



# 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	<b>pro:</b> European form <b>contra:</b> unlimited joint and several liability
Société civile, GmbH...	<b>pro:</b> flexibility <b>contra:</b> national law applicable
Intergovernmental Organisation	<b>pro:</b> flexibility <b>contra:</b> 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
<b>Total</b>	<b>4</b>	<b>38</b>	<b>11</b>	<b>53</b>

# 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](https://ec.europa.eu/info/research-and-innovation/strategy/european-research-infrastructures/eric_en)