

Diseminácia a využívanie výsledkov

(duševné vlastníctvo v kontexte H2020 – výstupy,
míľniky v procese implementácie)

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Why is IPR so important?

- Research and Innovation should bring results to industry directly
- EU funding may not be endangered by long-term disputes after the several years of funded research activities
- RIA and IA projects – dissemination and exploitation of results – reflected in the Consortium agreement
- SME Instrument – Intellectual Property, knowledge protection and regulatory issues – ownership of key knowledge IPR, ways of protection, commercial exploitation (directly in the proposal)

Difference between IP and IPR

Intellectual Property (IP)

'background' means **any** data, know-how or information whatever its form or nature, tangible or intangible, including any rights **such as intellectual property rights**, which is: (i) held by participants prior to their accession to the action; (ii) needed for carrying out the action or for exploiting the results of the action; and (iii) identified by the participants in accordance with Article 45;

(Article 2(1) (4) of Regulation (EU) No 1290/2013 on rules of participation in Horizon 2020)

Intellectual Property Rights (IPR)

Intellectual property (IP) rights are legally recognized exclusive rights to creations of the mind. Under intellectual property laws, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property rights include copyright, trademarks, patents, industrial design rights, trade dress, and in some jurisdictions trade secrets.

(source: wikipedia.org)

Copyright

- (1) The expression “*literary and artistic works*” shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science. (Art. 2 of Berne Convention)
- Computer programs are protected as literary works within the meaning of Article 2 of the Berne Convention. Such protection applies to computer programs, whatever may be the mode or form of their expression. (Art. 4 of WIPO Copyright Treaty).

Background vs. Results

Background	Results
<p>'background' means any data, know-how or information whatever its form or nature, tangible or intangible, including any rights <u>such as intellectual property rights</u>, which is: (i) held by participants prior to their accession to the action; (ii) needed for carrying out the action or for exploiting the results of the action; and (iii) identified by the participants in accordance with Article 45;</p> <p>(Article 2(1) (4) of Regulation (EU) No 1290/2013)</p>	<p>'results' means any tangible or intangible output of the action, such as data, knowledge or information, that is generated in the action, whatever its form or nature, <u>whether or not it can be protected</u>, as well as any rights attached to it, including intellectual property rights;</p> <p>(Article 2(1) (19) of Regulation (EU) No 1290/2013)</p>

Protection of results – in general

- Results shall be owned by the participant generating them.
- Where participants have jointly generated results and it is not possible to separate such joint results, they shall have joint ownership of those results.
- The joint ownership agreement may lay down a type of licences and other exploitation contracts to third persons – *(it may be a separate contract or a part of a consortium agreement and it may be concluded anytime)*
- *SMEs should hold and commercialise results applicable for marketing (SME Instrument, RIA and IA)*

Results under implementation proposal

- *‘Work package’ means a major sub-division of the proposed project.*
- *‘Deliverable’ means a distinct output of the project meaningful in terms of the project's overall objectives and constituted by a report, a document, a technical diagram, a software etc.*
- *‘Milestones’ means control points in the project that help to chart progress. Milestones may correspond to the completion of a key deliverable, allowing the next phase of the work to begin. A milestone may be a critical decision point in the project where, for example, the consortium must decide which of several technologies to adopt for further development.*

Protection of IP (not IPR) before a proposal submission

- Letter of intent – writing statement to become partner
- Confidentiality agreement on background
- Reference only to the plan on dissemination and exploitation of results to general public
- Preliminary agreement on results disposal towards third persons – commercial exploitation for enterprises
- - https://www.iprhelppdesk.eu/H2020_MoU

Budget recommendations

- Costs relating to fees and other costs on IPR protection are eligible costs (other goods and services – part 3 of Technical Annex) (e.g. European Unitary Patent)
- Costs relating to patent representatives or legal counsels – direct eligible personnel costs (e.g. updating of the consortium agreement)
- Management costs – innovation management should include a person in charge of intellectual property issues (whether being a right or not) – part 3 of Technical Annex and profile of such person in part 4 of Technical Annex
- Any acronym should be distinctive and easily reconized (no EU funding to projects that may challenged because of trademarks disputes) – fees for a trademark registration are eligible

Recommended results in IP

Further internal research	<ul style="list-style-type: none"> • These research activities must be beyond the project. • Relevant for research organisations and research intensive companies.
Collaborative Research	<ul style="list-style-type: none"> • The results used as background of future collaborative research projects. • Relevant for research organisations and research intensive companies.
Internal product development	<ul style="list-style-type: none"> • Results used in developing, creating and marketing a product/process. • Relevant for companies.
Internal service creation	<ul style="list-style-type: none"> • Results used in creating and providing a service. • Relevant for companies.
Licensing	<ul style="list-style-type: none"> • Results exploited by other organisations through out-licensing. • Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.
Assignment	<ul style="list-style-type: none"> • Results exploited by other organisations by the transfer of ownership. • Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.
Joint Venture	<ul style="list-style-type: none"> • Results used as background of a joint venture. • Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.
Spin-off	<ul style="list-style-type: none"> • A separate company established in order to bring to the market technology resulting from the project. • Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.
Standardisation activities	<ul style="list-style-type: none"> • Results used either to develop new standardisation activities, or to contribute to on-going standardisation work. • Relevant for all participants, but care should be taken to comply with Horizon 2020 rules.

Following a positive evaluation 'what to share with your colleagues'

Consortium agreement

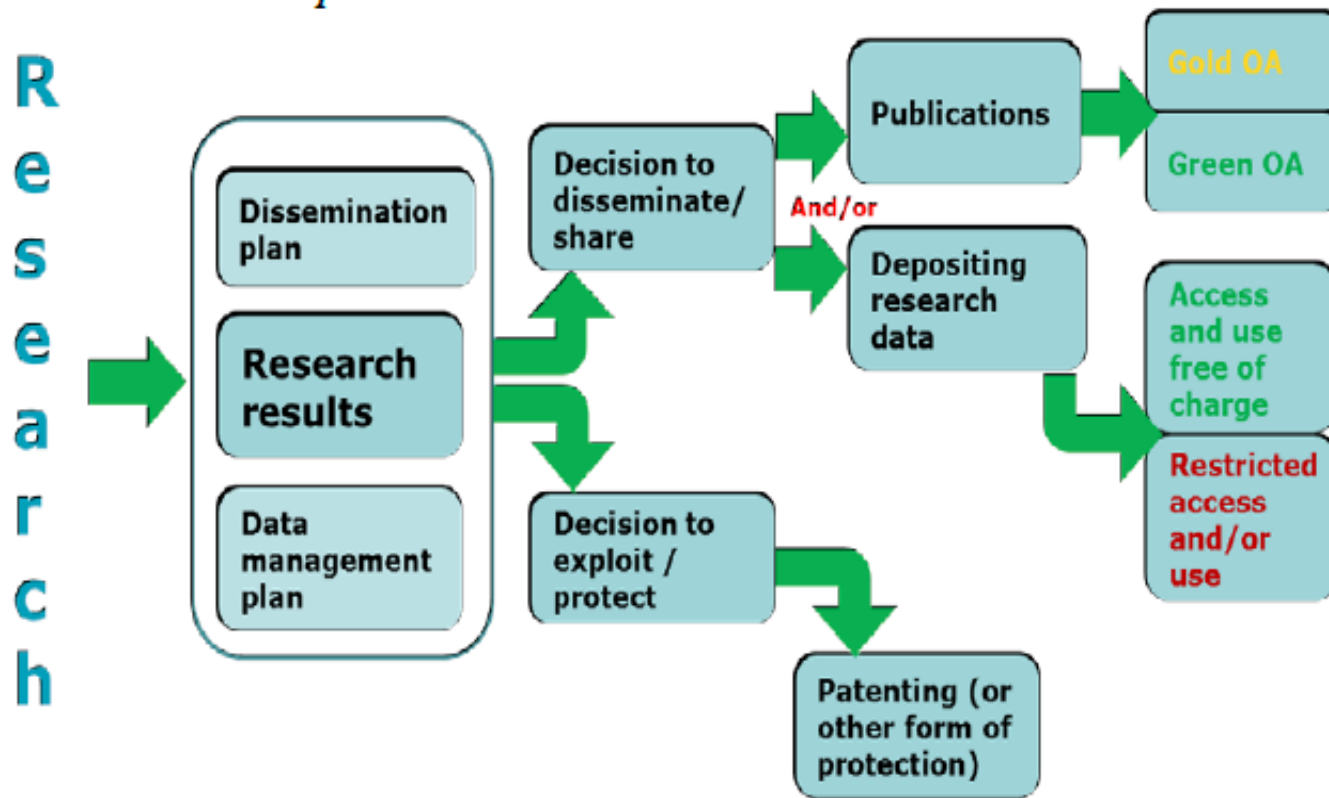
Definition on background !

- each participant defines individually
- list should be exhaustive
- positive or negative definition (list what to include or not to include in background) mention rights of third parties (especially right to modify a subject of copyright + right to be cited as an author)
- joint ownership may be part of a consortium agreement or a separate agreement .

Grant agreement

- the beneficiaries must give each other access — under fair and reasonable conditions — to background needed for exploiting their own results,
- If third parties (including personnel) may claim rights to the results, the beneficiary concerned must ensure that it complies with its obligations under the Agreement,
- The joint owners must agree (in writing) on the allocation and terms of exercise of their joint ownership (**'joint ownership agreement'**), **to ensure compliance with their obligations under this Agreement,**

Open Access to research results



Thank you for your attention.

HORIZON 2020 SUPPORT IN SLOVAKIA

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http://h2020.cvtisr.sk/sk/dalsie-aktivity/pravne-a-financne-otazky/dokumenty.html?page_id=1961