

In-kind Contribution Methodology

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Abstract

The present D. 1.8 is aimed to define a methodology for the evaluation and accounting IKCs as well as on the definition of the auditing criteria necessary to include these values in the annual accounts of the RI beneficiary of these contributions.

According to the working plan defined in the Grant Agreement, at M15 and M30, two preliminary reports have been delivered.

Another proper leverage to strengthen the implementation of the ERICs mainly depends on how are managed the IKCs provided by the Member States (eventually through their Representing Entities). In addition to that, the possibilities arising from the fiscal (VAT and excise) exemptions referred to the IKCs conferred to ERICs have to be considered.

The present document takes also in consideration the main outcomes of the project ERIC-FORUM - grant agreement N. 823798WP 3 – Operations, Administration, HR and Finance of ERICs – Task 3.1 Budgeting and financial reporting principles.

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Abbreviations

IKCs: in-kind contributions (as resources committed)
National Node: the representing entity of the individual State
PF: Partner Facility (as set of available resources)
ERIC: European Research Infrastructure Consortium
ERIC Regulation: Council Regulation (EC) No. 723/2009 of 25 June 2009
GAAP: Generally Accepted Accounting Principles
IPSAS: International Public Sector Accounting Standards

Narrative (technical) description

Strictly linked to the topic presented in D.1.6 - VAT and excise exemption rules, there's the question of the processes aimed to define, collect and account the in kind contributions within ERICs.

The limits and the subjective/objective conditions for the Members to benefit from VAT/duty exemptions for in-kind contributions provided to the ERICs through their Representing Entities, have been outlined in D 1.6 making also reference to the current position of the Commission Tax Services with reference to these operations.

The role played by the In kind contributions depends on the different structure of the ERICS (distributed research infrastructures/single site research infrastructure) as well as on the development phase of these organizations (construction/operational phase). These differences can be properly outlined through the mechanism of the transfer of availability rather than the mechanism of the transfer of ownership.

Moving to the definition of the structures and the different areas of operation, we can distinguish between "single site" and "distributed" ERICs and the areas can be distinguished in "inner core" perimeter intended as an area of action in which an ERIC is in full legal control and has full responsibility, and in which the benefits of the ERIC as an International Organization can be applied, or the "integrated operations perimeter" intended as the relevant activities of different legal entities acting together within the ERIC programs and services as nodes of a unique facility of the ERIC, but not under the full legal control of the ERIC. These definitions give a clear reading key of the conditions to apply for VAT and excise exemptions also with reference to the IKCs.





1. In kind contributions

2.1 Definition and relevance within ERICs context

In-kind contributions are non-cash contributions in the form of **(durable and non-durable)** good, work, services, use of distributed resources, that typically support non-profit organizations.

They refer to non-exchange transactions: an entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without receiving approximately equal value in exchange.

IKCs may consist either in the direct supply of durable assets to an organization (with transfer of ownership), or in an expense sustained directly by the National Nodes to the benefit of the ERIC in order to facilitate the achievement of its objectives (without any transfer of ownership).

The first case represents the typical situation of single site research infrastructure, while the second case represents the typical situation of most of the European distributed research infrastructures.

In a broad sense, in-kind contributions **(intended as resources effectively used)** represent the capital of most European Research Infrastructure Consortia, whose Members, in the proper sense, are the Governments of the involved States contributing mostly through research Entities.

The scope of the Commission in creating a legal framework to set up a European Research Infrastructure (ERIC), was to **support** and **develop the research infrastructures** by creating an appropriate **legal framework** to facilitate their establishment and functioning **at Community level**, by the integration of the traditional support represented by the funding of established research infrastructure by each Member State.

In art.2 of the ERIC Regulation, a research infrastructure is defined as "facilities, resources and related services that are used by the scientific community to conduct top-level research in their respective fields and covers major scientific equipment or sets of instruments...."; in the same article, it is stated that such infrastructure can be "single-sited" or "distributed" (an organized network of resources).





Art. 2 makes a clear reference to networks of resources, which has been implemented in most ERICs as resources made available as **in-kind contributions** (hereinafter IKCs) as a main resource to support the research and specialized scientific technical capacities and capabilities of an ERIC.

The regulation, in its text, does not have an explicit reference to IKC but only a general reference to the obligation to make contributions in Article 10 (h) and in relationship to liabilities in Art 14 (2), but most Statutes do make a specific reference to the IKC, and in some cases these are the major source of resources to operate the ERIC. Explicit references to IKCs are also customary in the EU projects.

An explicit (and first) reference to the in-kind contributions can be found in the **ERIC Practical guidelines.** Commenting art.14 of the ERIC Regulation, the Directorate-General for Research stated that the Statutes might provide for contributions to be made in cash or in kind. In this document is stated that the statutes should also lay down the procedure for the Assembly of members to decide on in-kind contributions and to include them in the ERIC budget. The ERIC statute should also define the procedure for assessing the value of in-kind contributions.

In the ERIC Practical Guidelines, another important reference to the IKC is linked to **the liability of the Consortium**, extending the limited financial liability of the members for the debts of the ERIC to the in-kind contributions which are paid, provided or promised in a legally binding way.

The relevance of **IKCs** for **distributed research infrastructures** is strictly linked to the concept of **integration** stated by the ERIC Regulation; this concept can be represented through the following aspects:

- a) IKCs are direct consequence of the **ERICs model**; in the case of distributed research infrastructure, these organizations are explicitly defined as *"network of resources"*.
- b) IKCs are also direct consequence of the *scopes* of this kind of organizations, focused on strengthening a close cooperation between Member States and the Community in programming and implementing their respective *research activities* in a complementary manner; the IKCs could be crucial to support the financial sustainability of ERICs, using dedicated resources available within their community.

An appropriate **identification (and evaluation)** as well as the **representation (in the Annual accounts)** of the in-kind Contributions allows the understanding of the real overall values of the resources involved in an ERICs, and allows both the management of these organizations and the policy-makers, at Member's Government level or EU level, to understand the specific and the overall impact of the ERICs activities.





1.2 IKCs critical aspects

Even considering their relevance, in some cases, **in-kind contributions are not systematically (formally) recognized** as part of their overall financing contributions; the main reasons related to this aspect are listed as follows:

- technical complexities in evaluation/measurement;
- lack of understanding of the importance of providing this data;
- lack of effective monitoring and reporting;
- uncertainty about the effective implementation of this type of contributions;
- reluctance of auditors to provide their assurance on the amounts included in the financial statements.

Taking into consideration the above, the Methodology proposed in the following identifies **2** different scenarios:

1) IKCs are represented as part of the financial statement of the ERICs

2) IKCs are represented as statistical additional information (without representation in the financial statement).

Independently of the approaches adopted, an ERIC shall operate at different levels:

Operational level

The technical complexities in IKCs evaluation/measurement, as well as the lack of effective monitoring and reporting, for example, could be properly managed through a **commonly agreed methodology**, understood as a set of dedicated processes and resources.

Strategic level

The lack of understanding related to the importance of providing this data could be overcome if:

- the governments of the Member States would grant to their Representing Entities specific financial resources to strengthen their involvement in ERICs activities.
- the ERICs strategy is focused on attracting new sources of funding by using the IKCs provided by the Representing Entities.





Of course, all these aspects are linked to the potential impact of the **VAT/excise exemptions** for ERICs as international bodies in the sense of the EU VAT/excise Directives.

 the voting rights are linked to the contributions (financial and in-kind) provided by the Member States through their Representing Entities. With reference to that, the ERIC Regulation was amended in 2013 to accommodate specific requests from associated countries focused on this matter.

1.3 IKCs classification

A first classification of the in-kind contributions can be outlined through **three basic types** of inkind donations: goods, services, and work of (people).

a) goods

In this category we could make the following distinction:

- durable goods;
- non-durable goods;
- b) services

Within this category, we can make the following distinction:

- b1) <u>internal services</u> provided by an entity (RE/PF) to another entity (ERIC) (e.g. access to research infrastructures)

The Commission Decision of 10.12.2013*, authorising the use of reimbursement on the basis of unit costs for actions involving trans-national access under the Research Infrastructures Part of the Horizon 2020 Framework Programme, represents a fundamental reference for the open access activities of the research infrastructures considering that:

- the IKCs provided could be crucial to perform joint research activities

- the IKCs could play a fundamental role within the sustainability strategy of the ERICs





Commission Decision of 10.12.2013

"The grants under the Research Infrastructures Part of the Horizon 2020 Framework Program shall take the form of reimbursement of either of the following eligible costs for trans-national access to research infrastructures:

(i)costs declared by beneficiaries on the basis of unit costs calculated on the basis of their historical data, or

(ii)costs actually and solely incurred for providing access to the user groups selected for support under the action, or(iii)costs declared by beneficiaries on the basis of a combination of the forms of costs referred to in points (i) and (ii), if part of the eligible access costs, in particular eligible costs for the specific support to users, varies significantly between users."

Nature of the supported actions

One of the most successful activities funded under the Research Infrastructures Part of the previous Research Framework Programmes is the provision, to selected user groups, of transnational access to the best research infrastructures they need for their research work. The user groups are selected, under the actions funded by the Union, on the basis of the excellence of the proposed user group's research projects.

The Union contribution mainly reimburses to the access providers, both the access costs for providing trans-national access to the selected user groups and the costs incurred for supporting the visits (travel and subsistence) of the selected users to the installation.

A method to measure the use of the installation by the action must be defined to calculate the part of the access costs that can be attributed to the action for the trans-national access it provides.... (omissis)

- **b2)** services externally acquired by an Entity to be provided to another entity (ERIC) (e.g. use of external expert knowledge)
- c) work (in terms of making available of personnel to the ERIC through secondments or other types of agreement);





1.4 IKCs representation in the annual accounts

In general, the annual accounts of an entity are prepared for internal users (Directors, Managers, shareholders, employees) but also for external stakeholders (Suppliers and Trade creditors, Governments, Consumers/Users, Public, Medias).

Within each individual organization it is important:

- the identification of the organization key stakeholders
- an assessment of their interests, needs and expectations
- an assessment of the ways in which these interests impact on your organization
- a prioritization of key stakeholders and a strategy to govern the relationships.

so that the financial statements can be prepared in accordance with those requirements.

Within ERICs, a **true** and **fair representation** of the financial statements cannot disregard the knowledge of the overall size of the resources specifically committed to operate the ERIC, including, in particular in the case of distributed ERICs.

For this reason, the representation of the in-kind Contributions in the Annual Accounts implies a certified understanding of the real overall values directly involved in an ERICs.

True suggests that the financial statements are factually correct and have been prepared according to applicable accounting principles and they do not contain any material misstatements that may mislead the users.

Fair implies that the financial statements present the information faithfully without any element of bias and they reflect the economic substance of transactions rather than just their legal form.

In contrast to the business model of the single site research infrastructures, where the IKCs imply the **transfer of the ownerships** of the contributions provided, in the business model of distributed research infrastructures the IKCs **are not finalize in transfer of ownership**.

The first relevant consequence is that within a distributed research infrastructure the resources in kind conferred will be represented in the Annual Accounts of the Partner Facility as well as in the annual accounts of ERIC.





In this case the IKCs will be represented in the **Profit and Loss account** within the COSTS (with the meaning of resources used), as well as within the REVENUES (with the meaning of resources acquired), without any impact on the final balance of this account.

As detailed above, no impact on the **Assets and Liabilities account** considering that, in this case, there is no transfer of ownership.

According to the ERIC-FORUM project outcomes (WP3 - Operations, Administration, HR and Finance of ERICs Task 3.1 Budgeting and financial reporting principles D3.1 Guidance document on GAAP for ERICs), another important aspect consists in identifying a common set of general accounting principles and procedures that ERICs could follow when they compile their financial statement. The representation of the IKCs within the annual accounts of the ERICs should follow the accounting principles adopted.

With reference to the fact that ERICs are based on a not economic scopes as well as to the legal character of their Members, it's important to highlight the fact that the objectives of the financial reporting in these organizations should be to provide information useful for decision-making, and to demonstrate the accountability of the entity for the resources entrusted to it by:

(a) Providing information about the sources, allocation and uses of financial resources;

(b) Providing information about how the entity financed its activities and met its cash requirements;

(c) Providing information that is useful in evaluating the entity's ability to finance its activities and to meet its liabilities and commitments;

(d) Providing information about the financial condition of the entity and changes in it;

(e) Providing aggregate information useful in evaluating the entity's performance in terms of service costs, efficiency and accomplishments.

The importance to adopt a common (accrual based) set of standards in order to facilitate the communication among the ERICs and their (common) stakeholders.

Within ERICs, representing in the annual accounts the IKCs provided by the Members, it's a process with its own peculiarities that requires the adoption of **an agreed-upon procedures engagement**.

If on the one hand the financial data of the ERICs shall be audited by independent external auditors appointed by the ERICs, on the other hand, in all the cases in which there's no transfer of ownership from the Representing Entity to the ERIC, the in-kind values cannot be audited by





the same professional figures considering that there's no contractual link between the auditors of an ERICs and the Representing Entity providing the IKCs.

In these cases, in order to finalize the process, each Representing Entity should either:

- appoint, or refer to the Auditors of their own Institution/Organization, or
- appoint independent external Auditors.

These auditors will be asked to prepare a report stating the respect of the general condition for valuing and accounting the IKCs as detailed in a Methodology approved by the governing bodies of the ERICs.

They are asked to perform agreed-upon procedures relating to financial information which are procedures agreed between an entity (the providing institution) and a third party (the ERICs) to produce factual findings about financial information referred, in these cases, to the IKCs conferred by the providing institution.

Matters to be agreed include the following:

- Nature of the engagement including the fact that the procedures performed will not constitute an audit or a review and that accordingly no assurance will be expressed.
- Stated purpose for the engagement.
- Identification of the financial information to which the agreed-upon procedures will be applied.
- Nature, timing and extent of the specific procedures to be applied.

2. Evaluation criteria

In general, an ERIC:

- could receive a donation/contribution of goods or services from an external subject (individuals, public/private organization different from the Representing entities/National nodes);
- could receive a contribution of goods and services from a Representing entity/National node that:
 - 2.1) buys supplies, to support the activities of the ERIC.





2.2) provides an ERIC with **the use** of a **standard facility/standard instrument** whose inkind value is equivalent to the cost of the service for a similar task for the time period in question. (e.g. a copier, a car, a room)

2.3) provides an ERIC with the use of a **specific facility/specific instrument** that could even be built by a research institution to meet its internal needs.

Listed below some important differences (and consequences) between the cases represented.

In case 1 - in some cases there is not a bill documenting the cost of the goods or services provided; this is true especially when a donation is made by individuals. Even when there is a bill, the documented value of the donation received could not correspond to its actual value. In these cases, a professional assessment process is needed in order to define the **fair market values** of the goods received.

In case 2.1 - the in-kind contributions correspond to the amount spent on their purchase; there is an invoice that documents the value of the purchase. **(actual costs).**

In case 2.2 - also in these cases probably there is an invoice/contract documenting the cost of the standard service provided **(actual costs).** In case of non-invoicing, an evaluation process needs a "market" through which the value of the IKC will be estimated. **(fair market values)**

In case 2.3 there is an additional complication. There is not a market through which the value of the IKC can be estimated. The "value" of the service provided should be calculated in accordance to a common system of rules agreed among the Partner Facilities and the ERICs. **(Evaluation as a result of a negotiation process).**

Even in the presence of bills documenting the costs, there are some aspects for which a process based exclusively on actual costs could be sometimes useless, leading to <u>underestimations /</u> <u>overestimation</u> of the values conferred.

For these reasons, a Methodology aimed to represent the IKCs conferred to the ERICs within their annual accounts should detail all the evaluation criteria adopted.





3. In kind contributions methodology

3.1 Preliminary considerations

In general, a methodology aimed to define the the value of the goods and services conferred for specific use within the activities of ERIC should take into-account:

A) the mission of the ERIC;

B) the **structure of the ERIC**, as distributed research infrastructure/single site research infrastructure;

C) the different activities performed by the ERIC through the facilities made available from the Member States.

3.2 Definition of the process

The process is composed by a variable number of steps

1st STEP: definition of the resources potentially available for the scopes of the ERIC

The definition of the facilities coordinated should be formally described in **Framework Agreements** between the ERIC and the National nodes appointed by the national governments.

2nd STEP: Identification of the resources to be used / resources used (IKCs allocation and measurement)

The activities (annually) **planned**, and the resources (annually) committed to the ERICs should be detailed in **Specific Agreements** agreed with each National Node, and constitute the core of the "in-kind contributions" of the Member Country for the ERICs.

The Specific Agreements should cover, the following issues:

- technical description of the activities to be performed;
- project plans, including time schedules, deliverables and milestones;
- total estimated values;
- roles and responsibilities of the parties, and the delivering body;
- (eventual) rules for ownership transfer





- responsibility for the delivery of the in-kind contributions

In this respect, it is important to highlight that, according to ERIC Regulation Article 13 -Budgetary principles, accounts and audit - "all items of revenue and expenditure of an ERIC shall be included in estimates to be drawn up for each financial year and shall be shown in the Budget. The revenue and expenditure shown in the budget shall be in Balance".

3rd STEP - Definition of a common set of rules to measure/report costs

In general terms, the following requirements for reporting IKCs should be recommended:

- the costs be **actually borne** by the RE/PF and must be necessary to achieve ERIC goals;
- the costs must be **supported by reporting tools** (time sheets or certification etc.)
- the costs must be **in line with** the administrative/scientific/technical activities agreed with the ERIC;
- the costs should be (if possible) indicated in the budget of the ERIC;
- the costs must comply with the applicable national law on taxes, labor and social security;
- the costs must be **reasonable**, justified and must **comply with the principle of sound financial management**, particularly as regards **economy and efficiency**;

If these values are intended to be represented in the Annual Accounts, in addition to the previous requirements, the costs must be **audited**, in accordance with a common set of auditing principles

In order to achieve the goal described above, each RE/PF shall either:

- appoint, or refer to the Auditors of their own Institution/Organization;
- appoint external Auditors.

The auditors of the RE/PF shall be asked to prepare a report stating the values and the respect of the general condition for the evaluation and accounting of the IKCs.

4th STEP – Definition of practical tools

In order to facilitate its implementation, the methodology should also contemplate:





- a) a set of *tools* necessary to collect the data in a single format that can be immediately used for accounting purposes, composed by:
 - tables through which the IKCs should be collected, according to the activities listed in the Specific Agreements
 - **instructions on how** to properly fill the tables;
 - instruction on how the scientific activities performed (to be performed) should be represented;
 - instructions on when the IKCs data should be provided, according to the Budget/financial statements approval
 - forms through which to describe the activities developed / to be developed;
 - indicators that should be provided in order to evaluate the impact of the activities developed.

b) the administrative support of the ERICs Central hub to the Representing Entities.

The definition of an internal committee involving ERICs and PFs financial officers is warmly suggested.

3.3 Analytical approaches to collect the IKCs

Within the proposed methodology the collection and calculation of the IKCs is based on 3 *different* analytical *approaches*.

1. Specific (direct) actual costs, directly linked to those activities which are developed within the ERIC annual programs; (ordinary activity, specific projects, etc)

In this category are included costs that can be **directly attributed** to the supply a specific goods or services within an ERIC. These costs can be supported through invoices or through a documented assessment of their value.

2. Unit costs referred to a specific service directly made by the Representing Entities.

3. Overhead (indirect costs).





Some costs, such as depreciation or administrative expenses, are more difficult to assign to a specific activity and are therefore considered indirect costs. Through this solution the indirect costs could be calculated on the basis of a **flat-rate of the direct costs**.

In this category the typical indirect expenditure and general characteristics, are e.g. the following:

- insurance policies (civil, accidents, etc.)
- general services (cleaning and heating, security, prevention and protection services, administrative services etc.)
- legal and fiscal services.
- postal expenses, telephone charges.
- remuneration of Directors and Bodies.

In order to measure the IKCs, each National node through its Partner Facilities can report its IKCs by combining *more than one of the suggested approaches*. (e.g. using the specific direct cost for some activities and the unit cost approach for other ones

3.4 Differences between single site and distributed research infrastructures

In order to list the main differences between single site and distributed research infrastructures, it is considered necessary to make an initial reference to the life cycle (phases) of these organizations.

Starting from the distinction between operational and construction phase, the differences are represented in the table below:

Туре	DISTRIBUTED RI	SINGLE SITE RI	
Phase	operational phase	construction phase	operational phase
definition of the PFs	relevant	irrelevant	irrelevant
IKCs	resources to be used	resources to be transferred	resources to be used / transferred
methodology	internally defined by the receiving RI	commonly agreed between ERICs and their nodes	commonly agreed between ERICs and their nodes limited to the resources used





ownership	irrelevant	the transfer need to be properly ruled	the transfer need to be properly ruled (RI upgrades)
analytical approach	specific costs (invoices)	specific costs / unit costs/ overheads	specific costs / unit costs/ overheads

In particular, within single research infrastructures the IKCs provided by the Member States are aimed to build/strengthen the facility, implying the transfer of ownership of the investments made on national basis. Within their operational phase, part of the IKCs could be referred also to the use of some resources provided by the Member States (through their national representing entities). For example, this could be the case of personnel costs provided in-kind to the facility. On the other hand, the distributed research infrastructures are focused on the integration of existing distributed facilities, funded by the national governments.

Based also on these considerations, the definition of the Partner facilities (in term of resources potentially available for the ERICs scopes) is completely irrelevant for the single site research infrastructures.

Another important aspect is referred to the definition of a methodology commonly agreed. For the single site research infrastructures, the evaluation criteria could be independently defined by the entity receiving the IKCs, without involving the Member States and/or their representing entities.

The third main difference is finally related to the potential analytical approaches. In case of single site research infrastructures, the definition of the unit costs as well as the rules for the calculation of the general costs do not apply.





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