



# ET-PP INFRA-DEV WP3

## Financial Architecture

### Analysis of ERIC and IGO RIs

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# RI investigation process

- Meeting with Antonio Bonucci (head of industrial liaison office), XFEL, a new meeting will be planned on procurement in the autumn
- Meeting with SKAO (IGO) head of direction (Simon Berry) and procurement (Ian Hastings) has been done in collaboration with WP7 coordinator
- Meeting in person at EGO with its director (Massimo Carpinelli) and the finance and administration manager (Veronica Colautti)
- Meeting with CTAO (ERIC) with its managing director (Federico Ferrini) and head of finance (Stephan Haid)
- Meeting with ESS (ERIC) with head of finance (Florian Weissbach) last week with WP2 and WP7 coordinators

# Analysis of documents/interviews

For each international RI we study the same characteristics

## Budget system

- Planning of budget
- Council for finance
- Balance sheet
- Loans/Debts
- Recruitment policy
- Secondment policy
- ...

## Financial contribution of member states

- How annual contributions are provided and collected
- How to collect and estimate the in-kind contributions
- ...

## Industrial return

- The countries shall be member state
- Balance among member states
- Procedure for tendering
- Ceiling
- ...

## Procurement rules

- How rules for technical, financial and delivery requirements are defined (e.g. purchases)
- To keep overall costs as low as possible
- Purchase with transparency and impartiality principles
- VAT regulation
- ...

Focus primarily on IGO (example of SKAO) and ERIC (example of CTAO, ESS)

# IGO'S FUNDING: general principles based on CERN rules

IGO's activities are funded by:

- A. its MS and AMS based on Net National Income (NNI)
- B. EU and other third-party funding
- C. Sales, financial and other income

- MS contribution are subject to limited indexation (corridor principle)
- Minimum contribution is recommended
- Ad hoc contributions from non-MS may occur on the basis of ICAs
- Experiments funded by the scientific collaborations through MoUs
- Participation in experiments open to all scientists (from MS or non-MS)
- Use of financial instruments like credit facilities, bank overdrafts and loans, and Investments is possible
- Use of the Cost Variation Index, a mechanism that ensures planning stability and predictability by containing MS indexation of contributions within a given range.

# IGO'S EMPLOYMENT RULES AND SALARIES: general principles

Staff Rules and Regulations in IGOs provide internal law for independent functioning.

IGO's members of the personnel are international civil servants. Distinction is made between:

- ➔ Employed members of the personnel —> linked to the IGO by a contract of employment
- ➔ Associated members of the personnel —> linked to the Organization by a contract of association. The home institution shall be either the employer of the associated member of the personnel, the educational establishment in which he/she is enrolled, a funding body expressly recognized as such by the Organization
- ➔ IGOs provides to the MPE and to the AMP social security schemes (health, social insurance, pension, unemployment) family benefits, subsistence allowances

# IGO'S EMPLOYMENT RULES AND SALARIES: general principles

- ➔ Basic salaries of staff members are determined according to the scales.
- ➔ Salaries of fellows are determined according to their experience and qualifications.
- ➔ Financial and social conditions undergo a periodic 5-yearly review.
- ➔ An annual review of basic salaries, stipends, subsistence allowances and family benefits is also carried out to protect basic salaries and stipends from the erosion of purchasing power resulting from any increase in the cost of living

**Midpoint, minimum and maximum value for grades**

Grade 1		Grade 2		Grade 3		Grade 4		Grade 5		Grade 6		Grade 7		Grade 8		Grade 9		Grade 10	
Min	3915	Min	4659	Min	5544	Min	6597	Min	7851	Min	8636	Min	10277	Min	12229	Min	14553	Min	17318
Midpoint	4698	Midpoint	5591	Midpoint	6653	Midpoint	7917	Midpoint	9421	Midpoint	10363	Midpoint	12332	Midpoint	14675	Midpoint	17463	Midpoint	20781
Max	5481	Max	6522	Max	7761	Max	9236	Max	10991	Max	12090	Max	14387	Max	17121	Max	20374	Max	24245

# IGO'S Procurement general principles

The objectives of the Procurement Rules are:

- To guarantee that contracts fulfill all technical, financial and delivery requirements
- To keep overall costs as low as possible
- To achieve balanced industrial return for the MS by setting out appropriate procedures including, but not limited to, alignment, splitting and limited tendering procedures
- ALWAYS: transparency, impartiality and fair competition
- Applicable tendering procedure depending on thresholds → written bid, price enquiry, invitation to tender (normally preceded by market survey)

Basis of adjudication:

- “lowest compliant” or “best value for money” → applicable to service contracts
- Return coefficient: ratio between that MS' % share amount of all purchases in the preceding 4 calendar years and the MS' % contribution to the budget over same period
- Importance of ILOs role
- VAT exemption

# ERIC'S FUNDING: general principles

ERIC's activities are funded by:

- A. Its MS and AMS with a minimum contribution in % (cash or in-kind)
- B. At least three MS from EU, AMS, third parties and IGOs

- ➔ Experiments funded by the institutions participating in the ERIC
- ➔ All items of revenue and expenditure included in estimates to be drawn up for each financial year and shown in the budget
- ➔ The budget shall be established in accordance with principles of sound financial management and transparency
- ➔ In general an ERIC is liable for its debts. Concerning the liability of the MS, the liability is limited to each member's contribution



# ERIC'S EMPLOYMENT RULES AND SALARIES: general principles

Staff Rules and Regulations in ERIC shall respect the employment rules of the MS.

The legal relationship between an ERIC and personnel working for it is governed by:

1. EU regulations
2. The laws of the country in which the employee is employed
3. The ERIC statutes
4. The national collective labor agreement applicable to the employment contract according to the regulation of the country in which the staff is employed
5. The individual contract with each employee

# ERIC'S EMPLOYMENT RULES AND SALARIES: general principles

- ➔ Basic salaries of staff members are determined according to the national legislation where the personnel is hired
- ➔ Salaries of MPE are determined according to their experience and qualifications.
- ➔ Remuneration is composed of:
  1. Basic salary
  2. Allowances
  3. Severance pay if required by law or any equivalent emolument
- ➔ The basic salaries should be set individually and be differentiated based on:
  1. Position and responsibility
  2. Performance
  3. Competence and experience
  4. Labour market
  5. Location and cost of life
- ➔ Salaries undergo a correction coefficient to adjust for different price levels of consumer goods and services in the duty station by reference to the base city (Brussels)

# ERIC'S Procurement: general principles

The objectives of the Procurement Rules are:

- ➔ To guarantee that contracts fulfill all technical, financial and delivery requirements
- ➔ To keep overall costs as low as possible
- ➔ ALWAYS: transparency, impartiality and fair competition
- ➔ Mandatory documents: costbook and financial regulation
- ➔ Applicable tendering procedure depending on thresholds —> written bid, price enquiry, invitation to tender (normally preceded by market survey)
- ➔ Shall procure first with MS, AMS, EU countries and
- ➔ Rules can be tailored (compatibly with EU regulation)

Basis of adjudication:

- ➔ “lowest compliant” or “best value for money” —> applicable to service contracts
- ➔ Importance of ILOs role
- ➔ VAT exemption only for purchases strictly related to the project
- ➔ VAT exemption should be agreed in the MS where the legal seat is established

# ERIC: CTAO and ESS examples

- Very different implementation in:
- Procurement:
  - ✓ CTAO procures to MS, AMS and European Union first
  - ✓ ESS procures globally and there is no fair work return policy (similar to private company like XFEL in this respect)
- VAT exemption
  - ✓ CTAO has VAT exemption (at least in Italy)
  - ✓ ESS no VAT exemption but treaty with each MS to get some return of taxation; each MS works differently
- Similar implementation for:
- Salaries:
  - ✓ Personnel is embedded in the scheme of the member states where it has been hired
  - ✓ It inherits the pension fund, health insurance and social security benefits of the country in which he/she resides
  - ✓ Benefits for the families
  - ✓ In the case of ESS (but strongly related to Swedish labor law) relatives are hugely helped in finding an adequate job
- Try to get to all personnel the same good living conditions with respect to the country where they live

It seems that ERIC provides a broad environment and allows for different set ups

# Back-up slides

# IGO SWOT: recruitment

## STRENGTHS

**Recruitment policy is defined and approved by the IGO's Council.**

**It shall:**

- Set out clear guidelines on how the Organisation conducts an effective and professional recruitment process enabling it to meet its objectives.
- Seek to facilitate the movement and residence of nationals of the Members, Observers and Strategic Partners involved in the tasks of the Organization and of the family members of such nationals.
- Guarantee that selection procedures and employment of the IGO staff positions are transparent, non-discriminatory and respect equal opportunities.

Employment contracts shall be governed by the terms and conditions set out in the Staff Rules and Regulations approved by the Council.

## WEAKNESS

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## OPPORTUNITIES

- **Salaries** are benchmarked considering the internal and the external market value of the competence. The aim of the salary scale is to enable the Organization to attract staff based on internationally competitive salary levels. This can be achieved thanks to full exemption from domestic income tax
- **Secondment:** Representing entities of Member States can second staff as in-kind contribution
- **Staff members** have immunity from jurisdiction and immunity from execution measures
- Goods purchased or imported or services provided for the personal benefit of the staff are exempt from taxation (VAT)
- Can establish its own social security scheme

## THREATS

- In the event of an IGO with interim company established, transfer of personnel from such company to the IGO does not take place automatically. Company's employment contracts must be terminated and staff is recruited according to the IGO recruitment policy approved by the Council.
- In case of a distributed RI under IGO legal form, salaries should be kept at the same level in order to avoid unfair employment conditions and to facilitate the movement of staff from a country to another.

# ERIC SWOT: procurement

## STRENGTHS

Autonomy in defining the procurement procedures and the financial rules but mostly **aligned with the hosting country and EU regulations.**

### Procurement policy shall:

- respect the principles of transparency, proportionality, mutual recognition, equal treatment and non-discrimination.
- ensure that the acquisition of goods and services is made in the most economic and efficient way ensuring sound expenditure of the Organisation's financial resources.
- reflect the principles of Demanded quality at the lowest cost, Accountability and transparency; Competition and equal treatment; Objectivity and professionalism; Efficient, effective and ethical use of resources; Openness

## WEAKNESS

**VAT exemptions** limited to purchases which are for the official and exclusive use by the Organisation and in line with its activities. VAT exemptions limited to purchases exceeding the value of EUR 300.

**Excise Duty exemptions** limited to purchases which are for the official and exclusive use by the Organisation in line with its activities (purchase must exceeds the value of EUR 300).

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## OPPORTUNITIES

- Capacity to contract with third Parties.
- Costs and financing determined in the Cost Book recommended by the AFC to the ERIC's governing bodies for approval.
- Industrial return under control via IKCs.
- Ability to receive cash and in-kind contributions
- IKCs open to all private companies and public research Institution in the Organisation's partner countries and subject to written contracts
- Update of costs and financial contributions using basic financial tools and projections

## THREATS

- Procurement activities firstly limited to EU countries and ERIC members and secondly opened to other countries
- Unforeseen additional costs due to inflation, increase of energy costs, raw materials etc to be negotiated with Governments through their representing entities.



# IGO SWOT: procurement

## STRENGTHS

Autonomy in defining the procurement procedures and the financial rules

**Procurement policy** shall:

- respect the principles of transparency, proportionality, mutual recognition, equal treatment and non-discrimination.
- ensure that the acquisition of goods and services is made in the most economic and efficient way ensuring sound expenditure of the Organisation's financial resources.
- reflect the principles of demanded quality at the lowest cost, accountability and transparency; competition and equal treatment; objectivity and professionalism; efficient, effective and ethical use of resources; openness
- It is based on the principle of fair work return

## WEAKNESS

**VAT exemptions** to purchases which are for the official and exclusive use by the Organisation and in line with its activities and also for personal use if its staff members and their family (e.g. one car).

**Excise Duty exemptions** to purchases which are for the official and exclusive use by the Organisation in line with its activities and for the personal use of the staff members and his/her family.

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## OPPORTUNITIES

- Capacity to contract with third Parties.
- Costs and financing determined in the Cost Book approved by IGO's governing bodies.
- Industrial return under control via IKCs.
- Ability to receive cash and in-kind contributions
- IKCs open to all private companies and public research Institution in the Organisation's partner countries and subject to written contracts
- Update of costs and financial contributions using basic financial tools and projections

## THREATS

- Overlapping interests
- Unforeseen additional costs due to inflation, increase of energy costs, raw materials etc to be negotiated with Governments through their representing entities.



# IGO SWOT: general

## STRENGTHS

- Established by Member states through multilateral treaties that act like a constitution.
- No initial capital requirements but strong commitment by the members/governments.
- Strong long-term financial stability.
- It has a legal status that may include privileges, immunities, rights and duties based upon its founding charter or statute
- Limited liability regime. The Organisation shall be liable for its debts. The Members are not liable for the debts of the IGO without their explicit agreement to incur such a responsibility.
- It has a legislative body that creates legal acts which may bind the IGO and its member states under international law (can supersede national laws in EU)
- Exemption from direct taxation (assets, property, income, gain, operations, transactions, import)
- IGO financed by the annual contributions of the MS according to scale of contributions based on the published Net National Income for each MS in their national currency.

## WEAKNESS

- Only States and IOs may join as Members.
- National Institutions cannot be appointed as representing entities.
- No flexible governance structure.
- Establishment process is lengthy (the founding Act – Convention/Protocol - must be ratified at governmental level by at least 7 States representing not less than 75% of the contributions).

## SWOT

## OPPORTUNITIES

- An IGO can enter into agreements with other IGOs or with states.
- Capacity to contract with third Parties, hire personnel.
- Costs and financing determined in the Cost Book recommended by the IGO's governing bodies for approval.
- Ability to receive cash and in-kind contributions
- Update of costs and financial contributions using basic financial tools and projections
- Ability to carry out economic activities within IGO's tasks.
- Autonomy in defining the procurement procedures and the financial rules.
- It can contract, acquire and dispose of immovable or movable property
- It can be third party to legal proceedings

## THREATS

- Overlapping interests
- Unforeseen additional costs due to inflation, increase of energy costs, raw materials etc to be negotiated with Governments through their representing entities.
- Industrial return under control via IKCs.
- A minimum cash contribution is nonetheless asked to each member state for participation otherwise members can choose between in-kind or in-cash contributions

# ERIC SWOT: general

## STRENGTHS

- Established by an EU Council regulation and specifically designed for the setting up and operation of distributed research infrastructures involving several Member states.
- No initial capital requirements but strong commitment by the members/governments.
- Strong long-term financial stability.
- Setting-up and internal functioning governed by:
  - (a) Union law (Council Regulation No 723/2009 on the ERIC Community legal framework);
  - (b) the law of the State where the Organisation has its statutory seat;
  - (c) the Statutes and their implementing rules.
- Limited liability regime. The Organisation shall be liable for its debts. The Members are not jointly liable for the debts of the ERIC. It shall be limited to their respective annual contribution.

## WEAKNESS

- Only States and IOs may join as Members, but
- National Institutions may be appointed as representing entities.
- No flexible governance structure
- Establishment process moderately fast (9-12 months) due to the 2-steps submission and evaluation process by the EC.

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## OPPORTUNITIES

- Capacity to contract with third Parties, hire personnel.
- Costs and financing determined in the Cost Book recommended by the AFC to the ERIC's governing bodies for approval.
- Ability to receive cash and in-kind contributions
- Update of costs and financial contributions using basic financial tools and projections
- Ability to carry out economic activities within ERIC's tasks.
- Autonomy in defining the procurement procedures and the financial rules but mostly aligned with the hosting country and EU regulations.

## THREATS

- Overlapping interests
- Unforeseen additional costs due to inflation, increase of energy costs, raw materials etc to be negotiated with Governments through their representing entities.
- Industrial return under control via IKCs. Procurement activities firstly limited to EU countries and ERIC members and secondly opened to other countries.

# ERIC SWOT: recruitment

## STRENGTHS

### Recruitment policy shall:

- Set out clear guidelines on how the Organisation conducts an effective and professional recruitment process enabling it to meet its objectives.
- Seek to facilitate the movement and residence of nationals of the Members, Observers and Strategic Partners involved in the tasks of the Organization and of the family members of such nationals.
- Guarantee that selection procedures and employment of the ERIC staff positions are transparent, non-discriminatory and respect equal opportunities.
- Encourage the formation of an institutionalized employee representation.

## WEAKNESS

ERIC provides autonomy in defining the recruitment procedures but **employment contracts shall be governed by the laws of the country or territory in which staff is employed.**

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OT

## OPPORTUNITIES

### Salary scales.

Salaries are benchmarked considering the internal and the external market value of the competence. The aim of the salary scale is to enable the Organization to attract staff based on internationally competitive salary levels.

### Secondment.

Representing entities of Member States can second staff as in-kind contribution

## THREATS

- In the event of an ERIC with interim company established, transfer of personnel from such company to the ERIC does not take place automatically. Company's employment contracts must be terminated and staff is recruited according to the ERIC recruitment policy approved by the Council.
- In case of a distributed RI under ERIC legal form, salaries should be kept at the same level in order to avoid unfair employment conditions and to facilitate the movement of staff from a country to another.

# IGO'S PROCUREMENT RULES and INDUSTRIAL RETURN

## General principles

### Different types of **supply contracts**:

- “**B**” : blanket orders for recurrent supplies and store items
- “**F**” : supply contract
- “**T**” : civil engineering, building works, etc.
- “**X**” : Maintenance and leasing contracts

### Different types of **industrial service contracts**:

- “**L**” : temporary labour contracts
- “**S**” : service contracts
- “**E**” and “**U**” : energy and utility contracts
- “**K**” : typically from agreements generating revenues, expenses or both