



Attachment no. 5 to the POLONEZ 3 Call Text

..... on
place

.....
full name of the entity

.....
address of the entity

Application ID (panel:)

NATIONAL SCIENCE CENTRE
ul. Królewska 57, 30-081 Krakow

DECLARATION ON REQUEST/NO REQUEST FOR PUBLIC AID

Before you complete this declaration, please fill in the enclosed questionnaire on request/no request for public aid

Acting on behalf of (full name of the entity)
seated in (locality), hereinafter the "Entity", I hereby state that
the funding applied for to the National Science Centre for the fellowship entitled

.....
.....

..... is/is not public aid for the Entity
referred to in Article 107(1) of the Treaty on the Functioning of the European Union
(consolidated text: EU OJ 2010 C 83, p.1).

Signature(s)

of persons authorised to represent the entity

QUESTIONNAIRE INSTRUCTIONS

Pursuant to Article 107(1) of the Treaty on the Functioning of the European Union (TFEU), any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, shall, in so far as it affects trade between Member States, be incompatible with the internal market. However, there are certain exemptions from this general ban on awarding public aid, such as the option to award, under certain conditions, aid on research, development and innovative activity (horizontal aid).

Importantly, the concept of public aid pertains only to an entrepreneur, which should be construed as an enterprise (undertaking) in the meaning of Article 1 of Annex I to the regulation of the Commission (EU) No. 651/2014 of 17th June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty. An enterprise (undertaking) means every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed (European Court of Justice judgement issued in the case C-41/90 Höfner and Elser v. Macrotron GmbH, Judgements of 1991, I-1979). The definition covers also non-profit organisations (e.g. judgement of 21st September 1999 in the case Albany, C-67/96, Judgements of 1999, p. I-5751). Pursuant to European Union law, an undertaking also includes a public sector entity engaged in economic activity, including a research and knowledge-dissemination organisation in the scope in which it runs economic activity.

Pursuant to Article 2(83) of the Commission regulation (EU) No. 651/2014 of 17th June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ‘research and knowledge-dissemination organisation’ means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such an entity also pursues economic activities, the financing, costs and revenues of those economic activities must be accounted for separately. Undertakings that can exert a decisive influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to the results generated by it”.

In its Framework for State aid for research and development and innovation (2014/C/198/01) (EU OJ C 198, 27.6.2014, p.1-29) (hereinafter the “Framework”), the European Commission presented certain examples of the types of business and non-economic activity run by research and knowledge-dissemination organisations.

In the opinion of the Commission, the basic activity of research and knowledge-dissemination organisations is usually non-economic, and includes in particular:

- education for more and better skilled human resources,

- independent R&D for more knowledge and better understanding, including collaborative R&D where the research organisation or research infrastructure engages in effective collaboration,
- 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.

Such activity as, for instance, renting out equipment or laboratories to undertakings, supplying services to undertakings or performing contract research, is classified by the Commission as the economic activity of research and knowledge-dissemination organisations.

However, in item 18 of the Framework, the Commission explained that “where the same entity carries out activities of both economic and non-economic nature, the public funding of the non-economic activities will not fall under Article 107(1) of the Treaty if the two kinds of activities and their costs, funding and revenues can be clearly separated so that cross-subsidisation of the economic activity is effectively avoided. Evidence of due allocation of costs, funding and revenues can consist of the annual financial statements of the relevant entity.”

Pursuant to Article 37(1) of the National Science Centre Act (Journal of Laws 96.617 as amended), public aid in connection with the performance of tasks referred to in Article 20 of the Act may be awarded by the agency of the Centre, while pursuant to Article 37(2) the minister competent for the matters of science determines, by way of a regulation, conditions and procedure for awarding public aid by the agency of the Centre.

To confirm the existence/non-existence of public aid, please fill in the questionnaire below.

PUBLIC AID/ NO PUBLIC AID QUESTIONNAIRE

1	Does the entity run economic activity in the meaning of EU competition law (e.g. does it provide services or offer goods on the market)?	YES ¹		NO ²	
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¹ If YES, please go to question No. 2.

² If NO, do not answer the remaining questionnaire questions and complete the declaration. Your answer suggests that the aid obtained in the form of the NCN funds will not be public aid referred to in Article 107(1) TFEU.

2	Will the requested funding for the fellowship be allocated only to the non-economic activity of the entity (i.e. the research does not involve engaging in economic activity, is not related to it and its results will not be used to run such activity)? ³	YES ⁴		NO ⁵	
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³ In the case of entities other than research and knowledge dissemination organisations, to assess whether an entity's activity may be classified as non-economic activity please see the European Commission decisions (including items 17-25 of the EC decision no. N293/2008; item 12-26 EC decision no. N540/2008; item



51-55 of the EC decision no. N470/2008; item 96-108 of the EC decision no. SA.20829) and the European Court of Justice case law (including the judgement in the case C-138/11; opinion in the case C-205/03 P).

⁴ If YES, please go to question No. 3.

⁵ If NO, do not answer the remaining questionnaire questions and complete the declaration. The aid obtained from NCN funds will be the public aid referred to in Article 107(1) of the Treaty on the Functioning of the European Union.

3	If economic and non-economic activity is conducted, can both types of activity, their costs, financing and revenues be separated? (Evidence of due allocation of costs, funding and revenues can consist of the annual financial statements of the relevant entity).	YES ⁶		No ⁷	
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⁶ If YES, do not answer the remaining questionnaire questions and complete the declaration. Your answers suggests that the aid obtained with the NCN funds will not be public aid referred to in Article 107(1) TFEU.

⁷ If NO, do not answer the remaining questionnaire questions and complete the declaration. The aid obtained from NCN funds will be the public aid referred to in Article 107(1) of the Treaty on the Functioning of the European Union.

I state that the foregoing information is true, complete, reliable and has been provided by me in compliance with my best knowledge, exercising due diligence.

Signature(s)
of persons authorised to represent the entity

Prof. Michał Karoński

Chair
NCN Council