
Directive S2020-03

Annex No. 3

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Rights to Results of Scientific Research and Their Exploitation

1. If the result is a result of a public procurement in research, development and innovation, which is always awarded solely for the needs of the provider or the administrative office that is not a provider, the rules of ownership of the results and their exploitation are set forth in applicable laws and regulations.
2. If the result is a result of activity in research, development and innovation which is not a public contract, it belongs to the recipient. Handling results of an activity which is not a public procurement is governed by these rules following from Commission Regulation (EU) No 651/2014 and from Communication from the Commission – Framework for State aid for research and development and innovation:
 - a. If the recipient is a research organisation or a research infrastructure operator that has exclusive rights to the result fully financed from public funds, the results may only be exploited by wide dissemination of research results on a non-exclusive and non-discriminatory basis, for example through teaching, open-access databases, open publications or open software and knowledge transfer.
 - b. Knowledge transfer means any process which has the aim of acquiring, collecting and sharing explicit and tacit knowledge, including skills and competence in both economic and non-economic activities such as research collaborations, consultancy, licensing, spin-off creation, publication and mobility of researchers and other personnel involved in those activities. Besides scientific and technological knowledge, it includes other kinds of knowledge such as knowledge on the use of standards and regulations embedding them and on conditions of real life operating environments and methods for organisational innovation, as well as management of knowledge related to identifying, acquiring, protecting, defending and exploiting intangible assets. Knowledge transfer activities, where they are conducted either by the research organisation or research infrastructure or jointly with other such entities, and where all profits from those activities are reinvested in the primary activities of the research organisation or research infrastructure, are of non-economic nature.
 - c. If the targeted aid recipient is a company jointly with a research organisation, then:
 - i. The results of this collaboration that cannot be protected under laws governing protection or results of authorial, inventive and other similar creative activities, may be disseminated freely and the rights to the results of the research organisation activities belong to these recipients in full; or
 - ii. Any rights to project results as well as related access rights, belong to all collaborating entities in proportion to the extent of their participation in the project solution; or
 - iii. The research organisation shall receive compensation from a collaborating company corresponding to market prices for the rights to project results created by their activities

and transferred to the collaborating company and/or rights the company was granted access rights to.

d. Contractual research – is considered economic activity.

Terms and conditions – the company which the research organisation conducts research for, shall define the terms and conditions of the contract, own the results of research activities and bear the risk of failure, and simultaneously, one of the following conditions has been met:

- i. The research organisation or research infrastructure provides the research service or conducts contractual research for market price; or
- ii. If the market price cannot be determined, the research organisation conducts the contractual research for a price that:
 - Reflects full cost of the service and generally includes the margin determined based on margins usually applied by companies operating in the field of a given service; or
 - Is the result of negotiations on an arm's length basis, as long as the research organisation as the service provider strives to achieve the maximum economic benefit in negotiating the contract and covers at least its marginal costs.

If the research organisation retains ownership of the intellectual property rights or the respective access rights, their market value may be deducted from the price to be paid for the respective services.