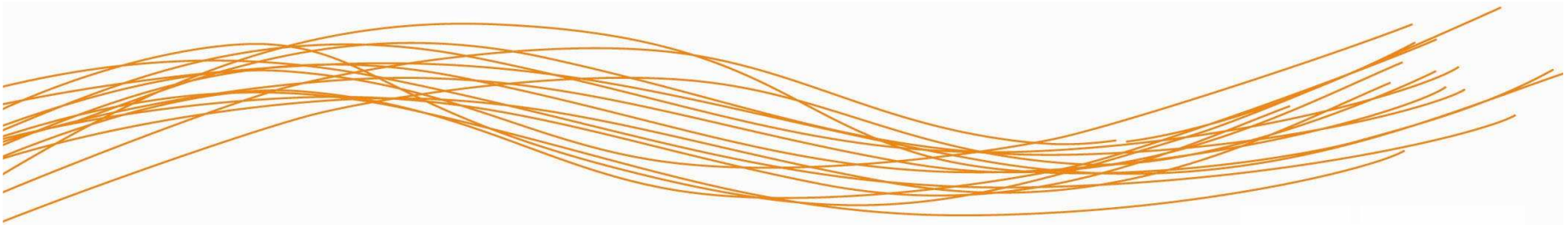


Termination at the initiative of the Commission





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Types of termination (1)

1. Termination of the grant agreement

2. Termination of the participation of a beneficiary

The consortium has the obligation to continue carrying out the work:

- either the defaulting beneficiary is replaced
- or the work is redistributed amongst the remaining beneficiaries

Annex I have to be amended

If the consortium cannot find a solution/the Commission does agree with its proposal the Commission can terminate the GA





Types of termination (2)

1. Termination at the initiative of the consortium

- Termination of the GA
- Termination of the participation of a beneficiary

SEE AMENDMENT GUIDELINES

2. Termination at the initiative of the Commission

- Termination of the GA
- Termination of the participation of a beneficiary





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Main differences with FP6

- **Grounds** for termination are very **similar**
- In FP6, breach of contract and irregularities entitled financial collective responsibility
- Recoveries after termination require the intervention of the **Guarantee Fund**
- New **Redress II** procedure for participants for terminations at the Commission's initiative





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Article II.38.1

Termination grounds (1)

- a) One or more entities does **not accede** to the GA

- b) **Non-performance/poor performance or breach** of a substantial obligation imposed by the GA not remedied following a written request to the consortium to rectify within a period of 30 days
 - Following a review/not following a review
 - Suspension of the project? Article II.8





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Article II.38.1

Termination grounds (2)

- c) **irregularity** in the performance of any grant agreement with the Commission
- d) contravention of fundamental **ethical principles**
- e) rejection/non-submission of **reports** and deliverables
- f) for major **technical or economic** reasons substantially/adversely affecting the completion of the project
- g) if the potential use of **foreground** diminishes to a considerable extent





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Article II.38.1

Termination grounds (3)

- h) **changes** in a beneficiary/change of control that call into question the decision of the Commission to accept its participation
- i) where any of these **changes affects the** implementation of **the project** or the interests of the Community or calls into question the decision to grant the Community contribution
- k) *force majeure*
- k) the **conditions of participation** are not met anymore unless the continuation of the project is essential to the implementation of the programme



Article II.38.1

Termination grounds (4)

- l) beneficiary is **guilty** of offence involving its professional conduct by a *res judicata* judgement or is guilty of grave professional misconduct
- m) when following termination of the participation of a beneficiary **the consortium does not propose adequate modifications** or the Commission does not accept them
- n) A beneficiary is declared **bankruptcy** / is being wound up





Procedure (1)

- **Non-performance/poor performance or breach of a substantial obligation imposed by the GA**

- the Commission sends a request to rectify within 30 days
- Costs are NOT eligible from reception of that request
- If the consortium does not rectify, the GA is terminated

- **Rejection of reports, irregularities, grave professional misconduct and contravention of ethical principles**

- The Commission will ask the beneficiary/consortium to react
- In the rest of cases the Commission terminates
IMMEDIATELY





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Procedure (2)

The termination **letter** is sent to the beneficiary whose participation is terminated (copy to the coordinator) or to the coordinator, if the grant agreement is terminated

In the termination letter the Commission gives the possibility to request **redress with 15 days** of reception of the letter (Redress does not apply in case of bankruptcy!)





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Consequences of termination (1)

Articles II.38.2 & II.39

- The beneficiary / consortium has to submit **reports**, including financial statements within **45 days** and info on the amount transferred to beneficiaries
- The **debt** owed by the beneficiary / consortium is established based on the information, reports and financial statements received
- The **financial consequences** depend on the termination ground: in cases of non-performance, irregularities, professional misconduct etc the COM can request reimbursement of ALL or PART of the Community Financial Contribution



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Consequences of termination (2) Articles II.38.2, II.39 & II.21

-The beneficiary whose participation is terminated is asked to put the **funds** at the disposal of the consortium

-If the beneficiary does not do it, intervention of the **Guarantee Fund**:

-Transfer of amount due to the consortium

-The amount due is recovered by the Commission to the benefit of the Fund

