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D.4.2 Statutes of the E-RIHS

Lead Authors: Isabelle Pallot-Frossard, Rémi Petitcol

**With contributions from: E-RIHS Stakeholders Advisory Board delegates,
E-RIHS Steering Committee members, E-RIHS Coordination Office**

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Abstract

This deliverable presents the latest version of the draft of E-RIHS ERIC Statutes (E-RIHS_Statutes_V5.1_2020.03.23) at the time of its writing. It describes the work process that led to the present document, and it discusses the possible future changes in the lifetime of the E-RIHS ERIC Statutes.

The first phase of the work process was based on an exhaustive comparative study of the active ERICs. The first version was discussed within the preparatory phase. The second phase was the discussion and the improvement within the E-RIHS Stakeholders Advisory Board, a board of national ministerial representatives not limited to members of E-RIHS PP. The third phase, the current one, is defined by the involvement of the E-RIHS Interim General Assembly. This new body acts in a decision-making capacity in order to prepare the step 1 submission of the necessary documents to become an ERIC. The next phases will be the final and official exchanges with the European Commission after the step 1 submission, and then the operational phase of E-RIHS ERIC.

DISCLAIMER:

This document reflects the state of advancement of the preparatory work at the time of its delivery. As such, its content may be subject to further evolution. It does not reflect official commitments or positions of the E-RIHS Interim General Assembly members, nor does it preclude other members to join the E-RIHS Interim General Assembly.

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Authors (Partner)	CNRS, all partners			
Responsible Author	Name	Isabelle Pallot-Frossard	Email	isabelle.pallot-frossard@culture.gouv.fr
	Partner	CNRS – C2RMF	Phone	(+33) (0)1 40 20 84 09

Abstract (for dissemination)	This deliverable provides the current version of the draft statutes of E-RIHS ERIC. It describes the context and the organisation of the work that lead to this text, and it summarises the expected changes in the lifetime of the document.
Keywords	E-RIHS ERIC, Draft Statutes, legal basis

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Abbreviations

E-RIHS	European Research Infrastructure for Heritage Science.
ERIC	European Research Infrastructure Consortium
PP	Preparatory Phase
SC	Steering Committee
WP	Work Package
SAB	Stakeholders Advisory Board
IGA	Interim General Assembly

Narrative (technical) description

I. Aim of the Statutes of E-RIHS ERIC

This deliverable prepares a decisive step in the structuration and the integration of the European Heritage Science community. The decision to prepare the creation of E-RIHS ERIC through the E-RIHS Preparatory Phase originates from a decision taken from the scientific community within the H2020 project IPERION CH. The need for such a European infrastructure was made clear from the experience derived from previous projects like EuArtech, CHARISMA, or from national experienceⁱ.

The decision to choose an ERIC as a legal form E-RIHS was taken within IPERION CH with due consideration given to the alternative legal statusesⁱⁱ. This deliverable is a direct consequence of that decision. The draft E-RIHS ERIC Statutes follows two kinds of objectives: internal and external.

Internal objectives are related to the future function of the ERIC. This text must describe clearly the scientific and associated socioeconomic objectives of its future members. It must provide a strong but adaptable legal basis to the future activities within a sound and comprehensive institutional structure that accommodates all kinds of stakeholders.

External objectives are related to the establishment of E-RIHS ERIC, as the statutes one of the documents required for the official ERIC application process. Because the statutes will be a public document, they will also be a useful example for other research communities wanting to establish such an infrastructure. This exemplarity objective can be illustrated through the participation of E-RIHS members to various other scientific initiatives, such as the CNR participation within the EHRI Preparatory Phase to assist in the legal and governance workⁱⁱⁱ.

II. The drafting process

1) *Preparation phase, first draft and internal discussion phase*

The process that led the current document started in December 2017 with an exhaustive study of both the legal and organisational aspects of the active ERICs^{iv}. This study was circulated within the consortium and participated to framing the terms of the debate on the governance structure and the statutes. This document included a comparison of more than 10 aspects of the statutes and provided an average position from which to start. This study was presented in a general session of the first E-RIHS PP annual meeting in Amsterdam in February 2018.

A first version was written following the discussion in Amsterdam. This was based on both the European Commission guidelines^v and an averaged text created from comparing all the same articles in all the ERIC statutes. This first text was discussed an improved several times within WP4 and the Steering Committee. This phase covers the text from v.1.0 to v.1.6 and lasted until September 2018.

2) *Stakeholders Advisory Board discussion phase*

The second phase in the redaction process of the E-RIHS ERIC draft Statutes started with the involvement of the E-RIHS Stakeholders Advisory Board (SAB). The workflow was organised as follows: the SC sends to SAB a version of the statutes to comment, SAB delegates comment in writing, the comments are discussed in a SAB meeting, the SAB chair sends the comment to the SC for implementation. This phase covers the versions 2.0 to 2.4 of the draft statutes.

The first version sent to the SAB was sent in July 2018 together with a cover that detailed the main issues that were still pending and suggested possible answers. The first plenary discussion of the Statutes by the SAB happened in September 2018 in Warsaw and led to an agreement on the main features of the governance system and on the names of these bodies. A new version was then discussed in Brussels in December 2018, then another one in Madrid in February 2019. The last plenary discussion of the document happened in London in September 2019. However, some SAB delegates continued to help improving the document until the end of 2019 by mail.

This iterative process with the SAB proved to be fruitful and provided expert advice to the members of the E-RIHS Preparatory Phase. The significant diversity of national and disciplinary background of the SAB delegates helped WP4 members to write a text that better reflects the singularity of Heritage Science while coming closer to the best standards of governance.

Beyond the scientific, legal, and administrative of the delegates themselves, we benefitted from the comments of the legal departments of several Members. This allowed us to keep up-to-date with the evolution of the recommended practices in ERIC legal affairs and to improve the text in several regards. Despite uneven levels of commitment between the members, this exercise managed to grow beyond the participating countries to E-RIHS PP and proved to be a decisive in crafting consensus.

3) *E-RIHS Interim General Assembly discussion phase*

The establishment of the E-RIHS Interim General Assembly (IGA) was decided for two main reasons. First, as project body, the SAB is bound to stop at the end of E-RIHS PP in late September 2020. Second, the SAB had a purely advisory capacity, which prevents it from adopting formal decisions in view of the step 1 submission for E-RIHS to become an ERIC. This phase covers v.3 and beyond.

The IGA was first convened by videoconferencing in March 2020, after a preparatory meeting in Rome in December 2019. It met virtually for a second time in early May 2020. A revision of the statutes was performed within both meetings, with some correspondence in between the meetings.

While the first IGA version seemed to diverge from the SAB version in several aspects, the current version is now much closer although the names of some E-RIHS bodies have changed. The detailed work process of the IGA does not fall within the scope of this deliverable, but a Statutes Working Group was recently created within the IGA and will include experts from E-RIHS PP. The Working Group is starting its revision from version “E-RIHS_Statutes_V5.2” of the document and is deemed to provide the iGA with a final consolidated version by fall 2020.

III. Draft Statutes of E-RIHS ERIC (version 5.1 transmitted to IGA on 6 May 2020)

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Draft Statutes of E-RIHS ERIC

PREAMBLE:

Romania
The French Republic
The Hellenic Republic
The Italian Republic
The Kingdom of Belgium
The Kingdom of the Netherlands
The Kingdom of Spain
The Portuguese Republic
The Republic of Hungary
The Republic of Poland
The Republic of Slovenia
Hereinafter referred to as ‘the Members’

and

The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)
The Kingdom of Sweden
The Republic of Austria

Hereinafter referred to as ‘the Observers’,

WHEREAS the Members are convinced that Heritage Science responds to pressing global challenges impacting on European science and society through better understanding and conservation of Heritage;

WHEREAS the Members are convinced that Heritage Science contributes to social cohesion and well-being of citizens through studies of our past;

CONSIDERING the impact of the contribution of Heritage Science to cultural industries through research into Heritage management and Heritage conservation;

CONSIDERING that the practice of Heritage Science leads to innovations that can benefit other scientific fields and industries and that Heritage Science benefits from innovation in other fields;

CONSIDERING the potential of digital technologies to facilitate research and ease collaboration;

RECOGNISING that collaboration is essential to foster the exchange of knowledge and expertise, to facilitate technology transfer, and to avoid a duplication of investments and a fragmentation of research efforts;

ACKNOWLEDGING that Heritage Science equally relates to cultural and natural history collections, architectural Heritage and monuments, archaeological, and geological sites;

RECOGNISING that a culture of cross-disciplinarity, exchange and cooperation associating researchers from environmental sciences, arts, humanities, social and digital sciences on an equal level will produce outstanding results;

ACKNOWLEDGING the legacy of numerous European research projects and the role of Intergovernmental Organisations and Non-Governmental Organisations in the structuration of a European Heritage Science community;

CONSIDERING the need to further this cooperation in a permanent structure that could strengthen the leading position of Europe in this field;

HAVE AGREED AS FOLLOWS:

CHAPTER 1

ESSENTIAL ELEMENTS

Article 1

Name, seat, and working language

1. There shall be a distributed European Research Infrastructure called the European Research Infrastructure for Heritage Science (E-RIHS).
2. E-RIHS shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of Regulation (EC) No 723/2009, and be named E-RIHS ERIC.
3. E-RIHS ERIC shall have its statutory seat in Florence, Italy.
4. The working language of E-RIHS ERIC shall be English.

Article 2

Tasks and activities

1. The principal task of E-RIHS ERIC shall be to establish and operate the research infrastructure and to coordinate the strategic and financial development of E-RIHS.
2. In pursuit of its principal task and in accordance with the provision of these Statutes E-RIHS ERIC shall undertake or coordinate the following activities:

- a) enable and coordinate a community of National Nodes including the establishment and monitoring of quality management procedures for the National Nodes and the partner facilities;
 - b) provide a central integrated access point to partner facilities and their resources on the basis of scientific excellence including continuous development and open access to material and digital scientific resources;
 - c) support the advancement of the scientific understanding of Heritage and in this way contribute to its conservation;
 - d) promote Heritage Science, and in particular its cross-disciplinary approach to research questions related to the history, interpretation, diagnosis, appreciation, and preservation of Heritage;
 - e) promote a culture of cross-disciplinary and trans-national collaboration through supporting researchers in developing comprehensive, advanced scientific and technological expertise (including training).;
 - f) foster technical or procedural innovation in the field of Heritage including technological interoperability and convergence of methods through the definition of best practices.
3. In addition, E-RIHS ERIC may carry out the following activities:
- (a) seek to facilitate the mobility of researchers and other kinds of users;
 - (b) identify European projects of interests to Heritage Science and related funding opportunities, and to guide interested partners in their applications;
 - (c) establish international partnerships with other European and non-European organisations in Heritage Science and in related fields;
 - (d) carry out any other activity necessary to fulfil its aims and objectives.
4. E-RIHS ERIC shall pursue all of its activities ethically and transparently, and shall avoid potential organisational or personal conflicts of interest.
5. E-RIHS ERIC shall pursue its tasks on a non-economic basis. E-RIHS ERIC may carry out limited economic activities, provided they are closely related to its principal tasks and they do not jeopardise the achievement thereof. Any income generated by these limited economic activities shall be used by E-RIHS ERIC to enhance and strengthen its activities.

CHAPTER 2

MEMBERSHIP

Article 3

Membership and representing entity

1. The following entities may become members or observers of E-RIHS ERIC,
 - (a) Member States of the European Union;
 - (b) Associated Countries to the European Union;
 - (c) Third countries other than Associated Countries;
 - (d) International organisations.
2. The conditions to become a member or an observer are set out in Article 4.
3. The membership of E-RIHS ERIC must include at least a Member State and two other countries that are either Member States or Associated Countries.
4. Member States or Associated Countries shall hold jointly the majority of the voting rights in the General Assembly. The General Assembly shall determine any modification of voting rights that are necessary to ensure that E-RIHS ERIC complies at all times with that requirement.
5. Any member or observer referred to in paragraph 1(a) to (c) may be represented by one or several public entities or private entities with a public service mission, of its own choosing and appointed in accordance with its own rules and procedures. Intergovernmental organisations represent themselves.
6. Each member or observer shall inform the General Assembly of any change of its representing entities, of the specific rights and obligations which have been delegated to it or of any other relevant change.
7. The members and observers of E-RIHS ERIC and their representing entities are listed in Annex I. Annex I shall be kept up to date by the Director General

Article 4

Conditions for becoming a member or an observer

1. Entities referred to in Article 3(1) willing to become members of E-RIHS ERIC shall submit a written application to the Chair of the General Assembly. That application shall describe how the entity will contribute to E-RIHS ERIC objectives and activities described in Article, and how it will fulfil obligations referred to in Article 6.
2. The admission of the entities as new members shall be subject to the approval by the General Assembly, according the voting rules described in Article 9(6) and following the advice of the Scientific and Ethics Advisory Committee.
3. Entities referred to in Article 3(1) who are willing to participate in E-RIHS ERIC, but are not yet in a position to join as members, may apply for observer status.
These entities shall submit a written application to the Chair of the General Assembly. That application shall describe how the applicant will contribute to E-RIHS ERIC objectives and activities described in Article, and how it will fulfil obligations referred to in Article 7.
These entities shall be admitted as observers for three years. Observers may apply once for extension of observer status for the same duration.
4. The admission or re-admission of observers shall be subject to the approval by the General Assembly, according the voting rules described in Article 9(6) and following the advice of the Scientific and Ethics Advisory Committee.
5. An entity that foresees a lasting participation, but that for domestic reasons is not in a position to become a member, may in exceptional cases be granted the status of permanent observer. Permanent observers shall have the same rights and obligations as members as provided for in Article 6 paragraphs 1 and 2 of the Statutes, except the right to vote at the General Assembly.

Article 5

Withdrawal and termination of membership or observer status

1. No member may withdraw from E-RIHS ERIC within the first five years of its establishment. After this point, a member may withdraw at the end of a financial year, having sent a prior request to the General Assembly twelve months in advance of withdrawal.
2. Observers may withdraw at the end of a financial year, following a request submitted to the General Assembly six months prior to the withdrawal.
3. Members and observers shall fulfil financial and other obligations before their withdrawal can become effective.

4. The General Assembly may terminate membership or observer status if the following conditions are met:
 - (a) the member or observer is in serious breach of one or more of its obligations under these statutes;
 - (b) the member or observer has failed to rectify such breach within six months after it has received notice of the breach in writing.
5. The member or observer referred to in paragraph 4 shall have the right to explain its position to the General Assembly before the General Assembly makes any decision on the issue.
6. The General Assembly shall define what constitutes a serious breach of an obligation in the rules of procedure.

CHAPTER 3

RIGHTS AND OBLIGATIONS OF THE MEMBERS AND OBSERVERS

Article 6

Members

1. The rights of each member shall include:
 - (a) the right to attend the General Assembly with one vote;
 - (b) the right for their partners facilities participating to their National Node to use the “E-RIHS ERIC” label for their activities, including for conferences and events and training;
 - (c) the right for their partner facilities affiliated to a National Node to participate in European and International scientific activities through E-RIHS ERIC;
 - (d) the right for its research community to participate in activities approved by the General Assembly
2. Each member shall:
 - (a) establish a National Node of E-RIHS ERIC and promote the integration of its Heritage Science community under its coordination;
 - (b) appoint representatives in accordance with Article 9(2);
 - (c) appoint a national coordinator in accordance with Article 11(2);
 - (d) contribute financially in cash, to E-RIHS ERIC in accordance with Annex II;
 - (e) provide in-kind contributions, including access to scientific infrastructures in accordance with Article 16;

- (f) draft a catalogue of services provided within E-RIHS by the partner facilities affiliated to their National Node to the community, and keep it exhaustive and up to date;
- (g) promote adoption of relevant standards in its network, in line with the quality policy of E-RIHS ERIC;
- (h) promote uptake of services among researchers in the member country, and gather user feedback and requirements.

3. Intergovernmental organisations may be exempted from obligations laid down in Article 6(2).

These exemptions shall be listed in the application described in Article 4, and approved as a part of the admission of an International Organisation as a Member by the General Assembly according the voting rules described in Article 9(6).

Article 7

Observers

1. The rights of observers shall include:
 - (a) the right to attend the General Assembly without a vote;
 - (b) the right for its research community to participate in activities approved by the General Assembly.

2. Each observer shall:
 - (a) appoint representatives in accordance with Article 9(2);
 - (b) contribute financially in cash to E-RIHS ERIC in accordance with Annex II;
 - (c) promote adoption of relevant standards in its network, in line with the quality policy of E-RIHS ERIC;
 - (d) use their best efforts to become a Member of E-RIHS ERIC.

CHAPTER 4

GOVERNANCE

Article 8

Governance structure

The Governance structure of E-RIHS ERIC shall consist of:

- (a) The General Assembly
- (b) The Director General
- (c) The Committee of Nodes
- (d) The Scientific and Ethics Advisory Board

Article 9

General Assembly

1. The General Assembly shall be the governing body of E-RIHS ERIC and shall be composed of representatives of the members and the observers.
2. Each member shall have one vote and shall nominate up to two representatives. Observers shall carry no vote and shall nominate up to two representatives. The representatives both for member and observer can be assisted by up to two experts.
3. The General Assembly shall meet at least once a year, and shall be responsible for the overall direction and supervision of E-RIHS ERIC.
4. The General Assembly shall, with a majority of the votes:
 - (a) appoint the Director General and Deputies;
 - (b) appoint, suspend or dismiss the members of the Scientific and Ethics Advisory Board;
 - (c) approve the annual activity report;
 - (d) decide on any other matters that are necessary to fulfil the tasks of E-RIHS ERIC.
5. Budgetary and financial decisions shall require a majority of the votes, representing the majority of the annual membership contributions. These decisions include the following:
 - (a) to adopt the annual budget;
 - (b) to adopt a framework for in-kind contributions;
 - (c) to conduct economic activities within the limits of Article 2(5);
 - (d) to decide on any other matters related to a change of business model or financial policy.

6. The following decisions shall require a two-third majority of the votes:
 - (a) to approve the admission of new members and observers;
 - (b) to adopt the rules of procedure;
 - (c) to create or disband governance or management bodies not listed in Article 8.
 - (d) to approve the scientific strategy;
 - (e) to terminate a membership or an observer status;
 - (f) to suspend or dismiss the Director General and their deputies;
 - (g) to wind-up E-RIHS ERIC.
7. The following decision shall require unanimity of the votes of the members:
 - (a) to set the level of annual membership and observer contribution;
 - (b) to change the amount or calculation of contributions by a Member or Observer;
 - (c) to amend to the statutes of E-RIHS ERIC
8. The General Assembly shall elect a Chair and a Vice-Chair among representatives of members by a simple majority of the votes cast. The Chair and the Vice-Chair shall be elected for a three-year term, renewable once. The meetings of the General Assembly shall be convened by the Chair.
9. An extraordinary meeting of the General Assembly may be requested by at least half of the members, or members representing at least half of the contributions.
10. A quorum of two-thirds of members shall be required for having a valid General Assembly meeting. If the quorum is not met, a second meeting shall be convened as soon as possible following a new invitation, with the same agenda. In the second meeting, the quorum shall be considered met if half of members are present.
11. The General Assembly shall adopt rules on remote presence and on alternate representatives in the rules of procedure.

Article 10

Director General

1. The General Assembly shall appoint the Director General of E-RIHS ERIC in accordance with Article 9(4) and a recruitment procedure adopted by the General Assembly. The term for the Director General shall be 3 years, renewable once.
2. The salary of the Director General shall be determined by General Assembly.

3. The Director General shall be the legal representative of E-RIHS ERIC. This may involve an international outreach activity, if mandated by the General Assembly.
4. The Director General shall elaborate the scientific strategy of E-RIHS to be approved by the General Assembly, in collaboration with the Deputies and the Committee of Nodes.
5. The Director General shall be responsible for the implementation of the decisions assumed by the General Assembly.
6. The Director General shall be responsible for submitting the annual activity report to the General Assembly. The report shall be drafted with due consideration to the activity of the Committee of Nodes and the Scientific and Ethics Advisory Board.
7. The Director General shall be responsible for the daily management of E-RIHS ERIC, and manages the activities and personnel of the Head Office.
8. The Director General may request one or more Deputies to the General Assembly.

Article 11

Committee of Nodes

1. The Committee of Nodes represents all entities involved in the National Nodes. It shall consist of National Coordinators appointed by the Members, representing their own National Node.
2. Each member shall appoint one National Coordinator according to their own rules.
3. The Committee of Nodes shall have the task to:
 - (a) ensure consistency, coherence and stability of the activities of the National Nodes;
 - (b) oversee and monitor the implementation and coordination of E-RIHS ERIC policies in the network;
 - (c) organise adequate structures to represent local users and professionals aggregating their suggestions, needs, and concerns at the level of E-RIHS ERIC;
 - (d) make proposals to improve the infrastructures, the procedures and the practices of National Nodes in order to avoid quality or efficiency discrepancies between the facilities of the members of E-RIHS ERIC;
 - (e) contribute to the scientific strategy of E-RIHS ERIC;
 - (f) report the nature and the value of national in-kind contributions and communicate them to the Director General;
 - (g) report to the General Assembly;
 - (h) elaborate its own rules of procedure to be approved by the General Assembly.

4. National Coordinators communicate annually to Director General their offer of services. In response the Director General prepares the annual catalogue of services taking into account the access needs of E-RHIS ERIC and the service quality standards and evaluation procedures established by E-RIHS ERIC. The final version of the catalogue undergo acceptance by the Committee of Nodes by majority of votes.
5. E-RIHS ERIC service quality standards and evaluation procedures will be the subject of a specific regulation document, subject to the approval of the General Assembly.

Article 12

Scientific and Ethics Advisory Board

1. The Scientific and Ethics Advisory Board shall offer advice on request or on its own initiative to the General Assembly on the overall activities and policies of E-RIHS ERIC.
2. The Scientific and Ethics Advisory Board shall offer advice on scientific issues regarding the activities of the Access Platforms.
3. The Scientific and Ethics Advisory Board shall evaluate annually the scientific, technical and general activities of E-RIHS ERIC and the activities conducted by the Members under the E-RIHS ERIC label. This evaluation shall take the form of a report and shall be transmitted to the General Assembly.
4. The Scientific and Ethics Advisory Board shall offer advice on the Scientific Strategy to be adopted by the General Assembly.
5. The members of the Scientific and Ethics Advisory Board are appointed by the General Assembly in accordance with Article 9(4) for a term of three years, renewable once. The number of its members shall be decided by the General Assembly.
6. The Scientific and Ethics Advisory Board shall consist of distinguished experts and stakeholders from the different disciplines applied to Heritage Science, including but not limited to natural sciences, social sciences and humanities. Members of the Scientific and Ethics Advisory Board shall avoid potential organisational or personal conflicts of interest.
7. The Chair of the Scientific and Ethics Advisory Board shall be elected among its members. The rules of procedure and the composition of the Scientific and Ethics Advisory Board shall be adopted by the General Assembly.

CHAPTER 5

FINANCIAL PROVISIONS

Article 13

Budgetary principles, accounts, and audit

1. The financial year of E-RIHS ERIC shall begin on 1 January and end on 31 December of each year.
2. The accounts of E-RIHS ERIC shall be accompanied by a report on budgetary and financial management of the financial year.
3. E-RIHS ERIC shall be subject to the requirements of the law of the country where it has its statutory seat as regards preparation, filing, auditing and publication of accounts.

Article 14

Tax and excise duty

1. VAT exemptions based on Articles 143(1)(g) and 151(1)(b) of Council Directive 2006/112/EC and in accordance with Articles 50 and 51 of Council Implementing Regulation (EU) No 282/2011, shall be applied to purchases of goods and services by the E-RIHS ERIC and by a E-RIHS Member in the meaning of chapters 2 and 3 of the statutes which are for the official and exclusive use by the E-RIHS-ERIC, provided that such purchase is made solely for the non-economic activities of the E-RIHS-ERIC in line with its activities. VAT exemptions shall be limited to purchases exceeding the value of EUR 300.
2. Excise duty exemptions based on Article 12 of Council Directive 2008/118/EC (3), shall be limited to purchases by the E-RIHS-ERIC which are for the official and exclusive use by the E-RIHS-ERIC, provided that such purchase is made solely for the non-economic activities of the E-RIHS-ERIC in line with its activities and that the purchase exceeds the value of EUR 300.
3. Purchases by staff members are not covered by the exemptions.

Article 15

Liability and insurance

1. E-RIHS ERIC shall be liable for its debts.

2. Members are not jointly liable for the debts of E-RIHS ERIC. The financial liability of the members for the debts of E-RIHS ERIC shall be limited to their respective contribution, as specified in Annex II.
3. E-RIHS ERIC shall take appropriate insurance to cover the risks specific to its operation.

CHAPTER 6

POLICIES

Article 16

Access Policy

1. E-RIHS ERIC shall provide access to:
 - (a) The expertise and the competences of a community of Heritage Scientists from partner facilities;
 - (b) Archival collections of samples and physical data that constitute valuable research resources (E-RIHS ARCHLAB platform);
 - (c) Online digital tools and digital research resources (E-RIHS DIGILAB platform);
 - (d) Large-scale and medium-scale fixed facilities (E-RIHS FIXLAB platform);
 - (e) A selection of mobile analytical instrumentation for non-invasive measurements on objects, buildings, and sites (E-RIHS MOLAB platform).
2. Access shall be granted to users conducting public research on Heritage areas as they are defined in preamble, on the basis of scientific excellence, including consistency with Heritage conservation criteria. In special cases and without prejudice to Article 2(5), access may also be provided to users conducting proprietary research on Heritage areas as they are defined in preamble.
3. There shall be no application or admission fee for the users. Access providers may decide to transfer the operating costs of the access to users according to pre-established rules stated in E-RIHS ERIC access policy regulation.
4. E-RIHS ERIC shall make its best efforts to support the mobility of its users.
5. E-RIHS ERIC access policy will be the object of a specific regulation document, subject to the approval of the General Assembly
6. Procedures and evaluation criteria for the users' access eligibility shall be made publicly available on E-RIHS ERIC website.

Article 17

Dissemination Policy

1. E-RIHS ERIC shall require its users to make their research results and publications publicly available, and encourage them to make their data available on E-RIHS DIGILAB within a reasonable period.
2. E-RIHS ERIC shall use most reaching channels for its target audiences, including website, newsletter, social media and other digital professional networks, communications in conferences, exhibitions, articles, reports and documentaries in the traditional (written and broadcasting) and online media.

Article 18

Intellectual Property Rights Policy

1. “Intellectual property” shall mean property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.
2. Data produced or developed under the E-RIHS ERIC label, as well as intellectual property rights attached to it, shall belong to the entity or to the person who has generated it.
3. The use of data resulting from research conducted under the E-RIHS ERIC label shall be granted to the users, in accordance to Article 21 and with the conditions defined by the General Assembly.

Article 19

Employment Policy

1. E-RIHS ERIC shall be an equal opportunity employer. Conditions for access to employment shall be transparent and non-discriminatory. Appointments shall be made on the basis of a competitive selection process.
2. E-RIHS ERIC shall ensure that its personnel are not biased because of their financial, contractual, organisational, or other interests that relate to their work, and do not obtain any unfair competitive advantage over other parties by virtue of the performance of their work.

3. Employment contracts shall be governed by the law of the country in which personnel are employed.
4. E-RIHS ERIC shall advertise its open positions and vacancies internationally.
5. The Director General shall establish regulations and rules to govern all aspects of employment at the Head Office that guarantee personnel welfare. Those rules and regulation shall be adopted by the General Assembly.

Article 20

Procurement policy

1. E-RIHS ERIC procurement policy shall respect the principles of transparency, non-discrimination and competition.
2. Detailed rules on procurement procedures and criteria shall be set out in the rules of procedure and adopted by the General Assembly.

Article 21

Data Policy

1. E-RIHS ERIC shall promote Open Source, Open Access and FAIR (Findability, Accessibility, Interoperability and Reusability) principles.
2. E-RIHS ERIC shall provide guidance to users to ensure that research conducted using material made accessible through E-RIHS ERIC shall be undertaken within a framework that recognizes the rights of data owners and privacy of individuals.
3. E-RIHS ERIC shall ensure that users agree to the terms and conditions governing access and that suitable security arrangement are in place regarding storage and handling of data.
4. E-RIHS ERIC shall ensure that the data providers, the authors and the E-RIHS logo are acknowledged in an appropriate manner.

CHAPTER 7

FINAL PROVISIONS

Article 22

Reporting to the European Commission and the public

1. E-RIHS ERIC shall produce an annual activity report, containing in particular the scientific, operational, and financial aspects of its activities. The report shall be approved by the General Assembly and transmitted to the European Commission and relevant public authorities within six months from the end of the corresponding financial year. This report shall be made publicly available.
2. E-RIHS ERIC shall inform the European Commission of any circumstances that threaten to seriously jeopardise the achievement of E-RIHS ERIC tasks or hinder E-RIHS ERIC from fulfilling requirements laid down in Regulation (EC) No 723/2009.

Article 23

Duration

E-RIHS ERIC shall exist for an indefinite period of time.

Article 24

Winding up

1. The winding up of E-RIHS ERIC shall be decided upon and initiated by the General Assembly in accordance with Article 9(6).
2. Without undue delay and in any event within ten days after adoption of the decision to wind up E-RIHS ERIC, E-RIHS ERIC shall notify the European Commission about the decision.
3. E-RIHS ERIC shall cease to exist on the day on which the European Commission publishes the appropriate notice in the Official Journal of the European Union.

Article 25

Applicable law

The internal functioning of E-RIHS ERIC shall be governed:

- (a) by Union law, in particular Regulation (EC) No 723/2009 and the decisions referred to in Articles 6(1)(a) and 11(1) of the Regulation;
- (b) by the law of the state where E-RIHS ERIC has its statutory seat in the case of matters not, or only party, regulated by acts referred to in (a);
- (c) by these statutes and their rules of procedure.

Article 26

Disputes

1. The Court of Justice of the European Union shall have jurisdiction over litigation among the members in relation to E-RIHS ERIC, between members and E-RIHS ERIC and over any litigation to which the Union is a party.
2. Union legislation on jurisdiction shall apply to disputes between E-RIHS ERIC and third parties. In cases not covered by Union legislation, the law of the State where E-RIHS ERIC has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

Article 27

Statutes updates and availability

1. The Statutes shall be kept up to date and publicly available on E-RIHS ERIC website and at the statutory seat.
2. Any amendment to the Statutes shall be clearly indicated with a note specifying whether the amendment concerns an essential or non-essential element of the Statutes in accordance with Article 11 of Regulation (EC) No 723/2009, and the procedure followed for its adoption.

IV. Possible future changes

1) Submission to become an ERIC

As mentioned earlier in this deliverable, the version of the draft E-RIHS ERIC Statutes are likely to evolve in two different phases. The first phase is the current phase at the time of this report. It is a first negotiation phase where potential founding members work on preparation of the official Step 1 submission of the documents to start the ERIC application process.

This phase should mostly focus on finding a consensus about the exact voting and decision making processes within E-RIHS. It is also when a first version of the Financial Annex to the Statutes is produced and discuss between IGA with a decision making capacity. The rest of the text is expected to undergo minor changes, especially related to the formulation of the access policy and other clarifications.

The second phase will start after the step 1 submission and will be characterized by exchanges with the European Commission for final expert adjustments and improvements. Potential members and international organisations will still be welcomed to join the process until the start of the step 2 of the application process. This process will lead to an official response of the European Commission granting or not the ERIC status to E-RIHS.

2) E-RIHS ERIC operational phase

If the application is received favourably, the establishment of E-RIHS as an ERIC will be notified in the Official Journal of the European Union in the form of a Commission Implementing Decision. The essential elements of its statutes will be also published in the Official Journal.

The statutes will be made available to the public on the official E-RIHS website. Because of the nature of the statutes, we expect the document to remain stable in the lifetime of the infrastructure and to undergo a limited number of amendments. The most likely amendments to happen are addition of new members or observers and updates of the annexes. The statutes will cease to be in effect at the time of the winding up of E-RIHS ERIC or in case of a change in the legal status of the infrastructure.

References

- i “D12.8 Final report on sustainability strategies”, IPERION CH Confidential Report, PALLOT-FROSSARD Isabelle and PETITCOL Rémi, 30 September 2019
- ii “D12.2 Report on the different legal tools for the Research Infrastructure”, IPERION CH Confidential Report, PALLOT-FROSSARD Isabelle and PALTANI-SARGOLOGOS Irini, 31 October 2016
- iii “CNR”, in <https://www.ehri-project.eu/ehri-partners-pp>
- iv “The Statutes of active ERICs: Lessons for the future E-RIHS Statutes”, PETITCOL Rémi, 9 January 2018, Paris
- v “ERIC Practical guidelines: Legal framework for a European Research Infrastructure Consortium”, European Commission (Directorate-General for Research and Innovation), March 2015