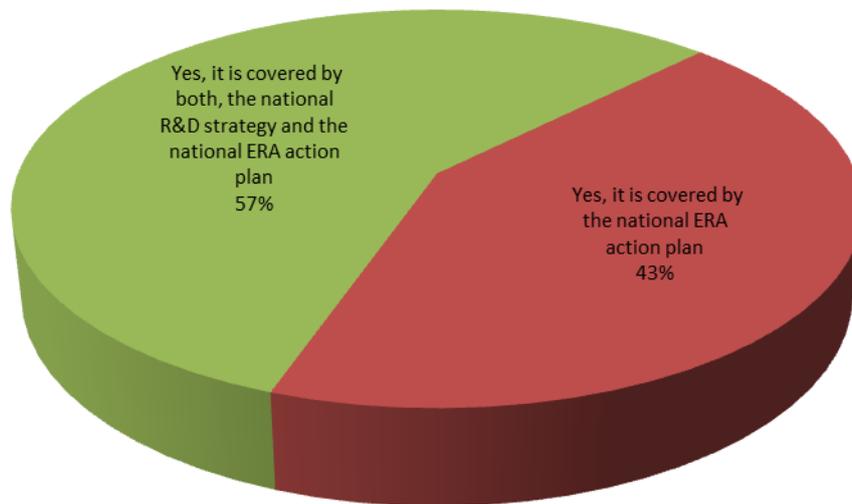
<sup>12</sup> The invitation to participate in the survey was extended to all EU Member States

**Q1: Is the participation of your government in Article 185 initiatives part of your national R&D strategy and/or part of your national ERA action plan?**

**HIGH R&D INTENSITY COUNTRIES**

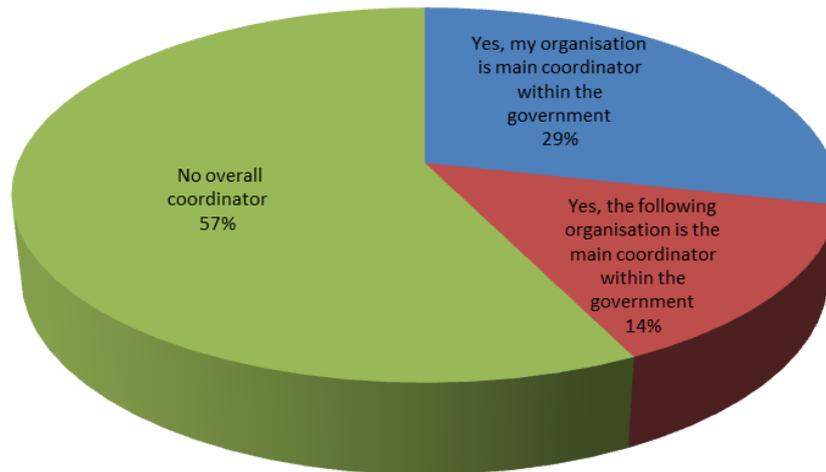


**LOW R&D INTENSITY COUNTRIES**

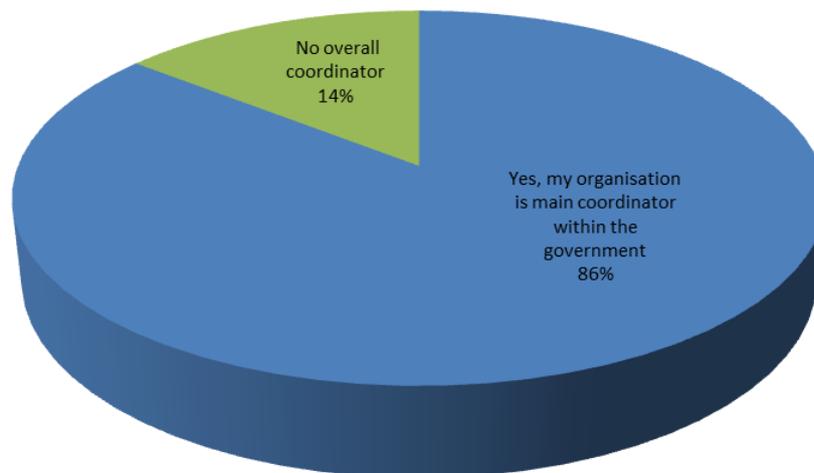


**Q2: Does your government have an overall coordinator for your country's participation in Article 185 initiatives?**

**HIGH R&D INTENSITY COUNTRIES**

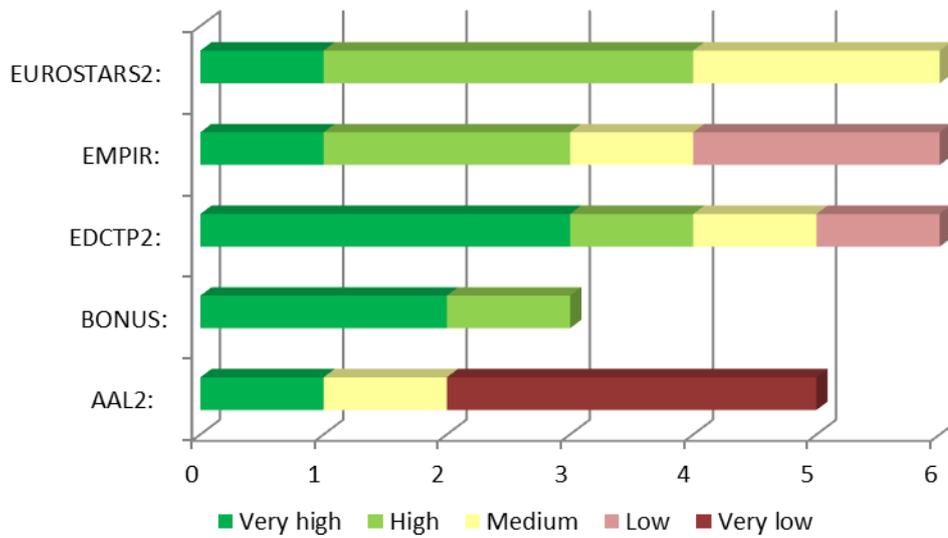


**LOW R&D INTENSITY COUNTRIES**

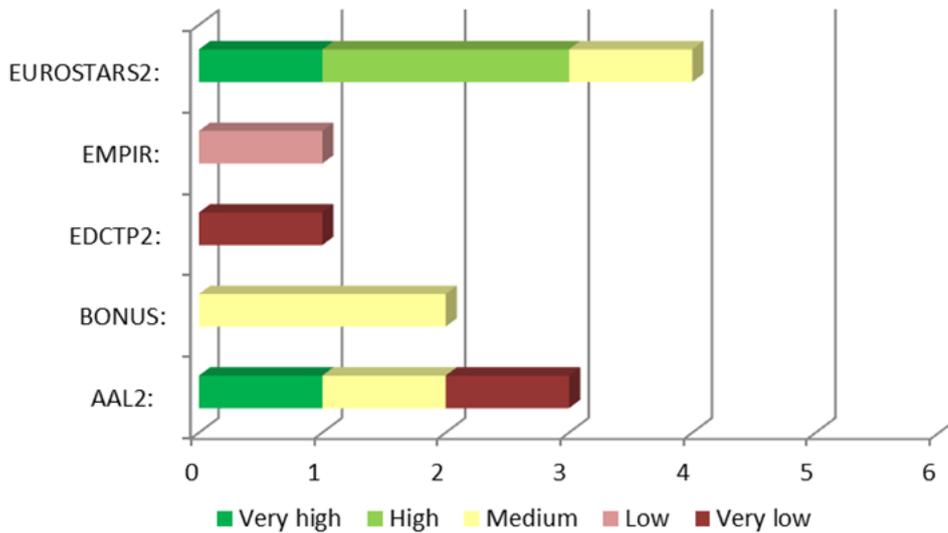


**Q3: How would you describe your government's participation to Article 185 initiatives?**

**HIGH R&D INTENSITY COUNTRIES**

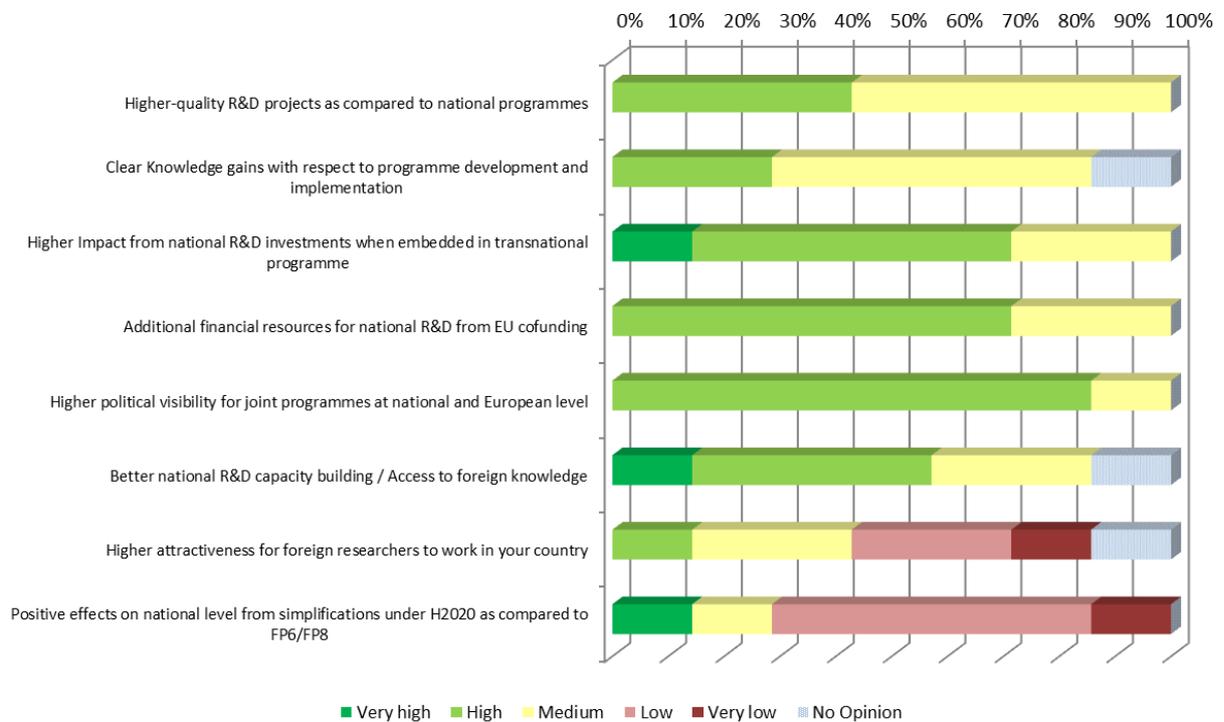


**LOW R&D INTENSITY COUNTRIES**

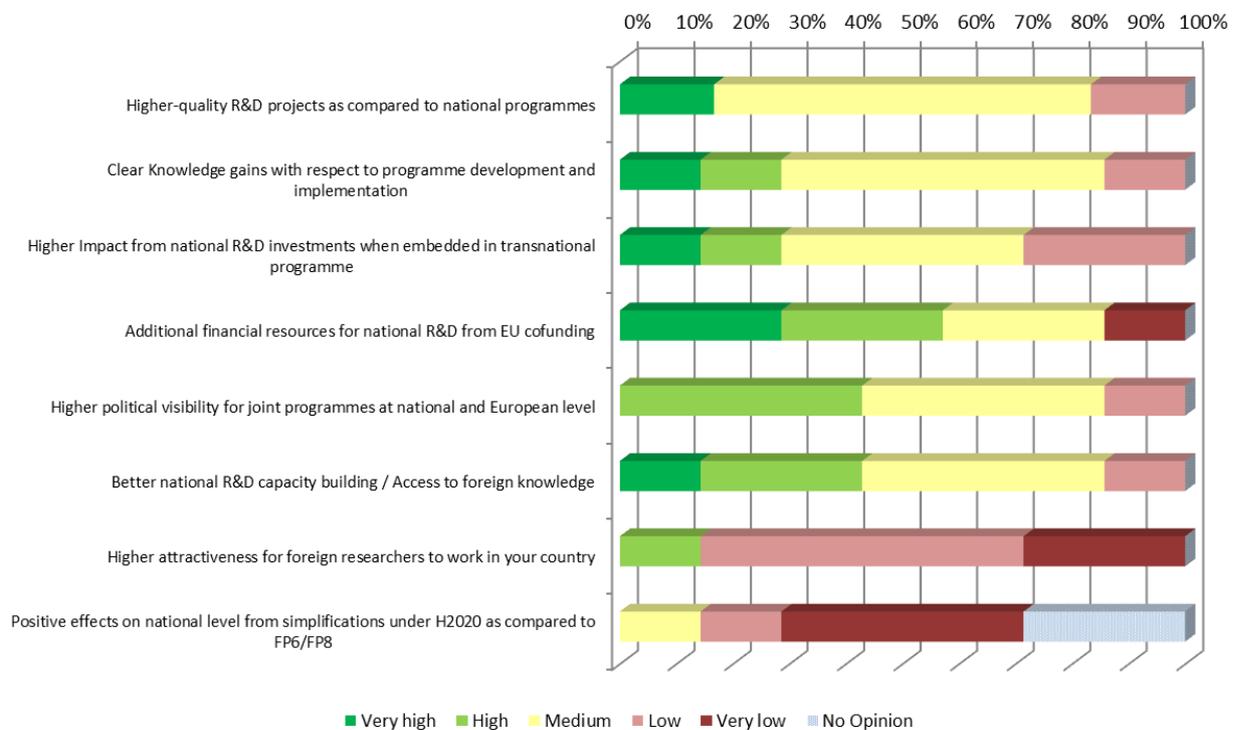


## Q4: How would you assess for your government the national added value from participating in Article 185 initiatives?

### HIGH R&D INTENSITY COUNTRIES

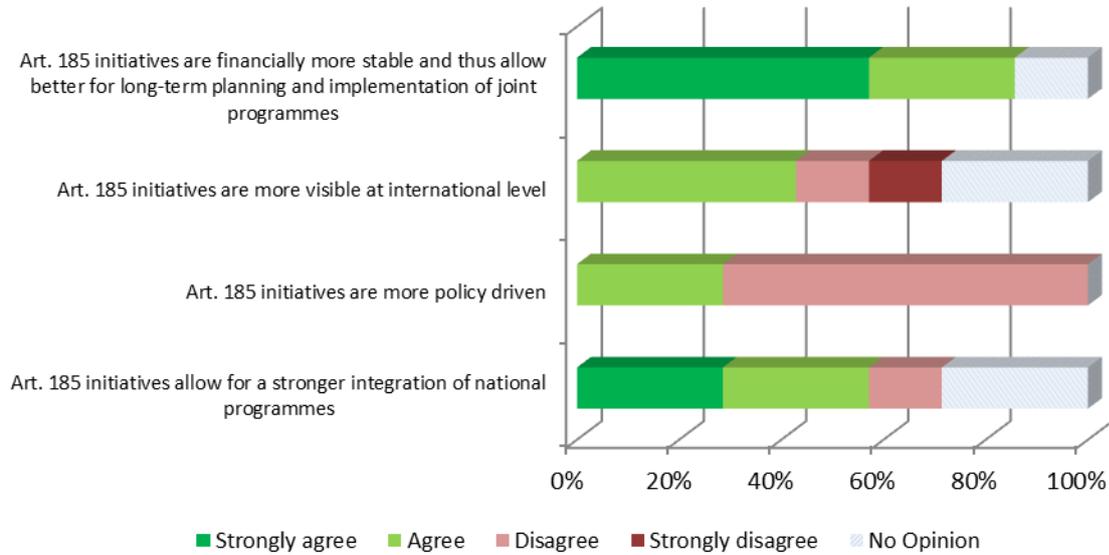


### LOW R&D INTENSITY COUNTRIES

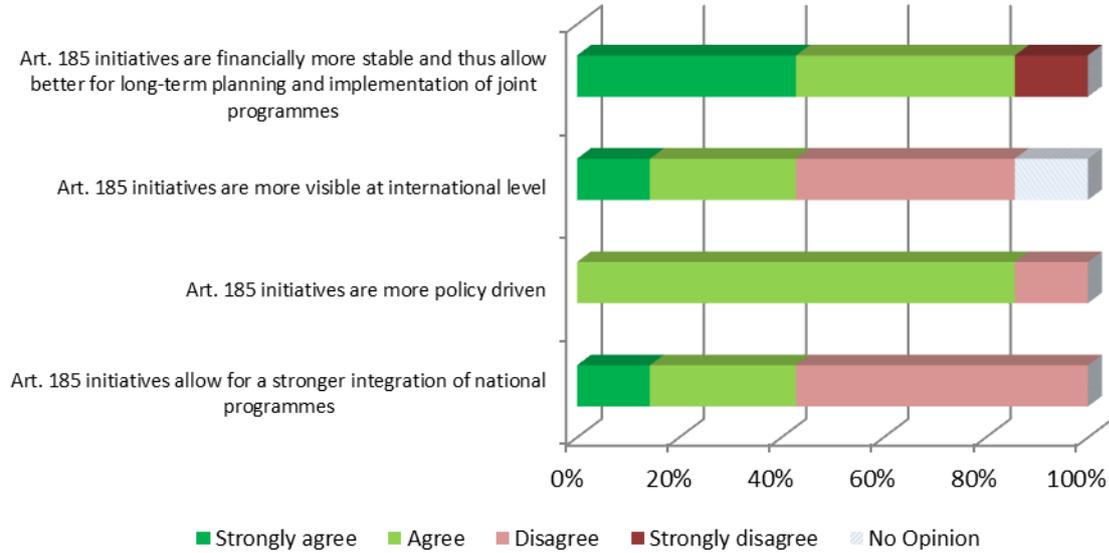


**Q5: How would you compare the Article 185 initiatives with Joint Programming initiatives (JPIs)?**

**HIGH R&D INTENSITY COUNTRIES**

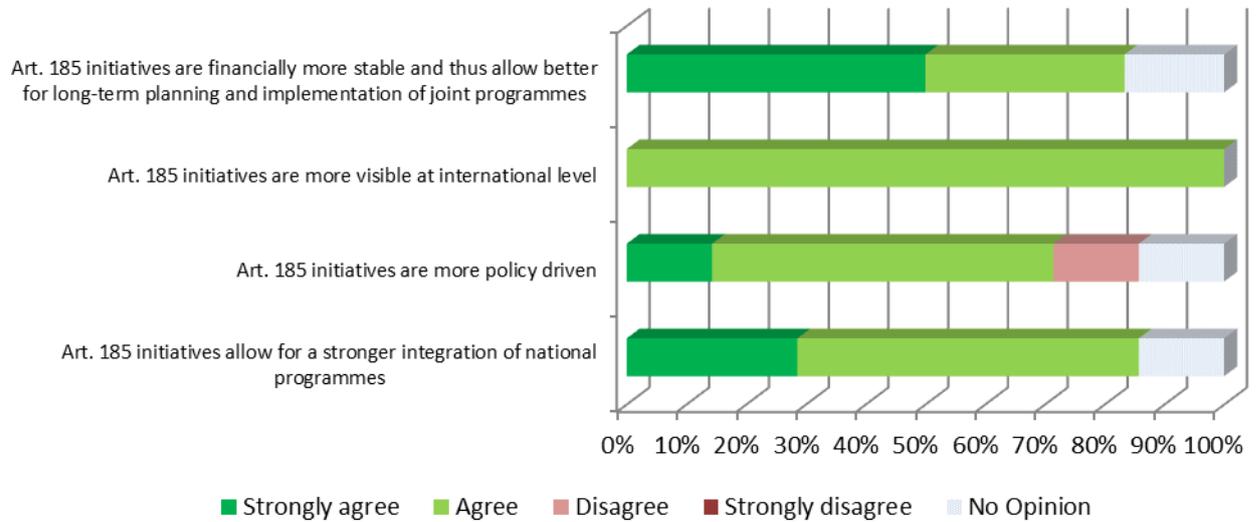


**LOW R&D INTENSITY COUNTRIES**

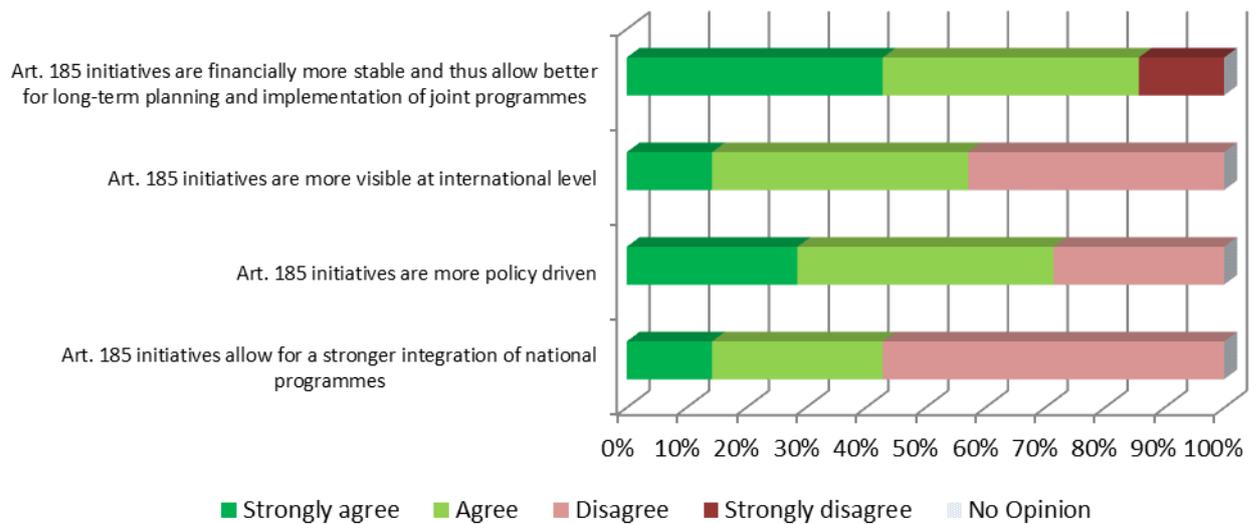


## Q6: How would you compare the Article 185 initiatives with ERA-NETs?

### HIGH R&D INTENSITY COUNTRIES

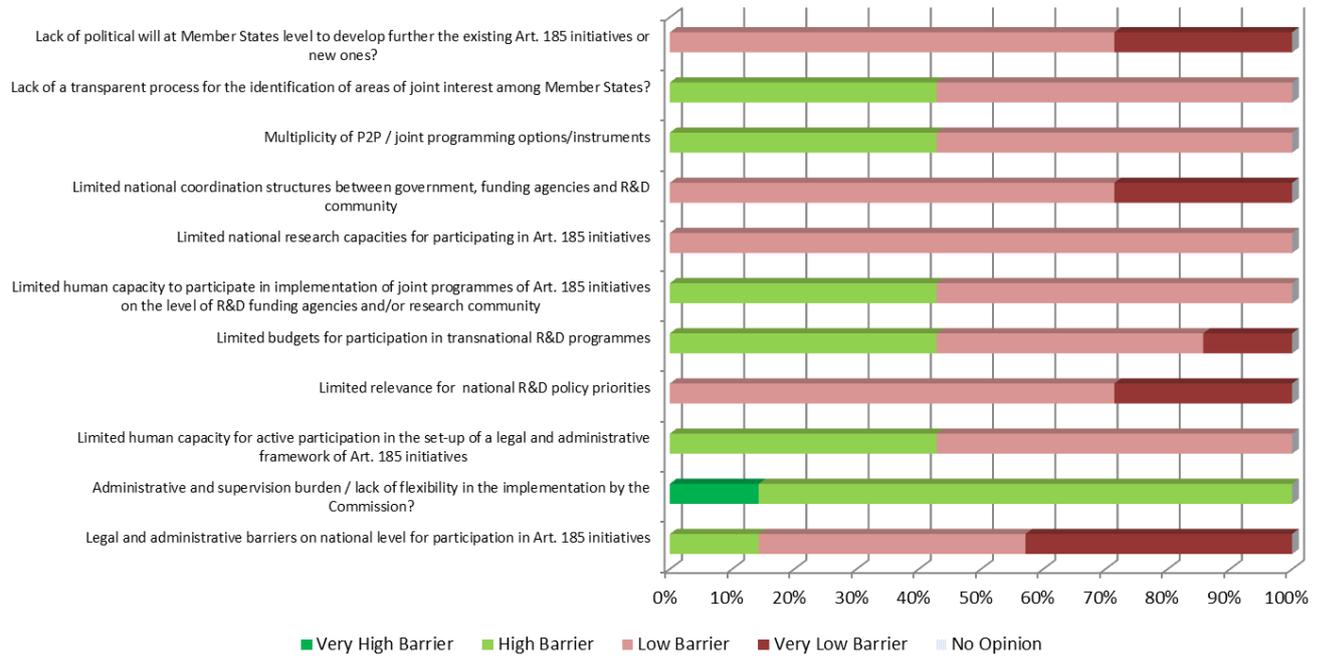


### LOW R&D INTENSITY COUNTRIES

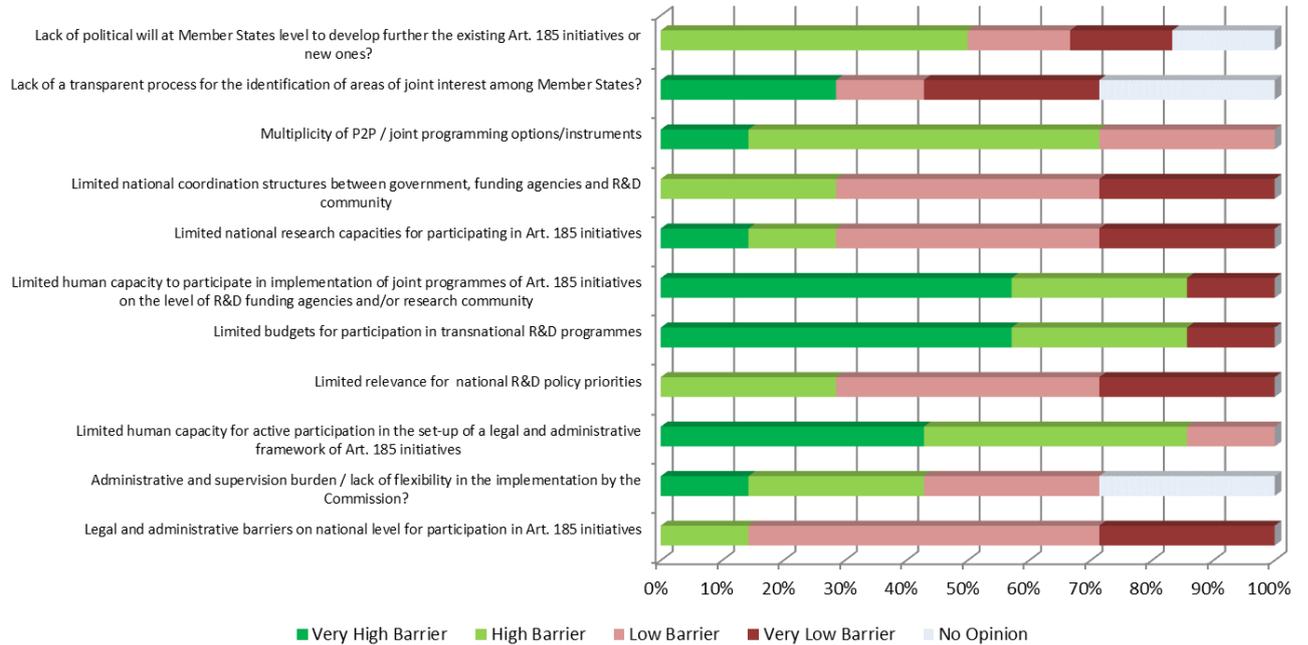


## Q8: What are the main barriers that limit your government's participation in Article 185 initiatives?

### HIGH R&D INTENSITY COUNTRIES



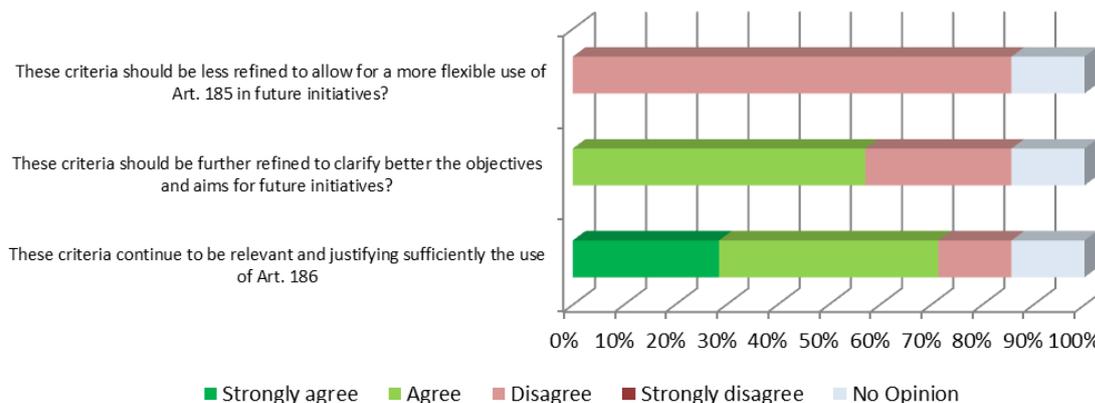
### LOW R&D INTENSITY COUNTRIES



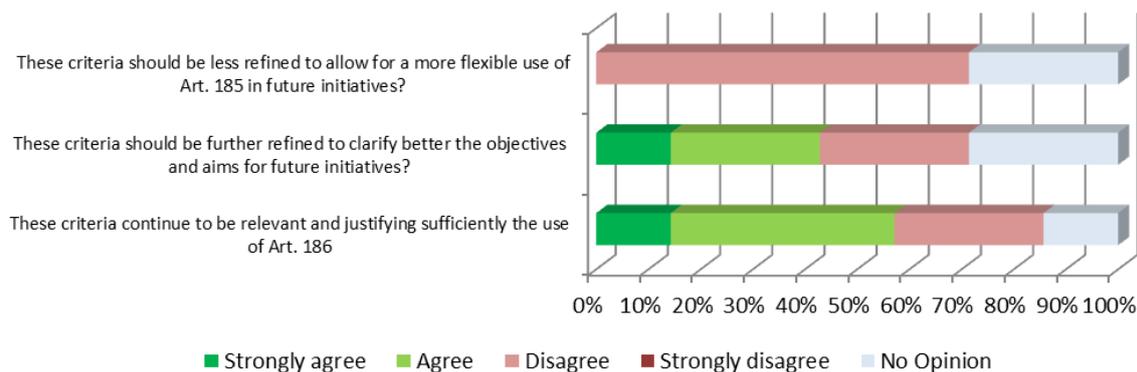
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**HIGH R&D INTENSITY COUNTRIES**

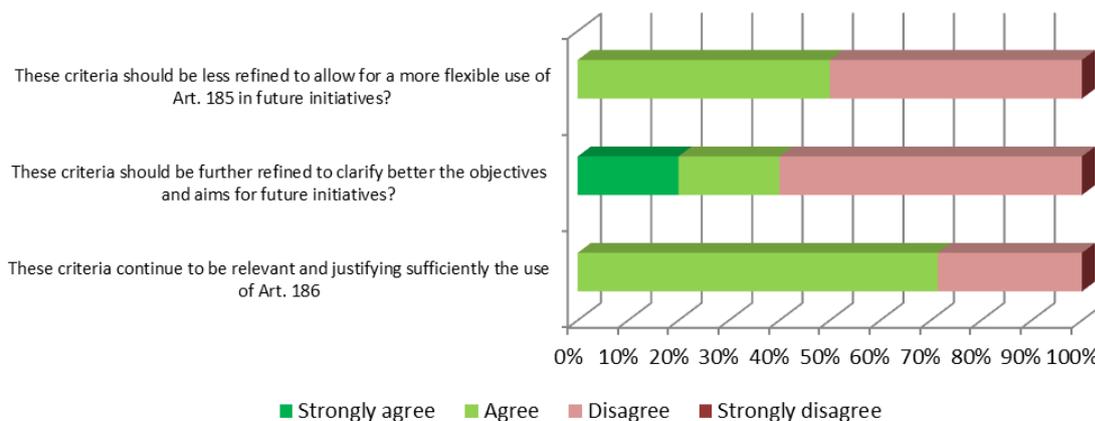
*With respect to scientific integration*



*With respect to managerial integration*

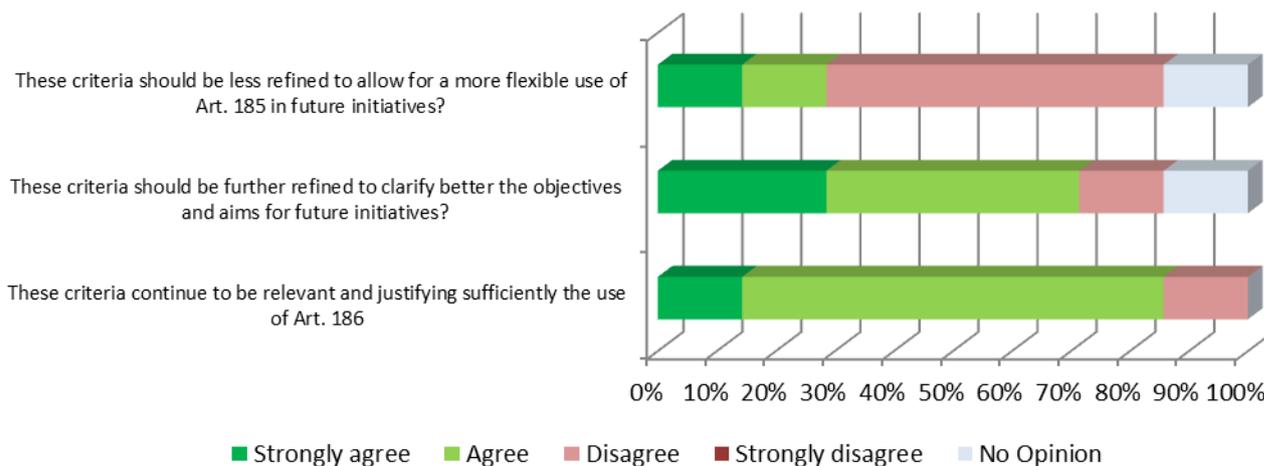


*With respect to financial integration*

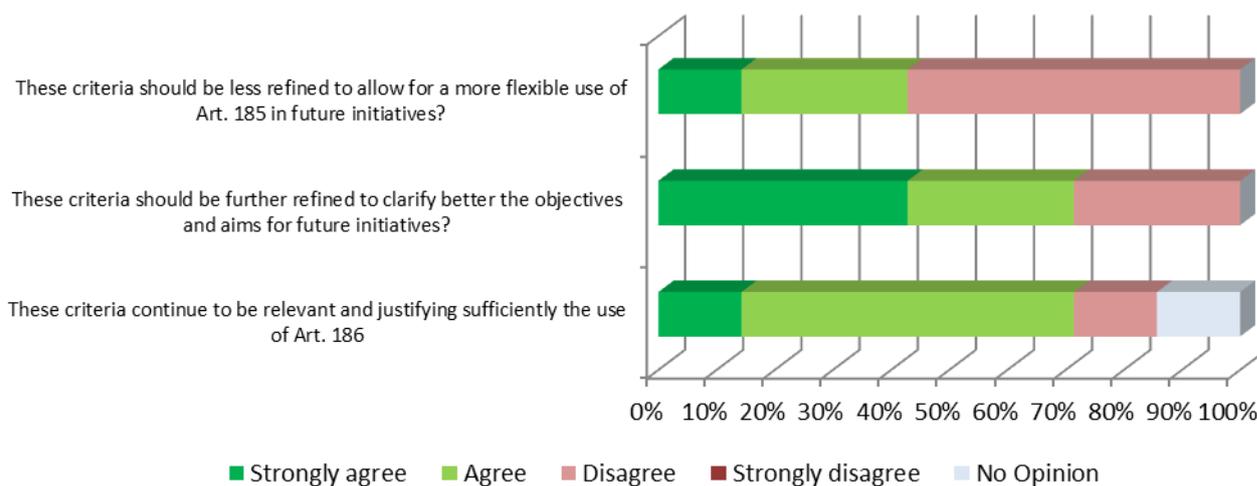


**LOW R&D INTENSITY COUNTRIES**

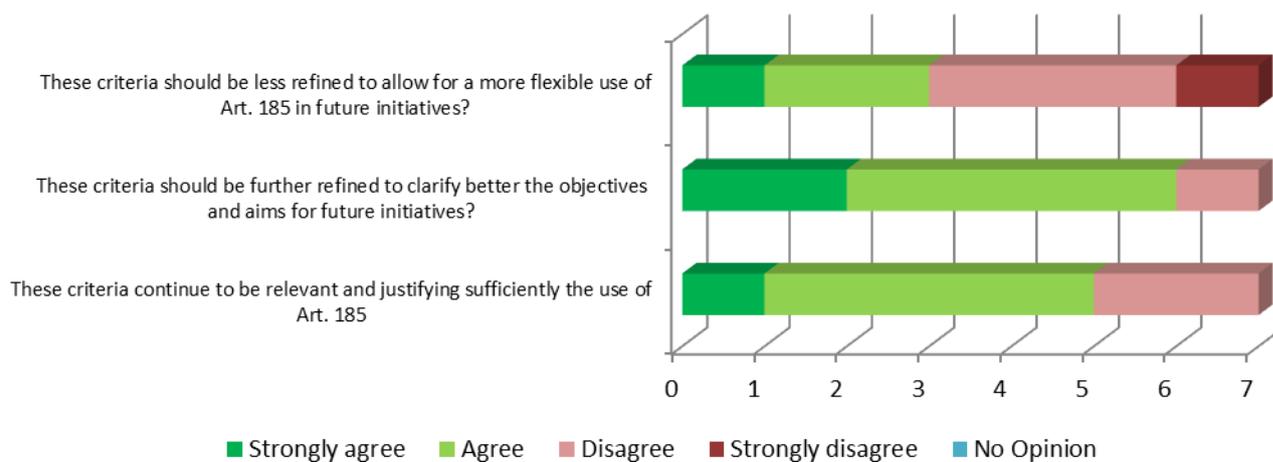
**With respect to scientific integration**



**With respect to managerial integration**

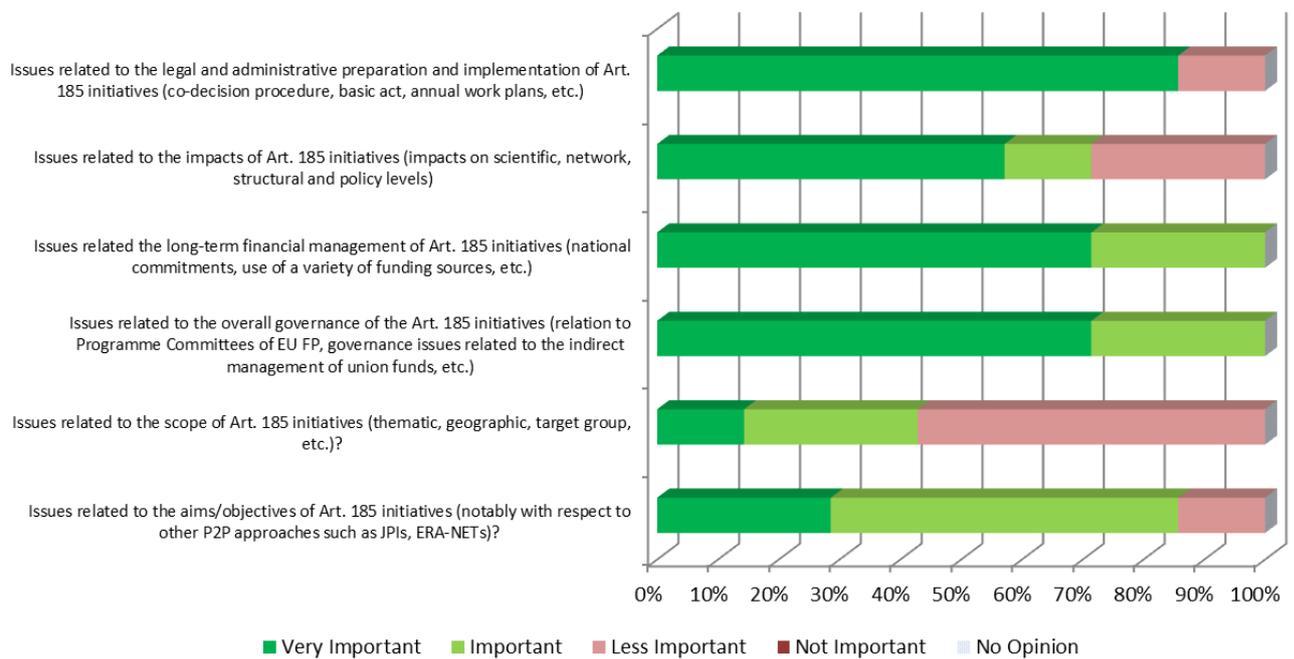


**With respect to financial integration**

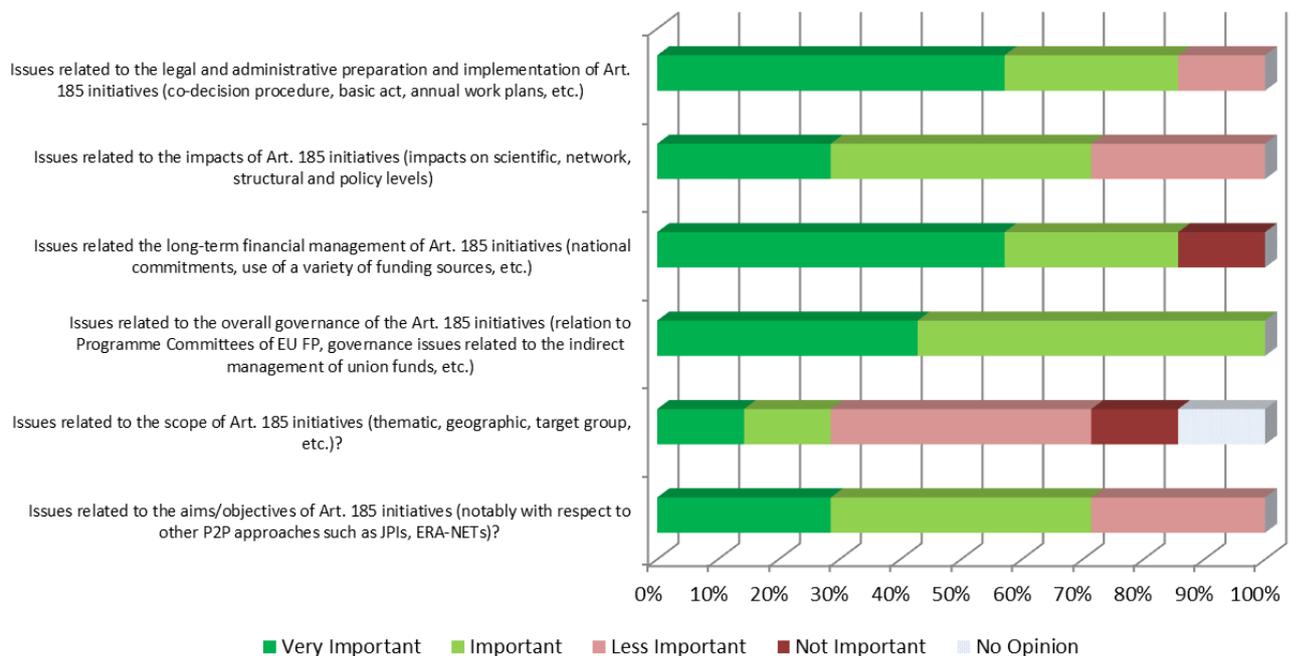


**Q12: The Article 185 meta-evaluation should provide recommendations for the future use of Article 185. To what extent these recommendations should focus on the following issues?**

**HIGH R&D INTENSITY COUNTRIES**



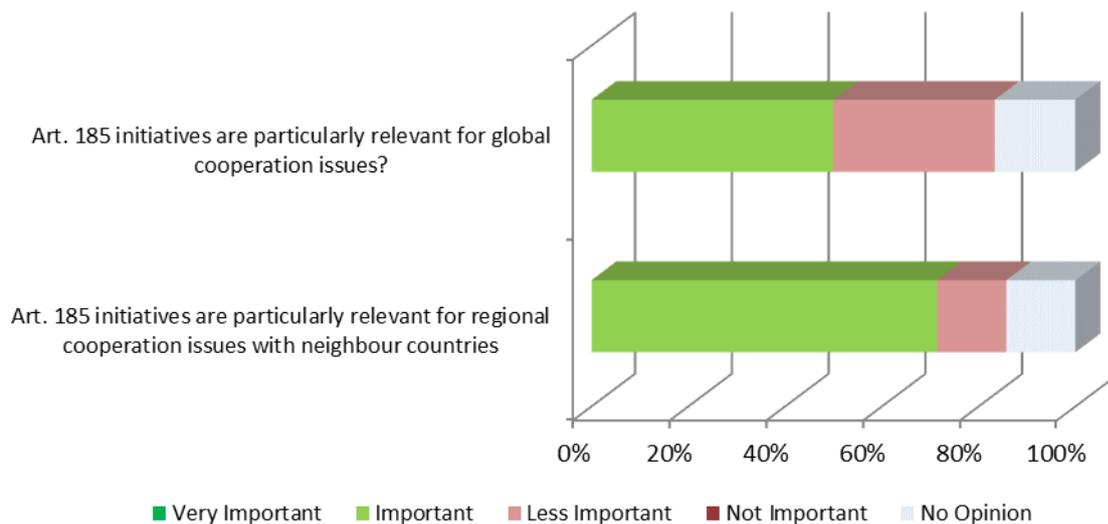
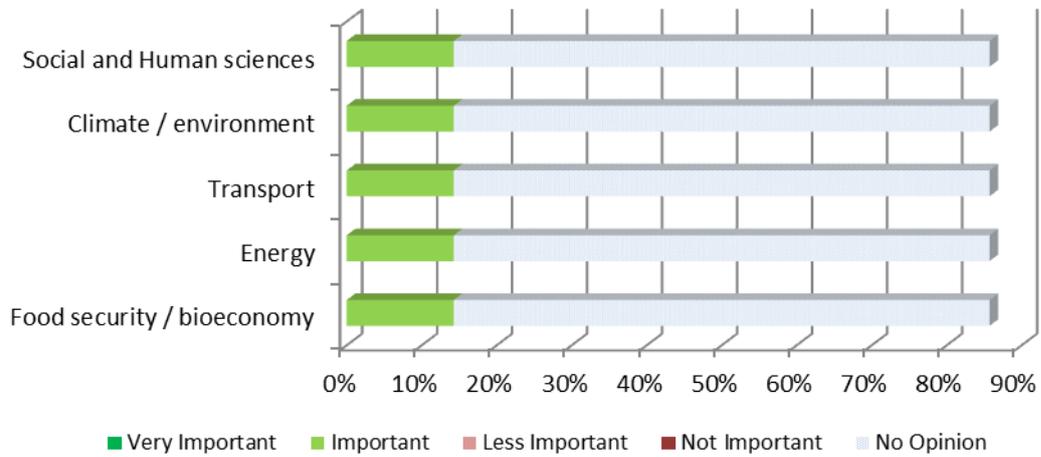
**LOW R&D INTENSITY COUNTRIES**



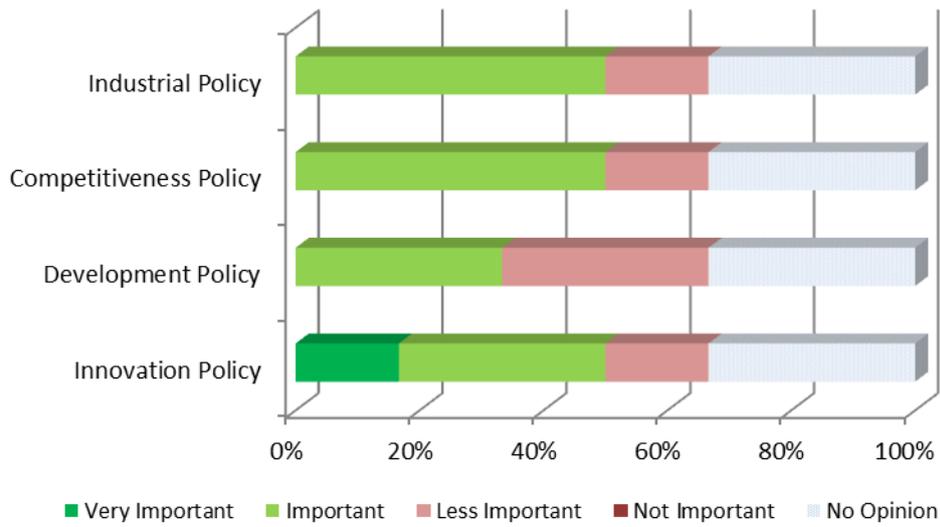
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**HIGH R&D INTENSITY COUNTRIES**

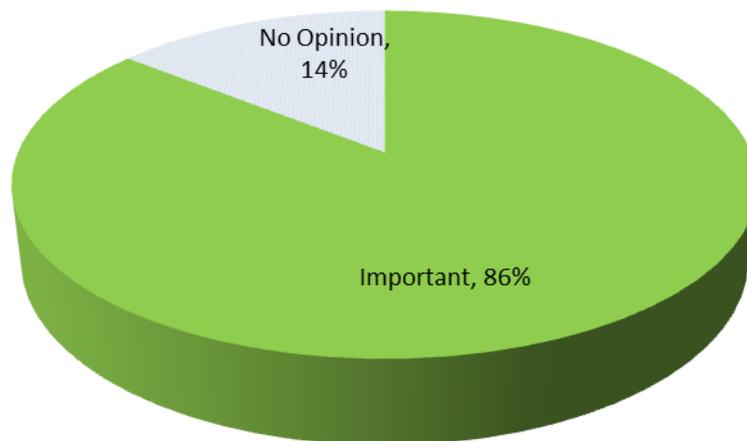
Art. 185 initiatives are particularly relevant in certain thematic fields, notably:



**Art. 185 initiatives are particularly relevant to underpin specific policy fields, notably:**

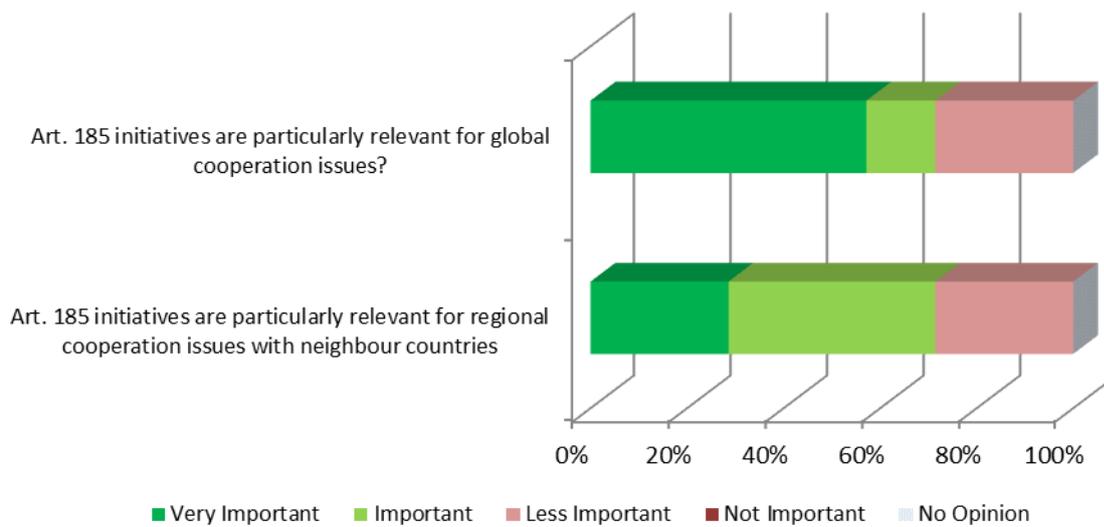
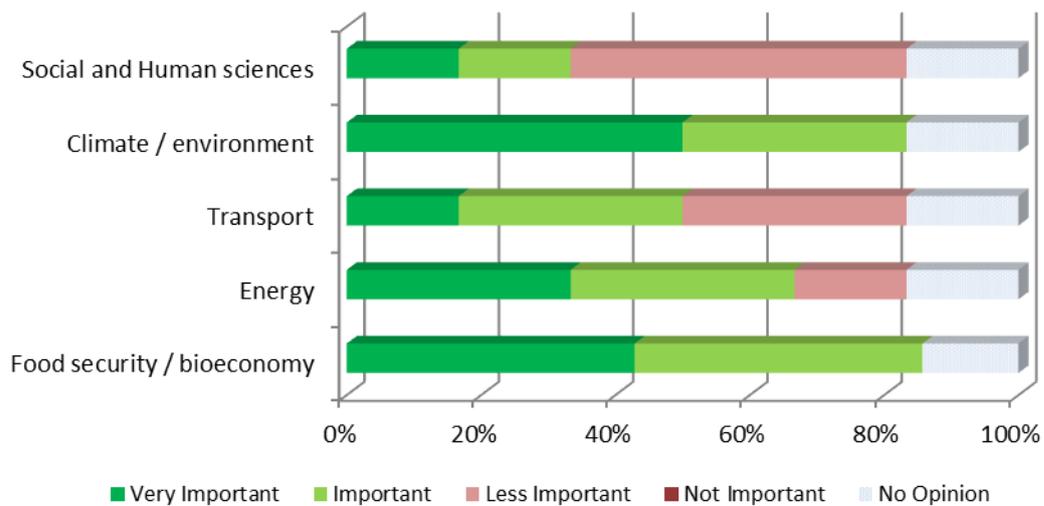


**Art. 185 initiatives are particularly relevant for strategic cross-policy approaches, linking R&D and regulation issues in a broader context**

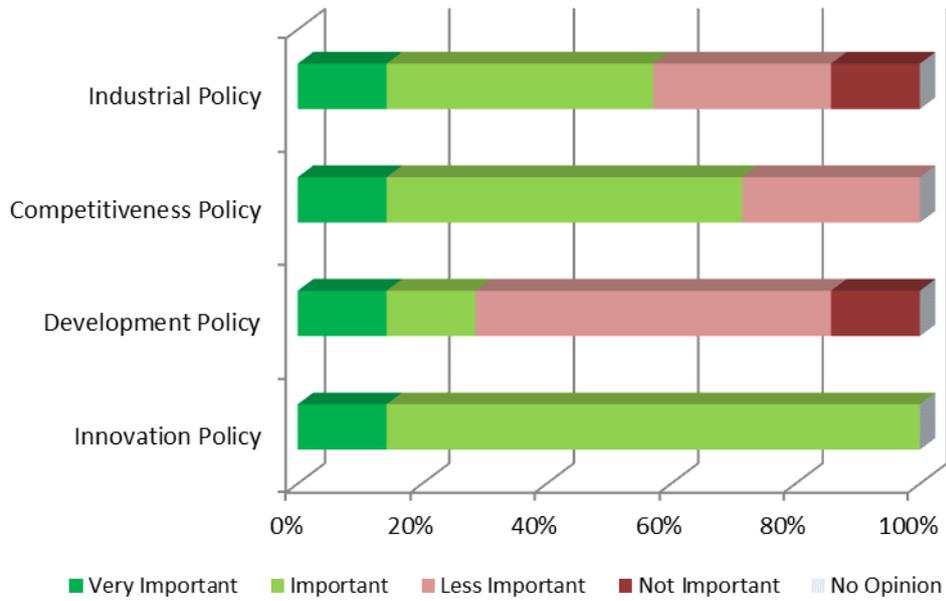


## **LOW R&D INTENSITY COUNTRIES**

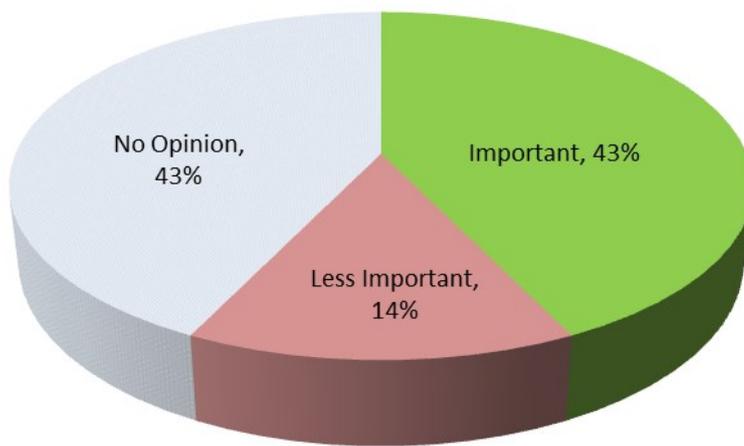
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## APPENDIX B: REVIEW PAPER ON THE LEGAL SITUATION

This paper covers the management modes and possible alternative implementation modes for public-public partnerships based on Article 185 including the legal basis.

### **I. Title XIX of the TFEU**

Art. 4, para 3, TFEU specifies that "In the areas of research, technological development and space, the Union shall have **competence to carry out activities, in particular to define and implement programmes**; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs."

The Treaty on the Functioning of the European Union contains a specific Title on the topic of Research (Title XIX, Research and Technological Development and Space, articles 179 to 190), which sets out the way in which (and the tools to be used by) the European Union in order to achieve the "aim of complementing the activities carried out in the Member States", as mentioned in Art. 180, para 1, TFEU.

First of all it is to be noticed that, in general terms, the Treaty indicates an obligation of cooperation with research centres and universities also on the trans-border cooperation.

According to Art. 179, para. 2, TFEU the Union shall assist research centres and universities in their research by supporting their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential to the full, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

In Art. 180(a) it is added that the Union shall carry out the implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities.

The close cooperation is also referred to in Art. 181.2, and the notion of initiatives is also introduced in order to promote coordination.

This cooperation is quite relevant also in the perspective of Art. 4.3. TFEU, para. 1, according to which "Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full Mutual respect, assist each other in carrying out tasks which flow from the Treaties" (so called "duty of sincere cooperation").

Regarding the process and the ways of implementing such initiatives and trans-border cooperation in the field of research, Art. 182 foresees the use of a Multi Annual Framework Programme by using the ordinary legislative procedure (see Art. 188 referring to Art. 289 of the Treaty - former « comitology » procedure).

Reference is made in this provision to the fact that multi-annual framework programme can be adapted or supplemented as the situation changes (Art. 182, para 2). And finally this programme shall indicate the detailed implementation rules, fix its duration and provide for the means deemed necessary.

Therefore, Art. 182 was the legal basis for the design of the Horizon 2020 Regulation.

According to the relevant provisions in the TFEU there is **a wide margin of choice in as far as the implementation procedures are concerned**. As a matter of fact, such provisions do not impose a specific choice as for the implementation procedure.

Nevertheless, Art. 185 sets some other complementary obligations to take into account *vis a vis* the modalities of implementation of the Horizon 2020 regulation.

More precisely, Art. 185 states that, initiatives carried out under this provision, shall be adopted "in agreement with the Member States concerned". Which means that, when implementing the Multi Annual Framework Programme (at present, H2020) by way of Art. 185, the Union (represented by the European Commission) has to make sure of the Member States' participation.

This mandatory participation of the Member States shall be reflected on several stages of the implementation of the annual framework agreement.

Consequently, in order to implement Art. 185, the Multi Annual Framework Programme adopted under Art. 182 TFEU may foresee the possibility for the European Union to participate in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

## **II. Art. 185 TFEU**

Art. 185:

*"In implementing the multiannual framework programme, the Union may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes".*

Art. 185 has to be considered as **an additional tool** amongst those offered by the Treaty and complementary to other tools provided for in articles 179 to 190 TFEU.

**Art. 185 aims specifically at enhancing cooperation** among Member State in the field of research. The idea is to help concretize the provision of Art. 181.1 TFEU, according to which "The Union and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and Union policy are mutually consistent".

As a matter of principle Art. 185 aims at enhancing Member States participation into research programmes launched by several Member States. Nevertheless, **the initiative to launch such a cooperation can come also from the part of the European Commission.**

Even if it not excluded from the Treaty provision that initiative to launch a cooperation ex Art. 185 TFEU may come from the part of the European Commission, the wording of Art. 185 implies nevertheless that, to concretely implement the provision of Art. 185 via specific cooperation provided for in the Multiannual Framework Programme, the European Commission needs - as a prerequisite - the Members' States agreement ("in agreement with the Member States concerned"; « en accord avec »; "d'intesa con", "im Einvernehmen mit").

However, the financing of joint research programmes ex art.185 TFEU is not an additional programme in the meaning of Art. 184.1 TFEU.

The Union's participation in research programs carried out by several MSs implies also their joint implementation. From a legal point of view, **Art. 185 TFEU allows here for different variants.** What is crucial, therefore, is to identify **the minimum requirements** to be met in order to allow such joint implementation.

Coordinated work and financial plans, as well as the willingness of the participating MS to provide financial resources for the joint program, are an indispensable minimum to be able to speak of joint implementation. Art. 185 refers also, to this regard, to "structures created for the execution of those programmes".

The creation of an *ad hoc* execution structure is not per se mandatory under Art. 185 TFEU. But in case of creation of such an *ad hoc* structure participation of the Member States within the creation and functioning is thus, quite mandatory.

Nevertheless, **it is not written in Art. 185 that such an implementation structure must be created each and every time anew.**

From this point of view it could be even imagined that **a jointly set-up body** (provided for in the forthcoming framework programme ex Art. 182 TFEU) be established with the specific task of enhancing joint implementation of a number of initiatives falling under Art. 185 TFEU.

## **III. The implementing Regulation 2014 to 2020 (Horizon 2020)**

The 1291/2013 Regulation implementing the Horizon 2020 (ends the 31st December 2020) contains all rules and procedures related to research programmes.

Following Art. 2(5) of the Regulation, public to public partnerships are defined as a partnership where public sector bodies or bodies with a public service mission at local, regional, national or international level commit with the Union to jointly support the development and implementation of a research and innovation programme or activities.

The implementation modes of such research programmes are defined in Art. 9.

Following the above mentioned Art. 9, if mainly research programmes are implemented in direct management (1), this Art. allows also the use of indirect management as defined by point (c) of Art. 58(1) of Regulation (EU, Euratom) No 966/2012 (Art. 9(2)).

It is at this stage essential to explain that this option of using all forms of indirect management is not in any case limited and can be applied in all its forms and options to any type of partnership

described in Horizon 2020 Regulation including the Public to Public partnership for the implementation of research programmes.

Regulation (EU, Euratom) No 966/2012, also known as Financial Regulation, expose in its Chapter 2 the management modes that the European Commission may use in order to implement H2020 Regulation.

Thus, Art. 58(1)c of the Financial Regulation refers specifically to indirect management specifying that, when provided for in the basic act (H2020 in our case, as defined above), the European Union (European Commission on its behalf) can entrust budget implementation tasks to:

- (i) third countries or the bodies they have designated;
- (ii) international organisations and their agencies;
- (iii) the EIB and the European Investment Fund;
- (iv) bodies referred to in Articles 208 and 209;
- (iv) public law bodies;
- (v) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- (vi) bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- (vii) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

It is obvious from the wording of Art. 58(1)c that only letters v) vi) are related to the management modes to be used for the implementation of research public to public partnerships as referred in Art. 2(5) of the Horizon 2020 Regulation.

Consequences on the use of Art. 58(1)c are explained in part IV of this document.

It is also to be noticed (following Art. 10 of the H2020 regulation) that the Union support can be implemented through several forms as described by the Financial Regulation: in particular grants, prizes, procurement and financial instruments. Financial instruments shall be the main form of funding for activities close to market that are supported under Horizon 2020.

Nevertheless, Art. 26(2)b) must be understood in such a way as to impose an obligation of co-financing from the participating countries and, therefore, in the case of public to public programmes the use of grant contracts seems to be the most adequate flexible form of delivering.

As we can infer from the first part of Horizon 2020 Regulation, implementation modes and forms are very broad and no particular mention is made to a specific method of implementation. It is up to the European Commission services in charge of the implementation of the Horizon 2020 to choose the best options from the Financial Regulation in order to reach the objectives and also to implement an adequate financial control with some flexibility in the delivery method.

Nevertheless, the Horizon 2020 Regulation has stated a special provision directly related to the preparation and implementation of public to public programme, taking into account that this provision is a complementary provision to the above mentioned (management modes and forms).

Therefore, according to Art. 26 on public-public partnerships, it is clearly stated in point (1) that one of the objectives of Horizon 2020 is to contribute to the strengthening of public-public partnerships, as and when appropriate, where actions at regional, national or international level are jointly implemented within the Union.

It is added that a particular attention shall be paid to Joint Programming Initiatives between Member States. Joint Programming Initiatives receiving support from Horizon 2020 shall remain open to the participation of any Member State or associated country.

In other words, public-public partnerships are related to trans-border actions jointly implemented within the European Union territory. This means also that those support actions cannot be implemented outside the limits of the Union and therefore are not applicable to external actions programmes or projects.

Following point 2(b) of the above mentioned provision, public-public partnerships may be supported within the Union participation in programmes undertaken by several Member States in accordance with Art. 185 TFEU, where the participation is justified by the scope of the objectives pursued and the scale of the resources required. For this purpose, such initiatives (Art. 185) shall only be proposed in cases:

- Where there is a need for a dedicated implementation structure

- AND where there is a high level of commitment of the participating countries to integration at scientific, management and financial levels.

This shall not imply therefore the need to set up a dedicated structure for each initiative. It is possible to interpret such dedicated implementation structure as a pre-existing structure but necessary in order to implement the initiative (see already above, para II).

Nevertheless, there is no doubt that there is an obligation to somehow integrate participating countries in the administrative and financial management of such structures. However there is NO explanation on management modes or implementation modes defined in this Art. Only a high level commitment is requested. Though, the way in which such high level commitment is envisaged and implemented depends fully on the European Commission's services in charge (DG RTD in fact).

Therefore, the Commission Services are free to propose an implementation alternative to the one currently sets out in Art. 26 on Art. 185's initiatives, if this new modality respects those two basic obligations: namely to have a dedicated structure and to have a high level commitment from the countries participating at the initiative of such proposal.

Regarding the identification of such initiatives, it has to be noticed that a set of criteria has to be respected:

- a clear definition of the objective to be pursued and its relevance to the objectives of Horizon 2020 (see Art. 5 of the Horizon 2020 regulation);
- an indicative financial commitments of the participating countries, in cash or in kind, including prior commitments to align national and/or regional investments for transnational research and innovation and, where appropriate, to pool resources;
- the added value of the action at Union level;
- the critical mass, with regard to the size and the number of programmes involved, the similarity or complementarity of activities and the share of relevant research they cover;
- the appropriateness of Art. 185 TFEU for achieving the objectives.

At this stage it is essential to precise the flexibility of some of those requirements. Indeed, countries financial commitments are, at least at the stage of the initiative, only indicative. Legally speaking, this can be done therefore only at the stage of participation and, more precisely, in the definition and drafting of the call for proposals.

#### **IV. Possible implementation modes**

As referred in previous para III, it is possible to implement Art. 185 initiatives by using indirect management as defined by point (c) of Art. 58(1) of Regulation (EU, Euratom) No 966/2012 ( Art. 9(2) of H2020).

Thus, Art. 58(1)c of the Financial Regulation refers specifically to indirect management, indicating that - when provided for in the basic act (H2020 in our case as defined above) - the European Union (European Commission on its behalf) can entrust budget implementation tasks to:

- (i) third countries or the bodies they have designated;
- (ii) international organisations and their agencies;
- (iii) the EIB and the European Investment Fund;
- (iv) bodies referred to in Articles 208 and 209;
- (v) public law bodies;
- (vi) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- (viii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- (ix) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

It is obvious that, in order to be in line with Art. 26 of the Horizon 2020 Regulation, Art. 58 of the Financial Regulation implies that the European Commission can entrust a public law entity for the purpose of the implementation of an Art. 185's initiative. In this case it has to be noticed that NO

financial guarantee will be requested. A financial guarantee is requested only when the entrusted entity is a private body.

In all cases, as regards point 2 of the same Art., the Commission remains responsible for the implementation of the budget and, therefore, a delegation agreement will be necessary in order to protect the European Union funds and financial interests.

But also, the European Commission shall inform the European Parliament and the Council of the operations carried out by the entities entrusted under indirect management.

Please note that, in view of future Framework Programme Regulations, it is also possible to mention an entrusted entity already in the basic act. In that case, a delegation agreement can be signed directly (subject to certain conditions, e.g. positive ex-ante assessment), but a full justification for the choice of that particular entity should be given.

As explained, the use of a delegation agreement implies several obligations. Those delegation agreements shall provide for the right of the Court of Auditors and the European Anti-Fraud Office (OLAF) to comprehensively exert their competences under the TFEU in the audit of funds.

Besides, in order to implement such delegation agreements under the indirect management mode, it is essential and mandatory for the European Commission to ensure that the entrusted entity will implement the entrusted tasks in a transparent, non-discriminatory, efficient and effective way.

Nevertheless, please note that there are some limits to task entrusted and that even under delegation agreement, the Commission shall not entrust executive powers to third parties.

On indirect management, and following Art. 60 of the Financial Regulation, entities entrusted shall respect some general management principles regarding European Union funds, as for instance sound financial management, transparency and non-discrimination and ensure the visibility of Union.

Therefore those entities shall:

- set up an effective and efficient internal control system;
- use an accounting system;
- be subject to an independent external audit (international auditing standards);
- apply rules and procedures for providing financing from Union funds through grants;
- ensure an *ex post* publication of information on recipients;
- ensure protection of personal data.

Besides, in order to monitor and verify the implementation of the initiative, the created entity shall provide the Commission with:

- a report on the implementation of the tasks entrusted to them;
- accounts drawn up for the expenditure incurred in the execution of the tasks entrusted to them.
- a summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

Before the Commission entrusts tasks of budget implementation to entities, it shall obtain evidence that the requirements set out above are being fulfilled (see Art. 61 of the Financial Regulation).

An ex-ante assessment, as defined in Art. 60 of the Financial Regulation, shall be executed and conducted by the European Commission services in charge any time an entity is selected or created.

Finally and following Art. 61 it is the Commission's responsibility to select an entity as defined in Art. 58(1)(c) (v), taking due account of the nature of the tasks to be entrusted to the entity, as well as the experience and the operational and financial capacity of the entities concerned. The selection shall be transparent, justified on objective grounds and shall not give rise to a conflict of interests.

In all cases, a financing decision has to be taken by the European Commission services, as referred in Art. 84 point 3 and Art. 86 of the Financing Regulation, in order to allow the Union to make its contribution.

Implementation of initiatives shall be done as foreseen by Art. 26 of the Horizon 2020 Regulation, meaning through calls for proposals launched by the entities entrusted by the European Commission after the signature of a delegation agreement.

## **V. Possible alternative implementation respecting the legal basis**

Following the above mentioned analysis, it is possible to provide an alternative but narrow path in order to implement Art. 185's initiatives.

This alternative proposal is based on the analysis of the legal framework applicable and also based on different options taken by DG EuropeAid when implementing programs using indirect management and delegation agreements.

Thus, this part of our study will limit itself to provide an alternative way for the implementation of Art. 185's initiatives by listing the minimum requirements and obligations resulting firstly from the European Union Treaty but also from the Horizon 2020 Regulation.

### **We can come to the following conclusions:**

- As regards Article 182 TFEU, research policies can be implemented through Multi Annual Framework Programmes (resulting to the actual Horizon 2020 Regulation).
- The Multi Annual Framework Programme should, to the extent possible, integrate and contain the implementation rules.
- The only obligation stemming from the Treaty (Art. 185) is to ensure that Member States will actively participate into public-public initiatives. But nothing is provided on the process in order to implement such initiatives.
- Nevertheless, it is clear that in order to use the Art. 185's initiatives, the European Commission needs the Member States' agreement. This agreement can be reached by using the European Member States representatives.

Though the initiative to launch programmes falling under Art. 185 TFEU can come also from the part of the European Commission, as a general rule initiatives of joint program ex Art. 185 TFEU shall come from the Member States. This can be reached by using a programming document for the implementation of Horizon 2020. Once this multi annual programming document is agreed on by all stakeholders, it can be used for any Art. 185 initiative.

- The participation of the Member States into such initiatives is also a prerequisite. But only when and if a dedicated structure is created for the purpose of the implementation of Art. 185's initiatives.
- Regarding management modes, no restriction is defined in any of the legal basis applicable to public-public initiatives. It is *de facto* possible to implement Art. 185's initiatives through indirect management with a public law body using a Delegation Agreement. In this case, as defined in the Financial Regulation, no guarantee has to be requested if the entrusted body is a public entity.
- No existing public entity can be entrusted without an ex-ante assessment (audit).
- When using the indirect management mode and the Delegation Agreement in order to implement Art. 185 initiatives, for the majority of activities grant contracts have to be used, following calls for proposals.
- What matters is that any Art. 185 initiative should have a trans-border component, Member States should have been involved in the initiative and any of those initiatives can only be implemented within the European Union territory.
- At the identification stage, five criteria have to be respected. One of those criteria is - for the participating countries into an Art. 185's initiative - to provide an indicative financial commitment. This cofunding can be foreseen at the level of the projects resulting from the call for proposals, or at the level of the programme with dedicated activities of the participating states.

## **VI. Findings (on legal issues and administrative bottlenecks)**

### **1. Initiative**

Following our first analysis, the hearings on the presentation of the results from evaluations of individual Art. 185 initiatives on the 18<sup>th</sup> of May 2017 (presentation by chair/rapporteur of respective expert group) and the meeting on the 19<sup>th</sup> of May 2017 on "experiences from DIS concerning legal and administrative issues, it is essential to notice that from a legal point of view,

**there is no legal basis that prevents the European Commission to be at the initiative of a program based on Art. 185.**

This was one of the main concerns notably from the structures' manager of the dedicated implementation structures (DIS) set up for the purpose of each program.

As a matter of principle, Art. 185 of the Treaty aims at enhancing Member States participation into research programs launched by several Member States. Nevertheless, and as it is stated in Art. 185, the initiative to launch such a cooperation can come also from the part of the European Commission. Besides, no limitation whatsoever to EC initiative is in a way or other reflected in the applicable Regulation (H2020).

## **2. Setting up of a new structure for each initiative**

It is to be noticed that from a common practice, for each Art. 185 initiative a DIS should be fully installed in order to manage the programme and eventually launch and manage calls for proposals and all grant contracts related to those above mentioned calls.

The fact of restarting each time and for each new programme a new DIS is not only time consuming but also a room for administrative and legal misconceptions

Following both hearings from the 18<sup>th</sup> and 19<sup>th</sup> of May, it appears obvious that managers of such DIS are spending most of their time in administrative arrangements instead of implementing those programs.

This situation derives from a narrow and restrictive reading and therefore interpretation of Art. 185 of the Treaty and its applicable rules (H2020 Regulation).

The creation of an ad hoc execution structure is not per se mandatory under Art. 185 TFEU.

## **3. Implementation issues**

One of the greatest concerns mentioned by the DIS managers is related to the burdensome implementation of Art. 185 programmes.

Their inherent complexity is related to the Delegation Agreement (which has to be signed in order to manage the DIS); but also to the financial guarantee and liabilities related to the DIS, to the procedure related to the adoption of the Annual Work Program and, finally, to the drafting of the annual reports.

### Delegation Agreement

One of the issues mentioned is directly related to the template of the Delegation Agreement (DA) once the DIS is functioning and accepted (after the ex-ante assessment).

It has to be noticed that the DG Budget provides for different type of DA templates (PAGODA for instance); those templates only contains obligations directly deriving from the Financial Regulation (FR - Art. 60.2 and 61) and from the Rules of Application (RAP – Art. 39).

Besides, it seems that there exist different templates used by DG Research in order to entrust task to DIS.

Following those rules and procedures, a DA means an agreement concluded with entities and persons entrusted with budget implementation tasks (see Art. 58(1)c). And it is also stipulated that the Delegation agreements shall set out the requirements laid down in points (a) to (d) of the first subparagraph of Art. 60(2). They shall clearly define the tasks entrusted to the entity and contain an undertaking by the entities or persons concerned to fulfil the obligations laid down in points (e) and (f) of the first subparagraph of Art. 60(2),

Therefore, and as stated in Art. 60(2) and 61(2) of the FR, the entities entrusted shall, in accordance with the principle of proportionality:

- (a) set up and ensure the functioning of an effective and efficient internal control system;
- (b) use an accounting system that provides accurate, complete and reliable information in a timely manner;

- (c) be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
- (d) apply appropriate rules and procedures for providing financing from Union funds through grants, procurement and financial instruments;
- (e) ensure, in accordance with Art. 35(2), the *ex post* publication of information on recipients;
- (f) ensure a reasonable protection of personal data, as laid down in Directive 95/46/EC and Regulation (EC) No 45/2001.

In other words, any DA should at least contain those minimum requirements.

No other obligation is mentioned regarding any type of DA template or any obligation to be included in this template, unless the PAGODA (provided by DG Budg) is used.

#### Annual Work Program (AWP)

The AWP is the operational and technical document where, per program and per year, a set of activities should be reflected. This document should be so far approved at the college level by a Commission decision (CIS and financing decision).

Therefore, any change to this document throughout the year would imply the adoption of an EC decision.

At the same, it has to be noticed that the level of detail requested in the annual work program (AWP) may lead the DIS manager to request some adaptation during the implementation phase, in order to be in line with the reality of the current situation. In this case a new European Commission decision will be therefore necessary even for an adaptation and not a new AWP.

On the other hand, following the FR on indirect management (Art. 58 to 62), the DA should contain a description of the tasks to be delegated. But those tasks to be delegated and the description of the annual work programme as such, do not have to be in the same document.

And in all cases, a Commission decision in order to adopt each AWP seems to be a too burdensome procedure to carry on each year.

#### Financial obligations

Sound financial management requires that the Commission protect itself with guarantees.

In the case of the indirect management (Art. 58 of the FR), it has to be noticed that a financial guarantee is required when the Commission entrusts budget implementation tasks to bodies governed by private law with a public service mission or to bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership.

Nevertheless, the Commission remains responsible for the implementation of the budget and shall inform the European Parliament and the Council of the operations carried out by the entities and persons entrusted.

The obligation to lodge a guarantee is not required for a public body. But in order to limit the financial risks connected with the payment of pre-financing, the EC may - on the basis of a risk assessment - require the beneficiary to lodge a guarantee in advance, for up to the same amount as the pre-financing, except for low value grants, or split the payment into several instalments (Art. 134 FR and 206 RAP).

All initiatives currently being implemented under Horizon 2020 use as DIS legal entities that are private law bodies with a public service mission. The Commission Services requested in all cases from the participating states financial guarantees to the DIS while implementing a DA for the contribution provided by the EC.

In order to respect sound financial management of EU funds, these guarantees should cover, without limitation of scope or amounts, any debt of the DIS towards the Union related to all implementation tasks as foreseen in the Delegation Agreement. The Commission normally expects the guarantors to accept the joint and several liability for debts of the DIS.

For the adoption of the Decision (EU) 2017/1324 of the European Parliament and of the Council of 4 July 2017 on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States the European

Commission has issued a declaration that further specifies what level of financial guarantees are expected:

"... on the basis of a detailed risk assessment, in particular if the outcome of the ex-ante pillar assessment carried out to the IS in line with Article 61 of the Financial Regulation is deemed to be adequate, the Commission Authorising Officer in charge of PRIMA will envisage that:

– Taking into account the principle of proportionality, the financial guarantees requested from the IS may be limited to the maximum amount of the Union contribution.

– In accordance, the liability of each guarantor may be proportionate to the share of their contribution to PRIMA. The guarantors may agree on the modalities in which they will cover this liability in their respective letters of declaration on liabilities."

#### Report obligations from DIS

It is clear from the Financial Regulation (Art. 60) that the entities entrusted pursuant to point (c) of Art. 58(1) shall provide the Commission with a report on the implementation of the tasks entrusted to them.

The RAP completes the following obligation by indicating (Art. 40 Content of the agreement entrusting budget implementation tasks to entities and persons (Articles 61(3) of the Financial Regulation) that Delegation Agreements shall include detailed arrangements ensuring the protection of the financial interests of the Union and the transparency of operations carried out. They shall include at least the rules on reporting to the Commission on how the tasks are performed, the results expected, irregularities which occurred and the measures taken, the conditions under which payments may be suspended or interrupted as well as the conditions under which performance of the tasks terminates.

No other obligation is defined in the legal basis. It is upon each DG to draft a DA in accordance with those obligations.

## APPENDIX C: REVIEW PAPER ON THE PROBLEMS AND OPPORTUNITIES LINKED TO THE USE OF ESIF FOR ARTICLE 185

### 1. Synergies between ESIF and H2020

Under the EU cohesion policy, during the period 2014-2020, European Structural and Investment Funds (ESIF) will invest € 351.8 billion (almost a third of the total EU budget) to support job creation, business competitiveness, economic growth, sustainable development, and improve citizens' quality of life. Almost one third of these funds - **€100 billion ESIF** - are scheduled to be invested in innovation and research. This is more than the EU funds allocated to the **H2020 programme - €80 billion**. Synergies between cohesion and research policies have to be sought both at design and at implementation phases, in order to maximize the impact of the use of these instruments and funding. For the first time, the regulations for H2020 and the Common Provision Regulations (CPR) of ESIF include a legal mandate to maximize synergies<sup>13</sup>.

The general thinking about synergies between ESIF and H2020 at EC level<sup>14</sup> points towards two types of synergies:

- **"Upstream actions"** which refer to capacity building actions, e.g. in human resources or research infrastructures, to be developed under ESIF to prepare regional R&I players to participate in H2020 (the "stairway to excellence");
- **"Downstream actions"** to support the exploitation and diffusion of research results from H2020 projects on the EU territories.

To address internal disparities in terms of research and innovation performance, Horizon 2020 includes specific measures for spreading excellence and widening participation, targeted at low-performing Member States in terms of research and innovation: *Teaming*, associating advanced research institutions to other institutions, agencies or regions for the creation or upgrade of existing centres of excellence; *Twinning*, which helps strengthen a defined field of research in a knowledge institution through linking with at least two internationally-leading counterparts in Europe; and *ERA Chairs*, which provides support for universities and other research institutions to attract and maintain high quality human resources and implement the structural changes necessary to achieve excellence on a sustainable basis.

In addition, a new mechanism has been implemented under H2020 which facilitates synergies with ESIF:

- **H2020 amplification actions:** proposals that have been rated highly in the SME instrument in Horizon 2020 but could not be funded due to limited budgets receive a "seal of excellence", a high quality certification label which they can use for other funding sources, including ESIF (this calls for the definition of mechanisms of official recognition of the label by national/regional authorities).

All ESIF actions under the Thematic objective "Research and Innovation" should be aligned with the priorities identified in the relevant **smart specialisation strategies** (S3) developed in each Member State and region. According to ESIF rules<sup>15</sup>, "smart specialisation strategies are national or regional innovation strategies which set priorities in order to build competitive advantage by developing and matching research and innovation own strengths to business needs in order to address emerging opportunities and market developments in a coherent manner, while avoiding duplication and fragmentation of efforts; a smart specialisation strategy may take the form of, or be included in, a national or regional research and innovation (R&I) strategic policy framework". Such strategies had to be developed as an ex-ante conditionality in view of the adoption of ESIF programmes. They should act as guidance for ESIF investments in RDTI: the latter should be concentrated in, and contribute to the development of the identified smart specialisation domains.

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<sup>13</sup> Article 20 of the Horizon 2020 Regulation and Article 37 of the Horizon 2020 rules for participation encourage synergies between Horizon 2020 and other European Union funds, such as ESIF.

<sup>14</sup> European Commission (2014), *Enabling synergies between European Structural and Investment Funds, Horizon 2020 and other research, innovation and competitiveness-related Union programmes*.

<sup>15</sup> Article 2 (3) Common Provisions Regulation on the ESIF.

## 2. Using ESIF funding under Article 185 initiatives

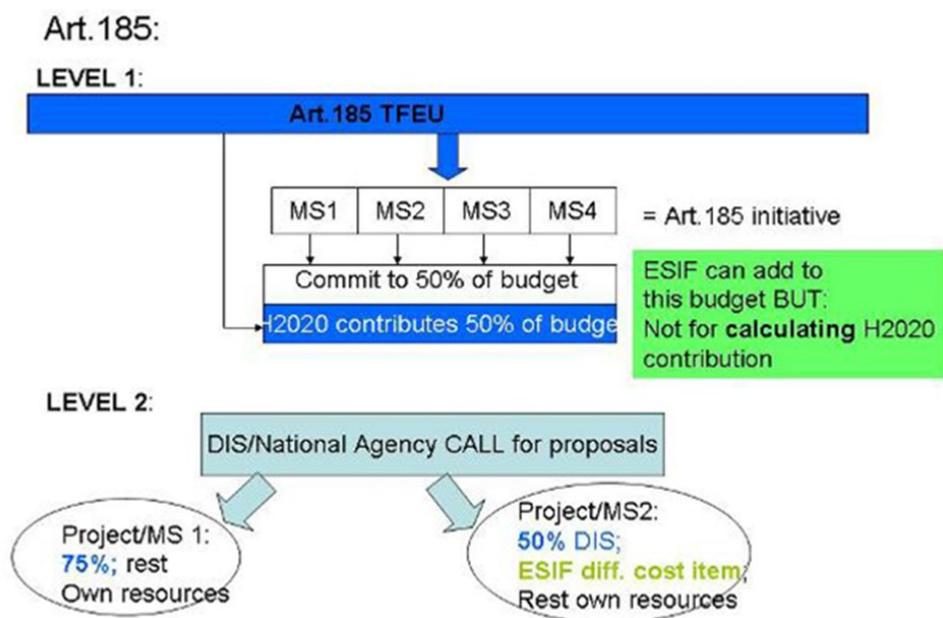
There is no possibility to use ESIF to co-fund participation in Article 185 initiatives. ESIF can only fund **complementary** activities which are not part of Article 185 programmes or projects.

1) At programme level, **there is no possibility to use ESIF as co-funding source of Article 185 initiatives**, as the co-funding should come from national money (see "level 1" in figure 1 below). Of course Participating States can enlarge the funding source by adding ESIF money in parallel with Article 185 initiative.

2) At project level, the situation is similar: ESIF funds can only be used in complementarity, to fund other expenses, not included in the projects funded under Article 185: **no substitution of funds** is the rule (see "level 2" in figure 1 below). New rules adopted for the period 2014-2020 allow for the first time the **combination of H2020 and ESIF funds in the same project**, provided that the parts funded with each EU source is well identified, and the rules for co-funding and absence of double funding are respected<sup>16</sup>.

The situation at level 1 (no substitution principle, i.e., there is no possibility to use ESIF for calculating the Participating State's contribution to Article 185 initiatives) creates a **problem for those Member States which are highly dependent from ESIF for their research and innovation policies**. In the past period<sup>17</sup>, the majority of EU13 Member States relied heavily on these funds for their research policy (Figure II-2-8): in Latvia, Lithuania, Poland, Estonia, Malta, Slovakia, Hungary, Czech Republic and Slovenia, between 30% and 60% of public funds for research originated from the Structural Funds. The importance of such funds is also notable (between 20% and 25%) for Portugal, Greece, Romania and Bulgaria. Given the fact that Structural Funds investments have to be co-funded by national money, this leaves little room for using the latter to co-fund Article 185 initiatives in addition. This problem is likely to be more severe in the period in 2014-2020 because of the stronger orientation of ESIF funds towards research, technological development and innovation, thus potentially further increasing the ratio ESIF/GBOARD.

**Figure 1. Synergies Article 185 and ESIF**

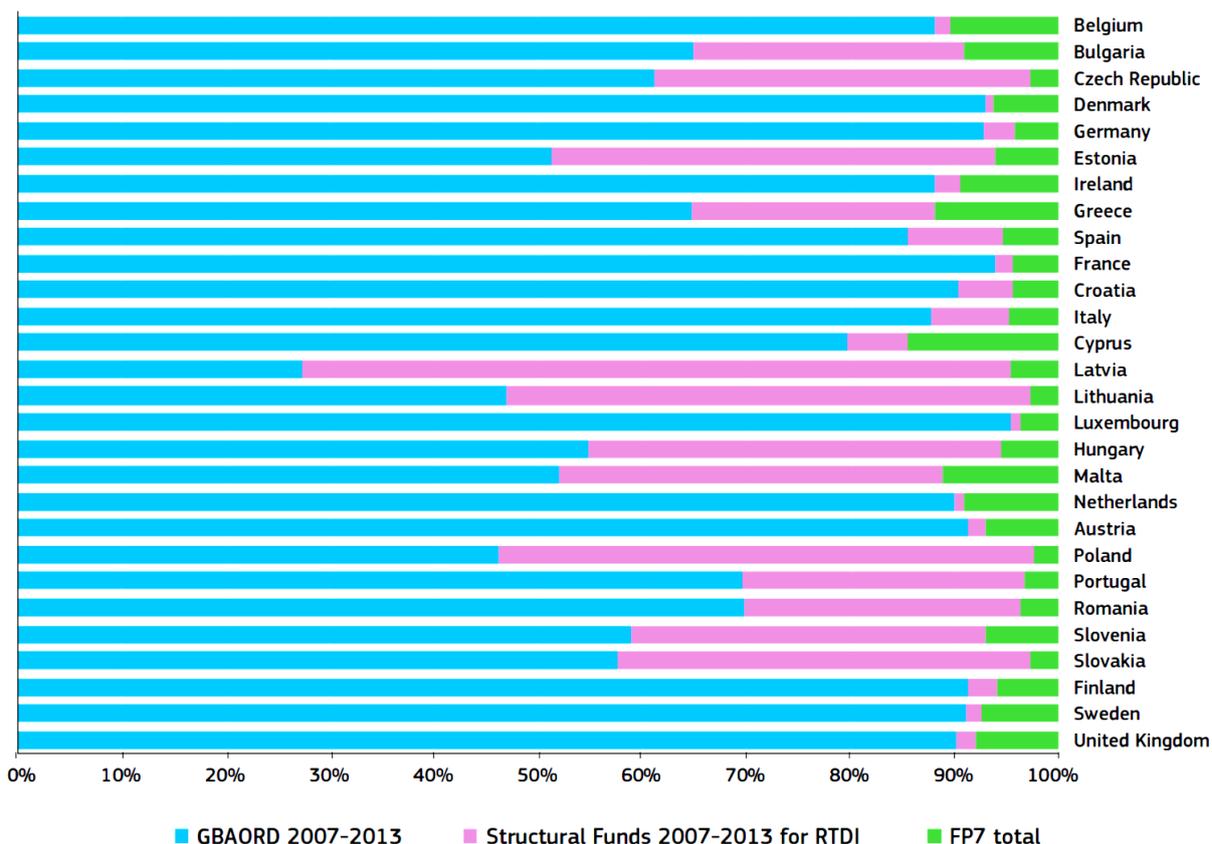


Source: European Commission (2014), *Enabling synergies between European Structural and Investment Funds, Horizon 2020 and other research, innovation and competitiveness-related Union programmes*.

<sup>16</sup> Article 37 of the Horizon 2020 rules for participation and Article 65(11) of the Common Provisions Regulation on the ESIF allow for the funding of the same project (action/operation) through several grants from different EU instruments, including from different ESIF funds and programmes, subject to the absence of double funding for the same cost item.

<sup>17</sup> A similar table for 2014-2020 cannot be produced because neither GBAORD nor country-level H2020 funding is known for the current period.

► **Figure II-2-8** Shares (%) of GBAORD, Structural Funds allocated to RTDI, and FP7 funds<sup>(1)</sup>, 2007-2013



Source: European Commission (2016), *Science, Research and Innovation Performance of the EU*, p.149.

### 3. Synergies in activities carried out under Article 185 and ESIF

Since ESIF funds can't be used as matching funds for Article 185 initiatives and projects the opportunity for synergies lies in the **creation of complementarities** between programmes and projects funded respectively by those two sources. This can take place both at programme and project levels.

#### At programme level:

1. At selection stage: **ESIF strategic planning**, and in particular the smart specialisation strategies (S3) underpinning the allocation of ESIF money to research, technological development and innovation, should in principle be used to ensure a **more transparent and effective selection process for Article 185 initiatives**. This would also contribute to the objective of ensuring that Art185 initiatives are more impact-oriented, as there is a reinforced trend to shape ESIF investment with greater attention to impacts. Of course, there is a timing issue here since this can only apply to decisions on future Article 185 initiatives, to be taken typically 2 years before the start of a next programming period.
2. At implementation stage: **DIS should interact with Managing Authorities of ESIF and S3 governance bodies** to prepare annual work plans and calls, in order to draw on specific strengths and research needs identified under the respective S3s. The orientations defined under the smart specialisation exercises, as well as the governance bodies created under S3 (such as triple helix thematic platforms created for each specialisation domain) could be used for shaping the annual work plans of the Article 185 initiatives. The S3 can also be used as a basis for launching calls, when partners sharing joint interest in specific S3 domains are identified thanks to the visibility of S3.

#### At project level:

1. ESIF can be used to fund **additional elements in Article 185 projects**, using the new rule allowing this feature for the period 2014-2020. This could take the form of additional work packages for an Article 185 project, which enhance the benefits of the project for the territory concerned, e.g. demonstration activities linked to research activities.

2. ESIF could fund **projects which are different from, but complementary to those funded under Article 185**, and are implemented in parallel at the same time. These need to be designed in close connection with the latter projects and cover, e.g. training actions which are complementary to research activities leading to new technology-based activities; or the funding of research equipment.
3. ESIF can be used to fund **follow-up actions** after the end of Article 185 projects, e.g. to foster industrial implementation of research carried out under projects funded by Article 185 in the territories covered by ESIF funds ("downstream" synergies). State aid restrictions need to be watched as they apply here.
4. ESIF can be used to fund **capacity building actions** in view of future Article 185 projects, e.g. to support the extension of skills and infrastructure needed to participate in such projects, in the territories covered by ESIF funds ("upstream" synergies).
5. ESIF can be triggered by the use of a mechanism inspired from the **"seal of excellence"** label conferred to high-quality H2020 projects which were not funded due to insufficient EU funds. Projects that would be in a similar situation after Article 185 calls could get a priority for funding under ESIF.

In all those cases, the funding of ESIF can only be activated if the projects are in line with the orientations (including S3) of the Operational Programmes adopted in the relevant regions, and respect the state aid rules.

The example of the Joint Technology Initiative Clean Sky (funded under Article 187, i.e. a public-private partnership), where synergies with ESIF have been pro-actively sought and institutionalized with countries and regions through Memoranda of Understanding, could provide inspiration for similar moves for Article 185 initiatives.

#### **The Clean Sky Joint Undertaking is promoting synergies with ESIF**

The Clean Sky Joint Undertaking (CSJU) is a Joint Undertaking of the European Commission and the European aeronautics industry - part of the EU Horizon 2020 research and innovation programme. The Joint Technology Initiative develops innovative, cutting-edge technologies aimed at reducing CO<sub>2</sub>, gas emissions (particularly NO<sub>x</sub>), and noise produced by aircrafts. The Clean Sky 2 Programme is resourced with a total budget of €4 billion.

CSJU **encourages synergies with ESIF** by allowing complementary activities to be proposed by applicants to CSJU Calls and by broadening the scope, adding parallel activities or continuing CSJU co-funded project/activities through ESIF in synergy with the Clean Sky 2 Programme and its technology roadmap. The CSJU also encourages the use of ESIF to build and enhance local capabilities and skills in fields related to the Programme, in order to enhance the level of European competitiveness of stakeholders in this area.

At Strategic Level, the CSJU has developed a coherent and comprehensive policy strategy and an action plan on synergies, for Member States and regions which are interested to invest ESIF within the aeronautics area and other related technologies in this domain. In this regard, the CSJU is developing closer interaction with interested Member States (MS) and Regions in Europe by discussing strategies and possible cooperation via a tailor-made approach. While keeping the funding processes and rules of each competent authority separate, the purpose is to identify and apply mechanisms for ensuring synergies through ESIF in pertinent research and innovation projects from a specific Member State or region, with a view to maximising its impact via the JTI framework of CSJU projects. To facilitate the synergies with ESIF, CSJU considers that the signature of a MoU is an important and effective instrument which provides a strategic approach and the opportunity to discuss in advance with MS and regional authorities ways to stimulate synergies, based on the regional strategy/RIS3 and the applicable ESIF regional funding instruments which can identify thematic objectives or align the regional funding instruments to support possible pilot projects.

So far, CSJU has signed twelve MoUs at a national or regional level. The approach is based on the complementarity of projects, rather than on co-funding of a single project.

**Five synergies scenarios** are identified, and pilot projects are developed for them:

1. Upstream support: ESIF support for developing capabilities/skills/infrastructures of its local stakeholders in view of planned participation to Clean Sky calls.
2. Parallel funding: Applicant to Clean Sky calls proposing in parallel a separate set of "complementary activities" which will be evaluated and may be granted a "synergy label". Applicable to the Clean Sky call for proposals.
3. Sequential funding / downstream support: Clean Sky beneficiaries proposing a continuation / spin-off / amplification of their projects
4. Thematic approach: ESIF support to complement Clean Sky Programme through definition in line with RIS3 priorities of appropriate R&I themes/topics not addressed in Clean Sky but contributing to its overall objectives.
5. "Seal of Excellence" type - "CSJU Synergy Label": if technically appropriate, top ranked proposals in a Clean Sky Call (highly scored) could be supported by Clean Sky with a synergy label for a separate, parallel ESIF funding.

Source: [www.cleansky.eu/structural-funds-and-regions](http://www.cleansky.eu/structural-funds-and-regions)

Walking along all those above paths towards Article 185-ESIF synergies at project level includes two main challenges.

The **first challenge** is that ESIF funds work, as a general rule, at a national (or regional) level and not at inter-regional level:

- Participating States could either remain in the frame of "each agency funds its own nationals only", with the difficulty of ensuring simultaneous funding for projects involving partners across regions and Member States.
- Alternatively, Participating States could use Interreg programmes when the eligible territories correspond to the location of projects' participants, or use the "15% facility"<sup>18</sup> (the possibility to allocate 15% of ESIF money outside of the eligible territory , subject to the demonstration of a return for that territory), a facility that has been rarely used so far because it is politically very difficult to use.

The **second challenge** is linked to the differences in rules governing H2020 and ESIF: eligibility criteria and state aid rules are major differences, with in particular block exemption on state aid rules for H2020 projects and application of those state aid rules for projects under ESIF.

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<sup>18</sup> Art 70 (2) of Common Provision Regulations.

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This Expert Group report on 'Meta-Evaluation of Article 185 initiatives' was designed to complement the more specific evaluations of the individual initiatives and inform policy on the use of the instrument in the future. It included a series of hearings with key stakeholder groups and direct evidence provided through a survey of EU Member States. A review of the legal basis for the instrument, and synergy with ESIF, was also included. The report highlights a number of key findings including limited prominence of the Article 185 initiatives, weak outcome-based orientation, lack of cross-sectoral dimension, disadvantages for less R&D intensive countries and legal/administrative bottlenecks. It concludes with 10 main recommendations for the future.

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