

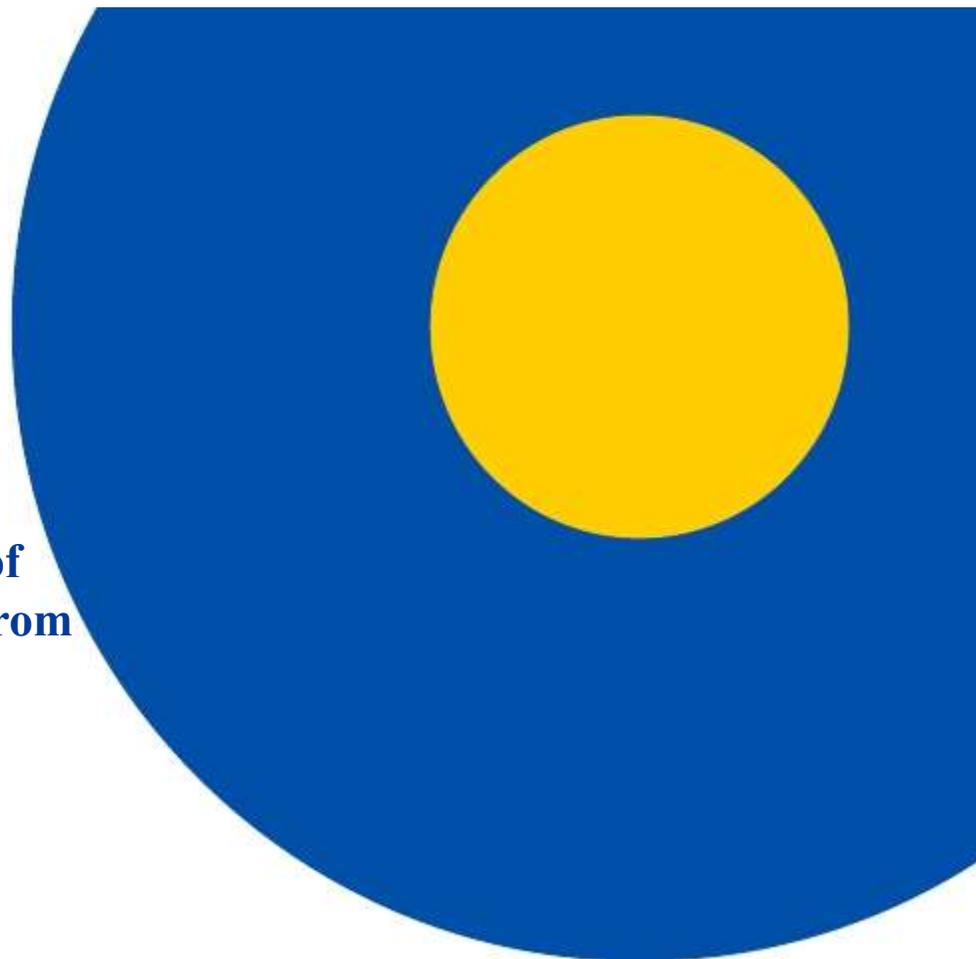


NICOLAUS COPERNICUS
UNIVERSITY
IN TORUŃ
Faculty of Law and Administration

Forms of employment and responsibility of employees working on projects financed from EU funds.

Jagoda Jaskulska

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Introduction

- ⦿ Financial perspective for 2021-2027
- ⦿ Financial perspective for 2014-2020



Employment models in Polish legal order

Employment relationship

- it is performed for remuneration,
- it is performed personally by the employee,
- it is repetitive, i.e. it is not a one-time activity,
- it is performed at a place and time selected by the employer who provides the tools, materials and other means necessary for the employee to perform the work,
- it is performed and this is important, under subordination to the employer, for his benefit and under his direction.

Work outside the employment relationship

- for example, civil law contracts (contract of mandate, contract of specific work)
- the content and purpose of the agreement do not contradict the nature of the legal relationship, the law or the rules of social interaction



According to the Polish Guidelines of 21 December 2020, project personnel are persons **engaged to perform tasks or activities within the project**:

- based on the employment relationship
- volunteers performing services under the terms of the Act of 24 April 2003 on public benefit activity and volunteerism (Journal of Laws of 2020, item 1057)
- natural persons running business activity who are the beneficiary (in other words: a natural person running business activity is the staff of his/her project) and persons cooperating with him/her within the meaning of the Act on Social Security System (Journal of Laws of 2020, item 266, as amended), i.e. the wife, husband, children, parents, stepmother, stepfather - remaining in a joint household and cooperating in running the business activity.



A natural or legal person with whom the beneficiary has entered into a contract for the provision of a service in the project (civil law contract) is a service provider in the project, with certain exceptions.

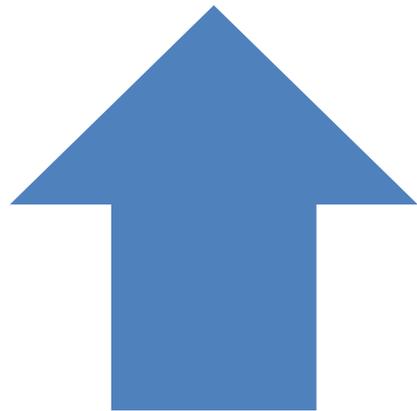


Substantive personnel

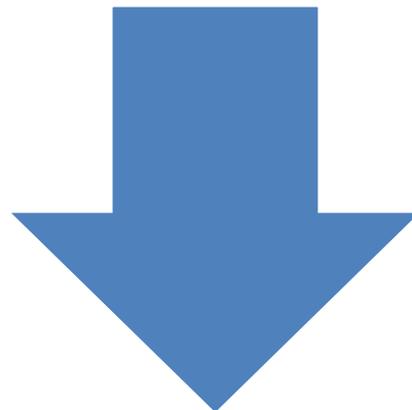
responsible for the
implementation of substantive
tasks of the project

Administrative personnel

responsible for the
implementation of
administrative tasks of the
project



Conflict of interest
*understood as a breach of the
principle of disinterestedness
and impartiality*



Double financing



A beneficiary may not authorize a person who has been **validly convicted of offences against property, economic turnover, activity of state institutions and local government, document credibility or fiscal offence** to administer the project financing or make binding financial decisions on behalf of the beneficiary. A person who has been validly convicted of the above-mentioned **economic crimes** may therefore constitute the project personnel only under the condition that he/she does not dispose of the project co-financing and does not make binding financial decisions on behalf of the beneficiary.



Staff costs are eligible in the amount corresponding to market rates and rates actually applied by the beneficiary outside the project - **for analogous positions or for positions requiring analogous qualifications** as in the project (this also concerns other components of staff remuneration, including prizes and bonuses)



The employment contract of an employee working on projects financed from EU funds should include **all the tasks that the employee is involved in.**



The total professional involvement of a person in the implementation of all projects financed from structural funds and the Cohesion Fund and the total professional involvement of the same person in the implementation of activities financed from other sources, including own funds of the beneficiary and other entities, including working time devoted to running own business or company **cannot exceed 276 hours per month.**



COVID has, however, contributed to the suspension of certain restrictions:

Until the end of 2021, it allowed, among other things:

1) recognition of the eligibility of expenses related to the professional involvement of project staff in the project or projects, even though the total professional involvement of project staff, regardless of the form of involvement, in the implementation of all projects financed by structural funds and SF and activities financed from other sources, including the beneficiary's own funds and other entities, **exceeds 276 hours per month;**

2) making it possible to recognise the eligibility of costs of engagement of a beneficiary's employee who plays the role of the project staff to perform tasks under the project also on the basis of a **civil-law relation;**



Depending on the type of irregularity found, the entities may be threatened with the following **consequences**:

- termination of the contract for subsidizing a project - according to the terms specified in the contract for subsidizing,
- return of received co-financing or reimbursement of received expenses
- exclusion from possibility of receiving co-financing in the future
- imprisonment, restriction of freedom or a fine - if the irregularity is connected with committing a crime provided for in the Criminal Code
- deprivation of liberty, restriction of freedom or a fine - if the irregularity is connected with committing a fiscal offence or a fine for committing a fiscal offence
- ban on performing functions related to public funds management, fine, reprimand, warning - if an irregularity is connected with one of the infringements of public finance discipline,



Liability for maintaining order of employees

consists in the employee suffering consequences, both personal and material, due to the violation of his or her duties to the employer



Material liability

an employee who as a result of failure to perform or improper performance of his duties caused damage to the employer through his fault, is materially liable according to the rules set forth in the Labor Code.

The prerequisites for material liability of the employee under the general rules are:

- breach of employee's duties,
- employee's fault
- causing damage to the employer,
- causal connection between culpable violation of employee's duties and the damage.



A specific type of liability for irregularities in the course of implementation of a project financed from the EU funds may be the risk of losing one's job and **termination of the employment contract**. As a rule, if the employer decides to terminate the employment contract, the employment relationship is terminated at the end of the notice period, the length of which depends on the period of employment with a given employer. However, if the employee commits a serious breach of his/her fundamental duties, the employer may decide to terminate the employment contract with immediate effect, without notice.



Thank you very much for your attention 😊