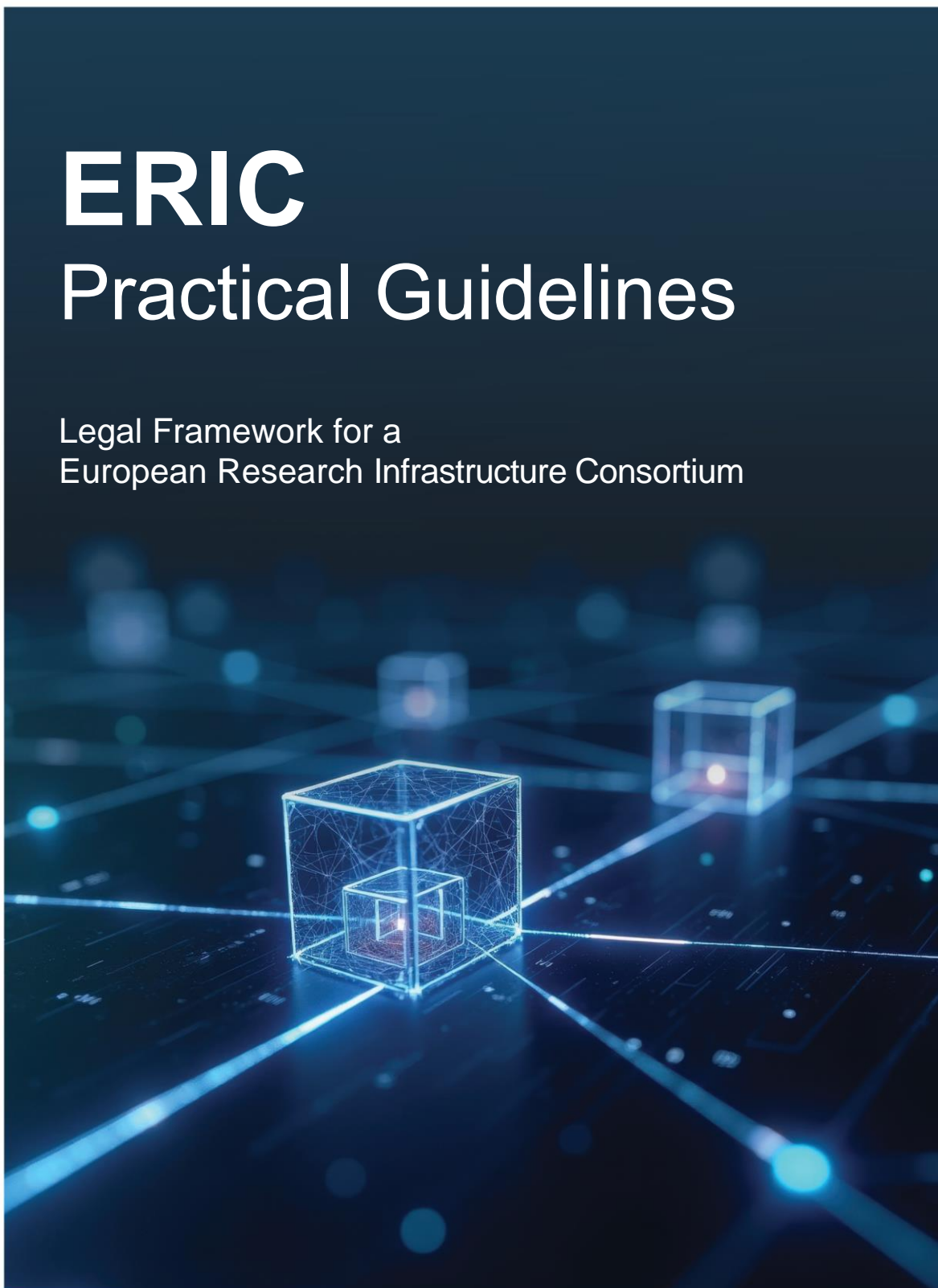


ERIC

Practical Guidelines

Legal Framework for a
European Research Infrastructure Consortium



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ERIC Practical Guidelines: Legal Framework for a European Research Infrastructure Consortium

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EUROPEAN COMMISSION

ERIC

Practical Guidelines

Legal Framework for a
European Research Infrastructure Consortium

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Introduction

Council Regulation (EC) No 723/2009¹ (hereinafter referred to as “the ERIC Regulation”) facilitates the establishment and operation of research infrastructures of European interest by providing a dedicated legal instrument, the European Research Infrastructure Consortium (ERIC). The legal framework may be used for new or existing, single-sited or distributed research infrastructures. Members of an ERIC may be EU Member States and associated countries, as well as other third countries and intergovernmental organisations.

An ERIC is a legal entity under Union law set up by a decision of the European Commission. Therefore, its legal personality and full legal capacity is recognised in all EU Member States. The basic internal structure of an ERIC is flexible and defined in the statutes by its members. The liability of the ERIC members is limited to their respective contributions, unless otherwise specified in the statutes.

The ERIC Regulation has become a well-tested legal framework across all EU Member States and associated countries. By the end of 2024, 28 ERICs had been established, and a broad community of existing ERICs has developed with the support of the ERIC Forum².

These guidelines replace those published in March 2015.³ They provide, in section 1, an analysis of the essential and other elements of the statutes, as well as practical information on the implementation of an ERIC; in section 2, guidance is provided on how to prepare and submit an application for the establishment an ERIC or for amendments to its statutes. Several templates are provided in the Annexes.

¹ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC), OJ L 206, 8.8.2009, p. 1–8. The ERIC Regulation was amended in 2013 by Council Regulation (EU) No 1261/2013 of 2 December 2013 amending Regulation (EC) No 723/2009 concerning the Community legal framework for a European Research Infrastructures Consortium (ERIC), OJ L 326, 6.12.2013, p. 1–2.

² The ERIC Forum was formed in 2017, in order to further strengthen the coordination among ERICs and interact effectively with the Commission to achieve the full implementation of the ERIC Regulation. See <https://www.eric-forum.eu/the-eric-forum/>

³ <https://op.europa.eu/en/publication-detail/-/publication/c6647f05-874e-4cdd-af70-22ade4759930/language-en>

1. What is an ERIC and how does it operate?

1.1. Legal status and characteristics of ERICs

An ERIC is a legal entity set up under EU law to facilitate the establishment and operation of research infrastructures with European interest⁴. It can be used either for establishing a new research infrastructure or for integrating existing research infrastructures into a single legal entity that is more advantageous for their operations and structural needs in the context of the European Research Area and for global outreach.

An ERIC may be a single-sited or a distributed research infrastructure. Although not defined in the text of the ERIC Regulation, the term 'single-sited' research infrastructure typically refers to central facilities geographically localised in a single site or in a few dedicated complementary sites (within the same country or across a few different countries) and where most components of the research infrastructure are part of the same legal entity, the ERIC. The term 'distributed' research infrastructure typically refers to one or a few central hubs and several interlinked (national or institutional) nodes where many components of the research infrastructure may not be part of the same legal entity, the ERIC.

An ERIC has legal personality as from the date on which the Commission decision setting up the ERIC takes effect⁵. It may conclude agreements with third parties, own property, hire employees, incur liability, and participate in legal proceedings. Its legal personality and extensive legal capacity are recognised in all EU Member States without requiring transposition into national law or any national legal instrument⁶.

An ERIC is composed of at least one EU Member State and two other countries that are either EU Member States or associated countries⁷. Third countries other than associated countries, as well as intergovernmental organisations, may also become members of an existing ERIC, subject to conditions and modalities specified in its statutes.

1.1.1. Prerequisites for setting-up an ERIC

Having been based on Article 187 TFEU (ex-Article 171 TEC), the ERIC is a legal tool which is appropriate only for research infrastructures of a European dimension that are considered necessary for the efficient execution of Union research, technological development and demonstration programmes.

More precisely, pursuant to Article 4 of the ERIC Regulation, the research infrastructure to be

⁴ 'Research infrastructures' are defined by Article 2(a) of the ERIC Regulation as "facilities, resources and related services that are used by the scientific community to conduct top-level research in their respective fields and covers major scientific equipment or sets of instruments; knowledge-based resources such as collections, archives or structures for scientific information; enabling Information and Communications Technology-based infrastructures such as Grid, computing, software and communication, or any other entity of a unique nature essential to achieve excellence in research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources)"

⁵ See Article 7 of the ERIC Regulation.

⁶ Nevertheless, it is possible that the operation of an ERIC is subject to additional procedures under national law, as long as those procedures comply with EU law.

⁷ Associated countries are third countries which are party to an international agreement with the Union, on the basis of which they participate in all or part of the EU research, technological development and demonstration programmes and make a financial contribution to this end to all or part of the EU research, technological development and demonstration programmes.

established as an ERIC, must:

- (a) **be necessary** for the carrying out of European research programmes and projects, including for the efficient execution of Community research, technological development and demonstration programmes;
- (b) **represent an added value** in the strengthening and structuring of the European Research Area (ERA) and a significant improvement in the relevant scientific and technological fields at international level;
- (c) **grant effective access**, in accordance with the rules established in its statutes, to the European research community, composed of researchers from EU Member States and from associated countries;
- (d) **contribute to the mobility of knowledge and/or researchers** within the ERA and increase the use of intellectual potential throughout Europe; and
- (e) **contribute to the dissemination and optimisation of the results** of activities in Union research, technological development and demonstration.

The fulfilment of the aforementioned conditions is assessed by the Commission after obtaining the views of independent experts⁸. It is recommended that discussions between the interested parties and the Commission are launched long before the formal application takes place.

Before taking a decision on the necessity and the added value of a new ERIC, it is of particular importance for all interested parties to take into consideration existing ERICs (or other infrastructures⁹) in the same or adjacent research fields. In many cases, instead of establishing a new ERIC, it may be preferable to join or merge existing ones.

ERICs typically combine their primary missions with objectives that address key societal, environmental, and economic challenges, provide scientific bases for the design of EU policies and contribute to achieving EU policy objectives.

1.1.2. Applicable law and jurisdiction

The establishment and internal functioning of an ERIC are governed by applicable **EU law** (including in particular the ERIC Regulation), by the **law of the State where the ERIC has its statutory seat** (in the case of matters not, or only partly, regulated by EU law), and by its **statutes and their implementing rules**.

The Court of Justice of the European Union has jurisdiction over litigation among the members in relation to the ERIC, between the members and the ERIC and over any litigation to which the Union is a party.

EU legislation on jurisdiction applies to disputes between an ERIC and third parties. For any case that is not covered by EU legislation, the law of the State where the ERIC has its statutory seat will determine the competent jurisdiction for the resolution of such disputes.

With regards to the statutes of an ERIC, the ERIC Regulation distinguishes between essential elements of the statutes, which are subject to approval by the Commission and are annexed to the decision setting up the ERIC, and non-essential elements. For better clarity, the essential and non-essential elements of the statutes of an ERIC, will be presented and analysed separately in

⁸ See below, Section 2.1, Step 1.

⁹ Such as Joint Undertaking, IPCEI or European Digital Infrastructure Consortium (EDIC).

points 1.2 and 1.3 below.

1.1.3. Exemptions from VAT, excise duties, and procurement rules

As stated in Article 5(1)(d) of the ERIC Regulation, an ERIC must be recognised by the country hosting its seat as **an international body and international organisation** for the purposes of the Directives on value added tax¹⁰ (VAT) and excise duties¹¹ respectively.

Under both directives, exemptions may apply to goods or services acquired by an ERIC or its members subject to limits and conditions agreed upon by the members of the ERIC. For reasons of transparency and accessibility, it is recommended to include this agreement in the statutes, but it can also be placed in a separate document.

In practice, exemptions are usually limited to goods and services that are intended for the exclusive and official use of the ERIC and typically apply only when exceeding a certain value threshold indicated in the agreement. These exemptions only apply when intended for non-economic activities.

The exemptions may apply to goods or services imported from third countries. However, they have no effect on goods or services purchased from and taxable in third countries. Exemptions from income, excise, or other tax in a third country only apply if that country has specifically granted exemptions to an ERIC for those taxes, for example because it intends to become a member of the ERIC.

The methods of exemption and the procedures to follow are usually the same that apply to other international organisations and depend on where the goods and services are purchased and where they are taxable. It is advisable that as soon as an ERIC is set-up and with the support of the government of the country (or countries) hosting its statutory seat (and other places of operation), the ERIC informs the local branch/branches of the tax authorities of its setting-up and plans, allowing for a full briefing on the preferable procedures.

Moreover, pursuant to Article 7(3) of the ERIC Regulation, read together with Article 9 of Directive 2014/22/EU¹², the ERIC also benefits, due to its status as an international organisation, from an exemption from EU rules on procurement, as long as the principles of transparency, non-discrimination and competition are duly respected.

ERICs may delegate the purchase of goods and services made in their name and on their behalf to other legal entities, provided these goods and services are made fully available to the ERIC that makes the purchase, for its exclusive use, and are paid for by specific funding provided by that ERIC.

More complex is the situation where one ERIC member – a State – wants to contribute in-kind to an ERIC by purchasing goods or services to be transferred to the ERIC. Such purchases are in practice not being made directly by the governments but rather by independent entities, such as agencies, offices, research infrastructures, universities, etc. The only way for such purchases to

¹⁰ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, p. 1 and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax, OJ L 77, 23.3.2011, p. 1

¹¹ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty, OJ L 58, 27.2.2020, p. 4.

¹² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

qualify for the exemption is if these independent entities, acting in the name and on behalf of the member, are tasked with acquiring goods or services, and the cost of that acquisition is paid by the member.

Another complex issue is the lack of reciprocity for ERICs hosted outside the EU, who thus cannot benefit from exemptions in Articles 143(1)(g) and 151(1)(b) of the VAT Directive (although purchases made in the EU and delivered in third countries may benefit from the VAT exemption when considered as exportations).

More details and case studies on VAT issues can be found in the VAT 'toolkit' provided for by the ERIC Forum¹³.

1.1.4. State aid rules

The ERIC Regulation does not provide for specific rules relating to State aid. Where a research organisation or research infrastructure is used for both economic and non-economic activities, public funding is subject to general State aid rules¹⁴.

Where the research organisation or research infrastructure is used almost exclusively for a non-economic activity, its funding may fall outside State aid rules in its entirety, provided that

- the economic use remains purely ancillary, that is to say corresponds to an activity which is directly related to and necessary for the operation of the research organisation or research infrastructure or intrinsically linked to its main non-economic use, and
- the activity is limited in scope. This is considered to be the case where the economic activities consume exactly the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities and the capacity allocated each year to such economic activities does not exceed 20% of the relevant entity's overall annual capacity.

When an ERIC carries out activities of both economic and non-economic nature, the public funding of the non-economic activities will be considered to fall outside the scope of State aid rules 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 annual financial statements of the relevant entity.

In accordance with State aid rules applicable to research infrastructures, an ERIC will not be considered to be a beneficiary of State aid if it acts as a mere intermediary for passing on to the final recipients the totality of the public funding and any advantage acquired through such funding. This is generally the case where:

- both the public funding and any advantage acquired through such funding are quantifiable and demonstrable, and there is an appropriate mechanism which ensures that they are fully passed on to the final recipients, for example through reduced prices, and
- no further advantage is awarded to the intermediary because it is either selected through an open tender procedure or the public funding is available to all entities which satisfy the necessary objective conditions, so that customers as final recipients are entitled to acquire equivalent services from any relevant intermediary.

¹³ See <https://www.eric-forum.eu/toolkit/finances/vat-exemption/>

¹⁴ See Communication from the Commission "Framework for State aid for research and development and innovation" 2022/C 414/01, C(2022) 7388 final, from 19.10.2022. For further information, it is recommended to contact the relevant National Contact Point on State aid matters.

- In such a situation, however, the State aid rules will still apply at the level of the final recipients.
- The provisions included in the General Block Exemption Regulation (“GBER”)¹⁵ provide Member States with the possibility to award public support to investment in research infrastructures. This has the benefit that the granting authority will not be required to notify the Commission on certain aid measures aimed at supporting research infrastructures. More specifically, investment aid up to EUR 35 million per research infrastructure may be provided, as long as the following conditions are cumulatively¹⁶ fulfilled by ERICs:
- The financing, costs and revenues of economic activities are accounted for separately from the costs and revenues of non-economic activities, on the basis of consistently applied and objectively justifiable cost accounting principles.
- The price charged for the operation or use of the infrastructure shall correspond to a market price¹⁷.
- Access to the research infrastructure(s) shall be open to several users and be granted on a transparent and non-discriminatory basis¹⁸.
- The eligible costs to be covered comprise the investment costs in intangible and tangible assets.
- The aid intensity is not higher than 50% of the eligible costs (or higher than 60% when the funding is provided by at least two EU Member States or when the research infrastructure was evaluated and selected at Union level).

In addition, the granting Member State(s) shall put in place a monitoring and claw-back mechanism that the applicable aid intensity is not exceeded over the duration of the project, for instance due to the increase in the share of economic activities compared with the situation envisaged at the time of awarding the aid.

1.1.5. Participation in Horizon Europe¹⁹

As an entity established under Union law, an ERIC may participate in actions under the Horizon Europe Programme, according to the provisions of Article 22 of the Horizon Europe Regulation²⁰, either as a sole beneficiary or together with other beneficiaries and subject to fulfilment of all the

¹⁵ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1–78, as amended and revised..

¹⁶ In addition to the conditions listed in these Guidelines, in order to benefit from the exemption of the notification requirement for investment aid to research infrastructures, additional conditions listed under Chapter 1 of the GBER need to be complied with.

¹⁷ For additional details on “market price”, see for example Chapter 5 in “*State Aid Rules in Research, Development & Innovation. Addressing Knowledge and Awareness Gaps among Research and Knowledge Dissemination Organisations. Decision Tree*”, Kebapci, H., Von Wendland, B., Kaymaktchyski, S., Publications Office of the European Union, Luxembourg, 2020, doi:10.2760/675525, JRC122304.

¹⁸ Undertakings which have financed at least 10% of the investment costs of the infra-structure may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and these conditions shall be made publicly available.

¹⁹ This sub-section will be updated once Horizon Europe is replaced by the next Framework Programme.

²⁰ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (Text with EEA relevance), OJ L 170, 12.5.2021, p. 1–68. See also See Annex XIII, B, to Commission Implementing Decision of 17.4.2024, amending Commission Implementing Decision C(2022)7550 on the adoption of the work programme for 2023-2024 within the framework of the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation and on its financing, and extending the work programme to 2025, C/2024/2371 final

call conditions. However, if the action is in practice implemented by the individual members, those members should also participate either as beneficiaries or as affiliated entities.

Moreover, where an ERIC is participating together with other beneficiaries, it is deemed to be established in a Member State other than the ones in which other legal entities participating in the action are established.

When ERICs are sole beneficiaries and coordinators of an action, they may delegate their coordinating tasks to an entity representing one of their members. The coordinator retains sole responsibility for compliance with the obligations under the grant agreement²¹.

In the specific case of a distributed ERIC providing, as beneficiary, transnational access to installations operated by another legal entity (e.g. local/national node of an ERIC), this legal entity can participate as:

- an affiliated entity to the ERIC
- another beneficiary if also carrying out other tasks in the project not under the umbrella of the ERIC
- a third party to which the ERIC is purchasing access services excluding any profit margin
- a third party providing in-kind contributions free of charge

depending on the statutes of the ERIC, the agreements with its nodes, the expected level of use of the concerned installations and any other relevant implementation aspects.

In the case of an ERIC, liability relating to Horizon Europe grant agreements is already defined in the statutes²². This does not preclude the ERIC and the members involved from agreeing on specific liability arrangements for the participation in the action if they so wish.

1.2. Essential elements of the statutes of an ERIC

For reasons of transparency, the essential elements of the statutes of an ERIC must be annexed to the Commission decision setting-up the ERIC²³. Any amendment to the essential elements of the statutes of an ERIC must be approved by Commission decision. Pursuant to Articles 10, 6(3) and 11(1) of the ERIC Regulation, these essential elements are the following:

1.2.1. Task and activities

As stated in Article 3 of the ERIC Regulation, **the principal task of an ERIC is to establish and operate a research infrastructure**²⁴.

The activities of an ERIC may differ depending on the research field and the type of research infrastructure and its services.

In general, **an ERIC should have a clear mission and responsibility for the operation of the infrastructure**, including, e.g.:

- defining the overall strategy;
- providing and supporting effective access to the infrastructure and its services;

²¹ See Article 7 of the Horizon Europe Model Grant Agreement at https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga_horizon-euratom_en.pdf

²² See following paragraph 1.2.

²³ Recital 11..

²⁴ See also Recital 8.

- carrying out R&I activities to maintain cutting-edge scientific facilities and services;
- defining common standards and improving interoperability including on digital aspects;
- providing or supporting training and facilitating mobility of researchers, training and upskilling of technical, administrative and management staff when relevant;
- supporting technology transfer activities.
- An ERIC may also perform complementary activities that support its sustainability such as:
 - performance monitoring and impact assessment of its activities;
 - investment planning, including cost and funding management and reporting;
 - providing for sustainability of new tools, resources and services developed by the infrastructure;
 - communication and dissemination activities;
 - international cooperation notably with other research infrastructures or relevant global initiatives;
 - ensuring compliance with new policies and regulations, and regular upgrade of internal policies and procedures;
 - vice versa, providing scientific and technical advice to support policymakers.

Provisions of the statutes and agreements between the ERIC and legal entities operating national facilities (such as collaboration agreements or service level agreements between the central hub/headquarter and the distributed nodes) should allow for a clear identification of the activities and resources which are under the ERIC's responsibility and those which are under the responsibility of other legal entities and of how they are integrated towards the effective operation of the research infrastructure. The overall resources available to the ERIC and to the collaborating Institutions must be commensurate to the efforts required to carry out the activities.

An ERIC must carry out its principal task on a non-economic basis. However, it may carry out limited economic activities, provided they are closely related to its principal task and do not jeopardise the achievement of that task.

An economic activity corresponds to offering goods and/or services on a market in exchange of remuneration. In interpreting the notion of 'economic' and 'non-economic' activities, the Commission relies on its Commission Notice on the notion of State aid²⁵ and the case-law of the Court of Justice of the European Union. The assessment is done on a case-by-case basis.

The fact that an activity is carried out by a non-profit operator is not enough to avoid classification as an economic activity²⁶.

In order to promote innovation and transfer of knowledge and technology, Article 3 of the ERIC Regulation allows an ERIC to carry out some limited economic activities, if they are closely related to its principal task and they do not jeopardise its goals. Beyond these limitations specific to the ERIC Regulation, additional restrictions may apply under State aid rules (see table below).

The economic activities of an ERIC must remain limited and not prevail over the execution of its main task. Quantifiable elements may be used to assess the importance and limits of each activity,

²⁵ 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, C/2016/2946, OJ C 262, 19.7.2016, p. 1–50.

²⁶ Judgment of 16 November 1995, *Fédération Française des Sociétés d'Assurance*, C-244/94, ECLI:EU:C:1995:392, paragraph 21

such as the respective costs and income, use of human resources, or the share of access to the facility for economic and non-economic purposes.

Although EU law – including the case-law of the Court of Justice of the EU – does not provide for a clear definition of the concept of “limited economic activities”, the Commission will generally assume, in line with the rules on State aid outlined below, that an economic activity that constitutes less than 20% of total annual activities is limited, as long as the economic activities consume exactly the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities.

In case of limited economic activities in accordance with the ERIC Regulation, an ERIC must record the costs and revenues of its economic activities separately and charge market prices for them. If such prices cannot be ascertained, it must charge full costs plus a reasonable margin. This margin may be the margin established by reference to margins commonly applied by undertakings for the same or similar activities.

1.2.2. Statutory seat and name

Pursuant to Article 8 of the ERIC Regulation, **the statutory seat of an ERIC must be located on the territory of a member**, either an EU member state or an associated country, where at least some of its activities are carried out.

Albeit not explicitly stipulated in the Regulation, the standard practice is to define the statutory seat by reference to a city.

The name of an ERIC must contain the abbreviation ‘ERIC’ as a separate term.

So far, there is no common approach on whether and under which legal form an ERIC is registered under national law. While ERICs always have legal personality under EU law, the exact legal form the ERICs take also depends on the applicable national law and the established national practices. It is therefore recommended to clearly define all legal aspects of the ERIC in its statutes. If needed, targeted changes of the statutes can also be considered for established ERICs.

1.2.3. Duration and winding up

The ERIC Regulation allows for an ERIC to be created either for an **indefinite or for a limited period of time**. As stated in Article 16 of the ERIC Regulation, the procedure to be applied in the case of winding-up of the ERIC must be determined by the statutes.

If the statutes provide for a limited duration, the ERIC is wound up at the end of this period unless its members decide to extend it according to the provisions of the statutes.

The winding-up of an ERIC may also be decided by the assembly of members. The statutes must include the procedure to be applied in such cases (e.g. possibility for the assembly of members to transfer the ERIC activities to another legal entity, appointment of liquidators, and rules to apportion assets). The assembly of members must, without undue delay and in any event within 10 days of adopting the decision to wind up an ERIC, notify the Commission of their decision. Likewise, the assembly of members must without undue delay and in any event within 10 days notify the Commission of the closure of the winding-up procedure. After each notification, the Commission will publish an appropriate notice in the *Official Journal of the European Union*.

Lastly, the termination of an ERIC may also occur if the decision establishing the ERIC is repealed by the Commission. More precisely, according to Article 17(3)-(5) of the ERIC Regulation, if the

Commission obtains indications that an ERIC is acting in serious breach of the ERIC regulation or other applicable rule, it will request explanations from the ERIC and/or its members. If the Commission concludes, after having given the ERIC and/or its members reasonable time to produce their observations, that the ERIC is acting in serious breach of the ERIC regulation or other applicable rules, it may propose remedial action. If no remedial action is taken, the Commission may repeal the decision establishing the ERIC, which will trigger its winding up.

An ERIC officially ceases to exist on the day of publication in the *Official Journal of the European Union* of the notice on the closure of the winding up procedure.

1.2.4. Liability regime and insurance

As stated in Article 14(1) of the ERIC Regulation, **an ERIC is liable for its debts**. ERICs enjoy no immunity from seizure of their assets in case of forced recovery of debts or from insolvency proceedings. Proceedings are in principle governed by the law of the state where the ERIC has its statutory seat.

Article 14(2) of the ERIC Regulation stipulates that **the financial liability of the members for the debts of the ERIC is by default limited to their respective contributions provided to the ERIC**. This includes financial and in-kind contributions which are paid, provided or promised in a legally binding way. The members may assume in the statutes a fixed liability above their respective contribution or unlimited liability but in practice, most ERICs have chosen to limit members' financial liability to their annual contributions.

If the financial liability of its members is not unlimited, an ERIC must take appropriate insurance to cover the risks of the activities which are under its responsibility as set out in Article 14(3) of the ERIC Regulation.

1.2.5. Basic policy principles

Article 10(g) of the ERIC Regulation requires that the statutes of an ERIC contain basic principles covering the following:

- the access policy for users;
- the scientific evaluation policy;
- the dissemination policy;
- the intellectual property rights policy;
- the employment policy, including equal opportunities;
- the procurement policy respecting the principles of transparency, non-discrimination and competition;
- the data policy.

Among those, the first six categories are considered essential elements that require the approval of the Commission, while the principles covering data policy only need to be notified to the Commission when adopted or amended. This is why they will be presented separately in the following paragraphs.

The basic policy principles included in the statutes, may be complemented by more detailed provisions contained in the implementing rules or other internal policy rules adopted by the ERIC. This allows for updates of those rules to be adopted promptly by the general assembly, thus

avoiding the lengthy procedure required for changes of the statutes. Nevertheless, Article 10(k) of the ERIC Regulation provides that any implementing rules must be referred to in the statutes.

For the adoption of their policy principles and the respective implementing rules, ERICs are encouraged to follow, where applicable, guidance and best practices from the ERIC Forum, and to examine the statutes of existing ERICs for useful examples. Still, it is essential to develop specific, tailored policies and implementing rules for each ERIC, considering their unique requirements.

With regard to their **access policy**, ERICs are strongly encouraged to take the guidelines and principles of the European Charter for Access to Research Infrastructures²⁷ into consideration and specify in a transparent way which resources are made available to users by the infrastructure, on what terms, and how users are selected. The statutes may provide for scientific evaluation of users' proposals prior to access to the ERIC facilities.

The statutes and their implementing rules must provide for a **scientific evaluation** of the ERIC activities. This evaluation may be included in the tasks of the scientific board – where there is one – or may be carried out by other external experts.

Communication and dissemination activities are essential for the visibility, recognition and sustainability of the ERIC. They might cover outreach to new communities, including to other scientific disciplines and to industry, attracting excellent users, or communicating effectively the results to stakeholders including policy makers and funders and engaging citizens, etc.

The results of the research performed by external users, or in some cases by the ERIC, in the context of the ERIC activities can be the property of the ERIC or of the users, or of both. Intellectual property rights generated through research and development activities within the distributed operations of the ERIC depends on the agreements between the institutions participating in it. These aspects may be addressed by a specific **intellectual property rights policy** developed for the ERIC or otherwise specific IPR agreements can be signed within the institutions participating in the ERIC and between the ERIC and the users. IPR policy is of particular importance when engaging in cooperation with industry, which can strengthen the long-term sustainability of the ERIC and contribute to the broadening and diversification of its users while fostering the innovation potential of the ERIC.

Regarding **employment policy**, Article 4 of the ERIC Regulation states that a research infrastructure, to be established by an ERIC, should contribute to “the mobility of knowledge and/or researchers within the ERA and increases the use of intellectual potential throughout Europe”. Beyond the principles of equal treatment and career opportunities for personnel, as well as transparent, non-discriminatory recruitment procedures, it is recommended that reference is made to provisions for attracting and retaining highly qualified staff, including e.g. competitive remuneration principles, applying international-level selection and evaluation procedures, etc. The Regulation is limited in its content of legal instruments which could allow the full implementation of the indications above, but the ERIC members, in setting-up the ERIC and in following and supporting its operation through decisions of the general assembly, can adopt additional measures to facilitate the attraction and mobility of staff, especially within the distributed ERICs. For example, to facilitate mobility within and across ERICs or other international research facilities and institutions, an ERIC may consider joining an appropriate pension scheme such as RESAVER²⁸ or defining a reference contractual framework for staff of distributed or multi-site ERICs.

²⁷ European charter of access for research infrastructures – Principles and guidelines for access and related services, Publications Office, 2024, <https://data.europa.eu/doi/10.2777/8299402>

²⁸ RESAVER Pension Fund is an EU-backed pension scheme for research organisations & their employees See

As far as **procurement policy** is concerned, as mentioned in Point 1.1 above, Article 7(3) of the ERIC Regulation confers upon the ERICs the status of international organisation within the meaning of the Directive on public procurement²⁹. Therefore, pursuant to Article 9(1)(b) of that Directive, they enjoy the discretion to develop their own procurement rules, as long as the principles of transparency, non-discrimination and competition are respected. It is recommended to adopt specific, tailor-made procurement rules, taking into account the expected level of procurement activity throughout the lifetime of the ERIC and the nature of the purchases made. The procurement rules must be made publicly available on the ERIC website.

1.3. Other elements of the Statutes of an ERIC

As mentioned above, apart from the elements of the statutes of an ERIC that are subject to approval by the Commission, there are other elements that are non-essential and must be included in the statutes but are not annexed to the Commission decision setting-up the ERIC. Moreover, in case of an amendment of the statutes, these 'non-essential' elements only need to be notified to the Commission, following the procedure described below³⁰. They are the following:

1.3.1. Members, observers, and representing entities

Article 10(a) of the ERIC Regulation stipulates that the statutes of an ERIC must contain a list of members, observers and, where applicable, of entities representing members. The conditions of and the procedure for changes in membership and representation must also be included.

Pursuant to Article 9 of the ERIC Regulation, only countries (EU Member States, associated countries, and third countries, other than associated countries) and intergovernmental organisations may become members of an ERIC. An ERIC must have at least one EU member state and two other countries that are either EU Member States or associated countries as members. Most ERICs have a larger number of EU Member States or associated countries as members, or observers without voting right, applying for their setting-up.

Third countries other than associated countries, intergovernmental organisations as well as further EU Member States and associated countries, may become members, or observers without voting rights, of an ERIC after its setting-up, subject to conditions and modalities specified in the statutes³¹.

Since the research infrastructure operated by an ERIC must represent added value in the strengthening and structuring of the ERA, it is recommended that, during the preparation of the application, to involve all relevant prospective members, which might become members of the ERIC (including those which will become members only after its setting-up).

Associated countries, third countries and intergovernmental organisations applying for the setting-up of or for membership in an ERIC must recognise the legal personality and legal capacity of the ERIC; they must agree that they will be subject to the applicable law and jurisdiction as defined in the ERIC Regulation; and that they will provide equivalent treatment as an international body or

<https://www.resaver.eu/> and <https://data.europa.eu/doi/10.2777/77570>

²⁹ See also above, Section 1.1.

³⁰ See below, Section 2.3.

³¹ While the initial setup of an ERIC may include more Member States and associated countries than the minimum requirement, the current wording of the ERIC Regulation only allows third countries other than associated countries and intergovernmental organisations to join an ERIC after it has been established. However, according to current practice, they may join an ERIC at its establishment as observers.

international organisation with respect to VAT and excise duties exemption and to procurement rules³².

Interested parties who are willing to contribute to an ERIC but are not in a position to join as members, may apply for observer status. It is recommended that the applications describe how the observers will contribute to the ERIC's objectives and activities and fulfil any obligations. Usually, observers are admitted for a maximum period specified in the statutes and may apply for extension of observer status subject to conditions and modalities specified in these statutes.

Any EU Member State, associated country or third country may be represented by one or more public entities, including regions or private entities with a public service mission, as regards the exercise of specified rights and the discharge of specified obligations as a member of the ERIC.

The choice of representing entity, as well as of the rights and obligations that are delegated to that entity, is up to the member (albeit, within the limits set out in the statutes). Any delegation of rights and obligations to representing entities should be clearly defined and communicated by the member to the ERIC. Due attention should be paid to avoid possible conflicts of interest between the representing entity and its delegated obligations towards the ERIC, both in financial and operational terms.

1.3.2. Rights and obligations of the members

As provided in Article 10(h) of the ERIC Regulation, the statutes of an ERIC must define the rights and obligations of the members, including the obligation to make contributions to a balanced budget, and voting rights.

The obligation to make contributions to a balanced budget is a manifestation of the more general principles laid down in Article 13 of the ERIC Regulation, according to which:

- all items of revenue and expenditure must be included in estimates to be drawn up for each financial year and must be shown in the budget;
- the revenue and expenditure shown in the budget and in the accounts must be in balance;
- the members must ensure that the appropriations are used in accordance with the principles of sound financial management;
- the budget must be established and implemented and the accounts presented in compliance with the principle of transparency;
- the accounts of an ERIC must be accompanied by a report on budgetary and financial management of the financial year;
- the preparation, filing, auditing and publication of accounts is subject to the relevant requirements of the applicable law (EU or national).

The adoption of the budget, as well as the annual activity report are the responsibility of the assembly of the members of the ERIC³³. Members' contributions should ensure a sustainable operation, maintenance and regular upgrade of the facilities and services of the infrastructure established and operated by the ERIC. It is recommended that financial contributions for the operation of the ERIC are allocated and conferred directly by members to the ERIC. It is though possible that they are channelled through an agency, a representing entity, or any other entity.

³² See templates of declarations referred to in Annex 3 (point 3.3) to be provided when applying to the setting-up or for membership in the ERIC, as appropriate.

³³ See Articles 12 and 17 of the ERIC Regulation.

In order to foster sustainability of the ERIC, it is recommended that the statutes provide for a minimum duration for membership. During this period, no member should, in principle, be able to withdraw, except under specific circumstances that are provided for and clearly defined in the statutes. It is also recommended to include a provisional budget with the corresponding commitments by the members, typically for the first 3–5 years, along with procedures for defining the commitments after this first period. These contributions should be commensurate with the objectives and tasks outlined in the statutes, including any complementary activities that support the ERIC's sustainability.

The statutes may provide for contributions to be made by the members in cash or in-kind. However, there must be sufficient in cash contributions, covering at least the cost of the directly managed facilities and activities, to ensure that the ERIC has enough financial autonomy to meet the objectives laid down in the statutes and to fulfil the requirements set out in the ERIC Regulation. The statutes, or separate dedicated financial rules on membership contributions, should lay down the procedure for the assembly of members to decide and have a full knowledge on in-kind contributions and to include them in the ERIC budget and annual accounts. They should also define the procedure to ensure that the in-kind contributions are effectively provided and made available and for assessing their value. Some ERICs have established a specific committee, for this purpose. The annual report should include the information on the in-kind contributions used in the overall setting-up and operation of the ERIC. In those cases where the related expenditure and/or financial value may not be fully detailed (as e.g. for some national nodes of distributed ERICs), an annex to the annual accounts and reports should allow the best possible assessment of all the resources involved. For distributed infrastructures, some of the in-kind contributions may be provided to and through the national and local nodes but should be still reported and their availability ensured by appropriate oversight of the member.

Regarding **voting rights**, Article 9(3) of the ERIC Regulation requires that EU Member States and associated countries hold jointly the majority of the voting rights in the assembly of members, which is the decision-making body of an ERIC where all members are represented.

This requirement must be met at all times during the lifetime of an ERIC. If, due to modifications in the membership of an ERIC, Member States and associated countries no longer hold jointly the majority of the voting rights anymore, modifications in the share of voting rights need to be made to ensure that the ERIC complies with this requirement.

The requirement refers to the general distribution of the votes in the assembly of members. A meeting where, due to absences, Member States and associated countries do not hold jointly the majority of the voting rights would not be irregular as long as the conditions provided for by the statutes, such as the quorum for voting on specific topics, are met.

Provided the requirement of Article 9(3) of the ERIC Regulation is met, the ERIC enjoys significant discretion in determining the distribution of voting rights. For example, it is possible that each member has one vote, or that the voting rights are determined in proportion to the respective contributions or any other mechanism, which the members consider fair and efficient³⁴.

³⁴ On the voting system and the decision-making procedures, see following sub-paragraph on Organisation and legal representation.

1.3.3. Governance, reporting obligations, and legal representation

Article 10(i) of the ERIC Regulation states that the statutes of an ERIC must define the bodies of the ERIC, their roles and responsibilities and the manner in which they are constituted and in which they decide, including upon the amendment of the statutes.

The ERICs enjoy significant discretion in adopting their own rules on internal organisation and governance. For example, an ERIC may follow a centralised or a federated structure, consisting of hubs, nodes, etc.; the executive body may be a director, who is possibly assisted by a board or committee, or it may be a board of directors collectively accountable to the assembly of members. In the latter case, decisions or contracts may need to be signed by all directors or delegated to the chair of the board.

The minimum governing bodies required by Article 12 of the ERIC regulation are: a) an assembly of members; and b) a director, or a board of directors.

The **assembly of members** is the body having full decision-making powers. It approves any new membership, and adopts, among others, the annual budget, the annual work plan, the annual accounts and reports and the implementing rules which complement the statutes, as well as any changes to the statutes.

The statutes should contain basic rules on the **voting system**, in particular those concerning quorum and majority requirements for the decisions of the assembly of members related to all major aspects of the life of the ERIC (membership, annual budget and accounts, nomination of the director/board of directors, changes of statute, winding-up). Further rules may be defined in the implementing rules and adopted by the assembly of members. It is recommended to avoid requiring unanimity or to restrict it to major decisions, such as amendments to essential elements of the statutes. Instead, adoption by consensus, or by a qualified or simple majority, is more likely to ensure a better functioning of the ERIC.

With particular regard to its **reporting obligations**, an ERIC must produce, pursuant to Article 17 of the ERIC Regulation, an annual activity report, containing the scientific, operational and financial aspects of its activities. The annual activity report is approved by the assembly of members and transmitted to the Commission and to relevant public authorities within 6 months from the end of the relevant corresponding financial year. The financial part should include information on budgetary and financial management of the financial year; it should also include information on the financial or in-kind contributions provided to the ERIC³⁵. An ERIC or the Member States concerned must inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the tasks of the ERIC or to hinder the ERIC from fulfilling the requirements laid down in the ERIC Regulation. In the event that an ERIC is unable to pay its debts, it must immediately notify the Commission. The Commission publishes an appropriate notice in the Official Journal of the European Union.

The **director** or the **board of directors** is appointed by the assembly of members. It serves as the executive body, responsible for the day-to-day management of the ERIC, and acts as the legal representative of the ERIC.

Additional rules on **legal representation** may also be agreed upon by the members of the ERIC and included in the statutes. They should be simple enough to ensure clarity, especially when third parties are involved, and to enable the ERIC to optimally exercise its rights, e.g. when signing the

³⁵ Recommended practices for reporting are provided in Annex 4 (point 3.4).

contracts necessary for carrying out its activities in an efficient manner. Apart from the required bodies of an ERIC, additional advisory bodies may be set up in the statutes, such as a scientific board, an administrative and finance committee and/or an ethics committee, to give guidance to the assembly of members. During the lifetime of an ERIC, the assembly of members may create other advisory bodies as deemed appropriate. For example, in the case of ERICs operating distributed infrastructures, the director may be supported by a committee consisting of representatives of the national facilities or nodes or by other advisory bodies. The members should clearly define the tasks and responsibilities of each body and consider the need for efficient implementation and management of the overall infrastructure.

1.3.4. Data policy

In accordance with Article 10(g)(viii) of the ERIC Regulation, the statutes must establish the basic principles covering the data policy of the ERIC. These principles may be further defined in additional texts, such as data management plans, data policy statements, etc.

Given the complexity of the overall legal framework for handling data, it is essential to use clear and concise language to avoid confusion, for example between research data and personal data.

The **research policy data** of the ERIC should address data that is either generated or accessed by the users. It should favour the open sharing of knowledge, results, and tools, as early and widely as possible, while striving for adequate acknowledgement of the use of the data in subsequent publications. In general, open access to research data should be the standard rule, with exceptions being allowed, where appropriate, in line with the principle 'as open as possible, as closed as necessary'. Attention should be paid to the responsible management of research data, in conformity with the FAIR principles³⁶.

Specific provisions or a separate policy statement should also address **privacy and personal data protection** (e.g., related to users, staff, and event participants, as well as confidentiality in authentication and authorization procedures), in line with the relevant legal framework, particularly the GDPR³⁷.

1.3.5. Miscellaneous

Lastly, pursuant to Article 10(g)(vii), (j), and (k) of the ERIC Regulation, the statutes of an ERIC must contain the basic principles on **decommissioning** (where applicable), **the identification of the working language(s)**, as well as **references to the rules implementing the statutes**.

³⁶ See also https://research-and-innovation.ec.europa.eu/strategy/strategy-2020-2024/our-digital-future/open-science_en

³⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) OJ L 119, 4.5.2016, p. 1–88.

2. How to set up an ERIC?

2.1. Procedure for application

The formal application procedure takes place in two steps, in order to ensure that a full signature procedure by all members is only required once, even if the assessment of the application leads to modification requests.

The estimated duration of the formal procedure is around 3 months for Step 1 and 6 months for Step 2, but this may vary considerably depending on several factors.

In order to keep the application process as short as possible, the European Commission will assist potential applicants at all stages of the preparation of an ERIC, including during the pre-submission stage.

2.1.1. Preparatory work and pre-submission advice

Members of a future ERIC should prepare and agree upon the content of the documents required for the application³⁸. National procedures set up to ensure the agreement and commitment of each member may vary from country to country.

Stakeholders of a future ERIC are encouraged to work well in advance and involve their national authorities when designing the ERIC and preparing the required documents. They are also encouraged to contact other ERICs operating in their countries, to know in advance what are the possible difficulties in implementation. In particular, they are encouraged to liaise with ESFRI and their national delegates to ensure adequate alignment of the ERIC application with the ESFRI and national roadmaps.

If needed, potential applicants may contact the Commission at RTD-ERIC@ec.europa.eu for pre-submission advice.

2.1.2. Step 1: Formal request and verification of compliance with the requirements laid down in the ERIC Regulation

The application must be submitted in writing, in one of the official languages of the institutions of the Union.

It must be sent electronically by the candidate host state through its permanent representation or mission to the European Union on behalf of the members of the future ERIC at the following address: RTD-ERIC@ec.europa.eu

If needed, applicants can also use the following postal address:

The Director-General
European Commission
Directorate-General for Research and Innovation 1049 Brussels
BELGIUM

³⁸ See list of documents below in paragraph 2.2

The application must contain the required documents, finalised and agreed by the applicants. At this stage, it is sufficient to gather three member signatures (including the future host state), one from an EU Member State and two others from either Member States or associated countries, in order to comply with the requirements of Article 9(2) of the ERIC Regulation. The declaration by the host state recognising the future ERIC as an international body or organisation within the meaning of the directives on VAT and excise duties is also necessary.

The Commission must assess the application in line with the requirements laid down in the ERIC Regulation, as specified in the checklist included in Annex 1³⁹.

Typically, during the assessment, the Commission obtains the views of three independent experts, in particular in the field of the intended activities of the ERIC.

The Commission will inform the applicants of the results of the assessment by sending comments and where applicable suggest modifications to the draft scientific and technical description and/or to the statutes. The Commission, after assessment of the corrected documents, will invite the applicants to submit the finalised request signed by the future members of the ERIC after taking into account the comments and suggestions made.

2.1.3. Step 2: Revised request to the Commission to set up the ERIC

Following the procedure described above, the applicants must submit their finalised request to set up the ERIC accompanied by the final version of all the documents of the application. The corresponding request letters⁴⁰ must be signed by all applicants and must be included in the application.

On the basis of this request, and after a second round of exchanges with the applicants, the Commission seeks the opinion of the ERIC committee⁴¹ and prepares its decision.

When adopted, the Commission decision setting up an ERIC is notified to the applicants and published, together with the essential elements of the ERIC statutes in the L Series of the Official Journal of the European Union. The full text of the statutes is published in the C series.

The new ERIC is established on the date of entry into force of the Decision i.e. the day of its notification to the applicants⁴².

2.2. Content of the application

The file of the application must contain the following documents:

2.2.1. A request to the Commission to set up the ERIC

A suggested template can be found in Annex 3⁴³.

³⁹ Point 3.1.

⁴⁰ See point 3.3.

⁴¹ The comitology rules are laid out in Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

⁴² In accordance with Article 297(2) TFEU.

⁴³ Point 3.3.

2.2.2. The draft statutes of the ERIC.

The statutes of the ERIC must contain at least all the elements listed in Article 10 of the ERIC Regulation as analysed under paragraphs 1.2 and 1.3 above. A template is provided in Annex 2⁴⁴. However, this template should be adapted to the specific needs of each ERIC.

2.2.3. The technical and scientific description of the research infrastructure to be established and operated by the ERIC.

The technical and scientific description of the ERIC at its establishment should clearly and systematically define how the ERIC meets the specific requirements outlined in Article 4 of the ERIC Regulation⁴⁵.

This information should include approaches to resource management, key performance indicators of the ERIC's activities against which the progress of the ERIC can be benchmarked, as well as, where applicable, details of any intended economic activities. It should also include an adequate risk assessment to ensure a smooth implementation.

In the case of a distributed infrastructure involving other legal entities in the operation of the research infrastructure, the technical and scientific description should explain the boundaries and the planned arrangements and commitments between the ERIC and those legal entities and should be updated regularly.

2.2.4. The declaration by the host state recognising the ERIC as an international body and international organisation.

The formal declaration by the competent authority of the state where the statutory seat of the ERIC is located must enter into force as from the date on which the decision setting up the ERIC takes effect.

If the host state is an associated country, this declaration may be included in the declaration for the recognition of the legal personality and capacity of an ERIC⁴⁶.

The limits and conditions of the provided exemptions must be agreed upon between the members. The agreement may take the form of a separate document or may be included in the provisions of the statutes. It should specify the implementation of the exemptions, such as the a priori exemption or the recording and recovery of the tax paid; it should define their exact scope, requiring in particular that purchases are made for the official use of the ERIC and for its non-economic activities, or excluding purchases of certain types of goods or services; and it should set their limits, excluding for example minor purchases. It should also indicate the authority in charge of certifying the ERIC as an international body for intracommunity purchases. A template for this declaration is provided in Annex 3⁴⁷.

⁴⁴ Point 3.2.

⁴⁵ See "Prerequisites for setting-up an ERIC" in paragraph 1.1.

⁴⁶ See following point 2.2.5.

⁴⁷ Point 3.3.

2.2.5. The declaration of non-EU Member States recognising the legal personality and capacity of the ERIC⁴⁸.

If one or more members are associated countries (or third countries or intergovernmental organisations applying for membership at a later stage): a declaration, by each of those members, recognising the legal personality and capacity of the ERIC, agreeing that it will be subject to rules and jurisdiction as defined in the ERIC regulation and, where applicable, providing equivalent treatment as an international body or international organisation with respect to VAT and excise duties exemption and to procurement rules.

A template for this declaration is provided in Annex 3⁴⁹.

2.3. Amending the statutes of an ERIC

The statutes must provide for the procedural rules and the voting requirements in the assembly of members for their amendment. Member States and associated countries must hold jointly the majority of the voting rights in the assembly of members. For ERICs hosted by a member state, proposals for amendments of the statutes require, pursuant to Article 9(3) of the ERIC Regulation, the agreement of the majority of the EU Member States that are members of that ERIC.

Any proposed amendment must be submitted to the Commission to: RTD-ERIC@ec.europa.eu. The ERIC must send the text of the proposed amendment, along with the amended consolidated version of the statutes. In accordance with Article 11 of the ERIC Regulation, there are two different procedures for amending the statutes, depending on whether the provisions in question are deemed 'essential' or 'non-essential.'

2.3.1. Amendments concerning essential provisions of the statutes

According to Article 11(1) of the ERIC regulation, any proposal for an amendment concerning essential elements of the statutes⁵⁰ must be submitted by the ERIC to the Commission for approval.

In such case, the same procedure as for the setting up of the ERIC is followed: the Commission assesses the compatibility of the proposed amendment with EU law, particularly the requirements of the ERIC Regulation, and, after obtaining the opinion of the ERIC Committee, prepares the decision to amend the decision establishing the ERIC.

The amendment takes effect on the date on which the Commission decision enters into force, i.e. the day of its notification to the applicants.

2.3.2. Amendments concerning other provisions of the statutes

Any amendments not concerning essential elements of the statutes, must be notified to the Commission within 10 days after their adoption. Within 60 days from the submission, the Commission may raise an objection to the proposed amendment, giving reasons why the amendment does not comply with the requirements of the ERIC Regulation.

The proposed amendment takes effect, a) when the 60-day period for objections has expired; or b) when the Commission has waived the period for objecting; or c) when the Commission has lifted its objections.

⁴⁸ EEA-EFTA States that have implemented the ERIC Regulation do not need to issue such a declaration.

⁴⁹ Point 3.3.

⁵⁰ See above, paragraph 1.2.

Annexes to statutes are considered part of the statutes. Therefore, amendments to annexes to the statutes are assimilated to amendments to the main text of the statutes and must follow the same procedure. Irrespective of the type of procedure followed, after an amendment has entered into force, the ERIC must make a consolidated version of the statutes available on its website.

3. Annexes

3.1. Annex 1: Compliance checklist

3.1.1. Completeness of the application (for 'step 1' application)

- a request to the Commission to set up the ERIC (Article 5(1)(a) of the ERIC Regulation)
- a technical and scientific description (Article 5(1)(c) of the ERIC Regulation)
- a declaration by the host member and at least two other members, including at least one EU Member State, recognising the future ERIC as an international body in the sense of Articles 143(1)(g) and 151(1)(b) of Directive 2006/112/EC and as an international organisation in the sense of Article 11(1)(b) of Directive (EU) 2020/262, as of its setting up (Article 5(1)(d))
- the limits and conditions of the resulting VAT and excise duty exemptions — either contained in the statutes or as a separate agreement between the members (Article 5(1)(d) of the ERIC Regulation)
- proposed statutes (Article 5(1)(b) of the ERIC Regulation) containing all elements listed in Article 10 of the ERIC Regulation
- Where applicable, recognition of legal personality and privileges of the ERIC by associated countries

3.1.2. List of prerequisites

- Principal tasks to establish and operate a research infrastructure (Article 3(3) of the ERIC Regulation)
- Only limited economic activities (Articles 3(2) & 3(3) of the ERIC Regulation)
- Requirements relating to the research infrastructure (Article 4 of the ERIC Regulation):
 - important for European research; excellent in its field at international level;
 - provides effective access for European researchers;
 - contributes to the mobility of knowledge and/or researchers within the ERA;
 - contributes to dissemination/optimisation of the RTD results;
- Statutory seat located in a Member State or an associated country (Article 8(1) of the ERIC Regulation);
- Name of the ERIC contains 'ERIC' (Article 8(2) of the ERIC Regulation)
- Only EU Member States and associated countries and, in case of amending an existing ERIC, other third countries and intergovernmental organisations as members (Article 9(1) of the ERIC Regulation)
- Fair and reasonable terms for joining of new Member States and associated countries (Article 9(2) of the ERIC Regulation)
- Majority of voting rights held by Member States and associated countries (Article 9(3) of the ERIC Regulation)
- Bodies of the ERIC: assembly of members; director or board of directors (Article 12 of the ERIC Regulation)
- Liability regime: insurance foreseen in case of limited liability (Article 14(3) of the ERIC Regulation).

3.2. Annex 2: Statutes template

Disclaimer: This template is provided as a general guide to assist in drafting the Statutes. It is not prescriptive and should be customized to reflect the unique requirements, structure, and governance needs of each ERIC, ensuring alignment with the ERIC’s specific mission, legal framework, and operational context.

Statutes of {name} ERIC

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Article 18 — {Assembly of members}

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Article 25 — Working language

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Article 31 — Statutes updates and availability

{Article 32 — Setting-up provisions}

ANNEX I — LIST of MEMBERS, OBSERVERS AND THEIR REPRESENTING ENTITIES
ANNEX II — BUDGET — CONTRIBUTIONS

CHAPTER 1

ESSENTIAL ELEMENTS

Article 1

Name and statutory seat

1. “{name of the Research Infrastructure} is set up as a European Research Infrastructure Consortium (ERIC) under Regulation (EC) No 723/2009 named ‘{name} ERIC’.
2. {name} ERIC shall have its statutory seat in {city, country}.

Article 2

Task and activities

1. The principal task of {name} ERIC shall be to establish and operate the {name of the Research Infrastructure} + {description of the goal of {name} ERIC in a few lines}.
2. for the purposes of paragraph 1 {name} ERIC shall carry out the following activities: {list of main activities, the last one being: “any other related activity necessary to achieve its aim”}.
3. {name} ERIC shall pursue its principal task on a non-economic basis. Without prejudice of applicable State aid rules, {name} ERIC may carry out limited economic activities provided that they are closely related to its principal task and that they do not jeopardise the achievement thereof.

Article 3

Duration

{name} ERIC shall exist for an indefinite period of time {or: shall be established for an initial period of xxx years. That period shall be automatically extended for successive xxx-year period} or {shall be established for an initial period of xxx years. That period may be extended by a decision of the {assembly of members}}.

Article 4

Winding up

1. The winding up of {name} ERIC shall be decided by the {assembly of members} in accordance with Article xx.
2. Without undue delay and in any event within ten days after adoption of the decision to wind up {name} ERIC, {name} ERIC shall notify the European Commission about the decision.
{3. Assets remaining after payment of {name} ERIC debts shall be apportioned among the members in proportion to their accumulated annual contribution to {name} ERIC as specified in Article xx.}
4. Without undue delay and in any event within ten days of the closure of the winding up procedure, {name} ERIC shall notify the Commission thereof.
5. {name} ERIC shall cease to exist on the day on which the European Commission publishes the appropriate notice in the Official Journal of the European Union.

Article 5

Liability and insurance

1. {name} ERIC shall be liable for its debts.
2. The members are not jointly liable for the debts of {name} ERIC. {The members' financial liability for the debts of {name} ERIC shall be limited to their respective {annual} contribution as specified in Article xx.}
3. {name} ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of the {name of the research infrastructure}.

Article 6

Access Policy for users

1. {name} ERIC shall provide access to...
2. Access shall be based on: {criteria, procedure, modalities}.
3. {Procedures and evaluation criteria shall be made publicly available on {name} ERIC website} or {{name} ERIC shall adopt an access policy for users, for approval by the general assembly, to be made available on {name} ERIC website}.

Article 7

Scientific Evaluation Policy

The activities of {name} ERIC shall be evaluated {annually} {every five years} {by an independent panel, composed of international experts of the highest quality, appointed by the general assembly}.

Article 8

Dissemination Policy

- {1. {name} ERIC shall be a facilitator of research and shall, as a general rule, encourage open access as possible to research data.

1. {name} ERIC shall request/encourage researchers to make their research results publicly available and to make results available through {name} ERIC.
2. {name} ERIC shall use several channels to reach their target audiences, including web portal, news- letter, workshops, presence in conferences, articles in magazines and journals, social media, newspapers and other channels as may be appropriate.}

Article 9

Intellectual Property Rights Policy

1. {Subject to the term of any contract between {name} ERIC and the users, intellectual property rights created, obtained or developed by users shall be owned by those users}. {name} ERIC may own intellectual property rights...}
2. {name} ERIC shall adopt a policy on intellectual property rights for approval by the {assembly of members}. That policy shall be founded on the following principles: {...}

Article 10

Employment Policy

1. {name} ERIC's employment policy shall be governed by the laws of the country in which staff are employed.
2. The selection procedures for {name} ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities. Recruitment and employment shall not be discriminatory.
3. optional: {name} ERIC shall/may adopt an employment policy for approval by the {assembly of members}. That policy shall be founded on the following principles: {...}

Article 11

Procurement policy

- {1. {name} ERIC shall apply the European Union procurement rules/the procurement rules of the state where {name} ERIC has its statutory seat.
1. Or [to benefit from the exemption from the procurement directive granted to ERICs]:{name} ERIC shall treat procurement candidates from EU Member States as well as ERIC members and observers, equally and without discrimination.
 2. {optional}:Procurement by members and observers concerning {name} ERIC activities shall be carried out in such a way that due consideration is given to {name} ERIC needs, technical requirements and specifications issued by the relevant bodies.
 3. {name} ERIC shall adopt its own procurement rules, which respect the principles of transparency, non-discrimination and competition, to be approved by the {assembly of members}, to be made available on {name} ERIC website.

CHAPTER 2
GENERAL PROVISIONS

Article 12

Definitions

{As an alternative to this Article, an annex on definitions may be included to define the terms that have a specific meaning used in the statutes, such as the main elements of the research infrastructure.}

For the purposes of these statutes, the following definitions shall apply:

- (1) '...' means ...
- (2) '...' means

CHAPTER 3
MEMBERSHIP AND OBSERVER STATUS

Article 13

Membership and representing entity

1. The following entities may become members of {name} ERIC or may become observers of {name} ERIC without voting rights:

- (a) Member States of the European Union;
- (b) associated countries (within the meaning of Article 2(c) of Regulation (EC) No 723/2009);
- (a) third countries other than associated countries;
- (b) intergovernmental organisations.

2. Membership of {name} ERIC must include at least a Member State of the EU and two other countries that are either Member States or associated countries.

3. EU Member states or associated countries shall hold jointly the majority of the voting rights in the

{assembly of members}. The {assembly of members} shall determine any modification of voting rights that are necessary to ensure that {name} ERIC complies at all times with that requirement.

4. Any member or observer referred to in paragraph 1(a) to (c) may be represented by, one public entity or one private entity with a public service mission, of its own choosing and appointed in accordance with its own rules and procedures. Each member or observer shall inform the {assembly of members} of any change of its representing entity, of the specific rights and obligations which have been delegated to it or of any other relevant change.

5. The members and observers of {name} ERIC and their representing entities are listed in Annex I. Annex I shall be kept up to date by {...}.

Article 14

Conditions for becoming a member or an observer

1. Entities referred to in Article 13(1) willing to become members of {name} ERIC shall submit a written application to {e.g. the chair of the assembly of members}. That application shall describe how the entity will contribute to {name} ERIC objectives and activities described in Article xx and how it will fulfil obligations referred to in Article xx.

The admission of the entities as new members shall be subject to the approval by the {assembly of members}.

{other specific conditions may be added}

2. Entities referred to in Article 13(1) who are willing to contribute to {name} ERIC, but are not yet in a position to join as members, may apply for observer status.

Applicants shall submit a written application to the {Chair} of the {assembly of members}. That application shall describe how the applicant will contribute to {name} ERIC objectives and activities described in Article xx and how it will fulfil obligations referred to in Article xx.

Applicants shall be admitted as observers for a {xxx year period} maximum. {Observers may reapply once for extension of observer status}. {In exceptional cases} the {assembly of members} may accept further extension of observer status}.

The admission or re-admission of observers shall be subject to the approval by the {assembly of members}.

Article 15

Withdrawal of a member or an observer/Termination of membership or observer status

1. {Within the first xxx years of the establishment of {name} ERIC no member may withdraw unless the membership has been entered into for a specified shorter period}.

2. {After the first xxx years of the establishment of {name} ERIC a member may withdraw at the end of a financial year, following a request submitted xxx months prior to the withdrawal}.

3. Observers may withdraw at the end of a financial year, following a request submitted xx months prior to the withdrawal.

4. The {assembly of members} may terminate membership or observer status if the following conditions are met:

(a) the member or observer is in serious breach of one or more of its obligations under these statutes;

(b) the member or observer has failed to rectify such breach within xx months after it has received notice of the breach in writing;

(c) the member or observer had been given an opportunity to present its position to the {assembly of members} before a decision is made.

5. Members {and Observers} shall continue paying their Membership {and Observer} fees and fulfil all other obligations to {name} ERIC activities until withdrawal or termination comes into effect. {Optional: They shall neither have the right to restitution or reimbursement of any contributions made nor the right to lay any claim to the assets of {name} ERIC}.

CHAPTER 4

RIGHTS AND OBLIGATIONS OF THE MEMBERS AND OBSERVERS

Article 16

Members

1. Rights of members shall include: {list of activities to which members are entitled to, e.g. right of its research community to have access to ...}
2. Each member shall {list of obligations, e.g.:
 - (a) provide the annual contribution in accordance with Article xx;
 - (b) support the adoption of relevant standards;
 - (c) support the necessary technical infrastructure to make access possible;
 - (d) promote uptake of services among researchers in the member country, and ensure user feed- back and requirements are gathered;
 - (e) support centres in the member country by facilitating integration into national and other relevant infrastructures}.

Article 17

Observers

1. Rights of observers shall include: {list of activities to which members are entitled to, e.g.:
 - (a) the right to attend the {assembly of members} without a vote;
 - (b) the right for its research community to participate in {name} ERIC events, such as workshops, conferences, training courses (or: in activities identified by the {assembly of members});
 - (c) the right for its research community to have access to support from {name} ERIC in developing relevant systems, processes and services.}
2. Each observer shall: {list of obligations, e.g.:
 - (a) appoint a representing entity in accordance with Article xx;
 - (b) provide the annual contribution in accordance with Article xx}.

CHAPTER 5

GOVERNANCE

Article 18

{Assembly of members}

1. The {assembly of members} shall be the governing body of {name} ERIC and shall be composed of representatives of the members and observers of {name} ERIC.
2. Each member shall appoint {one-two} official representatives. {Additionally each member may bring experts}. {Each delegation may consist of up to xx persons, but shall carry one single vote}.
3. Each member shall have {one indivisible vote} {other option for voting rights}.

4. The {assembly of members} shall meet at least once a year, and shall be responsible for the over- all direction and supervision of {name} ERIC. The {assembly of members} shall:

{maintain a list of the decisions that have to be taken to operate {name} ERIC, e.g.: appoint the Director, appoint the members of advisory bodies, adopt the annual budget, approve the admission of new members/ observers, adopt the implementing rules, adopt decisions on contributions, create advisory bodies if deemed necessary, etc. Last item: "and decide on any other matters that are necessary to fulfil the task of {name} ERIC}.

5. The meetings of the {assembly of members} shall be convened by the {Chair}. A meeting of the

{assembly of members} may be requested by at least {percentage of contributions/number of members or a combination} of the members.

6. The {assembly of members} shall appoint a {Chair/Vice-chair} by {xxx majority} of the votes. The {Chair/Vice-chair} shall be elected for a {xxx year term}, {renewable once/twice/non-renewable}. The {Vice-chair} shall substitute the {Chair} in his/her absence, resignation, inability to act or in case of conflict of interest which cannot be otherwise resolved.

7. A quorum of {...} of members shall be required for having a valid {assembly of members} meeting. If the quorum is not met, a second meeting shall be convened {as soon as possible/within xxx calendar days} following a new invitation, with the same agenda. In the second meeting, the quorum shall be considered met if {...} of members are present.

8. The {assembly of members} shall strive to reach decisions by consensus. If consensus cannot be reached, decisions shall be taken by vote of the members.

9. The following decisions shall require {specific majority rule} of the votes cast {of the members present}:

- (a) proposal for amendments to the statutes of {name} ERIC;
- (b) termination of {name} ERIC;
- (c) termination of membership or observer status;
- (d) suspension or dismissal of the { Director- Board of Directors};
- (e) {decisions related to the amount or calculation of contributions};
- (f) {other decisions}.

10. The following decisions shall require {other specific majority rule} of the votes cast {of the Mem- bers present}:

- (a)
- (b) ...

11. All other decisions shall be passed by simple majority of the votes cast {of the members represented in the meeting}:

{11. [to be added where an ERIC is hosted by an EU Member State]. Proposals for amending these statutes shall require the agreement of the majority of the EU Member States that are members of {name} ERIC.}

12. Subject to these statutes, the {assembly of members} shall adopt its own rules of procedure.

Article 19

{Director or Board of Directors}

1. The {assembly of members} shall appoint the {Director/Board of Directors} of {name} ERIC in accordance with a procedure adopted by the assembly of members. The term for the {Director/Board of Directors} shall be {xxx} years, {renewable-non-renewable}.
2. The {Director/the Board of Directors} shall be {jointly} the legal representative of {name} ERIC.
3. The {Director/Board of Directors} shall carry out the day-to-day management of {name} ERIC.

The

{Director/Board of Directors} shall be responsible for the implementation of the decisions by the assembly of members.

Article 20

{Advisory Body}

1. The {Advisory Body} shall {description of its tasks}.
2. The {Advisory Body} shall consist of {description of its members}. The number of members of the {Advisory Body} shall be decided by the {assembly of members}. This number shall not be less than {xxx} and not more than {xxx}.
3. The members of the {Advisory Body} shall be appointed by the {assembly of members} for a term of {xxx} years. The {assembly of members} may reappoint them {once} for the same duration.
4. The chair of the Advisory Board shall be {appointed by xxx} {elected among its members}. The rules of procedure of the Advisory Board shall be adopted by the {assembly of members}.

[Example of advisory bodies: scientific advisory board, ethics advisory board.]

Article 21

{Committee representing the different entities involved in the activities at national level}

1. The {committee} representing the different entities involved in the activities at national level shall consist of {...} appointed by {...}.
2. The committee shall have the task of {e.g.: ensuring consistency, coherence and stability of infrastructure services, coordinating the procedures, tools and practices, making proposals to {...} to improve the quality and efficiency of the services, etc.}

CHAPTER 6

FINANCE

Article 22

Resources

The resources of {name} ERIC shall consist of the following:

- (a) financial contributions of members and observers;
- (b) {host contributions};
- (c) {other resources within limits and under terms approved by the {assembly of members}}.

Article 23

Budgetary principles, accounts and audit

1. The financial year of {name} ERIC shall begin on 1 January and end on 31 December of each year.
2. The accounts of {name} ERIC shall be accompanied by a report on budgetary and financial management of the financial year.
3. {name} ERIC shall be subject to the requirements of the law of the country where it has its statutory seat as regards preparation, filing, auditing and publication of accounts.

Article 24

Tax {and excise duty} exemptions

1. VAT exemptions based on Articles 143(1)(g) and 151(1)(b) of Council Directive 2006/112/EC and in accordance with Articles 50 and 51 of Council Implementing Regulation (EU) No 282/2011, shall be limited to purchases of goods and services by {name} ERIC and by Members of the ERIC, as defined in Article 9(1) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) which are for the official and exclusive use by {name} ERIC provided that such purchase is made solely for the non-economic activities of {name} ERIC in line with its activities.
2. VAT exemptions shall be limited to purchases exceeding the value of EUR xxx.
3. Excise Duty exemptions based on Article 11 of Council Directive (EU) 2020/262 (Article 12 of Council Directive 2008/118/EC), shall be limited to purchases by {name} ERIC which are for the official and exclusive use by {name} ERIC provided that such purchase is made solely for the non-economic activities of the {name} ERIC in line with its activities and that the purchase exceeds the value of EUR 300.
4. Purchases by the {name} ERIC staff members are not covered by the exemptions.

CHAPTER 7
MISCELLANEOUS

Article 25

Working language

1. The working language of {name} ERIC shall be {...}.

Article 26

Location (optional)

1. {name of the Research Infrastructure} shall be a {research organisation operating a {distributed-single site} research infrastructure located in {name} ERIC member countries, as well as in other countries where {name} ERIC has concluded agreements in accordance with Article {reference to applicable Article in statutes}.

Article 27

Data Policy

- {1. Open source and open access principles shall be favoured.
2. {name} ERIC shall provide guidance to users to ensure that research undertaken using material made accessible through {name} ERIC shall be undertaken within a framework that recognises the rights of data owners and privacy of individuals.
3. {name} ERIC shall ensure that users agree to the terms and conditions governing access and that suitable security arrangements are in place regarding internal storage and handling.
4. {name} ERIC shall define arrangements for investigating allegations of security breaches and confidentiality disclosures regarding research and/or personal data.}
5. {name} ERIC shall adopt a data policy in line with the basic principles set out in this Article...

Article 28

Reporting to the Commission

1. {name} ERIC shall produce an annual activity report, containing, in particular, the scientific, operational and financial aspects of its activities. The report shall be approved by the {assembly of members} and transmitted to the Commission and relevant public authorities within six months from the end of the corresponding financial year. This report shall be made publicly available.
2. {name} ERIC shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of {name} ERIC tasks or hinder {name} ERIC from fulfilling requirements laid down in Regulation (EC) No 723/2009.

Article 29

Applicable law

The internal functioning of {name} ERIC shall be governed:

- (a) by Union law, in particular Regulation (EC) No 723/2009 and the decisions referred to in Articles 6(1)(a) and 11(1) of the Regulation;
- (b) by the law of the state where {name} ERIC has its statutory seat in the case of matters not, or only partly, regulated by acts referred to in point (a);
- (c) by these statutes and their implementing rules.

Article 30

Disputes

1. The Court of Justice of the European Union shall have jurisdiction over litigation among the members in relation to {name} ERIC, between members and {name} ERIC and over any litigation to which the Union is a party.
2. Union legislation on jurisdiction shall apply to disputes between {name} ERIC and third parties. In cases not covered by Union legislation, the law of the state where {name} ERIC has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

Article 31

Statutes updates and availability

The statutes shall be kept up to date and publicly available on {name} ERIC website and at the statutory seat.

Article 32

Setting-up provisions

1. A first meeting of the general assembly shall be called by the state where {name} ERIC has its statutory seat as soon as possible after the Commission decision setting up {name} ERIC takes effect.
2. Before the first meeting is held and no later than forty-five calendar days after the Commission decision setting up {name} ERIC takes effect, the relevant state shall notify the founding members and observers of any specific urgent legal action that needs to be taken on behalf of {name} ERIC. Unless a founding member objects within five working days after being notified, the legal action shall be carried out by a person duly authorised by the relevant State.

ANNEX I — List of members, observers and their representing entities

Members

Country or Intergovernmental organisation	Representing entity (when applicable)

Observers

Country or Intergovernmental organisation	Representing entity (when applicable)

ANNEX II — BUDGET-CONTRIBUTIONS

(Including indicative budget for the first three to five years)

3.3. Annex 3: Templates for requesting the setting-up of an ERIC and for the recognition of its legal personality

3.3.1. Request for the setting-up of the [full name of the proposed ERIC] as a European Research Infrastructure Consortium (ERIC)

All members of the future ERIC having agreed to the documents listed below,

[name of Country 1] [name of Country 2] etc.

and hereby request the European Commission to set-up the *[full name of the proposed ERIC]* as an ERIC with the statutes attached hereto.

for the Government of *[name of host State] (Signature)*

for the Government of *[name of Country 2] (Signature)*

for the Government of *[name of Country 3] etc.*

Annexes:

- Statutes
- Technical and Scientific Description
- Declaration by the host member state recognising the ERIC as an international body/organisation in the sense of the VAT and excise duty directives as of its setting-up.
- *[if not included in the statutes: Agreement between the members of the ERIC on the limits and conditions of the tax exemptions mentioned above].*
- *[if applicable: Recognition of legal personality and privileges of the ERIC by members which are associated countries or other third countries].*

3.3.2. Template for the recognition of the legal personality and capacity of an ERIC and for providing equivalent treatment of an ERIC as an international body or organisation with respect to relief from VAT and excise duties by associated countries and other third countries (to be used accordingly, either when setting-up an ERIC or joining at a later stage)

1. State [name] represented by [name of authorised authority] in view of its application for [hosting] [membership] [observer status] of [name of the ERIC] declares that:

(a) [name of the ERIC] shall have legal personality and capacity under the laws and regulations of State [name] in accordance with Article 7(1) and (2) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community Legal framework for a European Research Infrastructure Consortium (ERIC) ⁽¹⁾;

(b) its participation in [name of the ERIC] shall be subject to rules determined in application of Article 15 of the ERIC Regulation.

2. State [name] shall accord to [name of the ERIC] treatment equivalent to that following:

(a) Article 5(1)(d) of Regulation (EC) No 723/2009 subject to the limits and conditions laid down in an agreement between the members of [name of the ERIC]; and

(b) Article 7(3) of Regulation (EC) No 723/2009.

3. This declaration shall bind [name of the state] from the moment of [the set-up of] [ERIC] and for as long as [name of the State] remains [host] [member] [observer] of [ERIC].

(¹) OJ L 206, 8.8.2009, p. 1.

3.3.3. Template for the recognition of legal personality and capacity of an ERIC for membership in an ERIC by intergovernmental organisations

Intergovernmental organisation [name] represented by [name of authorised representative] in view of its application for [membership] [observer status] of [name of the ERIC] declares that:

- [name of the ERIC] shall have legal personality and capacity under the laws and regulations of State [name] in accordance with Article 7(1) and (2) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community Legal framework for a European Research Infrastructure Consortium (ERIC) ⁽¹⁾;
- its participation in [name of the ERIC] shall be subject to rules determined in application of Article 15 of the ERIC Regulation.
- This declaration shall bind [name of name of Intergovernmental Organisation] as long as [name of Intergovernmental Organisation] remains member (or observer) of [name of the ERIC].

3.4. Annex 4: Annual activity report: Best practices

Annual activity reports are a cornerstone of ERIC operations, serving not only as a regulatory requirement but also as an essential communication tool for highlighting achievements, impacts, and activities to key stakeholders. As stipulated in Article 17(1) of the ERIC Regulation, these reports must include, in particular scientific, operational, and financial aspects of its activities. However, the diversity among ERICs demands a flexible yet harmonised reporting approach. The best practices described below draw on insights from the ERIC Forum Implementation Project’s analysis of existing practices, offering a structured yet adaptable methodology to help ERICs produce effective and impactful reports.

It should be emphasized that while the adoption and publication of an annual activity report is legally required, these practices are not legally binding but merely a recommendation to assist the report's authors in their tasks.

3.4.1. Purpose and Principles

The primary aim of an annual activity report is to present an ERIC’s contributions to science, society, and the economy in a way that is accessible to a wide range of audiences, including policymakers, funders, and the broader public. Reports are expected to balance clarity with comprehensiveness, aligning standardisation efforts with the unique context of each ERIC. Where feasible, reports benefit from integrating both narrative and quantitative data, utilising KPIs to illustrate impact effectively.

3.4.2. Key Elements of the Report

A well-structured report enhances accessibility and readability. Based on the analysis of 89 ERIC reports across 22 organisations, the following structure is recommended as best practice:

1. Executive Summary

A high-level overview at the start of the report provides readers with a snapshot of the year’s key activities and achievements. It is advisable to keep this section concise—ideally no more than two pages—while including quantitative highlights, such as the number of users served, significant publications, and operational milestones. Infographics or a “ERIC in Numbers” panel are highly effective for presenting this information.

2. Core Sections

To ensure clarity, reports are encouraged to organise content into distinct and identifiable sections. These may include:

- **Scientific Achievements**, showcasing key research outcomes and services provided. Incorporating clearly defined KPIs, such as the number of user requests, datasets made available, and publications, enhances the narrative.
- **Operational Performance**, which includes updates on governance, organisational developments, and infrastructure improvements. Visual aids like organigrams provide a clear representation of governance structures.
- **Financial Overview**, offering a summary of revenues, expenditures and investments. Lengthier tables and detailed figures are most effectively placed in annexes to maintain readability.

- Training and Education, which can summarise activities such as webinars, internships, and academic partnerships. Relevant metrics, including the number of participants and training hours, add value to this section.
- Outreach and Communication, highlighting stakeholder engagement initiatives and their outcomes. Metrics like website traffic, social media engagement, and audience demographics bring clarity to this section.

3. Impact Section

This section is an opportunity to connect ERIC activities to broader scientific, societal, and economic impacts. It is effective to include data on collaborations with industry, international partnerships, and contributions to policymaking. Quantitative data paired with narrative explanations helps contextualise the significance of these impacts.

4. Annexes

Annexes are invaluable for including detailed supporting documentation, such as financial data, extended statistics, and supplementary materials. By relegating these items to the annexes, the main report remains concise and reader-friendly.

3.4.3. Recommendations for Standardisation

Efforts to enhance consistency across reports are highly encouraged. Aligning metrics with the ESFRI KPI framework, where appropriate, fosters comparability while allowing customisation to reflect each ERIC's unique characteristics. It is strongly advised to align reporting periods with calendar years, ensuring compatibility with financial data. Defining metrics and terminology explicitly—such as what constitutes a “scientific publication”—prevents ambiguity and improves clarity. Consistency in the naming of constituent parts, such as nodes or centres, further supports understanding and comparability.

Reports benefit from thoughtful design. A report length of 25 to 75 pages is generally found to strike the optimal balance between providing sufficient detail and maintaining accessibility. The use of visual aids, such as maps, charts, and diagrams, is particularly effective for summarising complex information. Language choice is equally important; writing in a clear and engaging style helps ensure accessibility for a broad audience, while precision in technical sections is maintained.

Maximising usability is key to increasing the report's impact. Reports are best published in accessible formats, such as digitally enhanced PDFs or interactive online versions. Hyperlinks to related resources or datasets can enhance the experience for technical audiences. Additionally, drafts are most effective when reviewed thoroughly by internal stakeholders to ensure accuracy and completeness prior to transmission to the European Commission and other relevant authorities, and public dissemination.

3.4.4. Conclusion

The annual activity report represents an ERIC's achievements and contributions to the European Research Area. By adhering to these practical guidelines, ERICs can produce reports that not only fulfil regulatory requirements but also communicate their impact and value effectively to a diverse range of stakeholders.

3.5. Annex 5: Financial report: Best practices

Transparent, comprehensive, and standardised financial reporting is an integral part of an ERIC's annual activity report. Beyond fulfilling obligations under Article 17(1) of the ERIC Regulation, robust financial reporting provides stakeholders—including the European Commission, local authorities, and funding agencies—with a clear view of an ERIC's operational sustainability and the responsible use of resources. This annex outlines best practices for preparing the financial section of an ERIC's annual activity report, drawing upon good accounting principles, regulatory requirements, and the diverse needs of ERIC stakeholders.

It should be emphasized that adopting these practices is not a legal obligation but merely a recommendation to assist the report's authors in their tasks.

3.5.1. Purpose and Principles

The financial reporting section serves multiple purposes: compliance with national and international regulations; demonstration of financial transparency; assurance to stakeholders of effective resource allocation; as well as self-assessment of the ERIC management. Reports should be designed to balance accessibility with detail, providing a clear summary for non-expert readers while including sufficient data to meet the needs of accountants, auditors, and regulatory authorities. In-kind contributions, which form a significant component of many ERIC budgets, are recommended to be reported with the same rigour as financial transactions, ensuring a complete picture of resources and activities.

3.5.2. Key Elements of Financial Reporting

Comprehensive financial reporting involves a structured approach that reflects both general accounting principles and ERIC-specific needs. The following components are recommended for inclusion:

1. Financial Overview

This section summarises the ERIC's financial health over the reporting period. It is good practice to include an overview of income and expenditure, broken down into categories such as operational costs, project funding, staff expenses, and capital investments. A concise narrative should accompany these figures, explaining significant trends or deviations from previous years.

2. Revenue and Funding Sources

A detailed breakdown of revenue streams is essential. This includes contributions from member states, project funding (e.g., Horizon Europe), income from commercial activities, and any additional sources such as grants or philanthropic donations. For in-kind contributions, a clear explanation of their valuation methodology and alignment with the ERIC's activities is advised. With regard to projects, it is recommended to distinguish between externally and internally funded ones.

3. Expenditure Reporting

Expenditures should be categorised and summarised to provide clarity. Key categories may include:

- Operational Costs, such as facility maintenance, equipment upgrades, and IT services.
- Personnel Costs, detailing salaries, benefits, and training expenses.
- Research Activities, including project costs, collaborations, and external services.
- Outreach and Communication, where applicable, covering activities such as stakeholder engagement and public events.

For each category, narrative explanations are encouraged to contextualise expenditure and link it to the ERIC's objectives.

4. In-Kind Contributions

In-kind contributions represent a significant resource for many ERICs and are recommended to be included in financial reporting. These contributions may encompass goods, assets, services, or access to facilities provided by member states or partners. Best practice includes:

- Clearly valuing in-kind contributions based on fair market principles.
- Providing detailed descriptions of the nature and scope of these contributions.
- Aligning in-kind activities with the ERIC's strategic goals and annual objectives.

5. Financial Statements and Reconciliation

Full financial statements, including a balance sheet, income statement, cash flow statement and explanatory notes, are essential components of financial reporting. These statements should align with international accounting standards (e.g., IPSAS, IFRS or GAAP) where applicable. A reconciliation between reported income and expenditure and the ERIC's approved budget is also recommended to demonstrate accountability.

6. Compliance and Auditing

The financial section should document compliance with relevant regulations, including local laws and ERIC-specific requirements. Summarising the results of audits or external reviews provides additional assurance of financial integrity.

7. Annexes for Detailed Tables

Lengthy tables and technical data, such as detailed project budgets or multi-year financial forecasts, are best included in annexes. This ensures the main report remains reader-friendly while providing necessary depth for stakeholders requiring detailed analysis.

3.5.3. Reporting Best Practices

Financial reporting benefits from adhering to a set of standard practices that enhance clarity and comparability. Reports are most effective when structured around a clear narrative, supported by summarised data and visual aids such as charts or graphs. Reporting periods are recommended to align with calendar years, ensuring consistency with operational and impact reporting. Additionally, employing a standardised methodology for valuing and categorising in-kind contributions ensures comparability across ERICs.

Language and presentation also play a critical role. Financial data should be accompanied by clear and concise explanations, avoiding technical jargon wherever possible. The use of visual summaries, such as a "Financial Highlights" section, can provide an accessible overview for non-expert readers while preserving depth in the annexes.

3.5.4. Meeting Local and International Requirements

In addition to fulfilling ERIC-specific obligations, financial reports must account for the requirements of local authorities and regulatory bodies in member states. Ensuring compliance with these requirements may involve providing additional financial details or tailoring specific sections to local standards. Consultation with accounting professionals familiar with the relevant jurisdictions is advised.

3.5.5. Conclusion

Financial reporting is a cornerstone of the annual activity report, providing a transparent and accountable overview of an ERIC's resource allocation and operational health. By adopting these practical guidelines, ERICs can produce financial reports that meet regulatory requirements, satisfy diverse stakeholder needs, and uphold the highest standards of transparency and accountability.

3.6. Annex 6: Consolidated ERIC Regulation⁵¹

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B** **COUNCIL REGULATION (EC) No 723/2009**
of 25 June 2009

[on the Community legal framework for a European Research Infrastructure Consortium \(ERIC\)](#)

(OJ L 206 8.8.2009, p. 1)

Amended by:

► **M1** [COUNCIL REGULATION \(EU\) No 1261/2013 of 2 December 2013](#)

(OJ L 326 6.12.2013, p. 1)

▼ **B**

COUNCIL REGULATION (EC) No 723/2009
of 25 June 2009

on the Community legal framework for a European Research Infrastructure Consortium (ERIC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 171 and the first paragraph of Article 172, thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament (1),

Having regard to the opinion of the European Economic and Social Committee (2),

Having regard to the opinion of the Committee of the Regions (3),

⁵¹ <https://eur-lex.europa.eu/eli/reg/2009/723/oj>

Whereas:

(1) Pursuant to Article 171 of the Treaty the Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.

(2) The support and development of research infrastructures in Europe has been an ongoing objective of the Community, as last reflected in Decision 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (4) and in particular in Council Decision 2006/974/EC of 19 December 2006 on the specific programme 'Capacities' (5).

(3) While traditional support for the use and development of European research infrastructures has essentially taken the form of grants in favour of established research infrastructures in the Member States, the need for additional efforts has become apparent in recent years in order to stimulate the development of new structures by creating an appropriate legal framework which should facilitate their establishment and operation at the level of the Community.

(4) This need has been expressed on numerous occasions both at political level by the Member States and the Community institutions, and by the various actors within the European research community such as undertakings, research centres and universities and, in particular, the European Strategy Forum on Research Infrastructures (ESFRI).

(5) While the central role of world-class scientific research infrastructures for the attainment of the Community's RTD objectives set out in Article 163 of the Treaty has thus long been recognised under Community RTD Framework Programmes, the rules governing establishment, financing and operation of these structures are still fragmented and regionalised. Considering that European research infrastructures are in competition with those of the Community's global partners which are and will be strongly investing in modern large-scale research infrastructures, and that these infrastructures are becoming increasingly complex and expensive, often placing them beyond the reach of a single Member State or even continent, it is now necessary to exploit and develop the full potential of Article 171 of the Treaty by establishing a framework containing the procedures and conditions for the setting-up and operation of European Research Infrastructures at Community level which are necessary for the efficient execution of the Community's RTD programmes. This new legal framework would complement other legal forms existing under national, international or Community law.

(6) In contrast to Joint Technology Initiatives (JTI) constituted as Joint Undertakings of which the Community is a member and to which it makes financial contributions, a European Research Infrastructure Consortium (hereinafter referred to as 'ERIC') should not be conceived as a Community body within the meaning of Article 185 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (6) (the Financial Regulation), but as a legal entity of which the Community is not necessarily a member and to which it does not make financial contributions within the meaning of Article 108(2)(f), of the Financial Regulation.

(7) Given the close cooperation between Member States and the Community in programming and implementing their respective research activities in a complementary manner, as set out in Articles 164 and 165 of the Treaty, it should be for interested Member States, on their own or in conjunction with other qualified entities, to define their needs for the establishment of research infrastructures in this legal format, based on their research and technological development activities and on the requirements of the Community. For the same reasons, membership of an ERIC should

be open to interested Member States with the possible participation of qualified associated countries in the Community framework programme for research, technological development and demonstration (hereinafter referred to as 'associated states') and third countries and specialised intergovernmental organisations. In addition to full membership, Member States should be able to become observers of an ERIC on the conditions specified in its Statutes.

(8) An ERIC set up under this Regulation should have as its principal task the establishment and operation of a research infrastructure on a non-economic basis and should devote most of its resources to this principal task. In order to promote innovation and knowledge and technology transfer, the ERIC should be allowed to carry out some limited economic activities if they are closely related to its principal task and they do not jeopardise its achievement. The establishment of research infrastructures as ERICs does not exclude that research infrastructures of pan-European interest that have another legal form can equally be recognised as contributing to the progress of European research, including to the implementation of the roadmap developed by ESFRI. The Commission should ensure that ESFRI members and other interested parties are informed about these alternative legal forms.

(9) Research infrastructures should help to safeguard the scientific excellence of Community research and the competitiveness of the Community's economy, as based on medium-term to long-term forecasts, through the efficient support of European research activities. To achieve this they should be effectively open to the European research community at large in accordance with the rules established in their Statutes and should have the aim of enhancing European scientific capabilities beyond the current state of the art and should thereby contribute to the development of the European Research Area.

(10) In order to permit an efficient procedure for the setting-up of an ERIC, it is necessary for the entities willing to set up an ERIC to submit an application to the Commission which should assess, with the help of independent experts, which may include ESFRI, whether the proposed research infrastructure is in conformity with this Regulation. Such an application should contain a declaration of the host Member State recognising the ERIC as an international body or organisation for the purpose of the application of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (7) and Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (8), as of its setting up. The ERIC should also benefit from certain exemptions as an international organisation for the purpose of applying Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (9), in conformity with State aid rules.

(11) For reasons of transparency, the decision setting-up an ERIC should be published in the Official Journal of the European Union. For the same reasons, the essential elements of its Statutes should be annexed to such decisions.

(12) In order to carry out its tasks in the most efficient way, an ERIC should have legal personality and the most extensive legal capacity as from the day on which the decision setting it up takes effect. It should have a statutory seat, in order to determine the applicable law, within the territory of a member of that ERIC which is a Member State or an associated country.

(13) Membership of an ERIC should comprise at least three Member States and may include qualified associated countries and third countries other than associated countries as well as specialised intergovernmental organisations.

(14) In line with the Community dimension of this Regulation, Member States should jointly hold the majority of votes in the assembly of members of an ERIC.

(15) For the implementation of this framework, more detailed provisions should be laid down in Statutes, on the basis of which the Commission should examine the compliance of an application with the framework established in this Regulation.

(16) It is necessary to ensure that, on the one hand, an ERIC has the necessary flexibility to amend its Statutes and, on the other hand, that the Community which sets up the ERIC retains control over certain essential elements. If an amendment concerns an essential element of the Statutes annexed to the decision setting up the ERIC, such amendment should be approved, prior to taking effect, by a Commission decision taken following the same procedure as that for setting up the ERIC. Any other amendment should be notified to the Commission, which should have an opportunity to object if it considers the amendment contrary to this Regulation.

(17) It is necessary for an ERIC to equip itself with its own bodies for the effective management of its activities. The Statutes should determine the manner in which those bodies legally represent the ERIC.

(18) It is necessary for an ERIC to carry out its activities according to sound budgetary principles for the exercise of its financial responsibility.

(19) An ERIC could qualify for funding in accordance with Title VI of the Financial Regulation. Funding under the Cohesion Policy could also be possible, in conformity with the relevant Community legislation.

(20) In order to carry out its tasks in the most efficient way and as a logical consequence of its legal personality, an ERIC should be liable for its debts. In order to allow the members to find appropriate solutions regarding their liability, the option should be given to provide in the Statutes for different liability regimes going above the liability limited to the contributions of the members.

(21) Since an ERIC is established under Community law, it should be governed by Community law, in addition to the law of the State where it has its statutory seat. However, the ERIC could have a place of operation in another State. The law of that latter State should apply in respect of specific matters defined by the Statutes of the ERIC. Furthermore, an ERIC should be governed by implementing rules complying with the Statutes.

(22) Member States are free to apply or to adopt any laws, regulations or administrative measures which do not conflict with the scope or objectives of this Regulation.

(23) In order to ensure sufficient control of compliance with this Regulation, an ERIC should transmit to the Commission and relevant public authorities its annual report and any information about circumstances threatening to seriously jeopardise the achievement of its tasks. If the Commission obtains indications, through the annual report or otherwise, that the ERIC acts in serious breach of this Regulation or other applicable law, it should request explanations and/or actions from the ERIC and/or its members. In extreme cases and if no remedial action is taken, the Commission could repeal the decision setting up the ERIC; thus triggering the winding-up of the ERIC.

(24) Since the objective of this Regulation; i.e. the establishment of a framework for European Research Infrastructures between Member States, cannot be sufficiently achieved by the Member States in the framework of their national constitutional systems, by reason of the trans-national nature of the problem, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(25) Since this Regulation is primarily established for the efficient execution of Community research, technological development and demonstration programmes, and since the measures necessary for its implementation are essentially management measures, they should therefore be adopted by the management procedure provided for in Article 4 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission (10),

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation establishes a legal framework laying down the requirements and procedures for and the effects of setting-up a European Research Infrastructure Consortium (hereinafter referred to as an 'ERIC').

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) 'research infrastructure' means facilities, resources and related services that are used by the scientific community to conduct top-level research in their respective fields and covers major scientific equipment or sets of instruments; knowledge-based resources such as collections, archives or structures for scientific information; enabling Information and Communications Technology-based infrastructures such as Grid, computing, software and communication, or any other entity of a unique nature essential to achieve excellence in research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources);

(b) 'third country' means a State that is not a Member State of the European Union;

(c) 'associated country' means a third country which is party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to all or part of the Community research, technological development and demonstration programmes.

Article 3

Task and other activities

1. The principal task of an ERIC shall be to establish and operate a research infrastructure.
2. An ERIC shall pursue its principal task on a non-economic basis. However, it may carry out limited economic activities, provided that they are closely related to its principal task and that they do not jeopardise the achievement thereof.

3. An ERIC shall record the costs and revenues of its economic activities separately and shall charge market prices for them, or, if these cannot be ascertained, full costs plus a reasonable margin.

Article 4

Requirements relating to infrastructure

The research infrastructure to be established by an ERIC shall meet the following requirements:

(a) it is necessary for the carrying-out of European research programmes and projects, including for the efficient execution of Community research, technological development and demonstration programmes;

(b) it represents an added value in the strengthening and structuring of the European Research Area (ERA) and a significant improvement in the relevant scientific and technological fields at international level;

(c) effective access, in accordance with the rules established in its Statutes, is granted to the European research community, composed of researchers from Member States and from associated countries;

(d) it contributes to the mobility of knowledge and/or researchers within the ERA and increases the use of intellectual potential throughout Europe; and

(e) it contributes to the dissemination and optimisation of the results of activities in Community research, technological development and demonstration.

Article 5

Application for the setting-up of an ERIC

1. The entities applying for the setting-up of an ERIC (hereinafter referred to as applicants) shall submit an application to the Commission. The application shall be submitted in writing in one of the official languages of the institutions of the Union and shall contain the following:

(a) a request to the Commission to set up the ERIC;

(b) the proposed Statutes of the ERIC referred to in Article 10;

(c) a technical and scientific description of the research infrastructure to be established and operated by the ERIC, addressing in particular the requirements set out in Article 4;

(d) a declaration by the host Member State recognising the ERIC as an international body in the sense of Articles 143(g) and 151(1)(b) of Directive 2006/112/EC and as international organisation in the sense of the second indent of Article 23(1) of Directive 92/12/EEC, as of its setting up. The limits and conditions of the exemptions provided for in these provisions shall be laid down in an agreement between the members of the ERIC.

2. The Commission shall assess the application in line with the requirements laid down in this Regulation. During the assessment it shall obtain the views of independent experts in particular in the field of the intended activities of the ERIC. The result of such assessment shall be communicated to the applicants who shall, if necessary, be invited to complete or amend the application.

Article 6

Decision on the application

1. The Commission shall, taking into account the results of the assessment referred to in Article 5(2) and in accordance with the procedure referred to in Article 20:

(a) adopt a decision setting up the ERIC after it has satisfied itself that the requirements laid down in this Regulation are met; or

(b) reject the application if it concludes that the requirements laid down in this Regulation are not met, including in the absence of the declaration referred to in Article 5(1)(d).

2. The decision on the application shall be notified to the applicants. In the case of a rejection, the decision shall be explained in clear and precise terms to the applicants.

The decision setting up the ERIC shall also be published in the L series of the *Official Journal of the European Union*.

3. The essential elements of the Statutes as set out in Article 10 points (b) to (f) and in points (i) to (vi) of point (g) contained in the application shall be annexed to the decision setting up the ERIC.

Article 7

Status of an ERIC

1. An ERIC shall have legal personality as from the date on which the decision setting up the ERIC takes effect.

2. An ERIC shall have in each Member State the most extensive legal capacity accorded to legal entities under the law of that Member State. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings.

3. An ERIC is an international organisation within the meaning of Article 15(c) of Directive 2004/18/EC.

Article 8

Seat and name

1. An ERIC shall have a statutory seat, which shall be located on the territory of a member which shall be a Member State or an associated country.

2. An ERIC shall have a name containing the abbreviation 'ERIC'.

Article 9

Requirements for membership

1. The following entities may become members of an ERIC:

(a) Member States;

(b) associated countries;

(c) third countries other than associated countries;

(d) intergovernmental organisations.

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2. The membership of an ERIC must include a Member State and two other countries that are either Member States or associated countries. Further Member States or associated countries may join as members at any time on fair and reasonable terms specified in the Statutes and as observers without voting rights on conditions specified in those Statutes. Third countries other than associated countries as well as intergovernmental organisations, may also become members of an ERIC, subject to approval by the assembly of members referred to in Article 12(a), in accordance with the conditions and procedure for changes in membership laid down in its Statutes.

3. Member States or associated countries shall hold jointly the majority of the voting rights in the assembly of members. For an ERIC hosted by a Member State, proposals for amending its Statutes shall require the agreement of the majority of the Member States that are members of that ERIC.

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4. Any Member State, associated country or third country may be represented by one or more public entities, including regions or private entities with a public service mission, as regards the exercise of specified rights and the discharge of specified obligations as a member of the ERIC.

5. Associated countries, third countries and intergovernmental organisations applying for the setting-up of or for membership in an ERIC shall recognise that that ERIC shall have legal personality and capacity in accordance with Article 7(1) and (2) and that it shall be subject to rules determined in application of Article 15.

6. Associated and third countries applying for the setting-up of or for membership in an ERIC shall accord to the ERIC treatment equivalent to that following from Articles 5(1)(d) and 7(3).

Article 10

Statutes

The Statutes of an ERIC shall contain at least the following:

(a) a list of members, observers and, where applicable, of entities representing members and the conditions of and the procedure for changes in membership and representation in compliance with Article 9;

(b) the tasks and activities of the ERIC;

(c) the statutory seat in compliance with Article 8(1);

(d) the name of the ERIC in compliance with Article 8(2);

(e) the duration, and the procedure for the winding-up in compliance with Article 16;

(f) the liability regime, in compliance with Article 14(2);

(g) the basic principles covering:

(i) the access policy for users;

(ii) the scientific evaluation policy;

(iii) the dissemination policy;

(iv) the intellectual property rights policy;

(v) the employment policy, including equal opportunities;

(vi) the procurement policy respecting the principles of transparency, non-discrimination and competition;

(vii) a decommissioning, if relevant;

(viii) the data policy;

(h) the rights and obligations of the members, including the obligation to make contributions to a balanced budget and voting rights;

(i) the bodies of the ERIC, their roles and responsibilities and the manner in which they are constituted and in which they decide, including upon the amendment of the Statutes, in compliance with Articles 11 and 12;

(j) the identification of the working language(s);

(k) references to rules implementing the Statutes.

The Statutes shall be publicly available on the website of the ERIC and at its statutory seat.

Article 11

Amendments of the Statutes

1. Any amendment of the Statutes concerning the matters referred to in points (b) to (f) or in Article 10(g)(i) to (vi) shall be submitted to the Commission by the ERIC for approval. Such amendment shall not take effect before the decision granting approval has come into force. The Commission shall apply Articles 5(2) and 6, *mutatis mutandis*.
2. Any amendment of the Statutes other than that referred to in paragraph 1 shall be submitted to the Commission by the ERIC within 10 days after its adoption.
3. The Commission may raise an objection to such amendment within 60 days from the submission giving reasons why the amendment does not meet the requirements of this Regulation.
4. The amendment shall not take effect before the period for objecting has expired or has been waived by the Commission or before an objection raised has been lifted.
5. The application for the amendment shall contain the following:
 - (a) the text of the amendment proposed or, where appropriate, as adopted, including the date on which it enters into force;
 - (b) the amended consolidated version of the Statutes.

Article 12

Organisation of the ERIC

The Statutes shall provide for at least the following bodies having the following competencies:
(a) an assembly of members as the body having full decision-making powers, including the adoption of the budget;

(b) a director or a board of directors, appointed by the assembly of members, as the executive body and legal representative of the ERIC.

The Statutes shall specify the manner in which the members of the board of directors legally represent the ERIC.

Article 13

Budgetary principles, accounts and audit

1. All items of revenue and expenditure of an ERIC shall be included in estimates to be drawn up for each financial year and shall be shown in the budget. The revenue and expenditure shown in the budget shall be in balance.
2. The members of an ERIC shall ensure that the appropriations are used in accordance with the principles of sound financial management.
3. The budget shall be established and implemented and the accounts presented in compliance with the principle of transparency.
4. The accounts of an ERIC shall be accompanied by a report on budgetary and financial management of the financial year.
5. An ERIC shall be subject to the requirements of the applicable law as regards preparation, filing, auditing and publication of accounts.

Article 14

Liability and insurance

1. An ERIC shall be liable for its debts.
2. The financial liability of the members for the debts of the ERIC shall be limited to their respective contributions provided to the ERIC. The members may specify in the Statutes that they will assume a fixed liability above their respective contributions or unlimited liability.
3. If the financial liability of the members is not unlimited, the ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of the infrastructure.
4. The Community shall not be liable for any debt of the ERIC.

Article 15

Applicable law and jurisdiction

1. The setting-up and internal functioning of an ERIC shall be governed:
 - (a) by Community law, in particular this Regulation, and the decisions referred to in Articles 6(1)(a) and 11(1);
 - (b) by the law of the State where the ERIC has its statutory seat in the case of matters not, or only partly, regulated by acts referred to in point (a);
 - (c) by the Statutes and their implementing rules.
2. The Court of Justice of the European Communities shall have jurisdiction over litigation among the members in relation to the ERIC, between the members and the ERIC and over any litigation to which the Community is a party.
3. Community legislation on jurisdiction shall apply to disputes between an ERIC and third parties. In cases not covered by Community legislation, the law of the State where the ERIC has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

Article 16

Winding-up and insolvency

1. The Statutes shall determine the procedure to be applied in the case of winding-up of the ERIC following a decision of the assembly of members. Winding-up may include the transfer of activities to another legal entity.
2. Without undue delay after the adoption of the decision by the assembly of members to wind up, and in any event within 10 days after such adoption, the ERIC shall notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*.
3. Without undue delay after the closure of the winding-up procedure, and in any event within 10 days after such closure, the ERIC shall notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*. The ERIC shall cease to exist on the day of publication of the notice.
4. At any time, in the event that the ERIC is unable to pay its debts, it shall immediately notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*.

Article 17

Reporting and control

1. An ERIC shall produce an annual activity report, containing in particular the scientific, operational and financial aspects of its activities referred to in Article 3. It shall be approved by the assembly of members and transmitted to the Commission and relevant public authorities within six months from the end of the corresponding financial year. This report shall be made publicly available.
2. An ERIC and the Member States concerned shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the task of the ERIC or to hinder the ERIC from fulfilling the requirements laid down in this Regulation.
3. Where the Commission obtains indications that an ERIC is acting in serious breach of this Regulation, the decisions adopted on the basis thereof or other applicable law, it shall request explanations from the ERIC and/or its members.
4. If the Commission concludes, after having given the ERIC and/or its members a reasonable time to provide their observations, that the ERIC is acting in serious breach of this Regulation, the decisions adopted on the basis thereof or other applicable law, it may propose remedial action to the ERIC and its members.
5. If no remedial action is taken, the Commission may repeal the decision establishing the ERIC in accordance with the procedure referred to in Article 20. Such decision shall be notified to the ERIC and be published in the L series of the *Official Journal of the European Union*. This shall trigger the winding-up of the ERIC.

Article 18

Appropriate provisions

Member States shall take such measures as are appropriate to ensure the effective application of this Regulation.

Article 19

Report and Review

Not later than 27 July 2014, the Commission shall forward to the European Parliament and the Council a report on its application and proposals for amendments, where appropriate.

Article 20

Committee procedure

1. The Commission shall be assisted by a management committee.
 2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
- The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

Article 21

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

(¹) Opinion of 19.2.2009 (not yet published in the Official Journal).

(²) Opinion of 14.1.2009 (not yet published in the Official Journal).

(³) OJ C 76, 31.3.2009, p. 6.

(⁴) OJ L 412, 30.12.2006, p. 1.

(⁵) OJ L 54, 22.2.2007, p. 101.

(⁶) OJ L 248, 16.9.2002, p. 1.

(⁷) OJ L 347, 11.12.2006, p. 1.

(⁸) OJ L 76, 23.3.1992, p. 1.

(⁹) OJ L 134, 30.4.2004, p. 114.

(¹⁰) OJ L 184, 17.7.1999, p. 23.

Where to find relevant information

The ERIC webpage is regularly updated:

http://ec.europa.eu/research/infrastructures/index_en.cfm?pg=eric

You may send your enquiries to: RTD-ERIC@ec.europa.eu

Further guidance and best practices are being collected and made available regularly by the broad community of existing ERICs notably through their network, the ERIC Forum: <https://www.eric-forum.eu/>

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For access to legal information from the EU, including all EU law since 1951 in all the official language versions, go to EUR-Lex (eur-lex.europa.eu).

EU open data

The portal data.europa.eu provides access to open datasets from the EU institutions, bodies and agencies. These can be downloaded and reused for free, for both commercial and non-commercial purposes. The portal also provides access to a wealth of datasets from European countries.

ERICs are legal entities set up under EU law to facilitate the establishment and operation of research infrastructures with European interest. They can be used either for establishing a new research infrastructure or for integrating existing research infrastructures into a single legal entity that is more advantageous for their operations and structural needs in the context of the European Research Area and of a global outreach.

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Research and Innovation policy