

Commission to simplify rules on liability for FP6

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A speaking note issued by the Commission says that current procedures for the implementation of EC research actions under the Fifth Framework programme for research (FP5), although thorough, have attracted criticism. It highlights the requirement for an ex-ante financial assessment to be carried out on participants, with those who fail required to provide a bank guarantee or perform tasks without advance payment. The document also points to a lack of flexibility under the current model-contract. For example, any significant change to budget distribution, even though it remains within the limits of the Community's financial contribution, needs prior Commission approval.

The document says that the Commission wishes to simplify procedures under the Sixth Framework programme for research (FP6). It has proposed a 'radical shift' in the current management model, with 'more flexible rules and contracts and a substantive reduction of administrative red tape.' This will include the abolishment of ex-ante financial controls and an end to the Commission requesting bank guarantees.

In addition, the Community's financial contribution will be granted to the consortium as a whole and participants will be able to decide on its use in achieving the objectives of the project they are working on. The consortium will receive an annual

advance payment of 85 per cent of the necessary budget, with the remaining 15 per cent allocated at the end of each year once documents on the implementation of activities have been accepted. Under the current Framework programme, the Commission retains 15 per cent of the whole contribution until the end of the project. Streamlined procedures will also be introduced to deal with minor changes such as adaptations of the work plan or the composition of the consortium.

The principle of 'unlimited joint and several liability,' a contractual arrangement where the partners in a consortium collectively bear the risks related to their work as a team, has also been introduced to allow more autonomy for contractors. The document states that this principle will aid the establishment of strong partnerships among researchers, which will in turn 'contribute to the stability and the successful implementation of their research project, in the interest of the partners concerned and in the interest of strengthening the European research area.'

The application of this principle is limited to the Community contribution, and will therefore never exceed the value of the financial support provided by the Community. Participants will be free to decide the distribution of the liability amongst themselves, and to take out insurance on the liability. In cases where the European Commission has no choice but to apply the principle of 'joint and several liability,' it will give the consortium the opportunity to propose a suitable solution to repair the damage, such as performing work not undertaken or undertaking additional tasks to the value to the Community financial contribution that is at stake. It is only when the consortium does not propose a satisfactory solution or refuses to take appropriate action that the Commission will invoke the 'joint and several liability' of the participants. In this case, a reimbursement will be required and in extreme cases the Commission may terminate the contract.

The principle of 'joint and several liability' will not apply for bursaries under the fellowships scheme and for SMEs under the SME specific research actions for 'collective and cooperative research.'

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