

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.08.08
C(2008) 4408 final

COMMISSION DECISION

on the adoption and a modification of special clauses applicable to the model grant agreement adopted on 10 April 2007 in the context of the implementation of the Seventh Framework Programmes of the European Community (2007-2013) and the European Atomic Energy Community (2007-2011), and to the model grant agreement for 'frontier' research actions and to the Marie Curie model grant agreements adopted on 16 April 2007 in the context of the implementation of the Seventh Framework Programme of the European Community (2007-2013)

COMMISSION DECISION

on the adoption and a modification of special clauses applicable to the model grant agreement adopted on 10 April 2007 in the context of the implementation of the Seventh Framework Programmes of the European Community (2007-2013) and the European Atomic Energy Community (2007-2011), and to the model grant agreement for 'frontier' research actions and to the Marie Curie model grant agreements adopted on 16 April 2007 in the context of the implementation of the Seventh Framework Programme of the European Community (2007-2013)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the European Parliament and the Council Regulation (EC) No 1906/2006 of 18 December 2006 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)¹ and in particular Article 19(8) thereof,

Having regard to the Council Regulation (Euratom) No 1908/2006 of 19 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007-2011)², and in particular Article 18(7) thereof,

Whereas:

- (1) A model grant agreement (hereinafter the "general grant agreement") was adopted on 10 April 2007³ which aimed to facilitate the drawing up of grant agreements concluded for each proposal for an indirect action selected in accordance with the European Parliament and Council Decision (EC) No 1982/2006/EC of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013)⁴ and Council Decision (Euratom) No 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2007-2011)⁵. Moreover, a list of special clauses to be introduced where necessary was established.

¹ OJ L391, 30.12.2006, p. 1.

² OJ L 400, 30.12.2006, p. 1, corrigendum published in OJ L 54, 22.2.2007, p. 4.

³ C(2007) 1509.

⁴ OJ L 412, 30.12.2006, p.1.

⁵ OJ L 400, 30.12.2006,p. 60, republished in OJ L 54, 22.2.2007, p. 21.

- (2) A model grant agreement for 'frontier' research actions (hereinafter "ERC grant agreement") and the model grant agreements for Marie Curie actions were adopted on 16 April 2007⁶.
- (3) It has appeared necessary:
- To adopt six additional special clauses concerning:
 - projects involving coordination with other projects funded by a third country as a result of a coordinated call between the Community and this third country;
 - the possibility of arbitration as a mechanism of conflict resolution with entities not receiving a Community contribution and which are established in a third country not associated to FP7 and which for reasons of domestic law cannot be subject to the jurisdiction of the Court of Justice of the European Communities;
 - the statement that the Commission shall not object regarding intended transfers of ownership of foreground or grants of exclusive licences regarding foreground by beneficiaries not receiving Community funding as long as the intended transfer or grant concerns foreground generated by them (including a more restrictive version specific for security related projects);
 - the access right to foreground for Community purposes in Euratom projects;
 - the special case when secondary and higher education establishments and public entities are the coordinator and there is an "authorisation to administer" given to a third party created, controlled or affiliated to the coordinator;
 - the open access specific to the thematic areas "Health", "Energy", "Environment (including Climate Change)", "Information & Communication Technologies" (Challenge 2), and "Socio-economic Sciences and the Humanities", as well as to the activities "Research Infrastructures" (e-infrastructures), and "Science in Society".
 - To modify four special clauses:
 - Special clause 2 paragraph 4 and special clause 3 paragraph 3 concerning governing law in cases where it is demanded by an International organisation participating in the project;
 - Special clause 9 concerning beneficiaries with costs incurred in relation to the project but no Community contribution (usually from third countries);
 - Special clause 11 concerning the notification to the Commission required in case of an intended transfer of ownership and/or an intended grant of an exclusive licence regarding foreground (i.e. clarifying that the Commission shall not object regarding intended transfers of ownership of foreground or grants of exclusive licences regarding foreground by beneficiaries not receiving funding as long as the intended transfer or grant concerns foreground generated by them).

⁶ C(2007) 1625 and C(2007) 1635.

- To adapt the wording of special clause 1 concerning the participation of the JRC for the purpose of its potential introduction in Marie Curie grant agreements.
- (4) When necessary, the wording of the above mentioned special clauses is adjusted for the purpose of its potential introduction in Marie Curie and European Research Council grant agreements as set out in Annex 1.

HAS DECIDED AS FOLLOWS:

Sole Article

Six special clauses as set out in Annex 1 to this decision shall be added to the list of special clauses established by Commission Decision C (2007) 1509 of 10 April 2007.

Four special clauses (clauses number 2, 3, 9 and 11) adopted by Commission Decision C (2007) 1509 of 10 April 2007, are modified as set out in Annex 1.

When necessary, the wording of the above mentioned special clauses is adjusted for the purpose of its potential introduction in Marie Curie and European Research Council grant agreements as set out in Annex 1.

The wording of special clause 1 adopted by Commission Decision C (2007) 1509 of 10 April 2007, is adapted for the purpose of its potential introduction in Marie Curie grant agreements as set out in Annex 1.

Done at Brussels, 20th August 2008

For the Commission
Member of the Commission