



SUPERVISION FRAMEWORK

DECISION 42/2021 OF THE GOVERNING BOARD OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

ON THE SUPERVISION FRAMEWORK OF KNOWLEDGE AND INNOVATION COMMUNITIES (KICs)

THE GOVERNING BOARD OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY,

Having regard to Regulation (EU) No 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast)¹ (hereinafter the “EIT Regulation”), in particular Articles 5 (1), 6 (c), 11 (6) thereof and points (1)(j) and (k) of Section 2 and point (6) of Section 3 of the Statutes of the EIT, set out in Annex I to the EIT Regulation;

Having regard to Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe - the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013² (hereinafter the “Horizon Europe Regulation”) in particular Article 10 and Annex III thereof;

Having regard to Decision 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021 -2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU³ (hereinafter the “EIT SIA 2021-2027”), in particular Sections 3.6.1, 3.6.2. and 5.2.2 thereof;

Having regard to Decision 14/2021 of the Governing Board of the EIT of 7 May 2021 on the principles for financing, monitoring and evaluating Knowledge and Innovation Community (KIC) activities⁴ (hereinafter the “GB decision on the principles for financing, monitoring and evaluating KIC activities”), in particular, Sections 3.1. and 4 thereof;

Having regard to Decision 20/2016 of the Governing Board of the EIT on the designation, mandate and remuneration of the EIT Governing Board rapporteurs in the grant allocation process for the Knowledge and

¹ OJ L 189 of 28.5.2021, p. 61.

² OJ L 170 of 12.5.2021, p. 1.

³ OJ L 189 of 28.5.2021, p. 91.

⁴ Ref. Ares(2021)3111256 - 10/05/2021



Innovation Communities (KICs) of the EIT⁵ (hereinafter the “GB decision on the designation, mandate and remuneration of the EIT GB rapporteurs”), in particular Article 2 thereof;

Having regard to the Partnership Agreements concluded between the EIT and the KICs in 2021 (hereinafter the “EIT-KIC Partnership Agreements”), in particular Articles 11.3 and 12.3.1 thereof;

WHEREAS

- (1) In line with the EIT Regulation, the Governing Board shall be responsible, among other strategic decisions, for the selection, designation, financing, monitoring and evaluation of the KICs, including taking appropriate corrective measures in the event of underperformance of the KICs;
- (2) Pursuant to the EIT Regulation, corrective measures may include the reduction, modification or withdrawal of the EIT’s financial contribution to underperforming KICs or the termination of the partnership agreements with them, based on the monitoring and the assessment of results, in accordance with the objectives of the EIT and the KICs and with Articles 10, 11 and 18 of the EIT Regulation;
- (3) The EIT SIA 2021-2027 also stresses that in the event that the continuous monitoring, an interim review or the comprehensive assessment of a KIC shows inadequate progress in areas referred to in Article 10 of the EIT Regulation or a lack of Union added value, the Governing Board shall take appropriate corrective measures;
- (4) The EIT SIA 2021-2027 specifies that corrective measures may also take the form of binding recommendations related to the KIC’s activities, or suggestions for adaptations of its delivery and operational models;
- (5) The role of corrective measures, in particular based on KICs’ individual performance in order to ensure the highest level of impact, is also emphasised in the GB Decision on the principles for financing, monitoring and evaluating KIC activities;
- (6) The GB decision on the principles of financing, monitoring and evaluating KIC activities also foresee that the EIT Governing Board will provide strategic recommendations to the KICs for the subsequent period taking into consideration the KIC multiannual performance at result and impact level, monitor the implementation of these recommendations at the EIT level, and will provide the necessary incentives and control, including through the performance-based funding allocation process, to ensure that the KICs implement them;

⁵ 01994.EIT.2016.GB.WP



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- (7) In line with the GB Decision on the designation, mandate and remuneration of the EIT GB rapporteurs, the appointed GB rapporteurs obtain first-hand information on the KICs performance, results and planned activities and in particular on how strategic recommendations of the GB have been addressed and which progress KICs have made towards the implementation of their multiannual strategy;
- (8) The EIT-KIC Partnership Agreements foresee provisions, among others, on reinforced monitoring measures in justified situations at the request of the EIT, including measures such as access to governance bodies (with observer status), regular progress meetings and enhanced activity reporting; phasing out of EIT funding due to inadequate progress in implementing the KIC Strategic Agenda; as well as contractual clauses on the suspension and termination of the EIT-KIC Partnership Agreements in line with the general legal and contractual framework of the Horizon Europe Programme;
- (9) In the interest of efficiency, transparency and predictability, and with a view to achieving the highest level of impact, a comprehensive supervision framework of the EIT KICs shall be adopted on the underlying principles, the different types of intervention measures - including strategic measures to prevent underperformance, and corrective measures to address underperformance - as well as their implementation mechanism;

HAS DECIDED AS FOLLOWS:

Article 1
Adoption

The 'Supervision Framework of the EIT KICs' is hereby adopted as set out in the Annex.

Article 2
Entry into force

This decision shall enter into force on the day of its adoption.

Done in Budapest on 23 November 2021

Gioia Ghezzi
Chairperson of the EIT Governing Board



Annex

EIT Governing Board – Supervision framework of EIT KICs

1. Legal framework

1.1. Roles and responsibilities of the EIT Governing Board

Pursuant to the EIT Regulation, the Governing Board is responsible for the selection, designation, financing, monitoring and evaluation of the KICs, including taking appropriate corrective measures in the event of underperformance of the KICs, and other strategic decisions.¹

The strategic powers of the Governing Board include, among others:

- the **adoption of sound criteria and clear and transparent procedures for performance-based financing of the KICs**, including the decision on the maximum allocation of the EIT financial contribution to them, with a view to implementing the relevant KIC business plan and achieving the objectives set out in the SIA and in accordance with the evaluation and monitoring of the KICs;
- the **adoption of effective, efficient, transparent and continuous monitoring and evaluation procedures**, including a sound set of indicators, and the supervision of their implementation;
- **taking appropriate corrective measures** with respect to underperforming KICs, including the reduction, modification or withdrawal of the EIT's financial contribution to those KICs or the termination of the partnership agreements with them, based on the monitoring and the assessment of results, in accordance with the objectives of the EIT and the KICs.

1.2. Status of KICs under the EIT Regulation

In line with the EIT Regulation, the KICs shall have **substantial autonomy to establish their internal organisation and composition, as well as their agenda and working methods**. Under the recast EIT Regulation, this autonomy is subject to the following **limitations**:

- It is without prejudice to the partnership agreements and grant agreements between the EIT and the KICs;

¹ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast), Article 5 (1).



- It is **conditional upon the KICs' progress towards achieving the objectives of the EIT and the KICs**, while taking into account the strategic planning of Horizon Europe and the strategic direction of the EIT set out in the SIA and by the Governing Board.

1.3. The EIT-KIC contractual relationship

The EIT Regulation provides that the relationship between the EIT and the KICs shall be based on a partnership agreement, a grant agreement or a memorandum of cooperation.

The **Partnership Agreement (PA)** signed in 2021 with the KICs represents the basis for the EIT-KIC relations for the period of the Horizon Europe programme. Among others, the PA sets out the provisions governing KIC monitoring and reporting, EIT reviews and evaluations, phasing out of the funding to a KIC, suspension and termination of the PA.

The implementation of the grants to the KICs is based on the terms of the Horizon Europe **grant agreement (GA)**, which sets out the rules for the implementation of the action and the consequences of non-compliance, which include rejections of costs and contributions and grant reductions, suspension and termination of the GA by the EIT.

1.4. Supervision of the KICs

Monitoring and evaluation of the KICs constitute the key means of supervision and serve as a basis for the intervention measures by the EIT and the GB.

In line with the PA, the EIT carries out **continuous monitoring and periodic evaluations** of the output, results and impact of the KIC, measured against its objectives and impact indicators as set out in the **KIC Strategic Agenda** in accordance with the **EIT Impact Framework** and the Horizon Europe framework. Such evaluations include measuring the progress of the KIC towards financial sustainability, European added value, cost-efficiency and openness to new members.

Pursuant to the GB decision on the principles for financing, monitoring and evaluating KIC activities,² the EIT shall **continuously monitor the KICs' performance** to ensure compliance with sound management, good governance, monitoring and evaluation principles set in the EIT Regulation, as well as the principles and criteria set out for European Partnerships in the Horizon Europe Regulation and alignment with the requirements stemming from Horizon Europe priorities and indicators in order to maximise their performance and impact, based on a long-term collaboration strategy between the EIT and KICs. The details of the EIT monitoring activities are set out in the **Monitoring and Evaluation Strategy of the EIT**.



As a **basis** for the monitoring and evaluation of the KICs, besides the **periodic reports** on the KIC Business Plans, the PA provides for **annual progress reports** on the implementation of the KIC Strategic Agenda upon request by the EIT. Furthermore, at the request of the EIT in justified situations, the PA foresees the possibility of **reinforced monitoring measures**, such as access to governance bodies (with observer status), regular progress meetings and enhanced activity reporting.

Periodic external evaluations of the KICs include **interim reviews** covering the first three years of the seven-year partnership agreement and the three years following any extension, **comprehensive assessments** conducted before the end of the **seventh year** of the partnership agreement, and **final reviews** conducted before the end of the partnership agreement.

Furthermore, in line with the PA, the EIT may carry out reviews on **specific thematic aspects** of the KIC's operations.

The results of monitoring and evaluations of the KICs shall be made public and submitted to the European Parliament and to the Council, as well as to the Member State Representatives Group of the EIT.

1.5. Typology of intervention measures

To deliver on its enhanced supervision role and take effective measures in case of scope for improvement or risk of underperformance, **different forms of possible intervention** may be required and range from best practice sharing with other KICs to binding corrective measures by the GB with a serious negative financial impact. In order to **improve specific areas** of KIC activities and to achieve efficiency gains, upon guidance by the GB, the EIT may recommend to the KIC to exchange **best practices** or to organise **shared services** with other, better performing KIC(s).

In case the activities or the operational model of the KIC raises **questions**, the EIT may carry out **reinforced monitoring**, which may also include expert assessment or legal analysis. Furthermore, the Governing Board itself may initiate reinforced monitoring and participate in the evaluation and monitoring of the KIC with the help of the GB Rapporteur visit or the assignment of a dedicated observer to the KIC.

In case of scope for strategic guidance or lack of alignment with the strategic directions of the EIT, the GB may issue **Strategic Recommendations** as a result of the KIC hearings in the grant allocation process.

In the event that the continuous monitoring or periodic external evaluations of a KIC clearly show **underperformance / inadequate progress or a lack of Union added value**, the Governing Board shall take appropriate **corrective measures**.



The EIT Regulation leaves it to the Governing Board to define the necessary corrective measure, indicating that such measures may take the form of a **reduction, modification or withdrawal of the EIT's financial contribution or the termination of a partnership agreement**. Furthermore, in the context of corrective measures, the EIT SIA for the period 2021-2027 also refers to **binding recommendations related to the KIC's activities, or suggestions for adaptations of its delivery and operational models**.

The PA refers to corrective measures in the context of the **phasing out of the funding** due to inadequate progress. Furthermore, serious breach of obligations under the PA including improper implementation of the KIC Strategic Agenda may serve as a basis for the **suspension and termination of the PA**.

The various types of intervention measures that are at the disposal of the EIT and the GB can be summarised in the following risk-response matrix. The matrix presents those measures that go beyond the direct contractual consequences of non-compliance referred to above (i.e. cost rejection or grant reduction by the EIT). The measures indicated therein may be used in combination, and also in an escalating manner from less restrictive to more stringent measures.

<i>Intervention situation</i>	<i>Risk of negative impact on the achievement of strategic objectives of the EIT and the KICs</i>	<i>Type and author of intervention measure</i>	<i>Intervention measure</i>
Scope for improvement of particular areas of KIC activity	Low	Guidance by the EIT	Best practice exchange Shared services (dedicated cross-KIC activities)
Lack of alignment by the KIC with EU policy objectives, EIT strategic objectives or thematic requirements	Low to Medium	Strategic guidance by the GB	Strategic Recommendations by the EIT GB to the KIC leadership Conditional grant award
Strong indications of risk of systematic performance problems and/or non-compliance	Low to Medium	Reinforced monitoring by the EIT	Dedicated monitoring activity, enhanced activity reporting, regular progress meetings Independent Expert assessment or audit Legal analysis



of the KIC in a specific area			Assignment of an EIT staff/expert observer to Board, management or project meetings
	Medium	Reinforced monitoring by the GB	GB Rapporteur visit Assignment of a GB observer to Board meetings
Serious underperformance/inadequate progress or impact, or lack of Union added value of the KIC, clearly established by means of monitoring / external evaluation	Medium to High	Corrective measure by the GB	Corrective recommendation Reduction, modification or withdrawal of the EIT's financial contribution Suspension and termination of the Partnership Agreement

2. Intervention measures

2.1. General principles applicable to intervention measures

The aim of the intervention measures shall be to **ensure performance and compliance** by the KICs in the interest of the strategic objectives of the EIT and of the KICs. They shall be of and constructive and corrective rather than punitive character.

In line with the typology of intervention measures presented under section 1.3.2. above, intervention by the GB shall respect the principles of **necessity and proportionality**. It follows that the intervention measure needs to be (1) **appropriate** to achieve the aim of the intervention and to reach the expected result, (2) **necessary** for realising that aim and result, (3) **proportionate** to the underlying intervention situation and the related risk level and the level of underperformance identified. Corrective measures shall be adopted in case of a clear underperformance by the KIC, inadequate progress/impact or lack of Union added value established by means of continuous monitoring or periodic external evaluation(s).



The appropriate intervention measures shall be adopted on a **case-by-case basis**, in line with the specific intervention situation with due consideration of the individual circumstances. As the exact situations of underperformance cannot be predicted with precision, the list of specific actions shall be considered **non-exhaustive**, and the GB shall retain discretion as regards the specificities of the intervention measures to be implemented.

The KIC(s) concerned shall be consulted and **heard** prior to deciding on a corrective measure.

Equal treatment of KICs shall be ensured by consistently following the principles and the main lines of intervention established in the present framework.

When deciding on intervention measures, **compliance** with the legal framework, including the provisions of the PA and GA shall be ensured, in particular the rules concerning suspension, termination and phasing out of the EIT funding.

Furthermore, **effectiveness and efficiency** of the intervention measures need to be ensured. For this purpose, intervention measures targeting underperformance need to be accompanied by appropriate implementation modalities and safeguards.

2.2. Strategic measures to prevent underperformance

2.2.1. Cooperation with another KIC in the form of best practice exchange or shared services

- **When:**
 - In case there is scope for improving a particular area of KIC activity,
 - In order to address a need for improvement identified in the course of the monitoring by the EIT or an external review,
 - In order to support compliance with a particular Strategic Recommendation,
 - If there is scope for efficiency gains and with the agreement of the better performing KIC(s) in the area.
- **What:**
 - Cooperation and experience sharing on a bilateral/multilateral basis,
 - Participation in a dedicated cross-KIC activity.
- **How:**
 - Upon decision by the EIT Director, or
 - Upon decision by the GB, integrated in a Strategic Recommendation.

2.2.2. Strategic recommendations by the GB

- **When:**
 - In case of generally positive impact and results in line with the KIC strategy, in order to provide strategic guidance and further increase performance,
 - In case of lack of alignment with strategic objectives or horizontal requirements.



- **What:**
 - Strategic recommendations with a view to providing strategic guidance for the upcoming grant cycles,
 - Strategic recommendations with “critical” marking in case of lack of alignment with strategic aims or horizontal requirements which risk to result in underperformance.
- **How:**
 - By means of deliberation of the GB at the Hearings of the KICs as part of the grant allocation process.
- **Possible safeguards:**
 - Cooperation with another KIC in the form of best practices exchange or shared services (section 2.2.1), Reinforced monitoring by the EIT (section 2.2.3.), Reinforced monitoring by the GB (section 2.2.4).

2.2.3. Reinforced monitoring by the EIT

- **When:**
 - In case there are strong indications of risk of systemic performance problem and/or non-compliance of the KIC in a specific area, and
 - In order to monitor compliance towards a Strategic Recommendation or a Corrective Recommendation issued by the GB, or
 - In order to establish the need for a Strategic Recommendation or a corrective measure by the GB, or
 - In case a close observance of the decision-making of the KIC is needed in order to ensure transparency and to assess the extent of systemic performance or compliance problems.
- **What:**
 - Dedicated monitoring activity by the EIT, with or without external experts, and/or
 - Enhanced activity reporting by the KIC, and/or
 - Regular progress meetings with the EIT, or
 - Conduct of an external expert assessment, led by the EIT, or
 - Conduct of a legal analysis, with or without external experts, and/or
 - Assignment of an EIT or an expert observer to the decision-making by the KIC until the concerns identified are addressed.
- **How:**
 - Upon decision by the EIT Director, or
 - Upon decision by the EIT GB, integrated in the Strategic Recommendations or upon request by the GB as part of its meeting deliberations

2.2.4. Reinforced monitoring by the GB

- **When:**
 - In case there are strong indications of a serious risk of systemic performance problem and/or non/compliance of the KIC in a specific area, and



- As a follow-up to reinforced monitoring by the EIT, in case the risk of systemic performance problem and/or non-compliance of the KIC in a specific area persists, or
 - In case a close observance of the decision-making of the KIC is needed at the highest level in order to ensure transparency and to assess the extent of serious performance or compliance problems.
- **What:**
- Monitoring as part of a GB Rapporteur visit,
 - Assignment of a GB member as observer to the highest decision-making bodies of the KIC until the serious problems are addressed.
- **How:**
- Upon decision by the GB, integrated in the Strategic Recommendations or upon request by the GB as part of its meeting deliberations.

2.3. Corrective measures to address underperformance by the GB

2.3.1. Corrective recommendations

- **When:**
- In case the continuous evaluation or the periodic external reviews clearly show serious underperformance, or lack of Union added value of a KIC; or
 - In case the KIC shows inadequate progress in the implementation of its Strategic Agenda and/or towards financial sustainability; or
 - In case the KIC has not addressed a Strategic Recommendation issued by the GB which has led to serious underperformance by the KIC;
 - In case the KIC has committed serious irregularities, which resulted in serious underperformance of the KIC.
- **What:**
- Binding recommendations related to the KIC's activities, operational and delivery models, and/or
 - Specific requirements for the KICs to be met in certain areas of activity or in their governance; and/or
 - Structural cooperation between two or more KICs going beyond best practice exchange or shared services, with a view to reaching the required impact.
- **How:**
- By means of EIT GB decision.
- **Possible safeguards:**
- Reinforced monitoring by the EIT (section 2.2.3.), Reinforced monitoring by the GB (section 2.2.4), or Conditionality of the grant award in relevant areas to specific measures undertaken by the KIC in order to meet the Corrective Recommendation.



2.4. Reduction, modification or withdrawal of EIT financial contribution (phasing out of the funding)

2.4.1. Reduction of the EIT financial contribution

- **When:**
 - In case of serious underperformance, or lack of Union added value of a KIC; or
 - If the KIC shows inadequate progress in implementing its Strategic Agenda and/or in terms of financial sustainability; and
 - In case the KIC has not complied with the Corrective Recommendation issued by the GB; and
 - In case due to repetitive underperformance and failure to take the required measures, the KIC can no longer be expected to adequately implement its Strategic Agenda; and
 - In case the EIT financial contribution cannot be usefully reallocated to other, better performing activities.
- **What:**
 - Reduction of the maximum grant amount or the EIT co-funding rate
- **How:**
 - By means of EIT GB decision, including the justification for the measure and information on legal remedies.

2.4.2. Modification of the EIT financial contribution

- **When:**
 - In case of serious underperformance, or lack of Union added value of a KIC; or
 - If the KIC shows inadequate progress in implementing its Strategic Agenda and/or in terms of financial sustainability; and
 - In case the KIC has not complied with the Corrective Recommendation issued by the GB; and
 - In case due to repetitive underperformance and failure to take the required measures, the KIC can no longer be expected to adequately implement its Strategic Agenda; and
 - In case the EIT financial contribution can be usefully reallocated to other, better performing activities.
- **What:**
 - Reallocation of the EIT funding from underperforming to better performing areas of activity of the KIC,
 - Corrective Recommendation to the KIC to alter its Strategic Agenda accordingly.
- **How:**
 - By means of GB decision, including the justification for the measure and information on legal remedies.



- **Possible safeguard:**

- Conditional grant award, subject to compliance with the reallocation decision and the Corrective Recommendation.

2.4.3. Withdrawal of the EIT financial contribution

- **When:**

- In case serious underperformance, or lack of Union added value of a KIC; or
- If the KIC shows inadequate progress in implementing its Strategic Agenda and/or in terms of financial sustainability; and
- In case the KIC has not complied with the Corrective Recommendations issued by the GB in the domain, and
- In case the EIT had previously allocated funding to the relevant areas.

- **What:**

- Withdrawal of the EIT funding from the area concerned and Corrective Recommendation to amend the KIC Business Plan accordingly.

- **How:**

- By means of GB decision, including the justification for the measure and information on legal remedies.

2.4.4. Suspension of the Partnership Agreement

- **When:**

- In case of serious underperformance, lack of Union added value or inadequate progress in implementing the KIC Strategic Agenda and/or in terms of financial sustainability is a consequence of a serious breach of obligations under the PA or the KIC designation procedure

- **What:**

- Suspension of the PA without suspension of the GA: in this case, the grant agreement in course is not affected, but the KIC may not participate in the grant allocation process for the next period, or
- Suspension of the PA and suspension of the GA: in case serious underperformance by the KIC also entails substantial errors, irregularities or fraud, or serious breach of obligations under the GA or during its award; in this case, costs incurred or contributions for activities implemented during suspension are not eligible, and
- Request to the KIC to carry out specific measures to remedy the serious breach of obligations within a specific timeframe.

- **How:**

- By means of GB decision

2.4.5. Termination of the Partnership Agreement

- **When:**



- If serious underperformance, lack of Union added value or inadequate progress in implementing the KIC Strategic Agenda and/or in terms of financial sustainability is a consequence of a serious breach of obligations under the PA or the KIC designation procedure, and
 - In case the KIC fails to carry out the required measures under the suspension of the PA to remedy the serious breach of obligations.
- **What:**
- Termination of the PA without termination of the GA: in this case, the grant agreement in course is not affected, but the rights and obligations of the KIC under the PA are terminated and may not receive further grants from the EIT,
 - Termination of the PA and termination of the GA: in case serious underperformance by the KIC also entails substantial errors, irregularities or fraud, or serious breach of obligations under the GA or during its award
- **How:**
- By means of GB decision, with justification for the termination and information on the legal remedies,
 - After having consulted the Member State Representative Group prior to the GB decision.

3. Implementation mechanism

In the interest of effective implementation, intervention measures shall be specifically defined and accompanied by a timetable and key milestones/deliverables.

Corrective measures shall be adopted by means of GB decision and shall be accompanied by appropriate justification.

For each corrective measure requiring implementation by the KIC, the KIC shall be asked to provide an implementation plan and to report on its completion in line with the timetable and key milestones/deliverables defined by the GB.

As a general rule, the EIT Director shall be in charge of monitoring the implementation of the intervention measures adopted by the GB. The GB may decide to appoint a Rapporteur to follow the implementation of the intervention measure.

The EIT Director shall maintain a register of intervention measures and keep it up to date and accessible to the GB. The GB shall be regularly informed of the status of implementation of the intervention measures, at least on an annual basis, prior to the KIC hearings in the grant allocation process.

The EIT shall develop internal procedures and guidance for the preparation and follow-up of intervention measures.