

Dean's measure No 2/2015-16

Title: **Economic and Non-Economic Activity at the Faculty of Medicine of Charles University in Hradec Králové**

To perform: Article 107 of the Treaty on the Functioning of the European Union, Commission Regulation (EU) No 651/2014 and Commission Communication Framework for State aid for research and development and innovation (2014/C 198/01)

Effectiveness: **1st February 2016**

**Article 1
Initial Provisions**

1. This measure divides the activities of the Faculty into non-economic (hereinafter ‘non-economic activities’) and economic (hereinafter ‘economic activities’), in accordance with European regulations and with the Measure of the Rector of Charles University in Prague No. 6/2015.
2. Economic activities are carried out at the Faculty of Medicine of Charles University in Hradec Králové (hereinafter ‘the LF’) only in accordance with the relevant legislation, namely:
 - a) Act No. 111/1998 Coll., on universities and on amending and supplementing other laws, as amended,
 - b) Act No. 130/2002 Coll., on the promotion of research, experimental development, and innovation from public funds and on the amending of certain related laws (Act on the Promotion of Research, Experimental Development and Innovation), as amended,
 - c) Act No. 235/2004 Coll., on value added tax, as amended,
 - d) Act No. 563/1991 Coll., on accounting, as amended,
 - e) Commission Regulation (EU) No 651/2014 of 17 June 2014 (hereinafter ‘the Regulation’) declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (hereinafter ‘the Treaty’),
 - f) Commission communication – Framework for State aid for research and development and innovation (2014/C 198/01-29), hereinafter ‘the Framework’,
 - g) the March part of the European Commission's replies to questions on public aid, hereinafter ‘the EC's replies’.
3. Research infrastructure (hereinafter ‘RI’) is defined as the facilities, resources, and related services used by the scientific community for carrying out research in the relevant fields, including scientific equipment and research material, knowledge-based resources, ICT infrastructures, computer and software equipment, means of communication, as well as other elements of a unique nature, which are necessary for carrying out research. These

infrastructures can be deployed within the network (organized network of resources) according to the Framework.

4. The relevant entity (hereinafter ‘RE’) is an organizational unit, department or laboratory capable of carrying out the activities of autonomous research or public dissemination of knowledge, etc., i.e. activities defined in point 19 of the Framework, having regard to its organizational structure, capital, material, and labour.

Article 2

Definition of Non-Economic Activity

1. Non-economic activity is an activity which does not constitute offering goods or services on relevant markets within the meaning of EU law and case law. Non-economic activity may usually be supported by the state or through state or public funds and Article 107 of the Treaty may not cover its promotion.
2. In general, the following activities can be considered as non-economic activities:
 - a) primary activities of research organizations and research infrastructures, in particular:
 - 1) training to increase numbers and improve the qualifications of human resources (public education organized within the national education system, which is largely or entirely financed by state resources and controlled by the state);
 - 2) independent research and development (hereinafter ‘R&D’) in order to gain new knowledge and to better understand the subject, including cooperative R&D, where the cooperation, in which the research organization or research infrastructure is involved, is effective;
 - 3) the public dissemination of research results on a non-exclusive and non-discriminatory basis (for example, through teaching, open access databases, publicly accessible publications or open software);
 - b) knowledge and technology transfer activities where they are carried out either by a research organization or research infrastructure (including their departments or branches), or jointly with or on behalf of other such entities, and where all profits from those activities are reinvested in the primary activities of the research organization or research infrastructure. The non-economic nature of these activities is maintained even in the case of the outsourcing of the appropriate services to third parties through an open procurement procedure.

Article 3

Definition of Economic Activity

1. Economic activity is any activity designed to offer goods or services on the market within the meaning of EU law and case law – e.g. judgments of the European Court of Justice 118/85, C-35/96, C-180/98 to C-184/98.
2. The performance of economic activities at the LF is decided by the Dean.

Article 4

Separate Monitoring of Non-Economic and Economic Activities

1. In order to unify the accounting monitoring of the non-economic and economic activities at the LF, all accounting centres shall monitor the costs and revenues separately by means of a separate distinguishing sign '2' for non-economic activity and the symbol '5' for economic activity. For further identification of the activity, the cost centre number is used in the EIS, where the fourth digit of this code for economic activities is always 6, 7 or 8. The other numeric signs always refer to non-economic activities. The initial designation of the centre within the EIS is carried out by the department's responsible employee (authorizing officer) in cooperation with the Economic Division of the LF. For boundary operations, the authorizing officer of the operation must provide the Economic Division of the LF with a written justification for the decision in the event of being classified as a non-economic activity.
2. As part of the separation of non-economic and economic activities, the records of profit and loss are processed in the EIS system, which must correspond to the overall profit and loss records for the LF without this separation.
3. The assessment of whether the revenue or expenditure is non-economic or economic shall be carried out by the authorizing officer of the operation or by the responsible senior manager authorized to manage the funds of a particular department or project within the scope of the delegated powers, in accordance with the Rules for the Implementation of the Financial Control at the LF.
4. In order to prevent the granting of unauthorized indirect state aid, the LF, in cooperation with undertakings, shall proceed in such a way that the cooperation can only take place under the conditions laid down in Chapter 2.2 of the Framework, or in a similar way under those conditions, so that there is no undue advantage for those undertakings.

Article 5

Common Provisions for Non-Economic and Economic Activities

1. Since the Measure of the Dean of the LF provided that **the relevant entity is the LF as a whole**, economic activities must be of a purely ancillary nature and be carried out to a limited extent. Economic activities must be directly related to the operation of the LF as RE and must be necessary to its operation or inseparably linked to the main non-economic use.
2. The capacity to use the resources of RE for economic activities shall not exceed 20% of the total annual capacity per calendar year – see Annex 1.
3. The financing of non-economic activities and economic activities, the costs, and revenues of the relevant types of activities must be recorded separately on the basis of consistently applied and objectively justifiable cost accounting principles.
4. The Dean of the LF is responsible for fulfilling the conditions of point 20 of the Framework.

5. Examples of non-economic and economic activities are listed in Annex 2 to this Measure.

Article 6
Use of Profits from Non-Economic and Economic Activities

1. Any profit resulting from knowledge and technology transfer activities that will be of a non-economic nature shall be reinvested in the primary activities of the research organization, the LF.
2. In the case of a specific adjustment of the use or reinvestment of the profit generated by the economic activity by the provider of public funds (e.g. Ministry of Education, Youth and Sports, grant agency, etc.), the LF will follow this specific adjustment.
3. The Dean of the LF is responsible for using and reinvesting profits.

Article 7
Final Provisions

1. The breakdown of the LF's activities into non-economic and economic is not the same as the breakdown of the activities into ancillary and principal activities and is not the same as the breakdown into economic and non-economic activities in the context of taxes.
2. Accounting for non-economic activities and economic activities by means of a separate sign, defined by Bursar's letter of 30th December 2014 to the secretaries and directors Ref. 14446/2014-II, is considered to be the separation under this Measure.
3. The Faculty will use the information provided by the Economic Department of the Rectorate of the Charles University in Prague, No. 28/2015, always as amended, as a methodology to ensure the separation of activities.
4. This Measure is connected to the Rector's measure No. 6/2015 of 16th February 2015 and its amendment performed by the Rector's measure No. 40/2015 and shall take effect on 1st February 2016.

In Hradec Králové on 11th January 2016

Prof. MUDr. RNDr. Miroslav Červinka, CSc.
Dean of the Faculty

Calculation of the Ratio of Annual Capacity between Non-Economic and Economic Activities

The determination of capacity is derived from inputs, i.e. costs incurred e.g. for workers, materials, services, assets, etc. If the cost cannot be clearly allocated to the economic activity, it is always a so-called overhead cost, and the percentage of the actual costs to the total revenue for the previous calendar year is used. Overheads shall include, in particular, energy consumption, cleaning services, maintenance, OVT services, medical libraries, etc. A separate accounting record shall be kept in order to record the costs, where the resources generated for these activities will also be recorded separately.

$$\text{Annual total capacity} = \frac{\text{All costs associated with the performance of economic activities at the LF}}{\text{Total LF costs}}$$

Examples of Non-Economic and Economic Activities at the Faculty of Medicine in Hradec Králové

Description of the activity	Type of operation	Cost centre	Note
Public education organized within the national education system	Non-Economic	xxx0x, xxx0xx	Institutes, clinics, departments and other LF sites that provide teaching and other associated tasks
Primary activity of the research organization	Non-Economic	xxx1x, xxx3x, xxx4xxx, xxx5x	Projects where the LF is the main solver or the LF is involved as a co-solver for another entity within and also outside Charles University
Knowledge transfer activities	Non-Economic	xxx1x, xxx3x, xxx4xxx, xxx5x	The non-economic nature is maintained even in the case of outsourcing in an open procurement procedure
Renting of equipment, laboratories, contract research, other activities fulfilling the nature of offering goods or services	Economic	xxx6x, xxx7x	At the LF, this is an additional activity on the basis of Trade Certificate or economic activity without Trade Certificate
Lifelong learning	Non-Economic	xxx0x, xxx08x	The non-economic character – i.e. accreditation within the national education system – Ministry of Education, Youth and Sports; e.g. U3A, specialist training of physicians – must be fulfilled
Lifelong learning	Economic	xxx8x	Courses not accredited by the Ministry of Education, Youth and Sports may be provided by bodies other than the public universities
Lifelong learning – teaching self-paying foreign students	Non-Economic	xxx9x	The EC's position is not yet clear, the Charles University Rectorate recommendation
Advertising	Non-Economic	xxx0x	Advertising at the LF as a whole, accredited study programs
Advertising	Economic	xxx6x, xxx7x, xxx8x	Advertising in connection with an economic activity
Balls, social events	Non-Economic	xxx0x	Non-profit-making event of the whole Faculty
Conference	Non-Economic	xxx0x	Their purpose is to publicly disseminate the results of independent research activities; and other primary activities and transfer of knowledge
Conference	Economic	xxx7x	The purpose of organizing in relation to defined non-economic activities is not fulfilled

Examples are not given exhaustively. When determining the type of boundary activities for which it is not possible to clearly determine whether the activity is purely non-economic or economic, their categories must always be assessed according to the specific situation.