

# Euro-Biolmaging Preparatory Phase II Project

## D2.1 Completion of the EuBI ERIC statutes and general Rules of Procedure of the EuBI ERIC by approval of Interim Board

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<b>Task leader</b>	Amaranta Amador Bernal (LS)
<b>Contributors</b>	Vera Herkommer (LS) Riina Vuorento Satu Paasilehto (LS) Antje Keppler EuBI Interim Board



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## Abstract

The main objective of WP2 is to finalize the legal framework of EuBI ERIC. The completion of the ERIC statutes represents the first key milestone in this pathway. The draft EuBI ERIC statutes have been finalized by the group of WP2 legal advisors and, after extensive intergovernmental negotiations, finally approved by the EuBI Interim Board on 19 January 2017, at their 12th IB meeting in Porto.

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## 1) Completion of the EuBI ERIC statutes

**Task 2.1** includes the

- completion of the EuBI ERIC statutes for submission to the EC,
- communication with EC legal experts on required amendments;
- preparation of EuBI ERIC statutes for signature by EuBI ERIC Members and finally
- preparation of general Rules of Procedure for the EuBI ERIC.

According to the Grant Agreement, **D2.1** is intended to cover the completion of the EuBI ERIC statutes as well as the general Rules of Procedures of EuBI ERIC.

Work on the draft EuBI ERIC statutes had even started before the start of Preparatory Phase II (hereinafter PPII) in January 2016. Since PPII started, WP2 was in charge of drafting the ERIC statutes in close collaboration with the EuBI Interim Board (hereinafter: IB) and its Chair, as well as the Hub hosting entities and in particular with Finland, the host of the statutory seat of EuBI ERIC.

The group of WP2 legal advisors under the guidance of the WP2 leader was responsible for finalizing the draft EuBI ERIC statutes during the first reporting period (i.e. from January to June 2016).

Work carried out by the WP2 leader was key for the successful finalisation of the statutes: This included (i) drafting every chapter of the statutes; (ii) discussion and input from WP2 partners which led to revisions of the chapters; (iii) discussion of every chapter by the IB (sometimes following several rounds of discussions in several meetings). IB and WP were provided at each step of the process with background documents with legal implications and comparisons of solutions adopted in other infrastructures.

According to the Grant Agreement completion of the EuBI statutes required approval of the IB. While the approval of the ERIC draft statutes by the IB could not be achieved during this period, the various chapters were discussed at length and approved individually during the extraordinary meeting and the 9th, 10th and 11th ordinary ones that occurred in 2016 and even in previous meetings. These meetings paved the way for the approval by the IB of the whole EuBI ERIC

statutes at the beginning of the 2nd reporting period (12th IB meeting, Porto, 19 January 2017).

The approved and submitted EuBI statutes form an **Annex** to this report.

## **2) Completion of the general Rules of Procedures of the EuBI ERIC**

The general Rules of Procedures of the EUBI ERIC have not been prepared or submitted under this deliverable for two reasons:

1. The draft Statutes, once drafted, did no longer foresee a 'general rules of procedure for EuBI ERIC' as complementing rules to the Statutes, but rather internal policies and rules of procedures specifically designed for the different governance and advisory bodies (art.20.8 j-k Statutes).
2. Furthermore, Deliverable 2.6 requires WP2 to establish Rules of Procedures for all governance and advisory bodies, which is in line with the current draft ERIC statutes.

D2.6 was due 6 months later, i.e. in month 12 (i.e. by 31 December 2016). Now that the EuBI ERIC statutes are approved by the IB, WP2 has started to draft the Rules of Procedure for all governance and advisory bodies.

## **EuBI ERIC STATUTES**

### **PREAMBLE**

The EuBI Members and EuBI Observers,

RECOGNISING that life-sciences and biomedical research are critical to tackling the European grand challenges such as health, demographic change and wellbeing, food security, sustainable agriculture, marine and maritime research, and the bio-economy and inclusive, innovative and secure societies;

RECOGNISING that new imaging technologies are revolutionizing the life sciences and the understanding of health and disease;

RECOGNISING that the demand from life science researchers to access innovative imaging technologies, training, image data storage and analysis is constantly increasing;

RECOGNISING that it is imperative that European life scientists maintain a lead in these developments so that their discoveries continue to drive innovation and provide knowledge;

RECOGNISING that the construction and operation of the EuBI ERIC is a means by which Europe will realize the full potential of the technical revolution in the life sciences and enable its best scientists to have access to cutting-edge imaging technologies and services provided by the best experts in the field;

RECOGNISING that effective access to the EuBI ERIC data and technology must be granted to the research community, in particular to researchers from EU member states and from associated countries;

RECOGNISING that the distributed structure of the EuBI ERIC will strengthen the European Research Area and contribute to the mobility of knowledge and the dissemination and optimisation of research and technological development within Europe;

DESIRING to further strengthen the international position of European states and organisations in research, and to intensify scientific cooperation across disciplinary and national boundaries;

RECOGNIZING that the biological and medical imaging communities have synergistic capabilities and complementary goals;

RECOGNISING that the Euro-BioImaging ERIC shall pursue synergies with other research infrastructures; and

RECOGNISING that the financial sustainability of the Euro-BioImaging ERIC is essential to achieve the above mentioned objectives;

RECOGNISING the need for flexible arrangements in applying the tax exemption, especially as regards the purchases by the Member States of ERIC (or undersigned parties)

HAVE AGREED AS FOLLOWS:

## CHAPTER 1. GENERAL PROVISIONS

### Article 1. Definitions

For the purposes of these statutes, the following definitions shall apply:

#### Euro-Biolmaging research infrastructure and legal entity

- a) “Euro-Biolmaging or EuBI”: Pan-European research infrastructure providing open user access to a broad range of state-of-the-art imaging technologies for the life sciences, including biological and biomedical imaging.
- b) “Euro-Biolmaging ERIC or EuBI-ERIC”: Legal entity set up as established in Article 2.1.

#### Membership and observership of EuBI ERIC

- c) “EuBI Member”: Entity listed in Article 5.1 (i.e. EU member states, associated countries, third countries other than associated countries and intergovernmental organisations) which has become a member of EuBI ERIC upon successful completion of the application procedure described in Article 5.2.
- d) “EuBI Member Country”: EuBI Member which is a country (i.e. EU member state, associated country or third country).
- e) “EuBI Observer”: Entity listed in Article 5.1 that is not (yet) in a position to join as EuBI Member and has successfully applied for observership status to the EuBI Board.

#### Distributed Hub of EuBI ERIC

- f) “EuBI Hub”: Coordinating center of EuBI ERIC, composed of the Statutory Seat, the Bio-Hub and the Med-Hub.
- g) “Statutory Seat”: Finland, country hosting EuBI ERIC, as regulated in Article 8 of the Council Regulation No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium.
- h) “Bio-Hub”: Part of the EuBI Hub hosted by EMBL and charged with the coordination and support activities of the EuBI Hub for user access and training in biological imaging and image data management. It is composed of the Section-Director of the Bio-Hub and its staff. It is the community-specific section for biological imaging.
- i) “Med-Hub”: Part of the EuBI Hub hosted by Italy and charged with the coordination and support activities of the EuBI Hub for user access and training in medical imaging and image data management. It is composed of the Section-Director of the Med-Hub and its staff. It is the community-specific section for medical imaging.

#### Nodes linked to EuBI ERIC

- j) “EuBI Node”: A national or international research institute, or network of institutes, located in or at a EuBI Member, which has entered into a service level agreement with EuBI ERIC, upon the fulfillment of the conditions and procedures established by the EuBI Board.

#### Governance bodies of EuBI ERIC

- k) “EuBI Board”: EuBI ERIC’s governing body regulated in Article 20.

- l) “EuBI Directorate”: EuBI ERIC’s executive body regulated in Article 21.
- m) “EuBI SAB”: EuBI Scientific Advisory Board, Advisory Body regulated in Article 22.
- n) “EuBI Panel of Nodes”: Advisory Body regulated in Article 23.
- o) “EBIB”: EuBI Industry Board, Advisory Body regulated in Article 24.
- p) “Advisory Bodies”: EuBI SAB, EuBI Panel of Nodes, EBIB and any other advisory governance body, with no decision-making power, subsequently created by the EuBI Board.

#### Staff

- q) “EuBI Hub Office”: Office of staff supporting the EuBI Directorate, regulated in Article 3.

#### Voting majorities

- r) “Simple Majority”: Vote carrying more than half of the votes cast.
- s) “Two-thirds Majority”: Vote carrying a majority of two thirds of the EuBI Members present or represented and voting.
- t) “Three-fourths Majority”: Vote carrying a majority of three fourths of the EuBI Members present or represented and voting.

#### Miscellaneous

- u) “EMBL”: European Molecular Biology Laboratory, intergovernmental organization with the privileges and immunities recognized under its constituting documents and international law; host of the Bio-Hub.
- v) “EuBI Financial Plan”: A five-year estimate of the value and timing of financial resources required to realize the EuBI Strategic Plan.
- w) “EuBI Strategic Plan”: A five-year strategic plan adopted by the EuBI Board to fulfill the purpose and goals of EuBI ERIC, including scientific, technological and administrative matters.
- x) “Rules of Procedure of the EuBI Board”: Rules governing the organization and operation of the EuBI Board, adopted by it in accordance with Article 20.8 i).
- y) “Contribution(s)”: Monetary and in-kind contributions to the EuBI ERIC as decided by the EuBI Board in conformity with Chapter 4.
- z) “In-kind Contribution(s)”: Contributions that are not monetary, in accordance with Article 15.

### **Article 2. Name and description of the organizational structure**

- 2.1 Euro-Biolmaging is set up as a European Research Infrastructure Consortium (ERIC) under Regulation (EC) No 723/2009 and named ‘Euro-Biolmaging ERIC’.
- 2.2 EuBI ERIC is a distributed research infrastructure with Statutory Seat in Finland. EMBL hosts the community-specific section for biological imaging and manages image data (Bio-Hub) and Italy hosts the community-specific section for medical imaging and manages image data (Med-Hub). The Statutory Seat, the Bio-Hub and the Med-Hub form the EuBI Hub. EuBI ERIC is linked through service level agreements to EuBI Nodes located in or at EuBI Members.

- 2.3 The specific tasks of each section of the EuBI Hub shall be defined in an internal policy, upon proposal by the EuBI Directorate. This internal policy shall be adopted in the first meeting of the EuBI Board.
- 2.4 The internal policy referred to in Article 2.3 shall be developed in accordance with the following principles:
- a) Each part of the EuBI Hub carries out the specific tasks for which it has the leading expertise and can provide the best service.
  - b) General data services are hosted by EMBL.
  - c) In general, the Statutory Seat is responsible for the overall coordination and administration of EuBI ERIC, notwithstanding that the Bio-Hub and the Med-Hub support the Statutory Seat in the overall tasks which require community-specific implementation.
  - d) In general, the Bio-Hub and the Med-Hub are responsible for coordination and support of community specific activities of the infrastructure.
- 2.5 Tasks carried out by EMBL for the EuBI ERIC are subject to EMBL internal rules, regulations and policies, including EMBL Staff Rules and Regulations and EMBL Financial Rules and Regulations.
- 2.6 The Statutory Seat, Bio-Hub and Med-Hub shall not be required to advance funds and therefore the performance of the tasks allocated to them is subject to the provision of sufficient funds from the EuBI ERIC budget and an appropriate EuBI Financial Plan.

### **Article 3. EuBI Hub Office**

- 3.1 The EuBI Hub Office shall assist the EuBI Directorate in the implementation of their tasks and in the overall coordination and administration of EuBI ERIC.
- 3.2 The EuBI Hub Office staff working in Finland is employed by the appropriate legal entity at the Statutory Seat. They are appointed by, dismissed by and report to the Director General.
- 3.3 The EuBI Hub Office staff working at EMBL is employed by the Bio-Hub host. They are appointed by, dismissed by and report to their Section Director of the Bio-Hub; upon communication with the Director General when it concerns staff charged with tasks of the Statutory Seat.
- 3.4 The EuBI Hub Office staff working in Italy is employed by the appropriate legal entity at the Med-Hub host. They are appointed by, dismissed by and report to the Section Director of the Med-Hub.
- 3.5 Employment shall be governed by the laws and regulations of the country or international organisation in which staff is employed.

### **Article 4. Working language**

The working language of EuBI ERIC shall be English.

## **CHAPTER 2. MEMBERSHIP AND OBSERVERSHIP**

### **Article 5. Membership and admission of new EuBI Members**

#### **5.1 Eligibility**

Membership of the EuBI ERIC shall be open to:

- a) EU member states;
- b) associated countries;
- c) third countries other than associated countries; and
- d) intergovernmental organisations (including, for the avoidance of doubt, European Research Infrastructure Consortia – ERIC –).

## **5.2 Application**

5.2.1 Entities listed in Article 5.1 above wishing to become a EuBI Member need to put forward an application to the EuBI Board, which must satisfy the following conditions for admission:

- a) It shall describe how the applicant will contribute to the EuBI ERIC's tasks and activities described in Chapter 5 and how it will fulfil its obligations referred to in Chapter 3. In particular, an applicant must have shown, to the satisfaction of the EuBI Board, that it has the means and sustained commitment to do the following:
  - make Contributions to the EuBI ERIC; and
  - abide by and participate in the governance arrangements of the EuBI ERIC in accordance with these statutes.
- b) It shall also contain a declaration of adherence to these statutes, the Rules of Procedure of the EuBI Board, internal policies and the decisions of the EuBI ERIC's governance bodies.

5.2.2 The application shall be submitted to the Chair of the EuBI Board in writing and is subject to approval by the EuBI Board. The Chair of the EuBI Board shall inform the applicant about admittance or refusal.

## **5.3 Membership composition of the EuBI ERIC**

5.3.1 The EuBI ERIC shall at all times have at least one EU member state as a EuBI Member and at least two other EuBI Members which are either EU member states or associated countries.

5.3.2 The list of EuBI Members is included in Annex I.

5.3.3 If at any time there is

- a) only one EuBI Member which is an EU member state and it serves notice of intention to withdraw from the EuBI ERIC (under Article 7.1); or
- b) only three EuBI Members which are EU member states or associated countries and one of them services notice of intention to withdraw from the EuBI ERIC (under Article 7.1),

then the EuBI ERIC shall be wound up in accordance with Article 35.

5.3.4 If at any time EU member states and associated countries cease to jointly hold the majority of votes in the EuBI Board, the EuBI ERIC shall be wound up in accordance with Article 35. As an alternative to the process of winding up, the EuBI Members may agree to a prioritisation of the votes of the EU member states or associated countries, so that they continue to jointly hold the majority of votes in the EuBI Board.

## **Article 6. Observership and admission of new EuBI Observers**

### **6.1 Eligibility**

Entities listed in Article 5.1, who are not (yet) in a position to join as EuBI Members, may apply for observership.

### **6.2 Application**

6.2.1 The application for admission as a EuBI Observer shall contain a declaration of adherence to the statutes, the Rules of Procedure of the EuBI Board, internal policies and the decisions of the EuBI ERIC's governance bodies.

6.2.2 The application shall be submitted to the Chair of the EuBI Board in writing and shall be approved by the EuBI Board. The Chair of the EuBI Board will inform the applicant about admittance - including the set of conditions related thereto - or refusal.

6.2.3 EuBI Observers are not EuBI Members and have only those rights and obligations as set out for EuBI Observers in these statutes and/or the Rules of Procedure of the EuBI Board or internal policies. EuBI Observers have the right to participate, without voting rights, in the EuBI Board meetings according to conditions decided by the EuBI Board. The rights and obligations of the EuBI Observers can be amended by the EuBI Board without their consent, according to the established procedure.

6.2.4 The list of EuBI Observers is included in Annex I.

6.2.5 The level of annual Contribution that EuBI Observers shall be required to make will be as specified in Article 13.2.

## **Article 7. Duration of the Membership or Observership and withdrawal**

7.1 EuBI Members may not withdraw from the EuBI ERIC within the first five years of their membership. Effective after this five-year period, any EuBI Member may withdraw, on their own initiative, by giving a one-year notice of withdrawal in writing to the Chair of the EuBI Board. The withdrawal shall only become effective on 31<sup>st</sup> December following the end of the one-year notice period.

7.2 EuBI Observers shall be admitted for a three-year period, renewable by the EuBI Board for three-year periods following a request by the relevant EuBI Observer.

7.3 A EuBI Observer may withdraw upon their own initiative, by giving a one-year notice of withdrawal in writing to the Chair of the EuBI Board. The withdrawal shall only become effective on 31<sup>st</sup> December following the end of the one-year notice period.

7.4 Any withdrawing EuBI Member or EuBI Observer shall not be entitled to reclaim the Contributions they provided to the EuBI ERIC and shall remain liable to make all the Contributions that were due while it was a EuBI Member or EuBI Observer, including any unpaid Contributions of the first five years of membership. The withdrawal shall not take effect until the withdrawing EuBI Member or EuBI Observer has fulfilled its obligations.

7.5 The EuBI Board shall record formally in writing the withdrawal and its consequences for the EuBI ERIC.

7.6 The withdrawal of a EuBI Member automatically entails the withdrawal of its EuBI Nodes from the EuBI ERIC.

### **Article 8. Suspension of rights of EuBI Members**

If a EuBI Member owes Contributions equalling or exceeding the amount of the Contributions due from that EuBI Member for the preceding year, its voting rights in the EuBI Board will be automatically suspended.

### **Article 9. Termination of the membership or observership**

9.1 Without prejudice to the EuBI Board's power to suspend the rights of a EuBI Member or EuBI Observer, the EuBI Board may terminate a membership or observership if the following conditions are met:

- a) the EuBI Member or EuBI Observer is in material breach of its obligations under these statutes, or has caused, or threatens to cause a serious disruption to the operations of EuBI ERIC. A EuBI Member in arrears of its Contribution payment for the two preceding financial years shall be deemed to cause a serious disruption in the sense of the present article;
- b) the EuBI Member or EuBI Observer was provided with ample opportunity to present its defence to the EuBI Board and any such defence was heard by the EuBI Board; and
- c) the EuBI Member or EuBI Observer has failed to rectify any such breach within three months as stipulated by the EuBI Board through written notice.

9.2 A EuBI Member or EuBI Observer whose membership or observership is terminated shall not be entitled to claim any compensation or goodwill value, nor reimbursement of any Contribution made in respect of the financial year during which the termination took place, nor with respect to any of the preceding years. They shall neither be exempt from the payment of any Contribution owed to the EuBI ERIC budget - including the Contributions for the full financial year in which the termination took place - neither in whole nor in part. Any unpaid Contributions, including any unpaid Contributions for the first five years of membership, shall be paid promptly upon confirmation of the termination of the membership or observership.

9.3 Any outstanding obligations of the EuBI Member or EuBI Observer are to be fulfilled promptly upon confirmation of the termination of the membership or observership.

9.4 The termination of a EuBI Member automatically entails the withdrawal of its EuBI Nodes from the EuBI ERIC.

## **CHAPTER 3. RIGHTS AND OBLIGATIONS OF EuBI MEMBERS AND OBSERVERS**

### **Article 10. Rights and obligations of EuBI Members**

10.1 Without prejudice to other rights set out in these statutes, the Rules of Procedure of the EuBI Board, internal policies, a resolution of the EuBI Board or applicable laws, ~~the~~ each EuBI Member has a right to:

- a) participate through its delegates in the EuBI Board meetings, with the right to vote on the items listed on Article 20.8.
- b) elect and be elected for the governance bodies of the EuBI ERIC through its delegates;
- c) appoint representing public entities in the terms established in the ERIC Regulation;
- d) propose EuBI Nodes through its delegates, upon the successful completion of the procedure approved by the EuBI Board;

- e) ensure a right for its research community to use the services provided by the EuBI Hub and EuBI Nodes, on the terms established, inter alia, in the EuBI ERIC access policy; and
- f) withdraw from the EuBI ERIC, on the terms set out in Article 7 of these statutes.

10.2 Without prejudice to other obligations set out in these statutes, the Rules of Procedure of the EuBI Board, internal policies, a resolution of the EuBI Board or applicable laws, each EuBI Member shall have the obligation to:

- a) make its Contribution according to Article 13;
- b) bear the financial liability for the debts of EuBI ERIC within the limits of its respective Contribution, as set out in Article 18;
- c) appoint delegates as set out in Article 20.4, and empower them with the full authority to vote on all issues raised during the EuBI Board's deliberations included in the agenda and in those submitted for approval through written procedure;
- d) abide by the decisions of the EuBI ERIC governance bodies;
- e) cooperate to ensure that the services in its respective EuBI Nodes abide by EuBI standards; and
- f) make its best endeavours to support its EuBI Nodes in accordance with national policies and the decisions of the EuBI Board, inter alia, by making investments in infrastructure where appropriate.

#### **Article 11. Rights and obligations of EuBI Observers**

11.1 Rights of EuBI Observers shall include:

- a) the right to attend the EuBI Board without a vote;
- b) the right for its research community to participate in the activities identified by the EuBI Board;
- c) the right to appoint representing public entities in the terms established in the ERIC Regulation;
- d) the right to withdraw from the EuBI ERIC, on the terms set out in Article 7 of these statutes.

11.2 Each EuBI Observer shall:

- a) provide Contributions in accordance with Article 13.2.
- b) bear the financial liability for the debts of EuBI ERIC within the limits of its respective Contribution, as set out in Article 18.2;
- c) appoint delegates as set out in Article 20.4; and
- d) abide by the decisions of the EuBI ERIC bodies.

## **CHAPTER 4. FINANCE, LIABILITY AND CONTRIBUTION MODEL**

### **Article 12. Resources**

The resources of EuBI ERIC shall consist of the following:

- a) Contributions due under Article 13.1 and 13.2;
- b) grants; and
- c) other resources within limits and under terms approved by the EuBI Board.

### **Article 13. Contributions**

#### **13.1 Contributions of EuBI Members**

- a) EuBI Member Countries are jointly responsible for ensuring that the EuBI ERIC activities are sufficiently funded and to maintain a positive cash balance in their annual Contributions.
- b) EuBI Member Countries shall make annual Contributions to the EuBI ERIC budget in accordance with the EuBI Financial Plan, as described in Article 14.
- c) EMBL will not provide financial Contributions.
- d) Contributions by other intergovernmental organizations will be decided by the EuBI Board on a case-by-case basis.

### **13.2 Contributions of EuBI Observers**

EuBI Observers shall pay 30% of the Contribution which they would have to pay if they were a EuBI Member.

### **13.3 Space**

In addition to the Contribution applicable under Article 14.2, EuBI Members hosting the Statutory Seat, the Bio-and Med-Hub shall provide space for the coordination activities of the EuBI Hub described in Article 2.4 in accordance with the scale foreseen for basic operation. For the sake of clarity, support and infrastructure costs incurred by the EuBI Hub hosts will be recovered from the EuBI ERIC budget.

## **Article 14. Financial planning and calculation of Contributions**

- 14.1 Every five years the EuBI Directorate shall submit a Financial Plan proposal to the EuBI Board for consideration and approval. The Financial Plan sets out the basis for each EuBI Member Country's Contributions in this five year period and the maximum agreed budget for EuBI ERIC for the same period. The Financial Plan shall be based on the EuBI Strategic Plan.
- 14.2 Contributions shall be calculated once at the beginning of every EuBI Financial Plan. Each EuBI Member Country's annual Contribution will be composed of two parts:
  - a) a fixed amount, representing 40 % of the total annual EuBI Member Country Contributions;
  - b) a variable amount, representing 60 % of the total annual EuBI Member Country Contributions, based on the average EuBI Member Country nominal gross domestic product during the three preceding calendar years for which statistical information from Eurostat (or from the International Monetary Fund as regards countries not included in Eurostat statistics) is available.
- 14.3 Contributions shall be calculated and paid in Euro, notwithstanding Article 15.
- 14.4 In case of accession, withdrawal or termination of EuBI Members during the current EuBI Financial Plan, the Contributions of the remaining EuBI Members shall remain unchanged.

## **Article 15. Contributions**

- 15.1 Annual Contributions to the EuBI budget shall be by default monetary Contributions.
- 15.2 The EuBI Board may approve In-Kind Contributions proposed by a EuBI Member or EuBI Observer, subject to the procedure and additional criteria set in the In-Kind Contribution policy approved by the EuBI Board, and provided that the EuBI ERIC has sufficient financial resources to face its financial engagements according to the five-year EuBI Financial Plan and the EuBI Strategic Plan.
- 15.3 In-Kind Contributions must be quantifiable and auditable, providing the EuBI ERIC with the same value as a monetary Contribution. Their declared value shall be professionally evaluated by a committee of experts. Such an evaluation shall also take into account the added value for EuBI ERIC given its current resource structure and the possible coordination costs created.
- 15.4 The internal policy on In-Kind Contributions shall establish the maximum percentage of In-Kind Contributions allowed.
- 15.5 Where In-Kind Contributions consist of assets, a separate agreement will be entered into between the respective EuBI Member or EuBI Observer and EuBI ERIC in order to clarify ownership rights and other relevant matters.

- 15.6 Where In-Kind Contributions consist of the secondment of local staff to EuBI ERIC, the EuBI Board shall approve selection criteria for the relevant position. The EuBI Board will only approve the In- Kind Contribution if the specific criteria are satisfied.

#### **Article 16. Budgetary principles, accounts and audit**

- 16.1 The financial year of EuBI ERIC shall begin on 1<sup>st</sup> January and end on 31<sup>st</sup> December of each year.
- 16.2 The EuBI Directorate shall present to the approval of the EuBI Board a budget for the following year no later than 1<sup>st</sup> October.
- 16.3 The accounts of EuBI ERIC shall be accompanied by a report on budgetary and financial management of the financial year.
- 16.4 EuBI 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 17. Tax and excise duty exemptions**

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 by the EuBI ERIC which are for the official and exclusive use by the EuBI ERIC, provided that such purchase is made solely for the non-economic activities of the EuBI 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 EuBI ERIC which are for the official and exclusive use by the EuBI ERIC, provided that such purchase is made solely for the non-economic activities of the EuBI ERIC in line with its activities and that the purchase exceeds the value of EUR 300.
3. Member States may adapt rules for the application of the tax exemption.

#### **Article 18. Liability and insurance**

- 18.1 EuBI ERIC shall be liable for its debts. For the sake of clarity, EuBI ERIC shall not be liable for liabilities arising in EuBI Nodes.
- 18.2 EuBI Members and EuBI Observers are not jointly liable for the debts of EuBI ERIC. The EuBI Members' and EuBI Observers' financial liability for the debts of EuBI ERIC shall be limited to their respective Contributions as specified in Article 13.
- 18.3 EuBI ERIC shall take appropriate insurance to cover the risks specific to the operation of the EuBI ERIC.

### **CHAPTER 5. TASKS AND ACTIVITIES OF THE EuBI ERIC**

#### **Article 19. Tasks and activities of the EuBI ERIC in the distributed structure**

- 19.1 The EuBI ERIC's principal task is to establish and operate a distributed research imaging infrastructure across Europe that provides open access to innovative biological and medical imaging technologies for researchers. EuBI ERIC aims as well to provide expert, image data and training services for performing cutting-edge research using imaging technologies.

- 19.2 In pursuit of its purpose, and in accordance with the rules defined in these statutes and in execution of the five-year EuBI Strategic Plan, the EuBI ERIC shall, in particular, carry out the following activities, providing:
- a) open physical access to imaging infrastructure;
  - b) advanced expertise and services for technology users
  - c) training for technology users, facility staff and technology experts;
  - d) data analysis and storage support for user-generated image data;
  - e) open virtual access to image analysis software and image data repositories of public interest;
  - f) high-quality standards for image acquisition, training and data management;
  - g) European-level coordination and integration activities for the scientific imaging communities; and
  - h) any other activity to fulfil its principal task.
- 19.3 The EuBI ERIC may also carry out other activities, such as:
- a) promotion of the EuBI ERIC;
  - b) implementation of technological developments related to the services
  - c) joint development activities through a coordinated, long-term development programme involving collaboration among EuBI Nodes and user groups including industry;
  - d) knowledge transfer to industry and policy makers;
  - e) promoting the resources of the EuBI ERIC for education and training purposes; and
  - f) collaborating and interoperating with research infrastructures in related and complementary fields.
- 19.4 The EuBI ERIC shall pursue the majority of its tasks on a non-economic basis. The EuBI ERIC may carry out limited ancillary economic activities, either directly or indirectly, so long as these are compatible with the purposes of the EuBI ERIC and with the activities necessary for achieving these purposes. Any income generated by these limited ancillary economic activities shall be used by the EuBI ERIC to further its purposes.

## **CHAPTER 6. GOVERNANCE**

### **Article 20. EuBI Board**

- 20.1 The EuBI Board shall be the governing body of EuBI ERIC.
- 20.2 The EuBI Board shall be composed of representatives of EuBI Members and EuBI Observers.
- 20.3 Each EuBI Member shall have one indivisible vote. EuBI Observers may attend EuBI Board meetings without the right to vote.
- 20.4 Each EuBI Member and EuBI Observer shall appoint up to three delegates, who may be accompanied by advisers. Members of the Advisory Bodies shall not be nominated as delegates.

- 20.5 Any EuBI Member or EuBI Observer being a EU member state may be represented in the EuBI ERIC by a public entity, including regions or private entities with a public service mission, of its own choosing and appointed according to its own rules and procedures. Such EuBI Members or EuBI Observers shall inform the Chair of the EuBI Board of any changes to the representing entity, termination of its mandate, or of any changes to the specific rights and obligations delegated to the representing entity.
- 20.6 The EuBI Board shall meet at least twice a year. The meetings of the EuBI ERIC shall be convened by the Chair of the EuBI Board. An extraordinary meeting of the EuBI may be requested by at least 50% of the EuBI Members.
- 20.7 A quorum of two-thirds of EuBI Members shall be required for having a valid EuBI Board 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 50% of EuBI Members are present.
- 20.8 The EuBI Board shall be responsible for the overall direction and supervision of EuBI ERIC. In particular, the EuBI Board shall:

#### EuBI Members and EuBI Observers

- a) approve the entry of an interested entity as a new EuBI Member, by a Two-thirds Majority;
- b) approve any applications to become an EuBI Observer and the renewal of its observership status, by a Two-thirds Majority;
- c) decide on the termination of the membership or observership of a EuBI Member or EuBI Observer, under the conditions established in Article 9, by a Three-fourths Majority;

#### Strategy

- d) adopt the EuBI Strategic Plan, by a Three-fourths Majority;

#### Finance

- e) approve the EuBI Financial Plan, by a Three-fourths Majority;
- f) approve the EuBI budget annually, by a Three-fourths Majority;
- g) approve the annual audited accounts as well as the accompanying report on the budgetary and financial management for the preceding financial year, by a Two-thirds Majority;

#### Rules and Regulations

- h) amend these statutes, by a Three-fourths Majority;
- i) establish or amend the Rules of Procedure of the EuBI Board, by a Two-thirds Majority;
- j) establish or amend the EuBI internal policies, including those referred to in Chapter 7, by a Two-thirds Majority;
- k) approve rules of procedure of Advisory Bodies, by a Two-thirds Majority;

#### EuBI Nodes

- l) approve criteria and procedure for proposal, evaluation and approval of EuBI Nodes, by a Two-thirds Majority;
- m) decide to enter into, terminate, renew or not to renew a service level agreement with a EuBI Node, by a Two-thirds Majority;

#### Governance bodies

- n) appoint and dismiss the Director General and the Section Directors, by a Two-thirds Majority;
- o) appoint the Chair and Vice-chair(s) of the EuBI Board, by a Two-thirds Majority;
- p) appoint members of Advisory Bodies, by a Simple Majority;
- q) establish and eliminate additional Advisory Bodies besides those regulated in these statutes, committees and working groups as it deems necessary for the proper functioning and achievement of EuBI ERIC goals, by a Two-thirds Majority;
- r) approve terms of reference for Advisory Bodies, by a Two-thirds Majority;

#### Miscellaneous

- s) approve reports, by a Simple Majority;
- t) approve the winding-up of the EuBI ERIC, by a Three-fourths Majority; and
- u) decide upon any other matters that are necessary to fulfil the task of EuBI ERIC, by a Two-thirds Majority.

### **Article 21. EuBI Directorate**

- 21.1 The EuBI Directorate is the executive body of EuBI ERIC. It is composed of the Director General, who shall be the legal representative of EuBI ERIC, a Section Director of the Bio-Hub and a Section Director of the Med-Hub. Together with the two Section Directors, the Director General will represent EuBI and promote the research infrastructure at the national and international level.
- 21.2 The EuBI Board shall appoint and dismiss the Director General and the Section Directors for a fix period.
- 21.3 The Section Directors work closely as a management team with the Director General to prepare and implement EuBI ERIC tasks, in particular those that require community-specific implementation. The Director General takes decisions affecting the overall infrastructure in a non-community specific manner after consultation with and input from the Section Directors. Decisions that affect only one community are taken by the Director General jointly with the respective Section Director.
- 21.4 In addition to the tasks indicated in Article 2 and subject to Article 21.3, the EuBI Directorate shall carry out the day-to-day management of EuBI ERIC and shall be responsible for the implementation of the decisions by the EuBI Board, including but not limited to:

### Strategy

- a) preparing the EuBI Strategic Plan, for which it will seek the advice of the EuBI Panel of Nodes and the EuBI SAB, execute and supervise it;

### Finance

- b) preparing and executing the EuBI Financial Plan;
- c) proposing each year no later than 1 October a budget showing detailed estimates of the projected income and expenditure of EuBI ERIC for the following financial year;
- d) preparing the annual financial accounts of EuBI ERIC;

### EuBI Nodes

- e) preparing and negotiating service level agreements with EuBI Nodes;

### EuBI Board

- f) attending the meetings of the EuBI Board in a non-voting capacity;
- g) preparing the agenda for the EuBI Board meetings and prepare the deliberations of the EuBI Board;
- h) informing the EuBI Board about all relevant matters related to EuBI that would either require a decision or acknowledgement;

### Miscellaneous

- i) managing, appointing and dismissing the EuBI Hub Office staff as regulated in Article 3; and
- j) preparing the annual activity report for the European Commission indicated in Chapter 8.

## **Article 22. EuBI Scientific Advisory Board (EuBI SAB)**

- 22.1 The EuBI SAB will oversee the scientific, ethical, technical and management quality of the EuBI ERIC activities at the EuBI Hub and EuBI Nodes and provide advice related thereto to the EuBI Board and EuBI Directorate.
- 22.2 The EuBI SAB shall be composed of highly qualified, internationally recognized scientists and ethical experts selected on the basis of their competence in all aspects of the activities of the EuBI ERIC. The EuBI SAB members shall be appointed in their own right and not as representatives of the EuBI Members.
- 22.3 The EuBI Directorate, after consultation with EuBI Members, shall propose a list of candidates from which EuBI SAB members shall be appointed by the EuBI Board.
- 22.4 The EuBI Board shall approve terms of reference for the EuBI SAB. The EuBI SAB shall establish its own rules of procedure.

#### **Article 23. EuBI Panel of Nodes**

- 23.1 The EuBI Panel of Nodes shall give advice to the EuBI Directorate in relation to EuBI activities.
- 23.2 The EuBI Panel of Nodes shall be composed of representatives of EuBI Nodes.
- 23.3 The EuBI Board shall approve terms of reference for the EuBI Panel of Nodes. The EuBI Panel of Nodes shall establish its own rules of procedure.

#### **Article 24. EuBI Industry Board (EBIB)**

- 24.1 The EBIB shall provide advice to the EuBI Directorate on any industry relevant needs or initiatives that EuBI should address.
- 24.2 The EBIB is composed of highly qualified experts from relevant companies.
- 24.3 The EuBI Board shall approve terms of reference for the EBIB. The EBIB shall establish its own rules of procedure.

### **CHAPTER 7. EuBI INTERNAL POLICIES**

#### **Article 25. Access policy**

- 25.1 Effective access to EuBI ERIC services, including physical access to all imaging technologies, training and expertise, shall be provided based on the scientific merit and technical feasibility of the proposed user research project.
- 25.2 The EuBI Board shall discuss and approve access rules governing the procedure and criteria for the access to EuBI services, taking into account the principles of the European Charter for Access to Research Infrastructures.
- 25.3 Image data administered by the EuBI ERIC will, as far as legally entitled to do so, be available and openly accessible to any researchers, scientific institutions and other stakeholders. Use and collection of data is subject to the relevant statutory provisions of data privacy.

#### **Article 26. Scientific Evaluation Policy**

The activities of EuBI ERIC shall be evaluated annually by the EuBI SAB.

#### **Article 27. Dissemination Policy**

- 27.1 EuBI ERIC shall be a facilitator of research and shall as a general rule encourage an access as open as possible to research data, subject to the conditions established in the EuBI ERIC Dissemination Policy.
- 27.2 EuBI ERIC shall request researchers to make their research results publicly available and offer to make results available through EuBI ERIC. The use of EuBI ERIC services and/or infrastructure shall be acknowledged in publications.
- 27.3 EuBI ERIC shall use several channels to reach the target audiences, including web portal, newsletter, workshops, presence in conferences, articles in magazines and daily newspapers.

#### **Article 28. Data policy**

- 28.1 Generally Open Source and Open Access principles shall be favoured.

- 28.2 EuBI ERIC shall provide guidance (including via website) to users to ensure that research undertaken using material made accessible through EuBI ERIC shall be undertaken within a framework that recognizes the rights of data owners and privacy of individuals.
- 28.3 EuBI ERIC shall ensure that users agree to the terms and conditions governing access and that suitable security arrangements are in place regarding internal storage and handling.
- 28.4 EuBI ERIC shall define arrangements for investigating allegations of security breaches and confidentiality disclosures regarding research data.

#### **Article 29. Intellectual Property Rights Policy**

- 29.1 Subject to the terms of any contract between EuBI ERIC and the users, intellectual property rights created by users of the EuBI ERIC shall be owned by those users.
- 29.2 EuBI ERIC may own intellectual property rights entirely or partly created, obtained or developed by EuBI ERIC under the conditions established in the EuBI Intellectual Property Rights Policy.

#### **Article 30. Employment policy**

The selection procedures, recruitment and employment for the EuBI Hub Office shall be transparent, non-discriminatory and respect equal opportunities.

#### **Article 31. Procurement policy**

EuBI ERIC shall treat procurement candidates and tenders equally and without discrimination, regardless whether or not they are based within the European Union. EuBI ERIC procurement policy shall respect the principles of transparency, non-discrimination and competition. Detailed rules on procurement procedures and criteria shall be set out in the implementing procurement policy.

#### **Article 32. Ethics policy**

The EuBI Board shall adopt an ethics policy which shall govern the activities of the EuBI ERIC. Its application shall be evaluated by the EuBI SAB.

### **CHAPTER 8. REPORTING TO THE EUROPEAN COMMISSION**

#### **Article 33. Reporting to the European Commission**

- 33.1 EuBI 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 EuBI Board 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 on the EuBI ERIC website.
- 33.2 EuBI ERIC shall inform the European Commission of any circumstances which threaten to seriously jeopardise the achievement of EuBI ERIC tasks or hinder EuBI ERIC from fulfilling requirements laid down in Regulation (EC) No 723/2009.

## **CHAPTER 9. PROVISIONS ON DURATION, WINDING-UP, DISPUTES AND SETTING-UP**

### **Article 34. Duration**

EuBI ERIC shall exist for an indefinite period of time, without prejudice to the winding up of the ERIC under Article 35.

### **Article 35. Winding-up**

- 35.1 The winding-up of EuBI ERIC shall be decided by the EuBI Board in accordance with Article 20.8. t).
- 35.2 Without undue delay and in any event within ten days after adoption of the decision to wind up EuBI ERIC, EuBI ERIC shall notify the European Commission about the decision.
- 35.3 Assets remaining after payment of EuBI ERIC debts shall be apportioned among the EuBI Members and EuBI Observers in proportion to their accumulated Contribution to EuBI ERIC, unless otherwise agreed by the EuBI Board.
- 35.4 Without undue delay and in any event within ten days of the closure of the winding-up procedure, EuBI ERIC shall notify the Commission thereof.
- 35.5 EuBI 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 36. Applicable law**

The internal functioning of EuBI 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 EuBI ERIC has its Statutory Seat in the case of matters not, or only partly, regulated by acts referred to in point a); and
- c) by these statutes and their implementing rules.

### **Article 37. Disputes**

- 37.1 The EuBI ERIC and the EuBI Members shall endeavour to settle disputes amicably.
- 37.2 The Court of Justice of the European Union shall have jurisdiction over litigation among EuBI Members and/or EuBI Observers in relation to EuBI ERIC, between EuBI Members and/or EuBI Observers and EuBI ERIC and over any litigation to which the Union is a party.
- 37.3 Union legislation on jurisdiction shall apply to disputes between EuBI ERIC and third parties. In cases not covered by Union legislation, the law of the State where EuBI ERIC has its Statutory Seat shall determine the competent jurisdiction for the resolution of such disputes.

#### **Article 38. Statutes updates and availability**

The statutes shall be kept up to date and publicly available on EuBI ERIC website and at the Statutory Seat.

#### **Article 39. Setting-up provisions**

- 39.1 A first meeting of the EuBI Board shall be called by the State where EuBI ERIC has its Statutory Seat as soon as possible after the Commission decision setting up the EuBI ERIC takes effect. The Rules of Procedure of the EuBI Board shall be adopted in this meeting in accordance with the voting rules laid down in Article 20.8 i).
- 39.2 Before the first meeting is held and no later than forty-five calendar days after the Commission decision setting up EuBI ERIC takes effect, the relevant State shall notify the founding EuBI Members and EuBI Observers of any specific urgent legal action that needs to be taken on behalf of the EuBI ERIC. Unless a founding EuBI Member objects within five working days after being notified, the legal action shall be carried out by a person duly authorised by the relevant State.

## ANNEX I. LIST OF EuBI MEMBERS, OBSERVERS AND THEIR REPRESENTING ENTITIES

### List of EuBI Members and their representing entities

#### **EuBI Members**

#### **Representing entities**

Republic of Austria

Republic of Bulgaria

Czech Republic

European Molecular Biology Laboratory

Republic of Finland

Hungary

State of Israel

Italian Republic

Republic of Poland

Portuguese Republic

Slovak Republic

Kingdom of the Netherlands

United Kingdom of Great Britain and Northern Ireland

### List of EuBI Observers and their representing entities

#### **EuBI Observers**

#### **Representing entities**

United Kingdom of Belgium

Kingdom of Denmark

Kingdom of Sweden

Annex I shall be periodically updated by the EuBI Hub.

## ANNEX II. EuBI MEMBER COUNTRIES AND EuBI OBSERVERS' CONTRIBUTIONS FOR BASIC OPERATION

In keeping with Article 14.2, the EuBI Member Country Contributions for the basic operation of EuBI ERIC (up to 450 physical user access per year to 12 to 15 Nodes: average € 1.541.360,00/ year) during the first five years are indicated in the table below.

Unless otherwise decided by the EuBI Board, the EuBI ERIC will start operations when 60% of the budget for basic operation for Year 3 has been secured, with a prioritization of activities according to the available resources as detailed in the EuBI Financial Plan.

	Year 1	Year 2	Year 3	Year 4	Year 5
Austria	61.473,48 €	64.888,67 €	68.303,86 €	71.719,05 €	75.134,25 €
Bulgaria	38.219,43 €	40.342,73 €	42.466,04 €	44.589,34 €	46.712,64 €
Czech Republic	48.333,39 €	51.018,58 €	53.703,77 €	56.388,96 €	59.074,14 €
Finland	51.632,99 €	54.501,49 €	57.369,99 €	60.238,49 €	63.106,99 €
Hungary	43.254,42 €	45.657,44 €	48.060,46 €	50.463,49 €	52.866,51 €
Israel	51.967,35 €	54.854,43 €	57.741,50 €	60.628,58 €	63.515,65 €
Italy	171.862,95 €	181.410,89 €	190.958,84 €	200.506,78 €	210.054,72 €
Norway	67.125,32 €	70.854,51 €	74.583,69 €	78.312,88 €	82.042,06 €
Poland	67.577,54 €	71.331,85 €	75.086,15 €	78.840,46 €	82.594,77 €
Portugal	49.226,71 €	51.961,53 €	54.696,35 €	57.431,16 €	60.165,98 €
Slovakia	40.825,86 €	43.093,96 €	45.362,07 €	47.630,17 €	49.898,27 €
The Netherlands	89.517,10 €	94.490,27 €	99.463,44 €	104.436,62 €	109.409,79 €
United Kingdom	203.928,09 €	215.257,43 €	226.586,77 €	237.916,10 €	249.245,44 €
<i>Sum</i>	<i>984.944,63 €</i>	<i>1.039.663,78 €</i>	<i>1.094.382,93 €</i>	<i>1.149.102,08 €</i>	<i>1.203.821,21 €</i>
Basic operation budget	1.387.224,00 €	1.464.292,00 €	1.541.360,00 €	1.618.428,00 €	1.695.496,00 €

In keeping with Article 13.2, the EuBI Observers Contributions during the first three years will be the following:

	Year 1	Year 2	Year 3	Year 4	Year 5
Belgium	20.221,31 €	21.345,77 €	22.469,23 €	23.592,70 €	24.716,16 €
Denmark	14.803,64 €	15.626,07 €	16.448,49 €	17.270,91 €	18.093,34 €
Sweden	22.068,01 €	23.294,01 €	24.520,01 €	25.746,01 €	26.972,01 €