

Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC (Text with EEA relevance)

## CHAPTER II

### AUTHORISATION PROCEDURE FOR A CLINICAL TRIAL

#### *Article 4*

##### **Prior authorisation**

A clinical trial shall be subject to scientific and ethical review and shall be authorised in accordance with this Regulation.

The ethical review shall be performed by an ethics committee in accordance with the law of the Member State concerned. The review by the ethics committee may encompass aspects addressed in Part I of the assessment report for the authorisation of a clinical trial as referred to in Article 6 and in Part II of that assessment report as referred to in Article 7 as appropriate for each Member State concerned.

Member States shall ensure that the timelines and procedures for the review by the ethics committees are compatible with the timelines and procedures set out in this Regulation for the assessment of the application for authorisation of a clinical trial.

#### *Article 5*

##### **Submission of an application**

1 In order to obtain an authorisation, the sponsor shall submit an application dossier to the intended Member States concerned through the portal referred to in Article 80 (the 'EU portal').

The sponsor shall propose one of the Member States concerned as reporting Member State.

If a Member State concerned other than the proposed reporting Member State is willing to be the reporting Member State or where the proposed reporting Member State does not wish to be the reporting Member State, this shall be notified through the EU portal to all Member States concerned not later than three days after the application dossier is submitted.

If only one Member State concerned is willing to be the reporting Member State or if the clinical trial involves only one Member State, that Member State shall be the reporting Member State.

If there is no Member State concerned willing to be the reporting Member State or if there is more than one Member State concerned willing to be the reporting Member State, the reporting Member State shall be selected by agreement among the Member States concerned taking into account the recommendations referred to in point (c) of Article 85(2).

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If there is no agreement among the Member States concerned, the proposed reporting Member State shall be the reporting Member State.

The reporting Member State shall notify the sponsor and the other Member States concerned that it is the reporting Member State, through the EU portal, within six days from the submission of the application dossier.

2 The sponsor shall, when applying for a low-intervention clinical trial, where the investigational medicinal product is not used in accordance with the terms of the marketing authorisation but the use of that product is evidence-based and supported by published scientific evidence on the safety and efficacy of that product, propose one of the Member States concerned where the use is evidence-based, as reporting Member State.

3 Within 10 days from the submission of the application dossier, the reporting Member State shall validate the application taking into account considerations expressed by the other Member States concerned and notify the sponsor, through the EU portal, of the following:

- a whether the clinical trial applied for falls within the scope of this Regulation;
- b whether the application dossier is complete in accordance with Annex I;

Member States concerned may communicate to the reporting Member State any considerations relevant to the validation of the application within seven days from the submission of the application dossier.

4 Where the reporting Member State has not notified the sponsor within the period referred to in the first subparagraph of paragraph 3, the clinical trial applied for shall be deemed to fall within the scope of this Regulation and the application dossier shall be considered complete.

5 Where the reporting Member State, taking into account considerations expressed by the other Member States concerned, finds that the application dossier is not complete, or that the clinical trial applied for does not fall within the scope of this Regulation, it shall inform the sponsor thereof through the EU portal and shall set a maximum of 10 days for the sponsor to comment on the application or to complete the application dossier through the EU portal.

Within five days from receipt of the comments or the completed application dossier, the reporting Member State shall notify the sponsor as to whether or not the application complies with the requirements set out in points (a) and (b) of the first subparagraph of paragraph 3.

Where the reporting Member State has not notified the sponsor within the period referred to in the second subparagraph, the clinical trial applied for shall be deemed to fall within the scope of this Regulation and the application dossier shall be considered complete.

Where the sponsor has not provided comments or completed the application dossier within the period referred to in the first subparagraph, the application shall be deemed to have lapsed in all Member States concerned.

6 For the purposes of this Chapter, the date on which the sponsor is notified in accordance with paragraph 3 or 5 shall be the validation date of the application. Where the sponsor is not notified, the validation date shall be the last day of the respective periods referred to in paragraphs 3 and 5.

## Article 6

### Assessment report — Aspects covered by Part I

- 1 The reporting Member State shall assess the application with regard to the following aspects:
  - a Whether the clinical trial is a low-intervention clinical trial, where claimed by the sponsor;
  - b Compliance with Chapter V with respect to the following:
    - (i) The anticipated therapeutic and public health benefits taking account of all of the following:
      - the characteristics of and knowledge about the investigational medicinal products;
      - the relevance of the clinical trial, including whether the groups of subjects participating in the clinical trial represent the population to be treated, or if not, the explanation and justification provided in accordance with point (y) of paragraph 17 of Annex I to this Regulation; the current state of scientific knowledge; whether the clinical trial has been recommended or imposed by regulatory authorities in charge of the assessment and authorisation of the placing on the market of medicinal products; and, where applicable, any opinion formulated by the Paediatric Committee on a paediatric investigation plan in accordance with Regulation (EC) No 1901/2006 of the European Parliament and of the Council<sup>(1)</sup>;
      - the reliability and robustness of the data generated in the clinical trial, taking account of statistical approaches, design of the clinical trial and methodology, including sample size and randomisation, comparator and endpoints;
    - (ii) The risks and inconveniences for the subject, taking account of all of the following:
      - the characteristics of and knowledge about the investigational medicinal products and the auxiliary medicinal products;
      - the characteristics of the intervention compared to normal clinical practice;
      - the safety measures, including provisions for risk minimisation measures, monitoring, safety reporting, and the safety plan;
      - the risk to subject health posed by the medical condition for which the investigational medicinal product is being investigated;
  - c Compliance with the requirements concerning the manufacturing and import of investigational medicinal products and auxiliary medicinal products set out in Chapter IX;
  - d Compliance with the labelling requirements set out in Chapter X;
  - e The completeness and adequateness of the investigator's brochure.
- 2 The reporting Member State shall draw up an assessment report. The assessment of the aspects referred to in paragraph 1 shall constitute Part I of the assessment report.
- 3 The assessment report shall contain one of the following conclusions concerning the aspects addressed in Part I of the assessment report:

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- a the conduct of the clinical trial is acceptable in view of the requirements set out in this Regulation;
- b the conduct of the clinical trial is acceptable in view of the requirements set out in this Regulation, but subject to compliance with specific conditions which shall be specifically listed in that conclusion; or
- c the conduct of the clinical trial is not acceptable in view of the requirements set out in this Regulation.

4 The reporting Member State shall submit, through the EU portal, the final Part I of the assessment report, including its conclusion, to the sponsor and to the other Member States concerned within 45 days from the validation date.

5 For clinical trials involving more than one Member State, the assessment process shall include three phases:

- a an initial assessment phase performed by the reporting Member State within 26 days from the validation date;
- b a coordinated review phase performed within 12 days from the end of the initial assessment phase involving all Member States concerned;
- c a consolidation phase performed by the reporting Member State within seven days from the end of coordinated review phase.

During the initial assessment phase, the reporting Member State shall develop a draft Part I of the assessment report and circulate it to all other Member States concerned.

During the coordinated review phase, all Member States concerned shall jointly review the application based on the draft Part I of the assessment report and shall share any considerations relevant to the application.

During the consolidation phase, the reporting Member State shall take due account of the considerations of the other Member States concerned when finalising Part I of the assessment report and shall record how all such considerations have been dealt with. The reporting Member State shall submit the final Part I of the assessment report to the sponsor and all other Member States concerned within the period referred to in paragraph 4.

6 For the purposes of this Chapter, the date on which the final Part I of the assessment report is submitted by the reporting Member State to the sponsor and to the other Member States concerned shall be the reporting date.

7 The reporting Member State may also extend the period referred to in paragraph 4 by a further 50 days for clinical trials involving an advanced therapy investigational medicinal products or a medicinal product as defined in point 1 of the Annex to Regulation (EC) No 726/2004, for the purpose of consulting with experts. In such case, the periods referred to in paragraphs 5 and 8 of this Article shall apply *mutatis mutandis*.

8 Between the validation date and the reporting date, only the reporting Member State may request additional information from the sponsor, taking into account the considerations referred to in paragraph 5.

For the purpose of obtaining and reviewing this additional information from the sponsor in accordance with the third and fourth subparagraph, the reporting Member State may extend the period referred to in paragraph 4 by a maximum of 31 days.

The sponsor shall submit the requested additional information within the period set by the reporting Member State which shall not exceed 12 days from the receipt of the request.

Upon receipt of the additional information, the Member States concerned shall jointly review any additional information provided by the sponsor together with the original application and shall share any considerations relevant to the application. The coordinated review shall be performed within a maximum of 12 days of the receipt of the additional information and the further consolidation shall be performed within a maximum of seven days of the end of coordinated review. When finalising Part I of the assessment report, the reporting Member State shall take due account of the considerations of the Member States concerned and shall record how all such considerations have been dealt with.

Where the sponsor does not provide additional information within the period set by the reporting Member State in accordance with the third subparagraph, the application shall be deemed to have lapsed in all Member States concerned.

The request for additional information and the additional information shall be submitted through the EU portal.

#### *Article 7*

#### **Assessment report — Aspects covered by Part II**

1 Each Member State concerned shall assess, for its own territory, the application with respect to the following aspects:

- a compliance with the requirements for informed consent as set out in Chapter V;
- b compliance of the arrangements for rewarding or compensating subjects with the requirements set out in Chapter V and investigators;
- c compliance of the arrangements for recruitment of subjects with the requirements set out in Chapter V;
- d compliance with Directive 95/46/EC;
- e compliance with Article 49;
- f compliance with Article 50;
- g compliance with Article 76;
- h compliance with the applicable rules for the collection, storage and future use of biological samples of the subject.

The assessment of the aspects referred to in the first subparagraph shall constitute Part II of the assessment report.

2 Each Member State concerned shall complete its assessment within 45 days from the validation date and submit, through the EU portal, Part II of the assessment report, including its conclusion, to the sponsor.

Each Member State concerned may request, with justified reasons, additional information from the sponsor regarding the aspects referred to in paragraph 1 only within the period referred to in the first subparagraph.

3 For the purpose of obtaining and reviewing the additional information referred to in the second subparagraph of paragraph 2 from the sponsor in accordance with the second and

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third subparagraph, the Member State concerned may extend the period referred to in the first subparagraph of paragraph 2 by a maximum of 31 days.

The sponsor shall submit the requested additional information within the period set by the Member State concerned which shall not exceed 12 days from the receipt of the request.

Upon receipt of the additional information, the Member State concerned shall complete its assessment within a maximum of 19 days.

Where the sponsor does not provide additional information within the period set by the Member State concerned in accordance with the second subparagraph, the application shall be deemed to have lapsed in that Member State concerned.

The request for additional information and the additional information shall be submitted through the EU portal.

#### *Article 8*

#### **Decision on the clinical trial**

1 Each Member State concerned shall notify the sponsor through the EU portal as to whether the clinical trial is authorised, whether it is authorised subject to conditions, or whether authorisation is refused.

Notification shall be done by way of one single decision within five days from the reporting date or from the last day of the assessment referred to in Article 7, whichever is later.

An authorisation of a clinical trial subject to conditions is restricted to conditions which by their nature cannot be fulfilled at the time of that authorisation.

2 Where the conclusion of the reporting Member State as regards Part I of the assessment report is that the conduct of the clinical trial is acceptable or acceptable subject to compliance with specific conditions, that conclusion shall be deemed to be the conclusion of the Member State concerned.

Notwithstanding the first subparagraph, a Member State concerned may disagree with the conclusion of the reporting Member State as regards Part I of the assessment report only on the following grounds:

- a when it considers that participation in the clinical trial would lead to a subject receiving an inferior treatment than in normal clinical practice in the Member State concerned;
- b infringement of its national law as referred to in Article 90;
- c considerations as regards subject safety and data reliability and robustness submitted under paragraph 5 or 8 of Article 6.

Where a Member State concerned disagrees with the conclusion on the basis of the second subparagraph, it shall communicate its disagreement, together with a detailed justification, through the EU portal, to the Commission, to all Member States, and to the sponsor.

3 Where, regarding the aspects covered by Part I of the assessment report, the clinical trial is acceptable or acceptable subject to compliance with specific conditions, the Member State concerned shall include in its decision its conclusion on Part II of the assessment report.

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4 A Member State concerned shall refuse to authorise a clinical trial if it disagrees with the conclusion of the reporting Member State as regards Part I of the assessment report on any of the grounds referred to in the second subparagraph of paragraph 2, or if it finds, on duly justified grounds, that the aspects addressed in Part II of the assessment report are not complied with, or where an ethics committee has issued a negative opinion which in accordance with the law of the Member State concerned is valid for that entire Member State. That Member State shall provide for an appeal procedure in respect of such refusal.

5 Where the conclusion of the reporting Member State as regards Part I of the assessment report is that the clinical trial is not acceptable, that conclusion shall be deemed to be the conclusion of all Member States concerned.

6 Where the Member State concerned has not notified the sponsor of its decision within the relevant periods referred to in paragraph 1, the conclusion on Part I of the assessment report shall be deemed to be the decision of the Member State concerned on the application for authorisation of the clinical trial.

7 The Member States concerned shall not request additional information regarding the aspects addressed in Part I of the assessment report from the sponsor after the reporting date.

8 For the purposes of this Chapter, the notification date shall be the date on which the decision referred to in paragraph 1 is notified to the sponsor. Where the sponsor has not been notified in accordance with paragraph 1, the notification date shall be deemed to be the last day of the period provided for in paragraph 1.

9 If no subject has been included in the clinical trial in a Member State concerned within two years from the notification date of the authorisation, the authorisation shall expire in that Member State concerned unless an extension, on request of the sponsor, has been approved following the procedure set out in Chapter III.

### *Article 9*

#### **Persons assessing the application**

1 Member States shall ensure that the persons validating and assessing the application do not have conflicts of interest, are independent of the sponsor, of the clinical trial site and the investigators involved and of persons financing the clinical trial, as well as free of any other undue influence.

In order to guarantee independence and transparency, the Member States shall ensure that persons admitting and assessing the application as regards the aspects addressed in Parts I and II of the assessment report have no financial or personal interests which could affect their impartiality. These persons shall make an annual declaration of their financial interests.

2 Member States shall ensure that the assessment is done jointly by a reasonable number of persons who collectively have the necessary qualifications and experience.

3 At least one layperson shall participate in the assessment.

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## Article 10

### **Specific considerations for vulnerable populations**

1 Where the subjects are minors, specific consideration shall be given to the assessment of the application for authorisation of a clinical trial on the basis of paediatric expertise or after taking advice on clinical, ethical and psychosocial problems in the field of paediatrics.

2 Where the subjects are incapacitated subjects, specific consideration shall be given to the assessment of the application for authorisation of a clinical trial on the basis of expertise in the relevant disease and the patient population concerned or after taking advice on clinical, ethical and psychosocial questions in the field of the relevant disease and the patient population concerned.

3 Where the subjects are pregnant or breastfeeding women, specific consideration shall be given to the assessment of the application for authorisation of a clinical trial on the basis of expertise in the relevant condition and the population represented by the subject concerned.

4 If according to the protocol a clinical trial provides for the participation of specific groups or subgroups of subjects, where appropriate, specific consideration shall be given to the assessment of the application for authorisation of that clinical trial on the basis of expertise in the population represented by the subjects concerned.

5 In any application for authorisation of a clinical trial referred to in Article 35, specific consideration shall be given to the circumstances of the conduct of the clinical trial.

## Article 11

### **Submission and assessment of applications limited to aspects covered by Part I or Part II of the assessment report**

Where the sponsor so requests, the application for authorisation of a clinical trial, its assessment and the conclusion shall be limited to the aspects covered by Part I of the assessment report.

After the notification of the conclusion on the aspects covered by Part I of the assessment report, the sponsor may within two years apply for an authorisation limited to aspects covered by Part II of the assessment report. In that application the sponsor shall declare that he is not aware of any new substantial scientific information that would change the validity of any item submitted in the application on the aspects covered by Part I of the assessment report. In this case, that application shall be assessed in accordance with Article 7 and the Member State concerned shall notify its decision on the clinical trial in accordance with Article 8. In those Member States where the sponsor does not apply for an authorisation limited to aspects covered by Part II of the assessment report within two years, the application on the aspects covered by Part I of the assessment report shall be deemed to have lapsed.



## Article 12

### Withdrawal

The sponsor may withdraw the application at any time until the reporting date. In such a case, the application may only be withdrawn with respect to all Member States concerned. The reasons for the withdrawal shall be communicated through the EU portal.

## Article 13

### Resubmission

This Chapter is without prejudice to the possibility for the sponsor to resubmit, following the refusal to grant an authorisation or the withdrawal of an application, an application for authorisation to any intended Member State concerned. That application shall be deemed to be a new application for authorisation of another clinical trial.

## Article 14

### Subsequent addition of a Member State concerned

1 Where the sponsor wishes to extend an authorised clinical trial to another Member State ('additional Member State concerned'), the sponsor shall submit an application dossier to that Member State through the EU portal.

The application dossier may be submitted only after the notification date of the initial authorisation decision.

2 The reporting Member State for the application dossier referred to in paragraph 1 shall be the reporting Member State for the initial authorisation procedure.

3 The additional Member State concerned shall notify the sponsor through the EU portal, within 52 days from the date of submission of the application dossier referred to in paragraph 1, by way of one single decision as to whether the clinical trial is authorised, whether it is authorised subject to conditions, or whether the authorisation is refused.

An authorisation of a clinical trial subject to conditions is restricted to conditions which by their nature cannot be fulfilled at the time of that authorisation.

4 Where the conclusion of the reporting Member State as regards Part I of the assessment report is that the conduct of the clinical trial is acceptable or acceptable subject to compliance with specific conditions, that conclusion shall be deemed to be the conclusion of the additional Member State concerned.

Notwithstanding the first subparagraph, an additional Member State concerned may disagree with the conclusion of the reporting Member State as regards Part I of the assessment report only on the following grounds:

- a when it considers that participation in the clinical trial would lead to a subject receiving an inferior treatment than in normal clinical practice in the Member State concerned;
- b infringement of its national law as referred to in Article 90;

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- c considerations as regards subject safety and data reliability and robustness submitted under paragraph 5 or 6.

Where an additional Member State concerned disagrees with the conclusion on the basis of the second subparagraph, it shall communicate its disagreement, together with a detailed justification, through the EU portal, to the Commission, to all Member States, and to the sponsor.

5 Between the date of submission of the application dossier referred to in paragraph 1 and five days before the expiry of the period referred to in paragraph 3, the additional Member State concerned may communicate to the reporting Member State and the other Member States concerned any considerations relevant to the application through the EU portal.

6 Between the date of submission of the application dossier referred to in paragraph 1 and the expiry of the period referred to in paragraph 3, only the reporting Member State may request additional information from the sponsor concerning the aspects addressed in Part I of the assessment report, taking into account the considerations referred to in paragraph 5.

For the purpose of obtaining and reviewing this additional information from the sponsor in accordance with the third and fourth subparagraphs, the reporting Member State may extend the period referred to in the first subparagraph of paragraph 3 by a maximum of 31 days.

The sponsor shall submit the requested additional information within the period set by the reporting Member State which shall not exceed 12 days from receipt of the request.

Upon receipt of the additional information, the additional Member State concerned together with all other Member States concerned shall jointly review any additional information provided by the sponsor together with the original application and shall share any considerations relevant to the application. The coordinated review shall be performed within a maximum of 12 days from the receipt of the additional information and the further consolidation shall be performed within a maximum of seven days from the end of the coordinated review. The reporting Member State shall take due account of the considerations of the Member States concerned and shall record how all such considerations have been dealt with.

Where the sponsor does not provide additional information within the period set by the reporting Member State in accordance with the third subparagraph, the application shall be deemed to have lapsed in the additional Member State concerned.

The request for additional information and the additional information shall be submitted through the EU portal.

7 The additional Member State concerned shall assess, for its territory, the aspects addressed in Part II of the assessment report within the period referred to in paragraph 3 and submit, through the EU portal, Part II of the assessment report, including its conclusion, to the sponsor. Within that period it may request, with justified reasons, additional information from the sponsor regarding aspects addressed in Part II of the assessment report as far as its territory is concerned.

8 For the purpose of obtaining and reviewing the additional information referred to in paragraph 7 from the sponsor in accordance with the second and third subparagraphs, the additional Member State concerned may extend the period referred to in paragraph 7 by a maximum of 31 days.

The sponsor shall submit the requested additional information within the period set by the additional Member State concerned which shall not exceed 12 days from receipt of the request.

Upon receipt of the additional information, the Member State concerned shall complete its assessment within a maximum of 19 days.

Where the sponsor does not provide additional information within the period set by the additional Member State concerned in accordance with the second subparagraph, the application shall be deemed to have lapsed in the additional Member State concerned.

The request for additional information and the additional information shall be submitted through the EU portal.

9 Where, regarding the aspects covered by Part I of the assessment report, the conduct of the clinical trial is acceptable or acceptable subject to compliance with specific conditions, the additional Member State concerned shall include in its decision its conclusion on Part II of the assessment report.

10 The additional Member State concerned shall refuse to authorise the clinical trial if it disagrees with the conclusion of the reporting Member State as regards Part I of the assessment report on any of the grounds referred to in second subparagraph of paragraph 4, or if it finds, on duly justified grounds, that the aspects addressed in Part II of the assessment report are not complied with, or where an ethics committee has issued a negative opinion which, in accordance with the law of the additional Member State concerned, is valid for that entire additional Member State. That additional Member State concerned shall provide for an appeal procedure in respect of such refusal.

11 Where the additional Member State concerned has not notified the sponsor of its decision within the period referred to in paragraph 3, or in case that period has been extended in accordance with paragraph 6 or 8 where that additional Member State concerned has not notified the sponsor of its decision within the extended period, the conclusion on Part I of the assessment report shall be deemed to be the decision of that additional Member State concerned on the application for authorisation of the clinical trial.

12 A sponsor shall not submit an application dossier in accordance with this Article where a procedure set out in Chapter III is pending as regards that clinical trial.

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- (1) Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 ([OJ L 378, 27.11.2006, p. 1](#)).

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