

# EUROPEAN PARLIAMENT

2004



2009

*Committee on Industry, Research and Energy*

29.5.2006

PE 374.261v01-00

## AMENDMENTS 428-597

**Projet de rapport**  
**Philippe Busquin**

**(PE 371.986v01-00)**

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

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

---

Text proposed by the Commission

Amendments by Parliament

---

Amendment by Daniel Caspary

Amendment 428

Article 32, paragraph 2, subparagraph 1 a (new)

***The flat rate for the coverage of indirect costs shall be increased to 75 % of total direct eligible costs, excluding the costs for subcontracting.***

Or. de

*Justification*

*There is provision in the rules on participation for a flat rate to cover indirect costs. Experience with the Sixth Framework Programme has shown that a flat rate of 20 % is far from sufficient. A rate of 75 % can better provide proper coverage of participants' indirect costs.*

AM\616876EN.doc

PE 374.261v01-00

EN

EN

Amendment by Britta Thomsen

Amendment 429  
Article 32, paragraph 2

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

2. For the coverage of indirect eligible costs, a participant may opt for a flat-rate **of 30%** of its total direct eligible costs, excluding its direct eligible costs for subcontracting.

Or. da

*Justification*

*If universities are required to switch to a new cost model, this will have far-reaching consequences for the operation of the entire organisation. If the entire financing system needs to be restructured in order to attract EU funding, then such funding will more than likely be dispensed with.*

Amendment by Lambert van Nistelrooij, Gunnar Hökmark

Amendment 430  
Article 32, paragraph 2 a (new)

***2a. The flat rate to cover indirect costs shall amount to 60% of the total direct eligible costs, excluding subcontracting cost.***

Or. en

*Justification*

*The flat rate to cover indirect costs has to be specified in the Rules of Participation. 60% is a more realistic percentage to cover the indirect costs of the project participants.*

Amendment by Giles Chichester

Amendment 431  
Article 32, paragraph 3

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***

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 ***personnel*** costs, excluding the

***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.***

direct eligible costs.

Or. en

*Justification*

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

*The Commission proposal is unclear as to what flat rate will be applied for the coverage of indirect eligible costs (i.e., whether this flat rate corresponds to the 20 % rate on the Full Cost Flat Rate (FCF) model under the Sixth Framework Programme or the 7 % rate established by the Financial Regulation as a default regime). It is also unclear about the circumstances under which participants may opt for such a flat-rate system.*

Amendment by Teresa Riera Madurell

Amendment 432

Article 32, paragraph 3 a (new)

***3a. Subcontracting must not affect the essential tasks of indirect actions. Public bodies, secondary and higher education establishments, and research organisations may calculate their indirect costs using the provisions laid down in the grant agreement.***

Or. es

*Justification*

*Subcontracting must be controlled at all times, as it has been under the Sixth Framework Programme.*

Amendment by Lambert van Nistelrooij

Amendment 433

Article 32, paragraph 3 a (new)

***3a. Public bodies, secondary and higher education establishments and research***

**organisations, unable to identify indirect costs, can calculate them in accordance with the rules on this subject in the grant agreement.**

Or. en

*Justification*

*Public non profit organisations are not always able to follow the full cost model. An intermediary system of cost calculation is to be safeguarded.*

Amendment by Philippe Busquin

Amendment 434

Article 32, paragraph 3 a (new)

***3a. Non profit public bodies, secondary and higher education establishments, research organisations and SMEs, which are unable to identify with certainty their real indirect costs for the action concerned, may calculate their real indirect costs at the level of their legal entity.***

Or. en

*Justification*

*Cette disposition vise à permettre aux entités qui ne sont pas capables de calculer leurs coûts indirects réels au niveau du projet de charger néanmoins des coûts indirects réels mais d'une manière plus éloignée que le niveau du projet lui-même (au niveau du laboratoire, du centre, de la direction, de l'entité légale, etc.). Si cette disposition est effectivement intéressante pour les universités, les organismes de recherche et certaines entités publiques non lucratives, elle devrait aussi s'appliquer aux PME qui ont rarement les outils comptables nécessaires pour déterminer avec exactitude leurs coûts indirects réels au niveau du projet.*

*Permettre l'instauration de coûts indirects réels non pas au niveau du projet mais à un niveau supérieur ouvre la voie à de multiples possibilités que la Commission se devra se suivre avec la plus grande rigueur pour éviter des comportements d'opportunisme. Afin d'éviter la possibilité de tels comportements, et par soucis de simplification d'une part, et de clarté d'autre part, il est proposé de fixer d'ores et déjà dans les règles de participation ce qu'il est proposé pour le moment de fixer dans l'accord de subvention. Le niveau qui semble le plus facile à mettre en œuvre d'une part et à contrôler d'autre part est celui de l'entité légale contractante.*

Amendment by Gunnar Hökmark

Amendment 435  
Article 33, paragraph 1

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.

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

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

Or. en

Amendment by Teresa Riera Madurell

Amendment 436  
Article 33, paragraph 1, subparagraph 2

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.

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

Or. es

*Justification*

*Technology should be mentioned here along with research.*

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 437  
Article 33, paragraph 1, subparagraph 2

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

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.

the total eligible costs *or transitionally, until 31 December 2010 at the latest, of 100 % of the additional costs to universities, public and non-profit institutions, foundations and research establishments, if and for as long as they do not have an operational management accounting system.*

Or. de

*Justification*

*The change from the present additional cost model to the total costs model would create problems for a number of universities and small institutes. Public and non-profit research establishments must still be entitled under the 7th FRP to claim 100 % of their direct costs, for as long as they do not have the business management basis for total cost accounting.*

Amendment by Jan Christian Ehler, Angelika Niebler

Amendment 438

Article 33, paragraph 1, subparagraph 2

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.

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 *or transitionally, until 31 December 2010 at the latest, of 100 % of the additional costs to universities, public and non-profit institutions, foundations and research establishments.*

Or. de

*Justification*

*Many of the above establishments do not at present have an accounting system to represent total costs. The transitional period mentioned will provide the opportunity for implementing a suitable accounting system.*

Amendment by David Hammerstein Mintz on behalf of the Green/Efa Group

Amendment 439

Article 33, paragraph 1, subparagraph 2

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.

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

Or. fr

Amendment by Vittorio Prodi

Amendment 440

Article 33, paragraph 1, subparagraph 2

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.

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

Or. en

*Justification*

*The participation of the SMEs into a ETPs should be supported by financial incentives.*

Amendment by Anne Laperrouze

Amendment 441

Article 33, paragraph 1, subparagraph 2

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.

However, in the case of public bodies, secondary and higher education establishments, research organisations and SMEs **established in a Member State or an associated state**, it may reach a maximum of 75% of the total eligible costs. **For such bodies established in an international cooperation partner country and identifying only additional costs, it may reach 100%.**

Or. en

*Justification*

*In developing countries, recurring cost are usually low and difficult to identify. Then eligible costs as defined in the present Commission proposal would be close to additional costs, which were funded up to 100% in FP6. This could prevent participants from these countries to participate in FP7 since they could be unable to match the remaining 25% of the costs.*

Amendment by Ján Hudacký

Amendment 442

Article 33, paragraph 1, subparagraph 2

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.

However, in the case of public bodies, secondary and higher education establishments **and** research organisations **(deletion)** it may reach a maximum of 90 % of the total eligible costs. ***In the case of SMEs, it may reach a maximum of 75 %.***

Or. en

*Justification*

*Publicly financed bodies and universities and other education establishments in particular could encounter important problems in covering remaining 25 percent of the total eligible costs there should be therefore entitled to higher financial contribution from the EU budget.*

Amendment by Britta Thomsen

Amendment 443

Article 33, paragraph 1, subparagraph 2

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.

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. ***In the case of SMEs with no more than 60 employees, the contribution may reach 80% of the total eligible costs.***

Or. da

*Justification*

*It has proved difficult to induce small businesses with between 20 and 60 employees to*

*participate in the framework programme. One of the obstacles is of a financial nature and it is therefore necessary for such firms to be given special consideration.*

Amendment by John Purvis

Amendment 444

Article 33, paragraph 1, subparagraph 2

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.

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

Or. en

*Justification*

*The original wording implies that topping up the reimbursement rate for public bodies from 50% to 75% will be optional to the Commission. Reimbursement at 50% would significantly reduce the attractiveness and viability of FP7 participation for these establishments, especially as reimbursement from national government resources tends to be much higher.*

Amendment by Andres Tarand

Amendment 445

Article 33, paragraph 1, subparagraph 2

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.

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.

***In the case of participants to an indirect action established in a region lagging in development (convergence regions and outermost regions), complementary funding from the Structural Funds will be mobilised wherever possible and appropriate to allow coverage of up to 100% of eligible project costs for universities, public bodies and SMEs.***

Or. en

*Justification*

*For the development of regions lagging behind participation in 7th Framework Programme is very important to increase their scientific and technological level. To facilitate the participation in programme there is need for special support measures for participants from convergence regions, outermost regions and candidate countries.*

*This amendment replaces the AM 1273 to the Draft Report of Jerzy Buzek on the 7th Framework Programme.*

Amendment by Jan Christian Ehler, Angelika Niebler

Amendment 446

Article 33, paragraph 2 a (new)

***2a. In the case of educational establishments and universities and small businesses operating in the security field, funding may amount to up to 80 % of the total eligible costs.***

Or. de

*Justification*

*It needs ensuring that in the new rules the ceiling for actual co-funding does not turn out to be lower than with the model for additional costs applied in the 6th FRP. In view of the specific structure of the security market this ceiling should also be provided for small businesses in the security field.*

Amendment by Giles Chichester

Amendment 447

Article 33, paragraph 4, sub-paragraph 1

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.

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.

Or. en

*Justification*

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

*With regard to the Commission proposal of a financing rate of up to 100 % of eligible costs for certain activities within an indirect action, the Court considers that such a rate can be justified for management and training activities only, and that the "Rules for Participation" should clearly state that such a rate can under no circumstances be generalised (see Article 33(4)).*

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 448

Article 33, paragraph 4, subparagraph 1

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.

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 admissible ceiling for the consortium's administrative costs as regards the Community contribution may not exceed a 7 % share of the project volume.***

Or. de

*Justification*

*A ceiling of 7 % of the project total for the administrative costs of consortia, as laid down in the rules on participation in the 6th FRP, should continue to be laid down by law.*

Amendment by Ján Hudacký

Amendment 449

Article 33, paragraph 4, subparagraph 1

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.

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

Or. en

*Justification*

*This article provides for total coverage of eligible costs from the EU budget it should be therefore clear we may use it only for duly justified activities.*

Amendment by Teresa Riera Madurell

Amendment 450

Article 33, paragraph 4, subparagraph 1

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.

4. For **the** management **of activities including** 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.

Or. es

*Justification*

*Self-explanatory.*

Amendment by Giles Chichester

Amendment 451

Article 33, paragraph 4, subparagraph 2

***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.***

***deleted***

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 452  
Article 33, paragraph 5

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.

5. For the purposes of paragraphs 1 to 4, eligible costs **and** receipts shall be taken into consideration in order to determine the Community financial contribution.

Or. en

*Justification*

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

Amendment by Jan Christian Ehler

Amendment 453  
Article 33, paragraph 5

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.

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.

***The project's receipts may derive from the following sources: (a) financial transfers by third parties to the contract partner, (b) services in kind by third parties, and (c) receipts obtained by the project. They shall be obtained as follows:***

***(a) financial transfers by third parties:***

***(i) transfers made specially to co-finance the project or finance resources that the contract partner invests as part of the project, shall count as project receipts;***

***(ii) if the contract partner as part of his management is able to decide freely on the use of the funds or resources funded by the financial transfer, and he decides to use the resources for the project, the transfer concerned shall not count as project receipts.***

***(b) services in kind by third parties that are***

*used for the project, constitute eligible project costs and*

*(i) shall count as project receipts if they are specially provided by the third party for use in connection with the project,*

*(ii) shall not count as project receipts if the contract partner is able to decide freely on their use.*

*The contract partners shall ensure that third parties whose resources are provided for the project are informed on the use of their resources. The partners shall do so in accordance with their national laws and practice.*

*(c) receipts obtained by the project:*

*(i) receipts obtained during implementation of the project, and receipts resulting from the sale of assets acquired in connection with the project (up to the ceiling for costs originally incurred in connection with the project), shall count as project receipts,*

*(ii) the contract partner's receipts from the use of knowledge acquired in connection with the project shall not count as project receipts.*

Or. de

#### *Justification*

*If the rules on participation determine the Commission's financial contribution by means of the ceiling on eligible costs excluding receipts, such 'receipts' must also be clearly defined in the rules. For this purpose the present rules provide an example.*

Amendment by Giles Chichester

Amendment 454

Article 33, paragraph 6

*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.*

*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 by Daniel Caspary

Amendment 455  
Article 33 a (new)

***Article 33a***

***With the abolition of the old cost report models that were used to explain costs incurred in implementing contracts under the Sixth Framework Programme, firstly the definition of admissible costs should be simplified and secondly all participants should be treated equally. The Sixth Framework Programme included a cost report model with which some legal persons could be refunded up to 100 % of their additional costs, but not their total costs. To make the transition to the new model as attractive as possible for such legal persons and avoid the threat of losses as a result of participation in the project, it is essential that any financial disadvantaging of such legal persons should be avoided***

Or. de

*Justification*

*It is important to point out that discarding the present cost report models must not mean placing at a disadvantage the applicants who were still using the additional cost model for their accounting in the 6th FRP. It is only in this way that a significant decline in the participation of public establishments can be prevented, as it will otherwise be impossible for many projects to come up with a 25 % share from their own resources.*

Amendment by Giles Chichester

Amendment 456  
Article 34, title

*Justification*

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

Amendment by Giles Chichester

Amendment 457

Article 34, paragraph 1, subparagraph 1

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.***

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

Amendment by Nikolaos Vakalis

Amendment 458

Article 34, paragraph 1, subparagraph 1

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.

1. Periodic reports shall be submitted to the Commission regarding eligible costs, financial interest yielded by pre-financing ***and debt interest incurred by delays in, or incompleteness of, the disbursement of Community financial contribution,*** and receipts in relation with the indirect action concerned and, where appropriate, certified by an audit certificate ***at the end of the action,*** in accordance with the Financial

*Justification*

*Reporting should be largely simplified and rationalised, since the volume of details required is too onerous and often confusing. The Community has to accept part of the risk related to new technologies, since this will boost proposals. In any case, it is only fair that reports include not only pre-financing interest yielded, but also debt interest paid by participants because of delays in or incomplete disbursements by the Community.*

*Audit certificates should be systematically required at the end of each indirect action when the Financial Regulation authorises it; otherwise, they are unduly costly and time-consuming, especially for small participants.*

Amendment by Giles Chichester

Amendment 459

Article 34, paragraph 1, subparagraph 2

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

Amendment 460

Article 34, paragraph 1, subparagraph 2

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

The existence of co-financing in relation with the concerned action shall be reported and, where appropriate, certified at the end of the action. ***In cases where actions are reimbursed at 100% of eligible costs, and in the case of lump-sum and flat rates, the Commission shall issue clear guidelines on reporting requirements.***

*Justification*

*Clarification is needed as to how the reporting of co financing will work in the following situations: where the action is 100% funded; and where lump-sums and flat-rates are used. The Rules do imply that detailed cost reporting is needed for all actions, whereas the Commission's intention is that there is no cost reporting for lump-sum and flat rates. The current wording is therefore ambiguous.*

Amendment by Teresa Riera Madurell

Amendment 461

Article 34, paragraph 1

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.

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 certified by an audit certificate **at the end of the action or when the financial risks entailed reach a minimum amount**, in accordance with the Financial Regulation and the *implementing rules (for example, not less than EUR 150 000 as provided for in clause 39 or by a single payment not less than EUR 750 000)*.

The existence of co-financing in relation with the *action concerned* shall be reported and, where appropriate, certified at the end of the action. **Audit certificates should not be required for indirect actions reimbursed wholly using lump sums or flat rates.**

Or. es

*Justification*

*Without prejudice to what might be specified in the model grant agreement, the general principles governing risk cover should be laid down.*

Amendment by Philippe Busquin

Amendment 462

Article 34, paragraph 1 a (new)

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

***For contractors requesting for their involvement in the indirect action a Community financial contribution inferior to €25.000, such contractor will not have to submit an audit certificate.***

Or. en

*Justification*

*Amendment proposed for simplification, in accordance with the Financial Regulation.*

Amendment by Giles Chichester

Amendment 463  
Article 34, paragraph 2

***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.*** ***deleted***

Or. en

*Justification*

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

Amendment by Gunnar Hökmark

Amendment 464  
Article 34, paragraph 2 a (new)

***(2a) Audits certificates shall not be required for indirect actions entirely reimbursed by lump sums or flat rates.***

Amendment by Giles Chichester

Amendment 465  
Article 34 a (new)

**Article 34a**

***Audit certificates***

- 1. Reported costs shall be certified in accordance with the Financial Regulation and the Implementing Rules.***
- 2. In accordance with this Regulation and the provisions of the grant agreement, audit certificates shall provide assurance that:***
  - (a) the costs claimed by the participant are eligible;***
  - (b) the costs, interest on pre-financing and receipts have been correctly determined and are substantiated by adequate supporting documents.***
- 3. Audit certificates shall be provided by an external auditor or, in the case of public bodies, a competent public officer.***

***The external auditor must comply with the requirements established in accordance with the 8th Council Directive 84/253/EEC of 10 April 1984. The competence of the public officer shall be determined by the national legislation and the relevant authorities.***

***The external auditor or, in the case of public bodies, the competent public officer providing the audit certificate, must be independent of the participant in charge of the selection of the auditor.***
- 4. The Commission shall have access to the supporting documents for these audit certificates.***

## *Justification*

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

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

*The Court considers that the "Rules for Participation" should specify the scope and content of audit certificates (see Article 34a)<sup>51</sup>. In accordance with the Financial Regulation<sup>52</sup> and the "Rules for Participation", audit certificates must provide assurance that:*

- the costs claimed by the participant are eligible;*
- the costs, interest on pre-financing, and receipts have been correctly determined and are substantiated by adequate supporting documents.*

*Audit certificates are to be provided by an external auditor or, in the case of public bodies, a competent public officer. The external auditor must comply with the requirements established in line with the 8th Council Directive 84/253/EEC of 10 April 1984. The competences of the public officer shall be determined by the national legislation and the relevant authorities. The external auditor or, in the case of public bodies, the competent public officer providing the audit certificate, must be independent of the participant who is responsible for selecting the auditor.*

*Audit certificates are an essential element of the Commission's internal controls. In the Court's view, this requires that the Commission has access to the documentation and working papers of the external auditors. Such an obligation to provide access should be inserted in the model grant agreements and the terms of engagement for the external auditor.*

*<sup>51</sup> Opinion No 2/2004; paragraph V.: Internal control systems should have, at their basis, a chain of control procedures, with each level having specific defined objectives which take into account the work of the others. Claims of expenditure or costs over a certain threshold should be accompanied by an independent audit certificate and report, based on common standards of approach and content.*

*<sup>52</sup> See Article 117 of the Financial Regulation (Article 180(2) of the Implementing Rules).*

## Amendment by Ivo Belet

### Amendment 466

#### Article 35, paragraph 1

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.

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 ***or a reimbursement of the eligible costs if the***

*participants choose so.*

Or. en

Amendment by Adam Gierek

Amendment 467

Article 35, paragraph 4, subparagraph 2

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.

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

Or. pl

Amendment by Giles Chichester

Amendment 468

Article 35

***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.***

***deleted***

***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.***

Or. en

#### *Justification*

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

*Given the scale of most indirect actions, the Court considers that lump sums are appropriate for clearly defined work packages within each project, possibly linked to the achievement of specific milestones. Such lump sums should also be established on the basis of a thorough negotiation procedure. A practical problem with the use of lump sums arises at the time of payment, when the Commission will have to assess the extent to which these work packages have been completed as agreed. In particular, difficulties in the implementation of such a scheme would arise in those situations where work packages were delayed, only partly completed, or replaced by other activities. With regard to lump sums for whole actions, including those proposed for "Networks of Excellence" in Article 35, the Court recommends a more cautious approach (see also paragraphs 78 to 79).*

*In the Court's view, there should be no specific rules applying to "Networks of Excellence" and, therefore, Article 35 should be deleted (see also paragraph 59). It is also unclear how the Commission has fixed a lump sum of 23 500 euro per year per researcher. There is no indication that the setting of such a rate has been carried out by means of an evidence-based assessment of the underlying cost structure of on-going "Networks of Excellence" under the Sixth Framework Programme. In addition, setting artificially fixed amounts discriminates against those legal entities that are established in Member States or Associated Countries with a higher nominal wage level.*

*Moreover, the proposed financing mechanism is inconsistent with the objective of supporting the integration of the entities participating in the network, as stated in the "Decision", Annex*

III a) 2. "Networks of Excellence" . As currently proposed in the "Rules for Participation", the mechanism implicitly provides for the co-financing of research activities and not of activities contributing to the integration of activities carried out within the framework of a longer term cooperation.

Amendment by Norbert Glante

Amendment 469

Article 35

*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.***

Or. de

*Justification*

*This deletion should not be read as casting doubt on the networks of excellence as such. But the present financial rules on NoE, which in this case have been taken over from the 6th FRP, have not proved themselves in practice and have also been criticised by the European Court of Auditors. In the interest of the procedural simplification that all sides want to see, the same accounting arrangements should apply to the NoE as to the FRP's other instruments. The Community's financial contribution should take the form of reimbursing eligible costs.*

Amendment by Teresa Riera Madurell

Amendment 470  
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 ***without undue delay.***

Or. es

*Justification*

*Undue delays in payments lead to difficulties, obstacles, and hold-ups in achieving the aims of the activities that the programmes are intended to support.*

Amendment by Nikolaos Vakalis

Amendment 471  
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 have to be completed six months after 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 by Gunnar Hökmark

Amendment 472

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 ***without undue delay***.

Or. en

Amendment by Philippe Busquin

Amendment 473

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***.

Or. en

*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 by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 474

Article 36 a (new)

## Article 36a

### *Speed of payment*

*The speed of payment shall be determined in relation to the financial risks, duration and state of progress of the action or to the costs incurred by the beneficiary. Payments shall be made within an appropriate period. In so far as the due date is laid down by agreement or decision, payments shall be made without further prompting on the due date. Article 119(2) shall be unaffected by this provision.*

Or. de

### *Justification*

*This provision should help speed up the procedure. Institutions that have their own audit offices should be entitled to use them instead of having to employ the services of external auditors, thus avoiding procedural costs.*

Amendment by Philippe Busquin

Amendment 475  
Article 38

### *Retained amounts for risk avoidance*

- 1. Depending on the level of risk associated 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:*

### *Guarantee fund*

- 1. Participants in indirect actions under the 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 force from the outset of the framework programme and be placed with an appropriate financial institution, shall be funded by a payment from the Commission when an indirect action commences, corresponding to the sum withheld for the final payment that would be due to the participants in the indirect action in*

*question.*

*(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.*

*3. The sums paid into the guarantee fund, and any financial interest generated on these sums, shall be assigned to the Seventh Framework Programme.*

*4. Provided that there is an adequate amount of accepted eligible costs for the indirect action, the Commission, when making the final payment, shall reimburse 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 Framework Programme and shall constitute an earmarked resource, unless the legislative authority decides otherwise.*

Or. fr

#### *Justification*

*L'instauration d'un Fonds de garantie ressemblant à une mutuelle a pour objectif d'inciter les porteurs de projets à prendre plus de risques dans la sélection des participants à leur consortia, tout en garantissant la bonne exécution technique et financière des projets et en réduisant le nombre de contrôles ex-ante (voir également amendement sur l'article 16.4)*

*L'amendement proposé permet de faire fonctionner ce Fonds de garantie dès le début du Programme-cadre grâce à l'effort conjoint consenti par les participants et la Communauté, sans impact négatif sur le niveau de financement des contractants, du fait de l'existence d'intérêts financiers susceptibles de couvrir les pertes du Fonds, et tout en préservant les intérêts financiers de la Communauté.*

Amendment by Giles Chichester

Amendment 476  
Article 38

*Retained amounts for risk avoidance*                      *deleted*

*1. Depending on the level of risk associated 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.**

Or. en

#### *Justification*

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

*The Commission proposal focuses on achieving greater simplification with regard to the systems for financial management and control, in particular through:*

- the use of lump sums, flat rates and scales of unit cost to simplify the reimbursement of eligible costs (see Article 30);*
- the establishment of a single cost system together with an increase in upper funding limits (see Article 33);*
- the setting up of a "Guarantee fund" to cover the financial risk of carrying out indirect RTD actions (see Article 38).*

*In the Court's experience, the main administrative problems for participants in their dealings with the Commission are non-standardised requirements by Commission services when verifying the legal and financial viability of participants and excessive, and often repetitive,*

requests for information (see paragraphs 34 to 36).

The establishment of a "guarantee fund", however, will not solve those difficulties for participants, and, in addition, is unlikely to be cost-effective (see "whereas" (20) and Article 38)<sup>53</sup>.

- First, the obligations under Article 118 of the Financial Regulation (Article 182 of the Implementing Rules) regarding bank guarantees cannot be waived by setting up such a mechanism<sup>54</sup>. These arise primarily because of the pre-financing granted by the Community (in general 80 % of annual instalments).

- Second, the guarantee fund being an "insurance"-type mechanism, financially stable participants would be covering the risk resulting from potentially defaulting participants, mostly SME's. These risks will be spread over all actions funded by the RTD framework programme, even beyond the actions in which those paying into the fund would participate.

- Third, the Commission proposal strongly discriminates between different types of legal entities, thereby discouraging the participation of non-public entities in the RTD framework programmes<sup>55</sup>. It also reduces the amount of funding available for research.

- Fourth, the number of actual cases where legal entities defaulted on their obligations towards the Communities under previous framework programmes is extremely low.

- Fifth, the "guarantee fund" would cover a third party financial risk to the Community budget by diverting funds from science.

- Finally, the Commission proposal does not explain what happens to funds not needed to cover losses caused by defaulting participants. In the Court's view, and according to the budgetary principles of annuality and universality underlying the Financial Regulation, excess funds which could not be assigned as revenue to the framework programme would also effectively be unavailable for research<sup>56</sup>.

Therefore, the Court recommends the deletion of "whereas" (20) and Article 38.

**53** Opinion No 2/2004, paragraph VIII: "Internal control systems require an appropriate balance between the cost of controlling a particular budgetary area and the benefits the checks bring in terms of limiting the risk of loss and irregularity to an acceptable level."

**54** The amendments proposed by the Court to increase the autonomy of the consortia (see Articles 18, 19, and 23 to 26) and the Commission's verification of the existence, legal status and operational and financial capacity of participants (see Article 16a) should reduce the potential risk to the Community budget to such an extent that in a majority of cases the authorising officer would not have to invoke a third-party joint and several guarantee or the irrevocable and unconditional joint guarantee (which, according to Article 182(3) of the Implementing Rules of the Financial Regulation, is mandatory if pre-financing is above 80% of total grant).

**55** Note that the Commission proposes in Article 38(2) that the following do not have to contribute to the "Guarantee fund": public bodies, legal entities whose participation in the indirect action is guaranteed by a Member State or an Associated Country, 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 SME's.

**56** See also Opinion No 10/2005, paragraphs 20 and 22.

Amendment by Gunnar Hökmark

Amendment 477

Article 38, paragraph -1 (new)

***(-1) The participants shall be responsible for their own debts. The financial liabilities of the participants shall be regulated through the supervision of the coordinator in the consortium.***

Or. en

Amendment by Teresa Riera Madurell

Amendment 478

Article 38, paragraph 1

1. Depending on the level of risk associated 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.

1. Depending on the level of risk associated with non-recovery of sums due to the Community, the Commission may retain a small percentage, ***which shall be determined in the light of an overall risk assessment and shall not exceed 1%***, 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.

Or. es

*Justification*

*The grants awarded by the Commission are intended to support actions involving risk. In addition to running counter to the aim of the measure, it is therefore wrong to limit an individual risk by retaining given amounts. The Commission has an entirely clear-cut legal framework in the grant agreement which it can use to recover funding granted in error.*

Amendment by Norbert Glante

Amendment 479

Article 38, paragraph 2, point a)

(a) public bodies, legal entities whose participation in the indirect action is guaranteed by a Member State or an

(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;

Associated country, ***non-profit research organisations*** and higher and secondary education establishments;

Or. de

*Justification*

*There is no apparent reason why a non-profit research establishment should be excluded as in this case too a public authority provides a guarantee of financial probity.*

Amendment by Jorgo Chatzimarkakis

Amendment 480

Article 38, paragraph 2, point a)

(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;

(a) public bodies, ***any other*** legal entities ***with a public service mission providing adequate financial guarantees or having an institutional public funding***, and higher and secondary education establishments;

Or. en

*Justification*

*Giving common guarantees might be an unnecessary burden for scientific organizations.*

Amendment by Teresa Riera Madurell

Amendment 481

Article 38, paragraph 2, point (a)

(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;

(a) public bodies, ***any other legal entity with a public service mission providing adequate financial guarantees***, and higher and secondary education establishments;

Or. es

*Justification*

*The reference to a legal entity with a public service mission is a form of words adapted from the definition of a 'public body' in the Sixth Framework Programme.*

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 482

Article 39, paragraph 1, introductory part

1. Foreground shall be the property of the **Community** in the following cases:

*Does not affect English version.*

Or. de

*Justification*

*Does not affect English version.*

Amendment by Giles Chichester

Amendment 483

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 its Implementing Rules**;

Or. en

*Justification*

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

Amendment by Teresa Riera Madurell

Amendment 484

Article 39, paragraph 1, point (a)

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

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

Or. es

*Justification*

*It is necessary to specify that a purchase covers goods or a service.*

Amendment by Gunnar Hökmark

Amendment 485

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 ***its Implementing Rules***;

Or. en

Amendment by Anne Laperrouze

Amendment 486

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.

Or. fr

*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 by Teresa Riera Madurell

Amendment 487

Article 40, paragraphs 1 and 2, introductory part

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

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.

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:

ownership of such foreground. ***The participants shall lay down an agreement regarding the allocation of that joint ownership and the terms on which it is to be exercised.***

2. Where no joint ownership agreement has been concluded regarding 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:

Or. es

*Justification*

*The amendment is a clearer way to word the two paragraphs of Article 40.*

Amendment by Lambert van Nistelrooij, Jorgo Chatzimarkakis

Amendment 488  
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.

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. ***They shall agree among themselves on the allocation and the terms of exercising the ownership of the joint foreground in accordance with the provisions of this Regulation and 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 joint owners;***

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

*Justification*

*Concerned participants should have the right to elect the joint ownership regime on a case-by-case basis. All access to foreground should be royalty free; and this should also apply to jointly owned foreground. Further, the default regime above conflicts with common industry practice and arrangements. Each case of co-inventorship is specific and has to be treated as such to determine the applicable rules (respective shares of the inventors, field of exploitation, etc.). The default regime creates an unbalanced situation for the co-owner who exploits the results; they have to pay royalties to the other whatever the facts of the case. Regarding cross-licensing and M&A transactions, the value of one specific item of foreground cannot be determined.*

## Amendment by Paul Rübzig

Amendment 489  
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.

**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 licences to third parties, without any right to sublicense subject to the following conditions:**

**(a) prior notice must be given to other joint owner.**

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

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. ***Allocation and the terms of exercising the ownership of the joint foreground shall be subject to an agreement among the participants.***

*Justification*

*Joint ownership should be possible but not mandatory. Participants should have the right to elect their joint ownership regime individually. It must be avoided to have a default regime*

*providing notification and compensation to the co-owners in the case of granting non-exclusive licenses to third parties.*

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 490  
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. ***They shall agree among themselves on the allocation and the terms of exercising the ownership of the joint foreground in accordance with the provisions of this Regulation and 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 sublicense subject to the following conditions:***

***(a) prior notice must be given to the other joint owners;***

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

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 491  
Article 40, paragraph 1

1. Where several participants have jointly carried out work generating foreground and

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.

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 governing the allocation and terms of exercising that joint ownership.***

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 492  
Article 40, paragraph 2

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***:

2. Where no ***such*** agreement has been concluded ***by the participants in an indirect action***, each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-licence, subject to ***giving prior notice to the other joint owners***.

***The Commission shall establish model joint ownership agreements in accordance with this Regulation.***

***(a) prior notice must be given to the other joint owners;***

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

Or. en

*Justification*

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

Amendment by Anne Laperrouze

Amendment 493  
Article 40, paragraph 2

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

**2. In such cases, the participants shall conclude an agreement between themselves between themselves on the exercise of that joint ownership of the foreground, under reasonable and fair conditions and in accordance with the provisions of this decision and of the grant agreement.**

Or. fr

*Justification*

*The participants concerned must have the option of assigning ownership to one of their number. If they opt for joint ownership, the default provisions proposed by the Commission are unrealistic in that the parties in any case need to agree on fair and reasonable compensation. The parties need to be encouraged to reach agreement on how to exercise their joint ownership.*

Amendment by Nikolaos Vakalis

Amendment 494  
Article 40, paragraph 2 a (new)

**2a. The Commission shall establish a model joint ownership agreement in accordance with this Regulation.**

Or. en

*Justification*

*The adoption of a model joint ownership agreement by the Community should serve as an incentive for participants who wish to facilitate the exploitation of foreground resulting from jointly carried out work.*

Amendment by Nikolaos Vakalis

Amendment 495  
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 [.../...]*** ***establishing 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.

Or. en

*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 by Giles Chichester

Amendment 496  
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 [.../...]*** ***establishing 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.

Or. en

*Justification*

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

Amendment by Saïd El Khadraoui

Amendment 497

Article 41, paragraph 1

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

Or. en

*Justification*

*Default complete loss of ownership by the participant carrying out the work generating that foreground may be discouraging for such participant to join in such actions.*

Amendment by Giles Chichester

Amendment 498

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.

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 499

Article 42, Title

Transfer of foreground

Transfer of ***ownership and access rights regarding*** foreground

Or. en

*Justification*

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

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 500

Article 42

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.***

1. Where a participant transfers ownership of foreground, it shall pass on its obligations to the assignee, in ***relation*** to the ***protection of foreground***, granting of access rights, and dissemination and use, in accordance with the grant agreement.

2. ***Where*** the participant is required to pass on access rights, it shall give 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.

***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 requirement, that the Commission is to be notified in advance of any intended transfer of ownership to a 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, ***or granting of an exclusive license regarding foreground, for specific situations as to be described in the grant agreement in which such transfer or exclusive license grant should be considered as not being in accordance with the development the European economic competitiveness or where this is inconsistent with ethical principles.***

Or. en

Amendment by Angelika Niebler

Amendment 501  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership of foreground, it shall pass on its obligations relating to the granting of access rights, and dissemination and use, in accordance with the grant agreement, ***to the assignee.***

Or. de

*Justification*

*For clarification. When protective rights are assigned, all obligations should also be transferred.*

Amendement by Teresa Riera Madurell

Amendement 502  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership of foreground, it shall pass on its obligations to the assignee, ***including the obligation to pass them on to any subsequent assignee***, in accordance with the grant agreement.

Or. es

*Justification*

*Clarification regarding continuity in passing on rights.*

Amendment by Giles Chichester

Amendment 503  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership of foreground, it shall pass on its obligations to the assignee, in accordance with ***this Regulation***, the grant agreement ***and the consortium agreement***.

Or. en

*Justification*

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

Amendment by Anne Laperrouze

Amendment 504  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership of foreground, it shall ***transfer*** 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. ***If the assignee then transfers the ownership of the foreground, the abovementioned obligations must also be transferred to the***

*new assignee.*

Or. fr

*Justification*

*A provisions should be included on successive transfers so as to maintain the obligations along the whole chain of assignees.*

Amendment by Gunnar Hökmark

Amendment 505  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership 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***.

Or. en

Amendment by Lambert van Nistelrooij, Jorgo Chatzimarkakis

Amendment 506  
Article 42, paragraph 1

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.

1. Where a participant transfers ownership of foreground, it shall pass on its obligations to the assignee, in ***relation*** to the ***protection of foreground***, granting of access rights, and dissemination and use, in accordance with the grant agreement.

Or. en

*Justification*

*The obligations referred to above are the only relevant obligations.*

Amendment by Giles Chichester

Amendment 507  
Article 42, paragraph 1a (new)

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

- (a) established in a Member State or an Associated Country;***
- (b) granting reciprocal access rights in respect of any background which it holds and which is needed to use the foreground;***
- (c) complying with the obligations concerning confidentiality in accordance with Article 3.***

Or. en

*Justification*

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

Amendment by Nikolaos Vakalis

Amendment 508  
Article 42, paragraph 1a (new)

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

- (a) established in a Member State or an Associated Country;***
- (b) granting reciprocal access rights in respect of any background which it holds and which is needed to use the foreground;***
- (c) complying with the obligations concerning confidentiality in accordance with Article 3.***

Or. en

*Justification*

*Sometimes relevant background necessary for the use of the foreground is not owned by one*

*of the participants, but by an affiliated legal entity within an industrial group. Granting of access rights to affiliated entities on the condition of reciprocity shall enhance industrial participation in RTD projects, provided that the interests of European competitiveness and confidentiality are preserved.*

Amendment by Anne Laperrouze

Amendment 509  
Article 42, paragraph 2

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.

2. Subject to its obligations concerning confidentiality, where the participant **transfers** access rights, it shall give 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 **and shall provide them with a written undertaking from the new owner that he will comply with all obligations regarding access rights** under the grant agreement.

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

***The consortium agreement may lay down additional provisions to enable participants to oppose the transfer, if they can show that it would cause disproportionate damage to their legitimate interests.***

Or. fr

*Justification*

*A participant should not be able to oppose a transfer of foreground if his right of access is guaranteed. It is therefore proposed to replace automatic prior notice of other partners by a requirement that notice should be accompanied by information on the identity of the new owner and a commitment on the part of the new owner to comply with the obligations transferred to him.*

*If participants wish to be able to oppose the transfer on the grounds that their legitimate interests have been damaged, provision should be made for this in the consortium agreement.*

Amendment by Giles Chichester

Amendment 510

Article 42, paragraph 2, sub-paragraph 1

**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.**

**2. Where a participant intends 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 assignee to permit the other participants to exercise their access rights.**

Or. en

*Justification*

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

Amendment by Saïd El Khadraoui

Amendment 511

Article 42, paragraph 2, sub-paragraph 2

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

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. ***In such a case however, the transferring party shall remain jointly and severally liable for obligations relating to the granting of access rights, dissemination and use, in accordance with the grant agreement***

Or. en

*Justification*

*If, in application of article 42.2, a participant transfers ownership to a third party outside the European Union, the enforcement of access rights (if necessary through the courts) would be disproportionately difficult. This can be solved by requiring that the transferring party remains bound to the other participants in the consortium*

Amendment by Giles Chichester

Amendment 512  
Article 42, paragraph 2, sub-paragraph 2

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.***

However, the other participants may, by written agreement, waive their right to individual prior notice.

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 513  
Article 42, paragraph 2a (new)

***2a. No prior notice to the other participants in the same action needs to be given [one] year after  
(a) the completion of the indirect action, or  
(b) the termination of participation by the owner of the foreground concerned.***

Or. en

*Justification*

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

Amendment by Anne Laperrouze

Amendment 514  
Article 42, paragraph 3

***3. Following notification in accordance with the first subparagraph of***

***deleted***

*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.*

Or. fr

*Justification*

*A participant should not be able to oppose a transfer of foreground if his right of access is guaranteed. It is therefore proposed to replace automatic prior notice of other partners by a requirement that notice should be accompanied by information on the identity of the new owner and a commitment on the part of the new owner to comply with the obligations transferred to him.*

*If participants wish to be able to oppose the transfer on the grounds that their legitimate interests have been damaged provision should be made for this in the consortium agreement.*

Amendment by Teresa Riera Madurell

Amendement 515

Article 42, paragraph 3, subparagraph 2

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.

Where **any of** 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.

Or. es

*Justification*

*Not all of the other participants might have reason to believe that their access rights as a whole would be adversely affected.*

Amendment by Gunnar Hökmark

Amendment 516

Article 42, paragraph 3, subparagraph 1a (new)

***The right to object should never apply with respect to any transfer to associated companies of a participant and should be tied to a time period of 30 days, following notification.***

Or. en

Amendment by Giles Chichester

Amendment 517

Article 42, paragraph 3, subparagraph 1

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

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

Or. en

*Justification*

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

Amendment by Giles Chichester

Amendment 518

Article 42, paragraph 3, subparagraph 2

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.

Where ***any of*** 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.

Or. en

*Justification*

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

Amendment by Gunnar Hökmark

Amendment 519  
Article 42, paragraph 3a (new)

***(3a) With regard to transfer of ownership no requirement other than to give ex post notification to the Commission is necessary.***

Or. en

Amendment by Teresa Riera Madurell

Amendement 520  
Article 42, paragraph 4

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.

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 ***or of any grant provided for in an exclusive licence to a third party established in a country not associated with the Seventh Framework Programme.***

Or. es

*Justification*

*It is necessary to allow for transfers to third countries.*

Amendment by Anne Laperrouze

Amendment 521  
Article 42, paragraph 4

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.

4. Where appropriate, the grant agreement may provide, by way of an additional requirement, that the Commission is to be notified in advance of, ***or that its authorisation must be obtained for,*** any intended transfer of ownership to a third party.

*Justification*

*A participant should not be able to oppose a transfer of foreground if his right of access is guaranteed. It is therefore proposed to replace automatic prior notice of other partners by a requirement that notice should be accompanied by information on the identity of the new owner and a commitment on the part of the new owner to comply with the obligations transferred to him.*

*If participants wish to be able to oppose the transfer on the grounds that their legitimate interests have been damaged, provision should be made for this in the consortium agreement.*

Amendment by Giles Chichester

Amendment 522

Article 42, paragraph 4

**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.

**4. *The*** Commission is to be notified in advance of any intended transfer of ownership ***or access rights regarding foreground*** to a third party ***which is not established in a Member State or an Associated country.***

Or. en

*Justification*

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

Amendment by Gunnar Hökmark

Amendment 523

Article 42, paragraph 4

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.

4. The Commission is to be notified in advance of any intended transfer of ownership ***or any intended grant of an exclusive licence*** to a third party ***which is not established in a Member State or an Associated country.***

Or. en

Amendment by Giles Chichester

Amendment 524  
Article 43, paragraph 1

*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.

*In accordance with Article 42(4) of this Regulation, the* Commission may object to the transfer of ownership of foreground, or to the granting of an exclusive licence regarding foreground, to *third parties not established in a Member State or an Associated country*, 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.

Or. en

*Justification*

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

Amendment by Teresa Riera Madurell

Amendement 525  
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.

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.

The Commission may object to the transfer of ownership of foreground, or to the granting of an exclusive licence regarding foreground, to *third parties which are established in a third country not associated with 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 *or security*.

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

***In justified appropriate cases the Commission may object to the granting of non-exclusive licences if a provision to that effect is included in the grant agreement.***

Or. es

*Justification*

*To provide for the possibility of refusing to grant non-exclusive licences.*

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 526  
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.

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.

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 to these***, 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.

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 reasonable conditions under which these may take place.***

Or. en

*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 527

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.

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.*

*When the Commission is notified of the transfer of ownership of foreground, pursuant to an arrangement in accordance with Article 42.4 of this Regulation, the Commission may object within a period of 30 days after notification thereof* 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.

In such cases, *the Commission and the participant concerned shall use reasonable efforts to agree on reasonable conditions to be met under which such transfer may take place.*

Or. en

*Justification*

*The rights of the Commission clearly should be linked to the notification requirements for transfer as may be included in the grant agreement pursuant to Article 42.4. If not, it is totally unclear whether any transfer of foreground may be jeopardised by an objection of the Commission in the far future. Moreover, to avoid jeopardising transactions the period in which the Commission would be allowed to make use of this right should be a very limited period. Furthermore, if the Commission has objections a process should commence between the participant and the Commission in which a solution is sought taking into account the interests of the Commission and the participant concerned.*

Amendment by Nikolaos Vakalis

Amendment 528

Article 43

The Commission may object to the transfer of ownership of foreground, or to the granting of an exclusive licence regarding

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.

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.

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 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.

Or. en

#### *Justification*

*In an era of increasing globalisation of exchanges and international technology transfers, stakeholders need specific guidance on the practices preserving the interests of the competitiveness of the European economy as well as of ethical principles.*

Amendment by Eluned Morgan

Amendment 529

Article 43, paragraph 1a (new)

***If a completed piece of research, which has primarily been funded by public funds (by the Commission and Member States), has not been exploited within 1 to 2 years after the project has ended, it shall be offered to cohesion fund regions to exploit. The Commission will establish a method to disseminate this information.***

Or. en

#### *Justification*

*Research funded by FP7 provides an opportunity for the whole of the Union to develop its competitiveness and innovation and is therefore an important tool in synergy with EU regional policy.*

Amendment by Giles Chichester

Amendment 530  
Article 44, paragraph 1

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

Or. en

*Justification*

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

Amendment by David Hammerstein Mintz on behalf of the Vert/Ale Group

Amendment 531  
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 legislation, and having due regard to the legitimate interests, particularly the commercial interests, of the participants in the indirect action concerned. Where a participant invokes legitimate interest, it must, in any given instance, show that it would suffer disproportionately great harm.

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 **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.

Or. fr

*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 by Saïd El Khadraoui

Amendment 532

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

1. Where **appropriate**, foreground **which** is capable of industrial or commercial application, **shall be adequately and effectively protected** in conformity with relevant legislation, and having due regard to **the policies and usual practices of the owner, and** the legitimate interests, particularly the commercial interests, of the participants in the indirect action concerned

Or. en

*Justification*

*The original text actually leads to obligations which are not in conformity with the usual IP policies and practices of most universities and research institutes. Nowadays, most of them have organised technology transfer in a centralised and professional way. Very often however they will not patent research results, which in theory could be “capable of industrial or commercial application” and which would be protected by industry. Industry and academia have different reasons for patenting the results of research and development. Industry will try to protect foreground which, taken together with other technology, covers part of a product (even incremental improvements), so that they can use their intellectual property against their competitors. In academia, mostly upstream (“breakthrough”) inventions are patented because this increases the likelihood of further investment in technology development towards.*

*Given the different and complementary roles of industry and academia in European research projects, it seems logical that in judging whether patenting is adequate, these usual practices of the participant concerned can be taken in to account (in analogy with “the usual accounting practices”).*

Amendment by Teresa Riera Madurell

Amendment 533

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 legislation, and** having due regard to the legitimate interests, particularly the commercial interests, of the participants in

1. Where foreground is capable of industrial or commercial application, its owner shall provide for its adequate and effective protection, having due regard to **its legitimate interests and** the legitimate interests, particularly the commercial interests, of the **other** participants in the

the indirect action concerned.

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

indirect action concerned.

Where a participant ***that is not the owner of foreground*** invokes ***its*** legitimate interest, it must, in any given instance, show that it would suffer disproportionately great harm.

Or. es

*Justification*

*Distinction between legitimate interest and 'its legitimate interests'.*

Amendment by Giles Chichester

Amendment 534

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.

Or. en

*Justification*

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

Amendment by Teresa Riera Madurell

Amendment 535

Article 44, paragraph 2

2. 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.

2. Where foreground ***has industrial or commercial application and its owner*** does not protect ***it***, 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.

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. The participant concerned may refuse consent only if it can demonstrate that its legitimate interests would suffer disproportionately great harm.

Or. es

*Justification*

*Clarification regarding industrial and commercial application of foreground, since different approaches might be required in order to protect it.*

Amendment by Gunnar Hökmark

Amendment 536

Article 44, paragraph 2, subparagraph 1

2. 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.

2. Where ***foreground has an industrial or commercial application and*** 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.

Or. en

Amendment by Angelika Niebler

Amendment 537

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 from conclusion of the project receiving finance***, 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 by Giles Chichester

Amendment 538  
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. If it fails to do so, the Commission may disseminate that 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 by David Hammerstein Mintz on behalf of the Vert/Ale Group

Amendment 539  
Article 46, paragraph 2 a (new)

***2a.. When foreground is not utilised within two years of the end of the project, the Commission may take responsibility for disseminating such foreground and take measures to make it available to the scientific community, while taking pains to ensure intellectual protection. With this in view, the Commission shall establish a European Knowledge Bank.***

*Justification*

*Many research results are not utilised, which undermines the efficiency of European research. To enable this knowledge to be used, the Commission should take ad hoc measures*

*to establish a databank, unless there are reasons for not doing so.*

Amendment by Giles Chichester

Amendment 540  
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.***

Or. en

*Justification*

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

Amendment by Teresa Riera Madurell

Amendment 541  
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 ***the protection of*** intellectual property rights, confidentiality ***obligations***, and the legitimate interests of the owner of the foreground.

Or. es

*Justification*

*Necessary distinction between obligations and rights.*

Amendment by Giles Chichester

Amendment 542  
Article 46, paragraph 4, second subparagraph

4. Following notification, any of those participants may object if it considers that its

4. Following notification, any of those participants may object ***within a period to be***

legitimate interests in relation to its foreground 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.

***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 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.

Or. en

*Justification*

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

Amendment by Jorgo Chatzimarkakis

Amendment 543

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

***Project coordinators shall communicate to the Commission information on their results suited for dissemination to the public.***

Or. en

*Justification*

*The fact that an organisation does not make profit is not decisive. The fact that it has a different purpose than making profit is.*

Amendment by Paul Rübige, Gunnar Hökmark

Amendment 544

Article 46, paragraph 4

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

Following notification, any of those participants may object if it considers that its legitimate interests in relation to its

4. Prior notice of any dissemination activity shall be given to the other participants concerned ***if agreed on in the consortium agreement.***

Following notification, any of those participants may object ***within a period to be agreed between the participants in their***

foreground 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.

*consortium agreements* 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 appropriate steps are taken to safeguard these legitimate interests.

Or. en

*Justification*

*It should be avoided that a participant that wishes to disseminate is left in uncertainty for a long period whether someone will object*

Amendment by Teresa Riera Madurell

Amendment 545  
Article 46, paragraph 4

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

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 appropriate steps are taken to safeguard these legitimate interests.

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

Following notification, any of those participants may object if it considers that its legitimate interests in relation to its 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.

Or. es

*Justification*

*Self-explanatory.*

Amendment by Nikolaos Vakalis

Amendment 546  
Article 46, paragraph 4

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

4. Prior notice of any dissemination activity shall be given to the other participants

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 appropriate steps are taken to safeguard these legitimate interests.

concerned.

Following notification, any of those participants may object if it considers that its legitimate interests in relation to its 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.

Or. en

#### *Justification*

*Relevant background necessary for the use of the foreground and owned by one of the participants should be protected in case the owner would suffer a disproportionately great harm by dissemination.*

#### Amendment by Gunnar Hökmark

##### Amendment 547 Article 46, paragraph 4

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

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 appropriate steps are taken to safeguard these legitimate interests.

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

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

Or. en

Amendment by Giles Chichester

Amendment 548

Article 47

*Article 47*

*deleted*

*Dissemination in relation to frontier research actions*

*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.*

Or. en

*Justification*

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

Amendment by David Hammerstein Mintz on behalf of the Vert/Ale Group

Amendment 549

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.

Or. fr

*Justification*

*Self-evident.*

Amendment by Saïd El Khadraoui

Amendment 550

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 a written agreement and, where appropriate, may exclude specific background. ***Research organisations may reasonably exclude background which was generated by an organisational unit which is not involved in the indirect action concerned***

Or. en

*Justification*

*Research institutes and universities which have a unitary legal structure, nevertheless very often are composed of a multitude of departments and laboratories which all have their own background. Most of these research organisations have established technology transfer offices which transfer these research results to industry through licensing or research collaboration agreements. An obligation to engage all background of the whole research organisation in each participation in an indirect action creates a very important exposure, which is almost impossible to assess. It should therefore be possible to follow a two-stage assessment: first assess whether specific background needs to be excluded on the level of the participating laboratory and second, exclude all background of laboratories not participating in the indirect action concerned.*

*There remains however a good faith obligation to explicitly declare background of which a party knows that it could be used to block the use of foreground resulting from an indirect action in which it participates. This is express in the Amendment by stating that research organisations may “reasonably” exclude.*

Amendment by Pia Elda Locatelli, Vittorio Prodi, Vincenzo Lavarra, Patrizia Toia, Umberto Pirilli, Gianni De Michelis

Amendment 551

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***

***The background of each Participant*** needed for the purposes of the indirect action ***and for use by other Participants of their own foreground shall be identified by each Participant in the consortium agreement or in the European Technological Platforms agreement***

*Justification*

*Participants should define their background needed for the purpose of the RTD action, as well as their background needed for the use by other Participants of their own foreground, in a detailed list to be enclosed to the consortium agreement so that each Participant is in the position to appreciate which intellectual property rights, out of its own IPR portfolio, are subject to access rights of other Participants; a rule by which all background is subject to access rights other than for specific exclusions would negatively affect ability of each Participant to manage its own IPR portfolio (and value of such portfolio) in that it would imply for each Participant to assume that all of its IPRs (other than specific exclusions) are not free of other Participants' rights.*

## Amendment by Giles Chichester

Amendment 552  
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 by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 553  
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.**

**deleted**

*Justification*

*It is not necessary to allow background which is subject to access rights to be further limited.*

Amendment by Teresa Riera Madurell

Amendment 554

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 a written agreement and, where appropriate, may exclude specific background.

***Such other background not so defined as might prove relevant in the course of implementation of the project shall be the subject of additional commitments to the above effect and reflected and updated in the written agreement.***

Or. es

*Justification*

*Technical detail. Background is defined as ‘ information ... which is needed for carrying out the indirect action or for using the results of the indirect action ’.*

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 555

Article 49, paragraph 1

1. All requests for access rights shall be made in writing.

1. All requests for access rights ***that are not granted on a royalty-free basis*** shall be made in writing. ***Access rights granted royalty free shall be deemed granted to participants and to their associated companies by accession of the participant concerned to the grant agreement. Access rights as stated in the preceding sentence are granted to associated companies provided all such associated companies grant access rights to all participants and their associated companies and provided that such associated companies fulfil all***

*confidentiality and other obligations towards the Community and the other participants accepted by the participants under the grant agreement as if such associated companies were participants.*

Or. en

Amendment by Giles Chichester

Amendment 556  
Article 49, paragraph 1 a (new)

*1a. Access rights in accordance with Articles 50, 51 and 52 shall be deemed granted to participants and to their affiliated entities provided that:*  
*(a) these entities grant reciprocal access rights to all participants and their affiliated entities;*  
*(b) such affiliated entities fulfil all obligations towards the Commission and the other participants under this Regulation, the grant agreement, the consortium agreement and any other written agreement of the participants.*

Or. en

*Justification*

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

Amendment by Vittorio Prodi, Umberto Guidoni, Patrizia Toia, Gianni De Michelis

Amendment 557  
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 can be granted to affiliates and to companies belonging to the same Group, and whose mother company is located in Europe.***

*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.*

Amendment by Teresa Riera Madurell

Amendement 558  
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 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.

Or. es

Amendment by Gunnar Hökmark

Amendment 559  
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 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.

Or. en

Amendment by Giles Chichester

Amendment 560  
Article 50, paragraph 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.

Or. en

*Justification*

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

Amendment by Nikolaos Vakalis

Amendment 561  
Article 50, paragraph 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.

Or. en

*Justification*

*Sometimes relevant background necessary for the use of the foreground is not owned by one of the participants, but by an affiliated legal entity within an industrial group. Granting of access rights to affiliated entities on the condition of reciprocity shall enhance industrial participation in RTD projects, provided that the interests of European competitiveness and confidentiality are preserved.*

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 562  
Article 50, paragraph 1, subparagraph 1

1. Access rights to foreground shall be

*Does not affect English version.*

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.

Or. de

*Justification*

*Does not affect English version.*

Amendment by Giles Chichester

Amendment 563  
Article 50, paragraph 2

2. 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.

2. 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.

Or. en

*Justification*

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

Amendment by Nikolaos Vakalis

Amendment 564  
Article 50, paragraph 2

2. 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.

2. 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.

Or. en

*Justification*

*Sometimes relevant background necessary for the use of the foreground is not owned by one*

*of the participants, but by an affiliated legal entity within an industrial group. Granting of access rights to affiliated entities on the condition of reciprocity shall enhance industrial participation in RTD projects, provided that the interests of European competitiveness and confidentiality are preserved.*

Amendment by Giles Chichester

Amendment 565  
Article 50, paragraph 2, sub-paragraph 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.***

Or. en

*Justification*

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

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 566  
Article 51

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

1. Participants in the same indirect action ***and their associated companies*** shall enjoy access rights to foreground. Such access rights shall be granted ***royalty-free unless otherwise agreed prior to the signing of either the grant or consortium agreement.***

2. Participants in the same indirect ***action and their associated companies*** shall enjoy access rights to background, if it is needed to use foreground provided that the participant concerned is entitled to grant them. Such access rights shall be granted either under fair and reasonable conditions.

3. A request for access rights under paragraphs 1 or 2 may be made up to ***two years*** 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. However, the participants concerned may agree on a different time-limit. 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.

(b) termination of participation by the owner of the background or foreground concerned.

4. However, the participants concerned may agree on a different time-limit. 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 **fair basis** to background needed to use the foreground generated in the indirect action.

Or. en

#### *Justification*

*It is clear that companies would not be prepared to grant royalty free access for use of background. Moreover, the period of one year to apply for access rights is insufficient. The procedure for patents takes much longer than this period as does the commercialisation of results.*

#### Amendment by Paul Rübzig

##### Amendment 567

##### Article 51, paragraphs 1, 2 and 3, first subparagraph

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

1. Participants in the same indirect action **and their associated companies** shall enjoy access rights to foreground. Such access rights shall be granted royalty free, **unless otherwise agreed**.

2. Participants in the same indirect action **and their associated companies** shall enjoy access rights to background, if it is needed to use foreground provided that the participant concerned is entitled to grant them. Such access rights shall be granted under fair and reasonable conditions.

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

*Justification*

*One year to apply for access rights is much too short. As the application procedure for patents takes longer than this period, it is often unclear whether any intellectual property rights exists to which access should be requested.*

Amendment by Giles Chichester

Amendment 568

Article 51, paragraph 1, sub-paragraph 1

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

Participants in the same indirect action ***and their affiliated entities*** shall enjoy access rights to foreground.

Or. en

*Justification*

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

Amendment by Nikolaos Vakalis

Amendment 569

Article 51, paragraph 1, sub-paragraph 1

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 ***and their affiliated entities*** shall enjoy access rights to foreground, if it is needed to use their own foreground.

Or. en

*Justification*

*Sometimes relevant background necessary for the use of the foreground is not owned by one of the participants, but by an affiliated legal entity within an industrial group. Granting of access rights to affiliated entities on the condition of reciprocity shall enhance industrial participation in RTD projects, provided that the interests of European competitiveness and confidentiality are preserved.*

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübzig

Amendment 570

Article 51, 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.

*Does not affect English version.*

Or. de

*Justification*

*Does not affect English version.*

Amendment by Giles Chichester

Amendment 571

Article 51, paragraph 1, sub-paragraph 2

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

Such access rights shall be granted royalty-free, ***unless otherwise agreed in the consortium agreement.***

Or. en

*Justification*

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

Amendment by Anne Laperrouze

Amendment 572

Article 51, paragraph 1, sub-paragraph 2

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. en

*Justification*

*Many public research organisations do not undertake commercial activities and are unable to exploit the knowledge they have generated. However they deserve a fair and reasonable return and royalty free should be deleted as, in addition, it could be included under "fair and reasonable".*

Amendment by Giles Chichester

Amendment 573

Article 51, paragraph 2, sub-paragraph 1

2. Participants in the same indirect action shall enjoy access rights to background, if it is needed to use **their own** foreground provided that the participant concerned **is** entitled to grant them.

2. Participants in the same indirect action **and their affiliated entities** shall enjoy access rights to background, if it is needed to use foreground **generated by the indirect action and** provided that the participant concerned **and its affiliated entities are** entitled to grant them.

Or. en

*Justification*

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

Amendment by Nikolaos Vakalis

Amendment 574

Article 51, paragraph 2, sub-paragraph 1

2. Participants in the same indirect action shall enjoy access rights to background, if it is needed to use their own foreground provided that the participant concerned **is** entitled to grant them.

2. Participants in the same indirect action **and their affiliated entities** shall enjoy access rights to background, if it is needed to use their own foreground provided that the participant concerned **and their affiliated entities are** entitled to grant them.

Or. en

*Justification*

*Sometimes relevant background necessary for the use of the foreground is not owned by one of the participants, but by an affiliated legal entity within an industrial group. Granting of access rights to affiliated entities on the condition of reciprocity shall enhance industrial*

*participation in RTD projects, provided that the interests of European competitiveness and confidentiality are preserved.*

Amendment by Giles Chichester

Amendment 575  
Article 51, paragraph 2

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

Such access rights shall be granted ***subject to the conditions agreed in the consortium agreement.***

Or. en

*Justification*

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

Amendment by Norbert Glante

Amendment 576  
Article 51, paragraph 3

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

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 that date.***

***(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.

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

Or. de

*Justification*

*The wording of the Commission text is unclear. Er begünstigt vorzeitig ausscheidende Teilnehmer, die gemäß Buchstabe b) bis zu einem Jahr nach ihrem Ausscheiden Zugangsrechte ersuchen können. Der Nachteil für die verbleibenden Teilnehmer besteht darin, dass sie in der Regel erst am Ende des Projektes entscheiden können, ob sie Zugang an*

*dem Ergebnis des vorzeitig Ausgeschiedenen benötigen oder nicht. Ist die Jahresfrist (des Ausscheidens) dann abgelaufen, hätten diese Teilnehmer keine Zugangsmöglichkeiten mehr. Die neue Formulierung macht deutlicher, dass die bis zu Ende des Projekts verbleibenden Teilnehmer bis zu einem Jahr nach Beendigung des Projektes um Zugangsrechte bei jedem Teilnehmer nachsuchen können. Der Ausgeschiedene hingegen verwirkt seine Zugangsrechte innerhalb eines Jahres.*

Amendment by Giles Chichester

Amendment 577

Article 51, paragraph 3, introductory part

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

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

Or. en

*Justification*

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

Amendment by Lambert van Nistelrooij, Jorgo Chatzimarkakis

Amendment 578

Article 51, paragraph 3, introductory part

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

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

Or. en

*Justification*

*Already the application procedure for patents takes longer than 1 year, so it is often even not clear whether there exist any intellectual property rights to which access should be requested. In this respect, patent applications are not published until 18 months following application, which means that it is impossible to know within a one year period whether any access rights need to be requested. Commercialisation of results and decisions in respect thereof generally take also much longer than one year.*

Amendment by Gunnar Hökmark

Amendment 579

Article 51, paragraph 3, introductory part

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

3. A request for access rights under paragraphs 1 or 2 **of this Article** may be made up to **two years** after either of the following events:

Or. en

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 580

Article 51, paragraph 5

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

5. RTD performers shall grant **one another** access on **fair and appropriate terms** to background needed to use the foreground generated in the indirect action.

Or. de

*Justification*

*Access to background for the use of foreground arising from the project when such use takes place only after the project has been implemented must also be possible with some compensation for the owner. To this extent the situation differs from Article 50(2), first paragraph, as there the access to background is needed to carry out project work and is thus generally required for the successful completion of the consortium's project.*

Amendment by Ivo Belet

Amendment 581

Article 51, paragraph 5

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

5. RTD performers shall grant access on a **fair and reasonable** basis to background needed to use the foreground generated in the indirect action.

Or. en

Amendment by Teresa Riera Madurell

Amendment 582  
Article 51, paragraph 5

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

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

Or. es

*Justification*

*Access should not invariably have to be granted free of royalties.*

Amendment by Gunnar Hökmark

Amendment 583  
Article 51, paragraph 5

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

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.

Or. en

Amendment by Ivo Belet

Amendment 584  
Article 52

***Article 52***  
***Additional provisions regarding access rights for “frontier” research actions and for actions for the benefit of specific groups***  
***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.***  
***2. Where the specific group benefiting from***

***deleted***

*the action is represented by a legal entity that participates in the action in their place, that legal entity may grant a sub-licence, in respect of any access right granted to it, to those of its members which are established in a Member State or an Associated country.*

Or. en

Amendment by Pilar del Castillo Vera, Jorgo Chatzimarkakis

Amendment 585  
Article 52, paragraph 1

***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.*** ***deleted***

Or. en

*Justification*

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

Amendment by Gunnar Hökmark

Amendment 586  
Article 52, paragraph 1

***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.*** ***deleted***

Or. en

Amendment by Anne Laperrouze

Amendment 587  
Article 52, paragraph 1

**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.**

*deleted*

Or. fr

*Justification*

*There is no justification for a specific provision on intellectual property rights in respect of frontier research, particularly as the distinction between technological and frontier research remains relatively vague. Articles 50 and 51 should also apply to frontier research.*

Amendment by Teresa Riera Madurell

Amendement 588  
Article 52, paragraph 1

**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.**

**1. Participants in a frontier research action shall enjoy access rights royalty-free to foreground and background for implementation or for the purpose of continuing with additional research activities. Article 51 shall apply to access rights for use for any other activity not to be pursued through additional research activities.**

Or. es

*Justification*

*Articles 50 and 51 will apply to different things.*

Amendement by Teresa Riera Madurell

Amendement 589  
Article 53

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 cover the risk for loans the EIB makes, **or the guarantees it provides**, in support of research objectives set out under the Seventh Framework Programme (Risk-Sharing

Finance Facility). ***The grant agreement must include a list of themes consistent with those proposed in the various specific programmes.***

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

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.

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

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

Or. es

### *Justification*

*To include guarantees alongside loans.*

*The guarantees to be provided, whether by the Commission or by the EIB, should not, under any circumstances, run counter to the grants to be awarded. The Commission must assume the risk of non-recovery of sums owed under existing arrangements laid down by agreement and those arrangements only.*

Amendment by Giles Chichester

Amendment 590

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 (or by the Council in consultation with the European Parliament) identified in part (b) of Annex III to Decision [.../...]*** ***establishing*** the seventh Framework Programme (Risk-Sharing Finance Facility).

Or. en

*Justification*

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

Amendment by Gunnar Hökmark

Amendment 591  
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 ***contribution*** 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 (or by the Council in consultation with the European Parliament) identified in part (b) of Annex III to Decision [.../...] establishing the Seventh Framework Programme (Risk-Sharing Finance Facility).***

Or. en

Amendment by Giles Chichester

Amendment 592  
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.***

Or. en

*Justification*

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

*Furthermore, according to the Commission proposal, Community financial support to the EIB*

*will be provided on the basis of the provisions of the Financial Regulation only. However, further clarification is needed as to how and according to which rules the EIB will allocate its loan and guarantee financing. In the Court's view, these should be provided and administered by the EIB in accordance with its own rules, taking into account the general orientation and principles established by the Commission in the grant agreement (see Article 53(2) and (3)).*

Amendment by Giles Chichester

Amendment 593  
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 Risk-Sharing Finance Facility for certain **actions**, on terms to be defined in the grant agreement in accordance with the Work Programmes.

Or. en

*Justification*

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

*Furthermore, according to the Commission proposal, Community financial support to the EIB will be provided on the basis of the provisions of the Financial Regulation only. However, further clarification is needed as to how and according to which rules the EIB will allocate its loan and guarantee financing. In the Court's view, these should be provided and administered by the EIB in accordance with its own rules, taking into account the general orientation and principles established by the Commission in the grant agreement (see Article 53(2) and (3)).*

Amendment by Gunnar Hökmark

Amendment 594  
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 Risk-Sharing Finance Facility for certain **actions and guarantees**, on terms to be defined in the grant agreement in accordance with the Work Programmes.

Or. en

Amendment by Angelika Niebler, Jan Christian Ehler, Paul Rübige

Amendment 595  
Article 53 a (new)

**Article 53a**

**Report**

***The Commission shall forward 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 procedure, from publication of the call for proposals to conclusion of the agreement on financial aid or the adoption of a decision on the granting of financial aid, as appropriate, per call for proposals and per establishment funded;***

***(d) the average duration up to the concluding evaluation and final payment.***

Or. de

***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 by Giles Chichester

Amendment 596  
Article 54, paragraph 1 a (new)

***1a. This regulation may be revised, subject to an interim evaluation carried out by the Commission no later than 2010.***

Or. en

*Justification*

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

Amendment by Eluned Morgan

Amendment 597  
Chapter IV a (new)

***Chapter IV a  
Synergy***

***The Commissioner responsible for research and the Commissioner responsible for regional policy shall meet annually to establish how synergy between FP7 and the cohesion and structural funds shall be reinforced.***

Or. en

*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.*