

ERIC for EGI - Discussion Paper

1 Motivation

This short report provides background on ERIC and a set of discussion points for the EGI Council meeting in June 2012.

In early 2011, EGI performed a preliminary analysis (MS212: “Alignment of EGI.eu with the ERIC Organisational Model”)¹ as part of EGI’s on-going sustainability studies. The report described the potential impact of the ERIC framework on EGI.eu’s sustainability, legal status and governance. It presented potential advantages, disadvantages and unresolved issues to help promote informed discussions within the EGI Council. Some of the advantages initially presented in the milestone were greater political visibility, increased prospect on achieving sustainability and potential financial stability. The most sensitive issues that were identified are potential limitations on the governance and organisation structure of EGI.eu, potential difficulties in delegating responsibility and potentially complex and lengthy negotiations needed to agree with an ERIC proposal for EGI.eu.

In Spring 2011, a survey regarding ERIC was sent to each member of the EGI Council. The responses provided by the NGIs were collated and analysed by the EGI.eu Strategy and Policy Team, resulting in a brief analysis report². The results showed an interest in exploring the option of a common e-Infrastructure ERIC to bring together Grid, HPC, Networking and Data with a proposal to be submitted in 2013. The focus however was to be more on a lightweight coordination of the infrastructure, as opposed to having an equipment purchasing role, that will increase the recognition and acceptance at the national governmental level of e-Infrastructure and provide a route towards increased financial stability and sustainability, even if not all of the current participants in EGI.eu would initially be part of an e-Infrastructure ERIC. Following further discussion, the option of a common ERIC was seen as not viable for lack of interest from the other e-Infrastructures, although there was some discussion around this idea that may have taken place at the recent e-IRG delegates meeting. Therefore, the current focus is mainly on an EGI ERIC.

Following up, the Strategy and Policy Team (SPT) prepared and submitted a number of questions to the ERIC Team in order to clarify some aspects of ERIC relevant to EGI. The ERIC team provided general answers to these questions³. In October 2012 the EGI-InSPIRE project is scheduled to provide a report ‘EGI.eu transition plan to ERIC’. As a prelude to this report it will be necessary for the EGI Council to establish a view on its move towards an ERIC application and any timeline for such an application. The purpose of this report is to restart discussion in the EGI Council and to follow up that discussion with an EGI ERIC Working Group that will drive forward the development of a strategy for agreement at the EGI Council meeting that will take place in Prague in September 2012.

The rest of this report provides:

- How the ERICs established to date have been structured.
- Discussion points for the EGI Council meeting on funding, governance, procurement, organisational structures and the next steps
- Some Frequently Asked Questions about ERICs.

¹ <https://documents.egi.eu/document/244>

² <https://documents.egi.eu/document/674>

³ <https://documents.egi.eu/document/678>

2 The ERIC Experience

Three years ago, the European Union launched a major initiative to create a number of European Research Infrastructure Consortia (ERICs). ERIC is defined as a legal framework based on Article 171 of the EC Treaty that is designed to facilitate the joint establishment and operation of research facilities of European interest. As of June 2012, two organisations have successfully completed the application process: CLARIN (Common Language Resources and Technology Infrastructure) and SHARE (Survey of Health, Ageing and Retirement in Europe). Three more organisations have submitted the application and are awaiting response: ESS (European Social Survey), EURO-ARGO (Global Ocean Observing Infrastructure) and ECRIN (European Clinical Research Infrastructures Network).

2.1 Financing

The Letter of the Dutch Ministry of Education, Culture and Science who formally applied for ERIC on behalf of SHARE as a host country states: “There are no plans at the moment for any flow of funds from the European Commission to an ERIC. For the time being, therefore, an ERIC will be funded primarily from Member States' contributions”.⁴ Until now, both SHARE and CLARIN are solely funded by national contributions.

One of the crucial questions is whether the ERIC organisation will have a special line of support within Horizon 2020. In other words, does being an ERIC improve funding access opportunities within the new Research Framework Programme starting in 2014?

According to the Community Legal Framework for ERIC Regulation⁵, ERICs qualify for funding in accordance with Title VI of the Financial Regulation of the European Communities and under the Cohesion Policy. However, it is not clear how realistic it is to qualify and effectively use these grants for direct EC financial contributions, as so far, it seems that no ERIC organisation has managed to use this financial instrument.

2.2 Impact on the Statutes and Governance

In general, the EC claims that it does not impose organisational and governance limitations for the organisations that want to become an ERIC. However, statutes must be approved by the EC and ‘the approval of Statutes’ is part of the application process for ERIC. In addition, any change to the proposed key elements of the statutes must pass through the same procedure as the initial set up of the ERIC itself. Such key elements are clearly identified and are:

- Tasks and activities of the ERIC;
- Statutory seat in compliance with Article 8(1);
- Name of the ERIC in compliance with Article 8(2);
- Duration, and the procedure for the winding up in compliance with Article 16;
- Liability regime, in compliance with Article 14(2);
- Basic principles covering: 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.

Statutes of CLARIN⁶ and SHARE⁷ as ERIC organisations are in accordance with the rules and requirements prescribed in Practical Guidelines for applicants⁸. The formal decision of the European Commission to establish an ERIC includes the approved statutes (e.g., see the decision for CLARIN⁹). The statutes of SHARE and CLARIN have differences mostly based on the different infrastructures and communities with which they operate. However, both statutes contain the key elements required by the Commission.

2.3 Membership

The ERIC regulation is not very flexible when it comes to the possibility of using multi-tiered membership scheme that is open to having Member States and other entities with status of associate members and/or observers. It only provides a place for members or observers (without voting rights). There is no room for junior or associated voting members. However, the ERIC, as a legal entity, can make partnership agreements and have meetings with such partners but this cannot be part of the governance of the ERIC itself, which can only be undertaken by the official

⁴ http://ec.europa.eu/research/infrastructures/pdf/eric_letter_procedure_en_version.pdf

⁵ http://ec.europa.eu/research/infrastructures/pdf/council_regulation_eric.pdf

⁶ <http://www-sk.let.uu.nl/u/D8S-4a.pdf>

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:071:FULL:EN:PDF>

⁸ http://ec.europa.eu/research/infrastructures/pdf/eric_en.pdf#view=fit&pagemode=none

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:064:0013:0028:EN:PDF>

members. Only international intergovernmental organisations established by an international treaty ratified by the member states are eligible for ERIC membership. Concerning the voting mechanisms, the only constraints are having at least three member states in the membership voting and that the majority of votes are from EU member states.

2.4 VAT Model

There are four main possible financial benefits for becoming an ERIC: exemption from VAT, exemption from excise duties, adoption of own procurement procedures respecting the principles of transparency, non-discrimination and competition (not necessary following national law)¹⁰ and qualification for funding in accordance with Title VI of the Financial Regulation of the European Communities and under the Cohesion Policy (already explained).

¹⁰ An ERIC is recognised by the country hosting its seat as an international body or organisation for the purposes of the directives on value added tax (VAT) and excise duties. It also qualifies as international organisation for the purpose of the directive on public procurement. An ERIC may therefore, under certain limits and conditions, benefit from exemptions from VAT and excise duties on its purchases in all EU Member States and it may adopt procurement procedures respecting the principles of transparency, non-discrimination and competition but not subject to the directive on public procurement as implemented in national law.

3 Discussion

In order to facilitate a focused discussion by the EGI Council on the ERIC issue, a number of points are identified and explained.

3.1 Funding

Would becoming an ERIC bring in any extra funds from the EC?

An ERIC as a legal entity would seem to be able to apply for EC project funds, but no plans are currently known to provide beneficial status, dedicated calls, etc. to ERICs in Horizon 2020.

Would becoming an ERIC bring in any extra funds from national governments?

Some NGIs indicate that being an ERIC could become an important factor in accessing national funding – it demonstrates organisational and international credibility. Other NGIs indicate that the long-term financial commitment that an ERIC membership represents (however low the financial commitment) would be a negative towards joining.

Does the EGI Council feel that becoming an EGI ERIC would improve or worsen the community’s ability to access European or national financial support?

3.2 Governance

Would becoming an ERIC mean a change in EGI.eu’s statutes?

Yes, a revision would be needed to include some of the key elements not present in the current document¹¹. The new EGI ERIC statutes would need to better explain admission, rights and obligations of members and observers, governance, intellectual property rights, access and other policies needed to be addressed according to the EC requirements.

Would the composition of the EGI Council change from its current participants and associated participants model?

Yes. The ERIC model has voting members (designated national government representatives or EIRO representatives) who have signed up to the ERIC and are able to govern the ERIC. All other representation that might be allowed for under the statutes would be non-voting observers.

Does the EGI Council feel that moving to an EGI ERIC with a much smaller number of voting members (the voting mechanism is not defined) and a larger number of non-voting observers would provide a two-tier model that would undermine the strong inclusive and collaborative nature of EGI’s current activity?

3.3 Procurement

Would an open and fair EGI ERIC procurement process (for hardware or cloud services) that was tuned to EGI’s specific needs be an advantage to the EGI Community?

Any hardware or services procured through this route would have to be clearly designated and managed for the benefit of the EGI ERIC, and such a procurement model was established more for the central site research infrastructure rather than the distributed resource centre model that would be the case with an EGI ERIC.

Could an EGI ERIC provide VAT and excise benefits in addition to a centralised purchasing scheme?

Any tax benefit would be dependent on the exemption given by the host country and ensuring that the distributed resource centres within each country were clearly seen as being part of the EGI ERIC when equipment purchased through the ERIC was placed there.

Does the EGI Council feel that a central purchasing model for hardware would be beneficial if only the designated resource centres in member countries (where the purchased equipment can only be used for EGI ERIC related activity) could host the equipment?

According to the ERIC survey, most of the responding NGIs (80%) prefer to have a lightweight EGI ERIC¹² within the ERIC model against the heavyweight EGI ERIC model option¹³. Therefore, it seems that the financial benefits of an ERIC are not relevant enough for EGI unless the procurement activity is expected to become prominent in the future. Therefore, the main question is if the VAT and excise duties exemption are not applicable in the EGI case for centralised procurement, are the other benefits “good enough” for the EGI.eu to transform to an ERIC?

¹¹ <https://documents.egi.eu/document/18>

¹² A lightweight ERIC (i.e. just a coordination role), without any direct responsibility over the equipment (i.e., the physical infrastructure)

¹³ An ERIC covering (part of) the infrastructure, i.e. including the equipment investment, with (part of) NGI becoming a national branch of such an ERIC

3.4 Organisational Structures

Does moving to an EGI ERIC improve EGI.eu's organisational structure?

Agreement is emerging that delivering the representation, coordination and integrated service delivery around world-class collaborative a pan-European Research Infrastructure (such as EGI, SHARE, CLARIN) requires a central organisation. If EGI.eu was being established now then an ERIC would be a clear alternative. It is not clear what organisational benefits an EGI ERIC would provide over the current legal organisation EGI.eu.

Does the EGI Council feel than an EGI ERIC would allow the community to:

- (a) Undertake additional activities**
- (b) Gain greater international recognition**

than the current Stichting EGI.eu?

3.5 The application process

Which NGIs would be willing to explore with their government in being part of an EGI ERIC or to host an EGI ERIC?

In the case of SHARE and CLARIN Germany, the Netherlands and Austria were all founding members while the Netherlands is the host country for both ERIC organisations. The national ERIC point of contacts are available on the ERIC website¹⁴.

Would participants and associated participants be willing to commit additional funds to EGI.eu (in FY2013) for the legal advice and time needed to prepare an application?

Although the EC needs 3-9 months to make a decision considerable preparation time (+12 months) will be needed to prepare the brief.

What does the EGI Council feel is the critical mass needed to move ahead with an EGI ERIC?

¹⁴http://ec.europa.eu/research/infrastructures/pdf/list_national_contact_points_eric.pdf#view=fit&pagemode=none

4 Frequently Asked Questions (FAQ)

4.1 Who can be a member of an ERIC?

The following entities may become members of an ERIC:

- Member States of the European Community;
- associated countries;
- third countries other than associated countries;
- inter-governmental organisations.

4.2 What can an ERIC establish and operate?

A research infrastructure composed by facilities, resources and related services that are used by the scientific community to conduct top-level research in their respective fields, and that may include:

- 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;
- any other entity of a unique nature essential to achieve excellence in research.

Such infrastructures may be 'single-sited' or 'distributed' to form an organised network of resources.

4.3 How can an ERIC be setup?

The main steps are:

1. at least three EC Member States, together with possible third countries and intergovernmental organisations, agree to establish and operate together a research infrastructure;
2. the members agree on statutes ruling governance, IPR policy, financing, etc.
3. the member define the seat of the ERIC, which has to be in an EU-Member State or in a country associated to the EU Framework programmes;
4. the members submit the file to the Commission, which, with the aid of independent experts, examines whether the conditions of the ERIC Regulation are fulfilled;
5. after that, a committee composed of representatives of the EU Member States gives an opinion on the application by qualified majority, following which the Commission decides on the application;
6. any decision setting up an ERIC is finally published in the Official Journal of the European Union.

It is anticipated that, once the consensus of setting an ERIC has been reached, it may take a few months to prepare the proposal and about nine months to obtain the EC approval.

4.4 What should the ERIC proposal contain?

The proposal should contain:

- The request by the Governments to the EC;
- The Statutes of the ERIC;
- The technical and scientific description of the research infrastructure to be established and operated by the ERIC;
- The declaration by the host Member State recognizing the ERIC as an international body/ organisation in the sense of the VAT and excise duty directives as of its setting up;
- The agreement between the members of the ERIC on the limits and conditions of the tax exemptions mentioned above;
- The recognition of the legal personality and the privileges of the ERIC by associated countries or third countries, if applicable.

4.5 How is the ERIC organised?

The Statutes should describe the ERIC internal organisation which should include at a minimum:

- an assembly of members as the body having full decision-making powers, including the adoption of the budget;
- a director or a board of directors, appointed by the assembly of members, as the executive body and legal representative of the ERIC.

It is stipulated that EU Member States (at least three EU Member States must be members) shall jointly hold the majority of the voting rights in the assembly of members. 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.