Contract principles for research projects

UNIFI recommendations

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1. Background

On 8 May 2007, the Council of Rectors of Finnish Universities (Unifi) approved the first shared recommendations on the contract principles for university research projects. The contract principles were updated on 15 February 2015. This was the first time that the requirements for transparency, among other items, were taken into account. Unifi will update the contracting principles in 2021 (the document at hand). New items added to the principles will consider the protection and processing of personal data and the restrictions on sanctions and exports.

The new recommendations apply to all types of university research projects and, where applicable, they are also suitable for use in development projects.

These recommendations will make public the contract principles on research projects that are central to the operations of universities. The aim is to simplify the principles and practices of cooperation with universities and make them easy to understand. Clear principles can be used to harmonise practices, better anticipate future activities, reduce administrative costs and bring transparency to university cooperation. However, each university decides on its operating methods and contractual principles for itself.

In all its contract activities for research projects, universities must also take into account legislation binding on the public sector, such as the Universities Act and state aid and competition legislation, which set limits for research cooperation and the related freedom of contract. The starting point for contract activities related to research projects is the clear recording of practices that support the objectives of each project.

The key contract principles in university research projects are:

2. Right to publish research results

The purpose of research at universities is to produce new information and scientific results for the use of society. In order to fulfil this task, research results should in principle be available for publication. However, when publishing research results, it must be ensured that its publication does not prevent patenting or disclose confidential information.

In order to ensure that publication activities and the management of the confidential information of partners can be implemented in practice at universities, an effort should be made to identify confidential information received from the partners unambiguously and to appropriately define their period of confidentiality. The aim is that scientifically significant results could be published at latest after the delay arising from the protection of results in a reasonable time.

From the perspective of practical operation, it is also important that the agreements include clear inspection procedures and reasonable inspection times for publications as well as the grounds for postponing the publication of research results.

It is particularly important to take care of these matters regarding theses, which are always public.

3. Rights to the results of research projects and the right to further research

When agreeing on the ownership and user rights of research project results and research data, appropriate legislation as well as the nature and funding of research must always be taken into account. In order for the university to continue research on the same topic after the end of the research project, the results and research data of the research projects should be available to the university for further research and teaching.

4. Reasonable liability for any damage caused by research activities

The nature of research activities is such that it is possible that different types of damage could be caused to the university or its partners. For this reason, it is important to clearly agree on the division of liabilities related to research activities.

In order to maintain the risk management of universities at a reasonable level, all possible damages caused to the university by research cooperation should be subject to a reasonable monetary limitation of liability to be considered on a case-by-case basis. As a rule, even within the framework of the limitation of liability, only direct damages should be covered, not indirect or consequential damages or contractual penalties independent of the amount of damage caused.

Due to the nature of the research work, it is often impossible for universities to guarantee that the research results will work or to assume responsibility for violations of third parties' intellectual property rights.

For some types of contractual terms and conditions, exceptions to the above-mentioned limitations of liability may be made for justified reasons if this does not cause unreasonable risks to the university. These may include specific confidentiality obligations, agreements with public funding authorities and agreements related to the use of research infrastructure. In these cases, the university should try to control the risk associated with the contract by other means, such as precise definitions and limitations and a careful risk management mechanism.

5. Protection of personal data

The processing of personal data is a key part of research in many research fields. Therefore, the legislation and other provisions on the protection of personal data, such as the GDPR, the Data Protection Act, the Act on Secondary Use, the Act on the Openness of Government Activities, the Act on Medical Research, the Biobank Act, and any genome act, must be taken into account in conducting and agreeing on the research. The key principles resulting from these are: Defining the roles under the GDPR, defining the basis for processing, the status of consent and transfers outside the EEA. The personal data protection documentation and

contracts shall, in particular, take into account the rights of data subjects and the risk assessment of processing operations, which includes, in addition to minimising data and technical safeguards, ensuring the legality of processing operations in the supply and transfer of personal data. Special attention should also be paid to the processing of possibly sensitive data.

6. Export restrictions and sanctions

Export restrictions and sanctions are statutory obligations that contracting parties are increasingly required to agree on regarding their responsibilities in a contractual relationship. When concluding agreements, the university should identify not only its possible role as an exporter, but also the risks associated with export restrictions and sanctions in a contractual relationship. Universities should also consider securing their own position with appropriate contractual clauses in the event that a contracting partner changes to be subject to export restrictions and sanctions during the contract period and is not able to fulfil its obligations in accordance with the terms and conditions of the contract. It would be equally important to prepare for a University itself to consider the risks associated with export control regulations to be too high to meet the terms of the agreement.