



Training course – Legal aspects of cooperation

23 March 2023

Agenda

23 march 2023 | Legal aspects of cooperation

Time	Topic
10:00 – 10:05	Introduction
10:05 – 10:25	Legal aspects of cooperation: a general overview
10:25 – 10:40	Main legal aspects by Collaboration Scenario
10:40 – 10:50	The Cooperation Agreement: an introduction
10:50 – 11:00	Q&A Session

Introduction

Legal aspects of cooperation

- Help the EDIHs acquire a general understanding of the main legal issues when cooperating at European level.
- Identify and present key legal aspects of the different Collaboration Scenarios.
- Provide an introduction on cooperation agreements.

Introduction

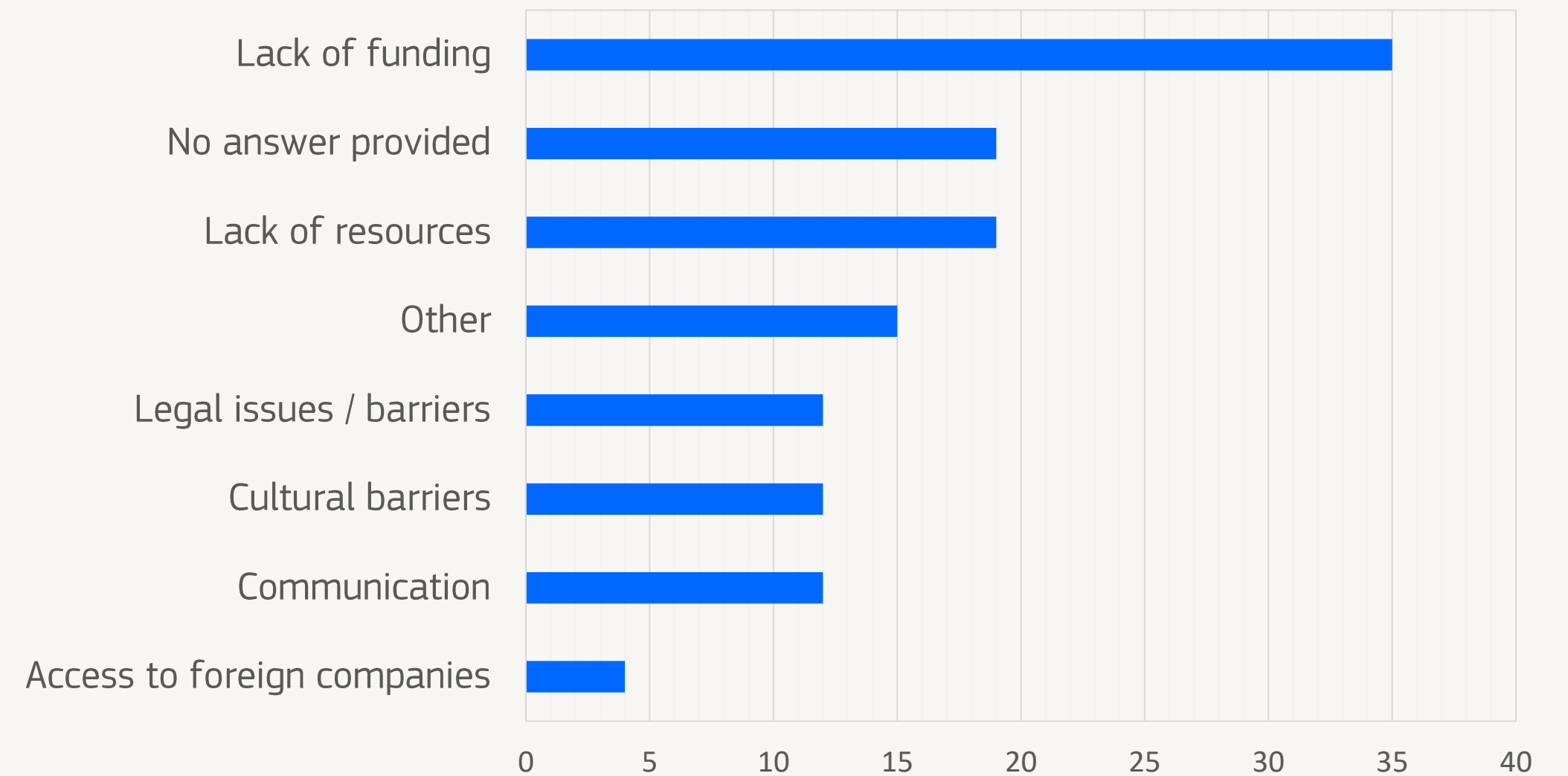
Francisco Aranda Ruiz (CARSA)

Introduction

Barriers and obstacles for cooperation among DIHs

There are many hurdles and challenges to overcome in order to foster EDIHs cooperation.

Legal issues / barriers are among the main barriers and obstacles that hinder cooperation.



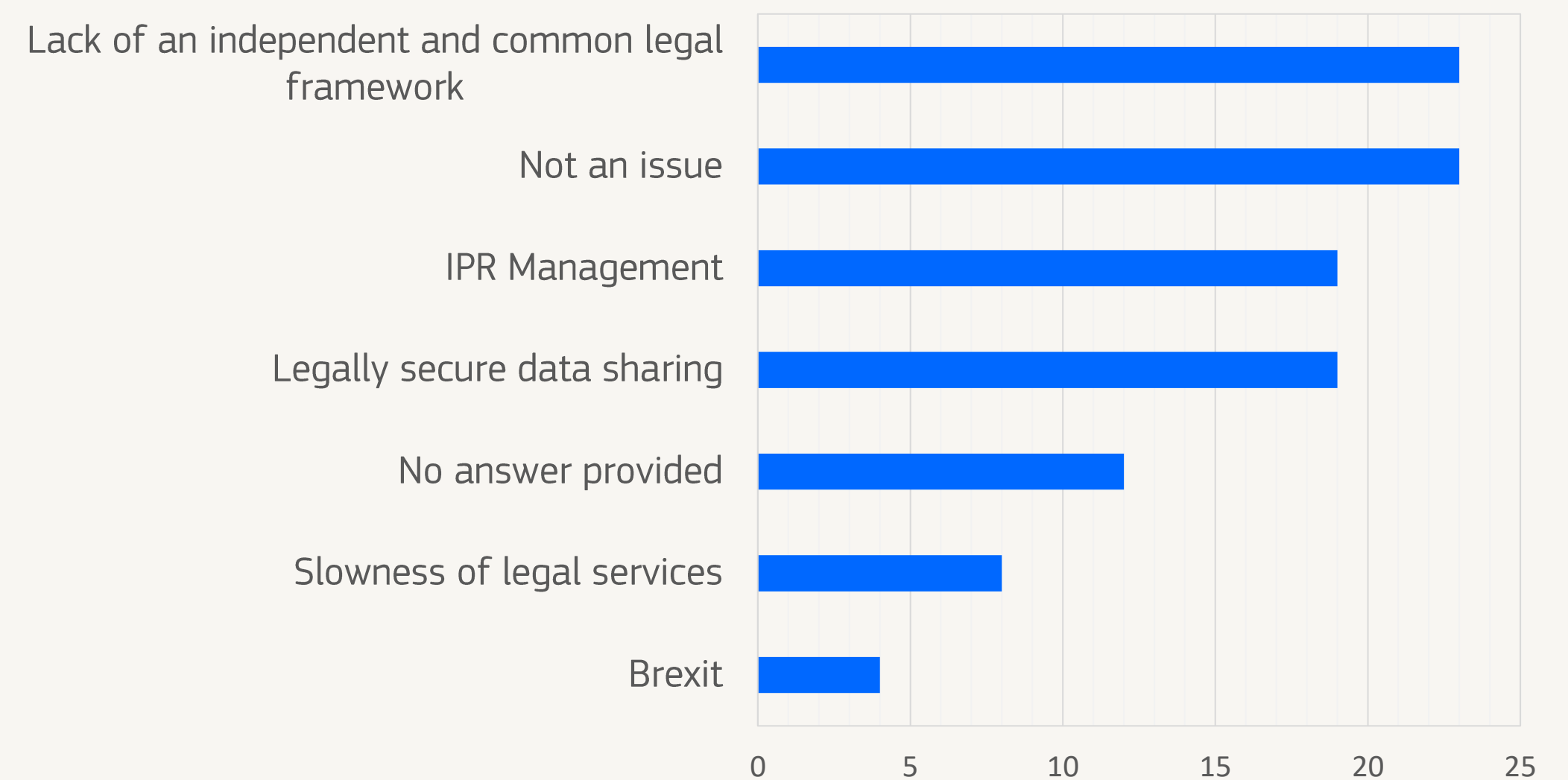
Source: AI Digital Innovation Hubs Network. Carried out for the EC – DG CNECT by PwC, CARSA and Innovalia Association.

Introduction

Legal barriers and obstacles for cooperation among DIHs

With regards to the legal barriers for cooperation, the main obstacle is the lack of an independent and common legal framework, followed by IPR management and data sharing.

Many DIHs believe that legal barriers are not an issue to foster collaboration.



Source: AI Digital Innovation Hubs Network. Carried out for the EC – DG CNECT by PwC, CARSA and Innovalia Association.

Legal aspects of cooperation: a general overview

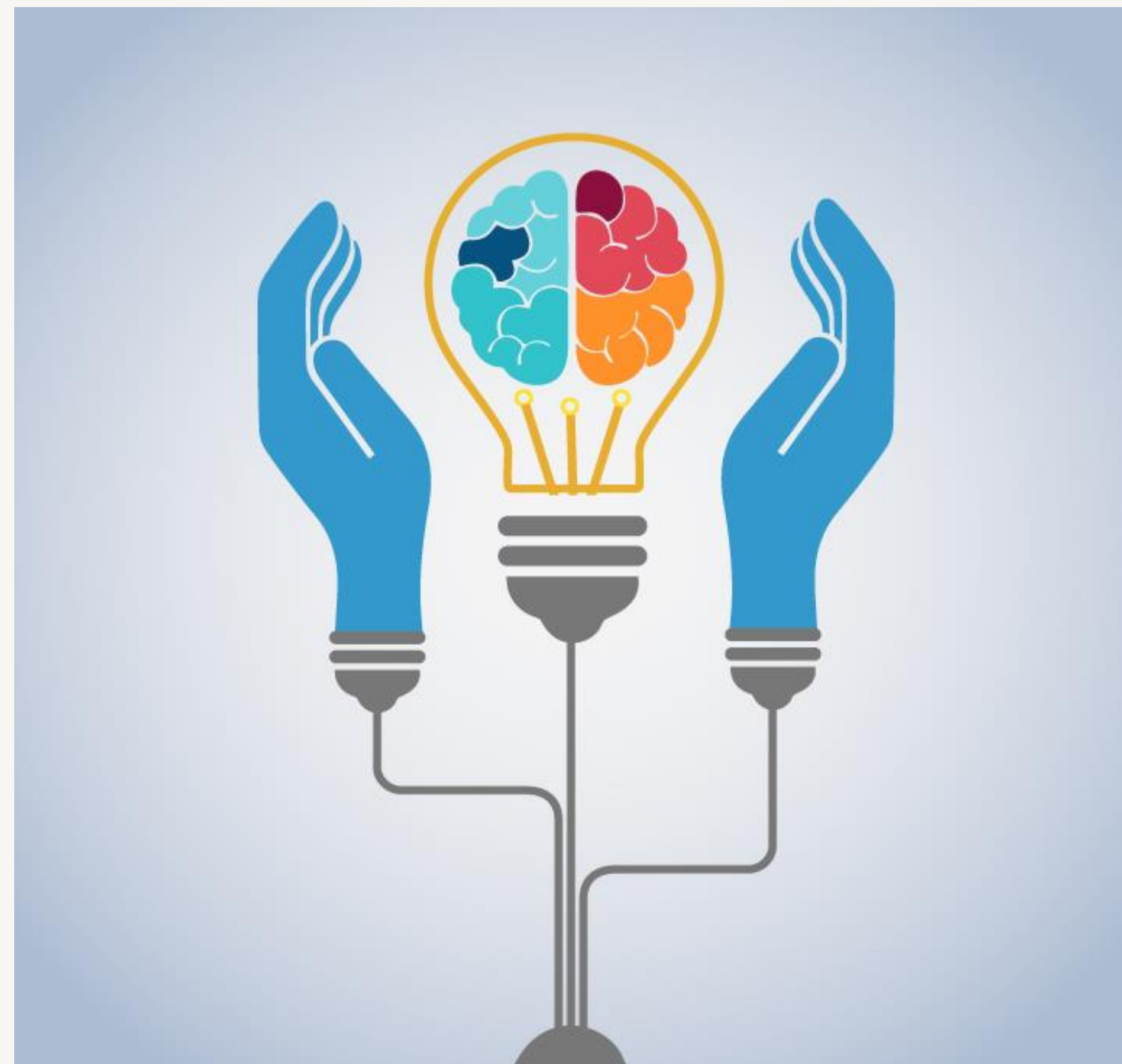
European Digital Innovation Hub

EDIHs' general legal framework

Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240.

Grant Agreement (GA): agreement concluded between the European Commission and the beneficiaries which includes relevant provisions for the implementation of the project (e.g., scope, duration, budget, EU contribution, rights and obligations, etc.).

Consortium Agreement (CA): it specifies the rights and obligations of the project partners, including internal organization and decision-making, financial issues, etc.



European Digital Innovation Hub

Legal definition

“A **legal entity** selected (...) to fulfil the tasks under the [Digital Europe] Programme, in particular by directly providing, or ensuring access to, technological expertise and experimentation facilities, such as equipment and software tools to enable the digital transformation of industry, as well as by facilitating access to finance and it is open to businesses of all forms and sizes, in particular to SMEs, mid-caps and scale-up companies, and to public administrations across the Union”.

Source: Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240.

I

(Legislative acts)

REGULATIONS

**REGULATION (EU) 2021/694 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 29 April 2021**

establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 and Article 173(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

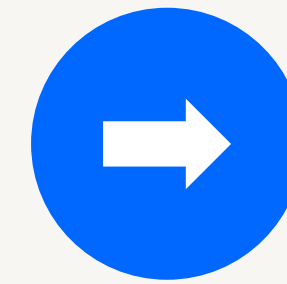
Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Legal aspects of cooperation

General overview



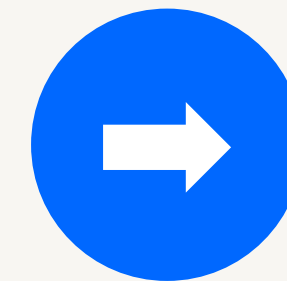
Intellectual Property Rights (IPRs),
Know-How and Distinctive signs



Data protection



Confidentiality



Liability of the parties



Non-compete



Applicable law and jurisdiction

Intellectual Property Rights (IPRs)

Definition and categories

Intellectual Property Rights are private legal rights that protect the creation of the human mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

IPRs are usually divided into two categories:

- Industrial Property Rights; and
- Copyright and Related rights.

IPRs shall not include Know-How or Distinctive Signs.

Source: European Commission's IP Helpdesk.



Intellectual Property Rights (IPRs)

Industrial Property Rights

- **Patents:** granted for inventions, which are products or processes, provided that they are new, involve an inventive step and are capable of industrial application.
- **Trade marks:** any signs (e.g., words, personal names, designs, letter, numerals, colours, the shape of goods or their packaging, sounds) provided that such signs are capable of distinguishing the goods or services of one organisation from those of other organisation.
- **Industrial designs:** they protect the appearance of products, in particular resulting from its lines, contours, colours, shape and materials.
- **Geographical indications:** it is a sign identifying products having a specific geographical origin and whose qualities and/or reputation are attributable to that origin.
- **Utility model:** it protects technical solutions such as an invention, with a lower level of inventiveness required than for a patent.

Source: European Commission's IP Helpdesk.

Intellectual Property Rights (IPRs)

Copyright and Related rights

- **Copyright** is the legal right granted to an author, composer, playwright, publisher or distributor to the exclusive publication, production, sale, or distribution of a literary, musical, dramatic, or artistic work.
- **Related Rights** (or neighbouring rights) are rights related to the protection of works of authorship under copyright, but are not granted to the author.

Source: European Commission's IP Helpdesk.

Know-How and Distinctive Signs

Definitions

- **Know-how** means a package of non-patented practical information of a technical, commercial, administrative, financial or other nature, resulting from experience and testing, which is secret, substantial and identifiable.
- **Distinctive signs** means trademarks, trade names, company names, logos, domains and any other distinctive sign, and all registrations thereof and applications therefor, registered or used by a Party, or its Clients.

Source: European Commission's IP Helpdesk.

Confidentiality

Definitions

Confidential information is information of a confidential nature that may include information of a personal, scientific, industrial, business, or commercial nature, that is not available to the public.

Confidentiality agreement also known as non-disclosure agreement (NDA), refers to the written agreement that parties use when they wish to disclose information and ideas in confidence.

Source: European Commission's IP Helpdesk.



Non-compete

Definition

A **non-compete obligation** is a contractual promise by one party to refrain from conducting activities that could potentially harm the other party.

They are usually use to prohibit an employee from moving to competitor firms for a specific period of time after the employment has ended.

In the context of cooperation, the Parties expressly acknowledge that each Party has a legitimate interest in ensuring that the cooperation does not result in a harm to its ordinary business with its Client(s).



Data protection

General Data Protection Regulation

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

‘Personal data’ means any information relating to an identified or identifiable natural person (‘data subject’).

Personal data will be **processed** in accordance with the applicable legal framework.



Liability of the parties

General description

Actions and/or omissions of the parties may have negative consequences, so possible guarantees, indemnities and penalties should be established.

The liability does not extend to indirect or consequential losses or similar damage (such as loss of profit, loss of revenue or loss of contracts), provided such damage was not caused by **willful act, by gross negligence or by a breach of confidentiality.**



Applicable law and jurisdiction

General description

EDIHs shall seek to settle their disputes **amicably**.

However, what are the different options if disputes are not solved amicably?

- Mediation.
 - Arbitration.
 - Court Litigation.
-



Main legal aspects by Collaboration Scenario

Possible Collaboration Scenarios

Description

- A. Develop a new service: when an EDIH decides to develop a new service to respond to the ecosystem needs and wishes to leverage skills and capabilities available within the network to design the service together.
- B. Deliver a service in partnership: when an EDIH deliver services in collaboration with other EDIHs with complementary competences.
- C. Matchmaking: when an EDIH needs to support a user in identifying potential partners in another ecosystem.



Development of a new service

Main legal aspects

Some of the most important legal aspects to be covered in a cooperation agreement for the development of a new service are:

- IP protection;
 - Data protection;
 - Liabilities of the parties.
-



Delivering a service in partnership

Main legal aspects

The most important legal aspects to be covered in a cooperation agreement for the delivery of a service in partnership are:

- IP protection;
 - Non-compete clause;
 - Liabilities of the parties.
-



Matchmaking

Main legal aspects

The most important legal aspects to be covered in a cooperation agreement for matchmaking are:

- Non-compete clause;
 - Data protection.
-



The Cooperation Agreement: an introduction

A Cooperation Agreement

Definition

A Cooperation Agreement will define the legal basis for working with our partners.

The Cooperation Agreement will differ on a case-by-case basis and can vary depending on the cooperation scenario.

By entering into the Agreement, the Parties undertake to cooperate, in spirit of good faith, and to move forward together in order to foster their cooperation.



Cooperation at EU level

Models at EU level

European projects executed in cooperation are a crucial element in promoting innovation, competitiveness, and sustainable growth across the continent.

To facilitate cooperation between different organizations throughout Europe, there are several models of collaboration agreements, especially in projects financed through European programmes such as Horizon Europe or the Digital Europe Programme.

The different models seek to balance the interests of all participants.



Q&A

Please write questions in chat.

Legal aspects of Collaboration

Q&A Session

Additional Questions from the chat

Thank you!

Get in touch:
support@EDIHnetwork.eu

Twitter: EDIH_net

LinkedIn: EDIH-net