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*Sent by e-mail*

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**Subject: Classification of Romanian salary scheme under Horizon 2020**

Dear Ms Anania,

In January 2016 you asked my services about the classification in Horizon 2020 (H2020) of the remuneration scheme applied by national institutions in Romania. As you know, it has not been possible to complete earlier our analysis due to the discussions on additional remuneration which spanned over most of last year. The Romanian remuneration system has been one of the main case-studies which eventually lead to the changes in the H2020 model Grant Agreements (MGAs) on this subject. In that context, I would like to especially thank you and your colleagues for your support and collaboration in this complex exercise. Now that the new provisions on additional remuneration have become into force, I am glad to be able to come back on your request in a more favourable legal frame.

The current version of the H2020 MGAs qualifies additional remuneration as the part of the remuneration which exceeds what the person would be paid for time worked in projects funded by national schemes. These provisions are now extensively explained in the updated H2020 Annotated Grant Agreement (AGA)<sup>1</sup>. In essence, basic remuneration used to calculate the eligible hourly rates shall correspond to the actual salary of the person up to the level of remuneration which the beneficiary pays for work in national projects. This level of remuneration shall be the one fixed in the national law for work in national projects (if it exists under national law) or the one fixed in the internal rules of the beneficiary for such work; provided that it has actually been paid at least once by the beneficiary. Only if none of these two references apply to the beneficiary (e.g. there is neither relevant law nor internal rules) then the beneficiary may use instead as reference the average of the salary of the person in the previous year. You can find detailed explanations and examples about this issue in the AGA, in particular on page 58 to 62.

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<sup>1</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/amga/h2020-amga\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf)

According to the information you provided, the salary paid for employees of Romanian national institutions while working in national projects is framed by the Government Decision n° 583/2015. That Decision provides for the ceiling that may be paid to different types of employees for work under the National Plan for Research, Development and Innovation. This legal ceiling is generally adjusted in the collective labour agreement applicable to the specific entity. It is common practice that the collective agreement fixes explicitly the salary, or hourly rate, to be paid for time worked in those national projects.

In this context, the salary (hourly rate) that the beneficiary pays for work under national projects in accordance with its collective labour agreement would be the reference for the basic remuneration under the H2020 action. If the hourly rate actually paid for the H2020 action is equal or below the hourly rate paid for the national projects, all the remuneration would qualify as basic remuneration. By contrast, if the H2020 hourly rate would be higher than the national one, the exceeding part would qualify as additional remuneration and would be subject to the specific eligibility conditions and capping.

If there are entities which do not have a collective labour agreement specifying the hourly rate to be paid in national projects, the ceiling of the national law would apply directly. In that situation the reference to decide what part of the salary qualifies as basic remuneration would be the highest hourly rate paid by the beneficiary to its employees for work in national projects (up to the ceiling fixed by the national law).

Please note that our advice is based on the understanding described above. If the actual implementation of the remuneration scheme differs from our understanding above, our conclusions regarding their eligibility may be different.

Finally, note that the new provisions of the revised Horizon 2020 MGAs regarding additional remuneration apply retroactively to all grants on-going at the time of adoption of the amendment (i.e. 27 February 2017).

These new provisions address the situation of Romanian entities regarding the rules on additional remuneration. It ensures that the remuneration eligible for H2020 actions will at least be equal to the level of remuneration declared by the beneficiary for national grants. Non-profit beneficiaries will be entitled to charge, on top, eligible additional remuneration up to the capping set up in the H2020 Rules for Participation.

Yours sincerely,

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