

HALRIC funding and EU regulations around state aid

This document's purpose is to help HALRIC partner organizations – and particularly persons wishing to design and apply for a pilot project – with a better understanding of the state aid exemption when collaborating with a company. The document is provided as assistance only, and it remains the partners' responsibility, within the pilot project team, to ensure compliance with the regulations.

HALRIC public funding of collaborative projects

In HALRIC, pilot projects receive public financial support for the time used by the involved research staff at the collaborating partners, such as universities, hospitals and research infrastructures¹. Many pilot project collaborations are expected to also involve a company². The company will not receive direct financial support from HALRIC, but will collaborate with the other organizations on the joint pilot project, which are receiving public funding – and this could raise the question of *state aid*.

State aid

As a general rule, public funding should not be used for commercial activities, to prevent companies gaining an advantage over other companies. That would be considered state aid, either directly (e.g. public money given to a company) or indirectly (e.g. a company receiving help from someone who is paid by public money). There are a couple of potential exceptions to this general rule, as defined by EU regulations.

For HALRIC, the pilot projects are considered exempt from the state aid rule, because the projects are considered research collaborations jointly undertaken by the company and the research organizations. This is described in the European Commission's "Framework for State aid for research and development and innovation", particularly section 2.2.2 "Collaboration with companies" (see [References](#) for details).

For HALRIC pilot projects to comply with this exemption, these two simple rules must be fulfilled:

- 1) a collaboration agreement between all the pilot project partners (including the company) must define the terms & conditions of the collaboration (describing at least: contributions to its costs, the sharing of risks and results, the dissemination of results, access to and rules for allocation of IPR)
- 2) one of the following conditions must be met in the agreed collaboration:

¹ For details about the financial support to pilot projects, talk with the financial officer who is responsible at your organization for the HALRIC collaboration.

² HALRIC will support 75 pilot projects in total, and 35 or more of these must have involved a company.

- the results of the collaboration which do not give rise to IPR may be widely disseminated, and any IPR resulting from the activities of research organizations or research infrastructures are fully allocated to those entities, or
- any IPR resulting from the pilot project, as well as related access rights are allocated to the different collaboration partners in a manner which adequately reflects their work contributions and respective interests

What should you do if you plan on collaborating with a company?

When you and the company are discussing and designing your pilot project application:

- Share this information with the company, so they understand they will not receive money (no direct state aid), and that the question of indirect state aid can be averted through a small collaboration agreement.

When your pilot project proposal gets approved for HALRIC financial support:

- Ensure that a legal collaboration agreement gets in place between the company and the other collaborating organizations, according to the above rules. Important: A collaboration agreement must be in place before any work in the pilot project can start.
- The agreement should be stored or archived properly at the involved organizations so that it can be shown upon request in case of an audit.

Frequently asked questions:

Q: Must all results be disseminated?

A: It is encouraged, but it is up to the collaborating organizations including the company to agree on publication/dissemination and describe it in the collaboration agreement.

Q: Who will own any IPR?

A: While it is not expected that pilot projects will result in IPR, the terms for any IPR should be agreed on between the partners, and should comply with one of the two conditions described in rule 2 above.

Q: Who is responsible?

A: The responsibility for ensuring the collaboration agreement and thereby the exemption to of the state aid question lies with the collaborating organizations in the pilot project. This document prepared by the HALRIC management team only serves as a help.

Q: What about Norway?

A: As Norway is part of the EEA (European Economic Area) Agreement, HALRIC pilot project organizations and companies in Norway must follow the same regulations as for EU Member States.

References:

European Commission communication “Framework for State aid for research and development and innovation” (2014/C 198/01)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC1028%2803%29&qid=1691580426906>

Excerpt with underlined highlights for help (please refer to the links above for the full text):

2.2.2. Collaboration with undertakings

28. A project is considered to be carried out through effective collaboration where at least two independent parties pursue a common objective based on the division of labour and jointly define its scope, participate in its design, contribute to its implementation and share its financial, technological, scientific and other risks, as well as its results. One or several parties may bear the full costs of the project and thus relieve other parties of its financial risks.

The terms and conditions of a collaboration project, in particular as regards contributions to its costs, the sharing of risks and results, the dissemination of results, access to and rules for allocation of IPR, must be concluded prior to the start of the project. Contract research and provision of research services are not considered to be forms of collaboration.

29. Where collaboration projects are carried out jointly by undertakings and research organisations or research infrastructures, the Commission considers that no indirect State aid is awarded to the participating undertakings through those entities due to favourable conditions of the collaboration if one of the following conditions is fulfilled:

- (a) the participating undertakings bear the full cost of the project, or
- (b) the results of the collaboration which do not give rise to IPR may be widely disseminated and any IPR resulting from the activities of research organisations or research infrastructures are fully allocated to those entities, or
- (c) any IPR resulting from the project, as well as related access rights are allocated to the different collaboration partners in a manner which adequately reflects their work packages, contributions and respective interests, or
- (d) the research organisations or research infrastructures receive compensation equivalent to the market price for the IPR which result from their activities and are assigned to the participating undertakings, or to which participating undertakings are allocated access rights. The absolute amount of the value of any contribution, both financial and non-financial, of the participating undertakings to the costs of the research organisations or research infrastructures' activities that resulted in the IPR concerned, may be deducted from that compensation.