



Methodology of reporting economic activities in terms of State aid under OP RDE

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Overview of changes

Chapter	Change specification compared to Version 2 effective from June 1, 2017	Reason for the change
Introduction, chapter 1 and new chapter 7	Addition of point 207 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01).	Although so far only point 20 of the Framework for State aid for research and development and innovation has been mentioned in this Methodology in relation to the ancillary nature of economic activities, the same conditions are also applied to the supported educational infrastructure (according to point 207 of the Commission Notice on the notion of State aid), taking into account identical qualitative and quantitative requirements defined by both regulations.
2.1 – The relevant entity (variant A)	The following bold text was added at the end of this sentence: <i>„Relevant inputs are included in the capacity throughout the service life of the supported infrastructure in accordance with the European Commission Communication, or for a period defined by the OP RDE Managing Authority.“</i>	The missing information was added (already mentioned in chapters 2.2 and 2.3).
3 – Calculation of the economic activity capacity	Footnote n. 21 was updated: <i>„Eg. due to the application of a new monitoring system, unification of calculation methods within individual projects of one beneficiary, etc.“</i>	Some examples of reasons for changing the originally selected calculation method were added.
3.4 – the other method	The sentence <i>„Without the discussion with the OP RDE Managing Authority, the other method cannot be used and the beneficiary/partner is obliged to use one of the methods listed in chapters 3.1 to 3.3.“</i> was replaced by: <i>„OP RDE Managing Authority reserves the right not to accept the other method which has not been discussed with the OP RDE Managing Authority before its first use. In this case the</i>	Modification of the condition concerning the approval of the other method by the OP RDE Managing Authority.

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	<i>beneficiary/partner is obliged to use one of the methods listed in chapters 3.1 to 3.3."</i>	
New chapter 6 – Exemption from the submission of the calculation	Addition of a new chapter with conditions for exemption from the submission of an Overview of the Economic Use of the Supported Capacities.	Addition of the exception from the submission of an Overview of the Economic Use of the Supported Capacities, as it is already in the OP RDI.

Methodology of reporting economic activities in terms of State aid under OP RDE

The aim of the Methodology of Reporting Economic Activities in Terms of State Aid under the OP RDE (hereinafter also referred to as the “Methodology”) is to determine the basic rules of capacity reporting for the purpose of proving the purely ancillary nature of economic activities of research organizations/ research infrastructures supported by OP RDE funds within the meaning of point 20 of the Framework for State aid for research and development and innovation (2014/C 198/01, hereinafter referred to as the "Framework") and within the meaning of point 207 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01, hereinafter referred to as the “Commission Notice”).

With regard to the wide range of beneficiaries, different types of projects as well as specific characteristics of each project and sector, the Methodology allows the OP RDE beneficiaries/ partners to choose from several options, both for defining the relevant entity, resp. the relevant infrastructure, and for choosing the method of calculating total capacity.

The proper definition of the relevant entity, resp. the relevant infrastructure, and appropriate application of the total capacity calculation method are the responsibility of the beneficiary.

1. Definition of State aid in the financing of OP RDE projects

Public funding of non-economic activities of a research organization, a research infrastructure or public education¹ does not constitute State aid pursuant to Article 107(1) of the Treaty on the Functioning of the EU (TFEU).

If research organizations, research infrastructures or providers of public education carry out activities of both economic and non-economic nature, Article 107(1) TFEU shall not apply, in accordance with point 18 of the Framework, to non-economic activities if, in order to effectively prevent cross-subsidisation of economic activities, it is possible to clearly separate economic and non-economic activities as well as the relevant costs, funding and revenues.

Under point 20 of the Framework, public funding of a research organization or research infrastructure may fall entirely outside the scope of the State aid rules provided that its economic use remains purely ancillary.² Under point 207 of the Commission Notice, funding

¹ Point 28 of the Commission Notice: *Public education organised within the national educational system funded and supervised by the State may be considered as a non-economic activity.*

² Point 20 of the Framework: *Where a research organisation or research infrastructure is used for both economic and non-economic activities, public funding falls under State aid rules only insofar as it covers costs linked to the economic activities. Where the research organisation or research infrastructure is used almost exclusively for a non-economic activity, its funding may fall outside State aid rules in its entirety, provided that the economic use remains purely ancillary, that is to say corresponds to an activity which is directly related to and necessary for the operation of the research organisation or research infrastructure or intrinsically linked to its main non-economic use, and which is limited in scope. For the purposes of this framework, the Commission will consider this to be the case where the economic activities consume exactly the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities and the capacity allocated each year to such economic activities does not exceed 20% of the relevant entity's overall annual capacity.*

of infrastructure which is used almost exclusively for a non-economic activity may fall entirely outside the State aid rules provided that its economic use remains purely ancillary.³

In accordance with European regulations, this Methodology distinguishes between non-economic and economic activities. The OP RDE Managing Authority (hereinafter also referred to as the “OP RDE MA”) points out that it is not a division of activities within the meaning of the relevant legislation of the Czech Republic⁴ and it is always necessary to examine the economic/ non-economic nature of the activities with respect to the rules governing the provision of State aid.⁵

The purely ancillary economic use is assessed on the basis of the so-called qualitative and quantitative criteria, which must be met simultaneously.

According to point 20 of the Framework and point 207 of the Commission Notice, the following criteria can be distinguished:

1. Qualitative criteria

- the economic use is purely ancillary, i.e. it is an activity which:
 - o is directly linked to the operation of the research organization or (research) infrastructure and is necessary for its operation, or
 - o is intrinsically linked to its main non-economic use.

2. Quantitative criteria

- the economic activities consume exactly the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities and the capacity allocated each

³ Point 207 of the Commission Notice: *If, in cases of mixed use, the infrastructure is used almost exclusively for a non-economic activity, the Commission considers that its funding may fall outside the State aid rules in its entirety, provided the economic use remains purely ancillary, that is to say an activity which is directly related to and necessary for the operation of the infrastructure, or intrinsically linked to its main non-economic use. This should be considered to be the case when the economic activities consume the same inputs as the primary non-economic activities, for example material, equipment, labour or fixed capital. Ancillary economic activities must remain limited in scope, as regards the capacity of the infrastructure. In this respect, the economic use of the infrastructure may be considered ancillary when the capacity allocated each year to such activity does not exceed 20 per cent of the infrastructure’s overall annual capacity.*

⁴ See, e.g. Act No 111/1998 Coll. on higher education institutions and amending other acts (the Higher Education Act) (principle and complementary activities), Act No 341/2005 Coll. on public research institutions (principle, further or other activities), etc.

An economic activity may also be considered the main activity of an accounting unit within the meaning of Section 5a of Decree No 504/2002 Coll. and/ or Section 5 of Decree No 410/2009 Coll., if such activity fulfils the definition of economic activity within the meaning of the State aid rules.

⁵ In particular, the following activities can be mentioned as examples of economic activities in accordance with the European Commission’s decision-making practice:

- rental of research infrastructures (equipment or laboratories),
- rental of other premises (classrooms, conference halls),
- supplier services to companies (e.g. routine measurements, analyses),
- contract research,
- provision of advisory services (e.g. expert opinions or technical and scientific consultations)
- clinical trials,
- other activities and services (e.g. providing healthcare not related to research projects).

year to such economic activities must not exceed 20% of the relevant entity's, resp. the relevant infrastructure's, overall annual capacity.

2. Definition of the relevant entity in the OP RDE

The relevant entity can be defined either in relation to the research organization or to the research infrastructure in accordance with point 20 of the Framework.⁶ The European Commission defines it as an individual unit (e.g. a department or a laboratory) that could independently carry out research and/or dissemination activities with regard to its organizational structure, capital, material and labour that it can effectively dispose of.⁷

According to the Commission, several relevant entities may exist within one legal entity, regardless of whether the relevant entity is or is not a separate legal entity.⁸ Concurrently a general principle applies that the legal form (status) of the beneficiary and the way of its financing are irrelevant.⁹

Accordingly, it is possible to define **the relevant entity** for the purpose of proving the fulfilment of the conditions of point 20 of the Framework in OP RDE **with regard to the project¹⁰ supported from the OP RDE or with regard to the internal organizational structure of the grant beneficiary** (i.e. as a research organization or a part thereof, variant C), as follows:

- A. the relevant entity as a Project supported from the OP RDE,
- B. the relevant entity as a part of a Project, supported from the OP RDE,
- C. the relevant entity as the grant beneficiary or an organizational part thereof.

The beneficiary/ partner is obliged, if requested by the OP RDE MA, the European Commission or audit authorities, to prove that the definition of the relevant entity is suitable for demonstrating compliance with the quantitative and qualitative criteria of point 20 of the Framework.

2.1. The relevant entity as a project supported from the OP RDE (variant A)

The relevant entity can be defined as a Project supported by the OP RDE, i.e. within the scope defined in the Grant Award Decision and its attachments.

⁶ See introduction to paragraph 20 of the Framework: *If the research organization or research infrastructure is used for both economic and non-economic activities,...*

⁷ See the European Commission's response to the State aid issues of March 2015 (published on [http://www.msmt.cz/vyzkum-a-vyvoj/breznova-cast-odpovedi-evropske-k-otazkam-ve-veci](http://www.msmt.cz/vyzkum-a-vyvoj/breznova-cast-odpovedi-evropske-komise-k-otazkam-ve-veci)).

⁸ See the European Commission's response to the Czech Republic's Basic Set of Questions on R&D&I of 23 September 2014, in particular point 1(g) and the European Commission's response of March 2015.

⁹ Judgment of the Court of Justice of 12 September 2000, Pavlov and Others, Joined Cases C-180/98 to C-184/98, paragraph 74.

¹⁰ Project supported from OP RDE within the scope defined in part I of the Grant Award Decision (hereinafter referred to as "Project").

Thus, capacity in this variant can be assessed in relation to all the specific relevant¹¹ inputs (such as equipment, premises, workers and other) that are/ were part of the Project and which are subject to obligations imposed in the Decision (e.g. accounting obligations).

The relevant inputs are included in the capacity throughout the service life of the supported infrastructure in accordance with the European Commission Communication, or for a period defined by the OP RDE MA.¹²

When defining the relevant entity as a Project, it is not decisive whether the inputs are owned, used or held by the beneficiary or its partners, but all relevant inputs included in the Project are added up, regardless of their physical location and ownership.¹³ Alternatively, compliance with point 20 of the Framework can be verified separately for the beneficiary and for the partners (in relation to inputs that are/ were part of the Project).

2.2. The relevant entity as a part of a project, supported from the OP RDE (variant B)

Due to the fact that Projects include both eligible and ineligible expenditure, the relevant entity may alternatively be defined as a part of a Project where the public funds from the OP RDE are/ were provided for that part.¹⁴

Thus, capacity in this variant can be assessed in relation to all the specific relevant inputs (such as equipment, premises, workers and other) that are/ were eligible costs of the Project¹⁵ and for which the OP RDE support is provided in the given year.¹⁶ Premises and equipment are included in the capacity throughout the sustainability period, or for a period defined by the OP RDE MA.¹⁷

¹¹ Relevant inputs are inputs that are/ were part of the Project and that exist in the year for which the economic activity capacity is reported under this Methodology.
Equipment and premises are inputs that were part of the Project and have not yet been fully written off or disposed of.

In the case of workers, it means jobs that were part of the Project, or jobs that the beneficiary reports in order to fulfil the commitment to maintain the number of jobs, specified in the Grant Award Decision, during the sustainability period.

¹² The service life corresponds to the depreciation period of the relevant infrastructure.

¹³ See, in this sense, the definition of research infrastructure in Article 1.3(ff) of the Framework under which these infrastructures can be distributed in a network.

¹⁴ The calculation of capacity in this definition of the relevant entity does not include inputs that are not or were not supported from the OP RDE, due to the fact that State aid applies only to cases where public funding (from OP RDE) covers costs of economic activities. In the case of ineligible costs, the conceptual features of State aid from OP RDE funds therefore cannot be fulfilled. See the Framework, point 20: *Where a research organisation or research infrastructure is used for both economic and non-economic activities, public funding falls under State aid rules only insofar as it covers costs linked to the economic activities.*

¹⁵ See the obligation of the beneficiary, specified in the relevant article of the Decision, according to which he is obliged to keep such records of assets that will enable him to unambiguously identify the assets acquired from the OP RDE grant and clearly identify the specific workers and their full-time equivalent paid from the grant.

¹⁶ If only a part of the costs is eligible, e.g. in the case of premises, only the part that was eligible for support is counted in the capacity.

¹⁷ While support for material or labour costs is usually fully consumed in a given year, the OP RDE support for equipment and premises is consumed gradually in the form of annual depreciation. For fixed assets such as equipment and premises, wear and tear is defined by the accounting depreciation plan and by the depreciation period according to the accounting depreciations. For this reason, it is necessary to monitor the usability of fixed assets in terms of the share of the economic activity throughout the depreciation period, or for a period defined by the OP RDE MA. Beneficiaries who do not apply depreciation on assets acquired from the grant, in accordance with accounting rules, determine a hypothetical depreciation period that the beneficiary would apply if the assets were not acquired from public funding.

When defining the relevant entity as an OP RDE-supported part of a Project, it is not decisive whether the inputs are owned, used or held by the beneficiary or its partners, but all supported inputs are added up, regardless of their physical location and ownership. Alternatively, compliance with point 20 of the Framework can be verified separately for the beneficiary and the partners (in relation to inputs supported from OP RDE).

2.3. The relevant entity as the grant beneficiary or an organizational part thereof (variant C)

The relevant entity may also be defined in accordance with the internal organization of the beneficiary or partner, in particular in accordance with its organizational structure or internal division, subject to the following conditions.

This definition can be applied if it is an organizational unit (part) that is determined in line with the applicable legislation,¹⁸ is clearly defined in the beneficiary's/ partner's internal rules and is a unit which can effectively independently carry out research and/ or dissemination activities with regard to the organizational structure, capital, material and labour that it can effectively dispose of.¹⁹

Where inputs supported in the project are owned, used or possessed by multiple organizational parts of the beneficiary/ partner, the relevant entity (1) should include all those organizational parts and partners, or (2) the compliance with point 20 of the Framework can be verified separately for each organizational unit.

The capacity includes all relevant inputs in the selected organizational part/ parts of the beneficiary/ partner for the whole period of sustainability, or for the period defined by the OP RDE MA.

2.4. Definition of the relevant entity by the project partners

Due to the fact that the beneficiary and the partner are different legal entities, which may have a different legal form, different organizational structure and different ways of recording their economic activity, the partner is allowed to define the relevant entity independently in accordance with chapters 2.1 to 2.3. This is without prejudice to the beneficiary's option to report the capacity of the relevant entity for the entire project, i.e. including partners.

3. Calculation of the economic activity capacity - basic methods

The European Commission has not defined a specific way of calculating the proportion of economic activities.

According to the Framework, capacity is determined for a given calendar year, i.e. from 1 January to 31 December of the given year. For beneficiaries whose accounting period is the

¹⁸ E.g. Act No 111/1998 Coll. on higher education institutions and amending other acts (the Higher Education Act), Act No 341/2005 Coll. on public research institutions etc.

¹⁹ The OP RDE MA recommends selecting an organizational unit that best suits the location, nature and size of the Project and is directly related to the Project.

business year, the capacity can be determined for the accounting period of the beneficiary determined in accordance with Section 3, par. 2 of Act No 563/1991 Coll. on accounting.

For the purpose of calculating the proportion of economic activities in the OP RDE, **the beneficiary/ partner will use one of the following methods of calculating the total annual capacity of the relevant entity:**

- a) capacity according to the share of costs in the economic activity (the **cost method**),
- b) capacity according to the share of revenues from the economic activities (the **revenue method**),
- c) capacity according to the time of using the resources for economic activities (the **time method**),
- d) capacity using another method or a combination of methods (the **another method**).

The beneficiary/ partner is obliged to choose one of the above-mentioned capacity calculation methods and it must subsequently use that method for the whole duration of the project and its sustainability (except where the use of the original method is no longer possible for objective reasons)²⁰.

The beneficiary/ partner is obliged, if requested by the OP RDE MA, the European Commission or audit authorities, to prove that the selected method and the definition of the relevant entity are sufficient for assessing compliance with the criteria of point 20 of the Framework.

3.1. Calculating the capacity according to the share of costs in the economic activity (the cost method)

Under the cost method, the share of economic activities in the annual capacity can be determined by the proportion of operating costs of the economic activities in the total adjusted non-investment costs²¹ of the relevant entity²² in the reporting year.

The beneficiary determines the costs of economic activities and total operating costs for the relevant entity pursuant to the relevant accounting regulations, using the relevant entity's profit and loss statement or the relevant analytical records.

Where the relevant entity is an profit/ cost centre or multiple profit/ cost centres, the cost of that profit/ cost centre or multiple centres may be used.

²⁰ Eg. due to the application of a new monitoring system, unification of calculation methods within individual projects of one beneficiary, etc.

²¹ Adjustment means a reduction of the total non-investment costs, in particular by depreciation from assets acquired from the grant or a specific donation (Section 38 par. 10 of Decree No 504/2002 Coll.) and by the creation of funds of public universities or public research institutions as well as other relevant costs that do not reflect the relevant entity's performance capacity.

²² The relevant entity is defined by the beneficiary/ partner in accordance with Chapter 2.

3.2. Calculating the capacity according to the share of revenues from the economic activity (the revenue method)

Under the revenue method, the share of economic activities in the annual capacity can be determined by the proportion of revenues from the economic activities to the total operating revenues or total adjusted non-investment revenues²³ of the relevant entity²⁴ in the reporting year.

The beneficiary/ partner determines the revenues from economic activities and the total adjusted non-investment revenues for the relevant entity in accordance with the applicable accounting regulations, using the relevant entity's profit and loss statement or the respective analytical records.

Where the relevant entity is a profit centre or multiple profit centres, the revenues for that profit centre or multiple centres may be used.

3.3. Calculating the capacity according to the time spent using the resources for economic activities (the time method)

For the purposes of the time method, the beneficiary/ partner shall take into account the time usage of all relevant inputs falling within the definition of the relevant entity.²⁵

For the sake of simplification, a **simplified calculation** can be used for OP RDE purposes, where the inputs explicitly listed in point 20 of the Framework and relevant for the relevant entity are used, namely: (a) equipment (apparatus), (b) fixed capital (premises) and (c) labour (workers).²⁶

In the time method, the relevant inputs are inputs that **exist** (for relevant entity variants A and C) or were **supported** (relevant entity variant B)²⁷ **in the year for which the economic activity capacity is reported** according to this Methodology. Inputs are considered to be existing if they are, in the given year, part of an asset (equipment, premises) or part of the relevant entity (e.g. a job created in connection with the Project or a job existing in the relevant organizational part of the beneficiary).

²³ In particular, the adjustment means a reduction of the total non-investment revenues mainly by subsidy depreciation and creation of funds, as well as other revenues that do not reflect the performance capacity of the relevant entity.

²⁴ The relevant entity is defined by the beneficiary in accordance with Chapter 2.

²⁵ The specific inputs are included in accordance with the selected definition of the relevant entity and may vary from case to case.

²⁶ The time method cannot be applied to material and the other inputs (energy, services, etc.), and therefore will not be used for the simplified calculation. At the same time, it can be assumed that the share of economic activity attributed to these inputs can usually be derived from the share of the use of the equipment and workers.

²⁷ In variant B, equipment and premises are considered supported throughout their service life.

Table 1 - inputs included in the relevant entity in the time method

Variant	Eligibility of Expenditure	Input	Implementation	Sustainability	Comment
Variant A	eligible	premises	yes	yes	for the service life
		equipment	yes	yes	for the service life
		workers	yes	yes	for the duration of the job
	ineligible	premises	yes	yes	for the service life
		equipment	yes	yes	for the service life
		workers	yes	yes	for the duration of the job
Variant B	eligible	premises	yes	yes	for the service life
		equipment	yes	yes	for the service life
		workers	yes	no	for the project implementation
Variant C	irrelevant	premises	yes	yes	all premises of the relevant entity
		equipment	yes	yes	all equipment of the relevant entity
		workers	yes	yes	all workers of the relevant entity

In this method, the **time** spent using the individual monitored inputs of the relevant entity for economic and non-economic activities **is recorded**, in particular through a logbook (equipment), time sheet/ share of resources to cover labour costs (workers) or records of premises.

Sub-capacity is then calculated for each group of inputs using a weighted average taking into account the purchase price in the form of depreciation or the cost of each input.

Calculation of the sub-capacity of inputs

The sub-capacity of inputs is calculated as follows:

a) Equipment (apparatus)

For each monitored apparatus, the beneficiary/ partner shall determine the share of economic activity in the total usable capacity,²⁸ or total usage time²⁹ of the apparatus on the basis of its logbook data, and multiplies the annual depreciation (or hypothetical³⁰ depreciation) of the given monitored apparatus by that share. The proportion of economic activities of the monitored apparatus will be determined as the share of depreciations related to economic activity in the total depreciation of the monitored apparatus.

²⁸ The total usable capacity of the apparatus is the performance of the apparatus multiplied by the relevant usable time fund (usable time fund = number of working days net of apparatus downtime, multiplied by the number of hours). In the case of apparatus for which the capacity is given by the maximum number of products/services, the total usable capacity of the apparatus can be determined as the adjusted number of working days multiplied by the maximum daily number of products/services. The usable time fund must correspond to the beneficiary's shift operation, taking into account the usual usage time of the apparatus, the nature of the work on the apparatus and the total maximum service life of the apparatus.

²⁹ The total usage time is the sum of the total actual use of the apparatus for both economic and non-economic activities in a given year.

³⁰ Beneficiaries who, in accordance with accounting rules, do not apply depreciation to assets acquired from the grant, determine a hypothetical depreciation that the beneficiary would apply if the assets were not acquired from public funding.

b) Fixed capital (premises)

The OP RDE MA distinguishes between two basic ways of using the premises for economic activities, namely (1) rental of premises to external entities (rental) and (2) use of the premises by the beneficiary/ partner for its own economic activity (e.g. contractual research, services to businesses). Both of these uses should be taken into account when calculating the proportion of economic activity recorded for each premise that is/ can be used for economic activity.³¹

The beneficiary/ partner sets the share of economic activity of premises rented to external entities on the basis of data from each of the monitored premises.

For premises used for the beneficiary's/ partner's own activities, the proportion of the economic activity of the premises may be determined by the proportion of the economic activities of the apparatus and/or workers using the premises. Alternatively, the proportion of economic activity for the premises used for the beneficiary's/ partner's own activity can be determined as the share of the operating costs of the economic activity in the total operating costs according to the accounting data.³²

The resulting share of economic activity of the beneficiary/ partner is multiplied by the annual depreciation (or hypothetical depreciation) of the given monitored premises. The proportion of economic activities of the monitored premises will be determined as the share of depreciations related to economic activity in the total depreciation of the monitored premises.

c) Labour (employees)

Based on data from time sheets for each monitored worker, the beneficiary/ partner shall determine the share of economic activity in the worker's total usable capacity³³ and shall multiply the share by the annual labour cost of the worker. The proportion of economic activities of the monitored workers will be determined as the share of labour costs related to economic activity in the total labour costs of the monitored workers.

Alternatively, it is possible to determine the proportion of economic activity of workers on the basis of the sources covering the labour costs, i.e. as a proportion of the labour costs covered by the economic activity in total labour costs.³⁴

³¹ On the contrary, premises and rooms in which economic or non-economic activities are not or cannot be carried out, such as corridors and staircases, toilets, cleaning rooms, lifts, etc., are not usually considered to be the monitored premises.

³² The share may be determined depending on the availability of data at the level of the profit/ cost centre (which uses the premise), at the level of the relevant entity (if it uses premises of multiple profit centres and the premises cannot be unambiguously assigned) or, in justified cases, at the level of the beneficiary/ partner.

³³ The total usable capacity of a worker is determined by the total number of hours worked by a worker in the full-time equivalent which falls within the definition of the relevant entity, selected by the beneficiary.

³⁴ In the case of using wage sources, it is necessary to ensure that workers do not engage in any economic activity within the main (non-economic) employment. The beneficiary can prove this fact in particular by the relevant internal regulations, job descriptions, etc.

Calculation of the total annual capacity

The total annual capacity is calculated as the ratio of the sum of the costs of the economic activities of the sub-capacities (i.e. annual depreciations [apparatus and premises] and labour costs [employees] of the economic activities) to the sum of the total costs of the sub-capacity activities (i.e. total annual depreciations and total labour costs).

3.4. Calculating the capacity using another method or a combination of methods (the other method)

To determine the proportion of economic activities in the relevant entity's annual capacity, the beneficiary/ partner may also use another method or a combination of methods (hereinafter referred to as "the other method"), sufficient to demonstrate compliance with the quantitative and qualitative criteria set out in point 20 of the Framework.

The other method also includes all methods that differ from the methods set out in sections 3.1 to 3.3.³⁵

The beneficiary/ partner is obliged to describe the other method in detail together with the reasons for its use and is obliged to discuss it with the OP RDE MA in order to verify its sufficiency for proving compliance with the criteria of point 20 of the Framework. OP RDE MA reserves the right not to accept the other method which has not been discussed with the OP RDE MA before its first use. In this case, the beneficiary/ partner is obliged to use one of the methods listed in chapters 3.1 to 3.3.

3.5. Calculating the capacity of project partners

Due to the fact that the beneficiary and the partner are different legal entities which may have a different legal form and different ways of recording their economic activity, the partner is allowed to choose for itself any of the calculation methods set out in chapters 3.1 to 3.4. This is without prejudice to the beneficiary's option to report the capacity of the relevant entity for the entire project, i.e. including partners.

4. OP RDE MA recommendations

The beneficiary/ partner is obliged to have the economic and non-economic activities separated in accordance with the Decision. For example, apart from accounting separation of the activities, the beneficiary/ partner can also use the following tools:

A) Keeping apparatus (equipment) logs

- for all apparatus acquired from OP RDE funds with a purchase price above CZK 5 million and simultaneously

³⁵ For example, cases where capacity is demonstrated only for a part of the supported inputs (e.g. only for apparatus and not for buildings) or where capacity is demonstrated through the time worked by the relevant entity's workers.

- for apparatus with lower purchase prices, so that the logbooks are kept for apparatus with the highest purchase prices, which together form at least 70% of the purchase price³⁶ of all apparatus acquired from OP RDE funds within the relevant project.

The beneficiary/ partner who has chosen the time method should keep the apparatus logs at a corresponding rate (70% of the purchase price) for all apparatus falling within the relevant entity's definition chosen by the beneficiary/ partner.

Apparatus that form one coherent unit (a module or a functional unit) and cannot be used separately can be recorded together in a common apparatus log.

The apparatus logs should specify the time³⁷ in which the apparatus was used, and distinguish whether it was an economic or non-economic activity, and should include an identifier, name and a brief description of the contract/ activity and the person using the apparatus.

If the apparatus is used only for non-economic activities, the apparatus log does not need to be kept, but the beneficiary should be able to demonstrate the exclusive non-economic use of the apparatus.³⁸

B) Keeping records of the use of the individual premises (rooms) supported from OP RDE funds through a logbook which will indicate for every monitored premise (room)³⁹ the time and purpose of the use, the distinction between economic and non-economic activity, including an identifier, name and brief description of the contract/ activity and the person using the premise (room).

The beneficiary/ partner who has chosen the time method should keep logbooks for all relevant premises (rooms) falling within the definition of the relevant entity.

It is not necessary to keep a logbook for premises (rooms) that are fully used only by the beneficiary/ partner and are not provided to other users.

C) The beneficiary/ partner who has chosen the time method should keep a record of working time through time sheets which will clearly indicate the period of time during which a particular employee of the relevant entity was engaged in economic and non-economic activities, including the identifier, name and brief description of the contract/ activity.⁴⁰

³⁶ See European Commission Decision C-24/2005 on State aid granted by France to the State Laboratory for Metrology and Testing (Laboratoire national de métrologie et d'essais, paragraph 111: *The Commission considers that the sampling carried out, which represents 70 % in value of the LNE's materials and equipment and serves as the basis for calculating the 44/56 allocation ratio, is satisfactory. In addition, the application of this overall allocation ratio to the most costly equipment can be extended to the less expensive equipment, which complements the heavy equipment.*

³⁷ Or indicate another unit of performance of the apparatus where applicable.

³⁸ This is without prejudice to any obligation to keep an apparatus log for the purpose of proving eligible project expenditure in OP RDE.

³⁹ According to the OP RDE MA, the monitored premises are premises and rooms that are or could be used for economic/ non-economic activity. In particular, laboratories, administrative rooms and offices, classrooms and conference rooms, storage rooms, etc. can be used for economic activities. On the contrary, premises and rooms in which economic or non-economic activities are not or cannot be carried out, such as corridors and staircases, toilets, cleaning rooms, lifts, etc., are not usually considered to be the monitored premises.

⁴⁰ In the experience of the OP RDE MA, the mere distinction between activities related to the project and those outside the project in the time sheet is usually not sufficient. The time sheet should make it possible to clearly distinguish between economic and non-economic activities within the project.

The time sheets do not need to be kept if the beneficiary does not use the time method for capacity calculation.⁴¹

Apart from the above-mentioned logs (apparatus, premises) and working time records, **the beneficiary/ partner may choose other solutions that will be able to demonstrate the time spent using the given input** for specific economic activities and which will meet the above requirements. The beneficiary/ partner can use, for example, an automatic electronic recording of activities via an information system (chip cards, etc.), or another solution that will take into account the specific nature of the research infrastructure.

The OP RDE MA recommends unambiguously identifying the activities performed, such as specific research contracts, by means of special identifiers. It is recommended using such identifiers of contracts/ activities in all types of reports (mainly in apparatus logs, premises logbooks, time sheets) and in accounting documents (price calculations, invoices, etc.). It is appropriate to use unambiguous identification by means of an identifier for all economic and non-economic activities of the beneficiary/ partner.

5. Submitting the calculation

The beneficiary is obliged to submit to the OP RDE MA the calculation of the share of economic activity in the total capacity of the relevant entity for the previous calendar (business) year by 31 July of the subsequent calendar year. The beneficiary submits the calculation of the total capacity as an annex to the Project Implementation/ Sustainability Report entitled "Overview of the Economic Use of the Supported Capacities".

The recommended models of the apparatus log, the premises logbook, the time sheet and the "Overview of the Economic Use of the Supported Capacities" are placed on the OP RDE website.

For projects that also include partners, each project partner submits, through the beneficiary, a separate "Overview of Economic Use of the Supported Capacities". That obligation applies only to partners with a financial contribution who have received support outside the State aid mode for non-economic activities in accordance with Chapter 2.1.1 of the Framework. A separate Overview of Economic Use of the Supported Capacities of a partner is not required if the Beneficiary submits a calculation of the share for the entire project including partners and in a case the condition in the chapter 6 of this Methodology is met.

6. Exemption from the submission of the calculation

The calculation of the share of economic activity and assessing compliance with the criteria of point 20 of the Framework applies only to the project for which in the relevant entity in the reported year:

⁴¹ This is without prejudice to any obligation to keep time sheets for the purpose of proving eligible project expenditure in OP RDE.

- there are fixed assets (apparatus and premises), which were supported from this OP RDE project, and which have not yet been fully depreciated⁴² or excluded from assets, and/or
- there are jobs that were supported from this OP RDE project in the reported year.

A beneficiary/partner of a project for which there is no fixed assets supported by this OP RDE project and/or jobs supported by this OP RDE project in the given year (relevant entity) shall provide this information to the OP RDE MA through the Overview of Economic Use of Supported Capacities⁴³ and is not required to submit a calculation of the share of economic activity.

7. Reporting of economic activities pursuant to point 207 of the Commission Notice on the notion of State aid

In the case of projects for which public funding falls outside the State aid rules in accordance with point 207 of the Commission Notice on the notion of State aid, and for which the OP RDE MA explicitly lays down the obligation to report economic activities, chapters 2, 3, 4, 5 and 6 of this Methodology shall apply mutatis mutandis.

⁴² For beneficiaries who, in accordance with accounting regulations, do not apply depreciation on assets acquired from the subsidy, the period for which the beneficiary would depreciate the assets if no subsidy from public funds were provided for these acquired assets will apply.

⁴³ In the last question of Part 1. *Introductory information* the beneficiary/partner shall tick the option "no" and provide the Overview with the date and signature of the relevant person authorized to sign it. In such a case, it is not necessary to fill in the remaining parts of the Overview.

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