



IPR in FP7

**European Commission
Research DG
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Objectives of the IPR provisions

- to facilitate the **implementation** of the project and the **exploitation** of its results
- to provide a minimum “**self-sustainable**” framework while allowing participants **flexibility** to determine additional rules specific for their cooperation
- to ensure **continuity** with the FP6 IPR provisions but **simplifying** and improving these where appropriate
- to ensure **uniformity** between (mainstream) actions



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Basic concepts

- ❑ **Foreground** = all results of the project (incl. inventions, software, databases, cell lines, ...) and attached rights
- ❑ **Background** = information and attached rights which:
 - is held by participants prior to their accession to the grant agreement (no sideground)
 - is needed for carrying out the project or for using its results
 - may be defined by the participants
- ❑ **Access Rights** = licences and user rights
- ❑ **Participants** = beneficiaries



Ownership

- ❑ **Ownership:** each participant owns the foreground it generates
- ❑ **Joint ownership:**
 - 1) when foreground is generated jointly and it is impossible to determine the respective share of the work, in which case:
 - the joint owners must reach an agreement
 - however, in absence of a specific agreement, a default regime applies: *any joint owner is entitled to grant non-exclusive licenses to third parties, without any right to sub-licence, subject to prior notification and fair and reasonable compensation to the other owner(s)*
 - 2) in actions for the benefit of specific groups (e.g. SMEs)
 - 3) when agreed by two or more participants



Transfer of ownership

- ❑ **Transfer:** Obligations regarding foreground must be passed on (esp. regarding the granting of access rights)
- ❑ **Notifications/objections:** Prior notification of transfer in principle only to the other participants who may:
 - object if it would adversely affect their access rights
 - waive their rights to be notified in advance regarding specific third parties (e.g. mother companies)

The Commission may object to transfers to third parties established in non-associated third countries for ethical, competitiveness or security reasons (where appropriate : requirement to notify the Commission).



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Protection, use and dissemination

- Foreground capable of industrial or commercial application **must be protected** (taking into account legitimate interests)
- Foreground **must be used** (= in further research or commercially) **and disseminated** (= disclosure by appropriate means, including publications)
- **Prior notice of dissemination** must be given to other participants (not to Commission, unless no protection, in which case the latter may request to protect on its own behalf)
- Any dissemination (publications, ...) and patent applications must indicate the Community financial assistance



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Access rights (1)

- Under certain conditions, a participant in a project **must grant** the other participants access rights to its foreground or background if this is needed for implementation of use
- However, participants **may define the background needed** in any manner, and may **exclude** specific background (not necessarily prior to signature of EC grant agreement)
- Requests for access rights for use purposes : within one year after termination (or another period to be agreed)
- Possible to grant **exclusive licences** to background and foreground if the other participants waive their access rights



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Access rights (2)

- The Commission may **object** to **exclusive** licences being granted to third parties established in non-associated third countries for ethical, competitiveness or security reasons (where appropriate, a requirement to notify the Commission will apply)
- Participants may agree to **additional or more favourable** access rights than those provided for in the grant agreement (e.g. in the consortium agreement)
- **Special provisions** apply to certain types of actions (e.g. frontier research (ERC), research for the benefit of specific groups (e.g. SMEs), security research)



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Access rights conditions

	Access rights to background	Access rights to foreground
Needed for carrying out the project	Royalty-free unless otherwise agreed before accession to the grant agreement	Royalty-free
Needed for use of own foreground [*]	Fair and reasonable conditions or royalty-free (to be agreed at any time)	

[*] Unless otherwise foreseen, an **affiliated entity** established in a Member State or Associated country will also enjoy such access rights under the same conditions



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Assistance

Further questions on IPR ?

- **Written guidance** (e.g. IPR Guide & Consortium Agreement Checklist which are being developed/adapted for FP7)
- **FP7 Helpdesk** → <http://ec.europa.eu/research/enquiries>
- **IPR Helpdesk** (project funded by the Commission to provide free advice regarding IPR)
→ <http://www.ipr-helpdesk.org>

Thank you for your attention !