

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0304/2006

22.9.2006

*****I**

REPORT

on the 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)
(COM(2005)0705 – C6-0005/2006 – 2005/0277(COD))

Committee on Industry, Research and Energy

Rapporteur: Philippe Busquin

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	79
OPINION OF THE COMMITTEE ON BUDGETS	82
OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION	88
PROCEDURE.....	94

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on 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

(COM(2005)0705 – C6-0005/2006 – 2005/0277(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0705)¹,
 - having regard to Article 251(2) and Articles 167 and 172 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0005/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Budgets and the Committee on Culture and Education (A6-0304/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 2

(2) The Seventh Framework Programme is implemented in accordance with Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, hereinafter “the Financial Regulation”, and Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of the Financial

(2) The Seventh Framework Programme is **to be** implemented in accordance with Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, hereinafter “the Financial Regulation”, and Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of the Financial

¹ Not yet published in OJ.

Regulation, hereinafter “the Implementing Rules”.

Regulation, hereinafter “the Implementing Rules”.

Justification

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

Amendment 2
Recital 3

(3) The Seventh Framework Programme is **also** implemented in accordance with the state aid rules, in particular the rules on state aid for research and development.

(3) The Seventh Framework Programme is **to be** implemented in accordance with the state aid rules, in particular the rules on state aid for research and development.

Justification

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

According to Articles 87 and 88 of the Treaty, the Commission is responsible for keeping under constant review all systems of aid existing in the Member States, since, as a matter of principle, state aid is prohibited (see "whereas (3)). With regard to the ceilings laid down in paragraph 5.12 of the "Community Framework for State Aid for Research and Development", this specifies: "Where Community financing and State aid are combined, total official support may not exceed 75% in the case of industrial research and 50% in the case of pre-competitive development activities" (see also paragraphs 72 and 73).

Amendment 3
Recital 3 a (new)

(3a) The Seventh Framework Programme is to be implemented in synergy with the cohesion and structural funds.

Justification

Complementarity between the different EU funds should be reinforced.

Amendment 4
Recital 3 b (new)

(3b) The Seventh Framework Programme covers new areas, such as security, which could involve carrying out activities of a

sensitive nature that might give rise to classified information. The rules for participation are framed in such a way as to ensure that the information in question is protected.

Amendment 5
Recital 4

(4) The rules for the participation of undertakings, research centres and universities should provide a coherent and transparent framework to ensure efficient implementation and ease of access for all participants in the Seventh Framework Programme.

(4) The rules for the participation of undertakings, research centres and universities should provide a coherent ***simple, comprehensive, jargon-free*** and transparent framework to ensure efficient implementation and ease of access for all participants in the Seventh Framework Programme.

Justification

Participation should be encouraged by a commitment to simplicity and transparency.

Amendment 6
Recital 4 a (new)

(4a) This Regulation should also apply to the activities funded in the framework of the European Research Council (ERC).

Justification

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

Amendment 7
Recital 4 b (new)

(4b) The trend of declining industry participation in the Framework Programme must be reversed. Therefore the rules of participation should facilitate the application procedure and project management, increase legal certainty for participants and erase barriers related to

protection of intellectual property rights.

Justification

Complicated application procedures and management rules, legal uncertainty and the lack of adequate protection of intellectual property rights were the main reasons for the low industry participation in FP6

Amendment 8

Recital 5 a (new)

(5a) The members of European Technology Platforms (ETPs), as described in the Seventh Framework Programme, are important sources for identifying industrial research and innovation actions in Europe. As such some or all of their members may wish to take part in research actions funded by the Seventh Framework Programme and may apply for funding of their research actions via calls for proposals published in the context of that programme. ETPs may establish a legal personality. The decision-making procedures in ETPs should encourage the participation of SMEs.

Amendment 9

Recital 7

(7) It is therefore appropriate to permit not only the participation of legal **persons**, provided that they are entitled to exercise rights and assume obligations, but natural persons. ***The participation of natural persons will ensure that the creation and development of scientific excellence and ability are not limited to Community funding of projects involving only legal persons, ensuring also the participation of SMEs that are not legal persons.***

(7) It is therefore appropriate to permit not only the participation of legal **entities**, provided that they are entitled to exercise rights and assume obligations, but **also** natural persons.

Justification

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

Amendment 10
Recital 7 a (new)

(7a) Flexibility criteria should also be provided for and applied so as to enable researchers to broaden their research avenues.

Justification

History has shown that during their lifetime many Nobel prizewinners repeatedly switched from one research avenue to another.

Amendment 11
Recital 9

(9) It is appropriate that any legal entity should be free to participate once the minimum conditions have been satisfied.
Participation over and above the minimum should ensure the efficient performance of the indirect action concerned.

(9) Participation over and above the minimum ***legal requirements*** should ***not impair*** efficient ***implementation*** of the indirect action concerned.

Justification

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

Amendment 12
Recital 9 a (new)

(9a) To boost researchers' careers, calls for proposals concerning Marie Curie fellowships should be widened to encompass research, and projects should allow scope for both programmes and recruitment of researchers to strengthen existing teams.

Justification

Wider opportunities need to be afforded to emerging or established teams, bearing in mind that they are understaffed.

Amendment 13
Recital 12

(12) In line with the objectives mentioned above, it is necessary to establish the terms and conditions for providing Community funding to participants in indirect actions.

(12) In line with the objectives mentioned above, it is necessary to establish the terms and conditions for providing Community funding, ***as set out in part (a) of Annex III to Decision .../... establishing the Seventh Framework Programme***, to participants in indirect actions.

Justification

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

Amendment 14
Recital 12 a (new)

(12a) It is necessary to ensure a sufficiently effective and flexible transition from the cost models proposed in the Sixth Framework Programme and ensure that bodies which benefited from the reimbursement of costs on the basis of the additional costs model are not penalised and discouraged from participating in the Seventh Framework Programme. While maintaining the objective of simplifying the definition of eligible costs and placing all participants on an equal footing, partial reimbursement of all eligible direct and indirect costs should have an equivalent incentive effect to restoring the additional costs model for the bodies concerned.

Amendment 15
Recital 13

(13) ***It is necessary for the*** Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules, to govern the submission, evaluation, selection and ***award*** of proposals. In particular ***the*** rules governing the use of independent experts ***should be established***.

(13) ***The*** Commission ***is*** to establish ***and to adopt*** further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules ***and this Regulation***, to govern the submission, evaluation, selection and ***negotiation*** of proposals ***and the award of grants***. In particular ***these*** rules ***are to include provisions*** governing the use of independent experts.

Justification

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

Amendment 16
Recital 13 a (new)

(13a) The use of databases and the electronic exchange of data should be the rule for the Seventh Framework Programme.

Justification

Databases should be used to maximise the efficiency of the exchanges of information necessary for the proper functioning of FP7 including, registration, submission, monitoring and control.

Amendment 17
Recital 13 b (new)

(13b) As a central electronic system is to be set up for the submission of proposals and ongoing project management, it is essential for the servers to be available on a reliable basis, for the system to be highly user-friendly, using technical solutions which are largely independent of users' software and showing the stage reached in the processing of proposals and any stages which have yet to be completed, and for clear rules to be laid down regarding the confidentiality of the data provided and the access rights of Commission staff and evaluators.

Justification

As the electronic submission of proposals is to be the only means of access to participation, it is essential to ensure that the system is readily available and user-friendly. Above all, SMEs should not be prevented from participating by technical obstacles.

Amendment 18
Recital 13 c (new)

(13c) The Commission must implement the Seventh Framework Programme in

accordance with the principles of an integrated internal control framework.

Justification

Controls should be applied to a common standard and coordinated to avoid unnecessary duplication. The overall cost of controls should be in proportion to the overall benefits they bring in both monetary and political terms.

Amendment 19

Recital 14

(14) ***It is appropriate for*** the Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules, to govern the ***assessment of the legal and financial viability*** of participants in indirect actions under the Seventh Framework Programme.

(14) The Commission ***is*** to establish and ***to adopt*** further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules, to govern the ***verification of the existence, legal status and operational and financial capacity*** of participants in indirect actions under the Seventh Framework Programme.

Justification

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

Amendment 20

Recital 14 a (new)

(14a) Access to funding should be facilitated by the application of the principle of proportionality as regards the documents to be supplied.

Justification

This amendment replaces AM BUDG 6 to the Draft Report of Jerzy Buzek on the 7th Framework Programme.

Amendment 21

Recital 15

(15) In this context, the Financial Regulation ***and the*** Implementing Rules, govern *inter alia* the protection of the Community's financial interests, the fight against fraud and irregularity, the procedures for the recovery of sums owed to the Commission,

(15) In this context, the Financial Regulation, ***its*** Implementing Rules, and ***Council Regulation (EC, Euratom) No 2988/1995*** govern *inter alia* the protection of the Community's financial interests, the fight against fraud and irregularity, the

exclusion from contract and grant procedures and related penalties, and audits, checks, and inspections by the Commission **and the Court of Auditors, pursuant to Article 248(2) of the Treaty.**

procedures for the recovery of sums owed to the Commission, exclusion from contract and grant procedures and related penalties, and audits, checks, and inspections by the Commission.

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 22
Recital 15 a (new)

(15a) Payments should be made as soon as possible in order to minimise prefinancing by participants.

Justification

In view of the long times - to -payment, which the Commission itself acknowledges, the institutes are often forced to prefinance many items of expenditure to the detriment of the project budget. Especially SMU's are often not in a position to pre-finance expenditure.

Amendment 23
Recital 16

(16) The agreements concluded for each action ***should*** provide for supervision and financial control by the Commission, or any representative authorised by the Commission, as well as ***audits by the Court of Auditors and*** on-the-spot checks carried out by the European Anti-Fraud Office (OLAF), in accordance with the procedures laid down in Council ***Regulation*** N° 2185/96.

(16) The agreements concluded for each action ***are to*** 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 2185/96, No 1073/99 and No 1074/99. Similarly, the agreements are to provide for audits by the Court of Auditors, which, pursuant to Article 248(2) of the Treaty, may carry out***

its audits according to its own rules.

Justification

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

Amendment 24

Recital 17

(17) The Commission should monitor both the indirect actions carried out under the Seventh Framework Programme and the Seventh Framework Programme and its Specific Programmes.

(17) The Commission should monitor both the indirect actions carried out under the Seventh Framework Programme and the Seventh Framework Programme and its Specific Programmes. ***It should also evaluate the present rules for participation and the dissemination of results.***

Justification

The present rules must also be periodically evaluated to enable the conditions for their implementation to be adjusted if necessary.

Amendment 25

Recital 17 a (new)

(17a) The Commission should also identify possible interactions of the European Research Council with collaborative research, ERA-NETs and national programmes, to eliminate duplicate financing of research at European and national level.

Amendment 26

Recital 17 b (new)

(17b) For funding under the Seventh Framework Programme, the frequency and nature of the reports to be produced for the Commission by a consortium should be specified in the grant agreement. Reporting requirements should, as a rule, be kept to the minimum required to enable the Commission to monitor the project in the appropriate fashion. As a general rule, other than in justified exceptional cases, audit

certificate requirements should not go beyond the principles laid down in the Financial Regulation.

Amendment 27

Recital 18

(18) The rules governing the dissemination of research results should ensure that, where appropriate, the participants protect the intellectual property generated in actions, and use and disseminate those results.

(18) The rules governing the dissemination of research results should ensure that, where appropriate, the participants ***and their affiliated entities*** protect the intellectual property generated in actions, and use and disseminate those results.

Justification

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

Amendment 28

Recital 19

(19) While respecting the rights of the owners of intellectual property, those rules should be designed to ensure that participants have access to information they bring to the project and to knowledge arising from research work carried out in the project to the extent necessary to conduct the research work or to use the resulting knowledge.

(19) While respecting the rights of the owners of intellectual property, those rules should be designed to ensure that participants ***and their affiliated entities*** have access to information they bring to the project and to knowledge arising from research work carried out in the project to the extent necessary to conduct the research work or to use the resulting knowledge.

Justification

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

Amendment 29

Recital 19 a (new)

(19a) As regards payments under the Framework Programme, the Member States are encouraged to facilitate the access to and the application of funds for research carried out by SMEs, universities, research centres or other legal entities (for example, as regards claims for

reimbursement of VAT). Moreover, funds to cover VAT costs should be granted to those beneficiaries who are not eligible for VAT reimbursement.

Justification

In many cases academies or other associates have difficulties to finance research projects even with the help of European fund too. Member States should facilitate their activities through national legislation instead of rendering it more difficult.

Amendment 30
Recital 20

(20) The obligation established in the sixth Framework Programme for certain participants to take financial responsibility for their partners in the same consortium will be waived. Depending on the level of risk associated with non-recovery of sums, part of the Community financial contribution may be retained to cover amounts due and not reimbursed by defaulting partners. The participants that would have been obliged to cover the financial responsibility for other participants would contribute to risk avoidance, which the Commission shall retain at the time it makes payments. ***deleted***

Justification

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

Amendment 31
Recital 21

(21) Community contributions to a joint undertaking or any other structure set up pursuant to Article 171 of the Treaty, or pursuant to Article 169 of the Treaty do not fall within the scope of this Regulation. ***deleted***

Justification

Amendment proposed by the European Court of Auditors and tabled by the Chairman of ITRE

Committee in order to facilitate the vote.

Amendment 32
Recital 22

(22) ***This*** Regulation ***respects*** the fundamental rights and observes the principles recognised ***in particular*** by the Charter of Fundamental Rights of the European Union.

(22) ***Any action covered by this*** Regulation ***must respect*** the fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union.

Justification

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

Amendment 33
Recital 23

(23) The Community may award a grant to the European Investment Bank (EIB) to foster private sector investment in eligible large European RTD actions by increasing the capacity of the Bank to manage risk, thus allowing for (i) a larger volume of EIB lending for a certain level of risk, and (ii) the financing of riskier European RTD actions than would be possible without such Community support.

(23) The Community may award a grant to the European Investment Bank (EIB) to foster private sector investment in eligible large European RTD actions ***identified in part (b) of Annex III to Decision .../... [establishing the Seventh Framework Programme]*** by increasing the capacity of the Bank to manage risk, thus allowing for (i) a larger volume of EIB lending for a certain level of risk, and (ii) the financing of riskier European RTD actions than would be possible without such Community support.

Justification

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

Amendment 34
Recital 24

(24) ***The Community may provide financial support, as established in the Financial Regulation, inter alia by means of:***
(a) public procurements, in the form of a price for goods or services established by contract and selected on the basis of calls for tender;
(b) grants;
(c) subscriptions to an organisation in the

deleted

*form of a membership fee;
(d) honoraria for independent experts
identified in Article 17 of this Regulation.*

Justification

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

Amendment 35
Recital 24 a (new)

***(24a) The administrative procedures should
be significantly simplified compared to the
previous programmes and a strengthened
focus shall be placed on assessing the
scientific merit of research projects. A
significant decentralization should be
introduced together with a strong merit-
oriented evaluation.***

Amendment 36
Article 1, title

Subject matter

Subject matter ***and scope***

Justification

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

Amendment 37
Article 1, paragraph 5 a (new)

***This Regulation shall apply to actions
funded within the framework of the
European Research Council (ERC).***

Justification

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

Amendment 38
Article 1, paragraph 5 b (new)

In the context of the specific programme "Ideas", the Commission shall apply these rules to the implementation of "frontier" research actions after close consultation with the Scientific Council of the ERC.

Amendment 39
Article 1, paragraph 5 c (new)

This Regulation shall apply to grants to the European Investment Bank (EIB) to contribute to the provisioning and capital allocation for its loan and guarantee financing, for actions identified in Annex III to Decision .../... [establishing the Seventh Framework Programme].

Justification

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

Amendment 40
Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those set out in the Financial Regulation and the Implementing Rules:

(1) "foreground" means the results, including information, whether or not they can be protected, which are generated by actions. Such results include rights related to copyright; design rights; patent rights; plant variety rights; or similar forms of protection;

(2) "background" means information **which** is held by participants prior to **their accession to** the grant agreement, as well as copyrights or other intellectual property rights pertaining to such information, **the application for which has been filed before their accession to the grant agreement, and** which is needed for carrying out the indirect action **or for using the results of the indirect action**;

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those set out in the Financial Regulation and the Implementing Rules:

(1) "foreground" means the results, including information, whether or not they can be protected, which are generated by actions. Such results include rights related to copyright; design rights; patent rights; plant variety rights; or similar forms of protection;

(2) "background" means information **that** is held by participants prior to **the conclusion of** the grant agreement, as well as copyright or other intellectual property rights **or applications therefor** pertaining to such information, which is needed for carrying out the indirect action or for using the **foreground** results of the indirect action;

(3) “research organisation ” means a non-profit making organisation which carries out scientific or technical research as its main objective;

(4) “third country” means a State that is not a Member State;

(5) “Associated country” means a third country which is party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to all or part of the Seventh Framework Programme;

(6) “international organisation” means an intergovernmental organisation, other than the European Community, which has legal personality under international public law, as well as any specialised agency set up by such an international organisation;

(7) “international European interest organisation” means an international organisation, the majority of whose members are Member States or Associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;

(8) “international cooperation partner country” means a third country which the Commission classifies as a low-income, lower-middle-income or upper-middle-income country and which is identified as such in the work programmes;

(9) “public body” means any legal entity established as such by national public law, and international organisations;

(10) “SMEs” mean micro, small and medium-sized enterprises within the meaning of Recommendation 2003/361/EC in the version of 6 May 2003;

(3) “research organisation ” means a non-profit making organisation which carries out scientific or technical research as its main objective;

(4) “third country” means a State that is not a Member State;

(5) “Associated country” means a third country which is party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to all or part of the Seventh Framework Programme;

(6) “international organisation” means an intergovernmental organisation, other than the European Community, which has legal personality under international public law, as well as any specialised agency set up by such an international organisation;

(7) “international European interest organisation” means an international organisation, the majority of whose members are Member States or Associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;

(8) “international cooperation partner country” means a third country which the Commission classifies as a low-income, lower-middle-income or upper-middle-income country and which is identified as such in the work programmes;

(9) “public body” means any legal entity established as such by national public law, ***any legal entity under private law which fulfils a sovereign function, any legal entity established by national private law but primarily funded from public funds***, and international organisations;

(10) “SMEs” mean micro, small and medium-sized enterprises within the meaning of Recommendation 2003/361/EC in the version of 6 May 2003;

(10a) 'Associated company' means, in relation to another legal entity, any legal

(11) “work programme” means a plan adopted by the Commission for the implementation of a specific programme as identified in Article 3 of Decision [.../...];

(12) “funding schemes” mean the mechanisms for the Community funding of indirect actions as established in part (a) of Annex III to Decision [.../...];

(15) “RTD performer” means a legal entity carrying out research and technological development activities for the benefit of specific groups in research projects for the benefit of those groups.

entity that is either:

(a) under the direct or indirect control of the other legal entity, or

(b) under the same direct or indirect control as the other legal entity.

(11) “work programme” means a plan adopted by the Commission for the implementation of a specific programme as identified in Article 3 of Decision [.../...];

(12) “funding schemes” mean the mechanisms for the Community funding of indirect actions as established in part (a) of Annex III to Decision [.../...];

(12a) “specific groups” means SMEs or associations thereof, and non-governmental organisations working only in the field of “science and society”;

(12b) “legitimate interest” means any interest of whatever nature, including a commercial interest, which a participant may invoke in the cases specified in this Regulation; to that end, the participant must show that, in a given circumstance, the failure to take its interest into account would cause it disproportionate damage;

(12c) “fair and reasonable conditions” means fair and reasonable conditions in various possible forms, including financial terms (lump sum, royalties, etc.), laid down in the light of the participant’s contribution to the work engendering the knowledge to which it is to give access and to the potential inherent in that knowledge;

(13) “RTD performer” means a legal entity carrying out research and technological development activities for the benefit of specific groups in research projects for the benefit of those groups.

(13a) “participant” means a legal entity contributing to an indirect action and having rights and obligations with regard to the Community under the terms of this Regulation or according to the grant

agreement;

(13b) "affiliated entities" means legal entities where one is under the direct or indirect control of the other or under the same direct or indirect control; "affiliated companies" means that control is defined as holding more than 50% of the voting share in such an entity.

Amendment 41
Article 3, paragraph -1 (new)

Actions under the Seventh Framework Programme may generate, or involve the exchange of, classified EU information. Such information shall be managed and protected in accordance with the provisions of Commission Decision (2001/844/EC, ECSC, Euratom) of 29 November 2001 amending its internal Rules of Procedure¹.

¹ OJ L 317, 3.12.2001, p. 1.

Justification

The arrangements proposed by the Commission for including specific provisions in the grant agreement (Article 22(3)) are not sufficient, as confidentiality must also be ensured right from the stage where proposals are evaluated.

Amendment 42
Article 3, paragraph 1 a (new)

To preserve the confidentiality of European research and development, participation in indirect actions in the field of security shall be restricted to Member States, except in specified cases.

Justification

Despite the fact that paragraphs 3 and 4 of Article 22 relating to specific provisions with regard to research in the field of security raise this possibility, it follows from the special nature of the issues involved that it should be possible to apply restrictions concerning the

participation of bodies from third countries and the dissemination of the information gained.

Amendment 43

Article 4, paragraph 1, subparagraphs 2 and 3

However, in the case of an indirect action as referred to in Articles 5(1), 7, 8 or 9, under which it is possible for the minimum conditions to be met without the participation of a legal entity established in a Member State, the attainment of the objectives laid down in Articles 163 and 164 of the Treaty must thereby be enhanced.

A legal entity is any natural person, or any legal person created under the national law of its place of establishment, or under Community law or international law, which has legal personality and which may, acting under its own name, exercise rights and be subject to obligations.

A legal entity is any natural person, or any legal person created under the national law of its place of establishment, or under Community law or international law, which has legal personality and which may, acting under its own name, exercise rights and be subject to obligations.

In the case of an indirect action as referred to in Articles 5(1), 7, 8 or 9, under which it is possible for the minimum conditions to be met without the participation of a legal entity established in a Member State, the attainment of the objectives laid down in Articles 163 and 164 of the Treaty must thereby be enhanced.

(The order of these paragraphs has been reversed.)

Justification

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

Amendment 44

Article 4, paragraph 1, subparagraph 3 a (new)

Access to funding shall be facilitated by the application of the principle of proportionality as regards the documents to be supplied and by the creation of a database for the submission of applications.

Justification

The methods and the procedures need to be simplified in order to speeding up the transparency of the selection procedure and facilitate access to the programme. The appropriations allocated to the Executive Agency should comply with the provisions of the Code of conduct on the setting up of an Executive agency and Council Regulation N°58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the

management of Community programs. This will ensure appropriate financing of the actions of the programme.

This amendment replaces the AM BUDG 6 to the Draft Report of Jerzy Buzek on the 7th Framework Programme.

Amendment 45
Article 5, paragraph 1

1. The minimum conditions for indirect actions shall be the following:

(a) at least three legal entities must participate, ***each of which is established in a Member State or Associated country, and no two of which are established in the same Member State or Associated country;***

(b) ***all*** three legal entities must be independent of each other in accordance with Article 6.

1. The minimum conditions for ***participation in*** indirect actions shall be the following:

(a) at least three legal entities must participate, ***at least one of which must be established in a Member State;***

(aa) the countries in which the participating legal entities are established must include at least three Member States or Associated Countries;

(b) ***at least*** three ***of the participating*** legal entities must be independent of each other in accordance with Article 6.

Justification

The minimum legal requirements for the participation of independent legal entities in indirect actions and their place of establishment must be clarified in order to avoid an overly restrictive interpretation of these requirements.

Amendment 46
Article 7

For collaborative projects ***addressing*** the participation of international cooperation partner countries in parity with Member States or Associated countries, as identified in the work programme, the minimum conditions shall be the following:

(a) at least four legal entities must participate;

For collaborative projects, ***as established in part (a), section 1, of Annex III to Decision No .../... [concerning the Seventh Framework Programme...], which involve*** the participation of international cooperation partner countries in parity with Member States or Associated countries, as identified in the work programme, the minimum conditions shall be the following:

(a) at least four legal entities must participate;

(b) ***at least two of*** the legal entities referred to in point (a) ***must be*** established ***in*** Member States or Associated countries, ***but no two may be established in the same Member State or Associated country;***

(c) ***at least two of*** the legal entities referred to in point (a) ***must be*** established ***in*** international cooperation partner countries, ***but no two may be established in the same international cooperation partner country;***

(d) ***all*** four legal entities referred to in point (a) must be independent of each other in accordance with Article 6.

(b) ***the countries in which*** the ***participating*** legal entities referred to in point (a) ***are*** established ***must include at least two*** Member States or Associated countries;

(c) ***the countries in which*** the ***participating*** legal entities referred to in point (a) ***are*** established ***must include at least two*** international cooperation partner countries;

(d) ***at least four of the participating*** legal entities referred to in point (a) must be independent of each other in accordance with Article 6.

Justification

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

Amendment 47 Article 7, paragraph 1 a (new)

Notwithstanding the first paragraph, in programmes for cooperation with developing countries, calls for proposals, suited to the level and needs of the recipient countries may be issued, so as to include bodies and legal entities working on the ground.

Justification

The structures and capacities of developing or underdeveloped countries are not the same as in Europe, and that fact has to be taken into account.

Amendment 48 Article 8, paragraph 2

The first paragraph shall not apply in the case of actions that coordinate research projects

The first paragraph shall not apply in the case of actions ***whose purpose is to*** coordinate research ***activities.***

Amendment 49

Article 9

For indirect actions to support investigator-driven “frontier” research projects funded in the framework of the *European Research Council*, the minimum condition shall be the participation of one legal entity established in a Member State or in an Associated country.

1. For indirect actions to support investigator-driven “frontier” research projects funded in the framework of the *ERC, as established in part (a), section 4, of Annex III to Decision No .../...* *[concerning the Seventh Framework Programme...]*, the minimum condition shall be the participation of one legal entity established in a Member State or in an Associated country.

2. *The Commission shall take appropriate measures to ensure the portability of grants for investigator-driven “frontier” research projects funded within the framework of the ERC between legal entities established in Member States or Associated countries.*

Justification

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

According to the Commission proposal, grant agreements will in principle be signed with legal entities, not individual researchers. In contrast to other parts²⁷. See also the Court's proposal for a simplified governance structure of consortia carrying out multi-partner indirect actions of the Seventh Framework Programme, grants for investigator-driven “frontier” research within the framework of the ERC are awarded to fund the research activities of a specific researcher or research team. This poses the problem of ensuring that a grant for investigator-driven “frontier” research can be transferred if a specific researcher moves to another research organisation (see Article 9(2)).

Amendment 50
Article 9 a (new)

Article 9a

Research for the benefit of SMEs.

Targeted measures shall be introduced to promote and support participation and, where appropriate, involvement in decision-making by SMEs and small research units in the implementation of joint technology initiatives (JTIs). The Commission shall submit a proposal for the necessary legislative measures.

Justification

An independent, ambitious and long-term research project within a joint technology initiative endorsed by the Council should not be destabilised by periodic assessments and resulting uncertainties, which would militate against a clear and unwavering commitment within an efficient management framework, subject to only one review (and hopefully only minor adjustments).

This amendment replaces the AMs 1264 and 1268 to the Draft Report of Jerzy Buzek on the 7th Framework Programme.

Amendment 51 Article 11

Participation in indirect actions shall be open to international organisations and legal entities established in third countries after the minimum conditions laid down in this Chapter have been met, as well as any conditions specified in the specific programmes or relevant work programmes.

Participation in indirect actions shall be open to international organisations and legal entities established in third countries after the minimum conditions laid down in this Chapter have been met, as well as any conditions specified in the specific programmes or relevant work programmes. ***Notwithstanding Article 31, participants from third countries may, if they so choose, obtain reimbursement based on lump sums calculated per researcher. The rules concerning all those participating in an indirect action shall be established in accordance with the relevant provisions of the consortium agreement.***

Amendment 52 Article 11, paragraph 1 a (new)

The applicable lump sum shall be determined by the Commission depending on the characteristics of the third countries.

Justification

Third country participants often have difficulty establishing their real costs and finding their share of the co-financing. A lump-sum rate could solve this problem.

Amendment 53
Article 12

In addition to the minimum conditions laid down in this Chapter, specific programmes ***or work programmes may lay down conditions regarding the minimum number of participants.***

They may also lay down, according to the nature and objectives of the indirect action, additional conditions to be met as regards type of participant and, where appropriate, place of establishment.

In addition to the minimum conditions laid down in this Chapter, specific programmes may also lay down, according to the nature and objectives of the indirect action, additional conditions to be met as regards the type of participant and, where appropriate, the place of establishment.

Justification

If the criteria were altered every year, the programmes would need to be constantly brought into line by the scientific community.

Amendment 54
Article 13

Calls for proposals

1. The Commission shall issue calls for proposals ***for indirect actions*** in accordance with the requirements laid down in the relevant specific programmes and work programmes.

In addition to the publicity specified in the Implementing Rules, the Commission shall publish calls for proposals in the Internet pages of the Seventh Framework Programme, through specific information channels, and at the national contact points set up by the Member States and the Associated countries.

2. Where appropriate, the Commission shall specify in the call for proposals that the participants need not establish a consortium agreement.

Calls for proposals

1. The Commission shall issue calls for proposals in accordance with the requirements laid down in the relevant specific programmes and work programmes ***which may include calls targeted at particular groups such as SMEs.***

In addition to the publicity specified in the Implementing Rules, the Commission shall publish calls for proposals in the Internet pages of the Seventh Framework Programme, through specific information channels, and at the national contact points set up by the Member States and the Associated countries.

2. Where appropriate, the Commission shall specify in the call for proposals that the participants need not establish a consortium agreement.

2a. Calls for proposals shall be carefully

*targeted and have clear-cut objectives
so as to ensure that bidders do not
respond needlessly.*

*2b. The selection criteria shall set out the
projects' characteristics, quality and
implementation.*

Amendment 55
Article 14

The Commission shall not issue calls for proposals for the following:

(a) coordination and support actions to be carried out by legal entities identified in the specific programmes or in the work programmes **when** the specific programme permits the work programmes to identify beneficiaries, in accordance with the Implementing Rules;

(b) coordination and support actions consisting of **a** purchase or service subject to the rules on public procurement **set out in the Financial Regulation**;

(c) coordination and support actions relating to the appointment of independent experts;

(d) other actions, **where so provided by the Financial Regulation or the Implementing Rules**.

In accordance with the Financial Regulation and the Implementing Rules,
the Commission shall not issue calls for proposals for the following:

(a) coordination and support actions to be carried out by legal entities identified in the specific programmes or in the work programmes **where** the specific programme permits the work programmes to identify beneficiaries;

(aa) coordination and support actions in preparation of the setting up of technology initiatives when they involve a representative sample of interested players in the field and the specific programme permits the work programmes to identify beneficiaries in accordance with the Implementing Rules.

(b) coordination and support actions consisting of **the** purchase **of a good or a** service **established by contract and selected** subject to the rules on public procurement;

(ba) coordination and support actions relating to the award of study, research or training scholarships and prizes following contests;

(c) coordination and support actions relating to the appointment of independent experts;

(d) other actions **implemented on the basis of decisions by the Council and the European Parliament (or by the Council in consultation with the European**

Parliament) identified in part (b) of Annex III to Decision No .../... [concerning the Seventh Framework Programme...].

Support may be provided to cover part of the administrative costs associated with the development and implementation of European Technology Platforms on a case-by-case basis. The beneficiaries of such support actions must be identified in the work programme.

Amendment 56

Chapter 7, section 2, subsection 2, title

EVALUATION OF PROPOSALS

EVALUATION, ***SELECTION, AND NEGOTIATION*** OF PROPOSALS AND ***AWARD OF GRANTS***

Amendment 57

Article 15

Evaluation, selection and award

1. The Commission shall evaluate all the proposals submitted in response to a call for proposals on the basis of the principles for evaluation, and the selection and award criteria set out in the specific programme and the work programme.

Evaluation ***principles, and*** selection and award ***criteria***

1. The Commission shall evaluate all the proposals submitted in response to a call for proposals on the basis of the principles for evaluation, ***a blind peer evaluation*** and the selection and award criteria set out in the specific programme and the work programme.

As regards the “Ideas” specific programme, the sole criterion to apply to individual projects shall be that of excellence.

As regards the “People” specific programme, the criteria shall serve to assess the qualities of the applicants (researchers or organisations) and their potential for further advances, including their capacity to operate as and where necessary, the quality of the activity proposed in terms of scientific training or transfer of knowledge, and the structuring

effect of the activity proposed, determined according to the extent to which the activity will help to attain the objectives of the specific programme and the work programme.

For the purposes of the “Cooperation” and “Capacities” specific programmes, the criteria shall be as follows:

(a) scientific and technological excellence and degree of innovation;

(b) capacity of the project to create the basis for the competitive growth of the participants;

(c) ability to successfully carry out the indirect action and manage it efficiently, to be assessed in terms of resources and expertise, having regard not least to the organisational arrangements laid down by the participants;

(d) relevance to the objectives of the specific programme;

(e) critical mass of resources mobilised and their contribution to Community policies;

(f) quality of the plan for utilising and disseminating knowledge, potential in terms of fostering innovation, and clear-cut schemes for administering intellectual property.

The work programme may set out specific criteria or further details on the application of the criteria.

The work programme may set out specific criteria or further details on the application of the criteria.

1b. Where established in the work programme or the call for proposals, remote evaluations may be carried out.

2. A proposal which contravenes fundamental ethical principles or which does not fulfil the conditions set out in the specific programme, the work programme or in the call for proposals shall not be **selected**. **Such a proposal** may be excluded **from the evaluation, selection and award procedures** at any time.

2. A proposal which contravenes fundamental ethical principles or which does not fulfil the conditions set out in the specific programme, the work programme or in the call for proposals shall not be **eligible for participation** and may be excluded at any time, **after requesting the advice of independent experts**.

3. Proposals shall be **selected** on the basis of

3. Proposals shall be **ranked** on the basis of

the evaluation results.

the evaluation results *and selected for funding accordingly.*

3a. Guides for those carrying out evaluations and the selection criteria for such persons in respect of the Seventh Framework Programme shall be made public.

Amendment 58
Article 15 a (new)

Article 15a
Information and advice

The Commission services responsible for granting financial assistance shall jointly set up a common unit tasked with providing applicants with information and advice. This unit shall, in particular:

- draw up common standards for application forms for similar types of funds and monitor the length and readability of application forms,*
- provide information to potential applicants (particularly by means of seminars and written guidance) and*
- maintain a databank for the notification of applicants.*

Justification

The prospective joint unit should ensure the treatment grant recipients receive is of a uniformly high standard. This should considerably reduce the administrative costs for grant recipients and departments involved in grant awards. The creation of a central databank will spare the need for multiple submission of application documents, which will save time and money for the Commission as well as for applicants.

Amendment 59
Article 16, paragraphs 2, 3 and 4

2. Where a call for proposals specifies a two-stage submission procedure, only those proposals that pass the evaluation criteria for the first stage shall be requested to submit a complete proposal in the second stage.

2. Where a call for proposals specifies a two-stage submission procedure, only those proposals that pass the evaluation criteria for the first stage shall be requested to submit a

complete proposal in the second stage.

The first stage of the procedure shall be restricted to a first assessment of the admissible proposals submitted. Applicants shall be informed where it is clear by the end of this stage of the procedure that their proposals have no chance of success.

The second stage of the procedure must differ from the first, particularly with regard to the scope and content of the supporting documents to be submitted by applicants. Where an applicant is required to provide additional supporting documents, it must be fully and definitively informed to that effect by the Commission. Any data collected must be entered into a databank. Efforts must be made to ensure that the procedure is completed swiftly.

Throughout the procedure, the Commission must take particular care to ensure that the expenses incurred by applicants for publication, documentation and other documentary evidence required in connection with financial assistance are not disproportionate to the financial assistance to be granted.

3. Where a call for proposals specifies a two-step evaluation procedure, only those proposals that pass the first step, based on the evaluation of a limited set of criteria, shall go forward for further evaluation.

3. Where a call for proposals specifies a two-step evaluation procedure, only those proposals that pass the first step, based on the evaluation of a limited set of criteria, shall go forward for further evaluation.

In any event, neither the first nor the second step of the evaluation procedure shall exceed six months.

3a. Unless otherwise specified in the work programme, proposals for indirect actions must be submitted electronically.

4. The Commission shall adopt and publish rules to ensure consistent verification of the existence and legal status of participants in indirect actions as well as their financial capacity.

4. The Commission shall adopt and publish rules to ensure consistent verification of the existence and legal status of participants in indirect actions as well as their financial capacity. *To this end, the Commission shall set up and use a central databank containing the requisite legal and financial information concerning the applicants.*

4a. The Commission shall publish the information on the supported projects on the official Internet site of the Seventh Framework Programme, save where such information is confidential.

4b. Where a proposal has been 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 proposals, and taking into account the results of the evaluation of the proposal.

Amendment 60
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 updated periodically, or whenever requested by the Commission.

To avoid duplicate verifications, the Commission shall certify a successful verification, which shall be considered as sufficient for all proposals submitted by the same participant until further notice. For this purpose the Commission shall set up a single verification and certification system and adopt and publish specific rules relating hereto.

Justification

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

Amendment 61 Article 17

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 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.

3. ***When appointing an independent expert,***

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

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 ERC.

3. ***The Commission shall take appropriate***

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.

4. The Commission shall adopt a model appointment letter, hereinafter “the appointment letter”, which shall include a declaration that the independent expert has no conflict of interest at the time of appointment and that he undertakes to inform the Commission if any conflict of interest should arise in the course of providing his opinion or carrying out his duties. The Commission shall conclude an appointment letter between the Community and each independent expert.

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

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.

4. The Commission shall adopt a model appointment letter, hereinafter “the appointment letter”, which shall include a declaration that the independent expert has no conflict of interest at the time of appointment and that he undertakes to inform the Commission if any conflict of interest should arise in the course of providing his opinion or carrying out his duties. The Commission shall conclude an appointment letter between the Community and each independent expert.

5. The Commission shall publish *no later than the date on which the Seventh Framework Programme enters into force 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.

Amendment 62

Chapter II, section 2, subsection 3, title

IMPLEMENTATION AND GRANT AGREEMENTS

IMPLEMENTATION *OF INDIRECT ACTIONS* AND GRANT AGREEMENTS

Amendment 63

Article 18

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. 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.

2. The Commission shall draw up, on the basis of the model provided for in Article 19.7 and taking into account the characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.

3. Participants shall make no commitments incompatible with the grant agreement.

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.

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.

6. Participants shall ensure that the Commission is informed of any event which might affect the implementation of the indirect action or the interests of the Community.

2. The Commission shall draw up, on the basis of the model provided for in Article 19.7 and taking into account the characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.

3. Participants shall make no commitments incompatible with the grant agreement.

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. .

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***.

6. Participants shall ensure that the Commission is informed of any event which might affect the implementation of the indirect action or the interests of the Community.

6a. The legal entities participating in the indirect action may subcontract certain elements of the work 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 regarding the implementation of the indirect action.

General provisions for inclusion in grant agreements

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.

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.***

3. ***The grant agreement shall specify which changes in the composition of the consortium are to require the prior publication of a competitive call.***

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

General provisions for inclusion in grant agreements

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.

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

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, in accordance with the conditions set out in the work programme and in the call for proposals, where appropriate.***

4. The grant agreement shall require the submission to the Commission of ***no more than two*** periodic progress reports ***per year*** 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.***

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.

6. Where the grant agreement requires participants to carry out activities that benefit third parties, the participants shall advertise this widely and identify, evaluate and select third parties transparently, fairly and impartially. If provided for in the work-programme, the grant agreement shall establish criteria for the selection of such third parties. The Commission reserves the right to object to the selection of the third parties.

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

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.

6. Where the grant agreement requires participants to carry out activities that benefit third parties, the participants shall advertise this widely and identify, evaluate and select third parties transparently, fairly and impartially. If provided for in the work-programme, the grant agreement shall establish criteria for the selection of such third parties. The Commission reserves the right to object to the selection of the third parties.

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

8. The model grant agreement ***should, among other things, 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.

Amendment 65
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.

Amendment 66

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 **each participant** of any non-compliance on **its part**.

Justification

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

Amendment 67

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 **the composition of and changes to the consortium and 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 applies, inter alia, in the field of security and space research.**

Amendment 68

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.

Justification

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

Amendment 69

Article 23, title

Signature and accession

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

Amendment 70
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.

Amendment 71
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***.

Justification

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

Amendment 72

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).

Justification

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

Amendment 73
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:

1. 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***

- (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.

govern *inter alia* the following:

- a) the internal organisation of the consortium;
- (b) *the modalities of allocation and distribution of the Community financial contribution*
- (c) additional rules on *access rights, ownership, transfer of ownership*, dissemination and use *of results* including intellectual property rights arrangements, as appropriate;
- (d) the settlement of internal disputes; *consortia should establish procedures to apply in cases of dispute or abuses of power;*
- (da) liability, indemnification and confidentiality arrangements between the participants;*

2. 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.

When members of an ETP participate in a research project the rules laid down in the consortium agreement shall apply. In such cases, the consortium agreement shall expressly include provisions to promote the participation of SMEs.

Amendment 74 Article 25

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 *from 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:

(-a) to ensure that the legal entities

(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 Community financial contribution in accordance with Article 36;

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

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

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

participating in the indirect action comply with their obligations under the grant agreement and the consortium agreement;

(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.

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

(c) to keep **records of expenditures and** accounts and to inform the Commission of the distribution of the Community financial contribution in accordance with **Article 24, point (b), and** Article 36;

(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.

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

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

Amendment 75 Article 26

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

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

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.**

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

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.*

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.

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.

and the consortium agreement.

3. 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.*

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

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

Amendment 76
Article 27, Title

Monitoring

Monitoring *and review*

Justification

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

Amendment 77
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).***

Justification

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

Amendment 78
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).***

Justification

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

Amendment 79
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***

3. 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. In addition, it may ***seek advice*** on the implementation of Community research policy.

advise on the implementation of Community research policy.

Justification

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

Amendment 80
Article 27, paragraph 3 a (new)

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

Justification

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

Amendment 81
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 under paragraphs 1 to 3 of this Article.

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 82
Article 27, paragraph 3 c (new)

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

Justification

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

Amendment 83
Article 27, paragraph 3 d (new)

3d. 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.

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 84
Article 27a (new)

Article 27a

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.

Amendment 85

Article 28, paragraph 1, introductory part

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:

Amendment 86

Article 29, paragraph 1, introductory part

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 may receive a Community financial contribution:

Amendment 87

Article 29, paragraph 2, introductory part

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:

Justification

The amendment is self-explanatory.

Amendment 88
Article 30, paragraph 1, subparagraph 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.

Justification

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

Amendment 89
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, ***in some specific cases***, 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 forms of the grants to be used shall be specified in the call for proposals.

Justification

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

Amendment 90
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.

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 91
Article 31

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

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

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

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

(a) they must be actual;

(b) they must have been incurred during the duration of the action, with the exception of final reports when provided for in the grant agreement;

(c) they must have been determined in accordance with the usual accounting **and management** principles and practices of the participant and **used** for the sole purpose of

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

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

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)**.

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

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

(a) they must be actual;

(b) they must have been incurred during the duration of the action, with the exception of final reports when provided for in the grant agreement;

(c) they must have been determined **and incurred** in accordance with the usual accounting principles **of the country where the legal entity is established and cost**

achieving the objectives of the indirect action and its expected results, *in a manner consistent with the principles of economy, efficiency and effectiveness*;

(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;

(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).

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.

accounting practices of the participant and *incurred* for the sole purpose of achieving the objectives of the indirect action and its expected results;

(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;

(e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, *where recoverable*, 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).

Amendment 92 Article 32

Direct *eligible costs* and indirect *eligible costs*

1. *Eligible costs* shall be composed of costs attributable directly to the action, hereinafter “direct *eligible costs*” and, where applicable, of costs which are not attributable directly to the action, but which have been incurred in direct relationship with the direct *eligible costs* attributed to the action, hereinafter “indirect *eligible costs*”.

Direct and indirect costs

1. *Costs* shall be composed of costs attributable directly to the action, hereinafter “direct costs” and, where applicable, of costs which are not attributable directly to the action, but which have been incurred in direct relationship with the direct costs attributed to the action, hereinafter “indirect costs”.

1a. Eligible costs are part of direct costs:

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

costs.

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.

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.

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

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.

3. The grant agreement may provide that the reimbursement of indirect eligible costs is to be limited to a maximum percentage of the direct eligible costs, excluding the direct eligible costs for subcontracting, in particular in the case of coordination and support actions, and, where appropriate, actions for training and career development of researchers.

2. The flat rate to cover indirect costs shall gradually be decreased from 60% of the total direct costs in the first three years (2007 - 2009), to 45% in 2010 - 2012 and be set at 30% from 2012 onwards; the date of the first application decides on the flat-rate level to be used; the flat-rate to cover indirect costs excludes subcontracting costs.

Amendment 93
Article 33

1. For research and technological development activities, the Community financial contribution may reach a maximum of 50% of the total eligible costs.

However, in the case of public bodies, secondary and higher education establishments, research organisations and SMEs, **it may reach a maximum of 75%** of the total eligible costs.

2. For demonstration activities, the Community financial contribution may reach a maximum of 50% of the total eligible costs.

3. For activities supported by frontier research actions, coordination and support actions, and actions for the training and career development of researchers, the Community financial contribution may reach a maximum of 100% of the total eligible costs.

4. For management and audit certificates, and **other activities not covered by paragraphs 1, 2 and 3**, the Community financial contribution may reach a maximum of 100% of the total eligible costs.

The other activities referred to in the first subparagraph include, inter alia, training in actions that do not fall under the funding scheme for training and career development of researchers, coordination, networking, and dissemination.

5. For the purposes of paragraphs 1 to 4, eligible costs minus receipts shall be taken into consideration in order to determine the

1. For research and technological development activities, the Community financial contribution may reach a maximum of 50% of the total eligible costs. **For space and security research the upper funding limit shall be 75%.**

However, in the case of **non-profit** public bodies, secondary and higher education establishments, research organisations and SMEs, **the Community financial contribution shall be at least 75%** of the total eligible costs.

2. For demonstration activities, the Community financial contribution may reach a maximum of 50% of the total eligible costs.

3. For activities supported by frontier research actions, coordination and support actions, and actions for the training and career development of researchers **or for the recruitment of researchers linked to project execution**, the Community financial contribution may reach a maximum of 100% of the total eligible costs.

4. For management **activities (including** audit certificates) and **training activities in actions that do not fall under the funding scheme for training and career development of researchers, coordination, networking, and dissemination**, the Community financial contribution may **be up to** a maximum of 100% of the total eligible costs.

The other activities referred to in the first subparagraph include, inter alia, training in actions that do not fall under the funding scheme for training and career development of researchers, coordination, networking, and dissemination.

5. For the purposes of paragraphs 1 to 4, eligible costs minus receipts shall be taken into consideration in order to determine the

Community financial contribution.

6. Paragraphs 1 to 5 shall apply, as appropriate, in the case of indirect actions where flat rate financing or lump sum financing is used for the whole indirect action.

Community financial contribution.

6. Paragraphs 1 to 5 shall apply, as appropriate, in the case of indirect actions where flat rate financing or lump sum financing is used for the whole indirect action.

Amendment 94
Article 34

Reporting *and audit* of *eligible* costs

1. ***Periodic reports shall be submitted to the Commission regarding eligible costs, financial interest yielded by pre-financing, and receipts in relation with the indirect action concerned and, where appropriate, certified by an audit certificate, in accordance with the Financial Regulation and the Implementing Rules.***

The existence of co-financing in relation with the concerned action shall be reported and, where appropriate, certified at the end of the action.

2. In the case of public bodies, research organisations, and higher and secondary education establishments, an audit certificate as required under paragraph 1 may be established by a competent public officer.

Reporting of costs

1. ***All costs, financial interest yielded by pre-financing, and receipts relating to the indirect action concerned shall be periodically reported to the Commission.***

The existence of co-financing in relation with the concerned action shall be reported and, where appropriate, certified at the end of the action.

1a. For indirect actions with a duration of less than 2 years, only one audit certificate shall be requested from each participant at the end of the project. For other indirect actions, the number of audit certificates per participant shall never exceed a maximum of 3.

Participants requesting a Community financial contribution of less than EUR 25 000 towards their involvement in the indirect action shall not be required to submit audit certificates.

2. In the case of public bodies, research organisations, and higher and secondary education establishments, an audit certificate as required under paragraph 1 may be established by a competent public officer.

2a. Audit certificates shall not be required for indirect actions entirely reimbursed by lump sums or flat rates.

Article 35

deleted

Networks of Excellence

1. Unless otherwise provided for in the work programme, the Community financial contribution to Networks of Excellence shall be in the form of a lump-sum calculated according to the number of researchers to be integrated in the Network of Excellence and the duration of the action.

2. The unit value for lump sums paid under paragraph 1 shall be EUR 23 500 per year and per researcher. That amount shall be adjusted by the Commission in accordance with the Financial Regulation and the Implementing Rules.

3. The work programme shall establish the maximum number of participants and, where appropriate, the maximum number of researchers that may be used as the basis for the calculation of the maximum lump sum pursuant to paragraph 1. However, participants over and above the maxima for the establishment of the financial contribution may participate as appropriate.

4. The payment of lump sums under paragraph 1 shall be effected by means of periodic releases.

Those periodic releases shall be made according to the assessment of the progressive implementation of the Joint Programme of Activities through the measurement of integration of research resources and capacities based on performance indicators negotiated with the consortium and specified in the grant agreement.

Justification

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

Amendment 96 Article 36, paragraph 1

1. The Community financial contribution shall be paid to the participants via the coordinator.

1. The Community financial contribution shall be paid to the participants via the coordinator. ***Unless otherwise specified in the work programme, payments shall be made in full within six months of selection of the proposal.***

Justification

Every possible measure must be taken by the Community to shorten the time frame between the submissions of proposals and the payment of the Community financial contribution. Six months is more than enough for disbursement of Community funds to the consortium coordinator or to the participants if no consortium agreement need be established.

Amendment 97 Article 36, paragraph 2, subparagraph 1

2. The coordinator shall keep records making it possible to determine at any time what portion of the Community funds has been distributed to each participant.

2. The coordinator shall keep records making it possible to determine at any time what portion of the Community funds has been distributed to each participant ***and decisions taken by the consortium regarding their allocation among them.***

Justification

The distribution of the Community's financial contribution between members of the consortium is not a decision for the coordinator alone, but for the consortium, in accordance with the rules laid down by the consortium itself.

Amendment 98 Article 38

Retained amounts for risk avoidance

1. Depending on the level of risk associated

Guarantee fund

1. Participants in indirect actions under the

with non-recovery of sums due to the Community, the Commission may retain a small percentage of the Community financial contribution to each participant in an indirect action in order to cover any amounts due and not reimbursed by defaulting participants in indirect actions.

2. Paragraph 1 shall not apply to the following:

(a) public bodies, legal entities whose participation in the indirect action is guaranteed by a Member State or an Associated country, and higher and secondary education establishments;

(b) participants in actions to support training and career development of researchers, frontier research actions, and actions for the benefit of specific groups with the exception actions for the benefit of SMEs.

The types of participant referred to in points (a) and (b) shall each be responsible for their own debts.

3. The amounts retained shall constitute revenue assigned to the Seventh Framework Programme within the meaning of Article 18(2) of the Financial Regulation.

4. At the end of the framework programme an assessment shall be made of the amounts required to cover outstanding risks. Any sums in excess of these amounts shall be reimbursed to the framework programme and constitute earmarked revenue.

Seventh Framework Programme shall contribute to a guarantee fund managed by the Commission and intended to cover possible financial risks arising from technical and/or financial defaulting on the part of certain participants.

2. This guarantee fund, which shall enter into existence when the seventh framework programme comes into force and shall be placed with an appropriate financial institution, shall be funded by payments from the Commission when each indirect action commences, corresponding to the sum withheld for the final payment due to the participants in the indirect action in question.

3. The sums paid into the guarantee fund, and any interest accruing, shall be assigned to the Seventh Framework Programme.

4. Provided that there are adequate accepted eligible costs for the indirect action, the Commission, when making the final payment, shall disburse the sum mentioned in paragraph 2 to the following participants:

- public bodies, legal entities whose participation in the indirect action is guaranteed by a Member State or an Associated country, and higher and secondary education establishments;

- participants in actions to support training and career development of researchers, frontier research actions, and actions for the benefit of specific groups with the exception of actions for the benefit of SMEs.

5. For other participants, the Commission shall withdraw from the guarantee fund any sums covered by a recovery order which has not been honoured. The sums withheld shall give rise to a reduction in the final payment due, calculated on a pro rata basis depending on the utilisation of the guarantee fund, reduced to take into account the financial interest generated by the guarantee fund and not exceeding 1% of the Community's financial contribution.

6. The Commission shall adopt and publish the procedures governing the operation of this guarantee fund, which shall be included in the grant agreement and shall comply with the above principles.

7. Once the implementation of the indirect actions under the Seventh Framework Programme is complete, any sums outstanding from the guarantee fund shall be transferred to the Seventh Framework Programme and shall constitute an earmarked resource, unless the legislative authority decides otherwise.

Amendment 99

Article 39, paragraph 1, point (a)

(a) coordination and support actions consisting in a purchase or service subject to the rules on public procurement set out in the Financial Regulation;

(a) coordination and support actions consisting in a purchase *of goods* or services subject to the rules on public procurement set out in the Financial Regulation *and the Implementing Rules*;

Justification

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

Amendment 100 Article 39, paragraph 2

2. Foreground arising from work carried out under indirect actions other than those referred to in paragraph 1 shall be the property of the **participants** carrying out the work generating that foreground.

2. Foreground arising from work carried out under indirect actions other than those referred to in paragraph 1 shall be the property of the **participant** carrying out the work generating that foreground.

Justification

This amendment makes it possible to prevent any misinterpretation of the provision, such as attributing ownership of the results to all participants in a project.

Amendment 101 Article 40

1. Where several participants have jointly carried out work generating foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of such foreground.

1. Where several participants have jointly carried out work generating foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of such foreground.

In such cases, the participants concerned shall conclude a joint ownership agreement between themselves governing the allocation of that joint ownership. The agreement shall also govern the exercise of that joint ownership of the foreground which must be subject to fair and reasonable conditions and comply with the provisions of this Regulation and of the grant agreement.

2. ***Where no joint ownership agreement has been concluded regarding the allocation and terms of exercising that joint ownership, each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-licence subject to the following conditions:***

(a) prior notice must be given to the other

2. ***The Commission may provide a model joint ownership agreement in accordance with this Regulation.***

joint owners;

(b) fair and reasonable compensation must be provided to the other joint owners.

Amendment 102
Article 41, paragraph 1

In the case of actions for the benefit of specific groups, Article 39(2) and Article 40(1) shall not apply. In such cases, foreground shall be jointly owned by the participants which are members of the specific group benefiting from the action, unless otherwise agreed by those participants.

In the case of actions for the benefit of specific groups ***identified in part (a), section 6, of Annex III to Decision No .../... [concerning the Seventh Framework Programme...]***, Article 39(2) and Article 40(1) shall not apply. In such cases, foreground shall be jointly owned by the participants which are members of the specific group benefiting from the action, unless otherwise agreed by those participants.

Justification

For the sake of legal certainty, the “specific groups” referred to in Article 41 should be clearly identified by reference to relevant part of Annex III of the Framework Programme.

Amendment 103
Article 41, paragraph 2

Where the owners of the foreground are not members of that group, they shall ensure that the group is provided with ***all*** the rights to foreground that are required for the purposes of using and disseminating that foreground in accordance with the technical annex to the grant agreement.

Where the owners of the foreground are not members of that group, they shall ensure that the group is provided with the ***exclusive*** rights to foreground that are required for the purposes of using and disseminating that foreground in accordance with the technical annex to the grant agreement.

Justification

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

Amendment 104
Article 42

1. Where a participant transfers ownership

1. Where a participant transfers ownership

of foreground, it shall pass on its obligations to the assignee, *in particular those relating to the granting of access rights, and dissemination and use*, in accordance with the grant agreement.

2. Subject to its obligations concerning confidentiality, where the participant is required to pass on access rights, it shall give prior notice to the other participants in the same action, together with sufficient information concerning the new owner of the foreground to permit them to exercise their access rights under the grant agreement.

However, the other participants may, by written agreement, waive their right to individual prior notice in the case of transfers of ownership from one participant to a specifically identified third party.

3. Following notification in accordance with the first subparagraph of paragraph 2, the other participants may object to any transfer of ownership on the ground that it would adversely affect their access rights.

Where the other participants demonstrate that their rights would be adversely affected, the intended transfer shall not take place until agreement has been reached between the participants concerned.

4. Where appropriate, the grant agreement may provide, by way of an additional

of foreground, it shall pass on its obligations *regarding that foreground* to the assignee, *including the obligation to pass this on to any subsequent assignee*, in accordance with *this Regulation*, the grant agreement *and the consortium agreement*.

1a. Foreground shall also be accessible to affiliated entities of the participants carrying out the work generating that foreground if the affiliated entity:

(a) is established in a Member State or an Associated Country;

(b) grants reciprocal access rights in respect of any background which it holds and which is needed to use the foreground;

(c) complies with the obligations concerning confidentiality in accordance with Article 3.

2. Where the participant is required to pass on access rights, it shall give prior notice to the other participants in the same action, together with sufficient information concerning the new owner of the foreground to permit them to exercise their access rights under the grant agreement.

However, the other participants may, by written agreement, waive their right to individual prior notice in the case of transfers of ownership from one participant to a specifically identified third party.

4. Where appropriate, the grant agreement may provide, by way of an additional

requirement, that the Commission is to be notified in advance of any intended transfer of ownership to a third party.

requirement, that the Commission is to be notified in advance of any intended transfer of ownership to a third party, ***or granting of an exclusive license to use foreground in specific situations set out in the grant agreement in which such a transfer or exclusive license is to be regarded as incompatible with the aim of advancing European economic competitiveness.***

Amendment 105
Article 43

The Commission may object to the transfer of ownership of foreground, or ***to*** the granting of an exclusive licence regarding foreground, to a legal entity which is established in a third country not associated to the Seventh Framework Programme, if it considers that this is not in accordance with the interests of developing the competitiveness of the European economy or is inconsistent with ethical principles.

The Commission may, ***within one month of having received written notification of*** a transfer of ownership of foreground, or the granting of an exclusive licence regarding foreground, to a legal entity which is established in a third country not associated to the Seventh Framework Programme, ***object***, if it considers that this is not in accordance with the interests of developing the competitiveness of the European economy or ***if it is*** inconsistent with ethical principles. ***The Commission shall adopt a vademecum providing guidance on such matters.***

In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission is satisfied that appropriate safeguards will be put in place.

In such cases, the transfer of ownership or grant of exclusive licence shall not take place ***until the Commission and the participant concerned have agreed upon fair and reasonable conditions under which the transfer or grant may take place.***

Justification

It is important to define a time limit in which the Commission can object to the transfer of ownership or the granting of exclusive rights in order to ensure efficiency and to avoid confusion as to whether the Commission can object to such transactions in the far future.

Amendment 106
Article 44, paragraph 1

1. Where foreground is capable of industrial or commercial application, its owner shall provide for its adequate and effective protection in conformity with relevant

1. Where foreground is capable of industrial or commercial application, its owner shall provide for its adequate and effective protection in conformity with relevant

legislation, and having due regard to the legitimate interests, particularly the commercial interests, of the participants in the indirect action concerned.

legislation, and having due regard to the legitimate interests, particularly the commercial interests, of the participants in the indirect action concerned. ***Where foreground is not capable of industrial or commercial application, its owner shall provide for its adequate protection so that dissemination is not prevented and the innovation not blocked***

Where a participant invokes legitimate interest, it must, in any given instance, show that it would suffer disproportionately great harm.

Where a participant invokes legitimate interest, it must, in any given instance, show that it would suffer disproportionately great harm.

Justification

A balance should be struck between protection and dissemination of research results, so as to enable patent protection to play a full role and not be manipulated for monopolistic purposes that will block the innovation.

Amendment 107

Article 44, paragraph 2, subparagraph 1

Where the owner of foreground does not protect foreground that it owns, and does not transfer it to another participant in accordance with Article 42(1) and (2), no dissemination activities may take place before the Commission has been informed.

Where the owner of foreground does not protect foreground that it owns ***that is capable of industrial or commercial application***, and does not transfer it to another participant in accordance with Article 42(1) and (2), no dissemination activities may take place before the Commission has been informed.

Amendment 108

Article 44, paragraph 2, subparagraph 2

In such cases, the Commission may, with the consent of the participant concerned, assume ownership of that foreground and adopt measures for its adequate and effective protection. ***The participant concerned may refuse consent only if it can demonstrate that its legitimate interests would suffer disproportionately great harm.***

In such cases, the Commission may, with the consent of the participant concerned, assume ownership of that foreground and adopt measures for its adequate and effective protection.

Justification

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

Amendment 109
Article 46, paragraph 2

2. Each participant shall ensure that the foreground of which it has ownership is disseminated as swiftly as possible. If it fails to do so, the Commission may disseminate that foreground.

2. Each participant shall ensure that the foreground of which it has ownership is disseminated as swiftly as possible. If it fails to do so ***within three years of the conclusion of the project receiving Community funds***, the Commission may disseminate that foreground.

Justification

The regulation needs to make clear at what stage the Commission is entitled to disseminate the 'foreground' itself.

Amendment 110
Article 46, paragraph 3

3. Dissemination activities shall be compatible with intellectual property rights, confidentiality, and the legitimate interests of the owner of the foreground.

3. Dissemination activities shall be compatible with intellectual property rights, confidentiality ***obligations***, and the legitimate interests of the owner of the foreground ***as to the protection or potential protection of foreground***.

Justification

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

Amendment 111
Article 46, paragraph 4, subparagraph 2

Following notification, any of those participants may object if it considers that its legitimate interests in relation to its foreground could suffer disproportionately great harm. In such cases, the dissemination activity may not take place unless

Following notification, any of those participants may object ***within a period to be agreed between the participants in their consortium agreement or by any other written agreement*** if it considers that its legitimate interests in relation to its

appropriate steps are taken to safeguard these legitimate interests.

foreground **or background** could suffer disproportionately great harm. In such cases, the dissemination activity may not take place unless appropriate steps are taken to safeguard these legitimate interests, **and the participants concerned shall take such steps to allow for the timely submission of a publication.**

Amendment 112

Article 46, paragraph 4, subparagraph 2 a (new)

Project coordinators shall communicate to the Commission information on those of their results suitable for dissemination to the public.

Amendment 113

Article 47

In the case of frontier research actions, participants shall actively ensure dissemination of foreground, taking into account the need to safeguard intellectual property rights, the benefits of swift dissemination, confidentiality, and the legitimate interests of the participants.

In the case of frontier research *actions*, participants shall actively ensure dissemination of foreground, taking into account the need to safeguard intellectual property rights, the benefits of swift **and accessible** dissemination, confidentiality, and the legitimate interests of the participants.

Amendment 114

Article 48

Participants may define the background needed for the purposes of the indirect action in **a written** agreement **and, where appropriate, may exclude specific background.**

Participants may define the background needed for the purposes of the indirect action in **the consortium** agreement.

Justification

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

Amendment 115
Article 49, paragraph 2

2. Unless otherwise agreed by the owner of the foreground or background, access rights shall confer no entitlement to grant sub-licences.

2. Unless otherwise agreed by the owner of the foreground or background, access rights shall confer no entitlement to grant sub-licences. ***Sub-licences may be granted to affiliates and to companies belonging to the same group whose parent company is established in the EU.***

Justification

This article should take into consideration that in large Groups IPRs are typically held by the holding company or by a company whose purpose is to hold and manage the Group IPRs portfolio; accordingly the entities belonging to the Group, whose mother company is located in Europe, make use of the Group IPRs by virtue of infragroup license and sublicense arrangements; therefore, to prohibit sublicenses of access rights to affiliates would prevent industrial Groups to properly enjoy access rights provided by this Regulation.

Amendement 116
Article 49, paragraph 5

5. Participants in the same action shall inform each other as soon as possible of any limitation to the granting of access rights to background, or of any other restriction which might substantially affect the granting of access rights.

5. ***Without prejudice to Articles 50 and 51 and the relevant grant agreement,*** participants in the same action shall inform each other as soon as possible of any limitation to the granting of access rights to background, or of any other restriction which might substantially affect the granting of access rights.

Amendment 117
Article 50, paragraph 1, subparagraph 1

1. Access rights to foreground shall be granted to other participants in the same indirect action, if it is needed to enable those participants to carry out their own work under that indirect action.

1. Access rights to foreground shall be granted to other participants in the same indirect action ***and their affiliated entities,*** if it is needed to enable those participants to carry out their own work under that indirect action.

Justification

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

Amendment 118
Article 50, paragraph 2, subparagraph 1

2. Access rights to background shall be granted to the other participants in the same indirect action, if it is needed to enable those participants to carry out their own work under that indirect action provided that the participant concerned is entitled to grant them.

2. Access rights to background shall be granted to the other participants in the same indirect action ***and their affiliated entities***, if it is needed to enable those participants to carry out their own work under that indirect action provided that the participant concerned is entitled to grant them.

Justification

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

Amendment 119
Article 50, paragraph 2, subparagraph 2

Such access rights shall be granted on a royalty-free basis, unless otherwise agreed by all participants ***before their accession to the grant agreement***.

Such access rights shall be granted on a royalty-free basis, unless otherwise agreed by all participants ***in the consortium agreement***.

Justification

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

Amendment 120
Article 51

1. Participants in the same indirect action shall enjoy access rights to foreground, ***if it is needed to use their own foreground***.

1. Participants in the same indirect action shall enjoy access rights to foreground. ***Affiliated entities shall enjoy the same access rights provided that there are no special rules in the grant agreement.***

Such access rights shall be granted either under fair and reasonable conditions, or royalty-free.

Such access rights shall be granted either under fair and reasonable conditions, or royalty-free.

2. Participants in the same indirect action shall enjoy access rights to background, if it is needed to use their own foreground

2. Participants in the same indirect action ***and their affiliated entities*** shall enjoy access rights to background, if it is needed to

provided that the participant concerned is entitled to grant them.

Such access rights shall be granted *either under fair and reasonable conditions, or royalty-free*.

3. A request for access rights under paragraphs 1 or 2 may be made up to one year after either of the following events:

- (a) the end of the indirect action ;
- (b) termination of participation by the owner of the background or foreground concerned.

However, the participants concerned may agree on a different time-limit.

4. Subject to the agreement of all the owners concerned, access rights to foreground shall be granted to a RTD performer, on fair and reasonable conditions to be agreed, for the purposes of pursuing further research activities.

5. RTD performers shall grant access on a royalty-free basis to background needed to use the foreground generated in the indirect action.

use foreground provided that the participant concerned is entitled to grant them.

Such access rights shall be granted *subject to the conditions laid down in the grant agreement*.

3. A request for access rights under paragraphs 1 or 2 may be made up to one year *after the end of the indirect action. A participant withdrawing from the project prematurely may request access rights from the other participants only within one year of the date of its withdrawal*, after either one of the following events:

- (a) the end of the indirect action ;
- (b) termination of participation by the owner of the background or foreground concerned.

However, the participants concerned may agree on a different time-limit.

4. Subject to the agreement of all the owners concerned, access rights to foreground shall be granted to a RTD performer, on fair and reasonable conditions to be agreed, for the purposes of pursuing further research activities.

5. RTD performers shall grant access on a royalty-free basis, *or on fair and reasonable conditions to be agreed prior to the signing of the grant agreement*, to background needed to use the foreground generated in the indirect action.

Amendment 121
Article 52, paragraph 1

<i>1. In the case of frontier research actions, access rights to foreground and background for implementation or use shall be royalty-free, notwithstanding Articles 50 and 51.</i>	<i>deleted</i>
---	----------------

Justification

Since the definition of frontier research it is not clear, the scope of this section also reminds unclear.

Amendment 122
Article 53, paragraph 1

1. The Community may award a grant to the European Investment Bank (EIB) to ***cover the risk for loans the EIB makes*** in support of research objectives ***set out under*** the seventh Framework Programme (Risk-Sharing Finance Facility).

1. The Community may award a grant to the European Investment Bank (EIB) to ***contribute to the provisioning and capital allocation for its loan and guarantee financing*** in support of ***actions implemented on the basis of decisions by the Council and the European Parliament identified in part (b) of Annex III to Decision No .../... [concerning the seventh Framework Programme...]***(Risk-Sharing Finance Facility).

Amendment 123
Article 53, paragraph 2

2. ***The*** EIB shall provide these loans in accordance with ***the principles of fairness, transparency, impartiality and equal treatment.***

2. ***Taking into account the general orientation and principles established by the Commission in the grant agreement,*** the EIB shall provide ***and administer*** these loans ***and guarantees*** in accordance with ***its own rules.***

Amendment 124
Article 53, paragraph 3

3. The Commission has the right to object to the use of the Risk-Sharing Finance Facility for certain ***loans***, on terms to be defined in the ***grant agreement in accordance with the Work Programmes.***

3. The Commission has the right to object to the use of ***the Community financial contribution*** to the Risk-Sharing Finance Facility for certain ***actions and guarantees***, on terms to be defined in the agreement ***between the Community and the EIB laying down the detailed terms and conditions of the Community financial contribution.***

Amendment 125
Article 53 a (new)

Article 53a

Commission Report

The Commission shall submit a report to the European Parliament and the Council on:

(a) the number of applicants in the completed year;

(b) the number and quota of successful applications per call for proposals and per establishment funded;

(c) the average duration of the procedure, from publication of the call for proposals to conclusion of the agreement on financial assistance or the adoption of a decision on the granting of financial assistance, as appropriate, per call for proposals and per establishment funded;

(d) the average period of time before the concluding evaluation and final payment.

Justification

In view of the long duration of the procedure, reporting is essential as an important basis for improvements. This creates the opportunity for reviewing success by comparing the working programme with its implementation.

Amendment 126
Chapter IV a (new)

**Chapter IV a
Synergy**

**Article 53a
Synergy between funds**

The Commissioner responsible for research and the Commissioner responsible for regional policy shall meet annually to establish how to reinforce synergy between the Seventh Framework Programme and the cohesion and structural funds.

Justification

While complementarity is encouraged throughout Commission documents, little reference is made to how it will be achieved, and who is responsible for achieving this. The Commissioners for research and regional policy should be responsible for developing processes which ensure this.

Amendment 127

Article 54, paragraph 1 a (new)

1a. The Commission shall carry out an interim evaluation of this Regulation no later than 2010 and put forward proposals for its amendment, where necessary.

Justification

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

EXPLANATORY STATEMENT

Introduction

Union-wide research activities undoubtedly generate ‘extra added value’ from the beneficial synergy that operates at several levels by *forming ‘critical masses’ of resources, enhancing ‘excellence’ through Europe-wide competition and transnational collaboration, acting as a ‘catalyst’ to national initiatives, and improving research activities in the Member States.*

The Sixth Framework Programme, which ends this year, has galvanised the European scientific community to an extraordinary degree. The Commission’s proposed FP7, now being discussed in the EP, continues in the same vein as the activities currently ongoing and sets an ambitious new framework for the period from 2007 to 2013.

The new structure and the substance of the Commission proposal are based on two main principles: **continuity** and **innovation**.

The **continuity** in relation to FP6 lies not least in the ‘Cooperation’ specific programme with its nine priority themes, albeit including the new area of space and security.

Innovation applies to the form of the four specific programmes – Cooperation, Ideas, People, and Capacities – which for the first time impart coherent structure to the concept of a European Research Area, but where FP7 breaks truly new ground is by proposing to establish a European Research Council. The taboo whereby research ‘at the frontiers of knowledge’ is deemed to be a matter solely for the Member States has become impossible to sustain.

Your rapporteur can only condemn the fact that what have long been the avowed ambitions of the Union institutions do not translate into the necessary funding allocations. The cut in the budget for FP7, by roughly a third compared with the Commission proposal, stands as the umpteenth missed opportunity for the future of European competitiveness.

Improving the operation and implementation of FP7

The proposal laying down the rules for the participation of undertakings, research centres, and universities for the purposes of implementing FP7 (2007-2013) broadly reflects the approach outlined above. Essentially, it reproduces the general framework of participation rules used for FP6 (elements of continuity) while introducing several new provisions (innovation aspects).

Your rapporteur welcomes the Commission proposal on the whole, since it marks a significant step forward in terms of the need for simplification and is flexible enough to be implemented effectively and transparently. It draws to quite a large extent on the proposals contained in the Marimon report and the 2004 Court of Auditors’ report.

Regarding the key points – flexibility, simplification, and rationalisation – it would be desirable to go even further. In its working document the Commission itself recognises that

simplification and rationalisation are the sine qua non for the success of FP7 research activities. To achieve the aim being sought, simplification must extend not only to administrative procedures and funding rules, but also to rationalisation of the management of the Framework Programme and research projects.

The amendments initially proposed here are designed to bring this about and to open up the discussion to encompass subjects such as the role and powers of coordinators, cost models, evaluation criteria, and so on. Others are intended to clarify certain definitions: potential sources of problems, for example the definition of SMEs and the differential rate assigned to them, must not give rise to additional difficulties. The current concept of an SME is difficult to apply because it is based on complex definitions. If SME status has to be checked during the negotiations and every year thereafter, this is likely to make administrative processing more cumbersome and prolong the time needed to negotiate agreements and later approve reports. As regards evaluation and negotiation of agreements, the time-frames are too long and in some cases might prevent SMEs from taking part. Why not think along the lines of a system for screening good ideas instead of an unwieldy process? The 75% funding for R & D is plainly very important, but not the only factor to take into account. The flat rate applied to cover indirect costs is likewise crucial. That is why it is proposed to raise the flat rate above the present 20%.

SMEs obviously support simpler conditions of participation, although they realise that transnational research projects are complex by nature.

On the other hand, your rapporteur has doubts about some vaguely worded points that leave too much room for uncertainty as to the coherence of the arrangements for drawing up work programmes and calls for proposals. The latter in particular must be carefully targeted and have clear-cut objectives so as to ensure that participants do not apply to no purpose. This would in turn make the Commission's task easier and secondly avert frustration and hence the widespread dissatisfaction typically resulting from a low success rate.

It follows that the laudable intention of supporting SMEs more effectively in their R & D has to be translated into practice in a flexible way with the aid of appropriate rules and checks, a principle not only implying clear and simple participation rules, but also applying to their enforcement by the Commission.

Another subject to discuss, given the reduced funding for FP7, is the relationship between the contribution rate and the number of projects eligible for financing. Shared risks linked to joint and several liability under a common guarantee arrangement must not account for more than 1% of project financing; once a project has been completed, any unused funds should be reallocated to the priority theme concerned.

Lastly, bearing in mind that FP7 is to run from 2007 to 2013, a mid-term review of the participation rules will need to be carried out.

Conclusion

The participation rules impose a legal framework and as such impose constraints. However, they have to be simple and coherent and enable clear explanations to be provided to

participants. Otherwise the danger would be that those who produced the most innovative research projects might not even bother to apply for funding under the Framework Programme, but would instead seek the necessary sources of financing elsewhere.

It is vital to trust the scientific community and encourage young people to embark on a research career. Consequently, when researchers, individually or in teams, participate in the Framework Programme by carrying out their projects, the premiss should be that they will make the best use of the public funds entrusted to them. By definition, it is not always possible to guarantee in advance that research activities will achieve the expected results.

23.6.2006

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, Research and Energy

on the 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)
(COM(2005)0705 – C6-0005/2006 – 2005/0277(COD))

Draftswoman: Marilisa Xenogiannakopoulou

SHORT JUSTIFICATION

1. Main elements of the proposal

This proposal for the Rules for Participation for the Seventh Framework Programme is based on Article 167 of the European Community Treaty that foresees the adoption of rules for participation of undertakings, research centres and universities and the rules for the dissemination of results to implement the Community multi-annual framework programme for research. These rules define the rights and obligations of legal entities wishing to take part in the framework programme and establish the principles for the use and dissemination of their work resulting from that participation.

The proposal consists of four chapters:

- introductory provisions (subject matter, definitions and confidentiality)
- participation in indirect actions (minimum conditions to participate, procedural aspects, including minimum numbers of participants, their place of establishment, proposal submission evaluation, implementation and grant agreements, monitoring of projects and programmes, Community financial contribution: eligibility for funding and forms of grants, reimbursement rates, payment, distribution, recovery and guarantees)
- rules for dissemination, use and access rights (ownership, protection, publication, dissemination and use, access rights to background)

- the European Investment Bank: According to the proposal the Community may award a grant to the EIB to cover the risk for loans the EIB makes in support of research objectives set out under the Seventh Framework Programme (Risk-Sharing Finance Facility)

2. Comments by the draftswoman

- It is important that the present proposal is coherent with the provisions established by the Financial Regulation and its implementing rules, the rules on state aid for research and development. The Financial Regulation as well as any other sectorial regulation are regulations and therefore stand legally on the same level.
- The long duration of funding procedures under the current Framework Programme must be avoided as much as possible. According to the Special Report No 1/2004 on the administration of indirect RTD measures under the Fifth Framework Programme (1998-2002) issued by the European Court of Auditors, an average of 263 calendar days elapse between the receipt of documents by the Commission and the signing of the contract. This also calls into question the principle of annuality¹.
- Long pre-financing by participants has to be avoided where possible. In particular, SMUs are often not able to cope with this hurdle.
- A simplification of the procedure is badly needed. The draftswoman therefore proposes the creation of a database for the submission of applications.

Text proposed by the Commission²

Amendments by Parliament

Amendment 1
Recital 13 a (new)

(13a) The Commission must implement the Seventh Framework Programme in accordance with the principles of an integrated internal control framework.

Justification

Controls should be applied to a common standard and coordinated to avoid unnecessary duplication. The overall cost of controls should be in proportion to the overall benefits they

¹ See Working Document 5 on grant application procedures and the Financial Regulation in connection with the Sixth Framework Programme for Research by Ingeborg Gräßle and Borut Pahor of 2 June 2005 (DT 569074).

² OJ C 49, 28.2.2006, p. 37.

bring in both monetary and political terms.

Amendment 2
Recital 15 a (new)

(15a) Payments will be made as soon as possible in order to minimise prefinancing by participants.

Justification

In view of the long times - to -payment, which the Commission itself acknowledges, the institutes are often forced to prefinance many items of expenditure to the detriment of the project budget. Especially SMU's are often not in a position to pre-finance expenditure.

Amendment 3
Article 14, introductory part

The Commission shall not issue calls for proposals for the following:

In accordance with the Financial Regulation and its Implementing Rules, the Commission shall not issue calls for proposals for the following:

Justification

It is important that the provisions established in the regulation are coherent with the Financial Regulation.

Amendment 4
Article 16, paragraph 1 a (new)

1a. Access to funding shall be facilitated by the application of the principle of proportionality as regards the documents to be supplied and by the creation of a database for the submission of applications.

Justification

The methods and the procedure need to be simplified in order to speed up the transparency of the selection procedure and to facilitate access to the programme.

Amendment 5

Article 16, paragraph 1 b (new)

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

Justification

The methods and the procedure need to be simplified in order to speed up the transparency of the selection procedure and to facilitate access to the programme.

Amendment 6

Article 16, paragraph 3 a (new)

3a. The Commission shall conclude the evaluation, selection and award procedure in an appropriate timespan which is proportionate to the funding involved. Participants shall be informed in advance of the date on which a decision can be expected.

Justification

The lengthy procedures impose both a wide range of constraints and serious budgetary risks on research institutes. In budgetary terms, the result is an extremely lengthy preliminary procedure, which calls into question the budgetary principle of annuality.

Amendment 7

Article 16 a (new)

Article 16a

To avoid double verification, the Commission will certify a successful verification, which until further notice will 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.

Justification

The proposed modification will ensure a coherent approach within the Commission, avoiding unnecessary bureaucracy for participants and speeding up the negotiation of selected proposals.

PROCEDURE

Title	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)
References	COM(2005)0705 – C6-0005/2006 – 2005/0277(COD)
Committee responsible	ITRE
Opinion by Date announced in plenary	BUDG 1.2.2006
Enhanced cooperation – date announced in plenary	0.0.0000
Drafts(wo)man Date appointed	Marilisa Xenogiannakopoulou 20.9.2004
Previous drafts(wo)man	
Discussed in committee	22.6.2006
Date adopted	22.6.2006
Result of final vote	+: 16 –: 0 0: 0
Members present for the final vote	Herbert Bösch, Simon Busuttil, Bárbara Dührkop Dührkop, Markus Ferber, Ingeborg Gräßle, Nathalie Griesbeck, Anne E. Jensen, Wiesław Stefan Kuc, Janusz Lewandowski, Vladimír Maňka, Antonis Samaras, Esko Seppänen, Nina Škottová, Helga Trüpel, Yannick Vaugrenard, Ralf Walter
Substitute(s) present for the final vote	
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

23.6.2006

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on Industry, Research and Energy

on the proposal for a European Parliament and Council regulation 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) (COM(2005)0705 – C6-0005/2006 –2005/0277 (COD))

Draftswoman: Karin Resetarits

SHORT JUSTIFICATION

The draftswoman of the opinion agrees on many points with the Commission proposal for a regulation 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). The new rules build consistently on the experience gained with the Sixth Framework Programme.

The draftswoman endorses in particular the financial contributions to support frontier research since basic research at the highest level creates the best conditions for applied usable research and it is frontier research in particular that will contribute to more rapid European integration.

In addition, the draftswoman wishes to raise the following concerns:

- Special account should be taken of the needs of Member States possessing a less developed infrastructure in the field of research since otherwise their chances will continue to remain small.
- Next-generation scientists should also be strongly promoted.
- The attempt to simplify the procedure for all those concerned has to be seen positively. The two-stage submission procedure and the option of full electronic submission will help save time, staff and money.
- In terms of Community funding, SMEs will be placed on an equal footing with public bodies. This supports private and public cooperation.
- A switch to full cost accounting for public bodies would facilitate greater transparency

and direct comparison.

- The option of audit certificates for public bodies must rule out self-audit.
- The Commission is counting on effective assistance from independent experts. Maximum transparency is essential when selecting these experts and detailed quality criteria must be laid down in writing by the Commission. The establishment of training and coaching seminars should be considered to enable the Commission in future to be proactive in the selection process.
- Communication must become more practical. Progress reports should be kept brief and to the point and should describe the actual progress of ongoing actions. Simple repetition of the original submission should be avoided.
- In the case of consortium agreements, the creation of a regulatory mechanism governing the settlement of disputes is unnecessarily complicated and deleting it would be a further step towards simplifying the procedure.
- In order not to obstruct ongoing research, the Commission should reduce its time limits for lodging any objections.
- A contribution to greater proximity to the citizen and better communication can be provided by the European institutions, in particular the Commission, seeing themselves as service enterprises when adopting and implementing a regulation of this nature and, in this spirit, taking all the necessary measures to this end.

AMENDMENTS

The Committee on Culture and Education calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 9 a (new)

(9a) Special account should be taken of the situation of scientific organisations in Member States possessing a less well developed research infrastructure. Non-governmental organisations, umbrella associations of scientific societies and special interest groups whose main purpose is the strengthening of European scientific

¹ Not yet published in OJ.

and technological cooperation with these Member States should have a prior entitlement to participate in the Seventh Framework Programme.

Justification

Different standards exist within Europe particularly in the area of infrastructure. This measure is intended to promote swifter integration.

Amendment 2
Article 7 a (new)

Article 7a

Networks of excellence

When establishing networks of excellence the emphasis should be placed as a matter of priority on excellence and less on the number and breakdown by Member State of the participants.

Justification

Experience shows that overly large networks of excellence are ineffective.

Amendment 3
Article 12, paragraph 1 a (new)

The additional conditions in the work programmes should as far as possible be framed on the basis of individual responsibility so as to guarantee more rapid procedures.

Amendment 4
Article 13, paragraph 1, subparagraph 1 a (new)

When drafting the calls for the submission of proposals, the practical requirements of the world of research are to be taken into account.

Justification

It has happened in the past that no researchers with practical experience were represented on the groups of experts.

Amendment 5

Article 19, paragraph 4, subparagraph 1 a (new)

These progress reports shall provide an accurate brief description of the progress of research activities and of the financial expenditure.

Justification

At present, these progress reports just repeat the text of the original submission. The Commission has no opportunity at all to check them for the truth of their contents. As such, progress reports are hampering the work of all those concerned. Here, too, the Commission should place the emphasis on simplification.

Amendment 6

Article 24, point (d)

(d) the settlement of internal disputes.

deleted

Amendment 7

Article 26, paragraph 4, subparagraph 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. ***If there has been no reaction from the Commission within 28 days, the change shall be deemed accepted.***

Amendment 8

Article 27, paragraph 1

The Commission shall monitor the implementation of indirect actions on the

The Commission shall monitor the implementation of indirect actions on the

basis of the periodic progress reports submitted pursuant to Article 19(4).

basis of the periodic progress reports submitted pursuant to Article 19(4), ***which shall provide an accurate brief description of the progress of research activities and of the financial expenditure.***

Amendment 9

Article 40, paragraph 2, point (b)

(b) ***fair and reasonable*** compensation must be provided to the other joint owners.

(b) compensation ***acceptable to all partners*** must be provided to the other joint owners.

Justification

The two terms 'fair and reasonable' are difficult to interpret in connection with financial compensation.

Amendment 10

Article 42, paragraph -1 a, introductory part (new)

-1a. Each research contract entered into under the 7th framework research programme shall conclude with the appropriate publication, use and dissemination of the results achieved while respecting the protection of intellectual property in order to encourage their transfer and exchange at international level in accordance with the detailed arrangements agreed between the parties. These detailed arrangements shall be fixed on a case-by-case basis. Publication of results achieved shall take account of the following reservations:

PROCEDURE

Title	Proposal for a European Parliament and Council regulation 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)
References	(COM(2005)0705 – C6-0005/2006 –2005/0277 (COD))
Committee responsible	ITRE
Opinion by Date announced in plenary	CULT 1.2.2006
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Karin Resetarits 23.1.2006
Previous drafts(wo)man	
Discussed in committee	29.5.2006
Date adopted	21.6.2006
Result of final vote	+: 22 –: 0 0: 1
Members present for the final vote	Christopher Beazley, Ivo Belet, Giovanni Berlinguer, Guy Bono, Marie-Hélène Descamps, Věra Flasarová, Milan Gaľa, Vasco Graça Moura, Luis Herrero-Tejedor, Ruth Hieronymi, Manolis Mavrommatis, Marianne Mikko, Miguel Portas, Christa Prets, Karin Resetarits, Nikolaos Sifunakis, Hannu Takkula, Helga Trüpel, Thomas Wise, Tomáš Zatloukal
Substitute(s) present for the final vote	Erna Hennicot-Schoepges, Nina Škottová, Catherine Trautmann, Jaroslav Zvěřina
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	

PROCEDURE

Title		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)				
References		COM(2005)0705 – C6-0005/2006 – 2005/0277(COD)				
Date submitted to Parliament		23.12.2005				
Committee responsible Date announced in plenary		ITRE 1.2.2006				
Committee(s) asked for opinion(s) Date announced in plenary		BUDG 1.2.2006	CULT 1.2.2006			
Not delivering opinion(s) Date of decision						
Enhanced cooperation Date announced in plenary						
Rapporteur(s) Date appointed		Philippe Busquin 31.1.2006				
Previous rapporteur(s)						
Simplified procedure – date of decision						
Legal basis disputed Date of JURI opinion						
Financial endowment amended Date of BUDG opinion						
European Economic and Social Committee consulted – date of decision in plenary						
Committee of the Regions consulted – date of decision in plenary						
Discussed in committee		3.4.2006	3.5.2006	13.7.2006		
Date adopted		12.9.2006				
Result of final vote	+	39				
	–	0				
	0	1				
Members present for the final vote		John Attard-Montalto, Šarūnas Birutis, Philippe Busquin, Jerzy Buzek, Pilar del Castillo Vera, Giles Chichester, Den Dover, Nicole Fontaine, Adam Gierek, Norbert Glante, Umberto Guidoni, Andrés Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Erna Hennicot-Schoepges, Ján Hudacký, Romana Jordan Cizelj, Anne Laperrouze, Eluned Morgan, Reino Paasilinna, Aldo Patriciello, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Paul Rübig, Andres Tarand, Britta Thomsen, Patrizia Toia, Catherine Trautmann, Claude Turmes, Nikolaos Vakalis, Dominique Vlasto				
Substitute(s) present for the final vote		María del Pilar Ayuso González, Daniel Caspary, Cristina Gutiérrez-Cortines, Edit Herczog, Lambert van Nistelrooij, Vittorio Prodi, Mechtild Rothe				
Substitute(s) under Rule 178(2) present for the final vote						

Date tabled	22.9.2006
Comments (available in one language only)	...