



House of Commons
European Scrutiny Committee

**Third Report of Session
2021–22**

Documents considered by the Committee on 9 June 2021

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 9 June 2021*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ Area of Freedom Security and Justice

CFSP Common Foreign and Security Policy

CSDP Common Security and Defence Policy

ECA European Court of Auditors

ECB European Central Bank

EEAS European External Action Service

EM Explanatory Memorandum (submitted by the Government to the Committee) *

EP European Parliament

EU European Union

JHA Justice and Home Affairs

OJ Official Journal of the European Communities

QMV Qualified majority voting

SEM Supplementary Explanatory Memorandum

TEU Treaty on European Union

TFEU Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the [parliamentary website](#). Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

Staff

The current staff of the Committee are Ravi Abhayaratne (Committee Operations Assistant), Joanne Dee (Deputy Counsel for European and International Law), Alistair Dillon and Leigh Gibson (Senior Committee Specialists), Nat Ireton and Apostolos Kostoulas (Committee Operations Officers), Daniel Moeller (Committee Operations Manager), Foeke Noppert (Senior Committee Specialist), Indira Rao MBE (Counsel for European and International Law), Paula Saunderson (Committee Operations Assistant), Emily Unwin (Deputy Counsel for European and International Law), Dr George Wilson (Clerk), Beatrice Woods (Committee Operations Officer).

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1 EU Research Programme: Horizon Europe¹

This EU document is legally and politically important because:

- the UK and EU have agreed that the UK will associate to Horizon Europe for the period 2021–27, paying an estimated gross contribution over that period of approximately £15 billion, subject to adjustments and exchange rate variations.

Action

- Report to the House.
- Draw to the attention of the Business, Energy and Industrial Strategy Committee and the Science and Technology Committee.

Overview

1.1 Under the terms of the UK-EU Trade and Cooperation Agreement (TCA), the UK will associate to the EU’s Framework Programme for Research—Horizon Europe—lasting from 2021 until 2027. The UK’s association is granted in return for a financial contribution. We explained the detail of this arrangement in our [Report](#) of 12 May 2021² and, at the same time, we [wrote](#) to the Minister for Science, Research and Innovation (Amanda Solloway MP) requesting further information on the cost of the programme, how that cost would be met, any areas of the Programme from which the UK might be excluded and on the reciprocal nature of the arrangement.

1.2 In her [response](#) of 25 May, the Minister explains that the expected gross cost of the Programme over seven years before UK receipts are taken into account is £15 billion although—as we noted in our earlier Report—this is necessarily speculative and could be adjusted both upwards and downwards based on actual spending as well as exchange rate variations and UK GDP. The UK’s liability in 2021/22 is expected to be around £1 billion. The Government expects the majority of the funding to flow back to UK businesses and researchers in the form of grants. Funding for future years will be determined as part of the Spending Review, in line with the rest of public spending.

1.3 Concerning how the UK’s contribution will be funded, the Minister recognises that there was concern within the research community that the UK’s association to the Programme would impact on existing research budgets. She confirms that, in 2021/22, UK scientists will have access to “more public funding than ever before”.

1.4 The Minister explains that, in addition to the budget for Research and Development (R&D) in 2021/22 set at the recent Spending Review, the Government will be providing funding for ongoing UK research projects already awarded under earlier EU Programmes,

1 Proposal for a Regulation establishing Horizon Europe—the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination; EU reference numbers: [9865/18](#) + ADDs 1–6, COM(18) 435; Legal base: Article 173(3) TFEU, Article 182(1) TFEU, Article 183 TFEU, Article 188 TFEU (second paragraph), ordinary legislative procedure, QMV; Department: Business, Energy and Industrial Strategy; Devolved Administrations: Consulted; ESC number: 39882.

2 First Report HC 121–i (2021–22), [chapter 1](#) (12 May 2021).

which is worth over £500 million in 2021/22 for UK scientists and innovators. The Government, she says, will be making an additional £250 million available in 2021/22 for Horizon Europe association. Furthermore, £400 million of the funding announced at Spending Review 2020 to support Government priorities will help to pay for association to the Programme.

1.5 The additional investment announcement, says the Minister, takes total Government investment in R&D to £14.9 billion in 2021/22 and follows, she adds, “four years of significant growth” in R&D funding, including a boost of more than £1.5 billion in 2020/21. The Government will shortly be publishing its R&D allocations for 2021/22, which will provide further information.

1.6 Concerning possible exclusions from Horizon Europe in the areas of quantum and space, the Government would expect any exclusions to be applied transparently and fairly and has raised this issue with the Commission.

1.7 Turning to reciprocal access for EU researchers to UK funding programmes, the Minister notes that EU researchers are already able to participate in a variety of UK funding schemes. The form and level of this participation varies from scheme to scheme and can take the form of acting as a lead researcher on a grant if they are based at a UK university through to acting as a project partner in co-funded schemes.

Our assessment

1.8 We note that there remains substantial uncertainty over how the UK’s contribution to Horizon Europe will be met over the whole period 2021–27. The payment schedule for Horizon Europe reduces payments in the first few years of the UK’s participation but increases them proportionally in later years. More specifically, the UK will pay half of its contribution to Horizon Europe for 2021 and 2022 in those years, and the other half in 2026 and 2027 respectively (in addition to its contribution for these latter years). While, therefore, annual payments of around £1 billion will be required early in the Programme, that is likely to rise to around £3 billion by the end of the Programme. The Minister does not address this point, saying only that funding for future years will be determined as part of the Spending Review, in line with the rest of public spending. While we understand her position, it does mean that our query concerning how the UK’s contribution will be financed remains unresolved and is therefore a matter which we will continue to monitor with interest.

Action

1.9 While the UK’s association to Horizon Europe remains a matter of interest to us, we require no further information on this document. We are reporting this chapter to the House given the political importance of the UK’s association to Horizon Europe.

1.10 We are also drawing the Minister’s letter and our Report to the attention of the Business, Energy and Industrial Strategy Committee and the Science and Technology Committee.

2 Northern Ireland: PEACE PLUS Programme³

These EU documents are politically important because:

- Northern Ireland will continue to participate in the EU’s PEACE PLUS Programme, part-financed by the UK Government.

Action

- Write to the Secretary of State.
- Draw to the attention of the Northern Ireland Affairs Committee.

Overview

2.1 The EU’s “PEACE” Programme was initially created in 1995 to support cooperation across the Irish border as a positive response to the paramilitary ceasefires of 1994. Throughout negotiations on the UK’s withdrawal from the EU, both the EU and UK were clear that they wished the Programme—now known as “PEACE PLUS”—to continue. The PEACE PLUS Programme will run until the end of 2027 with a budget of over €1 billion (over £869 million), to be jointly financed by the UK Government, the EU, the Republic of Ireland and the Northern Ireland Executive.⁴ This budget represents a substantial increase on the PEACE IV Programme (2014–20), which was worth around €270 million (£235 million). The UK Government has committed over £500 million to the Programme and will therefore be the majority contributor.

2.2 The EU legal basis for the Programme is the Regulation on European Territorial Cooperation (otherwise known as “Interreg”—inter-regional cooperation). This is a long-established strand of the EU structural funds, designed to promote regional cooperation across borders within the EU and with third countries. The latest iteration of that Regulation was proposed in 2018 (document (b)) and was agreed politically in December 2020.⁵ While it is yet to be formally adopted, the text is available.⁶

2.3 In the UK/EU Trade and Cooperation Agreement (TCA), the UK and EU recalled their commitment to PEACE PLUS and indicated that it would be the subject of a bespoke

3 (a) Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context; (b) Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments; Council and COM number: (a) [9555/18](#), COM(18) 373 (b) [9536/18](#) + ADD 1, COM(18) 374; Legal Base: (a) Article 175 TFEU, Ordinary legislative procedure, QMV (b) Articles 178, 209(1), 212(2) and 349 TFEU, Ordinary legislative procedure, QMV; Department: Northern Ireland Office; Devolved Administrations: Consulted; ESC Numbers: (a) (39809) (b) (39811).

4 The specific figures are still being determined, and are affected in part by current and future exchange rate fluctuations.

5 “[Commission welcomes the political agreement on the INTERREG Regulation](#)”, European Commission, 2 December 2020; and Council document [13697/20](#), “Interreg Regulation—Confirmation of the final compromise text with a view to agreement”.

6 Council document [5488/21](#), Position of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments, Council of the European Union, 19 May 2021.

financing agreement, separate to the TCA’s provisions on the UK’s involvement in other EU financial programmes. The financing agreement—required by the EU legislation establishing PEACE PLUS—will need to include provisions on programme authorities, large infrastructure projects, management methods, eligibility, procurement and financial management. The EU, UK and Ireland should all be parties to the agreement.

2.4 The Secretary of State for Northern Ireland (Rt Hon. Brandon Lewis MP) reminded us in his [letter](#) of 16 April 2021 that the UK Government has committed over £500 million to the Programme over the course of seven years. He confirmed that, to support delivery of the Programme, a standalone UK-EU Financing Agreement is required. The Government expected to start discussions with the EU on the Agreement within several weeks from the date of his letter and would provide a substantive update once a draft of the text had been agreed in principle.

2.5 The Secretary of State also drew attention to the work of the Special EU Programmes Body (SEUPB)—responsible for administering the Programme—in preparing for the Programme’s launch.⁷ The SEUPB has identified six different themes: peaceful and thriving communities; economic regeneration and transformation; investing in young people; healthy and inclusive communities; sustainability and connectivity; and partnership and collaboration.

Our assessment

2.6 It is welcome that the SEUPB is already preparing the Programme, and we note too the optimistic tone of recent oral evidence given by the SEUPB to the Northern Ireland Assembly’s Committee for the Executive Office.⁸ The SEUPB was hopeful that swift progress could be made in the coming months with a view to launching the Programme. It nevertheless remains unclear when the Programme can indeed be launched. It appears from the EU’s Regulation that the Programme cannot be implemented before the financing agreement has been concluded, so the timing of the agreement’s negotiation is critical. We will seek clarity from the Secretary of State.

2.7 We welcome the Secretary of State’s offer to provide a substantive update once a draft of the text has been agreed in principle.

2.8 One of the issues which we expect will need to be addressed in the financing agreement is that of dispute resolution, particularly where there are divergent legal and administrative rules. A residual salient element from our earlier scrutiny of the PEACE PLUS proposal is the Commission’s proposal for a European Cross-Border Mechanism (ECBM) Regulation (document(a)), which was published at the same time but has since made little progress. Following past experience that the effectiveness of Interreg projects has been undermined by the lack of a power to address conflicting legal and administrative rules affecting a cross-border region, the Commission proposed this voluntary mechanism to help resolve those obstacles. It would allow for the application in one Member State of the legal provisions⁹

7 [Consultation Information Document](#)—PEACE PLUS Programme European Territorial Co-Operation 2021–2027 (seupb.eu).

8 [Oral evidence](#) given by the SEUPB to the Northern Ireland Assembly Committee for the Executive Office, Wednesday 26 May 2021.

9 ‘Legal provision’ means any legal or administrative provision, rule or administrative practice applicable to a joint project.

from another Member State, where conflicting national rules constitute a legal obstacle¹⁰ to the delivery of a joint project. The Commission proposed that it could be applied in cross-border regions straddling a border between a Member State and a third country, such as the cross-border region on the island of Ireland. We will clarify with the Secretary of State whether this draft Regulation was forming any part of the discussions with the Commission or, indeed, whether it might provide some inspiration for how cross-border divergence might be managed in order to ensure the effectiveness of PEACE PLUS.

Letter from the Chair to the Secretary of State for Northern Ireland (Rt Hon. Brandon Lewis MP)

We considered your letter of 16 April 2021 on the PEACE PLUS Programme at our meeting of 9 June 2021.

We welcome your offer to provide us with a substantive update on the negotiation of a Financing Agreement once a draft of the text has been agreed in principle. We ask that you clarify in your letter the process for conclusion of the Agreement and the impact of any delay on the timing for implementation of the Programme.

We anticipate that one of the issues arising in the negotiation will be dispute resolution, particularly where there are divergent legal and administrative rules on both sides of the border. We recall that, in 2018, the Commission proposed a European Cross-Border Mechanism (ECBM) Regulation allowing for the voluntary application in one Member State of the legal provisions from another Member State, where conflicting national rules constitute a legal obstacle to the delivery of a joint project. The Commission suggested that this could also apply at the EU's external border, so covering cooperation within a region straddling the border between a Member State and a third country. Has this draft Regulation formed any part of the discussions with the Commission or, indeed, might it provide some inspiration for how cross-border divergence could be managed in order to ensure the effectiveness of PEACE PLUS?

We look forward to your substantive update in due course.

10 'Legal obstacle' means any legal provision with regard to the planning, development, staffing, financing or functioning of a joint project that obstructs the inherent potential of a border region when interacting across the border.

3 Documents not considered to be legally and/or politically important

HM Treasury

(41832) Proposal for a Council Directive amending Directive 2006/112/EC as
7749/21 regards exemptions on importations and on certain supplies, in respect
of Union measures in the public interest.

COM(21) 181

Annex

Documents drawn to the attention of select committees:

(‘SNC’ indicates that scrutiny (of the document) is not completed; ‘SC’ indicates that scrutiny of the document is completed)

Business, Energy and Industrial Strategy Committee: EU Research Programme: Horizon Europe [Proposed Regulation (SC)]

Northern Ireland Affairs Committee: Northern Ireland: PEACE PLUS Programme [Proposed Regulations (SNC)]

Science and Technology Committee: EU Research Programme: Horizon Europe [Proposed Regulation (SC)]

Formal Minutes

Wednesday 9 June 2020

Virtual meeting

Members present:

Sir William Cash, in the Chair

Jon Cruddas

Allan Dorans

Richard Drax

Margaret Ferrier

Mr David Jones

Marco Longhi

Anne Marie Morris

Greg Smith

Document scrutiny

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 3 agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Adjournment

Adjourned till Wednesday 16 June 2021 at 1.45 pm

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers—

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)

[Tahir Ali MP](#) (*Labour, Birmingham, Hall Green*)

[Jon Cruddas MP](#) (*Labour, Dagenham and Rainham*)

[Allan Dorans MP](#) (*Scottish National Party, Ayr Carrick and Cumnock*)

[Richard Drax MP](#) (*Conservative, South Dorset*)

[Margaret Ferrier MP](#) (*Scottish National Party, Rutherglen and Hamilton West*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Mrs Andrea Jenkyns MP](#) (*Conservative, Morley and Outwood*)

[Mr David Jones MP](#) (*Conservative, Clwyd West*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Mr David Lammy MP](#) (*Labour, Tottenham*)

[Marco Longhi MP](#) (*Conservative, Dudley North*)

[Craig Mackinley MP](#) (*Conservative, South Thanet*)

[Ann Marie Morris MP](#) (*Conservative, Newton Abbot*)

[Charlotte Nichols MP](#) (*Labour, Warrington North*)

[Greg Smith MP](#) (*Conservative, Buckingham*)