



Employment Contract in MSCA

**NCP Academy training on Legal and Financial
Aspects of Marie Skłodowska-Curie Actions**

7th October 2016, Prague

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MSCA MGA



- MSCA-ITN/RISE/IF MGA foresees **a series of obligations** (especially Art. 32) in order to guarantee best possible working conditions for a recruited researcher/seconded staff member
- The MSCA-ITN/IF MGA foresees that there must be **an employment contract/equivalent direct contract (or fixed-amount-fellowship agreement)**, in order to formalise the commitments in the GA also towards the researchers

Beneficiary's obligations towards researcher



Examples of obligations:

- To assist the researcher in the administrative procedures related to the recruitment;
- Host the researchers at their premises and provide training as well as the necessary means for implementing the action;
- Ensure that the researchers enjoy at the place of the implementation at least the same standards and working conditions as those applicable to local researchers holding a similar position;
- Inform the researcher about the rights and obligations of the beneficiary toward the researcher under this Agreement;
- Implement commitments set forth in the MGA into **employment contract/...**

Employment contract



- Researcher to be employed on a full-time basis
 - Part-time – personal or family grounds only
- Employment contract/equivalent direct contract
 - Fixed – amount fellowship

Employment contract shall specify



- I. the starting date and duration of the research training activities under the action;
- II. the monthly support for the researcher;
- III. researcher's obligations;
- IV. the arrangements related to the intellectual property rights between the beneficiary and the researcher — during implementation of the action and afterwards;
- V. IF - the name of the supervisor for the research training activities as indicated in Annex 1;
- VI. IF-GF - the obligation of the researcher to carry out a mandatory return period of 12 months at the premises of the beneficiary

ITN

IF

Employment contract shall specify



- I. the starting date and duration of the research training activities under the action;
- II. the monthly support for the researcher;
- III. researcher's obligations;**
- IV. the arrangements related to the intellectual property rights between the beneficiary and the researcher — during implementation of the action and afterwards;
- V. **IF** - the name of the supervisor for the research training activities as indicated in Annex 1;
- VI. **IF-GF** - the obligation of the researcher to carry out a mandatory return period of 12 months at the premises of the beneficiary

ITN

IF

Researcher's obligations

Employment contract shall specify



- to work **exclusively** for the action
 - Another employment, two MSCA grants at the same time?
 - teaching activity as part of the research training?
- **not to receive** for activities carried out in the frame of the action, other incomes than those received from the beneficiary (or any other entity referred to in Annex 1);
- to **inform** the beneficiary as soon as possible of any events or circumstances likely to affect the Agreement;
- to maintain **confidentiality**;
- to ensure the **visibility** of EU funding;
- **IF-GF** - to carry out a mandatory return period of 12 months at the premises of the beneficiary.

ITN
IF

Employment contract

- Existing employment relationship – secondment
- Employee **to be informed about his/her rights and obligations** arising from GA by the beneficiary
 - Confidentiality
 - Questionnaire
 - Visibility
 - ...
 - **BUT no need to include those into existing employment contract**

RISE

Employment contract



- Employment contract/equivalent direct contract/fixed amount fellowship agreement'
 - Confidentiality
 - IPR
 - ...
- Full-time and exclusively
 - teaching activity as part of the research training?

COFUND



Intellectual Property and Open Access in MSCA

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IP/IPR in MSCA

- Intellectual Property (**IP**)
 - creations of the mind, such as inventions; intangible outputs of intellectual activity ;
- Intellectual Property Rights (**IPR**)
 - protecting intellectual property by law (e.g. invention – patent; research article – copyright; ...)

IPR management in H2020 MSC actions = dealing with “information, data, know-how and pertaining IPR” :



BROUGHT INTO THE ACTION

- any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
 - is held by the beneficiaries before they acceded to the Agreement, and
 - is needed to implement the action or exploit the results,
 - is identified and agreed upon in writing by beneficiaries.

Background

CREATED IN THE ACTION

- any (tangible or intangible) output of the action such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action, as well as any rights attached to it, including intellectual property rights.

Results

IPR management in H2020 MSC actions = dealing with “information, data, know-how and pertaining IPR” :



BROUGHT INTO THE ACTION

- any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
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Background

CREATED IN THE ACTION

- any (tangible or intangible) output of the action such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action, as well as any rights attached to it, including intellectual property rights.

Results

<http://www.leru.org/files/general/LERU%20template%20for%20MSCA%20ITN%20ETN.pdf>

e.g. within MSCA ITN LERU Draft **Consortium Agreement**



Attachment 1: Background included

According to the Grant Agreement (Article 24) Background is defined as “data, know-how or information (...) that is needed to implement the action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but parties must identify and agree amongst them on the Background for the Project. This is the purpose of this attachment.

PARTY 1

As to [NAME OF THE PARTY], it is agreed between the parties that, to the best of their knowledge (*please choose*),

Option 1: The following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for exploitation (Article 25.3 Grant Agreement)

Option 2: No data, know-how or information of [NAME OF THE PARTY] shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or exploitation of that other Party's Results (Article 25.3 Grant Agreement).

This represents the status at the time of signature of this Consortium Agreement.

PARTY 2

As to [NAME OF THE PARTY], it is agreed between the parties that, to the best of their knowledge (*please choose*)

**IPR management in H2020 MSC actions
= dealing with “information, data, know-how and
pertaining IPR” :**



BROUGHT INTO THE ACTION

- any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
 - 1. Who owns R?**
 - 2. With whom B/R need to be shared?**
 - 3. What are MSCA MGA obligations related to R?**
- is held by the beneficiaries
- is needed to implement the action or exploit the results,
- is identified and agreed upon in writing by beneficiaries.

CREATED IN THE ACTION

- any (tangible or intangible) output of the action such as data, knowledge or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
 - 1. Who owns R?**
 - 2. With whom B/R need to be shared?**
 - 3. What are MSCA MGA obligations related to R?**
- is generated in the action, as well as any rights attached to it, including intellectual property rights.

Background

Results

Results 1. Who owns?

- are owned by the **beneficiary** that generates them

- Challenges

- Partner organisation
- Researcher

**third parties
with rights on
results**

beneficiary **must ensure** that the beneficiary party complies with the beneficiary's obligations under the GA

through *Partnership Agreement, Employment Contract/Contract with the Researcher, other contracts, etc.*

Results 1. Who owns?



- Results owned by **more beneficiaries** (e.g. ITN, RISE) – **joint ownership**
- *GA* - rules for licencing jointly owned results by joint owners applicable
 - until *Joint Ownership Agreement* is entered into
 - or
 - unless there are other provisions in *Consortium Agreement* (e.g. MSCA ITN LERU CA)

Background 2. With whom to share?

ACCESS RIGHTS TO BACKGROUND	With seconded staff members (RISE)/ recruited researchers (ITN, IF)		With other beneficiaries (ITN, RISE)	
	For project implementation purposes	For results' exploitation purposes	For project implementation purposes	For results' exploitation purposes
	Royalty-free	-	Royalty-free, unless ...	Royalty-free, or on fair and reasonable conditions

Results

2. With whom to share?



ACCESS RIGHTS TO RESULTS	With seconded staff members (RISE)/ recruited researchers (ITN, IF)		With other beneficiaries (ITN, RISE)	
	For project implementation purposes	For results' exploitation purposes	For project implementation purposes	For results' exploitation purposes
	Royalty-free	-	Royalty-free	Royalty-free, or on fair and reasonable conditions

Results

2. With whom to share?



ACCESS RIGHTS TO RESULTS	With the EU institutions, bodies, offices or agencies and EU Member States
	For developing, implementing or monitoring EU policies or programmes
	Royalty-free

Such access rights are limited to non-commercial and non-competitive use.

Results

3. MSCA MGA obligations related to Results



- Protect
- Exploit
- Disseminate
 - Incl. Open Access

3. MSCA MGA obligations related to Results

- **Protect**
 - Examine possibility of protecting results and **adequately protect** if
 - Reasonable – commercial/industrial exploitation
 - Possible, justified
 - Other beneficiaries **legitimate interests** (*RISE, ITN*)
 - Agency right to **assume ownership to protect** results
 - Applications for e.g. patent – **visibility of EU funding**:
"The project leading to this application has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No [number]."

3. MSCA MGA obligations related to Results

- Protect
- **Exploit**
 - ➤ Take measures
 - Up to 4 years
 - Directly/indirectly
 - Further research, product or process, services, standardisation

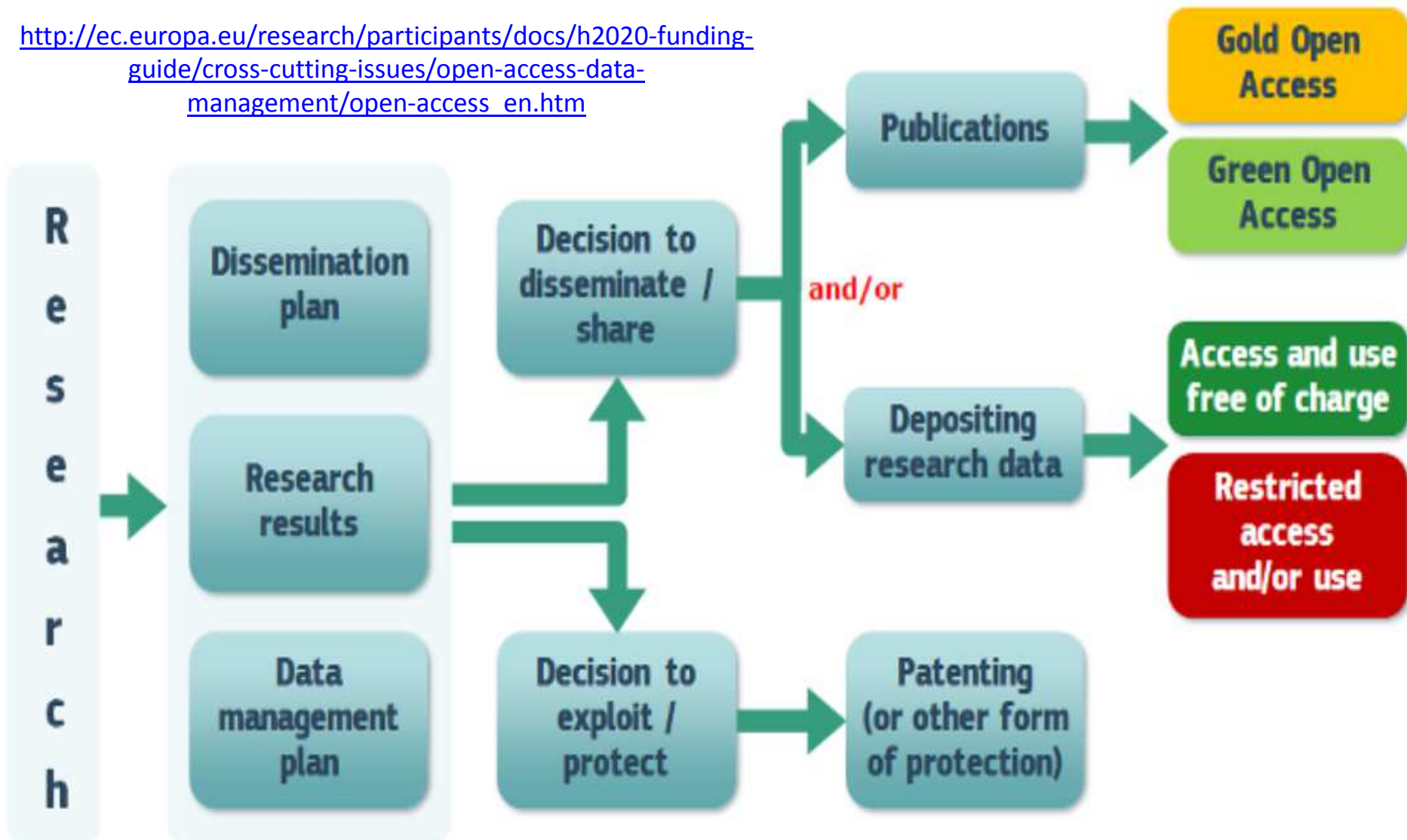
3. MSCA MGA obligations related to Results



- Protect
- Exploit
- Disseminate
 - Incl. Open Access
 - Making results public – various ways
 - As soon as possible, but...
 - Advance notice to other beneficiaries & possibility to raise objections against dissemination (*RISE, ITN*)
 - **Open Access**

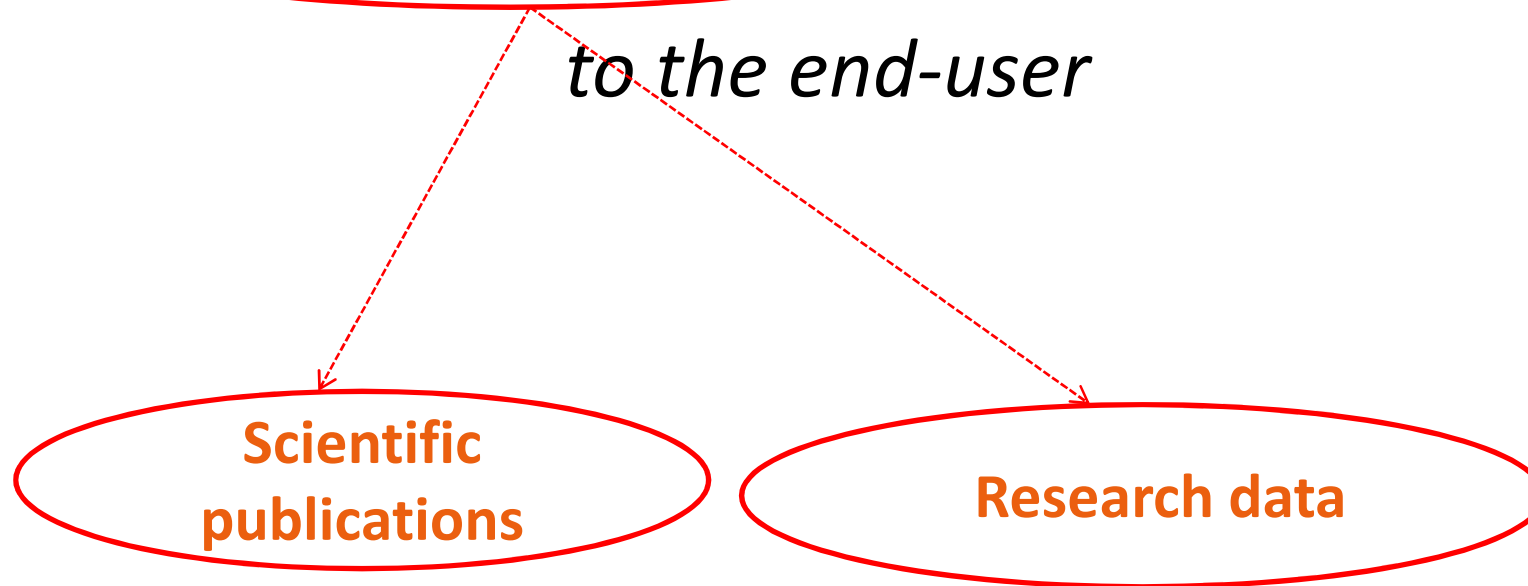
Dissemination – Open Access (OA)

http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/open-access-data-management/open-access_en.htm



Open Access in MSCA

*practice of providing on-line access
to **scientific information** that is free of charge
to the end-user*



OA to scientific publications

- **NO** obligation to publish on project results
- **IF** decision to publish – Open Access only

WHAT EXACTLY

- *all peer-reviewed scientific publications (research articles) relating to its results*

HOW

GOLD OA

OA publisher or “hybrid” journals

Immediate OA

GREEN OA (self-archiving)

Non-OA publisher

Delayed/immediate OA

Depositing

OA to scientific publications



HOW TO PROCEED

- Deposit publication (incl. underlying data, if possible) at the time of publication
- Provide OA
 - Green OA – up to 6/12 M from publication
 - Gold OA – immediately

FINANCES

- Gold OA – eligible costs, if ...
- Post-grant OA pilot

OA to research data



- Information, in particular facts or numbers, collected to be examined and considered and as a basis for reasoning, discussion, or calculation;
- Examples of data - statistics, results of experiments, measurements. ...
- Digital form
 - **Underlying data**
 - **Other data**

HORIZON 2020 – Work Programme 2016-2017

Marie Skłodowska-Curie Actions

Further guidance on the Pilot on [Open Research Data](#) and [Data Management](#) is available on the Participant Portal.

The following applies for all calls with an opening date on or after 26/07/2016: NEW
Grant beneficiaries under this work programme part will engage in research data sharing by default, as stipulated under Article 29.3 of the Horizon 2020 Model Grant Agreement (including the creation of a Data Management Plan). Participants may however opt out of these arrangements, both before and after the signature of the grant agreement. More information can be found under General Annex L of the work programme.

OA to research data

- Must be provided **unless beneficiary decides to OPT – OUT** (anytime)
 - IP protection, personal data protection, security reasons, other legitimate interests, ...
 - **Before 07/2016 – possibility to OPT – IN in MSCA**
- Data Management Plan
 - proposal stage VS project implementation

HOW TO PROCEED

- Deposit generated research data
- Provide OA

FINANCES

- Eligible costs, if...

Thank you for your attention!

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