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Acts whose publication is obligatory

COUNCIL REGULATION (Euratom) No 1908/2006

of 19 December 2006

laying down the rules for the participation of undertakings, research centres and universities in action under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007 to 2011)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 7 and 10,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament[1],

Having regard to the Opinion of the European Economic and Social Committee[2],

Having regard to the Opinion of the Court of Auditors[3],

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1 Opinion of 30 November 2006 (not yet published in the Official Journal).

2 Opinion of 5 July 2006 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

3 OJ C 203, 25.8.2006, p. 1. Opinion delivered on its own initiative.

Whereas:

(1) The Seventh Framework Programme of the European Atomic Energy Community was adopted by Decision No 2006/970/Euratom of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2007 to 2011)[1]. It is the responsibility of the Commission to ensure the implementation of the framework programme and its specific programmes, including the related financial aspects.

(2) The Seventh Framework Programme is implemented in accordance with Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[2], hereinafter "the Financial Regulation", and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation[3], hereinafter "the Implementing Rules".

(3) The Seventh Framework Programme is also implemented in accordance with the state aid rules, in particular the rules on state aid for research and development, currently the Community Framework for State Aid for Research and Development[4].

(4) Treatment of confidential data is governed by all the relevant Community legislation, including the Institutions' internal rules such as Commission Decision 2001/844/EC, ECSC, EURATOM of 29 November 2001 amending its internal Rules of Procedure[5] regarding provisions of security.

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1 OJ L 400, 30.12.2006.
2 OJ L 248, 16.9.2002, p. 1.
3 OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, EURATOM) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).
4 OJ C 45, 17.2.1996, p. 5.
5 OJ 317, 3.12.2001, p. 1. Decision as last amended by Decision 2006/548/EC, Euratom (OJ L 215 , 5.8.2006, p. 38).

(5) The rules for the participation of undertakings, research centres and universities should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access for all participants through simplified procedures, in accordance with the principle of proportionality.

(6) The rules should also facilitate the exploitation of intellectual property developed by a participant, taking also into account the way in which the participant may be organised internationally, whilst protecting the other participants' and the Community's legitimate interests.

(7) The Seventh Framework Programme should promote participation from the outermost regions of the Community, as well as from a wide range of undertakings, research centres and universities.

(8) The definition of micro, small and medium-sized enterprises (SMEs) provided in Commission Recommendation 2003/361/EC [1] should apply, for reasons of coherence and transparency.

(9) It is necessary to establish the minimum conditions for participation, both as a general rule and with regard to the specificities of indirect actions under the Seventh Framework Programme. In particular, rules should be laid down regarding the number of participants and their place of establishment.

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

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[1] OJ L 124, 20.5.2003, p. 36.

(11) International organisations dedicated to developing cooperation in the field of nuclear research and training in Europe and largely made up of Member States or associated countries should be encouraged to participate in the Seventh Framework Programme.

(12) The participation of legal entities established in third countries and the participation of international organisations should also be envisaged, as enshrined in Article 101 of the Treaty. However, it is appropriate to require that such participation be justified in terms of the enhanced contribution thereby made to the objectives sought under the Seventh Framework Programme.

(13) Pursuant to Article 198 of the Treaty, legal entities of Member States' non-European territories under their jurisdiction are eligible for the Seventh Framework Programme.

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

(15) There should be an effective and smooth transition from the cost calculation regime used in the Sixth Framework programme. For the benefit of participants the monitoring process of the Seventh Framework programme should, therefore, address the budgetary impact of this change in particular as regards its effect on the administrative burden for participants.

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

(17) It is appropriate for the Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules, to govern the assessment of the legal and financial viability of participants in indirect actions under the Seventh Framework Programme. Such rules should strike the right balance between protecting the Community's financial interests and simplifying and facilitating the participation of legal entities in the Framework Programme.

(18) In this context, the Financial Regulation and the Implementing Rules and Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests[1], govern inter alia the protection of the Community's financial interests, the fight against fraud and irregularity, the procedures for the recovery of sums owed to the Commission, exclusion from contract and grant procedures and related penalties, and audits, checks, and inspections by the Commission and the Court of Auditors, pursuant to Article 160c of the Treaty.

(19) It is necessary that the Community financial contribution reaches the participants without undue delay.

(20) The agreements concluded for each action should provide for supervision and financial control by the Commission, or any representative authorised by the Commission, as well as audits by the Court of Auditors and on-the-spot checks carried out by the European Anti-Fraud Office (OLAF), in accordance with the procedures laid down in Council Regulation No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities[2].

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1 OJ L 312, 23.12.1995, p. 1.
2 OJ L 292, 15.11.1996, p. 2.