

ERIC Forum 2

Recommendations on how to address the challenges related to the ERIC Regulation and its implementation for the relevant WPs of EF2

Work Package 12 - Deliverable 12.1

Project name	Second implementation project for the ERIC Forum
Project acronym	ERIC Forum 2
Project number	101124559
Deliverable no	D12.1
Deliverable Title	Recommendations on how to address the challenges related to the ERIC Regulation and its implementation for the relevant WPs of EF2
Contractual delivery month	6
Responsible Partner	Euro-Argo ERIC
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Dissemination level	Public
Description of deliverable	The report provides a description of operational issues and challenges related to the implementation of the ERIC Regulation from the point of view of established ERICs as well as recommendations on how to address them. It covers governance and organization, financial sustainability, ERIC status in host countries, the VAT exemption, limited economic activity and non-economic activity, human resources and international outreach.

Executive summary

Since the establishment of a Regulation on a Community legal framework based on Article 171 of the EC Treaty in 2009 the ERIC regulation¹ became the gold standard for the setup of a European Research Infrastructure Consortium (ERIC) and other European non-ERICs. The ERIC concept is at the heart of implementing the European Research Area (ERA): with the provision of an easy-to-use legal framework on governance, operational, and scientific matters it has facilitated the formation of consortia of Member States, reduced fragmentation and duplication of efforts in the research and innovation ecosystem, and improved the coordination of the development and construction of cutting-edge and cost-effective research infrastructures responding to scientific and global challenges. The success and impact of ERICs and the ERIC regulation on the European research and innovation landscape cannot be overstated.

However, over the past fourteen years, the now 28 ERICs have been exposed to the reality of the implementation of the ERIC regulation, including the effective use of the EC Practical Guidelines for the Implementation of the ERIC Regulation, and to the specific challenges in their disciplines and national context. Indeed, the requirement to follow and implement respective laws of the host countries led to various interpretations of the Regulation preventing Member States and the management of the ERICs to leverage the full potential of the ERICs.

While ERICs and their surrounding ecosystems vary greatly, a set of common challenges can be identified. They are categorised in this report as follows: (1) challenges with governance and organisational matters, (2) financial sustainability, (3) varying national laws and contexts that entail hurdles for the ERIC recognition, (4) the implementation of the VAT exemptions, (5) the limited and non-economic activities, (6) mobility and employment of highly skilled personal, and (7) internationalisation.

The present report intends to summarise the collective operational experiences of ERICs to sharpen the understanding of the issues and challenges. It was commented on by ERIC Directors and validated by Antje Keppler and Allen Weeks, respectively Chair and Vice-Chair of the ERIC Forum. It is a starting point for a more systematic consultation of all ERICs, at a later stage, in the framework of WP12 ('Addressing the challenges of the implementation of the ERIC Regulation, including the VAT exemption'). Furthermore, it will feed the work of several WPs of the EF2 project whose scope covers the topics mentioned above (WP4 'ERICs and European Science Policy & Research Strategy (Implementation Action 8)'; WP5 'Sustainability of ERIC services, including service integration and/or interoperability and access'; WP6 'ERIC alignment on EU policy priorities and visibility in the national arena'; WP7 'International dimension of ERICs'; WP11 'Implementation of the ERIC Regulation: Strategy on European employment contracts'; WP13 'Implementation of the ERIC regulation - Challenges of distributed, multi-site and single-site ERICs').

The report can also prepare the grounds for the revision of the EC practical guidelines for the implementation of the ERIC Regulation² and for a revision of the ERIC Regulation itself, should it be required. Indeed, while the guidelines serve as guidance, the Regulation should be used to set the future pathways of ERICs: a changing society with transforming scientific and societal developments such as digitisation and FAIRification of research, greening or open access in times of pandemic and wars needs a solid ERIC regulation adapted to contemporary challenges.

¹ COUNCIL REGULATION (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC); <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:206:0001:0008:EN:PDF>

² European Commission, Directorate-General for Research and Innovation, ERIC practical guidelines – Legal framework for a European Research Infrastructure Consortium, Publications Office, 2015, <https://data.europa.eu/doi/10.2777/72348>

Document log

Issue	Date (yyyy-mm-dd)	Comment	Author/partner
1	2024-03-29	Initial version	Laura Angeletti (CERIC ERIC), Ornela De Giacomo (CERIC ERIC), Bonnie Wolff-Boenisch (CESSDA ERIC), Gabor Nemeth (ELI ERIC), Nad'a Witzanyová (ELI ERIC), Luc van Dyck (Euro-Argo ERIC)

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1. Governance & Organization

Article 9.5 of the ERIC Regulation prescribes that “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.”

Article 12. of the ERIC Regulation ‘Organisation of the ERIC’ describes the governing structure of an ERIC, which must include (a) an assembly of members as the body having full decision-making powers, including the adoption of the budget; and (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 **ERIC practical guidelines** indicate that “For ERICs operating distributed infrastructures, the director may be supported by a committee consisting of representatives of the national facilities [...]” In practice, when this guidelines’ indication is implemented, a director is normally reporting to a Management Board, usually composed of members of the Representing Entities. Consequently, the Board of Directors or the Management Board and the General Assembly are often composed of delegates from the same Representing Entities, leading eventually to a confusion between management and governance.

The implementation of the regulation articles mentioned above varies from ERIC to ERIC, and may create severe operational challenges. More specifically, a delegation of specified rights and the discharge of specified obligations to the Representing Entities by the ERIC Members of the ERIC, if it is done without having a clear managerial concept, may hinder the efficient execution of Community research, technological development and demonstration programmes, thereby diminishing the impact of the ERIC and compromising its sustainability. For example:

- The obligation to pay the membership fees (**Article 10.h of the ERIC Regulation** refers to the obligation of the Members to make contributions to a balanced budget) can be delegated to the Representing Entities without being compensated by the Member. While from the legal point of view the Member is responsible for the payment vis-à-vis the ERIC, the payment of the membership fees on the operational budget of Representing Entities or, sometimes, on project funding endangers the capacity to continue to participate in the ERIC. It can create a conflicting situation when contributions, which should be commensurate to the needs, result in a decrease of the operational budget of the entity. Consequently, payment of the fees on operational budget or project funding can severely hamper the development and the sustainability of the ERIC, which should build on stable financial contributions for its operation.
- The delegation of the representation in the Assembly of Members (**Article 10.a**) to a Representing Entity may lead to conflicts of interest and a strongly reduced political oversight. The presence of Ministerial delegates can guarantee that decisions taken in the ERIC are in the best interest of the Members and the Community, achieving a high impact of the ERIC and contributing to its relevance and sustainability.

How can this be addressed?

The **ERIC practical guidelines** could include the following recommendations to Members of an ERIC, based on the experience of the existing ERICs:

- A best practice is to ensure dual, scientific and ministerial representation in the General Assembly, while ensuring that these representations do not have conflicts of interest regarding the operation and/or sustainability of the ERIC.
- The financial contributions for the operation of the ERIC should be allocated by the Member and conferred by the Member directly, whenever possible, or through a Representing Entity who should receive this as a specific contribution from the Member (ideally in a budgetary line distinct from the regular core-funding and with stable, long-term and multi-annual implementation mechanisms).
- Payment of fees with project funding must be strongly discouraged in the EC guidelines for sustainability reasons.

Explaining one element of **Article 9 of the ERIC Regulation**, the **ERIC practical guidelines** indicate that “The statutes provide for the distribution of voting rights, e.g. each member has one vote or the voting rights are determined in proportion to the respective contributions or any other mechanism which the members consider fair and efficient.”

Various voting right models are applied across the ERIC landscape. These can range from the one country—one vote model to voting rights determined in proportion to the respective contributions of the Members or a combination of both depending on the decision matter (policy, operations, development plans, membership fees, etc.). The EF2 project will review various models applied by the ERICs as well as the majorities needed for approval of key items, and describe the pros and cons of each one.

What should be addressed?

The **ERIC practical guidelines** should alert about the fact that once the voting rights and the decision matter have been established in the Statutes of the ERIC, it is extremely difficult to revise them.

As regards the voting majority, the **ERIC practical guidelines** should alert that requesting unanimous decisions must be carefully considered, on a case-by-case basis, given that it could potentially lead to a single Member blocking the ERIC operation.

Article 17.1 of the ERIC Regulation prescribes that “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.”

The EGERIC Report emphasizes that the lack of adequate reporting on the scientific, operational and financial aspects, particularly in distributed ERICs, limits their governance efficiency, visibility and global impact. Indeed, accessing information, especially on financial aspects, represents a major challenge. The ERIC perimeter is often composed of dozens or more small entities whose links to the ERIC Headquarter(s) can be rather loose.

A lack of identification as participating entities of an ERIC (already identified in the EGERIC report), at entity or institutional level, complicates the reporting. Furthermore, many entities, including Representing Entities, do not have an accounting/reporting system allowing to identify costs and investments specifically dedicated to the ERIC or the various funding sources. This makes it very challenging to assess the full value of an ERIC and may hamper long-term projections and planning.

It should be stressed that participation in an ERIC induces, especially for the Representing Entities, significant additional administrative costs, including for the reporting. In some ERICs, these costs are partially compensated by dedicated contributions from the ERIC (Headquarter) budget and are covered by the membership fees. In other ERICs, costs are often paid by entities on operational or project-based funding. Consequently, the capacity and willingness to meet the expectations may be impacted.

How can this be addressed?

Revised **ERIC practical guidelines** should aim to help address these challenges, notably by recommending rules for the definition of the perimeter of the ERIC and for a common reporting methodology, including for the value of in-kind contributions.

2. Financial sustainability

As mentioned in section 1, the capacity of Members to pay the fees regularly is crucial for the correct operation of the ERIC and the achievement of its goals and expected impact. Members should not transfer this obligation to Representing entities (see section 1).

The practical guidelines should provide examples of activities that should be included in the operation of the ERIC and thus financed through the membership fees ("core budget"). This list could be improved, adding aspects that may not be obvious for research infrastructure projects applying to become an ERIC but that, based on the 10 years of operations of ERICs, it would be advisable to include as main tasks of an ERIC.

How can this be addressed?

The **ERIC practical guidelines** could include, *inter alia*, the following tasks amongst those to be considered for the operation of the ERIC:

- Communication and dissemination
- Internationalisation activities
- Performance monitoring
- Impact assessment
- Compliance with new policies and regulations, and upgrade of internal policies and procedures

At a later stage, some or all should be incorporated amongst the core activities of the ERIC in the **ERIC regulation**.

These “additional activities” strictly relate to the financial sustainability of the ERIC.

Communication and dissemination activities are expected by political stakeholders and are vital for ERICs to achieve their main goals, such as outreach to new communities, attract excellent users, communicate effectively the results to all stakeholders, engage citizens, etc.

Internationalisation activities are a clue for increasing the membership base of the ERIC. This is vital for increasing the financial contributions, but also necessary to achieve the objectives of the ERIC. The pan-European and sometimes global nature of ERICs benefits from the most extensive geographical coverage, but engaging new members requires efforts and resources.

Performance monitoring has been identified by ESFRI as a good management practice, to the extent that ESFRI Landmarks are monitored periodically, and need to have in place a monitoring strategy. Setting up such a strategy also requires resources, and the collection of indicators may be a time-consuming process complicated by the various monitoring requirements at national level. Dedicated resources should be available in the ERIC to perform these tasks on a regular basis, and to adapt to new requirements that either funders or bodies (EC, ESFRI) may adopt for research infrastructures.

Performing a periodic impact assessment allows to show funders, society and other stakeholders the value for their investment. It is a powerful instrument that may help engage Members, who may not see their benefit, to appreciate the value that the ERIC delivers for the scientific community but also for them. This can also help the ERIC in the negotiation of a fee increase, when either the entity or the scope of the ERIC increases. This is a very positive sign of success of the ERIC, but unless these results are communicated in an effective way, the growth of the ERIC will be hindered due to the lack of understanding from funders on the added value.

As policies and regulations advance in Europe, ERICs face challenges in compliance. For example, ERICs recently faced the need to adopt measures to be compliant with the GDPR, to adopt (and implement) Gender Equality Plans, etc. ERICs that have not foreseen these as core activities of the ERIC struggle to commit the limited budget of the infrastructure to perform them on a regular basis and depend on project funding associated to a very limited scope, which does not allow to exploit efficiently the full potential of the ERIC. Similarly, ERIC internal policies and procedures, including the definition of common quality principles and standard operating procedures, need to be upgraded periodically. This consumes resources and should be taken into account as part of the ERIC core activities and their funding.

How else can this be addressed?

For ERICs to fully develop their potential to contribute to the Community research and the ERA, and to be compliant with emerging European challenges, policies and regulations, the **ERIC Regulation** could foresee, as for EDICs, a participation of the EC in the governance of the ERIC (whenever appropriate and desired by the membership) and a financial contribution by the EC to the ERIC. A participation of the EC as observer in some key General Assembly meetings could be used as a pilot to see how to best implement this proposal.

Under 2.2 Application comma 3, the ERIC practical Guidelines indicate that “The technical and scientific description of the research infrastructure to be established and operated by the ERIC” should be provided to support the request to become an ERIC. As mentioned in section 1, very often the definition of the entities participating in the ERIC is loose and may evolve over time; therefore, it becomes challenging to show the dimension of the ERIC.

How can this be addressed?

The ERIC **practical guidelines** could specify that the Technical and Scientific description should clearly define the full perimeter of the ERIC and that the document should be updated regularly and acknowledged by the European Commission. This requirement could be later formally translated into the ERIC regulation.

The technical and scientific description defined in this way could be used for the ERIC management to quantify the amount of the in-kind investment by members; other in-kind contributions by members (e.g. for the operation) should be as well required in the annual report.

3. ERIC status in host countries

Until now, most EU countries participating in ERICs have not implemented the ERIC status in their national legislation (as the Regulation is directly applicable). While the ERIC Regulation is an agile mechanism for the set-up of the ERICs, Member States fail to consider other areas of their national law that are related to the ERICs and not covered by ERIC Regulation, and fail within their national legislation purview. Consequently, in some countries, ERICs are wrongly assimilated, notably for financial and fiscal matters, to existing activity sectors or categories which are often not pertinent. This challenge is exacerbated by the fact that financial and fiscal matters are out of the realm of competencies of the Ministries of Research and Innovation to which ERICs usually report at national level. Assimilated statuses fail to recognize the specificities of ERICs as research organisations and may affect the operations of the ERIC, restricting its capacity to deliver on the core activities of an ERIC. Most importantly, some assimilated statuses (e.g., non-profit association in France) may hamper or even prevent ERICs' activities, notably economic activities. Challenges linked to the ERIC status in the host country may also include the difficulty to negotiate with countries on behalf of the consortium and engage in various internationalization activities. These and other challenges related to the status of ERICs in their host country will be documented during the ERIC Forum 2 work package 12.

How can this be addressed?

In the ERIC **practical guidelines**, the European Commission should advise Member States how to implement the ERIC legal form (which is a legal obligation) to ensure that they guarantee the full application of all ERIC rights.

The ERIC **practical guidelines** should highlight the possible constraints linked to the status in the host country, listing specific areas of legislation to be looked into, identify potential barriers and suggest solutions, while fully respecting the distribution of competences between the EU and Member States.

Consortia should be advised to consider the limitations derived from the legal status conferred to the ERIC headquarters in each Member State as one of the factors to decide the hosting country.

4. VAT – Examples of challenges

VAT exemption - Eligibility

The Regulation provides, following Article 5 (1 (d)), exemptions for each ERIC and each member of an ERIC as an international body within the meaning of Articles 143 (1)(g) and 151 (1) (b) of the VAT Directive 2006/112/EC and as international organisation in the sense of the second indent of Art. 23(1) of Directive 92/12/EEC related to excise duties. These tax exemptions are applicable for the procurement of goods, services and utilities for the sole institutional scope of each ERIC.

As a consequence, unless this is better clarified in its implementation stage, typically, purchases conducted by the nodes of distributed ERICs, similar to purchases made by in-kind contributors (other than Members or their delegates), are not exempt from VAT unless performed in the name and on behalf of the ERIC, which poses other types of constraints. The same applies to Representing Entities as well. Furthermore, subsidiaries of ERICs may not directly benefit from the VAT exemption.

VAT exemption - Practical implementation

Due to limitations in how an ERIC is recognized within national administrative systems, authorities often encounter difficulties in implementing the exemptions, even when eligibility is not in question. The lack of practical experience and adequate guidance in local regulations and administrations typically lead to solutions that impose a high administrative burden on all stakeholders. This increased burden is necessary to compensate for the shortcomings of applying practices originally developed for other types of organizations (e.g., diplomatic missions), which typically operate with fewer eligible transactions.

How can this be addressed?

Even though the implementation of the VAT Directive varies among EU member states, additional guidance may foster the adoption of solutions that are mutually beneficial for all parties.

Examples of best practices implemented in some ERICs, such as the delegation of the VAT exemption to the Representing Entities for procurements and investments made for the sole purpose of the ERIC, should be disseminated and encouraged.

At a later stage, operationalization of the VAT exemption granted to the ERIC Members should be sought in the framework of a revision of the ERIC Regulation.

Customs duties

The regulations related to customs duty is governed by DG Taxud and DG Trade on an EU level and by WCO (World Customs Organization) on a global level defining under what circumstances trade is conducted and what customs duty rates are applied. EU and WCO have opened up the opportunity to revise current customs legislation in order to grant publicly funded research institutes a general customs duty relief.

From an ERIC's perspective, the following benefits shall be addressed:

- Customs duty relief on samples (globally)
- Customs duty relief on general import of equipment/general cargo (globally and not only scientific equipment)
- Special procedure and conditions for lending of equipment

How can this be addressed?

As changes in customs legislation may result in significant cost savings for ERICs, the European Commission is requested to follow-up any proceedings in this matter.

5. Limited economic activity and non-economic activity

According to **Article 3 of the ERIC Regulation** *“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”*.

According to the **ERIC practical guidelines**, 3.2 Implementation, “An economic activity consists of offering goods and/or services on a given market. The fact that a fee might be charged does not in itself render the activity ‘economic’ if the access and related services do not correspond to what the market can provide [...]”. Therefore, the distinction between economic and non-economic activity depends only on the existence of a market for the service in question. But the same section of the guidelines refers as well to “limited economic activities”, without specifying a quantitative measure. This allows the most open interpretations, resulting in imposed constraints and limitations to the activities of ERICs. However, the guidelines provide a reference to the Framework for state aid. According to the Communication, “For the purposes of this framework, the Commission will consider this 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.”

In conclusion, there are some interpretative elements that allow to adopt the threshold of the 20% of the relevant entity’s overall annual capacity, for interpreting the notion of “limited economic activity”. However, as shown, this is an interpretative reconstruction based on but not clearly expressed in the guidelines. Clarification in this sense would be helpful, given the impact of this qualification on the operations of the ERICs.

How can this be addressed?

The **ERIC practical guidelines** should quantify the amount intended by “limited” economic activity. If this would not be possible, because of its dependence on a changing legal framework, it should make an explicit reference to that framework, as the one establishing the limit. The ERIC regulation could incorporate this reference in art. 3.2.

In the **ERIC practical guidelines**, the definition of economic activity derives from a competition concept; however, there is also a tax-related definition³. The conceptual difference between the understandings of economic activity in both fields may harness problems. Competition law defines economic activity from functional approach, for which certain activities are considered non-economic if they fulfil certain purposes, usually related to solidarity or other “social” principles⁴. On the other side, the VAT Directive definition is broader and encompasses any activity supplying services as economic. Therefore, there should be consideration to the fact that some activities may be considered non-economic from a competition perspective, while, at the same time, considered economic from a tax point of view. For example, consider an ERIC provides a service to a third party on a non-economic basis, though economic for taxation purposes, but requires prior procurement of certain goods or services. Do the procured goods or services benefit from ERIC Regulation VAT exemption even though they are related to a taxable service?

How can this be addressed?

The **ERIC practical guidelines** should address the definition of non-economic activities by providing clear criteria and concepts. Consequently, it could follow existing guidelines for state aid⁵ in order to provide examples and more precise conditions under which an activity should be considered as non-economic. Furthermore, it should expressly state that taxation of certain services does not affect the categorisation of related non-economic activities.

The **ERIC practical guidelines** could provide specific conditions that ERIC should fulfil in order to consider its activities as non-economic. Furthermore, it could provide clear criteria to guide ERIC in more complex cases. Currently, the Framework for State aid for research and development and innovation has laid some of these criteria, which could be replicated for the specific case of ERICs.

6. Human resources

According to the **Article 4 of the ERIC Regulation**, a research infrastructure to be established by an ERIC shall represent “an added value in the strengthening and structuring of the European Research Area (ERA) [...]” and shall contribute to “the mobility of knowledge and/or researchers within the ERA and increases the use of intellectual potential throughout Europe”.

Nevertheless, despite ERICs being legal entities created under EU law, their human resources are essentially managed under the legal framework of each country of operation, as remarked also by the last Report from the Commission to the Council and the European Parliament on the application of the ERIC Regulation and in the EGERIC Report. Consequently, ERIC personnel are hired under different employment conditions, creating structural and administrative barriers which can hamper or obstruct mobility within the ERIC and among the

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Article 9: “Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as ‘economic activity’. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall in particular be regarded as an economic activity.”

⁴ Erik Kloosterhuis (2017) Defining non-economic activities in competition law, European Competition Journal, 13:1, 117-149, DOI: 10.1080/17441056.2017.1362865

⁵ Communication from the Commission Framework for State aid for research and development and innovation 2022/C 414/01

ERICs, and introducing significant administrative burden for ERIC headquarters. They have to manage human resources that are subject to different rules in a coordinated manner and without creating discrimination. Furthermore, the lack of a common system of job titles and mutual recognition of competences means that it is often difficult to have the professional content of a figure recognised across different contexts, hindering the understanding of the skill and capabilities of personnel and, consequently, the mobility. This implies, for the headquarter, either having to be assisted by specialised consultants in each Country of interest, or making an effort to harmonise internally with the systems in place within the Countries with which they cooperate most.

Such situation also discourages researchers and related professionals to undertake mobility choices, because the non-alignment of job titles, career paths and professional recognition can provoke the non-recognition of the increase in the upskilling achieved in mobility or, even, a backward step compared to the initial career conditions.

How can this be addressed?

The **ERIC practical guidelines** could provide a simple set of best practices on the HR management, addressing the topics which are not necessarily regulated on the national level (grading system, recruiting procedures, merit assessment and skills evaluation). Particularly, it would be important to set up a coherent system of job titles at the ERIC level, in order to have a mutually recognisable set of skills and capabilities.

The **ERIC regulation** should include a reference to a more uniform management of staff employed by the ERICs regardless of their location, within the limits of the applicable laws.

7. International outreach

The international outreach of ERICs may encompass several lines of activities and objectives such as incorporating Third Countries other than associated countries and Intergovernmental Organisations, establishing and sustaining international collaborations and partnerships, participating in and contributing to global initiatives, etc.

The best practices and specific challenges of international outreach will be addressed in EF2 WP 7. *International dimension of ERICs*. As discussed under section 2, one of the main challenges to international outreach is the availability of funding, not only to launch but also to sustain these activities.

Barriers to the incorporation of Third Countries other than Associated Countries and Intergovernmental Organisations related to the applicable law and jurisdiction are well recognized. Other elements must also be considered. The ERIC regulation does not have any reference to the “Founding members”, however, art. 9.2 refers that “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.” This implies that Third Countries and Intergovernmental Organisations may only join as members once the General Assembly will be constituted, that is, the first meeting after setting up the ERIC; however, a more explicit formulation could help to avoid ambiguous interpretations.

The ERIC practical guidelines instead, introduce the concept of “Founding Members” in 2.2 Application + Membership of the ERIC. The ERIC practical guidelines encourage “during the preparation of the application, to involve all relevant countries which might become founding members” to show the value of the ERIC for the ERA. It continues stating that “The founding members must sign the request referred to in point 1 above as well as, for associated countries, Third Countries and Intergovernmental Organisations, the declaration referred to in point 5.” This induces to think that an Intergovernmental Organisation can be a founding member, in the sense given to this term by the ERIC Practical Guidelines; however, we know of ERIC candidates that have encountered issues with the application procedure when including Intergovernmental Organisations between the funding members. This discrepancy is the result of a minor change of wording in the ERIC Regulation and the Guidelines should be updated to reflect this.

How can this be addressed?

The **ERIC practical guidelines** could provide more precise instructions on how to involve Third Countries and Intergovernmental Organisations. The guidelines should also avoid introducing concepts that are not mentioned in the regulation (e.g., Founding Member). The ERIC regulation could mention explicitly when and how Third Countries and Intergovernmental Organisations can join ERICs.

As regards applicable law, it would be useful if the **ERIC practical guidelines** could indicate which fields of EU and national law would usually be more relevant for ERICs. Clarifying the usual scope of application of EU law will facilitate the internal decision process for joining of ERICs, increasing the global reach of the ERICs.

At a later stage, a revision of the **ERIC Regulation** to facilitate the incorporation or association of Third Countries other than Associated Countries and Intergovernmental Organisations to the ERICs should be sought, taking into particular consideration the impact this has on the CJEU jurisdiction.