

Dear Ms Hollósi,

We have analysed your complementary question regarding the so-called *range-scheme*.

From the information you provided, we understand that in the case you describe:

- The employee receives a fixed monthly salary, irrespectively of the activities or projects in which the person works.
- That monthly salary is composed of different components, among which a top-up based on overall performance.
- That top-up is decided and revised periodically, normally once per year, based on a performance evaluation regulated by the internal rules of the entity.
- The internal rules set the range of the possible top-ups, whose precise amount is decided by the superior based on the performance evaluation.
- The top-up is not linked to the participation in specific projects and it covers all activities of the person (i.e. the same person will get the same top-up irrespectively of her/his involvement in specific projects).
- Once the top-up is decided for an employee, her/his employment contract is amended to reflect the new salary. The top-up becomes an unconditional salary entitlement for the employee until the moment when the next evaluation takes place in accordance with the internal rules of the entity.
- If, following the next evaluation, the top up is modified, the employment contract of the person has to be amended again to reflect the new top-up.

If our understanding is correct, such top-up would not be considered as project-based and it would be generally eligible as part of the basic remuneration of the person if :

- The top-up has been decided in accordance with the internal rules of the entity and within the range authorised by those rules.
- The top-up has not been set up to artificially increase the cost to be charged to the Horizon 2020 action. This may be the case, for example, if the contract of the person is amended to set a top-up that applies only to the period of time that s/he works in the Horizon 2020 action.
- It complies with the other cost eligibility conditions (e.g. incurred during the duration of the action, recorded in the accounts, compliant with national law, etc.).

In this case, the eligibility of the top-up would not be limited to the amount of the lowest top-up within the range because:

- the top-up becomes an unconditional entitlement fixed in the contract of the employee;
- it covers all working time, and so it is not linked to specific projects.

I hope these explanations fully reply to your concerns. If that is not the case, or if we have misunderstood any of the aspects described here above, please do not hesitate to contact us again.

Kind regards,

Reinhard SCHULTE

Head of Unit



European Commission

DG Research & Innovation

J 1 - Common Legal Support Service

Dear Mr Schulte,

Once again, thank you and your colleagues for the detailed guidelines and clear explanation. I do regret that I have not had the chance to come back to you earlier this year and substantially react to your reply as promised in December.

I especially appreciate that we could discuss the issue of how to draft institutional internal rules that are in line with H2020 requirements and thus we are able to present a textual proposal for our clients. I am also glad that beneficiaries without internal rules compatible with H2020 provisions and charging only basic salary to a H2020 project may benefit from a simplified approach recognizing action reference as basic remuneration in such cases.

There is only one minor question related to the range-scheme I would like to clarify with you. I have realized that I was not able to entirely explain the situation in my previous e-mail and it has led to misunderstanding.

As I described, some institutions had introduced a remuneration scheme with regular performance evaluation. Here, the employee receives a top-up based on performance, but not linked to specific projects for a definite period (evaluation period). The evaluation process and the range of the top-up is regulated in internal rules. However, I have failed to stress that the actual top-up paid for the researcher is decided by the superior within the range set up in the internal rules and is fixed in the employment contract as unconditional entitlement for the monthly work during the evaluation period (independently of the type of work carried out). Although there are no objective conditions based on which the superior decides on the precise amount but the employment contract fixes the amount to be paid (therefore it has the same attributes as the top-up described in point I. in my previous enquiry).

Do you agree that – by analogy with your reply to point I. of my previous reply (see below 'Top-up which is part of the normal salary') – the whole amount of the top-up would be part of the eligible basic remuneration (and not only the amount up to the level of the lowest top-up)?

Once again thank you for your reply in advance and please accept my apologies for the delayed reaction.

Kind regards,

Krisztina Hollósi



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