

ANNEX 2 – State Aid Scheme

Regulations applicable to State Aid, granted to research projects funded under The Romanian - EEA Research Programme are reglemented by the Order of the Delegated Minister for Higher Education, Scientific Research and Technical Development no. 4370 MD/31.07.2013.

This is available consultation at:

http://uefiscdi.gov.ro/userfiles/file/cooperare%20internationala/Norvegia/Schema_Ajutor_Stat_2014.pdf

This appendix summarizes some of the most important provisions of this normative act. To determine the entities to which state aid applies, it is necessary to make a distinction between two types of entities: enterprises and research organizations.

A research organization is an entity, such as university or research institute, irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their results by way of teaching, publication or technology transfer; all profits are reinvested in these activities, the dissemination of their results or teaching; enterprises that can exert influence upon such an entity, in the quality of, for example, shareholders or members, shall enjoy no preferential access to the research capacities of such an entity or to the research results generated by it.

*Financing institutions falling within the definition of research organizations **does not constitute state aid** and as such, legal provisions on state aid do not apply.*

Enterprises are legally constituted entities with research and / or technological development as part of their activity, that are engaged in economic activities, namely activities consisting in offering goods and / or services on the market. *These types of entities are beneficiaries of state aid.*

These include:

A - private:

- R & D units organized as enterprises;
- Enterprises and their structure, carrying out research and development;
- Accredited private higher education institutions or their components;
- NGOs carrying out research and development.

B - public:

- institutes or research and development centers organized in national societies, national companies and autonomous administrations;

- international centers of research and development established under international agreements.

The beneficiaries are also universities / research organizations engaged in activities both economic and non-economic, provided they do not keep separate accounts for the two activities, even in cases where aid is granted for their main non-economic activity. Under these conditions, research organizations qualify as enterprises.

Eligible Enterprises fall into two categories (Statement of enterprises as small or medium), depending on respecting the following conditions, as follows:

- small enterprises:
 - have fewer than 49 employees;
 - an annual net turnover or have total assets of up to 10 million euros, equivalent in lei.
- medium enterprises:
 - have between 50 and 249 employees;
 - annual net turnover of up to 50 million euros, equivalent in lei or have total assets not exceeding the equivalent in lei of 43 million euros.

The following activities may be financed under the State Aid Scheme:

- fundamental research;
- industrial research and;
- experimental development.

For all activities funded under the scheme, the following maximum percentage rates of funding from the Programme budget can be applied:

Type of research	Category of activity *	Company Type	
		Medium	Small
Fundamental research	A.1	100%	
Industrial research	A.2	75%	80%
Experimental development	A.3	50%	60%

* The category of activity is in accordance with Annex 2.1 - Types of eligible RDI activities in the State aid scheme for Romanian - EEA Research Programme

The following types of expenditures from the Programme budget are not eligible under the state aid scheme, but may be realized from the co-financing budget:

- Disseminating widely by national or international communication and publication of results;

- Participating in technical-scientific events (round tables, workshops, symposia national / international fairs national / international);
- Participation in training and development;
- Organizing training courses and training;
- Connecting to national and international research networks;
- Working visits / exchanges of good practice.

Depending on the type of organization, each project partner must complete and submit the following statements:

Declaration name	Type of entity that must complete
Declaration on compliance with the definition of research organization	Entities that are research organizations
Declaration on enterprise definition as small and medium	Entities other than research organizations
Declaration on research organization's eligibility	Research Organizations
Declaration on enterprise's eligibility	Entities which are state aid beneficiaries

Besides declarations, the Contracting Authority reserves the right to require supporting documentation to prove their statements.

DEFINITIONS:

- "**small and medium enterprises**", or SMEs, "**small**" and "**medium-sized enterprises**" are defined as those enterprises defined in Commission Regulation (EC) Nr. 70/2001, or under any regulation replacing it;

- "**aid intensity**" is the gross amount of aid, expressed as a percentage of eligible project costs. All figures used shall be calculated before deducting fees or taxes. Aid paid in installments will be updated when the value of the grant is awarded. The interest rate that will be used for updating will be the reference rate applicable at the time of the grant. The aid intensity is calculated per beneficiary;

- "**research organization**" is an entity, such as university or research institute, irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their results by way of teaching, publication or technology transfer; all profits are reinvested in these activities, the dissemination of their results or teaching; enterprises that

can exert influence upon such an entity, in the quality of, for example, shareholders or members, shall enjoy no preferential access to the research capacities of such an entity or to the research results generated by it;

- "**fundamental research**" means experimental or theoretical work undertaken primarily to acquire new knowledge about the causes of phenomena and observable facts, without any direct practical application or use envisaged;

- "**industrial research**" means planned research or critical investigation that serves to acquiring new knowledge and skills to develop new products, processes or services or the discovery of a significant improvement in products, processes or services. Includes components to create complex systems required for industrial research, especially for generic technology validation and excludes prototypes which are within the scope of experimental development;

- "**experimental development**" means the acquisition, merge, consolidation and use of existing knowledge and skills in science, technology, business and other relevant knowledge and skills, to produce plans and designs for products, processes and services, modified or improved. These can include other activities in order to define, conceptual planning and documentation products, processes or services. Activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use. Development of prototypes and pilot projects which may be given a commercial use is also included where the prototype is necessarily the final commercial product and its production is too costly for it to be used exclusively for demonstration and validation. In a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from eligible costs. The experimental production and testing of products, processes and services are also eligible, provided that such products, processes and services cannot be used or converted for use in industrial applications or commercially. Experimental development does not include routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes represent improvements;

- "**economic agent**" is an institution providing economic activities, that consist in offering goods and / or services on the market, regardless of its legal or financial status. Economic agents can be medium or small enterprises;

- "**firm in difficulty**" within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty (2004/C244/02). According to guidelines, a company is in difficulty if not able, from its own resources or with funds that can be obtained

from the owner / shareholders or creditors, to stem losses which, without outside intervention by public authorities , will almost certainly condemn it to going out of business in the short or medium term.

- **"types of institutions":**
- INCD - National Institute for Research and Development
- I-AR - Romanian Academy Institute of coordination
- I-AS, I-AGR, I-ASM - Institute of ASAS coordination, the Ministry of Agriculture, that the Academy of Medical Sciences
- IP - a public institution
- UNI - Public higher education institutions
- SNC - company, National Companies, state
- SACD - limited liability companies
- SRL - limited liability company
- NGO - non-profit non-governmental organization (associations, foundations, etc.)
- ALT - others

Statement on compliance with the definition of research organization

I / the undersigned, (name of legal representative of the applicant institution), as (position of the applicant institution's legal representative) of (name of institution), declare under our sole responsibility that the following conditions are met:

1. The organization I represent is a research organization*, as follows:

- ** Higher education institution;
- Institution whose main activity is research and development (CAEN code 72), as shown in the status or the legal act establishing;

2. All profits or revenues are reinvested in research, dissemination or education (as the act of incorporation or status);

3.

- No company can exert influence on the research organization;
- There are companies that can exert influence over research organization (the shareholders or members), but they do not have preferential access to the research capacities of the organization, nor the results of research;

4.

- Organization is engaged exclusively in non-economic activities ***;
- Outside the main non-economic activity, the organization carries out economic activities ****, but in the economical balance situation, non-economic activities, costs and financing are separate economic activities.

Date:

Legal Representative

Function:

Name and surname

Signature / Stamp

Project Manager / Responsible of partner

Name and surname

Signature

If one of the four simultaneous conditions stated is not met, the entity acts as an enterprise and will be verified that the scheme of state aid is respected.

*) "**Research** organization" is an entity, regardless of its legal status (public or private) or financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and disseminate its results through publications, education, or technology transfer activities. All profits / revenues are reinvested in these activities, dissemination of results or teaching. Companies that can exert influence over such organizations as, for example, shareholders or members will not receive preferential access to the research capacities of the entities or research results yielded.

**) Including clinical and university hospitals as defined in Law No. 270/2003 as amended and supplemented as follows. Clinical hospital is the hospital that comprises at least two different university clinics in specialties that carry out health care, education activities and medical research and continuing medical education. University Hospital is the hospital organized in academic medical centers, in which all sections of the structure are specialized clinical departments and clinics are included in the university structure. Clinical departments are departments of the hospital in which university education is conducted. University clinic has in its structure one or more clinical sections.

***) The non-**economic** activities means:

- Educational activities for improving human resources;
- RD activities independently or in collaboration to expand knowledge and understanding;
- Dissemination of research results;
- Technology transfer activities (sale of licenses, creating spin-offs or other forms of management knowledge created by research organizations), whether they are internal, and all income from these activities are reinvested in core activities research organization. By "internal nature" to understand where knowledge management in research organizations is made or a department thereof, or other form of organization subject to a concerned research organization, or in collaboration with other research organization. Contracting such services from third parties, by public procurement, does not affect the internal nature of these activities.

****) Contracts with industry, consulting and rental activities are economically active infrastructure.

Declaration on enterprise definition as small and medium

I. Identification information

- Company name
- Address
- Unique registration code
- Name and title of general manager or equivalent

II. Type of enterprise

- Autonomous enterprise** – Please fill in the table below with the results of calculations made according to law 346/2004 as amended and supplemented
- Partner enterprise** – Please fill in the table below with the results of calculations made according to law 346/2004 as amended and supplemented
- Linked enterprise** – Please fill in the table below with the results of calculations made according to law 346/2004 as amended and supplemented

III. Information used for establishing the type of enterprise *1)

The financial year of reference *2)		
Yearly number of employees	Annual net turnover (thousands lei / thousands euro)	Total assets (thousands lei / euro thousands)

I declare on oath that(enterprise name).... falls within small or medium enterprise, according to the information provided in this statement.

Declare on oath that the information in this statement is real.

Date.....

Signature of legal representative

*1) Data is calculated in accordance with art. 6 of Law 346/2004 as amended and supplemented.

*2) Data on annual average number of employees, annual net turnover and total assets are made in the last financial year reported in annual financial statements approved by shareholders. If start-ups, data on annual average of employees, net annual turnover and total assets are determined and declared at your own risk.

Declaration on research organization's eligibility

We declare under sole responsibility that(full name of the organization)..... is not declared, under law, in default state and has no payments / accounts frozen under a court order.

Also, the institution is not guilty of:

- Inaccurate statements, regarding the information requested by the contracting authority to contractors;
- In violation of the provisions of another financing agreement previously signed with the contracting authority.

Date:

Legal representative

Title:

Name and surname

Signature

Stamp

Declaration on enterprise's eligibility

- We certify, at our own risk, that (name of applicant) is not in difficulty, meaning:
 - a) in case of a limited liability company, which has a loss of more than half of the capital share and more than a quarter of the capital in the last 12 months;
 - b) in case of a company in which at least a part of the associates bear unlimited responsibility regarding the company's debts and it appears that it has lost more than half of its capital, as shown in the company's accounting records, and more than a quarter of the capital in the past 12 months;
 - c) in case of all legal entities, the company meets the conditions laid down in national legislation on insolvency proceedings;
- We certify, at our own risk, that (name of the applicant) was not the object of a recovery order following a previous Commission decision declaring the European State aid as illegal and incompatible with the common market or, if they have been subject to such decisions, this has already been executed and the aid was fully recovered, including interest related recovery.

Date:

Legal representative

Title:

Name and surname

Signature/stamp

Project manager/Responsible of
partner

Name and surname

Signature/stamp

Types of eligible RDI activities in the State aid scheme for Romanian - EEA Research Programme

Activity code	Activities
	A – Research and Development Activities
A.1	Fundamental research
A.1.1	Formulation and verification of hypotheses
A.1.2	Development of conceptual models and theories
A.2	Industrial research
A.2.1	Studies, analysis
A.2.2	Development of experimental model / new solution for the product / method / system / technology / service, etc.
A.2.3	Development of functional design documentation
A.2.4	Experimental model design / functional laboratory technology
A.2.5	Creating experimental model, functional model, laboratory technology, experimental model. Experimental model and functional model simulation
A.2.6	Experimentation model / proposed solution
A.2.7	Demonstration of functionality and utility model
A. 3	Experimental development
A.3.1	Design and development of documentation for technical and economic analysis
A.3.2	Development / finalization referential (technical specifications, etc.)
A.3.3	Develop technical documentation of product / technology / method / system / service, etc.
A.3.4	Design prototype / pilot plan (or equivalent)
A.3.5	Making the product / prototype / pilot plan / technology / method / system / service
A.3.6	Experimentation and verification of product / prototype / pilot plan / technology / method / system / service