

IPR management and consortium organisational structure in FP7

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1. Introduction

The management of intellectual property (IP) within a project funded under the Seventh Framework Programme (FP7) implies decisions to be taken by the participants individually or as a consortium on a variety of issues.

In addition, the grant agreement establishes specific procedures to be followed before deciding on sensitive IP issues, such as the publication of data related to foreground or the granting of access rights to third parties.

Finally, good IP management is always important for the implementation and success of a project and to open opportunities for commercial exploitation.

2. The existence of an IPR Committee

Some consortia set up a body specialised in IP issues, usually called IPR Council, IPR Committee, or something similar. This body may have a consultative role, contribute to the resolution of disagreements between participants or even assist in the drafting of the plan for the use and dissemination of foreground. Furthermore, the existence of such a body also helps raise participants' awareness on IP issues.

Projects with high outputs of foreground that can have commercial or industrial applications are generally advised to consider the creation of such a specialised body, especially when they involve a large number of partners.

Smaller projects or those that do not expect to generate such foreground may leave the decisions related to IP to the Executive Committee or another body of their project.

In addition to the IPR Council, other organs that may fill this role are the Governing Board (a body in which each beneficiary participates through a representative) and the Executive Committee (responsible for the implementation of the Governing Board's decisions and the coordination of any subprojects). The existence of an Executive Committee usually depends on the size and complexity of the project.

3. IP issues and relevant bodies

IP management decision	Consortium body
<p><u>Protection of foreground</u></p> <p>The obligation to protect foreground that can be commercially or industrially applied is fulfilled by the participant-owner individually. However, a consortium body can be responsible for tracking down results that should be protected and advising the individual partner on the means of protection.</p>	<p>This may be one of the main responsibilities of the IPR Council. It may participate in the meetings of other bodies, such as the Scientific or the Executive Committee.</p> <p>Alternatively, the Executive Committee could be charged with such responsibilities, provided that it has at least one member competent in IP.</p>
<p><u>Dissemination of data related to foreground</u></p> <p>Article II.30.3 of Annex II to the grant agreement requires participants to inform each other (no longer the Commission) of any dissemination plans and to request their approval before the activity (e.g. publication) takes place. Participants may wish to further regulate this sensitive issue and establish a common action</p>	<p>The IPR Council would be the most appropriate body to solve any differences related to publication and other dissemination activities. It can provide its opinion on all publication plans with regard to the risks that such publications could imply for the protection or use of foreground. The Executive Committee could also play this role, although the Governing</p>

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to resolve any disagreements on publications, to provide amendments or a postponement that satisfies all parties, etc.	Board should be responsible for taking any final decisions.
<p><u>Access rights for third parties</u></p> <p>According to article II.32.8, the Commission may object to a planned granting of <i>exclusive licences</i> to foreground to third parties if they could be contrary to the European economy or to ethical principles or if they may raise security concerns. There is no duty to inform the Commission in any given case but it seems clear that relevant discussions shall be held within a consortium body should this case arise.</p>	The IPR Council may participate in this process. In any case, the final decision shall be taken by the Governing Board.
<p><u>Plan for the use and dissemination of foreground</u></p> <p>This is a report that participants are required to present to the Commission at the end of the project. There may be one body responsible for the drafting and revision of this plan.</p>	Generally, this plan is drafted by the Executive Committee or the Governing Board. However, if there is an IPR Council, it may have a consultative role on the drafting or even draft it alone and send it to the Governing Board for approval.
<p><u>“Necessary” character of access rights</u></p> <p>Access rights are granted under the conditions of article II.32 when the requesting participant needs them in order to carry out its work under the project or to use its foreground. Participants may wish to provide an internal mechanism to rapidly resolve disagreements on the necessary character of access rights to carry on the project work.</p>	Normally, the decision on such an issue is taken by the Governing Board. The opinion of any existing scientific and/or IPR Committee is usually required.
<p><u>Joint ownership</u></p> <p>In case of joint ownership, one of the consortium bodies could assist the participants in evaluating their contribution to the jointly owned foreground and establishing their respective shares.</p>	The IPR Committee would be the most appropriate body for this function.
<p><u>Use of foreground</u></p> <p>The participants are required to use the foreground they generate under the project either for further research or for commercial activities. A body capable of consulting on IP issues could help them reach agreements with third parties (such as licensing or confidentiality agreements).</p>	The IPR Committee or the Executive Committee could play this role.

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