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**IPR Challenged by REA Intensive  
Mobility Programmes**

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## Messages from Ms. Maire Geoghegan-Quinn, the European Commissioner for Research, Innovation & Science:

1. *On April 28<sup>th</sup> 2011:* “EU’s leaders, on February 4<sup>th</sup>, gave strong backing to the EC’s Innovation Union blueprint – to make the EU a true Innovation Union, including by completing ERA, the European Research Area by 2014”;
2. *On June 21<sup>st</sup> 2011:* “The future EU research and innovation funding programme , Horizon 2020 – the Framework Programme for Research & Innovation, enters into force on January 2014, by the end of FP7.

# Horizon 2020 – the Framework Programme for Research and Innovation

Funding provided through ---

1. the **Framework Programme for Research and Technical Developments** (such as **FP7**);
2. the **Competitiveness and Innovation Framework Programme** (**CIP**);
3. the **European Institute of Innovation and Technology** (**EIT**);
4. the **DG Education PEOPLE Programme**.

## As to ERA, the Commissioner added:

- We need to **give boost to cross-border cooperation between researchers, research centers, universities and industries**;
- At the moment, **many opportunities are still being wasted because of obstacles to the movement of IDEAS and PEOPLE**;
- We want to **make life easier for researchers and innovators**.

# The FP7-PEOPLE Programme

The current FP7 PEOPLE Programme offers scientists from **EU and Associated Member Countries** **eight different opportunities of support in career development** base on **mobility**.

- Cross country **borders** or continents
- Cross **disciplines** and/or **sectors**
- Cross **institutions**

# Fellowships for young scientists

1. Initial Training Networks (ITN) - for young researchers in their *first 5 years* of their careers;
2. Marie Curie Career Integration Grants (CIG) - for researchers who are looking for *long-term employment in research*, after conducting training under 6<sup>th</sup> or 7<sup>th</sup> FPs.

## Inter Disciplinary Fellowships

3. Intra-European Fellowships (IEF) - for Career Development, supporting the acquirement of *multi or inter-disciplinary, or inter-sectoral experience*;
4. Industry/Academia Partnerships and Pathways (IAPP) - support the exchange of know-how and experience through inter-sectoral secondment of researchers and the recruitment of experienced researchers **for involvement in the transfer of know-how**

## **“Cross Continent” (Third Country) Fellowships**

- 5. International Outgoing Fellowships (IOF) - for career development offer to European researchers opportunities to acquire new knowledge in a Third Country, and return to an EU or Associated County;**
- 6. Career Integration Grants (CIG) - support (up to 4 years) researchers who worked in research in a Third Country and return and work in EU or associated country;**



## Inter-regional & Inter-national

7. CoFunding of Regional, National and International Programmes (COFUND), covers up to 40% of the full fellowship costs of eligible researchers;
8. International Incoming Fellowships (IIF) - aid exchange of top-class researchers from outside EU to work on research projects in EU and Associated Countries, **if justified.**

## IPR and Event Analysis

All *PEOPLE financial tools* described above, support the development of **new knowhow** by moving from one institute and/or country to another.

**IPR must be therefore professionally managed.**

**A true Case-Study, which analyzes a dispute related to Mobility programmes, is following.**

# Moshe's Case

- **Moshe** was a **Ph.D. student** in an Israeli research university, obtained Ph.D. diploma, became **Dr. Moshe** and moved to the USA for 2 years of post-doc training, supported by a **post-doctoral research fellowship**.
- **Dr. Moshe** set up his own lab, worked very hard and soon gained recognition by the international scientific community.

- By the end of those 2 years it was obvious that **some of his research findings had commercial potential.**
- The US university offered **Dr. Moshe** to stay another 2 years, as an **assistant professor**, to help in setting up a **start-up company**, based on his research findings.
- The **start-up company** was established, became **legally independent** and **commercially successful.**

- **Dr. Moshe** started thinking of moving back to Israel. With the help of old friends he set up meetings in Israeli research organizations, offering to deliver **seminar presentation** of his achievements in the last 4 years in the US.
- By the end of his “**self-marketing tour**” he went back home and waited for a call...

- Few months later, **Dr. Moshe** was informed that an Israeli institute had **claimed ownership of the IP** on which the start-up company was established. **That institute was the university which awarded him the Ph.D. degree.**
- The **US Court**, which dealt with the case, **rejected the claim** since **Dr. Moshe was an employee of the US institute** when the company was set, and therefore his **non-restricted IP belongs to the US institute.**

- The **Israeli university sued Dr. Moshe** for **illegally using its knowhow**, in an **Israeli Court**.
- According to its damage claim, when **Moshe** was a **Ph.D. student** he was **supervised** by their professor and **was exposed** to the **accumulated knowhow** of his lab, and **obviously, his Ph.D. dissertation could not be obtained without utilizing that knowhow.**
- The **Israeli court** (also) **rejected the claim** based on the following arguments:

## The IL Court's argumentations:

1. **Moshe** was not an **employee** of the university during his Ph.D. studies. He didn't receive **salary** from that university.
2. **Moshe** was financially supported by **research fellowship, dedicated for Ph.D. students.**
3. **Moshe's academic supervisor** at that time was an **academic adviser, but not his "Boss".**



4. The IP generated was a result of the Ph.D. student's effort and initiative. Moshe was free to use his mentor's advice or to ignore it, and naturally, he submitted the final Ph.D. dissertation independently.

5. No specific binding agreements concerning foreground knowhow or IPR were signed before Moshe began his Ph.D. work.

## Remedies which could be used

- Defining and documenting **background and foreground knowhow**;
- Clarify rights and obligation of **natural person vs. recognized institution**;
- Use formal **confidentiality/non-disclosure forms**;
- When appropriate, sign a **joint foreground knowhow ownership agreement**;
- If needed, use **licensing/material transfer agreements** etc.

# Summary

- Making the EU a real Innovation Union and completing ERA by 2014, are legitimate goals;
- PEOPLE Programme will positively contribute to achieve these goals;
- Nevertheless, IPR matter should be dealt carefully and professionally;
- Institutional IPR management is the responsibility of the senior administrators – namely: us!