# IP Management in collaborative Horizon Europe projects
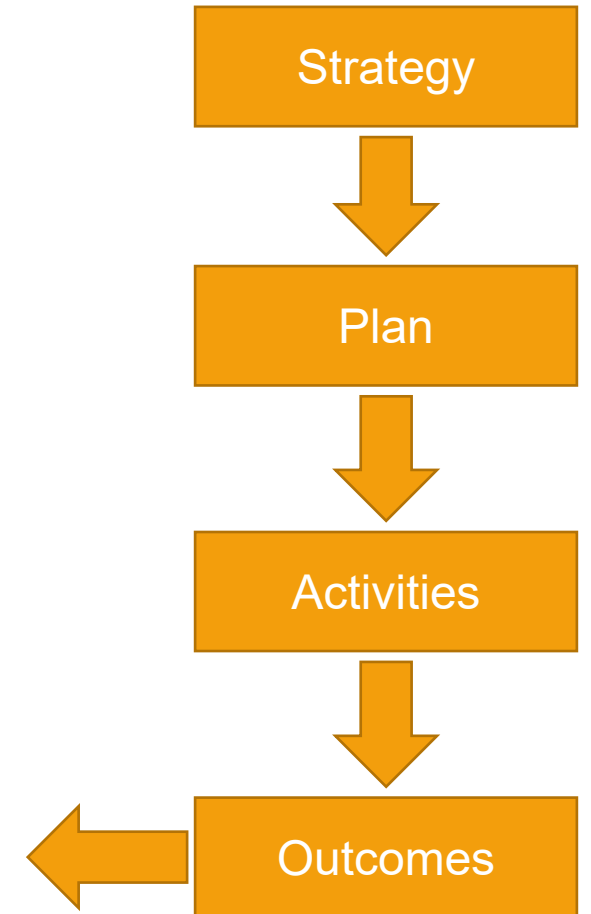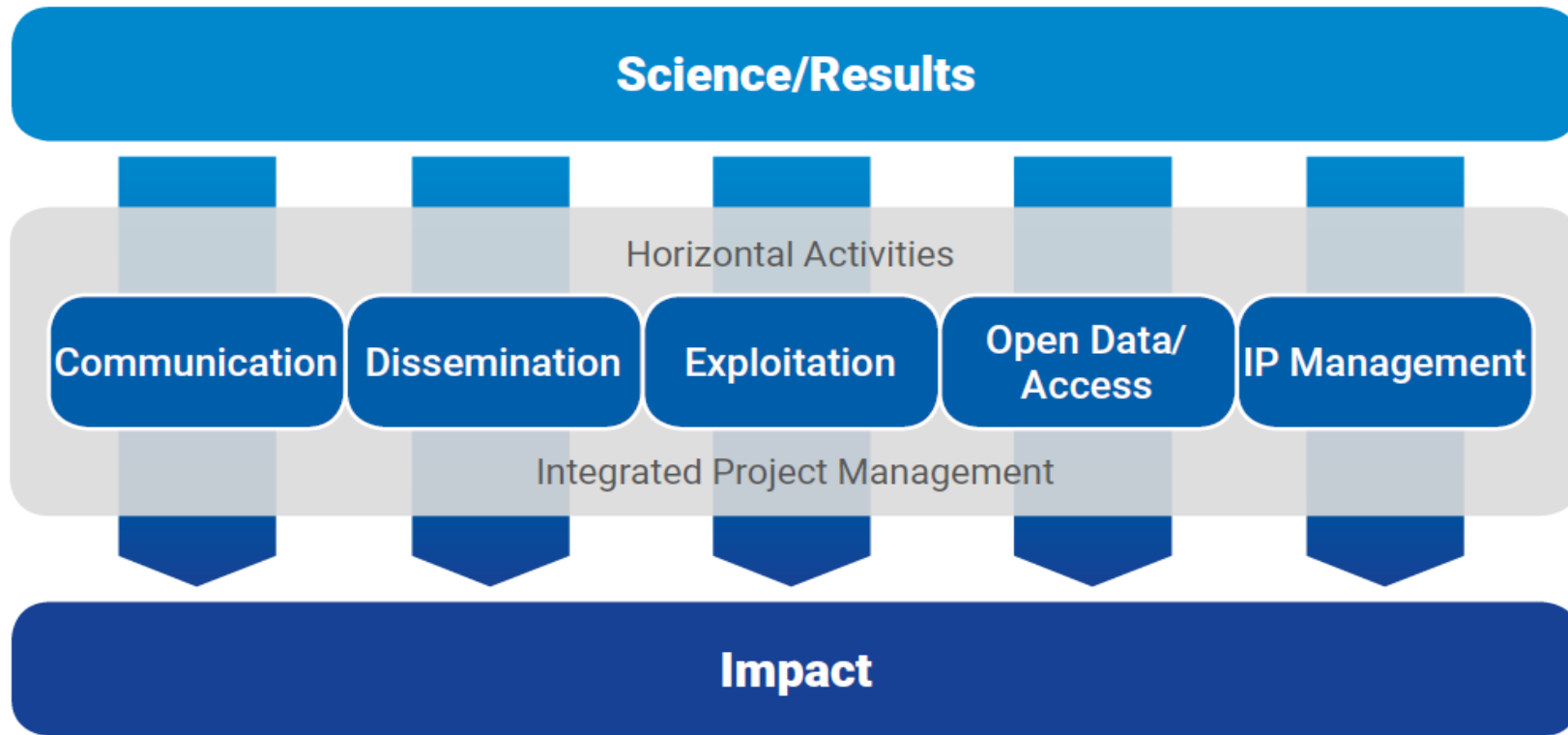
# Structure

- Introduction to IP management in Horizon Europe

- European IP Helpdesk Service

- Horizon IP Scan Service

# Horizon Europe – Pathway to Impact

*Keeping track of communication, dissemination and exploitation means keeping track of your project!*

**Science/Results**

Horizontal Activities

| Communication | Dissemination | Exploitation | Open Data/Access | IP Management |

Integrated Project Management

**Impact**

Strategy

↓

Plan

↓

Activities

↓

Outcomes

European Commission

# Main IP challenges in Horizon Europe

## Start of the project

- Strategic approach to define and analyse existing background IP brought into the R&I cooperation

- Initial analysis of patent landscape and/or other relevant IP rights

- Defining opportunities and risks of sharing knowledge with consortium partners

- Check whether default Horizon IP rules or other relevant default rules are suitable

## During project implementation

- Analysis of existing and potential knowledge creation and management tools

- Discussion of possible IP protection methods (e.g. patents, copyright, trade secrets, defensive publications, semiconductor topographies, etc.) and their pros and cons

- Identification of potential complementary IP protection methods

## After project end

- Strategic definition of (joint) exploitation strategies and pathways

- Identification of possible IP ownership arrangements and related responsibilities including the definition of relative contributions of joint-owners

- Discussion of potential (licensing) agreements options on the use of IP resulting from the project and options for renumeration

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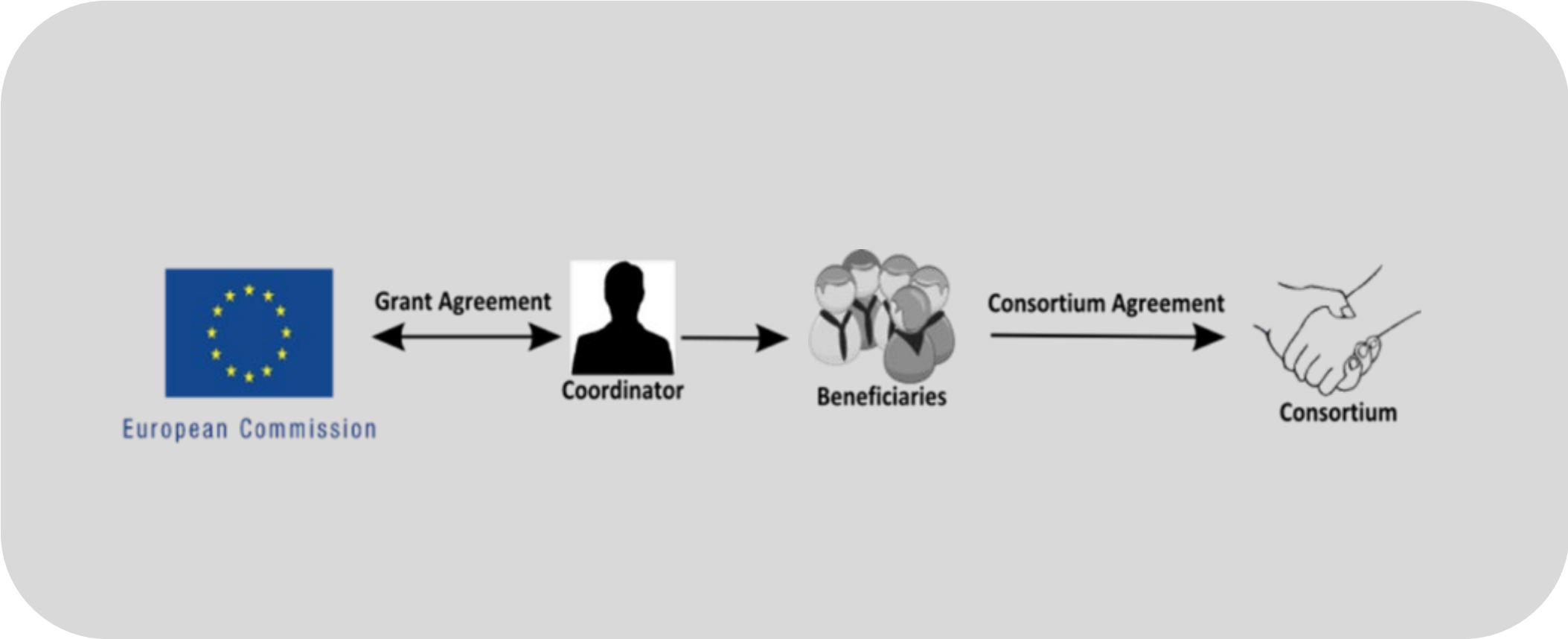
# Agreements

# Intellectual Property rules

**The IP rules in Horizon Europe can be found in:**

**(i)** the **Rules for Participation**

**(ii)** the (model) **Grant Agreement**

**(iii)** the applicable **work programme**

**(iv)** **Online Manual** (IP section is a work in progress)

How to find them: **Funding & Tenders Portal**

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# Terminology

**IP-relevant key terms in the context of Horizon Europe projects are:**

- Background

- Results

- Access rights

# Ownership of Results/ Joint Ownership

Results are owned by the beneficiaries that generate them.

Given the collaborative nature of most projects, some results can be jointly developed by several participants. Hence, situations of joint ownership might arise.

**Joint Ownership Agreements** (i.e. defining relative contribubitons, specific conditions for granting licenses or issues related to costs of protection and sharing of potential revenues);

Default rule on Joint Ownership in Consortium Agreement – however, separate joint ownership agreements are considered to be more appropriate to respond to each specific co-ownership situation- particularly when commercial exploitation is envisaged.

# Access Rights

Each project partner has the right to request access rights to the other project partners' background and results as long as it needs them in order to carry out its work under the project or to exploit its own results (these are minimum access rights: additional ones can always be negotiated!).

Shall be requested in writing. Can be granted in any form.

Are to be requested/granted throughout the duration and up to 1 year (or as otherwise agreed in the CA) after the end of the project for exploitation needs. Once requested, access rights may be exercised as long as they are needed for exploiting the results (e.g. until the background patent expires).

# Access Rights

Grant of minimum Access Rights *(note: additional Access Rights can always be agreed upon!)*

|  | **Access to background** | **Access to results** |
|---|---|---|
| Project implementation | Royalty-free (unless differently agreed before the signing of the GA) | Royalty-free |
| Exploitation of results | On fair and reasonable conditions | On fair and reasonable conditions |

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# Obligation to protect

Each participant must **examine the possibility of protecting its results and must adequately protect them** — for an appropriate period and with appropriate territorial coverage — if:

(a) the results can reasonably be expected to be commercially or industrially exploited and

(b) protecting them is possible, reasonable and justified (given the circumstances).

When deciding on protection, the beneficiary must consider its own interests and the interests (especially commercial) of the other beneficiaries.

**Protection can be secured by IPR or other means (e.g. trade secret protection).**

# Obligation to exploit

Beneficiaries receiving EU funding must – up to four years after the end of the action – use their best efforts to exploit their results directly or to have them exploited indirectly by another entity, in particular through licensing or transfer.

If, despite a beneficiary's best efforts, the results are not exploited within one year after the end of the action, the beneficiaries must (unless otherwise agreed in writing with the granting authority) use the Horizon Results Platform to find interested parties to exploit the results.

# 6 pillars of IP management in Horizon Europe

## IP management in a collaborative R&I project

### Pillar 1: IP used.

This refers to the IP which is needed to implement the project. It includes the pre-existing knowledge and IP of the partners, as well as any 3rd party IP which is needed.

### Pillar 2: IP created.

The project results – knowledge and IP. There needs to be systems in place to capture these results, agree on ownership and relative contributions, who will manage them and how.

### Pillar 3: IP Assessment.

The results should be assessed with regard to readiness (e.g. complete and validated) and possible use for commercial or industrial applications. If there are commercial applications, then consideration should be given to prior art and freedom to operate analysis, and strategies for protection and exploitation.

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# 6 pillars of IP management in Horizon Europe

### Pillar 4: IP Protection.

If protection is useful to support commercial exploitation, then this should be put in place. The costs of protection are eligible costs in Horizon projects. Protection may include formal legal rights (IP Rights) as applicable to the IP (e.g. patents, copyright, database rights, design rights); trade secrets; or trademarks to support a brand. It is important to ensure that commercial benefits outweigh the investments in managing, protecting, and exploiting the results; and for jointly owned IP, the distribution of any potential returns reflects the contributors' relative contributions.

### Pillar 5: IP Dissemination and Exploitation.

Once decisions are made about the IP protection and the exploitation strategy, the process to tell the right people about the results can start, and exploitation can begin. This would include transfer of necessary IP to the SME from the different partners under agreed terms and conditions, including cost and revenue sharing.

### Pillar 6: IP Post Project Management.

Whilst the project might end, the dissemination and exploitation of the results continue. It is important, therefore, that IP management systems continue after the end of the project in order to, for example, maintain the protection (if needed), manage any agreements related to the IP (e.g. licences), and manage cost and revenue sharing.

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# Plan for dissemination and exploitation of results including communication activities (PDEC)

Beneficiaries have an obligation to define the expected key results and their strategy for exploitation and dissemination.

Hence the following information must be included:
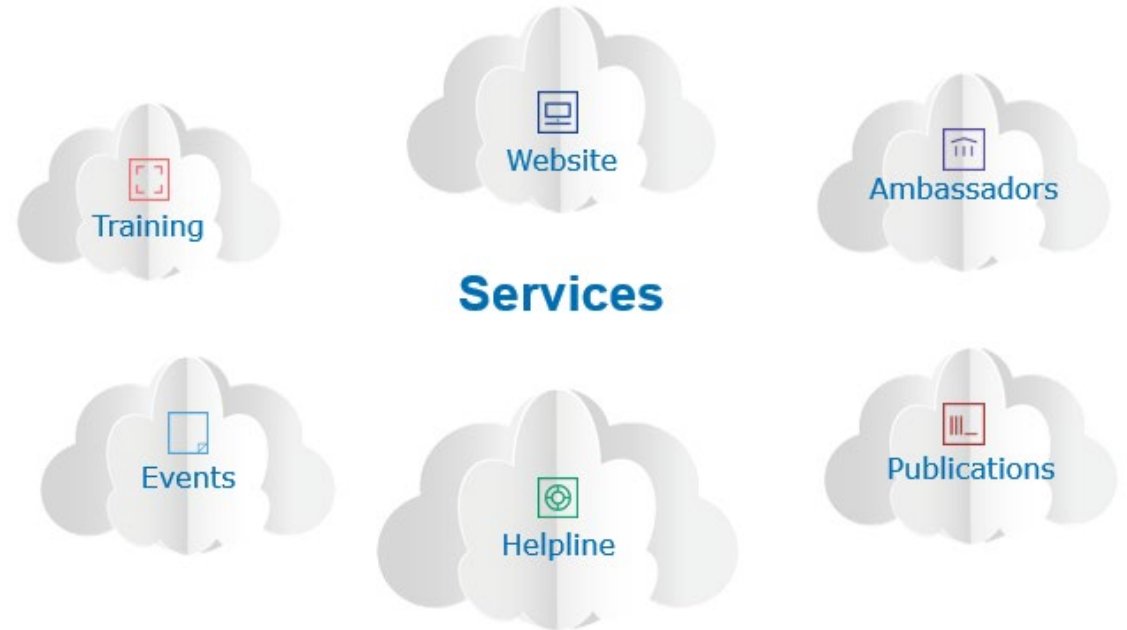
- A list of key expected results that might be exploited (i.e. with commercial or industrial applicability) including their:

    - description

    - ownership status – basis for **Research Ownership List** to be included in the final report

    - sector of application,

    - protection measures - geographical coverage (if applicable)

# You need further information/assistance

# European IP Helpdesk – Service Overview

- Raise awareness amongst **beneficiaries of EU-funded projects** & **EU SMEs** of the importance of IP management

- **Capacity building** along the full scale of IP practices: from awareness to strategic use and successful exploitation.

- Providing **proficient, first-line, jargon-free IP support** – free of charge

- Covering all forms of IP(R)

Training

Website

Ambassadors

**Services**

Events

Helpline

Publications

European Commission

# Helpline services

- Free-of-charge, first-line IP support

- Personal and "to the point"

- Answer within 3 working days

- Email, phone and web

- In: English, Spanish, French, German, Italian and Polish
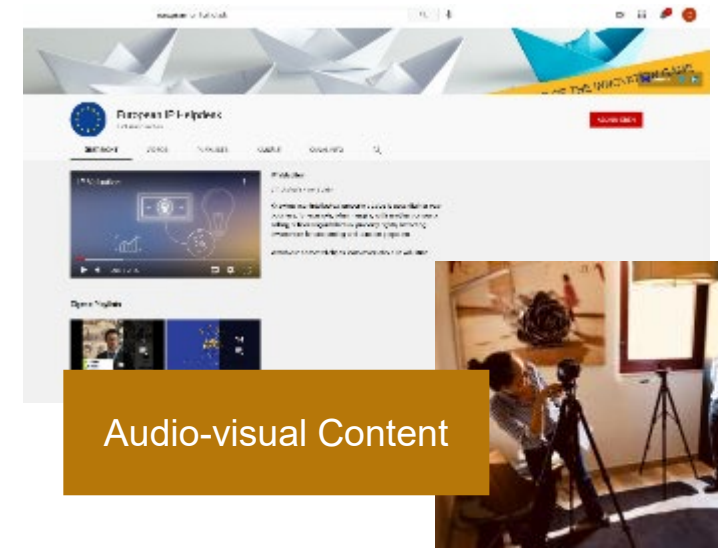
- Confidential

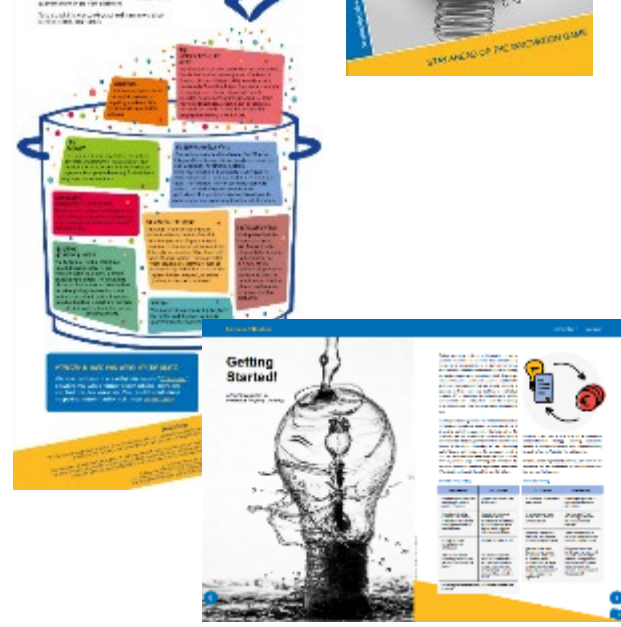# European IP Helpdesk – Gateway to information

Website
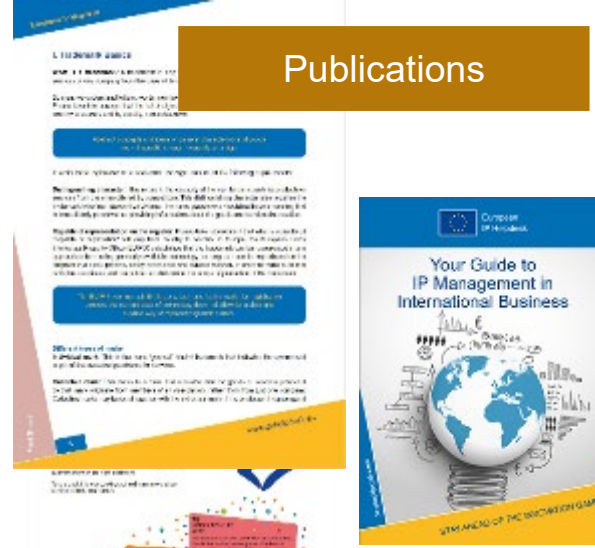
Training

Publications

Audio-visual Content

Social Media

# Successful training scheme

- In 2020 alone, over **12,000 participants**

- Regular training curriculum or ask for individual IP training session (we request a minimum number of participants)



| 08 JUN 2021 | TRAINING AND WORKSHOPS<br>Generating income and impact with IP licensing<br>Live streaming available |
| 09 JUN 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar: The new Copyright Directive<br>Live streaming available |
| 14 JUN 2021 | TRAINING AND WORKSHOPS<br>Intellectual Property in the E-Mobility sector: protecting innovation in Asian markets<br>Live streaming available |
| 23 JUN 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar: Effective IP and outreach strategies to help increase the impact of research and innovation<br>Live streaming available |
| 07 JUL 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar: Maximizing the impact of Horizon 2020 project results<br>Live streaming available |

| 08 JUN 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar & CPVO coop: New ways to create plants and the challenges of their IP protection<br>Live streaming available |
| 09 JUN 2021 | TRAINING AND WORKSHOPS<br>EU/DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION - Webinar: Dissemination & Exploitation in Horizon Europe<br>Live streaming available |
| 16 JUN 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar: IP Commercialisation & Licensing - Advanced<br>Live streaming available |
| 30 JUN 2021 | TRAINING AND WORKSHOPS<br>EU - Webinar: Impact and innovation in EU funded projects - A guide for proposers<br>Live streaming available |

**Upcoming Sessions**

# Training modules with a Horizon (2020/ Europe) focus

- IP management in Horizon – the basics

- Consortium Agreements in Horizon 2020/Europe

- Impact and Innovation in Horizon

- IP Management in Horizon with a specific focus on MSCA activities

- Effective IP & Outreach strategies to support the „Pathway to Impact"

- Maximise the impact of Horizon Europe project results

- IP management in Horizon projects in specific fields of technology: ICT, Life Sciences, Food, Cultural Heritage,…

- Freedom-To-Operate within the context of Horizon

- Complementary topics: Technology Transfer, Patent Search, IP Commercialisation, Licensing,…

# Useful guides to IP in Horizon 2020/Europe



Updated material on Horizon Europe
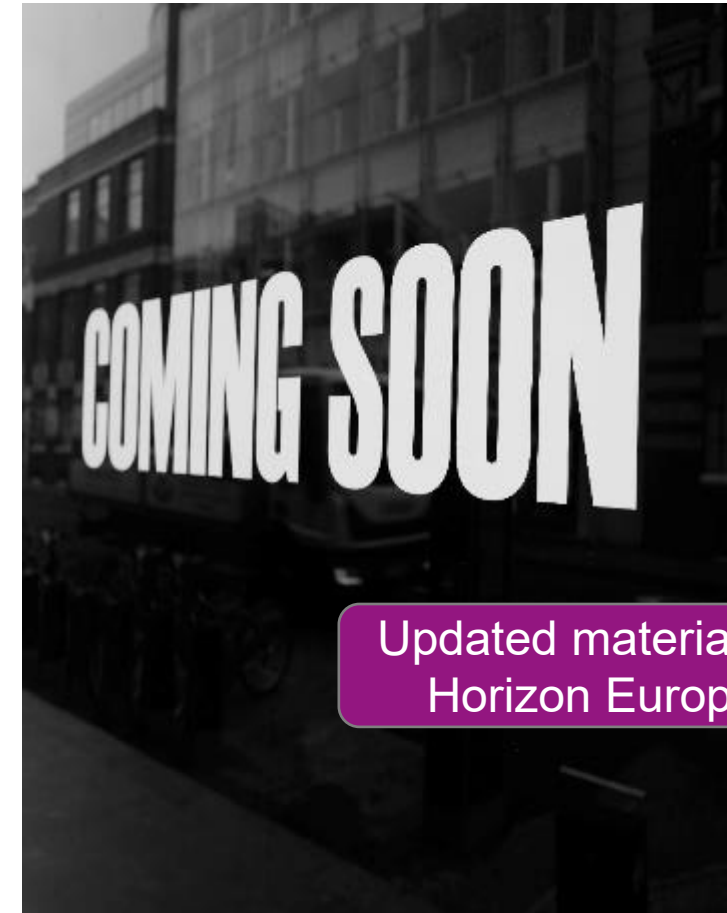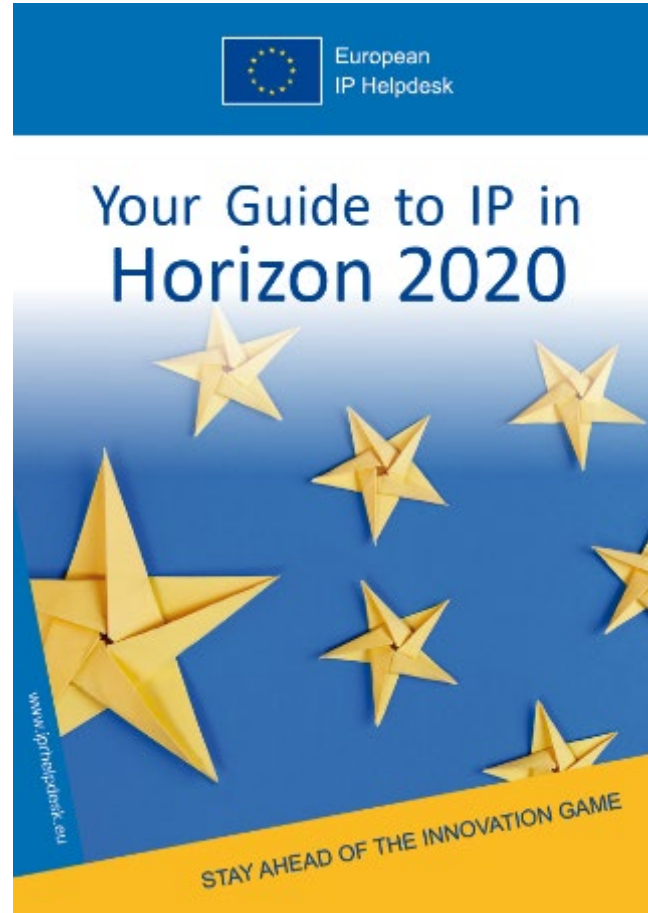
# Other international IP Helpdesks

# Contact

- Website: ec.europa.eu/ip-helpdesk


- helpline@iprhelpdesk.eu


- Twitter @iprhelpdesk


- LinkedIn /european-ipr-helpdesk

# Horizon IP Scan

- A new EC innovation advisory and support measure within the "2020 IP Action Plan"

- Pilot Action - Adapting existing IP-Pre-Diagnosis concepts to SMEs involved in European R&I cooperation

- Open for applications since May 2021 – running until November 2023

- The service covers all of the countries participating in the Horizon programmes, namely all the EU Member States, and Horizon 2020/Horizon Europe associated countries

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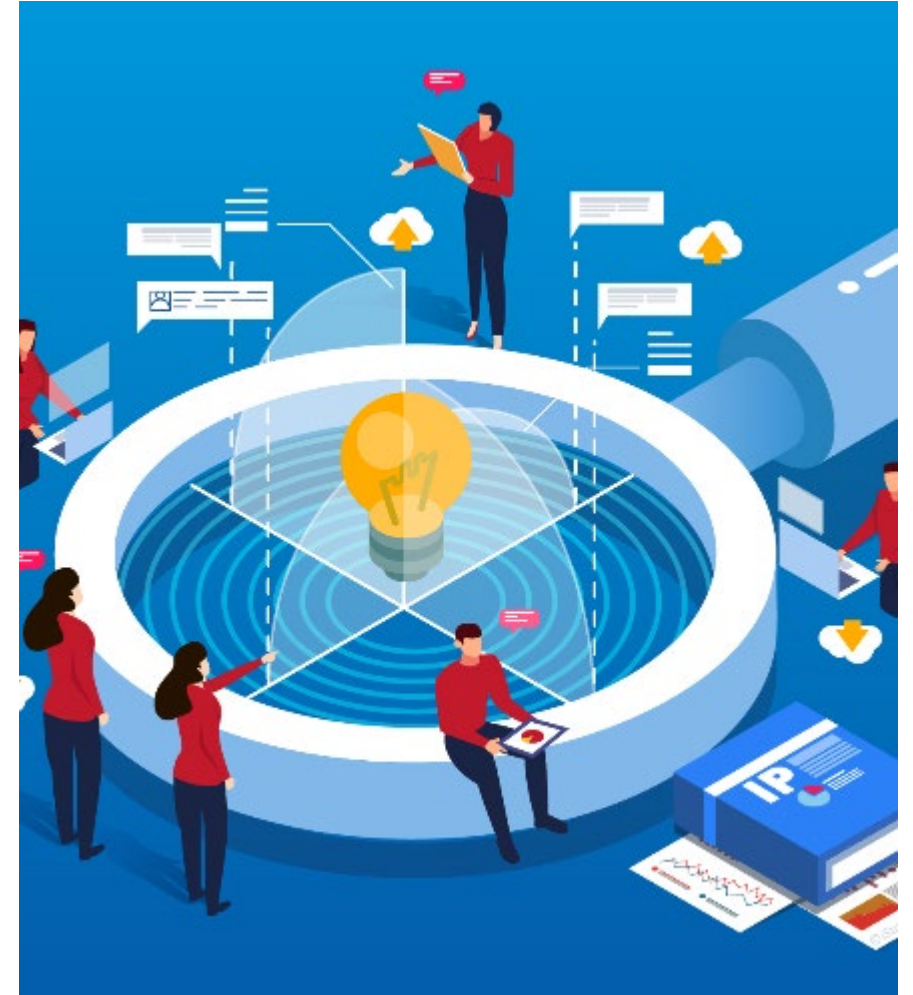
# Horizon IP Scan

- Incorporates well-established methods and tools of corporate IP pre-diagnosis;

- Focuses on IP-related risks and opportunities in collaborative innovation frameworks – at the beginning of the co-operation;

- Is tailored to the needs and challenges of SMEs/start-ups involved in collaborative R&I projects;

- Supports clients involved in EU-funded collaborative research projects (i.e. Horizon Europe) to efficiently manage and valorise intellectual assets;

**Horizon IP Scan**
Helping SMEs manage and valorise
Intellectual Property in R&I collaborations

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# 4 scenarios to apply for the service

In principle, there are four possible scenarios in which SME applicants can request the Horizon IP Scan service:

1. SME is about to sign a Horizon (2020/Europe) Grant Agreement

2. SME has recently signed one (up to six months after signature);

3. SME has been signposted by the Horizon Results Booster (maximum until half of the project duration);

4. SME is referred to the service by the Enterprise Europe Network.

# Key objectives

- Show them how to **protect their existing IP** when embarking on a research and innovation endeavour with multiple partners;

- Assist them in developing a **shared strategy** with their partners **to manage and exploit new IP jointly generated** in their project.

# Benefits for the SME client(s) – in detail

- Increasing overall IP awareness and IP management knowledge – leverage the company's innovation capacity

- Get a clear picture of existing IP brought into the collaboration

- Better understand, define and negotiate appropriate IP clauses before the start of a collaborative R&I project (i.e. when negotiating Consortium Agreements)

- Identify potential ways to protect intangible assets

- Manage jointly created and jointly owned knowledge

- Develop a joint IP management and exploitation strategy with consortium partners

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# Scope and limits of Horizon IP Scan

- It is important to understand what the Horizon IP Scan is and what it is NOT.

- A (free-of-charge) service of approximately 1.5 working days cannot be considered to be a complete IP review of the company's intellectual assets and neither the IP expert nor the central coordination team can assume liability for the recommendations.

- The Horizon IP Scan services never replaces the services of professional representatives such as lawyers or patent attorneys.

- The experts will avoid giving advice which would refer to explicit legal solutions. In the same spirit, the service will not serve to draft intellectual property right applications or IP related contracts.

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# Service implementation by local experts

# How to apply?

## Who can apply?

The service is open to European start-ups and SMEs that are about to sign a Horizon (2020/Europe) Grant Agreement or have recently signed one (up to six months after signature). It also caters to SMEs signposted by the Horizon Results Booster (maximum until half of the project duration).

In addition, SMEs that are referred to Horizon IP Scan by the Enterprise Europe Network in view of a planned cooperation with other entities on a R&I project, are also eligible for the service up to six months after the beginning of a project, but preferably before any agreement is signed.

You can apply for the Horizon IP Scan at any time. Please take a look at our **Guide for Applicants** (available for download below) and fill in our service request form. This will only take a few minutes. All of the information you provide will be treated strictly confidentially, and will only be processed for the purpose of delivering the service. You may read our full **privacy statement** here.

We will carefully review your service request and notify you about the outcome of the application process as soon as possible.
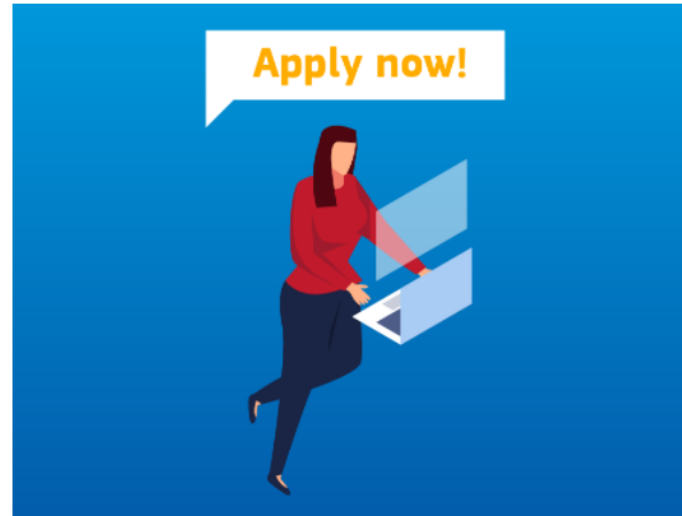
Our **Guide for Applicants** covers all you need to know about submitting a service request and gives you further insights into the actual provision of the service.

Submit your Horizon IP Scan service request

| | Horizon IP Scan Guide for Applicants | |
|---|---|---|
| | English (1.52 MB - PDF) | Download ⬇ |

Online Application Form

www.horizon-ipscan.eu

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# How to apply?

- Following a continuous open call scheme, SMEs interested in the **Horizon IP Scan** can apply for the service any time via the Horizon IP Scan website.

- Based on a first come first serve approach, the service may either be provided to a single SME or, **preferably, a group of SMEs** involved in a collaborative research project.

- Managed by a central coordination team, the successful SME(s) or applicant(s) will be matched with corresponding local IP expert(s).

- Usually, the language applied will be that of the applicant(s) or **English.**

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