



The ERIC legal framework

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

- designed to facilitate the joint establishment and operation of **research infrastructures of European interest**
- based on EU law (Article 187 TFEU)
- **Council Regulation (EC) No 723/2009** (25 June 2009) on the Community legal framework for a European Research Infrastructure Consortium (ERIC) amended by Council Regulation **(EU) No 1261/2013** (2 December 2013)

Motivation for the creation of ERIC

- First ESFRI Roadmap
- ESFRI workshop on legal issues 2006: need for specific legal form

| | |
|-----------------------------------|---|
| EEIG | pro: European form contra: unlimited joint and several liability |
| Société civile, GmbH... | pro: flexibility contra: national law applicable |
| Intergovernmental Organisation | pro: flexibility contra: lengthy ratification procedures |

ERIC : Main aims and features

An easy-to-use **legal instrument** providing:

- the spirit of a truly European venture
- a legal personality recognized in all EU Member States
- flexibility to adapt to the specific requirements of each infrastructure
- some privileges / exemptions allowed at a national level for intergovernmental organisations
- a faster process than creating an international organisation

Membership of an ERIC

- **Countries**
 - **Intergovernmental organisations**
- A country may be **represented** by one or more public entities or private entities with a public-service mission
 - An ERIC must at all times have at least **one Member State** and **two other Member States or associated countries** as members.
 - Other third countries can be members. The majority of the **voting rights** has to remain with Member States and associated countries.

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

Public Procurement and VAT

ERICs shall be considered as international bodies/ organisations for the purposes of the Directives on public procurement, VAT and excise duties:

- ERICs are not bound by the procedures of the **Public Procurement Directive** but may set their own procurement rules based on **transparency, non-discrimination and competition**.
- ERICs are exempted from paying **VAT** and **excise duty**.

ERIC's Task & requirements

- Principal task: **establish and operate a Research Infrastructure**, on a **non-economic basis** (limited economic activities are however possible)
- Five requirements to be met:
 1. necessary for **European research**
 2. **added value** in the development of **ERA** and significant improvement in relevant S&T fields at international level
 3. **effective access** to European researchers
 4. contributes to the **mobility** of knowledge and/or researchers within the ERA
 5. contributes to the **dissemination** and **optimisation** of the RTD results

Applicable law and jurisdiction

- Internal functioning:
 1. **EU law** (in particular the ERIC Regulation)
 2. The law of the State where the ERIC has its **statutory seat**
 3. The **ERIC's statutes**, adopted in conformity with the sources of law referred to above, and its implementing rules
- **Court of Justice of the European Communities** (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)
- **Community legislation on jurisdiction** (disputes between ERIC and third parties)

Setting up an ERIC

- At least 1 EU Member State + 2 MS/ACs agree to **establish and operate together a research infrastructure**.
- Members agree on **statutes** ruling governance, IPR policy, financing, etc.
- Members submit an application file to the Commission, which, with the aid of independent experts, examines whether the conditions of the ERIC Regulation are fulfilled (**two steps procedure**)
- Commission takes **decision** to set up the ERIC following **consultation of the ERIC Committee** composed of representatives of all EU Member States

ERICs landscape

- **First ERIC:** 17 March **2011** - SHARE-ERIC
- **Up to now:** 22 ERICs have been set up covering all S&T fields (last one: ELI ERIC, EC decision on 30 April 2021)
- **New ERICs:**
 - 2 new ERICs in adoption phase (step 2),
 - 5 new ERICs already evaluated (step 1 completed) and
 - 1 new ERIC –soon- under evaluation (step 1)

ERICs landscape

Associated countries in ERICs

| Country | Host | Mb | Obs | Total |
|------------------------|----------|-----------|-----------|-----------|
| Norway | 2 | 13 | | 15 |
| United Kingdom | 2 | 11 | 1 | 14 |
| Israel | | 5 | | 5 |
| Iceland | | 4 | | 4 |
| Serbia | | 2 | 1 | 3 |
| Bosnia and Herzegovina | | 1 | | 1 |
| Switzerland | | 1 | 8 | 9 |
| North Macedonia | | 1 | | 1 |
| Turkey | | | 1 | 1 |
| Total | 4 | 38 | 11 | 53 |

Implementation of the ERIC Regulation

- **Council Conclusions** of Nov. 2018 ‘**ERIC implementation report by 2022**’
- Assessment on the implementation of the ERIC Regulation by the Commission **Expert Group ‘EGERIC’** chaired by Carlo Rizzuto
- *EGERIC* findings: contribution to the report to the Council and basis for **consultation process** notably
 - ERIC workshop on 13, 14 September 2021
 - Presentation to the ERIC Committee on 19 October 2021
 - broader discussions on research infrastructures (ESFRI days, ERA Presidency Conference...)
 - Link to EGERIC Report

Summary Outcomes

- Successful implementation of 22 new Research Organizations as an «ERIC System» producing excellent science and training, and strengthening ERA.
- Most ERICs are distributed and overall connect hundreds of universities and institutions, with international integration of research and of training from most MSs and with synergies between EU-national-regional resources.
- *A paradigm shift*: from service RIs to integrated research in response to challenges; most translate results into economy and society, connected to data production & EOSC, and to Global outreach.

Summary Recommendations

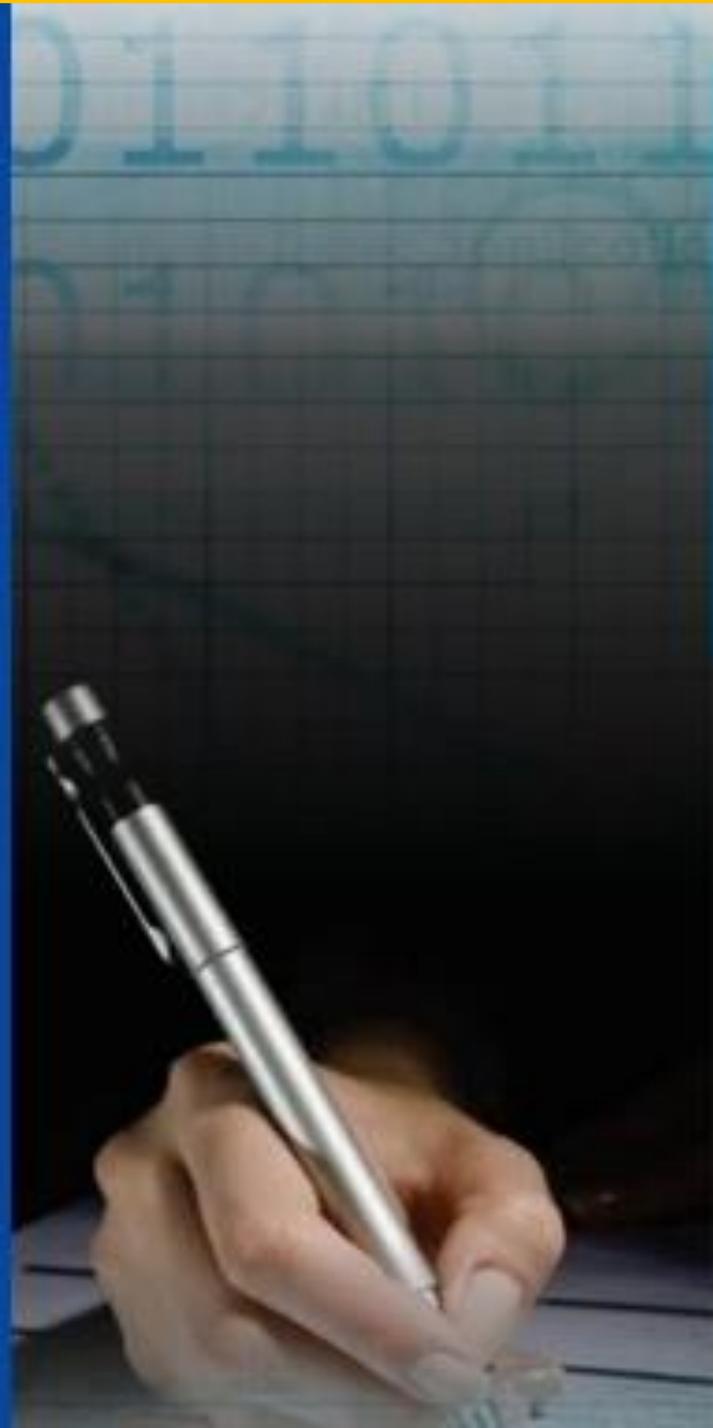
- Improved governance within the ERA's is needed to better exploit the capacity of the "ERIC system" while ensuring legal compliance to the EC;
- Must be based on collecting & using standard data at all levels by systematic follow-up and involving ERIC Committee, ESFRI and ERIC Forum;
- Integration of centres + peripheries to be stimulated and supported, in particular ERIC activities in Universities & Institutions should be recognized;
- ERIC's employment is EU wide and must be as in other EU-wide Entities;
- Sustainability of the ERIC system should be addressed through long term planning of public support, full implementation of tax exemptions and fair participation to partnerships and service activities;
- The ERIC Forum should be recognized as key enabler at EU level;

ERIC Forum

A collaboration of existing ERICs, currently supported by an H2020 project:

- strengthening coordination and networking reinforcing the informal ERIC network or its successor framework;
- support the organisation of specific meetings, targeted thematic workshops;
- support ERICs in preparation, based on best practices;
- support common communication and outreach activities and strengthening external representation of ERICs' as a stakeholder in consultations and other policy actions that could affect them.

Link to ERIC Forum [website](#)



Legal framework
for a European
Research
Infrastructure
Consortium - ERIC

Practical Guidelines

Further information

- **Practical Guidelines** to use ERIC available
- Additional information at:
https://ec.europa.eu/info/research-and-innovation/strategy/european-research-infrastructures/eric_en