



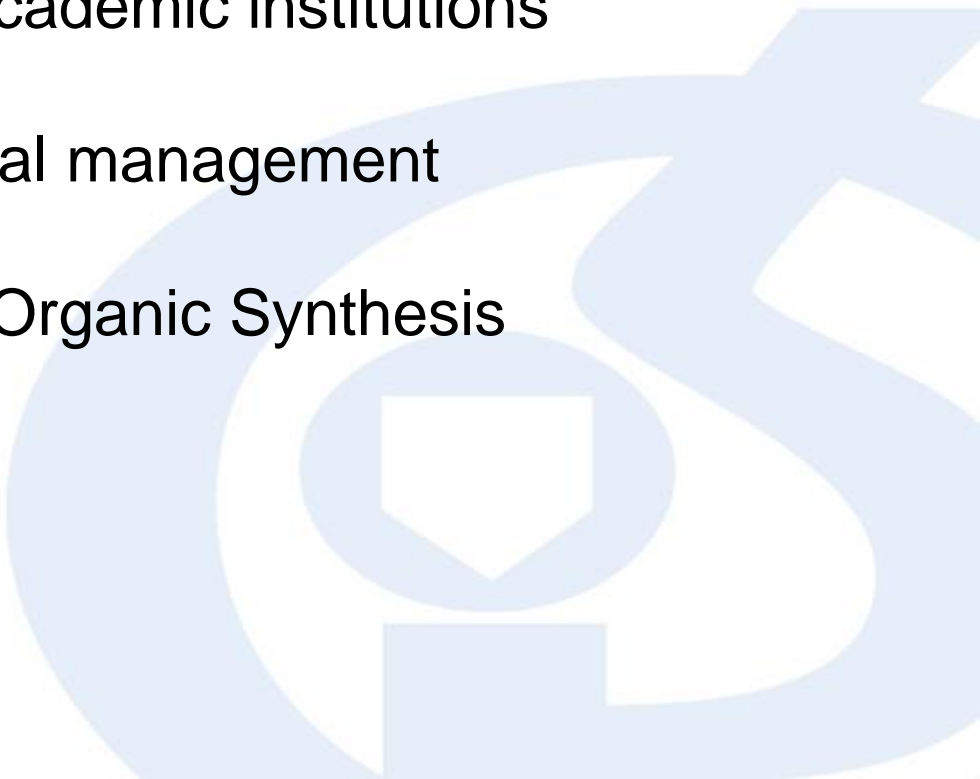
# Financial and legal aspects of state aid in the context of R&D&I activities

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## Content

- Concept of state aid
  - Relevance of state aid for academic institutions
  - Implications for financial/legal management
  - Case of Latvian Institute of Organic Synthesis (LIOS)
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## State Aid (concept)

TFEU Art. 107 (1) :

*Save as otherwise provided in the Treaties, 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.*

**EXCEPTIONS –** objective of common interest  
(increase of R&D&I activity)

## State Aid (concept)

Two questions to be answered:

1. Whether any of the activities performed by research and knowledge dissemination organization (RO) fall under state aid regulation
2. If yes, do they meet state aid compatibility requirements

## State Aid (concept)

Q1 Criteria for the activity to fall under state aid regulation:

- **The existence of an undertaking**
- State origin
- Conferral of selective benefit/advantage
- Effect on trade and competition

*Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01)*

## State Aid (concept)

### Q1 Criteria for the activity to fall under state aid regulation

Undertakings - entities engaged in an **economic activity**, regardless of their legal status and the way in which they are financed

Economic activity - any activity consisting in offering goods and services on a market

*When public authorities directly or indirectly carry out economic transactions in any form, they are subject to state aid rules*

## State Aid (relevance in R&D&I context)

Europe 2020 Flagship Initiative “Innovation Union”: the cooperation between the worlds of business and science must be enhanced

Economic activities	Non-economic activities
Contract research	Collaborative research/effective collaboration*
Supplying services to undertakings	Knowledge transfer activities (licensing, spin-offs, IP Assignments)*
Rent of equipment and premises	

\* *subject to set of compliance criteria*

## State Aid (relevance in R&D&I context)

### Case of infrastructures

Criteria for Aid to infrastructures to fall outside state aid regulation in its entirety:

- Ancillary economic use
  - intrinsically linked to its main non-economic use (consume the same inputs as the primary non-economic activities)
  - limited in scope (capacity allocated each year to such activity does not exceed 20 % of the infrastructure's overall annual capacity)



## State Aid (implications for financial/legal management)

### **Direct state aid** (RO receives state aid)

Example: RO receives public (i.e. ESIF) support for the infrastructure and uses it to carry out contract research or research services for the companies

### **Indirect state aid** (RO passes state aid)

Example: RO carries out contract research at below market price to company



## State Aid (implications for financial/legal management)

### Q2 Compatibility to state aid regulation

- General Block Exemption Regulation (GBER)
- Framework for state aid for research and development and innovation



# State Aid (implications for financial/legal management)

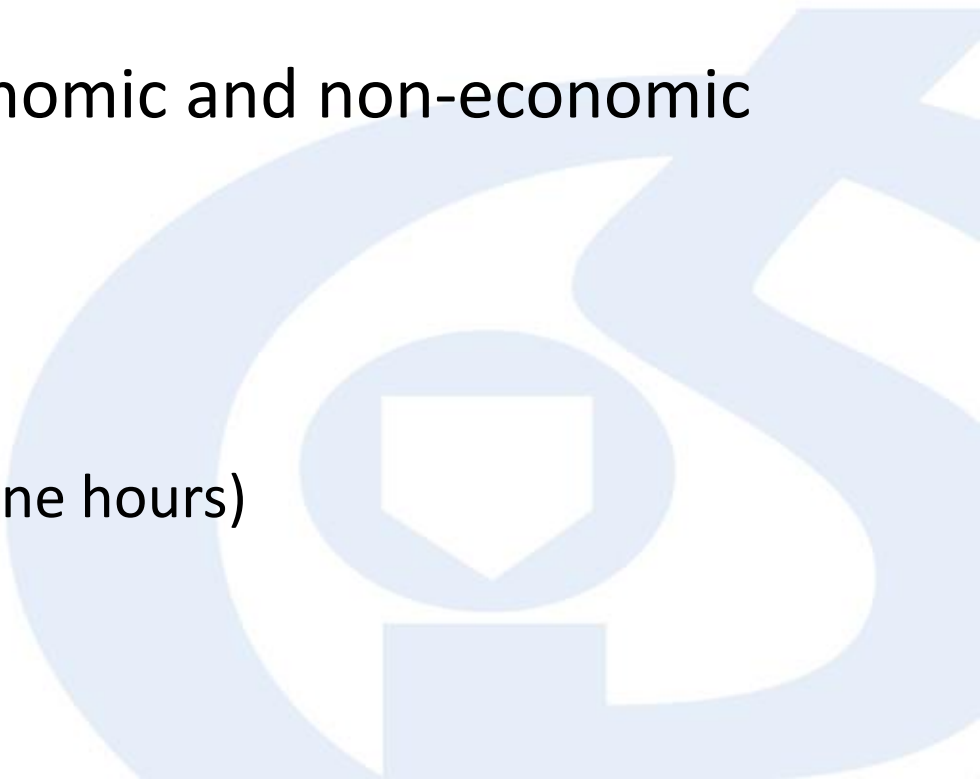
## Q2 Compatibility to state aid regulation

- Categories:
  - fundamental research
  - industrial research
  - experimental development
  - feasibility studies
  - research infrastructures (RI)
  - innovation clusters and SMEs innovation
  - process and organizational innovation
- Limited aid intensities, e.g. max 50% for RI

## State Aid (implications for financial/legal management)

Shareholders or members has no preferential access to ROs research capacities or results

Separate accounting of economic and non-economic activities:

- financing
  - costs
  - revenues
  - RIs capacities (e.g. machine hours)
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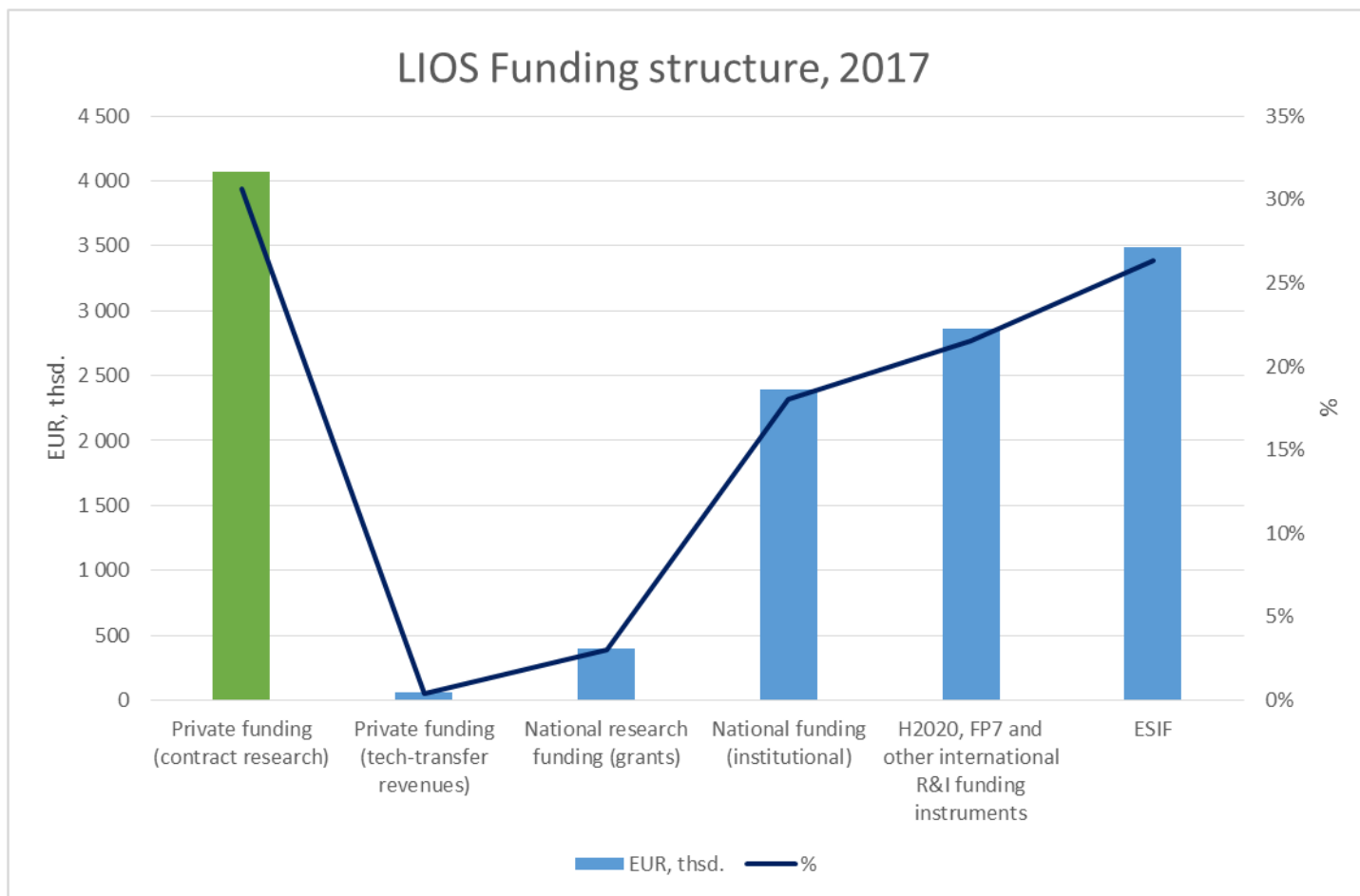
## State Aid (implications for financial/legal management)

Market price:

- Full cost (direct costs & indirect costs) + margin
- Arm's length negotiations



## State Aid (case of LIOS)



EUR 13,27M in total  
 >80% of funding – competition based

## State Aid (case of LIOS)

No preferential access to shareholders or members to ROs research capacities or results

granted by law and statutes

## State Aid (case of LIOS)

Separate accounting of economic and non-economic activities  
- Project based accounting

Info associated to Project  
code

economic/non-economic/mix

direct/indirect

research category (fundamental/industrial research,  
experimental development/education/ ...)

head of the project

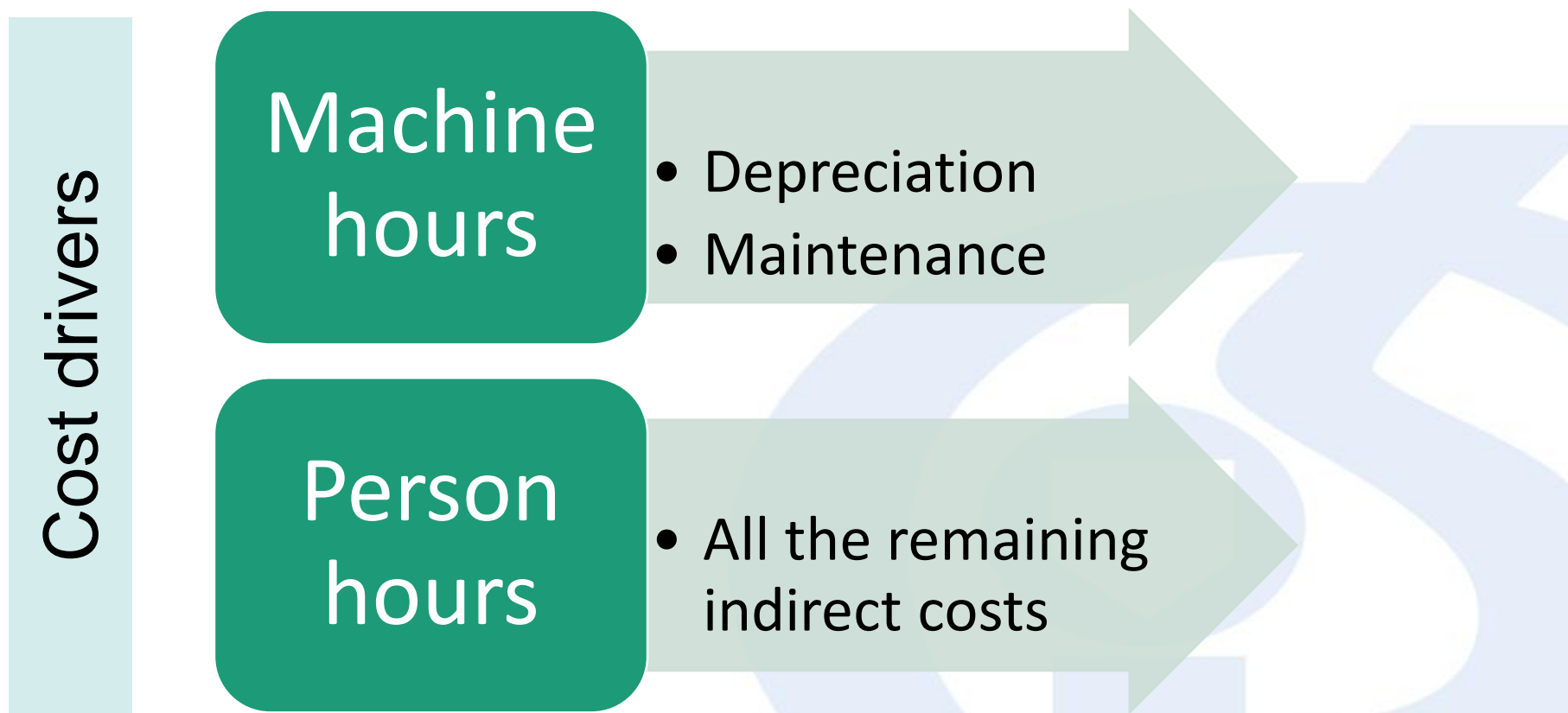
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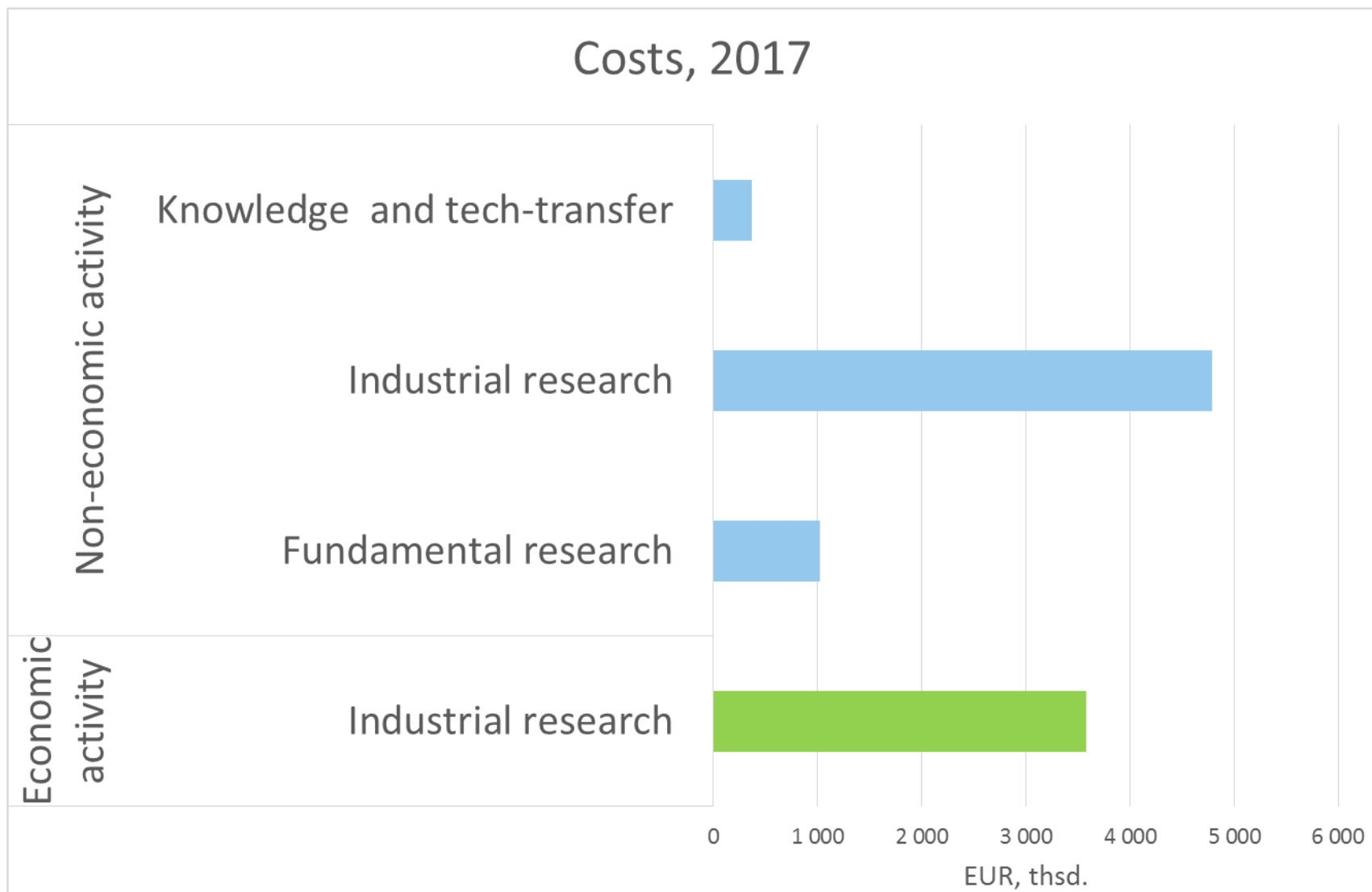


## State Aid (case of LIOS)

Activity based costing (ACB) to assign indirect costs to direct costs of projects



## State Aid (case of LIOS)

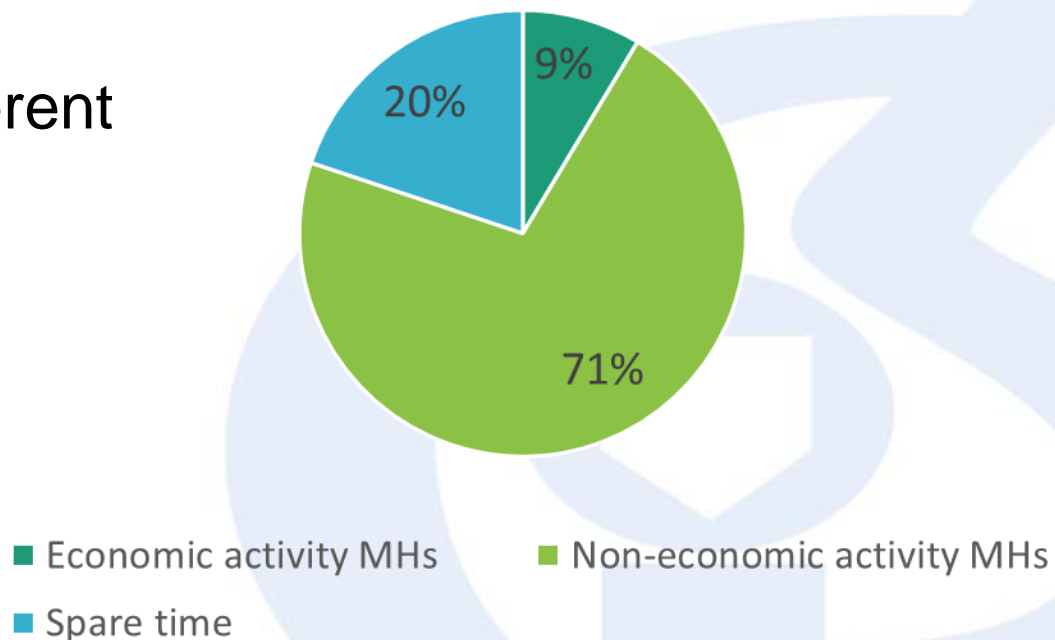


## State Aid (case of LIOS)

### Machine hours

- Web based software
- Access to machine operator
- Hours used for different projects

Machine hours, 2017



## State Aid (case of LIOS)

Market price

Direct cost + indirect cost + margin

Margin proxy: NACE M72 profit/turnover

Establish red lines:

- fee for service
- FTE type of contracts



## Contacts

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