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Committee on Industry, Research and Energy

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PE 374.248v01-00

AMENDMENTS 228-427

Draft report

(PE 371.986v01-00)

Philippe Busquin

Proposal for a regulation of the European Parliament and of the Council laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013)

Proposal for a regulation (COM(2005)0705 – C6 0005/2006 – 2005/0277(COD))

Text proposed by the Commission

Amendments by Parliament

Amendment by Teresa Riera Madurell

Amendment 228

Article 16, paragraph 4 a (new)

4a. Proposals should take into account:
- the gender perspective for all of the proposed research;
- a gender balance between male and female participants, by taking appropriate measures to secure such a balance in the activities funded.

Or. es

Justification

Systematic attention to gender issues is needed to facilitate and ensure fulfilment of the equal opportunities for women laid down in the Lisbon Strategy.

Amendment by Etelka Barsi-Pataky

Amendment 229

Article 16, paragraph 4 a (new)

4a. The Commission shall publish the details not under confidentiality obligations of the supported projects on the official Internet site of the Seventh Framework Programme.

Or. en

Justification

Certain details of a projects granted from public money are public data (like the title of the project, the name of the coordinator and his/her contact details). Unfortunately just a few data can be found on the official website so it is not possible to find partners or just to see the projects going on in Europe. It would be indispensable for creating a European Research Area.

Amendment by Giles Chichester

Amendment 230

Article 16, paragraph 4 b (new)

4b. Participants shall be informed in writing of the evaluation result. In the case of indirect actions proposed by a consortium, the evaluation result and the information concerning the selection of the proposal may be communicated to the coordinator only.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 231

Article 16, paragraph 4 c (new)

4c. For those proposals selected, the Commission may agree, if necessary, with participants to modify the scientific, operational and financial aspects of the indirect action, within the limits of the work programme and the call for proposal, and taking into account the results of the evaluation of the proposal.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 232

Article 16, paragraph 4 d (new)

4d. Applying the verification procedure set out in Article 16a, the Commission shall ensure that participants have the operational and financial capacity needed to carry out the indirect action as and when needed.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 233

Article 16, paragraph 4 e (new)

4e. The Commission shall award grants for

***those proposals for which negotiations
have been successfully completed.
All other proposals shall be rejected.***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Starting in 2002, the Commission has introduced a series of measures to simplify the procedures leading to the award of a grant under the RTD framework programmes³⁴. In particular, by means of empowerment, the Commission, as a body, delegated the necessary decision-making powers to specific Members of the Commission, with further subdelegation to the Directors-General. For the Seventh Framework Programme, the Commission proposes a further simplification of the award procedure for grants, according to which a Commission decision would no longer be required (see Article 16(8)).

The Court considers, however, that grants should be awarded on the basis of Commission decisions since, according to the Financial Regulation³⁵, the use of the Commission decision procedure is a pre-condition for agreeing on negotiated flat rates for indirect costs, established according to the usual cost accounting practices of the participant, over and above the 7 % established by the Financial Regulation (see paragraphs 69 to 70).

³⁴ Special Report No 1/2004, paragraph 66.

³⁵ See Article 117 of the Financial Regulation (Article 181 of the Implementing Rules).

Amendment by Giles Chichester

Amendment 234

Article 16 a (new)

Article 16a

Verification of existence, legal status and operational and financial capacity of participants in indirect actions

The Commission shall be responsible for verifying the existence, the legal status and the operational and financial capacity of participants in indirect actions.

The verification shall be based on appropriate supporting documents provided by the participant, allowing its existence and legal status as well as its financial and operational capacity to be ascertained.

These documents must be up-dated periodically, or whenever requested by the Commission.

To avoid double verification, the

Commission shall certify a successful verification, which until further notice shall be considered as sufficient for all proposals submitted by the same participant.

For this purpose the Commission shall set up a single verification and certification system and shall adopt and publish specific rules.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Similarly, the Court agrees with the proposal that the Commission should establish more specific rules and procedures for the verification of the existence, legal status and operational and financial capacity of participants in the RTD framework programmes (see "whereas" (14) and Article 16a). When doing this, care should be taken that the request for documents and the related checks to be made are in proportion to the financial risk involved. Similarly, allowance must be made for the capacity of certain legal entities (such as public bodies or SMEs) to produce the requested information. The Court considers that such rules should be adopted by the Commission as a body to establish a common framework and to make them binding on all Commission services (and executive agencies) implementing the Seventh Framework Programme. However, in order to be fully in line with the Financial Regulation, provision must be made for the Commission to ascertain their existence and legal status, but also to verify participants' operational and financial capacity.

Almost all legal entities taking part in the RTD framework programmes participate in several indirect actions, often administered by different Commission services. As evidenced by the Court's audits, this often implies that the same information is requested over and over again. Therefore, the Court recommends that a centralised ex-ante verification system should be set up. Such a system should allow for verification to be carried out independently of the evaluation of proposals³². In the Court's view the following general principles should be applied:

- the verification should be based on appropriate supporting documents provided by the legal entity, allowing its existence and legal status as well as its financial and operational capacity to be verified;*
- these documents must be up-dated periodically, or whenever requested by the Commission³³, by the legal entity;*
- to avoid double verification, the Commission should certify a successful verification, such a certificate then being acknowledged as sufficient by all Commission services (and the executive agencies) implementing the Seventh Framework Programme for all proposals submitted by the same legal entity until further notice.*

By doing this, the Commission would establish a common framework contributing to a consistent and coherent approach to risk assessment by sub-delegated Authorising Officers, in accordance with Article 118 of the Financial Regulation (Article 182 of the Implementing Rules). In turn, this should have the effect of limiting the need for bank guarantees. In addition, the proposed modification will ensure a coherent approach within the Commission, avoiding unnecessary bureaucracy for participants in the RTD framework programme and speeding up the negotiation of selected proposals. The establishment of a central database as part of such a verification system would also be more effective in protecting the Communities' financial interest (see "whereas" (20) and Article 16a).

Therefore, the Court recommends specifying the obligation to set up integrated databases and a common computerised system in the "Rules for Participation" (see Article 17a). In this context, the Court welcomes the intention of the Commission to provide for electronic submission and a unique registration facility³⁸, as stated in the Explanatory Memorandum, and recommends that this provision should be included in the "Rules for Participation" (see Article 16 and Article 17a).

32 Special Report No. 1/2004, paragraphs 92 & 122.

33 Note that as a starting point, the Commission could establish a first set of supporting documentation using its archive of those documents requested from all legal entities which have participated under previous RTD framework programmes.

38 Special Report No 1/2004, paragraphs 92 & 122.

Amendment by Teresa Riera Madurell

Amendment 235

Article 17, paragraphs 1 and 2

1. The Commission shall appoint independent experts to assist with evaluations ***required under the Seventh Framework Programme, and its specific programmes.***

For coordination and support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

2. Independent experts shall be chosen considering the skills and knowledge appropriate to the tasks assigned to them.

Independent experts shall be identified and

1. ***When the Seventh Framework Programme and its specific programmes so require,*** the Commission shall appoint independent experts to assist with evaluations ***and control.***

For coordination and support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

2. Independent experts shall be chosen considering the skills and knowledge appropriate to the tasks assigned to them. ***In cases where independent experts have to deal with classified information, the relevant security accreditation shall be required for their appointment.***

Independent experts shall be identified and

selected on the basis of calls for applications from individuals and calls addressed to national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

selected on the basis of calls for applications from individuals and calls addressed to **relevant organisations such as** national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

Or. es

Justification

It would seem relevant to require security accreditation for independent experts.

Amendment by Giles Chichester

Amendment 236

Article 17, paragraph 1, subparagraph 1

1. The Commission shall appoint independent experts to assist with evaluations required under the Seventh Framework Programme, and its specific programmes.

1. The Commission shall appoint independent experts to assist with evaluations **of indirect actions and monitoring activities as** required under the Seventh Framework Programme, and its specific programmes.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 237

Article 17, paragraph 1, first indent

1. The Commission shall appoint independent experts to assist with evaluations **required** under the Seventh

1. The Commission shall appoint independent experts to assist with evaluations **of indirect actions** under the

Framework Programme, and its specific programmes.

Seventh Framework Programme, and its specific programmes ***and the current rules governing participation.***

Or. fr

Justification

The experts are appointed to supervise projects and monitor and assess the Framework Programme.

Amendment by Gunnar Hökmark

Amendment 238

Article 17, paragraph 1, subparagraph 1

1. The Commission shall appoint independent experts to assist with evaluations required under the Seventh Framework Programme, and its specific programmes.

1. ***Where required under the Seventh Framework Programme and its specific programmes,*** the Commission shall appoint independent experts to assist with evaluations ***and monitoring of indirect actions as*** required under the Seventh Framework Programme, and its specific programmes.

Or. en

Amendment by Giles Chichester

Amendment 239

Article 17, paragraph 1, subparagraph 2

For coordination and support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

deleted

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 240

Article 17, paragraph 1, subparagraph 2

For **coordination and** support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

For support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

Or. en

Justification

Under FP6, only support actions and experts could be selected without launching a call for proposals. There are no reasons to extend this possibility to co-ordination actions in particular if the co-ordination of national policy is to be strengthened through the ERA net scheme

Amendment by Anne Laperrouze

Amendment 241

Article 17, paragraph 2

2. Independent experts shall be chosen considering the skills and knowledge appropriate to the tasks assigned to them.

2. Independent experts shall be chosen considering the skills and knowledge appropriate to the tasks assigned to them. ***and, where appropriate, shall be authorised at the appropriate level to access information deemed to be European Union classified information by the Commission services.***

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to ***the Member States'*** national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

Justification

The experts should be authorised to access classified information and the lists of experts from research or industry should be supplemented by final users' representatives to assess whether the projects satisfy the requirements. Skills alone are insufficient and there will be classified proposals on the subject of security which will have to be assessed by persons authorised to do so.

Amendment by Gunnar Hökmark

Amendment 242

Article 17, paragraph 2

2. For ***coordination and support actions, referred to in Article 14, independent*** experts shall be appointed only if the Commission deems it appropriate.

Independent experts shall be chosen ***considering*** the skills and knowledge appropriate to the tasks assigned to them.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

2. For the evaluation and monitoring of ***investigator-driven "frontier research,*** experts shall be appointed ***by the Commission on the basis of a proposal by the Scientific Council of the European Research Council.***

Independent experts shall be chosen ***on the basis of*** the skills and knowledge appropriate to the tasks assigned to them.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to ***relevant organisations such as*** national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

Or. en

Amendment by Nikolaos Vakalis

Amendment 243

Article 17, paragraph 2, subparagraph 1

2. Independent experts shall be chosen considering the skills and knowledge appropriate to the tasks assigned to them.

2. Independent experts shall be chosen ***through a peer evaluation system*** considering the skills and knowledge appropriate to the tasks assigned to them.

Or. en

Justification

Assessment of previous Framework Programmes has shown a wide dissatisfaction with independent experts, who often have little scientific knowledge in the topic under evaluation. Their level of scientific qualification should be the foremost criterion of their selection. This can be obtained through a peer evaluation system.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 244

Article 17, paragraph 2, subparagraph 3

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists. ***The reasons for doing so shall be documented and on request published.***

Or. de

Justification

The Commission should be given the option of appointing experts who are not on the lists. But the reasons must be documented and available to the public on request.

Amendment by Nikolaos Vakalis

Amendment 245

Article 17, paragraph 2 a (new)

2a. For the evaluation of investigator-driven “frontier” research, independent experts shall be appointed by the Commission on the basis of a binding proposal by the Scientific Council of the European Research Council.

Or. en

Justification

Given the specificity of “frontier” research projects and of their funding, the Scientific Council of the ERC should bear responsibility for the nomination of experts to evaluate proposals. This should emphasise the ERC’s autonomy and integrity, and should distinguish ERC funding from those programmes of the FP7 directly managed by the Commission.

Amendment by Giles Chichester

Amendment 246

Article 17, paragraph 2 a (new)

2a. For the evaluation and the monitoring of investigator-driven “frontier” research, experts shall be appointed by the Commission on the basis of a proposal by the Scientific Council of the European Research Council.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Given the specificity of ERC funding, the Court recommends inserting a special clause in Article 17 concerning the nomination of experts to evaluate proposals for investigator-driven “frontier” research. In the Court's view, this should be the responsibility of the ERC's “Scientific Council”, or its competent subcommittees. Such a different approach would not only distinguish ERC funding from those parts of the framework programme managed directly by the Commission, but it would also clarify the responsibility of the “Scientific Council” in the selection of proposals (see also paragraph 17).

Amendment by Giles Chichester

Amendment 247

Article 17, paragraph 3

3. When appointing an independent expert, the Commission shall take all necessary steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

3. The Commission shall take appropriate measures to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 248

Article 17, paragraph 3

3. When appointing an independent expert, the Commission shall take ***all necessary*** steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

3. When appointing an independent expert, the Commission shall take ***reasonable*** steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

Or. en

Amendment by Giles Chichester

Amendment 249

Article 17, paragraph 3 a (new)

3a. The Commission shall adopt and publish rules governing the appointment and the use of independent experts.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Court agrees with the proposal that the Commission should establish more specific rules and procedures governing the different steps leading to the award of grants and the use of independent experts. To avoid unnecessary bureaucracy, these rules and procedures should adequately take into account the differences between individual funding mechanisms and types of indirect actions. Moreover, in the Court's view, such rules must be adopted by the Commission, as a body, to make them binding on all Commission services implementing the Seventh Framework Programme and published in the interests of transparency³⁰ (see "whereas" (13)).

Moreover, in contrast to the Commission proposal, the Court recommends that such rules should cover the negotiation phase, which takes place after selection of proposals on the

basis of a comparative assessment by independent experts and prior to the award of a grant³¹ (see Article 16 and Article 17(4a)). The rules should ensure that the scientific scope is not changed by the Commission during the negotiation, unless recommended by the evaluation outcome.

³⁰ See also Special Report No 1/2004, paragraphs 88, 92 & 128.

³¹ Note that the term "selection" refers to the Commission drawing up, on the basis of the evaluation results, a list of proposals that have passed the minimum thresholds of the evaluation (possibly with a reserve list in the event that some additional funding becomes available during the negotiation period) and the list of the proposals to be rejected (ineligible, those which have not attained the minimum thresholds of the evaluation, those which cannot be funded because of budget limits).

Amendment by Ján Hudacký

Amendment 250

Article 17, paragraph 3 a (new)

3a. A reasonable geographical balance should be maintained in the selection of experts in order to use the potential of all experts, including those from the new Member states.

Or. en

Amendment by Ján Hudacký

Amendment 251

Article 17, paragraph 3 b (new)

3b. Appropriate measures shall be taken to ensure the regular exchange rotation of experts, based on a rotating system.

Or. en

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 252

Article 17, paragraph 5

5. The Commission shall publish periodically in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

5. The Commission shall publish ***no later than by the beginning of the running period of the Seventh Framework Programme the names of all the experts***

capable of evaluating project proposals. This documentation may be inspected at any time. The Commission shall publish periodically, at least once a year, in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

Or. de

Justification

The procedure for appointing independent experts and its documentation should take place with the greatest possible transparency from the outset. Publication should occur at least once a year.

Amendment by Giles Chichester

Amendment 253
Article 17, paragraph 5

5. The Commission shall publish periodically in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

5. The Commission shall publish periodically in any appropriate medium the list **and the function** of the independent experts that have assisted it for each **framework programme and its** specific programmes.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Teresa Riera Madurell

Amendment 254
Article 17, paragraph 5

5. The Commission shall publish periodically in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

5. The Commission shall publish periodically in any appropriate medium the list of the independent experts that have assisted it for **the Seventh Framework Programme and** each specific programme.

Or. es

Justification

The list of experts must be published periodically. It must also include the experts that have assisted the Commission with the general as well as the specific programmes.

Amendment by Eluned Morgan

Amendment 255
Article 17, paragraph 5

5. The Commission shall publish ***periodically*** in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

5. The Commission shall publish ***annually*** in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

Or. en

Justification

The publication of an annual composite list of independent experts would help Programme Management Committee members to reassure the research community of the suitability of the experts selected by the Commission.

Amendment by Gunnar Hökmark

Amendment 256
Article 17, paragraph 5

5. The Commission shall publish ***periodically*** in any appropriate medium the list of the independent experts that have assisted it for each specific programme.

5. The Commission shall ***regularly*** publish in any appropriate medium the list of the independent experts that have assisted it ***the Framework Programme and*** for each specific programme.

Or. en

Amendment by Norbert Glante

Amendment 257
Article 17, paragraph 5 a (new)

5a. In the two-stage application procedure the results of Stage 1 must be taken into account in Stage 2. In the event of contradictions these must be explained. If a

rejected proposal is resubmitted, the results of the previous evaluation report must be taken into account. Substantial divergences must be clearly explained.

Or. de

Justification

To avoid contradictory evaluation results in the two-stage procedure and when proposals are resubmitted, the results of the first evaluation must receive due attention in the second. In the event of contradictions between the evaluation reports these need to be explained in detail.

Amendment by Giles Chichester

Amendment 258
Article 17 a (new)

Article 17a

Databases and electronic exchange of data

The Commission shall take appropriate measures to ensure that data relating to all the indirect actions funded under the Seventh Framework Programme are recorded and processed in integrated databases and a common computerised system.

The Commission shall encourage the electronic exchange of data for all aspects regarding the management of proposals and grants.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

In the Explanatory Memorandum of the "Rules for Participation", the Commission proposes a number of additional measures, such as the introduction of remote evaluation, electronic submission of proposals and the establishment of a unique registration system and helpdesks at the Commission and the National Contact Points (NCPs) to ensure a more efficient administration of the Seventh Framework Programme. However, in the Commission proposal these measures are not specified. Unless they are referred to in the legal base, there is no guarantee that they will be implemented (see amendments proposed by the Court to Article 15(1b), Article 16(3a) and Article 17a).

In the Court's view, the Commission's IT systems should permit computerised transaction

processing at every stage of the procedure³⁶. Despite its longstanding commitment to implementing such a system, the Commission has consistently failed to do so³⁷. Therefore, the Court recommends specifying the obligation to set up integrated databases and a common computerised system in the "Rules for Participation" (see Article 17a). In this context, the Court welcomes the intention of the Commission to provide for electronic submission and a unique registration facility³⁸, as stated in the Explanatory Memorandum, and recommends that this provision should be included in the "Rules for Participation" (see Article 16 and Article 17a).

³⁶ These stages include in particular: electronic proposal submission, identification and selection of experts, proposal evaluation and selection, negotiation of proposals, the award and management of grants, the receipt of project deliverables (such as reports and financial statements) and communication with participants.

³⁷ Special Report No 1/2004, paragraphs 86 & 138; Court's Annual Report concerning the financial year 2004, paragraph 6.10.

³⁸ Special Report No 1/2004, paragraphs 92 & 122.

Amendment by Giles Chichester

Amendment 259
Subsection 3, title

IMPLEMENTATION AND GRANT
AGREEMENTS

IMPLEMENTATION *OF INDIRECT*
ACTIONS AND GRANT AGREEMENTS

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 260
Article 18, title

General

***Provisions regarding the implementation of
grant agreements***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 261
Article 18, paragraph 1

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. **Participants** in the same indirect action shall implement **the** work **jointly and severally towards the Community**.

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. **Each participant** in the same indirect action shall **be required to** implement **their** work **in accordance with a jointly established working programme**.

Or. de

Justification

The participants should not be subject to the principle of joint and several liability. So the Commission proposal needs correcting.

Amendment by Lambert van Nistelrooij and Jorgo Chatzimarkakis

Amendment 262
Article 18, paragraph 1

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community.

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community. **However, in no event shall any participant be liable towards the Community for any repayment of the Community's financial contribution paid to another participant or for any costs, expenses or damage incurred by the Community as a consequence of another participant's non-performance of its obligations.**

Or. en

Justification

Because of the joint and several liability of participants for implementation of the work, there still is concern among some potential industrial participants that this might lead to collective financial responsibility. To avoid that such participants abstain from participation in FP7 projects because of this lack of clarity (as occurred in FP6), it should be clarified here that

joint and several liability for implementation of the work will not lead to joint and several financial liability.

Amendment by Ivo Belet

Amendment 263

Article 18, paragraph 1

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community.

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community. ***This can not imply collective financial responsibility between the participants.***

Or. en

Amendment by Gunnar Hökmark

Amendment 264

Article 18, paragraph 1

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community.

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community. ***However, participants shall not be liable towards the Community for any repayment of the Community's financial contribution paid to another participant or for any costs, expenses or damage incurred by the Community as a consequence of another participant's non-performance of its obligations, except where it is obvious that there is a joint responsibility for the misuse of funds.***

Or. en

characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.

characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.

To ensure that implementation of the principles and provisions of the rules on participation and rules derived from them is consistent and fair, participants may apply to the Ombudsman's Office.

Or. es

Justification

It is essential to have a neutral referee to settle disputes. The Ombudsman's profile is ideal for arbitration of this kind.

Amendment by Lambert van Nistelrooij and Jorgo Chatzimarkakis

Amendment 268
Article 18, paragraph 4

4. Where a participant fails to comply with its obligations, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation.

4. Where a participant fails to comply with its obligations ***regarding the implementation of the indirect action***, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation. ***The last sentence of paragraph 1 of this article 18 shall apply accordingly.***

Or. en

Justification

Because of the joint and several liability of participants for implementation of the work, there is still concern among some potential industrial participants that this might lead to collective financial responsibility. To avoid that such participants abstain from participation in FP7 projects because of this lack of clarity (as occurred in FP6), it should be clarified here that joint and several liability for implementation of the work will not lead to joint and several financial liability.

Amendment by Gunnar Hökmark

Amendment 269
Article 18, paragraph 4

4. Where a participant fails to comply with its obligations, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation.

4. Where a participant fails to comply with its obligations **regarding the implementation of the indirect action**, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation. **The last sentence of paragraph 1 of this article 18 shall apply accordingly.**

Or. en

Amendment by Giles Chichester

Amendment 270 Article 18, paragraph 5

5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall ensure the termination of the action.

5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall ensure the termination of the action **in accordance with Article 21.**

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Court recommends clarifying the Commission's legal obligation to monitor indirect actions and programme implementation, also regarding previous RTD framework programmes (see also Article 7 of the "Decision")⁴³.

In the Court's view, the Commission's monitoring activity should explicitly provide for reviews (or hearings) as an alternative monitoring approach (see Articles 19(4) and 27(2)). Moreover, such reviews could be used when the possible termination of an action or of the participation of a specific legal entity has to be assessed (see Article 18(5)). As for the nomination of experts to evaluate proposals (see paragraph 40), the Court considers that the monitoring of investigator-driven "frontier" research funded within the framework of the ERC should be the responsibility of its "Scientific Council", or its competent subcommittees (see Article 27(6)).

⁴³ *Special Report No 1/2004, paragraph 62.*

Amendment by Teresa Riera Madurell

Amendment 271
Article 18, paragraph 5

5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall ensure the termination of the action.

5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall, ***having informed the Planning Committee in due time***, ensure the termination of the action.

Or. e

Justification

The Member States through the Planning Committees can in many cases help the Commission to solve these problems, so their involvement should be ensured.

Amendment by Pilar del Castillo Vera

Amendment 272
Article 18, paragraph 6 a (new)

6a. The legal entities participating in the indirect action may subcontract certain elements of the work to be carried out to third parties. Where the participants enter into subcontracts to carry out some parts of the tasks related to the indirect action, they remain bound by their obligations.

Or. en

Justification

There is a need to clarify the position of subcontractors to who would otherwise be disadvantaged under the current rules.

Amendment by Giles Chichester

Amendment 273
Article 19, title

General provisions for ***inclusion in*** grant agreements

General provisions for grant agreements

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 274

Article 19, paragraph 1

1. The grant agreement shall establish the rights and obligations of the participants with regard to the Community, in accordance with Decision [.../...], this Regulation, the Financial Regulation, and the Implementing Rules, and in accordance with the general principles of Community law. ***It shall also establish, in accordance with the same conditions, the rights and obligations of legal entities who become participants when the indirect action is ongoing.***

1. The grant agreement shall establish the rights and obligations of the participants with regard to the Community, in accordance with Decision [.../...], this Regulation, the Financial Regulation, and the Implementing Rules, and in accordance with the general principles of Community law. ***Subject to the terms and conditions of this Regulation and the grant agreement, the consortium agreement, if any, shall establish additional rights and obligations between the participants.***

Or. en

Amendment by Giles Chichester

Amendment 275

Article 19, paragraph 1

1. It shall also establish, in accordance with the same conditions, the rights and obligations of legal entities who become participants when the indirect action is ongoing. ***deleted***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 276
Article 19, paragraph 1 a (new)

1a. For each indirect action, with the exception of those referred to in Article 14, the Commission shall draw up, using the models referred to in Article 19(7) a grant agreement between the Community and the coordinator acting on behalf of the participants.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 277
Article 19, paragraph 2

2. Where appropriate, the grant agreement shall provide which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including scale of unit costs) or lump-sums.

2. The grant agreement shall specify the duration of the action, the scientific and technical work to be carried out, a budget of total estimated costs and the maximum Community financial contribution to the indirect action.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 278
Article 19, paragraph 2

2. Where appropriate, the grant agreement shall provide which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including

2. The grant agreement shall specify which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including scale of unit costs) or

scale of unit costs) or lump-sums.

lump-sums *in accordance with the conditions set up in the work programme and in the calls for proposals where appropriate.*

Or. en

Justification

The form of the Community financial contribution should be known in advance by all the proponents and should be identical for all projects under the same funding scheme within a given call. Its definition can not be left to the grants.

Amendment by Nikolaos Vakalis

Amendment 279

Article 19, paragraph 2

2. ***Where appropriate, the*** grant agreement shall ***provide*** which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including scale of unit costs) or lump-sums.

2. The grant agreement shall ***specify the essential elements of the indirect action (duration of the action, scientific and technical obligations, budget of estimated total costs).*** ***It shall specify*** which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including scale of unit costs) or lump-sums. ***It shall also specify conditions of flexibility in the use of the total budget without modification of the grant agreement.***

Or. en

Justification

A simplified and flexible governance structure for indirect actions implies that the grant agreement should only contain the rights and obligations of the participants with regard to the Community and the essential aspects of the action, leaving all other elements to be freely defined by the participants in the consortium agreement. Thus, it is important that the grant agreement authorise some flexibility in spending without prejudicing the total budget.

Amendment by Giles Chichester

Amendment 280

Article 19, paragraph 3

3. ***The grant agreement shall specify which*** ***deleted***

changes in the composition of the consortium are to require the prior publication of a competitive call.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 281
Article 19, paragraph 4

4. The grant agreement shall require the submission to the Commission of periodic progress reports concerning the implementation of the indirect action concerned.

4. The grant agreement shall require the submission to the Commission of periodic progress reports concerning the implementation of the indirect action concerned ***and, where appropriate, may also provide for reviews to assess the implementation of the indirect action concerned.***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Court recommends clarifying the Commission's legal obligation to monitor indirect actions and programme implementation, also regarding previous RTD framework programmes (see also Article 7 of the "Decision")⁴³. In the Court's view, the Commission's monitoring activity should explicitly provide for reviews (or hearings) as an alternative monitoring approach (see Articles 19(4) and 27(2)). Moreover, such reviews could be used when the possible termination of an action or of the participation of a specific legal entity has to be assessed (see Article 18(5)). As for the nomination of experts to evaluate proposals (see paragraph 40), the Court considers that the monitoring of investigator-driven "frontier" research funded within the framework of the ERC should be the responsibility of its "Scientific Council", or its competent subcommittees (see Article 27(6)).

⁴³Special Report No 1/2004, paragraph 62.

Amendment by Nikolaos Vakalis

Amendment 282
Article 19, paragraph 4

4. The grant agreement shall require the submission to the Commission of periodic progress reports concerning the implementation of the indirect action concerned.

4. The grant agreement shall require the submission to the Commission of ***up to two*** progress reports ***per year*** concerning the implementation of the indirect action concerned. ***Where appropriate, it may also provide for peer reviews or hearings to assess the implementation of the indirect action concerned.***

Or. en

Justification

Assessment of previous Framework Programmes has shown an average rhythm of four progress reports per year, which contributes significantly to the burdensome “red tape” deployed by many stakeholders. Two progress reports per year are enough to ensure adequate monitoring by the Commission. Alternative monitoring tools such as peer reviews or hearings should make Community grants less cumbersome and bureaucratic to administer than paper reports.

Amendment by Giles Chichester

Amendment 283
Article 19, paragraph 5

5. Where appropriate, the grant agreement may provide that the Commission is to be notified in advance of any intended transfer of ownership of foreground to a third party. ***deleted***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 284
Article 19, paragraph 7

7. The Commission shall establish ***a*** model grant ***agreement*** in accordance with this Regulation.

7. The Commission shall establish ***and adopt*** model grant ***agreements specific to each of the funding schemes identified in part (a) of Annex III to Decision [.../...]*** ***establishing the Seventh Framework***

Programme in accordance with this Regulation.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 285
Article 19, paragraph 7

7. The Commission shall establish a model grant agreement in accordance with this Regulation.

7. The Commission ***in cooperation with the Member States***, shall establish a model grant agreement in accordance with this Regulation. ***It shall adopt and publish it before the closing date for the first calls for proposals.***

Or. fr

Justification

It is imperative that the model agreement should be published by the Commission before the first calls for proposals under FP7. In addition, the Member States and associated countries should be involved in drawing up the model agreement.

Amendment by Teresa Riera Madurell

Amendment 286
Article 19, paragraph 7

7. The Commission shall establish a model grant agreement in accordance with this Regulation.

7. The Commission shall, ***in close cooperation with the Member States***, establish a model grant agreement in accordance with this Regulation. ***If necessary the Commission shall, in close cooperation with the Member States, revise that model grant agreement.***

Or. es

Justification

To strengthen control in grant agreements.

Amendment by Giles Chichester

Amendment 287
Article 19, paragraph 8

8. The model grant *agreement* shall reflect the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers ***It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socio-economic aspects of the research.***

8. The model grant *agreements* shall reflect the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 288
Article 19, paragraph 8

8. The model grant agreement shall reflect the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers. It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socio-economic aspects of the research.

8. The model grant agreement shall reflect the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, ***but shall not make participation in an indirect action dependent on a commitment to signing the Charter.*** It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socio-economic aspects of the research.

Justification

The ‘principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers’ are not binding on the Member States. Their application is voluntary. So their application in establishments or companies taking part in indirect actions should not be used as a condition for participation in EU research projects.

Amendment by Patrizia Toia

Amendment 289

Article 19, paragraph 8

8. The model grant agreement **shall reflect** the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers. It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socioeconomic aspects of the research.

8. The model grant agreement **should take into consideration** the **general** principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers. It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socioeconomic aspects of the research.

Or. en

Justification

The principles stated in the ‘European Charter for Researchers’ and in the “Code of Conduct for the Recruitment of Researchers’ are shared by public and private European Research. However they are more immediately applicable to academic research. Therefore they should remain a reference for the private research, but they should not be intended as compulsory or represent a constraint. This indeed could restrain the participation especially of small and medium size firms.

Amendment by Lambert van Nistelrooij, Gunnar Hökmark and Jorgo Chatzimarkakis

Amendment 290

Article 19, paragraph 8

8. The model grant agreement shall **reflect the principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of**

8. The model grant agreement shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and

Researchers. It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socio-economic aspects of the research.

research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socioeconomic aspects of the research.

Or. en

Justification

The Charter should not be made mandatory in the Rules for Participation. The principles laid down in the Charter are intended to apply to (academic) researchers, but may be not be suited to all other R&D staff of the different groups represented in the various indirect actions. Submission of proof of compliance will be a major administrative burden.

Amendment by Giles Chichester

Amendment 291

Article 19, paragraph 8 a (new)

8a. The model grant agreements shall provide for supervision and financial control by the Commission, or any representative authorised by the Commission, as well as +on-the-spot checks carried out by the European Anti-Fraud Office (OLAF), in accordance with the procedures laid down in Council Regulations No 2185/96, No 1073/99 and No 1074/99.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Furthermore, the Court recommends the insertion of references to Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests, to Regulation No 2185/1996 concerning on-the spot checks and inspections carried out by the Commission, and to Regulation No 1073/1999 and Regulation No 1074/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF). It should be noted that these Regulations apply to the Commission only (see “whereas” (15), “whereas” (16) and Article 19(8a)).

Amendment by Teresa Riera Madurell

Amendment 292
Article 19, paragraph 8 a (new)

8a. The model grant agreement shall take into account supervision and financial control by the Commission or by a representative authorised for the purpose, and by the Court of Auditors.

Or. es

Justification

To strengthen control in grant agreements.

Amendment by Teresa Riera Madurell

Amendment 293
Article 19, paragraph 8 b (new)

8b. The model grant agreement may establish time limits for the participants to provide the notifications referred to in this Regulation.

Or. es

Justification

To strengthen control in grant agreements.

Amendment by Eluned Morgan

Amendment 294
Article 20, title

Provisions concerning access rights, use and dissemination

Provisions concerning access rights, use and dissemination ***and knowledge exploitation***

Or. en

Justification

The title of Article 20 should be adapted to emphasise the importance of knowledge exploitation, innovation and the commercial use of research results.

Amendment by Teresa Riera Madurell

Amendment 295

Article 20

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

2. The grant agreement may specify the conditions under which the participants may object to a technological audit of the use and dissemination of the foreground being carried out by certain authorised representatives of the Commission.

1. The grant agreement shall establish the **rights and** respective obligations of the participants with regard to access rights, use and dissemination, in so far as those **rights and** obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission, **preferably for signing of the grant agreement**, to the Commission of a plan for the use and dissemination of foreground.

2. The grant agreement may specify the conditions under which the participants may object to a technological audit of the use and dissemination of the foreground being carried out by certain authorised representatives of the Commission, **in cases where the project results have a prospect of being applied. In such cases it must be specified in the text approved by agreement between the parties.**

Or. es

Justification

Anticipating, wherever possible, the plan for use and dissemination will improve implementation.

Amendment by Giles Chichester

Amendment 296

Article 20, paragraph 1

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation.

1. The grant agreement shall establish the respective **rights and** obligations of the participants with regard to access rights, use and dissemination, in so far as those **rights and** obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 297
Article 20, paragraph 1

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

1. The grant agreement shall establish the respective **rights and** obligations of the participants with regard to access rights, use and dissemination, in so far as those **rights and** obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

Or. en

Justification

A grant is a contract which has to specify rights and obligations.

Amendment by Eluned Morgan

Amendment 298
Article 20, paragraph 1

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation. **Each applicant shall submit a knowledge exploitation plan.**

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

Justification

It is important that knowledge exploitation, innovation and the commercial use of research results are further encouraged.

Amendment by Gunnar Hökmark

Amendment 299
Article 20, paragraph 1

1. The grant agreement shall establish the respective obligations of the participants with regard to access rights, use and dissemination, in so far as those obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

1. ***Subject to the terms and conditions of this Regulation*** the grant agreement shall establish the respective rights and obligations of the participants with regard to access rights, use and dissemination, in so far as those rights and obligations have not been laid down in this Regulation.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

Or. en

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 300
Article 21

The grant agreement shall specify the grounds for its termination, in whole or in part, in particular for non-compliance with this Regulation, non-performance or breach, as well as the consequences for participants of any non-compliance on ***the part of another participant***.

The grant agreement shall specify the grounds for its termination, in whole or in part, in particular for non-compliance with this Regulation, non-performance or breach, as well as the consequences for participants of any non-compliance on ***its part***.

Or. en

Justification

To avoid any suggestion that the grant agreement could re-introduce collective financial responsibility.

Amendment by Gunnar Hökmark

Amendment 301

Article 21

The grant agreement shall specify the grounds for its termination, in whole or in part, in particular for non-compliance with this Regulation, non-performance or breach, as well as the consequences for participants of any non-compliance on ***the part of another participant.***

The grant agreement shall specify the grounds for its termination, in whole or in part, in particular for non-compliance with this Regulation, non-performance or breach, as well as the consequences for participants of any non-compliance on ***its part.***

Or. en

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 302

Article 21 a (new)

Article 21a

The Commission may only impose sanctions on beneficiaries who have deliberately or as a result of gross negligence made false declarations or not provided the information required.

Or. de

Justification

The cases in which the Commission can impose sanctions should be confined to those in which the action has been grossly negligent or deliberate. Mere mistakes must not be to the detriment of the applicants.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 303

Article 21 b (new)

Article 21b

If beneficiaries breach their obligations as laid down in the legal provisions, the agreement on financial aid or the decision on granting financial aid, the specified aid may be postponed, cut or cancelled only after they have been given an opportunity

to state their position. Cuts must be proportionate to the censured shortcoming. In so far as the breach is not due to the beneficiaries' conduct the aid should be postponed, cut or cancelled only in exceptional cases, particularly where by providing or maintaining the financial aid the total amount of the project's eligible costs has been exceeded or as a result of the breach of obligation the purpose of the financial aid can no longer be attained.

Or. de

Justification

The amendment applies the principle of proportionality. Automatic curtailment of the EU contribution when one or more co-financiers drop out for reasons for which the recipient is not responsible can lead to the failure of the whole project. It is essential to prevent this.

Amendment by Saïd El Khadraoui

Amendment 304

Article 22, paragraph 3

3. *In the case of indirect actions in the field of security and space research, the* grant agreement may lay down specific provisions on confidentiality, classification of information, access rights, transfer of ownership of foreground and the use thereof.

3. *The* grant agreement may lay down specific provisions on confidentiality, classification of information, access rights, ***ownership and*** transfer of ownership of foreground and the use thereof, ***taking into account the specificity of certain technology domains and the structure of the markets in which foreground is to be developed and exploited. This clause will apply amongst others to the field of security and space research.***

Or. en

Justification

*It is not only in the field of security and space research that specific characteristics of the technology domain and the related markets have to be taken into account. Research in the field of pharmaceuticals or biotechnology will not lead to comparable foreground as research into software or information technology. E.g., if a new compound is discovered in the carrying out of a research project, this will be considered as foreground. If the rules on (co-)ownership and access rights of this proposed Regulation would apply *ne varietur*, this could have as a consequence that no industrial party would be interested to make the investments*

that are necessary for further development.

This amendment should make it possible for the Commission to draft specific clauses which would take these aspects into account and thus increase the likelihood of bringing foreground to the market.

Amendment by Teresa Riera Madurell

Amendment 305
Article 22, paragraph 3

3. In the case of indirect actions in the field of security and space **research**, the grant agreement may lay down specific provisions on confidentiality, classification of information, access rights, transfer of ownership of foreground and the use thereof.

3. In the case of indirect actions in the field of security and space, the grant agreement may, **where relevant**, lay down specific provisions **in particular on changes in the consortium's membership**, confidentiality, classification of information, **provision of information to the Member States, dissemination**, access rights, transfer of ownership of foreground and the use thereof, **without prejudice to the rights and competences of the planning committees and to the need to do so in a transparent way with regard to them.**

Or. es

Justification

Security research does not always require the implementation of extra precautionary measures. In any case the planning committees will need to retain the right of access to information on the project.

Amendment by Anne Laperrouze

Amendment 306
Article 22, paragraph 3

3. In the case of indirect actions in the field of security and space research, the grant agreement may lay down specific provisions on confidentiality, classification of information, access rights, transfer of ownership of foreground and the use thereof.

3. In the case of indirect actions in the field of security and space research, the grant agreement may lay down specific provisions on **the composition of and changes to the consortium and on** confidentiality, classification of information, access rights, transfer of ownership of foreground and the use thereof.

Or. fr

Justification

In the field of security, the rules of confidentiality, as well as those relating to access rights, transfers and exploitation of foreground, should be fully defined and set out in the grant agreement, particularly when partners having links with third countries and associated countries are involved in the consortia.

Amendment by Giles Chichester

Amendment 307
Article 22, paragraph 4 a (new)

4a. In the case of investigator-driven "frontier" research actions, the grant agreement may lay down specific provisions relating to dissemination.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Teresa Riera Madurell

Amendment 308
Article 22, paragraph 4 a (new)

4a. For some research actions the grant agreement may lay down special provisions for dissemination.

Or. es

Justification

Security research does not always require the implementation of extra precautionary measures. In any case the planning committees will need to retain the right of access to information on the project.

Amendment by Giles Chichester

Amendment 309
Article 23, title

Signature and accession

Signature and accession *in the case of
multi-partner indirect actions*

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 310
Article 23, paragraph 1

The grant agreement shall enter into force upon signature by the coordinator and the Commission.

1. The grant agreement shall enter into force upon signature by the coordinator, ***acting on behalf of the other participants***, and the Commission.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Philippe Busquin

Amendment 311
Article 23, paragraph 1 a (new)

Changes in the composition of the consortium shall be notified to the Commission in accordance with Article 26(4).

Or. fr

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 312
Article 23, paragraph 2

It shall apply to each participant that has formally acceded thereto.

It shall apply to each participant that has formally acceded thereto. ***The participant***

shall accordingly take on all the rights and obligations of a participant.

Or. de

Justification

The added phrase aims to make clear that every project participant has full and equal status as a contractual partner in relation to the Commission, even if the coordinator signs the contract with the Commission. The aim is to exclude the situation where participants find they are mentioned by name only in the consortium contract and the funding agreement appears to the outside observer in fact to be an agreement only between the Commission and the coordinator.

Amendment by Giles Chichester

Amendment 313
Article 23, paragraph 2

It shall apply to each participant that has formally acceded ***thereto***.

2. It shall apply to each participant that has formally acceded ***to the consortium agreement***.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 314
Article 23, paragraph 2 a (new)

2a. Changes in the composition of the consortium shall be subject to written approval by the Commission in accordance with Article 26(4).

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 315
Article 23 b (new)

Article 23b

The Commission shall encourage the submission of explanations and applications or the correction of explanations and applications if it is evident that these have been omitted or wrongly submitted only inadvertently or in ignorance. It shall provide information, where necessary and where feasible and admissible within the bounds of the opportunities available, on the rights and obligations of those participating in the procedure.

The Commission shall keep proper records of contacts with the applicants during the procedure.

Or. de

Justification

This provision aims to enable applicants who are not experienced in legal dealings with the Commission and do not have access to legal advice to submit successful applications for funding. A lack of cooperation has been criticised specifically by NGOs. The requirement to keep records meets the need for transparency and procedural certainty.

Amendment by Vittorio Prodi

Amendment 316
Subsection, 4

CONSORTIA

**CONSORTIA AND TECHNOLOGY
PLATFORMS**

Or. en

Justification

ETPs, when they decide to have legal personality, should be considered at the same level of a consortium. ETPs have to respect the same criteria of a consortium.

Amendment by Vittorio Prodi

Amendment 317
Article 24, paragraph 1

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall draw up an agreement, hereinafter “the consortium agreement”, to govern the following:

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall draw up an agreement, hereinafter “the consortium agreement” *or* “**the ETPs agreement**”, to govern the following:

Or. en

Justification

Technology platforms with legal personality, as well as all legal entities wishing to participate in an indirect action, shall draw up an agreement to govern their internal activities and procedures of decision.

Amendment by Giles Chichester

Amendment 318
Article 24, paragraph 1

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall **draw up** an agreement, hereinafter “the consortium agreement”, to govern the following:

1. Unless otherwise provided for in the call for proposals, all legal entities wishing to participate in an indirect action shall **conclude** an agreement, hereinafter “the consortium agreement”. **It may establish additional rights and obligations of the participants in an indirect action, in accordance with the provisions established in the grant agreement**, to govern the following:

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Teresa Riera Madurell

Amendment 319
Article 24

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall draw up an agreement, hereinafter “the consortium agreement”, to govern the following:

- (a) the internal organisation of the consortium;
- (b) the distribution of the Community financial contribution;
- (c) additional rules on dissemination and use including intellectual property rights arrangements, as appropriate;
- (d) the settlement of internal disputes.

I. Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall draw up an agreement, hereinafter “the consortium agreement”. ***This shall not contravene the provisions laid down in the grant agreement, the technical provisions consequent upon the evaluation report and its technical annexes and any additional regulation to which it may be referred. The consortium agreement shall govern the following:***

- (a) the internal organisation ***and management procedures*** of the consortium, ***including the appropriate decision-making process***;
- (b) the distribution of the Community financial contribution;
- (ba) rules additional to the content in Chapter III and provisions referring to the consortium agreement;***
- (c) additional rules on dissemination and use including intellectual property rights arrangements, as appropriate;
- (d) the settlement of internal disputes ***and, where relevant, coordination with external bodies for the settlement of disputes, in particular the Ombudsman’s Office.***

Or. es

Justification

The grant agreement must be consistent with Community law from the outset and should embody legal certainty for all participants, including the appropriate space and machinery for settling disputes.

Amendment by Philippe Busquin

Amendment 320

Article 24, paragraph 1 and points (a) and (b)

Save where the otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall draw up an agreement, hereinafter "the consortium agreement", to govern the

Unless the otherwise provided for in the call for proposals, all legal entities wishing to participate in an indirect action shall conclude an agreement, hereinafter "the consortium agreement". It may establish

following:

additional rights and obligations of the participants in an indirect action, in accordance with the provisions established in the grant agreement, to govern the following:

(a) the internal organisation of the consortium;

(a) the internal organisation of the consortium, including its internal decision making process;

(b) the distribution of the Community financial contribution;

(b) the modalities of allocation and distribution of the Community financial contribution;

Or. xm

Justification

It should be the responsibility of each consortium to define its internal decision-making structure according to its specific needs and the individual participants to agree with each other on all relevant issues concerning the management of the research. The specific rights and obligations of each individual participants towards any other should be defined in the consortium agreement. In particular, the consortium agreement should establish provisions regarding legal representation, internal organisation, confidentiality arrangements, settlement of internal disputes, removal or exchange of participants, rules on ownership of foreground generated by the indirect action. Consortium should be free to adapt this consortium agreement to their needs.

Le consortium doit être libre ((a) et (b)): de fixer lui-même la gouvernance du projet qu'il entend avoir, du fait de l'autonomie qui lui est conférée. Ce faisant, si le consortium souhaite apporter un rôle plus important dans la prise de décision au coordinateur du projet, ou à tout autre participant ou groupe de participants, il est libre de le faire.

Amendment by Gunnar Hökmark

Amendment 321

Article 24, paragraph 1

Save where otherwise provided in the call for proposals, all **legal entities wishing to participate** in an indirect action shall **draw up** an agreement, hereinafter “the consortium agreement”, to govern the following:

Unless otherwise provided **for** in the call for proposals, all **participants** in an indirect action shall **conclude** an agreement, hereinafter “the consortium agreement”, **which may establish additional rights and obligations of the participants in an indirect action, in accordance with the provisions of the grant agreement**, to govern *inter alia* the following:

Amendment by Lambert van Nistelrooij and Jorgo Chatzimarkakis

Amendment 322
Article 24, paragraph 1

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall **draw up** an agreement, hereinafter “the consortium agreement”, to govern the following:

Save where otherwise provided in the call for proposals, all legal entities wishing to participate in an indirect action shall **conclude** an agreement, hereinafter “the consortium agreement”, to govern the following:

Or. en

Justification

“Ownership, transfer and access rights” have been added to make it clear that the participants are free to make additional arrangements on these matters. It should be possible to also make arrangements regarding liability, indemnification and confidentiality arrangements in the consortium agreement.

Amendment by Giles Chichester

Amendment 323
Article 24, point (a)

(a) the internal organisation of the consortium;

(a) the **legal representation and the** internal organisation of the consortium, **confidentiality arrangements and the settlement of internal disputes, including provisions regarding the withdrawal, removal or exchange of any of the participants;**

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Vittorio Prodi

Amendment 324
Article 24, point (a)

(a) the internal **organisation of the consortium**;

(a) the internal **organisations**;

Or. en

Justification

Technology platforms with legal personality, as well as all legal entities wishing to participate in an indirect action, shall draw up an agreement to govern their internal activities and procedures of decision.

In order to incentive the participation of SMEs, specific provisions should be drawn up. As an example, it could be foreseen a kind of double majority by number and by size (e.g. by turnover or by employees number).

Amendment by Giles Chichester

Amendment 325
Article 24, point (b)

(b) the distribution of the Community financial contribution;

(b) the distribution of **the budget of estimated costs, the distribution of the Community financial contribution, the forms of grants used in accordance with Article 30(1) and provisions regarding the reporting and calculating of costs in accordance with Article 30(2)**;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Anne Laperrouze

Amendment 326
Article 24, point (b)

(b) the distribution of the Community financial contribution;

(b) the distribution of the Community financial contribution **and of EIB loans where appropriate**

Justification

If EIB loans are becoming an important mechanisms for funding research, their distribution has to be known by all the consortium members.

Amendment by Paul Rübige

Amendment 327
Article 24, points (c) and (ca) (new)

(c) additional rules on dissemination and use including intellectual property rights arrangements, as appropriate;

(c) additional rules on ***access rights, ownership, transfer***, dissemination and use ***of results*** including intellectual property rights arrangements, as appropriate;
(ca) Indemnification, liability and confidentiality arrangements between the participants

Or. en

Justification

It should be stated explicitly that these arrangements can be made in the consortium agreements to increase participant's legal certainty. The different thematic areas require different contractual arrangements. This flexibility must be mirrored in the rules of participation.

Amendment by Lambert van Nistelrooij and Jorgo Chatzimarkakis

Amendment 328
Article 24, points (c) and (ca) (new)

(c) additional rules on dissemination and use including intellectual property rights arrangements, as appropriate;

(c) additional rules on ***ownership, transfer, access rights***, dissemination and use including intellectual property rights arrangements, as appropriate;
(ca) liability, indemnification and confidentiality arrangements between the participants

Or. en

Justification

“Ownership, transfer and access rights” have been added to make it clear that the participants are free to make additional arrangements on these matters. It should be possible to also make arrangements regarding liability, indemnification and confidentiality

arrangements in the consortium agreement.

Amendment by Giles Chichester

Amendment 329
Article 24, point (c)

(c) additional rules on dissemination and use including intellectual property rights arrangements, as appropriate;

(c) additional rules on ***ownership of foreground generated by the indirect action, transfer of such ownership, access rights***, dissemination and use including intellectual property rights arrangements, as appropriate;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 330
Article 24, point (d)

(d) the settlement of internal disputes.

deleted

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Eluned Morgan

Amendment 331
Article 24, point (d)

(d) the settlement of internal disputes

(d) the settlement of internal disputes; ***consortia should establish procedures to apply in cases of dispute or abuses of power, in particular by the coordinator, which provide for them to work with established bodies whose role is to conciliate, solve problems or improve working relations.***

Justification

Partners in a consortium should be clear about the procedures and bodies to consult with for solving potential disputes.

Amendment by Vittorio Prodi

Amendment 332
Article 24, point (da) (new)

(da) the procedures for decision-making within the ETPs; the consortium agreement must include provisions to provide incentives for the participation of SMEs in a proportion high enough to affect the decision-making procedures.

Or. en

Justification

Technology platforms with legal personality, as well as all legal entities wishing to participate in an indirect action, shall draw up an agreement to govern their internal activities and procedures of decision.

In order to incentive the participation of SMEs, specific provisions should be drawn up. As an example, it could be foreseen a kind of double majority by number and by size (e.g. by turnover or by employees number).

Amendment by Britta Thomsen

Amendment 333
Article 24, paragraph 1 a (new)

1a. Where no separate consortium agreement is concluded, the model agreement shall apply.

Or. da

Justification

The proposed model agreement must be of such a nature as to ease the administrative burden for smaller-scale projects not involving complicated issues over rights.

Amendment by Gunnar Hökmark

Amendment 334
Article 24, point (da) (new)

(da) liability, indemnification and confidentiality arrangements between the participants

Or. en

Amendment by Giles Chichester

Amendment 335
Article 24, paragraph 1 a (new)

1a. The consortium agreement shall be concluded by all participants wishing to participate in an indirect action before the signature of the grant agreement by the coordinator.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 336
Article 24, paragraph 1 a (new)

The consortium agreement must be concluded by all those participating in an indirect action before the coordinator signs the grant agreement.

Or. en

Amendment by Teresa Riera Madurell

Amendment 337
Article 24, paragraph 1 a (new)

1a. In accordance with Article 3a, the Commission shall adopt and publish guidelines on the main issues that may be dealt with by the participants in their consortium agreements.

Or. es

Justification

The grant agreement must be consistent with Community law from the outset and should embody legal certainty for all participants, including the appropriate space and machinery for settling disputes.

Amendment by Giles Chichester

Amendment 338

Article 24, paragraph 1 b (new)

1b. In accordance with this Regulation the Commission shall establish model consortium agreements specific to each of the funding schemes identified in part (a) of Annex III to Decision [.../...] establishing the Seventh Framework Programme.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 339

Article 24, paragraph 1 b (new)

For the purposes of this Regulation, the Commission shall establish model consortium agreements specific to each of the funding schemes identified in part (a) of Annex III to Decision [.../...] establishing the Seventh Framework Programme. These model agreements shall lay down the guidelines for the main issues

that may be addressed by participants in their consortium agreements.

Or. en

Amendment by Giles Chichester

Amendment 340

Article 25, paragraph 1, sub-paragraph 1

1. The legal entities wishing to participate in an indirect action shall appoint ***one of their number to act as*** coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, the Implementing Rules, and the grant agreement:

1. The legal entities wishing to participate in an indirect action shall appoint ***among themselves a*** coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, the Implementing Rules, and the grant agreement:

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Teresa Riera Madurell

Amendment 341

Article 25, paragraph 1

1. The legal entities wishing to participate in an indirect action shall appoint one of their number to act as coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, the Implementing Rules, and the grant agreement:

(a) to ensure that the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement, as provided for therein;

(b) to receive the Community financial contribution and to distribute it;

(c) to keep ***the financial*** accounts ***in order, to keep records*** and to inform the Commission of the distribution ***of the***

1. The legal entities wishing to participate in an indirect action shall appoint one of their number to act as coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, the Implementing Rules, and the grant agreement:

(a) to ensure that the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement, as provided for therein;

(b) to receive the Community financial contribution and to distribute it ***in accordance with the consortium agreement and the grant agreement;***

(c) to keep ***a record of expenditure and*** accounts ***on the Community financial contribution,*** and to inform the Commission

Community financial contribution in accordance with Article 36;

(d) to **ensure** efficient and correct communication between the participants and the Commission.

of **its** distribution in accordance with Article 36;

(d) to **act as intermediary for ensuring** efficient and correct communication between the participants and the Commission.

Such tasks shall be carried out without prejudice to the legal and administrative provisions of the legal entity to which the coordinator belongs.

Or. es

Justification

To provide some important clarification of the definition of the role of the coordinator.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 342
Article 25, paragraph 1, point (a)

(a) to **ensure that** the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement, as provided for therein;

(a) to **verify whether** the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement, as provided for therein.
The cost of such verification shall be eligible for funding;

Or. de

Justification

The coordinator should not have to provide any kind of guarantee. The Commission proposal would mean that public institutions and smaller private businesses would not take on any kind of coordinating role.

Amendment by Giles Chichester

Amendment 343
Article 25, point (a)

(a) to ensure that the legal entities **identified in the grant agreement complete the necessary formalities for accession to the**

(a) to ensure that the legal entities **participating in the indirect action comply with their obligations under the grant**

grant agreement, as provided for therein;

agreement and the consortium agreement;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 344
Article 25, point (b)

(b) to receive the Community financial contribution and to distribute it ;

(b) to receive the Community financial contribution and to distribute it ***according to the provisions specified in the consortium agreement;***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 345
Article 25, point (b)

(b) to receive the Community financial contribution and to distribute it ;

(b) to receive the Community financial contribution and to distribute it ***in accordance with the consortium and grant agreement;***

Or. en

Amendment by Giles Chichester

Amendment 346
Article 25, point (c)

(c) ***to keep the financial accounts in order,*** to keep records and to inform the Commission of the distribution of the Community financial contribution in

(c) to keep records and to inform the Commission of the distribution of the Community financial contribution in accordance with ***Article 24(b) and*** Article

accordance with Article 36;

36;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 347

Article 25, paragraph 1, point (d)

(d) to **ensure** efficient and correct communication between the participants and the Commission.

(d) to **establish** efficient and correct communication between the participants and the Commission.

Or. de

Justification

It is entirely sufficient for the coordinator to establish communication.

Amendment by Philippe Busquin

Amendment 348

Article 25, point (d)

(d) to ensure efficient and correct **communication** between the participants and the Commission.

(d) to ensure efficient and correct **reporting of the progress of work** between the participants and, **in accordance with Article 19(4)**, to the Commission;

Or. en

Amendment by Giles Chichester

Amendment 349

Article 25, point (d)

(d) to ensure efficient and correct **communication** between the participants and the Commission.

(d) to ensure efficient and correct **reporting of the scientific and technical deliverables and progress of work** between the participants and, **in accordance with Article**

19(4), to the Commission.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 350
Article 25, point (d)

(d) to **ensure** efficient and correct **communication** between the participants and the Commission.

(d) to **be intermediary for** efficient and correct **reporting on the scientific and technical deliverables and progress of work** between the participants and, **in accordance with Article 19(4)**, to the Commission;

Or. en

Amendment by Giles Chichester

Amendment 351
Article 25, point (da) (new)

(da) to terminate the participation of legal entities should a participant not comply with its obligations under the grant agreement or the consortium agreement.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Eluned Morgan

Amendment 352
Article 25, point (da) (new)

(da) to terminate the participation of legal entities should a participant fail to comply

with its obligations and take action to remedy under the grant agreement or the consortium agreement. This should be subject to Commission approval.

Or. en

Justification

The Commission should be required to approve partners leaving the Consortium for non-compliance reasons, for added security. Participants in non-compliance should be given the opportunity to take action to remedy the situation.

Amendment by Giles Chichester

Amendment 353
Article 25, paragraph 2

2. The coordinator shall be identified in the ***grant agreement.***

2. The coordinator shall be identified in the ***consortium agreement.***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 354
Article 25, paragraph 2

2. The appointment of a new coordinator shall require the written approval of the Commission. ***deleted***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 355
Article 25, paragraph 2 a (new)

2a. Where provided for in the consortium agreement, the coordinator may subcontract its administrative and management activities in accordance with Article 33(4).

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Given the complexity of administrative arrangements under the RTD framework programmes, some legal entities (including those who are the main participants from a scientific point of view) do not wish to take over the role of coordinator. This is in particular true for public universities and SMEs which often lack the necessary administrative support structures. In the Court's view, the coordinator should therefore have the possibility to subcontract administrative and management tasks to external service providers, subject to the other participants agreeing to such an externalisation in the consortium agreement (see Article 25(3))⁴¹.

41 These subcontracted services could then be reimbursed by the Commission according to the rates defined for "management and training" activities, as provided for in Article 33(4).

Amendment by Philippe Busquin

Amendment 356

Article 25, paragraph 2 a (new)

2 a. Where provided for in the consortium agreement, the coordinator may subcontract its administrative and management activities in accordance with Article 33(4).

Or. en

Justification

The coordinator should have the possibility to subcontract administrative and management tasks to external service providers, subject to the other participants agreeing to such externalisation.

Amendment by Vittorio Prodi,

Amendment 357

Article 26, title

Changes in the consortium.

Changes in the consortium *and in the European Technology Platforms*

Or. en

Justification

ETPs, when they decide to have legal personality, should be considered at the same level of a consortium. ETPs have to respect the same criteria of a consortium.

Amendment by Giles Chichester

Amendment 358
Article 26, paragraph 1

1. The participants in an indirect action may **propose the addition of** a new participant or **the removal of** an existing participant.

1. The participants in an indirect action may **agree to add** a new participant or **to remove** an existing participant **in accordance with the respective provisions established in the consortium agreement.**

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Ján Hudacký

Amendment 359
Article 26, paragraph 1

1. The participants in an indirect action may propose the addition of a new participant or the removal of an existing participant.

1. The participants in an indirect action may propose the addition of a new participant or the removal of an existing participant **in duly justified cases.**

Or. en

Justification

In order to protect rights of all participants of the consortium any proposal for removal of a partner should have legitimate reasons.

Amendment by Giles Chichester

Amendment 360
Article 26, paragraph 2

2. Any legal entity which joins an ongoing action shall accede to the grant agreement.

2. Any legal entity which joins an ongoing action shall accede to the grant agreement **and the consortium agreement.**

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Eluned Morgan

Amendment 361
Article 26, paragraph 2a (new)

2a. Where provided for in the consortium agreement, the coordinator may subcontract the administrative and non-core management tasks that do not affect the strategic direction of the project.

Or. en

Justification

Only non-core management tasks that do not affect the strategic direction of the project should be subcontracted. If groups want to manage projects they should be full partners, sharing full rights and responsibilities, strategic decisions should be kept to partners. Coupled with no upper limit on management budgets, this could lead to exploitation by private management companies

Amendment by Giles Chichester

Amendment 362
Article 26, paragraph 3, subparagraph 1

3. Where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support,

deleted

particularly Internet sites on the seventh framework programme, the specialist press and brochures, and the national contact points set up by the Member States and Associated countries for information and support.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Only in those cases where the scientific scope and the legally required European character of the action is put at risk by a change in the composition of the consortium, should the Commission have the right to object to such a change. In all other cases this should remain the responsibility of the legal entities participating in the indirect action (see Article 26(4)).

Amendment by Vittorio Prodi

Amendment 363

Article 26, paragraph 3, subparagraph 1

3. Where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites on the seventh framework programme, the specialist press and brochures, *and the* national contact points set up by the Member States and Associated countries for information and support.

3. Where provided for in the grant agreement, the consortium ***and the ETP*** shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites on the seventh framework programme, the specialist press and brochures, *and the* national contact points set up by the Member States and Associated countries for information and support.

Or. en

Justification

ETPs, when they decide to have legal personality, should be considered at the same level of a consortium. ETPs have to respect the same criteria of a consortium.

Amendment by Giles Chichester

Amendment 364

Article 26, paragraph 3, subparagraph 2

The consortium shall evaluate offers in the light of the criteria which governed the initial action and with the assistance of independent experts appointed by the consortium, in accordance with the principles laid down in Articles 15, and Article 17, respectively. *deleted*

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Vittorio Prodi

Amendment 365

Article 26, paragraph 3, subparagraph 2

The consortium shall evaluate offers in the light of the criteria which governed the initial action and with the assistance of independent experts appointed by the consortium, in accordance with the principles laid down in Articles 15, and Article 17, respectively.

The consortium **and the ETP** shall evaluate offers in the light of the criteria which governed the initial action and with the assistance of independent experts appointed by the consortium, in accordance with the principles laid down in Articles 15, and Article 17, respectively.

Or. en

Justification

ETPs, when they decide to have legal personality, should be considered at the same level of a consortium. ETPs have to respect the same criteria of a consortium.

Amendment by Teresa Riera Madurell

Amendment 366

Article 26, paragraph 3, subparagraph 1

3. Where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites on the seventh framework programme, the specialist press

3. **In specific cases** where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites on the seventh framework programme, the specialist press

and brochures, *and the* national contact points set up by the Member States and Associated countries for information and support.

and brochures, *and the* national contact points set up by the Member States and Associated countries for information and support.

Or. es

Amendment by Philippe Busquin

Amendment 367

Article 26, paragraph 3a (new)

3a. The obligation to select legal entities which join an on-going action in a fair, transparent and competitive manner should be stated in the grant agreement. This procedure should take account of the needs of the research and not be overly costly and time-consuming.

Or. en

Justification

In practise it would be unmanageable for most consortia to change their composition by applying the publication of competitive calls, which will be overly costly and time-consuming to organise. No information has been provided by the Commission on the number of cases in which such a procedure has actually been carried out during FP6. Flexibility in consortium composition is essential for dynamic research. The grant agreement should define how the composition can evolve without prior agreement of the Commission.

Amendment by Philippe Busquin

Amendment 368

Article 26, paragraph 4

4. The consortium shall notify any change of its composition to the Commission, ***which may object within 45 days of the notification.***

Changes in the composition of the consortium associated with proposals for other changes to the grant agreement which are not directly related to the change in composition shall be subject to written

4. The consortium shall notify any change of its composition to the Commission.

approval by the Commission.

Or. en

Amendment by Teresa Riera Madurell

Amendment 369
Article 26, paragraph 4

4. *The consortium shall notify any change of its composition to the Commission, which may object within 45 days of the notification.*

Changes in the composition of the consortium associated with proposals for other changes to the grant agreement which are not directly related to the change in composition shall be subject to written approval by the Commission.

4. *The consortium shall notify any **proposed** change of its composition to the Commission, which may object within 45 days of the notification.*

In the same way, changes in the composition of the consortium associated with proposals for other changes to the grant agreement which are not directly related to the change in composition shall be subject to written approval by the Commission.

The Commission shall inform the Member States through the Programme Committee of any changes regarding the consortia.

Or. es

Justification

Information to be channelled to Member States through Programming Committee.

Amendment by Adam Gierek

Amendment 370
Article 26, paragraph 4, sub-paragraph 1

4. The consortium shall notify any change of its composition to the Commission, which may object within 45 days of the notification;

4. The consortium shall notify any ***intended*** change of its composition to the Commission, which may object within 45 days of the notification;

Or. pl

Justification

Providing notification of a change which has already been made would be in breach of the requirement that the Commission should be given prior notice of any changes.

Amendment by Giles Chichester

Amendment 371

Article 26, paragraph 4, sub-paragraph 1

4. The consortium shall notify any change of its composition to the Commission, **which may object within 45 days of the notification.**

4. The consortium shall notify any change of its composition to the Commission.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 372

Article 26, paragraph 4, sub-paragraph 2

Changes in the composition of the consortium **associated with proposals for other changes to the grant agreement which are not directly related to the change in composition** shall be subject to written approval by the Commission.

Changes in the composition of the consortium shall be subject to written approval by the Commission.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 373

Article 26

4. The consortium shall notify any change of its composition to the Commission, **which may** object within 45 days of the notification.

4. The consortium shall notify any **proposed** change of its composition to the Commission.

Changes in the composition of the consortium *associated with proposals for other changes to the grant agreement which are not directly related to the change in composition* shall be subject to written approval by the Commission.

Changes in the composition of the consortium shall be subject to written approval by the Commission.

Or. en

Amendment by Giles Chichester

Amendment 374
Article 27, Title

Monitoring

Monitoring *and review*

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübigen

Amendment 375
Article 27, paragraph 1

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4).

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4). ***These shall in particular include reports on the scientific and technical implementation as planned of previously determined work packages and on the proper use of funds.***

Or. de

Justification

The 'progress reports' to be provided by the participants as mentioned in Article 27, paragraph 1 must be clearly defined. A previously determined work programme must provide evidence as to whether an indirect action is being implemented successfully.

Monitoring

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4). In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted pursuant to the second subparagraph of Article 20(1). ***For those purposes, the Commission may be assisted by independent experts appointed in accordance with Article 17.***

The Commission shall monitor the seventh framework programme, its specific programmes and, where appropriate, previous framework programmes, with the assistance of independent experts appointed in accordance with Article 17. In addition, it may set up groups of independent experts appointed in accordance with Article 17, to advise on the implementation of Community research policy.

Monitoring and ***assessment***

1. The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4). In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted pursuant to the second subparagraph of Article 20(1). ***The Commission shall establish and maintain an information system conducive to efficient and coherent monitoring for the duration of the Framework Programme.***

2. The Commission shall monitor the seventh framework programme, its specific programmes and, where appropriate, previous framework programmes, with the assistance of independent experts appointed in accordance with Article 17. In addition, it may set up groups of independent experts appointed in accordance with Article 17, to advise on the implementation of Community research policy.

The monitoring and assessment procedures referred to in Article 7 of the Decision establishing the Framework Programme shall cover aspects relevant to the implementation of this regulation. The question of the flow of information from the Commission to the Programme Committees will be considered in the context of the Specific Programmes and the relevant Decisions and Declarations.

3. ***To achieve the objectives set out in paragraphs 1 and 2, the Commission may avail itself of the assistance of independent experts designated under Article 17. Independent expert groups may also be designated under Article 17 to advise on the implementation of Community research policy.***

Justification

The establishment of procedures for the flow of information is being limited to the Specific Programmes in the wider sense. As before, this should be subject to specific provisions contained in the programme decisions and Specifications concerning individual monitoring procedures for the various framework programmes.

Amendment by Giles Chichester

Amendment 377
Article 27, paragraph 1

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4).

1. The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4). ***In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted pursuant to the second subparagraph of Article 20(1).***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Nikolaos Vakalis

Amendment 378
Article 27, paragraph 1

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4).

The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4). ***The Commission may also provide for peer reviews or hearings, on a periodic basis or on the completion, to monitor the implementation of the indirect action concerned.***

Justification

Alternative monitoring tools such as peer reviews or hearings should make Community grants less cumbersome and bureaucratic to administer than paper reports.

Amendment by Giles Chichester

Amendment 379
Article 27, paragraph 2

In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted pursuant to the second subparagraph of Article 20(1). For those purposes, the Commission may be assisted by independent experts appointed in accordance with Article 17.

2. The Commission may also carry out reviews of indirect actions on a periodic basis, or on their completion. Such reviews may also be carried out to determine whether the indirect action should be terminated in accordance with Article 18(5).

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Jorgo Chatzimarkakis

Amendment 380
Article 27, paragraph 3

The Commission shall monitor the seventh framework programme, its specific programmes and, where appropriate, previous framework programmes, with the assistance of independent experts appointed in accordance with Article 17. In addition, it may set up groups of independent experts appointed in accordance with Article 17, to advise on the implementation of Community research policy.

The Commission shall monitor the seventh framework programme, its specific programmes, ***the proportionality of implementing provisions at project level*** and, where appropriate, previous framework programmes, with the assistance of independent experts appointed in accordance with Article 17. In addition, it may set up groups of independent experts appointed in accordance with Article 17, to advise on the implementation of Community research policy.

Or. de

Justification

Proportionality is a decisive factor with the bureaucratic burden on applicants.

Amendment by Giles Chichester

Amendment 381
Article 27, paragraph 3

The Commission shall monitor the ***seventh framework programme***, its specific programmes and, where appropriate, previous framework programmes, ***with the assistance of independent experts appointed in accordance with Article 17***. In addition, it may ***set up groups of independent experts appointed in accordance with Article 17, to advise*** on the implementation of Community research policy.

3. The Commission shall monitor the ***Seventh Framework Programme***, its specific programmes and, where appropriate, previous framework programmes. In addition, it may ***seek advice*** on the implementation of Community research policy.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Jerzy Buzek

Amendment 382
Article 27, paragraph 3 a (new)

The Commission shall monitor the seventh framework programme and its specific programmes, also to identify possible interactions of the European Research Council with collaborative research, ERANETs and national programmes, to eliminate duplicate financing of research at European and national level.

Or. en

Justification

This amendment replaces the AM 70 to the Draft Report of Jerzy Buzek on the 7th Framework

Programme.

Amendment by Giles Chichester

Amendment 383
Article 27, paragraph 3 a (new)

3a. For those purposes, the Commission may be assisted by independent experts appointed in accordance with Article 17.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 384
Article 27, paragraph 3 b (new)

3b. The Commission shall present to a committee composed of representatives of Member States, and chaired by the Commission, the results of its monitoring activities in accordance with paragraphs 1 to 3 of this Article.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

As evidenced by the Court's audits, Programme Committees play an important role in monitoring the RTD framework programmes. Therefore the Court considers that the "Rules for Participation" should state that the results of the Commission's programme monitoring activities, including those regarding previous RTD framework programmes, are to be presented to a programme committee composed of representatives of Member States, in accordance with Article 202 of the Treaty establishing the European Community (see "whereas"(17) and Article 27).

Amendment by Giles Chichester

Amendment 385
Article 27, paragraph 3 c (new)

3c. The responsibility for monitoring investigator-driven “frontier” research funded within the framework of the ERC shall be with the ERC’s “Scientific Council”, or its competent sub-committees.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Court recommends clarifying the Commission's legal obligation to monitor indirect actions and programme implementation, also regarding previous RTD framework programmes (see also Article 7 of the "Decision")⁴³. In the Court's view, the Commission's monitoring activity should explicitly provide for reviews (or hearings) as an alternative monitoring approach (see Articles 19(4) and 27(2)). Moreover, such reviews could be used when the possible termination of an action or of the participation of a specific legal entity

has to be assessed (see Article 18(5)). As for the nomination of experts to evaluate proposals (see paragraph 40), the Court considers that the monitoring of investigator-driven “frontier” research funded within the framework of the ERC should be the responsibility of its “Scientific Council”, or its competent subcommittees (see Article 27(6)).

43 Special Report No 1/2004, paragraph 62.

Amendment by Eluned Morgan

Amendment 386
Article 27a (new)

Article 27a

Databases and electronic exchange of data

1. The Commission shall take appropriate measures to ensure that data relating to all the indirect actions funded under the Seventh Framework Programme are recorded and processed in integrated databases and using a common computerised system.

2. The Commission shall encourage the electronic exchange of data for all aspects

of the management of proposals and grants.

3. The Commission shall ensure that the system is able to register different parts of a single large organisation, such as a University and avoid duplication.

4. All electronic systems must be tested properly and piloted in advance of being rolled out.

Or. en

Justification

The above amendment refers to the monitoring of proposals, and not to the appointment of independent experts, and should therefore be included under the provisions of Article 27.

A single electronic registration system with a common database for all Commission services would help rationalise the requests for information from participants. The database should also store data on different parts of large institutions in order to avoid duplication in the application process. The system should be tested before it is put out to public use.

Amendment by Gunnar Hökmark

Amendment 387

Article 28, paragraph 1, sub-paragraph 1

1. Upon request, the Commission shall make available to any Member State or Associated country any useful information in its possession on foreground arising from work carried out in the context of an indirect action, provided that the following conditions are met:

1. *Having due regard to article 3 , the Commission shall, upon* request, make available to any Member State or Associated country any useful information in its possession on foreground arising from work carried out in the context of an indirect action, provided that the following conditions are met:

Or. en

Amendment by Fiona Hall

Amendment 388

Article 29, paragraph 2a (new)

Given that the monitoring and review of administrative and financial procedures is particularly important in facilitating the

effective involvement of SMEs, the monitoring and review process shall take account of the views of SMEs taking part in the programme and include performance indicators which track the quality of service experienced by participating SMEs.

Or. en

Justification

To ensure that the 7th Framework Programme is made more accessible to SMEs it is essential to put in place a participant focussed monitoring and review mechanism. This will enable ongoing improvements to the accessibility of the programme to be made.

Amendment by Teresa Riera Madurell

Amendment 389

Article 29, paragraph 1, introduction

1. Where any of the following legal entities participates in an indirect action, it may receive a Community financial contribution:

Amendment not applicable to English version

Or. es

Justification

It is necessary to stress that the financial contribution is linked to participation in direct actions.

Amendment by Gunnar Hökmark

Amendment 390

Article 29, paragraph 1

1. Where any of the following legal entities ***participates*** in an indirect action, it may receive a Community financial contribution:

1. ***The*** following legal entities ***participating*** in an indirect action, it may receive a Community financial contribution:

Or. en

Amendment by Teresa Riera Madurell

Amendment 391
Article 29, paragraph 2

2. In the case of a participating international organisation, other than an international European interest organisation, or a legal entity established in a third country other than an international cooperation partner country, a Community financial contribution may be granted provided that at least one of the following conditions is satisfied:

2. In the case of a participating international organisation, other than an international European interest organisation, or a legal entity established in a third country other than ***an associated country or*** an international cooperation partner country, a Community financial contribution may be granted provided that at least one of the following conditions is satisfied:

Or. es

Justification

The amendment is self-explanatory.

Amendment by Teresa Riera Madurell

Amendment 392
Article 30, paragraph 1

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall be based on the reimbursement of eligible costs.

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall be based on the reimbursement of ***all or part of*** eligible costs.

Or. es

Justification

On the request of the Member States the European Community is committed to wider use of fixed rates uniform cost scales and flat-rate payments. Such severe restrictions should therefore be avoided in this respect. The Community's financial contribution should be established within a comprehensive framework either in the procedural rules or the model grant agreement. It must establish individual costs to avoid any legal or administrative uncertainties.

Amendment by Giles Chichester

Amendment 393
Article 30, paragraph 1

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall **be based on** the reimbursement of eligible costs.

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall **consist of** the reimbursement, **in part or in whole**, of eligible costs.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Gunnar Hökmark

Amendment 394
Article 30, paragraph 1, sub-paragraph 1

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall be based on the reimbursement of eligible costs.

1. The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall **consist** of the reimbursement, **in whole or in part**, of eligible costs.

Or. en

Amendment by Eluned Morgan

Amendment 395
Article 30, paragraph 1, sub-paragraph 1

The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall be based on the reimbursement of eligible

The Community financial contribution for grants identified in part a) of Annex III to the Seventh Framework Programme shall **primarily** be based on the reimbursement of eligible costs.

Or. en

Justification

It is important to ensure that Community contributions are based, as accurately as possible, on a percentage of the actual costs incurred by partners in connection with the project. This is best ensured through reimbursement of a percentage of the actual eligible costs, as opposed to through lump-sum and flat-rate financing. For sustainability reasons, project participants need to be able to draw up their budgets on the basis of actual funds. Indeed, many institutions will have to draw up such budgets for internal purposes, irrelevant of Commission requirements and grant mechanisms.

More detail is required for participants on the different measures to reimburse costs.

Amendment by Giles Chichester

Amendment 396

Article 30, paragraph 1, subparagraph 2

However, the Community financial contribution may take the form of flat rate financing, including scale of unit costs, or lump sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes.

Lump sums for whole indirect actions may be used only for coordination and support actions and actions for training and career development of researchers.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

In the absence of a more detailed proposal from the Commission, the Court suggests that the use of lump sums for whole actions should be limited to the "coordination and support actions" and "actions for training and career development of researchers" established in Annex III a) of the "Decision" (see Article 30(1) of the "Rules for Participation"). The Court encourages the Commission to continue its reflections on more extensive use of lump sums for whole actions. This could be incorporated in the legal base following an interim evaluation of the "Rules for Participation" (see Article 54).

Amendment by Anne Laperrouze

Amendment 397

Article 30, paragraph 1, subparagraph 2

However, the Community financial

However, ***in some specific cases***, the

contribution may take the form of flat rate financing, including scale of unit costs, or lump sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes.

Community financial contribution may take the form of flat rate financing, including scale of unit costs, or lump sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes.

The forms of the grants to be used will be specified in the call for proposals

Or. en

Justification

The forms of the grants have to be known in advance. Predictability is essential

Amendment by Eluned Morgan

Amendment 398

Article 30, paragraph 1, subparagraph 2

However, the Community financial contribution may take the form of flat rate financing, including scale of unit costs, or lump sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes.

However, the Community financial contribution may take the form of flat rate financing, including scale of unit costs, or lump sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes

The Commission shall produce clear guidelines on how the different funding measures will work in practice before the calls for proposals are released.

Or. en

Justification

It is important to ensure that Community contributions are based, as accurately as possible, on a percentage of the actual costs incurred by partners in connection with the project. This is best ensured through reimbursement of a percentage of the actual eligible costs, as opposed to through lump-sum and flat-rate financing. For sustainability reasons, project participants need to be able to draw up their budgets on the basis of actual funds. Indeed, many institutions will have to draw up such budgets for internal purposes, irrelevant of Commission requirements and grant mechanisms.

More detail is required for participants on the different measures to reimburse costs.

Amendment by Giles Chichester

Amendment 399
Article 30, paragraph 2

2. **While the** Community financial contribution shall be **calculated by reference to the cost of the indirect action as a whole, it shall be** based on the **reported** costs of each participant.

2. **The maximum** Community financial contribution **for the indirect action** shall be **defined according to the activities carried out by and** based on the **budget of estimated** costs **for** each participant.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

In addition, the Commission proposal in Article 30(2) on how to calculate the Community financial contribution is inconsistent and should be clarified, using exact terminology (i.e. the "maximum Community financial contribution" which is to be set on the basis of the "budget of estimated costs")⁴⁵.

45 It should be noted that this calculation has to be made by the participant, on account of the different activities carried out by individual participants, the different use of lump sums or flat rates for specific activities, their specific cost structures and different co-financing rates. Of course, this underlying principle also applies to the reimbursement of eligible costs as provided for in Article 31.

Amendment by Teresa Riera Madurell

Amendment 400
Article 30, paragraph 2

2. While the Community financial contribution shall be calculated by reference to the cost of the indirect action as a whole, it shall be based on the reported costs of each participant.

2. While the Community financial contribution shall be calculated by reference to the cost of the indirect action as a whole, it shall be based on the reported **and duly authenticated** costs of each participant.

Or. es

Justification

This paragraph, which the Presidency is seeking to delete, must be retained and must also specify that the costs incurred must be authenticated.

Amendment by Jerzy Buzek

Amendment 401
Article 30, paragraph 2a (new)

2a. In the case of indirect actions to support construction of new research infrastructures and design studies, the level of EU support (as a percentage of total costs) will be clearly indicated. The Commission will prepare relevant regulation.

Or. en

Justification

The EU contribution should be clear for proposers, facilitating the financial planning from the very beginning.

This amendment replaces the AM 89 to the Draft Report of Jerzy Buzek on the 7th Framework Programme.

Amendment by Adam Gierek

Amendment 402
Article 30a (new)

Article 30a

The flat-rate financing formula shall also include the financing of direct and indirect eligible costs. The established scale of unit costs may be applied in particular to remuneration costs, although the variation in unit costs among the different participants in the project may not be excessive.

Or. pl

Justification

The current variation in the unit costs for remuneration (staff costs per time unit) is greater than 1000%, which is not justified by genuine differences in the cost of research work by individual project participants or differences in their work contribution in the same time unit.

Amendment by Giles Chichester

Amendment 403

Article 31, paragraph 1, subparagraph 1

1. **Grants** shall be co-financed by the participants.

1. **Indirect actions awarded a grant from the Community budget** shall be cofinanced by the participants.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Daniel Caspary

Amendment 404

Article 31, paragraph 1, subparagraph 1

1. Grants shall be co-financed by the participants.

1. Grants shall be co-financed by the participants. **Such co-financing may take the form of services in kind.**

Or. de

Justification

It often makes sense, in the case of public institutions such as universities, to be able to bring in, as services in kind, emeritus professors who are still involved in the research and responsible for research students. This does not incur any budgeted costs that can be displayed as co-financing (cash outlay). But such work is a form of service in kind on behalf of the project and should be duly recognised.

Amendment by Teresa Riera Madurell

Amendment 405

Article 31, paragraph 1, subparagraph 1

1. Grants shall be co-financed by the participants.

1. **Indirect actions financed by grants** shall be co-financed by the participants.

Or. es

Justification

To specify that these are indirect actions.

Amendment by Giles Chichester

Amendment 406
Article 31, paragraph 1, subparagraph 2

The Community financial contribution to reimburse eligible costs shall not give rise to a profit.

The Community financial contribution to reimburse eligible costs shall not give rise to a profit. ***Whether or not there is a profit shall be determined at the level of each participant.***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Based on the Commission proposal for a revised Financial Regulation, it will be possible to consider the "indirect action" as a whole as the recipient of a grant, thereby allowing in principle for profits to be made by individual participants in multi-partner actions⁴⁶. Therefore, in Article 31 of the "Rules for Participation", the applicability of the "no profit" principle to each participant in an indirect action should be clarified.

46 Court Opinion No 10/2005, paragraph 44.

Amendment by Giles Chichester

Amendment 407
Article 31, paragraph 2

2. Receipts shall be taken into consideration for the payment of the grant at the end of the implementation of the action.

2. Receipts shall be taken into consideration for the payment of the grant at the end of the implementation of the action ***in accordance with Article 33(5).***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Philippe Busquin

Amendment 408

Article 31, paragraph 2a (new)

2a. Where it can be demonstrated that a receipt from a third party to an indirect action that is received and managed by one participant is to benefit to all the participants indistinctively, it shall be considered as allocated between participants in proportion to their eligible costs.

Or. en

Justification

A participant who is the recipient of a receipt should not be penalised - not in his own interests, but for the benefit of the project. In such cases, a share of the eligible costs declared by each participant seems to be the fairest method of allocation.

Amendment by Giles Chichester

Amendment 409

Article 31, paragraph 3

3. In order to be considered eligible, costs incurred for the implementation of an indirect action shall meet the following conditions:

3. In order to be considered eligible, costs incurred ***by each participant*** for the implementation of an indirect action shall meet the following conditions:

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 410

Article 31, paragraph 3, point (c)

(c) they must have been determined ***in accordance with*** the usual accounting ***and***

(c) they must have been determined ***and have been used according to*** the usual

management principles and practices of the participant and used for the sole purpose of achieving the objectives of the indirect action and its expected results, **in a manner consistent with the principles of economy, efficiency and effectiveness**;

accounting principles **of the country where the legal entity is established** and **cost accounting** practices of the participant and incurred for the sole purpose of achieving the objectives of the indirect action and its expected results;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Court recommends that Article 31(3)(c) should refer to the accounting principles of the country where the legal entity is established and the participant's usual "cost accounting practices". Moreover, in the Court's view, the reference "for the sole purpose of achieving the objectives of the indirect action and its expected results" is sufficient to make sure that only costs necessary for carrying out the action are reimbursed.

The principles of "Sound financial management" in the Financial Regulation are, however, not necessarily part of a participant's accounting principles and cost accounting practices. Therefore the Court recommends that the last half sentence of Article 31(3)(c) should be deleted.

Amendment by Giles Chichester

Amendment 411

Article 31, paragraph 3, point (d)

(d) they must be recorded in the accounts of the participant **and paid** and, in the case of any contribution from third parties, they must be recorded in the accounts of the third parties;

(d) they must be recorded in the accounts of the participant and, in the case of any contribution from third parties, they must be recorded in the accounts of the third parties;

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Philippe Busquin

Amendment 412

Article 31, paragraph 3, point (e)

(e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, cost related to return on capital, costs declared or incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

(e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax **only where it may be recovered**, duties, interest owed, provisions for possible future losses or charges, exchange losses, cost related to return on capital, costs declared or incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

Or. fr

Justification

VAT is clearly a project cost where it cannot be recovered. It must therefore be reimbursed, as is already the case under other Commission programmes (e.g. Leonardo). Nevertheless, this should not represent an administrative burden and cause delays in data management.

Amendment by Giles Chichester

Amendment 413

Article 31, paragraph 3, point (e)

(e) they must be exclusive of non-eligible costs, in particular **identifiable** indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, **cost** related to return on capital, costs declared or incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

(e) they must be exclusive of non-eligible costs, in particular **recoverable** indirect taxes, including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, **costs** related to return on capital, costs declared or incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

In the Court's view, only recoverable indirect taxes should be considered as non-eligible costs. In practice, certain types of participating legal entities (such as non-governmental organisations, foundations, associations) and natural persons do not have the possibility to recover indirect taxes such as value added taxes (VAT)⁴⁷. These therefore constitute a cost

for the participant and in such cases non-recoverable indirect taxes should be reimbursable (see Article 31(3e)).

47 The Commission proposal to make only "identifiable" indirect taxes ineligible may induce participants to conceal VAT in their cost reporting.

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 414
Article 31, paragraph 3 a (new)

3a. The following may be claimed as reimbursable costs:

(a) the cost of a bank guarantee or comparable security to be provided by the beneficiary in accordance with Article 118 of the Financial Regulation;

(b) the sums of turnover tax that the beneficiary cannot claim from the financier as a tax prepayment deduction;

(c) the cost of external verification;

(d) administrative, staff and material costs;

(e) depreciation costs.

Or. de

Justification

Small businesses and organisations cannot carry the cost of providing securities. But they should not as a result be excluded de facto from funding. The same applies to organisations that do not benefit from tax prepayment deductions.

Amendment by Giles Chichester

Amendment 415
Article 31, paragraph 3, subparagraph 2

For the purposes of point (a), average personnel costs may be used if they are consistent with the management principles and accounting practices of the participant and do not differ significantly from actual costs. ***deleted***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Vittorio Prodi

Amendment 416

Article 31, paragraph 3, subparagraph 2

For the purposes of point (a), average personnel costs may be used if they are consistent with the management principles and accounting practices of the participant ***and do not differ significantly from actual costs.***

For the purposes of point (a), average personnel costs may be used if they are consistent with the management principles and accounting practices of the participant.

Or. en

Justification

Individual evaluation of the term “significantly” could potentially lead to many different interpretations.

Amendment by Gunnar Hökmark

Amendment 417

Article 31, paragraph 3a (new)

3a. While the Community financial contribution shall be calculated by reference to the cost of the indirect action as a whole, its reimbursement shall be based on the reported costs of each participant.

Or. en

Amendment by Giles Chichester

Amendment 418

Article 32, Title

Direct ***eligible costs*** and indirect ***eligible costs***

Direct and indirect costs

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 419

Article 32, paragraph 1a (new)

1a. Direct costs can be composed of personnel, travel and subsistence, and other specific costs.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Such a simplified system should provide for three categories of direct costs ("personnel cost", "travel and subsistence cost" and "other specific costs"), easily identifiable in and retrievable from the (cost) accounting system of any participant.

- "Personnel cost" is the main category of direct costs incurred when carrying out indirect actions. This cost category is to cover the remuneration and related charges for personnel directly hired by the legal entity participating, within the limits and under the terms laid down in the employment contracts. For a system which is based on the reimbursement of costs actually incurred, it is essential that the working time of personnel contributing to an indirect action must be substantiated, so that the respective personnel costs can be correctly allocated. With regard to the recording of working time, the Commission should define minimum requirements applicable to all participants. In line with the Commission proposal, the Court also recommends that allowance should be made for a simplified calculation method, e.g. use of budgeted costs, average costs or unit scales, category-specific rates - provided that these are established in accordance with the participant's usual cost accounting practices and that they do not deviate significantly from actual costs.

- "Travel and subsistence costs" are proposed as a second category, in particular because such costs may constitute a large part of total costs for some specific actions. Again the Court recommends a simplified calculation method, using unit scales, provided that these are established in accordance with the participant's usual cost accounting practices and

that they do not deviate significantly from actual costs or, alternatively, if such unit scales were established by the Commission.

- *The Court recommends introducing a third category, "Other specific costs", for all other direct costs. This category could be used for exceptional items, such as durable equipment, expensive consumables, subcontracting, but also user fees to be charged, if a budget of estimated eligible costs for such items has been established in the grant agreement. In this sense, the eligibility, necessity and reasonableness of the costs estimated in this category will be assessed during the evaluation and negotiation of proposals and agreed with the Commission in the grant agreement. As a result, the participants have the legal security of being reimbursed when incurring these costs as long as the budget of estimated costs is not exceeded. Alternatively, lump sums could also be used for the funding of items covered by this cost category.*

Amendment by Giles Chichester

Amendment 420

Article 32, paragraph 1b (new)

1b. Personnel costs shall include remuneration and related charges for personnel directly employed by a participant.

They shall be charged on the basis of the participant's records of time actually spent by personnel on the indirect action.

A participant may charge average costs or unit scales for specific categories of staff, provided that they are established in accordance with its usual cost accounting practices.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 421

Article 32, paragraph 1c (new)

1c. Travel and subsistence costs for personnel participating in the indirect action shall be charged as actual costs incurred or based on unit scales, provided that they are established in accordance with

the participant's usual cost accounting practices, or based on unit scales established by the Commission.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 422

Article 32, paragraph 1d (new)

1d. Other specific costs, including durable equipment, user fees, consumables, subcontracting, shall be eligible only if defined in the grant agreement.

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

Amendment by Giles Chichester

Amendment 423

Article 32, paragraph 2

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate ***of*** its total direct eligible costs, ***excluding its direct eligible costs for subcontracting.***

2. For the coverage of indirect eligible costs, a participant may ***charge actual costs or may*** opt for a flat- rate ***for*** its total direct eligible ***personnel*** costs ***provided that it is established in accordance with its usual cost accounting practices.***

Or. en

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE Committee in order to facilitate the vote.

The Commission proposal is unclear as to what flat rate will be applied for the coverage of

indirect eligible costs (ie, whether this flat rate corresponds to the 20 % rate on the Full Cost Flat Rate (FCF) model under the Sixth Framework Programme or the 7 % rate established by the Financial Regulation as a default regime). It is also unclear about the circumstances under which participants may opt for such a flat-rate system.

In contrast to the Commission proposal, the Court considers that participants should be able to charge flat rates established in accordance with their usual cost accounting practices (see paragraph 38). The "reasonableness" of such rates would have to be demonstrated during the negotiation of a proposal, based on the participants accounting information, and certified by the external auditor when providing the audit certificate (see Article 34a).

In the Court's view, the use of such negotiated flat rates would drastically simplify the reporting of costs to the Commission. Only by allowing participants to use their own cost accounting system to calculate and report actual costs incurred will they be able to participate in full compliance with both their internal rules and the "Rules for Participation". In practice, this would imply that participants may charge rates for indirect costs which are significantly above the 20 % of direct costs under previous RTD framework programmes⁴⁹.

49 Special Report No 1/2004, paragraphs 30 to 33.

Amendment by Vittorio Prodi

Amendment 424 Article 32, paragraph 2

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting.

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting.

However, in the case of public bodies, secondary and higher education establishments, research organisations and no-profit organization, it may reach a maximum of 40% of direct eligible costs, excluding its direct eligible costs for subcontracting or 80% of personnel costs" (as FP5)

Or. en

Justification

It is easy to prove a low percentage of costs. It is better to consider 40% of direct eligible costs or 80% of personnel costs as already suggested by the Commission in FP5

Amendment by Teresa Riera Madurell

Amendment 425
Article 32, paragraph 2

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting.

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting.
These flat-rate payments, which must amount to at least 25% of total direct costs eligible for subsidies minus subcontracting, shall be based on a detailed evaluation of the real indirect costs concerned.

Or. es

Justification

Flat-rate payments cannot be calculated on a case-by-case basis by the Commission. For this purpose a clear and comprehensive regulatory framework, that is to say a model grant agreement, is necessary.

Amendment by Eluned Morgan

Amendment 426
Article 32, paragraph 2

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting.

2. The flat rate to cover indirect costs shall amount to 30% of the total direct eligible costs, excluding subcontracting costs, unless otherwise stated in the work programmes and subject to conditions outlined in the grant agreement.

Or. en

Justification

It may be necessary to set different rates for indirect costs, for different parts of the programme, and for different project types. It is therefore necessary to refer to alternate rates being set in the work programmes, subject to Commission guidelines.

A rate above 30% would be welcomed by stakeholders and would be valuable to participants who are not in a position to identify their indirect costs, and therefore cannot 'opt' for reimbursement of indirect costs based on costs incurred.

Amendment by Gunnar Hökmark

Amendment 427

Article 32, paragraph 2

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate of its total direct eligible costs, *excluding* its direct eligible costs *for subcontracting*.

2. For the coverage of indirect eligible costs, a participant *may charge actual costs established in accordance with its usual cost accounting practices or opt for a flat-rate of 60 % of* its total direct eligible costs.

Or. en