

## **Deliverable D3: Legal analysis for the development of the master's study programme "European Master of Particle physics and Accelerator Technologies for Research and Industry" (EMPATRI)**

### **Introduction.**

The EMPATRI study programme is designed and will be implemented by a Consortium of five leading HEIs in the Baltic states: Riga Technical University (Latvia, coordinating party), University of Latvia (Latvia), University of Tartu (Estonia), Kaunas University of Technology (Lithuania) and Vilnius University (Lithuania). EMPATRI is developed as a fully joint study programme, where, except for the coordinating duties of the Riga Technical University, partner-universities form a Consortium with all members participating in equal stature and equal standing.

The five HEIs forming the Consortium have a well-established track-record of high-quality teaching and research, as well as a long-standing tradition of academic freedom, ethics, and integrity.

There are no insurmountable legal obstacles, nor irreconcilable differences in the laws governing the provision of higher education in the three Baltic states that would not allow for the creation of a joint master's programme, such as EMPATRI.

### **Matters of legal frameworks pertaining to the implementation of EMPATRI.**

Although there are no irreconcilable differences in the legal frameworks of the three countries, some points of contention should be addressed at this stage.

**Language of tuition.** All three Baltic states permit higher education to be provided in a language other than the official language of the state, with English being the most common language in use such circumstances. Nevertheless, in Latvia, for example, any study programme being provided in a language other than the official language of the state (Latvian), must usually be able to provide a parallel tuition stream in the state language upon a request by a student participating in the said study programme. This rule, however, is explicitly dismissed for internationally implemented joint programmes, thus would not be enforced for a programme such as EMPATRI.

**Foreign student eligibility to study in the Baltic states.** Since the three Baltic countries joined the European Union in 2004, all nationals of EU/EEA countries are treated as domestic/local students regarding the laws governing higher education in the three Baltic states. Non-EU/EEA citizens, classed as *overseas* students, are required to obtain a valid student visa (or a resident permit) to be allowed to study in either of the three countries. Although the Baltic states are a part of the Schengen area, thus allowing for free movement of labour across the national borders, a student visa issued by one of the Baltic states does not automatically or by default allow for a student to study in either of the other two countries. Ordinarily, however, visa requirements for overseas nationals are comparable between Latvia, Estonia, and Lithuania, allowing for an easy obtainment of the remaining two student visas once the initial student visa is acquired. It must be noted, however, that the lists of countries nationals of which are not required to obtain a student visa are not identical between the three countries and care will need to be taken with all overseas students on a case-by-case basis during the implementation of EMPATRI. The acquisition of a valid student visa will be organised by all Partners according to Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country

nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

**Tuition fees.** Tuition fees for both domestic and overseas students are set by each individual university following a set of internal regulations. Regular tuition fees are not compatible between the member university of the consortium. Nevertheless, this does not pose an issue, as the internal regulations governing the tuition fees explicitly dismissed for internationally implemented joint programmes, thus would not be enforced for a programme such as EMPATRI.

**Programme accreditation and licensing.** All member universities of the Consortium must undergo accreditation process for their academic activities, including study programmes. At the present time, the accreditation process has been carried out in all members of the Consortium in the last few years, allowing for the creation of new study programmes to be created in the areas of study having received an excellent accreditation review. At present time, EMPATRI can be implemented without the necessity for additional accreditation process in either of the member universities. Such a programme must still undergo licensing process in Latvia; however, this is a comparatively light-weight process and would not pose any issues to the implementation of EMPATRI.

**Joint diploma.** All member institutions of the Consortium are permitted to issue a diploma confirming the award of a degree in collaboration with any other HEI, provided that all the requirements for the award of the said degree have been met. In such cases, the usual procedure is for all the participating institutions to issue a separate diploma confirming the award of the nationally recognised degree, with a discussion on the award of multiple diplomas added in the supplementary material if deemed necessary. During the development of the EMPATRI study programme, a strong consensus opinion was reached by the members of the Consortium, that the award of five parallel diplomas was not feasible for this programme, as it could impact the value of each individual diploma issued, potentially affecting the perceived value of other diplomas issued by the member institutions. It was agreed and confirmed via a Memorandum of Understanding, signed by all members of the Consortium that the issue of a single joint diploma would be the only viable method of awarding the graduates of EMPATRI with the degree earned. Presently, there is no legal framework that would allow for an award of such single, joint diploma, however, there are no explicit barriers to the development of such a framework. To achieve this, the Consortium have reached out to the intergovernmental policy-advising body in the Baltic states, the Baltic Assembly<sup>1</sup>, with the assistance of which the required legal framework will be drafted in due course.

**Additional information.** Additional discussion pertaining to question related to the legal framework can be found in Annex 1 of this document.

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<sup>1</sup> <https://www.baltasam.org/>.

# Legal Framework Report Form: Lithuania

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## Academic Freedom and Institutional Autonomy

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Academic freedom is generally protected and respected in Lithuania. Lithuania has a well-established tradition of academic autonomy and freedom, which is enshrined in various legal documents. The Lithuania Constitution, along with other legislation, ensures the right to academic freedom. Academic Institutions, Universities, Research Institutes are expected to create an environment where scholars can freely pursue research, express their views, and engage in open discourse. Institutional autonomy refers to the independence of educational institutions from external interference, particularly from government or political bodies. It grants Universities the authority to make decisions regarding academic matters, such as curriculum development, research priorities, and personnel appointments. Institutional autonomy is protected by law. Universities have their own governing bodies, such as Senates or Councils, which are responsible for making important academic and administrative decisions. These bodies typically consist of a combination of academic staff, students, and external experts. While Universities have a significant degree of autonomy, there is also a system of quality assurance and oversight in place to ensure that academic standards are maintained. The Center for Quality Assessment in Higher Education (SKVC) is responsible for evaluating and assuring the quality of higher education of Institutions.

## Key Legal Acts Pertaining to Higher Education and Research

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- Law on Higher Education and Research of the Republic of Lithuania No. XI-242, approved on 30<sup>th</sup> of April, 2009; new version No. XII-2367 from 13<sup>th</sup> of June 2019;
- Description of the general requirements for studies No. V-1168, approved on 30<sup>th</sup> of December, 2016 by the Minister of Education and Science of the Republic of Lithuania;

- Description of permanent and continuous forms of studies No. ISAK-1026, approved on 15<sup>th</sup> of May 2009 by order of the Minister of Education and Science of the Republic of Lithuania;
- The list of fields of study and groups of fields according to which studies are conducted in higher education institutions, the procedure for changing it, the structure of qualification degrees and the principles of creating the names of study programs, order No. V-1075, approved on 1<sup>st</sup> of December, 2016 by the Minister of Education and Science of the Republic of Lithuania;
- The Framework of Qualifications for the European Higher Education Area, approved on 24-25<sup>th</sup> of May, 2018;
- Description of the procedure for external evaluation and accreditation of studies, evaluation areas and indicators No. V-835, approved on 17<sup>th</sup> of July, by order of the Minister of Education, Science and Sports;
- Vilnius University Statute, approved on 12<sup>th</sup> of June, 1990 by Law of the Republic of Lithuania No. I-281, (revision of Law No. XII-862 on 6<sup>th</sup> of May, 2014);
- Vilnius University Study regulations, approved on 21<sup>st</sup> of June, 2012 by Vilnius University Senate Commission Resolution No. SK-2012-12-8 (new redaction of Resolution No. S-2018-5-2 of Vilnius University Senate, on 22<sup>nd</sup> of May, 2018);
- Vilnius University Study program regulations, approved by the Vilnius University Senate Commission on 21<sup>st</sup> of June, 2012, Resolution No. SK-2012-12-4;
- ECTS Users' Guide, European Union, 2015

and other related legal acts.

## Quality Assurance and Programme Accreditation

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Centre for Quality Assessment in Higher Education (SKVC) is an independent public agency established in 1995. The Centre implements the external quality assurance policy in higher education in Lithuania and contributes to the development of human resources by creation of enabling conditions for free movement. The Centre was founded by the Ministry of Education and Science of the Republic of Lithuania as an expert institution.

The main function of the Centre is to assist HEI to assure quality and to constantly improve it. The Centre fulfils this function through:

- Assessment of the quality of higher education;
- Assessment of the qualifications concerning higher education;
- Provision of information on higher education systems and qualifications recognition.

However, before that, University has internal QA mechanisms, which are set to ensure quality of the implemented studies.

## Intellectual Property Rights and Data Protection

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Lithuania, like many other European Union (EU) member states, adheres to EU regulations and directives regarding intellectual property rights and data privacy. In higher education and research, ownership of intellectual property is often defined by agreements between researchers, institutions, and funding bodies. Universities may have policies in place regarding ownership and commercialization of research outcomes. The Lithuanian Patent Office is responsible for the protection of patents and inventions. Researchers and Institutions can apply for patents for new inventions or innovations. Copyright law in Lithuania protects original works of authorship. This includes academic publications, research papers, books, and other scholarly works. Many Universities have dedicated officers or departments responsible for managing intellectual property, technology transfer, and commercialization of research outcomes. The agreements between research institutions, researchers, and external partners (industry, government, etc.) often define how intellectual property resulting from collaborative research will be shared or assigned. Lithuania adheres to the General Data Protection Regulation which provides comprehensive rules for data protection and privacy. Higher education institutions and research organizations are often considered data controllers responsible for the protection and lawful processing of personal data. They may also engage data processors for specific tasks. Institutions must obtain clear and explicit consent from individuals for processing their personal data. They are also required to provide transparent information about how data will be used. If personal data is transferred outside the European Economic Area, institutions must ensure an adequate level of data protection or implement specific safeguards. In case of a data breach, institutions are obligated to notify the relevant supervisory authority and, in some cases, affected individuals, within a specific timeframe. Some institutions appoint Data Protection Officers to ensure compliance with data protection laws and act as a point of contact for data protection matters.

## Other Legal Matters

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In addition to intellectual property rights and data privacy, there are several other legal matters that are relevant to higher education and research in Lithuania:

Ethics Committees.

Funding and Grants: Grant Agreement; Compliance with Funding Agencies.

Collaboration Agreements; Contracts; Service Contracts.

Employment Contract

Labor Disputes

Health and Safety regulations

Immigration and Visa Issues

International Collaboration and Export Control

Intellectual Property Licensing and Commercialization

Public Procurement and Tendering

## **Additional Comments or Notes**

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# Legal Framework Report Form:

## Estonia

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### Academic Freedom and Institutional Autonomy

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Academic Freedom needs a stable income for the scientist. The Workers' Union of the University of Tartu demands that the dependence on scientific grants should be reduced, as this instance inflicts the academic freedom of the employees. However, the decision about directions in science and personnel to be employed are given solely to the universities.

### Key Legal Acts Pertaining to Higher Education and Research

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General legislation for higher education in Estonia is detailed in the following legal acts:

- 1) Republic of Estonia Education Act
- 2) Institutions of Professional Higher Education Act (31.08.2019)
- 3) Higher Education Act No 9 (01.09.2019)
- 4) Organisation of Research and Development Act
- 5) Standard of Higher Education (EST)
- 6) Decree "Study Rights at the Higher Education Level" (May, 2020)

### Quality Assurance and Programme Accreditation

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Higher education quality asses by Estonian Quality Agency for Education (HAKA), an independent agency functioning under the umbrella of the Foundation Archimedes. In Estonia, only institutions of higher education which have passed the evaluation of quality of studies are allowed to provide higher education. Studies at the level of higher education may only be conducted if the Government of the Republic has provided a so-called education licence for this purpose – the right to conduct studies in this study programme group and at this level of studies. This includes the right to issue state graduation certificates.

A study programme group is a subdivision of study programmes (based on the ISCED97 levels) which is established in annexes of the Standard of Higher Education (available only in Estonian). All study programmes taught at the University of Tartu belong to the study programme groups to which the Minister of Education and Research has granted the right to conduct studies, and the diplomas awarded by the University of Tartu are

nationally recognized. The right to conduct studies has been granted with the Decree “Study Rights at the Higher Education Level”, May, 2020: [https://haka.ee/wpcontent/uploads/Ministri\\_2020\\_KK-3.pdf](https://haka.ee/wpcontent/uploads/Ministri_2020_KK-3.pdf) (available only in Estonian).

In 2022, the University of Tartu passed institutional accreditation. On July 8, 2022, the Higher Education Assessment Council of the Estonian Quality Agency for Education decided to accredit the University of Tartu for the maximum term of seven years, until July 8, 2029.

## **Intellectual Property Rights and Data Protection**

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Authors hold the copyrights for publications in National and International Journals. Technical patents are owned by the University.

## **Other Legal Matters**

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## **Additional Comments or Notes**

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# Legal Framework Report Form:

## Latvia

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### Academic Freedom and Institutional Autonomy

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In Latvia academic freedom of scientists, professional and social security, and the competence and obligations of State authorities in the ensuring of scientific activity is regulated by Law on Scientific Activities (2005).

### Key Legal Acts Pertaining to Higher Education and Research

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Higher education in Latvia is regulated by the following laws:

- 1) Education law (1998) – the main law that includes definitions for all types and levels of education and determine general principles and sets general principles for institutions;
- 2) Vocational Education Law (1999) – the purpose of the law is to ensure the implementation of the state professional education policy, as well as the operation, management and development of the professional education system;
- 3) Law on Higher Education Institutions (1995) – applies to all HEIs in Latvia, regulates the legal basis of the HEIs, determines and protects the autonomy of HEIs;
- 4) Law on Scientific Activities (2005) – determines the unity of science and higher education, the rights of scientists, responsibility, independence and academic freedom, professional and social guarantees, the competence and obligations of state institutions in ensuring scientific activity.

Higher education in Latvia is regulated by several Cabinet regulations:

- 1) Regulation on the classification of education in Latvia (2017) – determines the classification of education in Latvia, including descriptions of knowledge, skills and competences corresponding to the levels of the LQF, which is also used to formulate degrees for academic study programmes;
- 2) Regulation on groups of science branches, scientific branches and sub-branches (2022) – classifies science branches and is also used to formulate doctorate degrees;

- 3) Regulation on the national standard of academic education (2014) – determines the general principles for academic bachelor and master study programmes, as well as main principles for learning and grading in academic study programmes;
- 4) Regulations on the national standard of first-level professional higher education (2001) – determines the general principles for first-level professional study programmes including strategic goals, mandatory content and grading principles;
- 5) Regulations on the national standard of second-level professional higher education (2014) – determines the general principles for professional bachelor and master study programmes including strategic goals and main tasks, mandatory content and grading principles;
- 6) Procedure and criteria for awarding of doctorate degree (2005) – determines the general principles for doctoral theses, promotion council, evaluation of the doctoral thesis, defence of the doctoral thesis and awarding of the doctoral degree.

## Quality Assurance and Programme Accreditation

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A national quality assurance agency (AIKA – the Agency) is serving as a central element between higher education institutions and policy makers in order to ensure that legislative changes are not contradictory with Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), that they are aimed to improve the quality of higher education at national and international level.

Currently there are three main external quality assurance procedures performed the Agency in Latvia – accreditation of HEI, accreditation and assessment of study field and licensing of study programme.

During the evaluation of a HEI several criteria are evaluated:

- 1) aims and objectives of the HEI or college, its management structure;
- 2) Internal quality assurance system;
- 3) Resources;
- 4) Teaching staff;
- 5) Scientific research or artistic creation;
- 6) Cooperation and internationalisation;
- 7) Activities of students' self-governance;
- 8) Compliance of the activities of the higher education institution/ college with the provisions of regulatory enactments.

Licensing of a study programme is the initial assessment (ex-ante) to review the potential quality of a new study programme in order to have rights to enrol students and to start the implementation of the study programme. Each new study programme has to be licensed and only after that students could be enrolled. Decision on the licensing of study programmes is taken by the SQC.

Licensing is prescribed in the Cabinet regulation No. 795 “Regulations Regarding Licensing of Study Programmes”.

During the licensing procedure it is reviewed whether:

- a study programme is compliant with requirements of regulatory acts;
- qualification of the academic staff;
- material and technical base;
- content and implementation mechanism;
- a study programme is included in the relevant study field.

The process of licensing takes up to four months after the HEI application is received.

Accreditation and assessment of study field – assessment with the purpose of determining the quality of the resources of HEI and the ability to implement a study programme corresponding to a specific study field in accordance with regulatory enactments. In addition, its purpose is to identify areas for further improvements and assist the HEI in developing quality culture.

The accreditation of the study field gives the right to issue a state-recognised diploma of higher education for successful acquisition of a study programme corresponding to the relevant study field.

Study field can be accredited for three terms – 6 years (positive decision), 2 years (conditional decision, if substantial deficiency is detected but may be eliminated within the scope of the time period of accreditation of the study field) or 0 years (negative decision).

During the assessment of the study field, several pre-defined assessment areas and criteria are evaluated such as:

- 1) the relevance, aims and objectives of the study field and its respective study programmes as a whole and their clarity, attainability, and compliance with the general strategic development of HEI;
- 2) the management of the study field;
- 3) the efficiency of the internal quality assurance system;
- 4) resources and provision of the study field;
- 5) science, research and artistic creation;

6) cooperation and internationalisation;

7) the implementation of the recommendations (if any) provided for a particular study programme within the framework of the previous accreditation of the study field (if conducted) or licensing of a study programme.<sup>2</sup>

## Intellectual Property Rights and Data Protection

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Legal framework for the protection of IPR in Latvia is determined by national and the European Union law as well as international agreements. Intellectual property in Latvia is protected pursuant to the civil and administrative, as well as the criminal procedure.<sup>3</sup>

### *Copyright*

International agreements:

- 1) Berne Convention for the Protection of Literary and Artistic Works since 01.08.1995;
- 2) Convention Establishing the World Intellectual Property Organization since 01.01.1993;
- 3) Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms since 23.08.1997;
- 4) Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations since 20.08.1999;
- 5) World Intellectual Property Organization Copyright Treaty since 06.03.2002;
- 6) World Intellectual Property Organization Performances And Phonograms Treaty since 20.05.2002.

The most relevant national laws in the field of copyright:

- 1) Copyright Law;
- 2) Copyright Collecting Management Law.

Author shall mean a natural person, as a result of whose creative activities a concrete work has been created. As the work subject to protection shall be recognized the results of an author's creative activities in the literary, scientific or artistic domain, irrespective of the mode or form of its expression and its value. If a work has two or more authors and the individual contribution of each author to the creation of the work cannot be segregated as a separate work, copyright to the work shall belong to all the co-authors jointly.

### *Patents*

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<sup>2</sup> [AIC SER November 2022 ENQA-comments FINAL Dec.pdf \(aika.lv\)](#)

<sup>3</sup> [Intellectual Property Rights \(IPR\) | EURAXESS](#)

Latvia is part of the following international agreements in the area of protection of patent law:

- 1) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Marrakesh Agreement establishing the World Trade Organisation, Annex 1C (since 10.02.1999);
- 2) Paris Convention for the Protection of Industrial Property (since 07.09.1993);
- 3) Convention Establishing the World Intellectual Property Organization (since 01.01.1993);
- 4) Agreement Between the Government of The Republic of Latvia and The European Patent Organisation on Cooperation in The Field of Patents (Cooperation Agreement) (since 25.01.1994);
- 5) Convention on the grant of European Patents (European Patent Convention) (since 01.07.2005).

The most relevant national laws in the field of copyright:

- 1) Patent Law;
- 2) Law on Industrial Property Institutions and Procedures.

The subject of a patent ownership may be:

- 1) device,
- 2) method,
- 3) substance,
- 4) composition of substances,
- 5) biological material.

## Other Legal Matters

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## Additional Comments or Notes

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