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## ► To cite this version:

Aurélie Mahalatchimy, Éloïse Gennet. The current revision of the orphan medicines regulation in the EU: what is at stake for gene and cell therapy?. European Society for Gene & Cell Therapy Congress 2022, Oct 2022, Edinburgh, United Kingdom. . halshs-03901429

**HAL Id: halshs-03901429**

<https://shs.hal.science/halshs-03901429v1>

Submitted on 15 Dec 2022

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# The current revision of the orphan medicines regulation in the EU: what is at stake for gene and cell therapy?

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**Acknowledgement:** This work has been supported by ANR-funded I-BioLex project (ANR-20-CE26-0007-01, coord. A. Mahalatchimy).

## REGULATORY CONTEXT

In the European Union, gene and cell therapy medicinal products are mainly regulated by the specific legal framework applicable to Advanced Therapy Medicinal Products (ATMPs) Regulation n°1394/2007; but also possibly by the Orphan Medicines (OMPs) Regulation n°141/2000.

OMPs  
Regulation  
141/2000

→ Most ATMPs so far  
are also OMPs (74%)  
→ Many OMPs used  
to be innovative

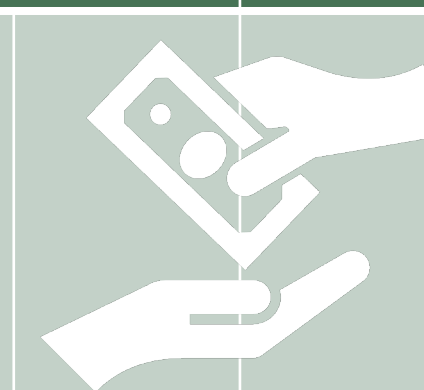
ATMPs  
Regulation  
1394/2007

## CURRENT INCENTIVES

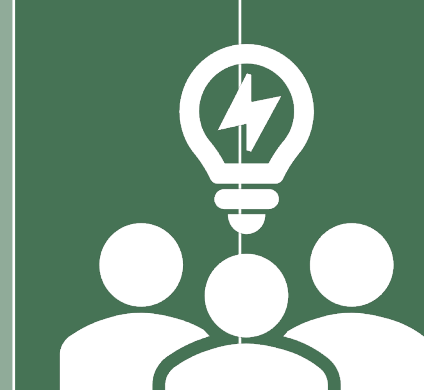
EU Law, especially Regulation 141/2000 and Regulation 1394/2007, aims to incentivize the development and marketing of OMPs and ATMPs to palliate acute scientific and financial difficulties that these medicines represent.

### Incentives for OMPs

Research funding for instance the E-RARE project, the European Joint Programme on Rare Diseases



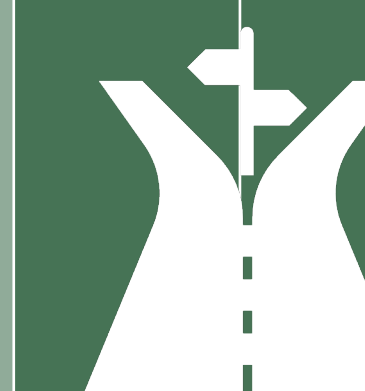
Free scientific assistance from the European Medicines Agency and its Committee on Orphan Medicinal Products (COMP)



Partially or totally reduced administrative fees for the marketing authorisation application process



Mandatory centralized procedure for marketing authorization, valid in all EU Member States



Ten-year commercial exclusivity



### Incentives for ATMPs (except hospital exemption)

Research funding for instance with the Joint undertaking on Innovative Medicines Initiative

Fee reduction on scientific assistance from the European Medicines Agency and its Committee on Advanced Therapies (CAT)

Partially reduced administrative fees for the marketing authorisation application process

Mandatory centralized procedure for marketing authorization, valid in all EU Member States

## CHALLENGES AND ACTION PLAN

After 20 years of OMPs Regulation's implementation, results remain unsatisfactory. **OMPs & ATMPs still fail in being equally accessible to patients in all Member States:** e.g. their price and reimbursement level may vary between countries, or they are not even commercialized in others. Plus, OMPs look increasingly similar to standard medicines rather than innovative medicines like ATMPs (personalised and genetic medicine allow to isolate sublevels of one same condition for product to be qualified as OMP and benefit from incentives).

**Fields of EU legislative action:**



## POTENTIAL REGULATORY EVOLUTIONS

The European Commission has issued reports and conducted several public consultations from which potential solutions have emerged in order to enhance the promotion of innovative/advanced therapy orphan medicinal products:

Modification of the current definition of OMPs (including such criteria as low occurrence and lack of available treatment) to include a supplementary criterion of innovativeness

Provide additional early scientific support and faster review for medicines for unmet medical needs

Support and incentives conditional to timely placing on the market after authorization has been obtained

Public listing of priority therapeutic areas of high unmet medical need to support product development by providing incentives

Introduce a new type of incentive such as a priority or expedited review from EMA and EC for products targeting unmet medical needs

Better coordination of internal procedures and decision-making timelines within EMA, especially between CAT and COMP

Introduce new types of incentives for unmet medical needs such as transferable/tradable vouchers extending IP/regulatory exclusivities of products on the market

Provide longer periods of data and market protection in areas of unmet medical need OR ON THE CONTRARY Reduce data and market protection periods to allow earlier patients access for generics and biosimilars

Require transparent reporting from companies about their R&D costs and public funding as a condition to obtain certain incentives

## Some proposed new incentives are challenging:

**Priority review:** already tight timelines pressuring regulators

**Tradable exclusivity vouchers:** hindered timely access to market for generics and biosimilars for the most expensive products; unfair for patients by delaying lower prices of more used medicines; increased healthcare systems expenditures; increased uncertainty and litigation regarding IP/regulatory exclusivities

## CONCLUSION

Nevertheless, the revision of OMP regulation has the potential to provide solutions to address unmet medical needs of rare disease patients and greatly enhance innovation, and as such to be beneficial for ATMPs development:

Focus on unmet medical needs that should be defined dynamically, ie taking into account the evolving scientific and medical context, in a multi-stakeholder setting;

Dedicated public funding and financial incentives to promote research on unmet medical needs and neglected illnesses, health conditions, and populations;

To introduce a corrective mechanism to prevent unaffordable prices or excessive return on investment: e. g. developer to justify the proposed price would be particularly relevant for high manufacturing costs of ATMPs.

The proposal for a new pharmaceutical legislation, including the revision of the OMP regulation, should be published by the European Commission **by the end of 2022**. The Council of the EU and the European Parliament will then try to reach an agreement and adopt a (usually amended) legislative act.

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