

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

Status and key features

Status of ERIC legal framework

- Adoption of proposal by Commission, 25 July 2008
- Adoption by Council, 25 June 2009
- Publication in Official Journal, 8 August 2009
- Entry into force, 28 August 2009
- First meeting of Management Committee scheduled for 9 October 2009

ERIC : Main aims

An easy-to-use legal instrument providing:

- the spirit of a truly European venture
- a legal personality recognized in all MS
- 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

ERIC Legal Basis: EC Treaty

Article 171

The Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.



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ERIC's Tasks & requirements

- Principal task: establish and operate a Research Infrastructure, on a non economic basis
- Five requirements to be met:
 - necessary for European research
 - added value in the development of ERA and significant improvement in relevant S&T fields
 - effective access to European researchers
 - Contributes to the mobility of knowledge and/or researchers with in the ERA
 - dissemination / optimization of the RTD results

Membership of an ERIC

- Member States
- Associated Countries
- Third States
- Intergovernmental organisations

An ERIC must at all times have at least **three** Member States as members.

It sets out its own procedures for accepting new members, but must provide fair conditions for other MS to join.

Member States shall jointly hold the majority of the voting rights in the assembly of members.

A State may be **represented** by one or more public entities or private entities with a public-service mission

Law applicable to the internal functioning of an ERIC

- **Community law**, in particular the ERIC Regulation
- the law of the State where the ERIC has its **statutory seat**
- **The ERIC's statutes**, adopted in conformity with the sources of law referred to above, and its **implementing rules**

Public Procurement and VAT

ERICs will not be bound by the procedures of the **Public Procurement Directive** but may set their own procurement rules based on transparency, non-discrimination and competition.

ERICs will be exempted from paying **VAT** and **excise duty**.

This is possible because ERICs will be considered as international bodies/ organisations for the purposes of the Directives on public procurement, VAT and excise duties.

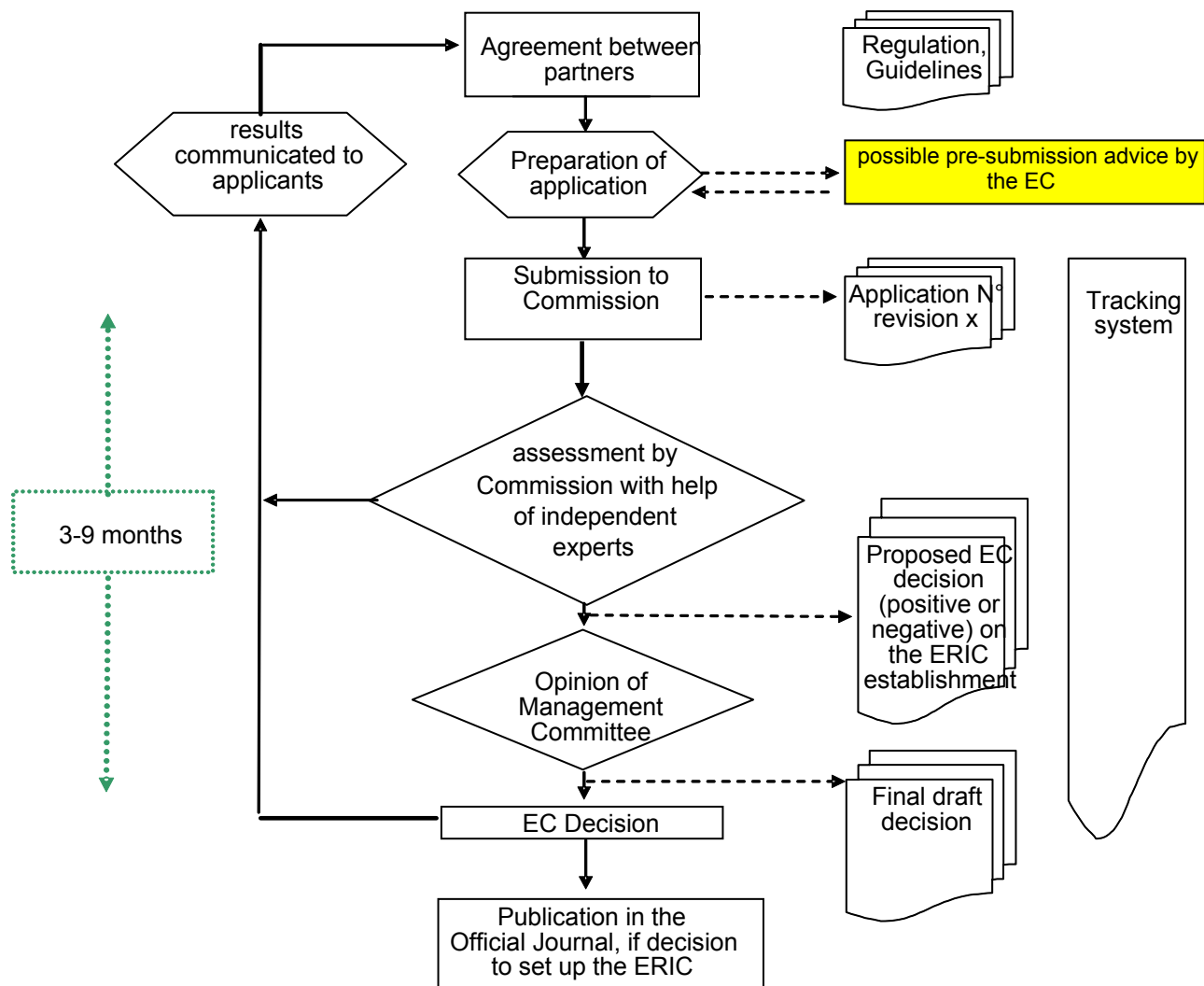
Internal Structure of an ERIC

- **statutory seat** in a Member State or Associated Country; research locations anywhere
- mandatory **bodies** (members' assembly; director/board of directors)
- members' **liability**
 - ✓ limited to committed contribution, no capital requirement.
 - ✓ may specify in the Statutes a fixed liability above their respective contributions or unlimited liability.

Application for the setting-up of an ERIC

- **Content** of the application:
 - official request by the future members to set up the ERIC
 - description of the research infrastructure to be established and operated by the ERIC
 - proposed Statutes of the ERIC
 - declaration by the host Member State recognizing the ERIC as international body in the sense of the VAT and excise duty directives
- The Commission will assess the application with the help of external experts and decide, assisted by a Management Committee, on behalf of the legislator.

Application / assessment process





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Thank you for your attention!