Access to Research Infrastructures: Process and modalities

Module 2 – Access Legal Framework

- Sabine Philippin (CNRS, France) – 23 Octobre 2024

IR0000032 – ITINERIS, Italian Integrated Environmental Research Infrastructures System
(D.D. n. 130/2022 - CUP B53C22002150006) Funded by EU - Next Generation EU PNRR-Mission 4 "Education and Research" - Component 2: "From research to business" - Investment 3.1: "Fund for the realisation of an integrated system of research and innovation infrastructures"

Finanziato dall'Unione europea NextGenerationEU
Ministero dell'Università e della Ricerca
Italiadomani

Agenda - October 23, 2024

Time		Training Module - Topic	Speaker
08:30 – 09:00		Registration of participants	
09:00 – 09:15	15m	Introduction and Presentation of the Course	Carmela Cornacchia, CNR Sabine Philippin, CNRS Rosa M. Petracca Altieri, CNR
09:15 – 11:15	2h00m	Access to research infrastructure services and basic definitions	Sabine Philippin, CNRS
11:15 – 11:30		***Coffee Break***	
11:30 – 13:30	2h00m	Access legal framework, I	Sabine Philippin, CNRS
13:30 – 14:00		***Lunch Break***	
14:00 – 15:00	1h00m	Access legal framework, II	Sabine Philippin, CNRS
15:00 – 15:30	30m	User needs and experience, I	Sabine Philippin, CNRS
15:30 – 15:45		***Coffee Break***	
15:45 – 18:00	2h15m	User needs and experience, II	Sabine Philippin, CNRS

Overview of Training Modules 1-3 (Oct 23)

- **I. Introduction to Research Infrastructure services** ✓
- **II. Access legal framework**
- **III. User needs and experience**

Legal frameworks & Ris – Legal knowledge + Quiz #1

Join at

sli.do or **slido.com**

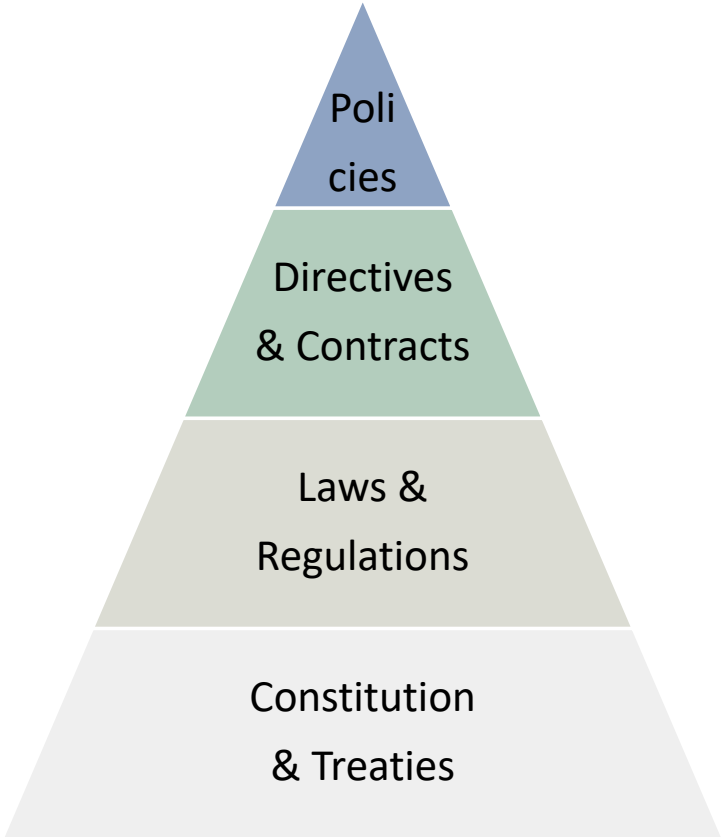
#ITIN1

II. Access Legal Framework

The legal framework related to RI access provides the **governance and structure** for regulating

- the rights and responsibilities of the stakeholders (funders, research infrastructure /organisms, users) involved in service provision and access in the (multi-)national scope
- Ensuring the proper management and allocation of the related funds
- Compliancy of
  - Principles and regulations set by the funders (e.g., Horizon Europe, national funding agencies, ERIC policies)
  - Management and allocation of the financial terms
  - Associated legal rules that apply in relation to the process of of providing access to services (e.g., GDPR, IPR, national laws and regulations of the participating countries)

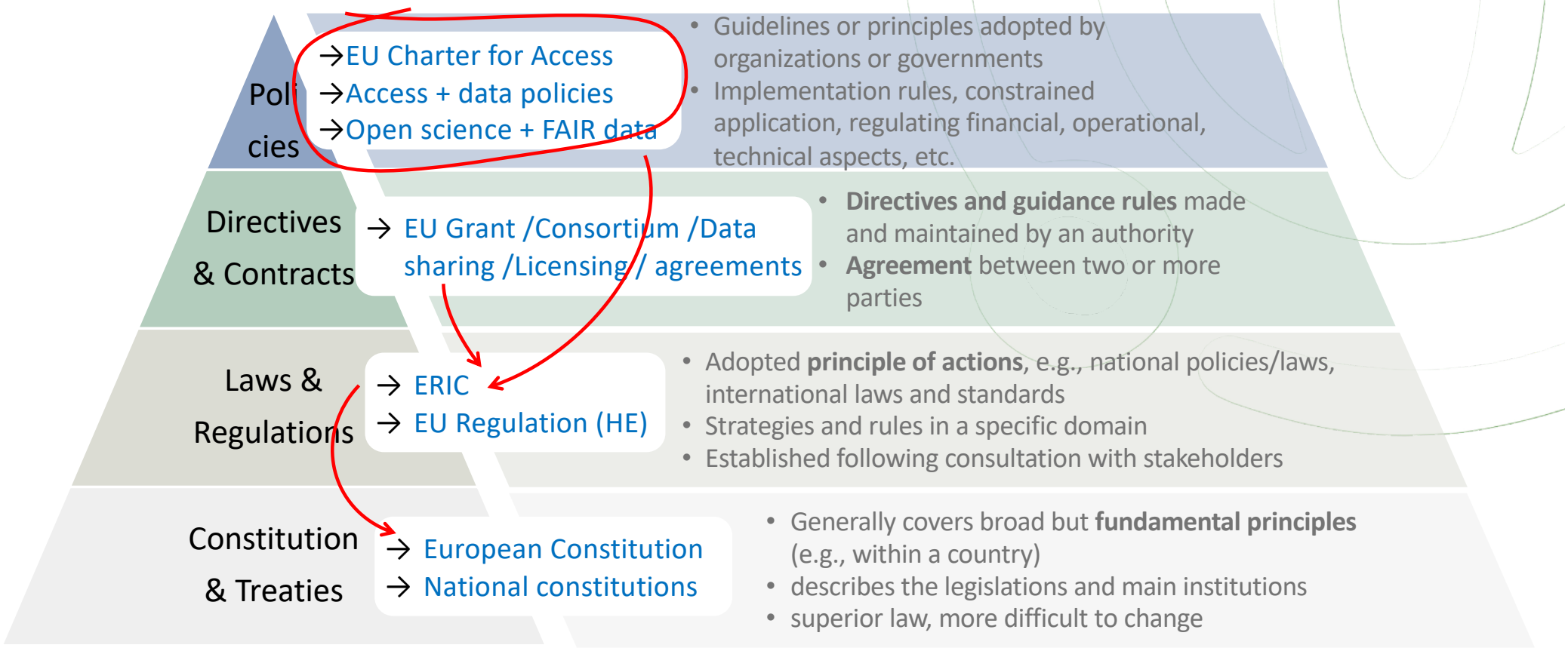
Legal Architecture



A legal framework comprises the required documents and defines the **legal hierarchy** of such and their interrelation :

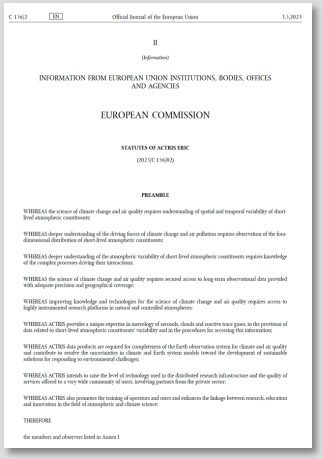
- From bottom to top in a legal hierarchy, the documents become more and more detailed / specific and have less authority
- The legal architecture can vary from one country to another
- Some issues are covered by legislation and others are negotiated in contracts

Legal Hierarchy & Access



Key components of RI legal frameworks - I

ERICs & ERIC statutes



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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

STATUTES OF ACTRIS ERIC

(2023/C 146/02)

PREAMBLE

WHEREAS the science of climate change and air quality requires understanding of spatial and temporal variability of short-lived atmospheric constituents;

WHEREAS deeper understanding of the driving forces of climate change and air pollution requires observation of the four-dimensional distribution of short-lived atmospheric constituents;

WHEREAS deeper understanding of the atmospheric variability of short-lived atmospheric constituents requires knowledge of the complex processes driving their interactions;

WHEREAS the science of climate change and air quality requires secured access to long-term observational data provided with adequate precision and geographical coverage;

WHEREAS improving knowledge and technologies for the science of climate change and air quality requires access to highly instrumented research platforms in natural and controlled atmospheres;

WHEREAS ACTRIS provides a unique expertise in metrology of aerosols, clouds and reactive trace gases, in the provision of data related to short-lived atmospheric constituents' variability and in the procedures for accessing this information;

WHEREAS ACTRIS data products are required for completeness of the Earth observation system for climate and air quality and contribute to resolve the uncertainties in climate and Earth system models toward the development of sustainable solutions for responding to environmental challenges;

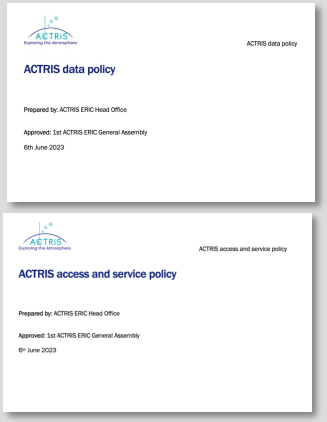
WHEREAS ACTRIS intends to raise the level of technology used in the distributed research infrastructure and the quality of services offered to a very wide community of users, involving partners from the private sector;

WHEREAS ACTRIS also promotes the training of operators and users and enhances the linkage between research, education and innovation in the field of atmospheric and climate science;

THEREFORE

the members and observers listed in Annex I

Access & Data policies



ACTRIS data policy

ACTRIS data policy

Prepared by: ACTRIS ERIC Head Office

Approved: 1st ACTRIS ERIC General Assembly

6th June 2023

ACTRIS access and service policy

ACTRIS access and service policy

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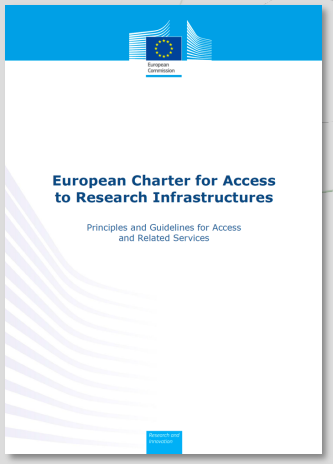
EU Charter for Access



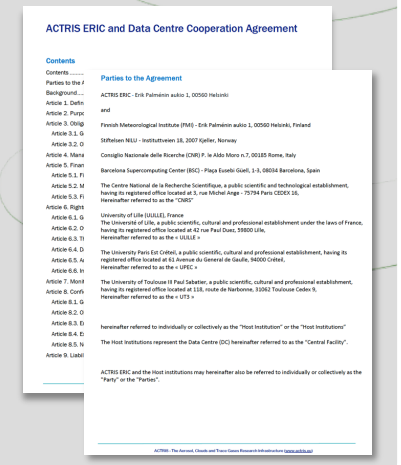
European Commission

European Charter for Access to Research Infrastructures

Principles and Guidelines for Access and Related Services

Research and Innovation

Service / Collaboration agreements ERIC-National nodes



ACTRIS ERIC and Data Centre Cooperation Agreement

Contents

Parties to the Agreement

ACTRIS ERIC - Erik Palménin aukio 1, 00560 Helsinki

and

Finnish Meteorological Institute (FMI) - Erik Palménin aukio 1, 00560 Helsinki, Finland

Stiftelsen NILU - Instituttveien 18, 2007 Kjeller, Norway

Consiglio Nazionale delle Ricerche (CNR) P. le Aldo Moro n.7, 00185 Rome, Italy

Barcelona Supercomputing Center (BSC) - Plaça Eusebi Güell, 1-3, 08034 Barcelona, Spain

The Centre National de la Recherche Scientifique, a public scientific and technological establishment, having its registered office located at 3, rue Michel Ange - 75794 Paris CEDEX 16, Hereinafter referred to as the "CNRS"

University of Lille (ULLLE), France
The Université of Lille, a public scientific, cultural and professional establishment under the laws of France, having its registered office located at 42 rue Paul Duez, 59800 Lille, Hereinafter referred to as the « ULLLE »

The University Paris Est Créteil, a public scientific, cultural and professional establishment, having its registered office located at 61 Avenue du General de Gaulle, 94000 Créteil, Hereinafter referred to as the « UPEC »

The University of Toulouse III Paul Sabatier, a public scientific, cultural and professional establishment, having its registered office located at 118, route de Narbonne, 31062 Toulouse Cedex 9, Hereinafter referred to as the « UT3 »

hereinafter referred to individually or collectively as the "Host Institution" or the "Host Institutions"

The Host Institutions represent the Data Centre (DC) hereinafter referred to as the "Central Facility".

ACTRIS ERIC and the Host institutions may hereinafter also be referred to individually or collectively as the "Party" or the "Parties".

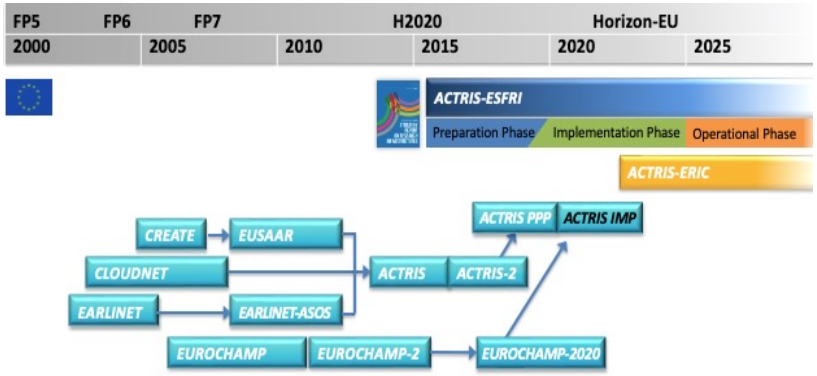
European Research Infrastructure Consortium (ERIC)

- Legal entity for regulating the establishment and operation of European Research infrastructures, created under Union law
- International organisation with statutory seat, involving several European countries
- Legal personality and full legal capacity
- Recognised in all EU countries and AS
- Allows flexible management models, tax exemption, some limited economic activity
- Internal ERIC structure is defined by its statutes
- since 2009 (Council Reg (EC) n° 723/2009

To date, 26 ERICs are established (22 ESFRI Projects, 41 ESFRI Landmarks)

- **2011**: SHARE ERIC
- **2012**: CLARIN ERIC
- **2013**: EATRIS ERIC, ESS ERI, BBMRI ERIC, ECRIN ERIC
- **2014**: EURO-ARGO ERIC, CERIC ERIC, DARIAH ERIC, JIV ERIC
- **2015**: EUROPEAN SPALLATION SOURCE ERIC, ICOS ERIC
- **2016**: EMSO ERIC
- **2017**: LIFEWATCH ERIC, CESSDA ERIC, ECCSEL ERIC, INSTRUCT ERIC
- **2018**: EMBRC ERIC, EU-OPENSCREEN ERIC, EPOS ERIC
- **2019**: EURO-BIOIMAGING ERIC
- **2021**: ELI ERIC
- **2022**: ANAEE ERIC, MIRRI ERIC, EU-SOLARIS ERIC
- **2023**: ACTRIS ERIC

Establishment of ACTRIS ERIC – an example



ITINERIS

ESFRI

2015 - Application for ESFRI Roadmap

2016 – Roadmap entry as ESFRI Project

2019 – ERIC step 1 application

2021 – Landmark on ESFRI Roadmap

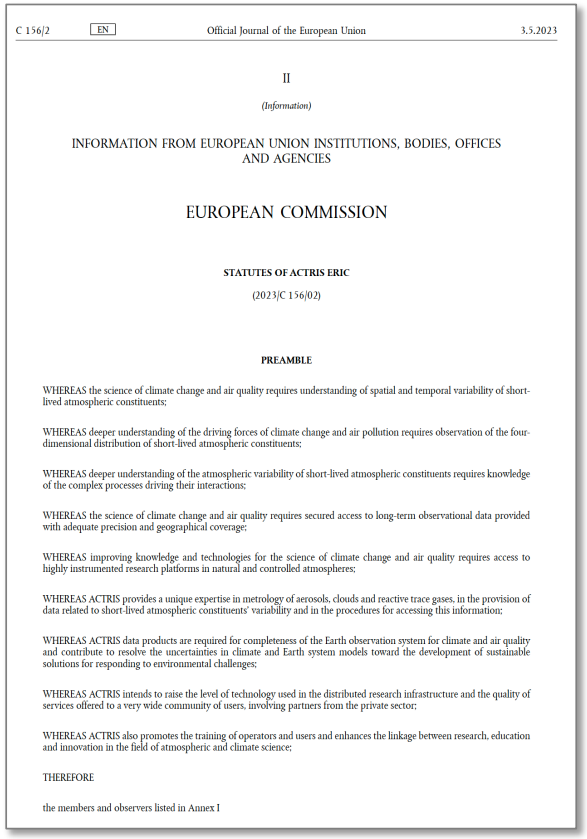
2021 – ERIC step 2 application

2023 – ACTRIS ERIC

Goal of ACTRIS ERIC

operating the distributed RI to produce high-quality integrated datasets in the area of atmospheric sciences and provide services, including access to instrumented platforms, tailored for scientific and technological usage.

ERIC Statutes



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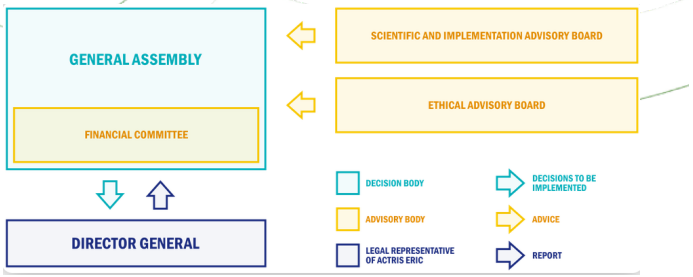
THEREFORE

the members and observers listed in Annex I

- ERICs have a legal personality and are recognized as legal entities → they can enter into contracts, own property, and are liable under EU law.
- ERICs are governed by their statutes, enacted by the legislative body (European Commission)
- ERIC statutes set the main rules for the governance and the financing of the ERIC

ERIC Statutes

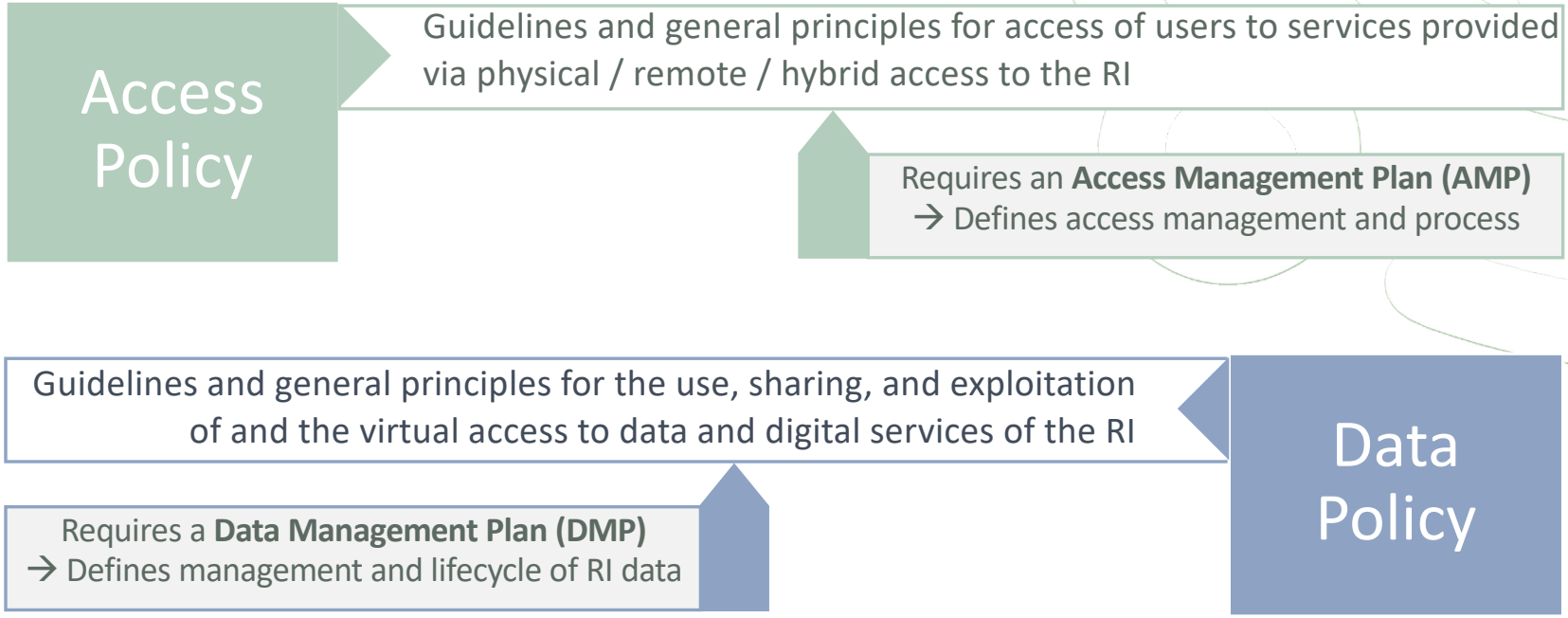
- List of members and observers (= countries)
- statutory seat
- Name of the ERIC
- Duration and procedure for winding up
- Liability regime
- Basic principles and policies on access, data, scientific evaluation, dissemination, IPR, HR, procurement
- Governing bodies, responsibilities, voting rights
- Initial 5-year Financial plan and membership contributions



Example of ERIC Governance

Access & Data Policies

- Essential components of the legal framework for RI to **regulate** the access and use of services



Relevance of Access & Data Policies

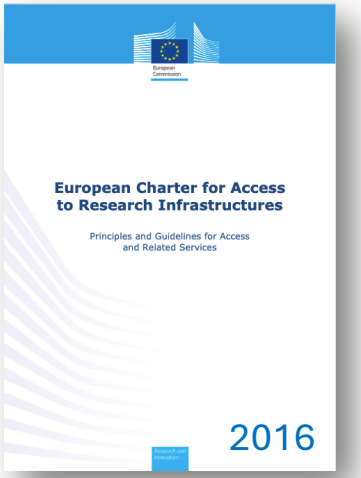
Clarity – stakeholders know the rights and responsibilities about access or data use

Sustainability – proper governance and resource allocation supported by these policies help maintain the long-term viability of research infrastructures

Legal and Ethical Compliance – all activities adhere to legal requirements (e.g., IP rights, privacy laws) and ethical standards (e.g., open science, equity in access)

Innovation – by encouraging data sharing and collaborations, these policies accelerate scientific discoveries and technological advances.

EU Charter for access to RI



- Published by the EU in 2016
- Non-regulatory principles and guidelines for defining access policies and related services
- European RIs are encouraged to use as reference when defining their access policies
- Document is legally non-binding

→ However, the charter is essential for shaping the legal the legal framework for access (policies)

→ Its application is mandated by the EC for funding access to RIs

→ ESFRI states that the RIs should continue to provide access in line with the Charter

Transparency
- Need for clear and open access policies
- Information on access decision making

Non-Discrimination
- Equal treatment for all
- Access should be open for all users, regardless of nationality or background

Excellence
- Priority of access is based on scientific excellence
- Access process, regulation, user feedback

Compliance
- Legal and ethical compliance with NAT+EU+INT laws
- Data protection, IPR, GDPR
- Ethical standards

Recommendations for EU Charter for access to RI

- Published by ESFRI in 2023
- Address remaining challengers to provide broader and effective access to Ris to tackle scientific and societal challenges
- Based on surveys targeting Ris and RI stakeholders
- Recommendations for charter revision (legal, financial, technical)

- Legal guidance on IPR, data protection, liability
- Strengthen visibility and recognition of distributed RIs
- Opening access to new research communities and industry users
- Technological transfers & co-development initiatives

- Diversified funding streams
- Elaborate on open science, data and FAIR principles
- Challenge-driven vs curiosity-driven access, priority-driven access, crisis access model
- Increase and improve remote/hybrid access, multi-disciplinary needs
- Environmental footprint

EU Framework and associated contacts

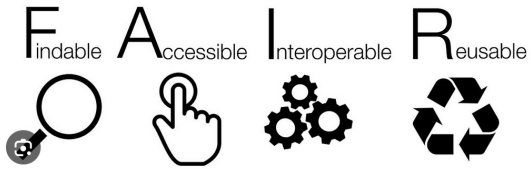
- **EU regulation for Horizon Europe's Framework Programme for Research and Innovation**
  - → Underlying rules for participation and dissemination
- **Horizon Europe Grant Agreement & Annexes**
  - → Legally binding agreement signed by all beneficiaries
  - → Rules and conditions for the provisions of Transnational & Virtual Access
- **Consortium Agreement**
  - → Defining the rights, obligations and organisation of work between the parties

Key components of RI legal frameworks - II

- Open science and data management policies
- Data protection regulations
- Intellectual property (IPR) & access rights
- Licensing agreements
- Ethical policies + guidelines
- Terms of use agreements
- Health, safety, security and environment regulations
- …

Open Science and Data Management Frameworks

- Priority for the EC under its R&I funding programmes to improve quality, efficiency and responsiveness of research
- Sharing of knowledge and data
- Beneficiaries of R&I funding are required to make
  - publications available in open access
  - data as “open as possible and as closed as necessary”
- Open access pathways:
  - Gold OA: publication in OA journals (freely and immediately accessible)
  - Green OA: archiving in OA repository (access is subscription-based, embargo)
- FAIR Data principles ensure research data that is fair, accessible, interoperable and reuseable



General Data Protection Regulation (GDPR)

- European Parliament regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (2016/679, Directive 95/46/EC)
- In force since May 2018 (subject to sever penalties in case of non-compliance)
- Personal data must be secured and protected
- Organisations must obtain clear, informed consent from individuals to collect and process personal data, and they must provide transparency about how the data is used.
- Accountability of data processing activities for organisations and appoint a Data Protection Officer (DPO) if they handle large amounts of personal data or sensitive information.
- GDPR applies also to organisations outside the EU that process the personal data of EU citizens.

Intellectual Property Rights (IPR) and Access Rights

Ownership and IPR of data

- IPR refers to the legal rights that protect creations and innovations generated during research activities
- Ownership belongs to the one generating the IP, the owner provides the access rights to users
- Copyrights, patents, data, products, software, publications etc. are considered IP and can have joint ownership
- Proper management of IPR is crucial to ensure that research outcomes are protected, shared and used in an ethical manner
- User rights can be transferred under a license, e.g., to an RI that will get access rights to the IP

Classifying IPR & Knowledge

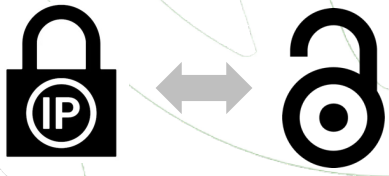
- **Background:** pre-existing knowledge prior to a project, an ERIC, etc. → Identified Background IP prevents unauthorised use
- **Foreground:** all knowledge and results generated during a project, RI operations, new developments made under an ERIC → Defined Foreground IP allows to plan for publications, licensing, potential commercialisation of research outputs
- **Side-ground:** knowledge developed over the span but not in the execution of the project, of ERIC operations, … → Defined Side-ground IP helps to acknowledge contributions enhancing the research work

Access rights and licenses

- Access rights define the right to use the IP in a specified way
- A license does not regulate access but what you can do with the IP (e.g., data)
- Licences secure the rights of the IP creators (e.g., data producers and providers)
- A licences tells the users how to access, use and share the data. Without a license, data is not truly open, the type of license must be aligned with the strategy of the RI

IPR & Licensing Agreements in the context of RIs

- RIs often establish clear IPR policies that outline how IP is managed, protected, and shared. These policies govern issues like ownership, licensing, access rights, and exploitation of IP generated within the infrastructure.



- **IP Protection vs Open Access**: RIs must strike a balance between protecting IP and adhering to open access principles:
  - Open access mandates free dissemination of publications and data
  - IP protection (e.g., patents, licences) allows to control how the results and data and results are used

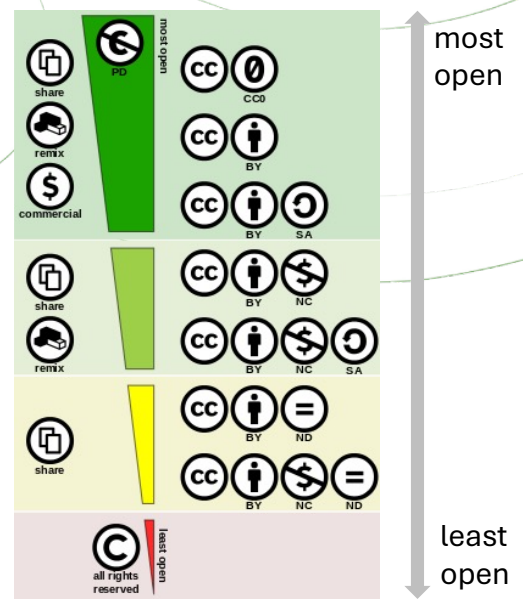
- **Licencing agreements** regulate how third parties use the IP in exchange for royalties or other financial benefits. Various license models exist:

  - Open licenses (e.g., Creative Commons, GNU GPL) allow for free use with conditions (e.g., attribution, non-commercial use).
  - Exclusive licenses may be granted to specific companies or organizations for commercialization, often generating revenue for the research infrastructure.

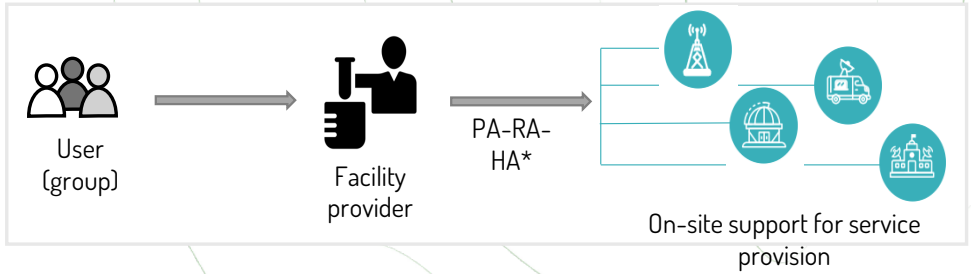
Creative Commons (CC) License

- Creative Commons: non-profit organisation proposing legal and flexible solutions to give users the right to access, share, and use content and data.
- CC licences are public and open licences, often used by RIs. Few restrictions, examples:
  - Most open: **CC0** (public domain waiver)
  - Least open: „all rights reserved“ (copyright owner hold all rights for own use)
  - Other combinations of license rights:
    - **CC-BY-NC-ND**: share only, credits required, non commercial use, no modification
    - **CC BY-NC**: credits required, allows to share and remix, non-commercial only
    - **CC BY-SA**: credits required, allows to share and remix, same legal conditions
    - **CC BY 4.0** (Attribution 4.0 International): latest version of CC licences, applicable to most jurisdictions and most often used in relation to RI data:
      - Copy and redistribute the material in any medium or format
      - Remix, transform, and build upon the material for any purpose, even commercially

BY	**Attribution**: allows to copy, distribute, make derivative work, remix work if credits are given to the author or licensor (in manner specified)
SA	**Share-alike**: allows to distribute derivate work under an identical licence (“not more restrictive”).
NC	**Non-commercial**: allows to copy, distribute, make derivative work, remix only for non-commercial purposes.
ND	No derivative works: allows to copy, distribute, and display but not to make derivate work or remix work.



Terms of Use Agreement



- Compliance of users with terms of use at facility /platform /installation
- Defining rights and obligations of both users and service providers
  - ✓ Compliance with ACTRIS Data Policy and the ACTRIS access and service policy
  - ✓ Compliance with the applicable legislation, institute' regulations, hygiene and safety rules, local
  - ✓ Confirmation of the users' responsibility to provide their own insurance
  - ✓ Data management process
  - ✓ Confirmation to disseminate the results (via open access), including the recognition of the facility and personal contributions
  - ✓ Confirmation to provide data, related to the access, to the Data Centre
  - ✓ Other aspects (if applicable): e.g. specific protocols concerning transport and access to the facility.

Ethical Principles

- RIs are expected to adopt ethical guidelines and principles

Professional and scientific responsibility

→ integrity, respect, fairness, trustworthiness, transparency, ...

Law abiding

→ legal duty to obey laws

Social and environmental responsibility

→ Human rights, HR practices, conservation and biodiversity, waste + recycling, ...

Moral responsibility

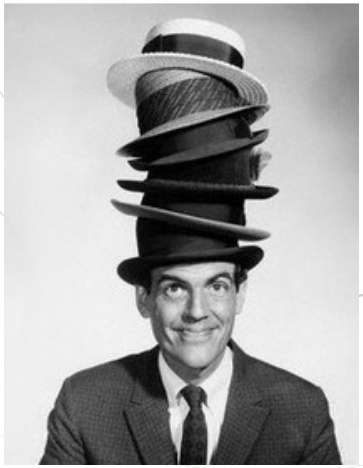
→ good citizenship

- An ethical advisory committee: promote ethical conduct and ensure that the activities are carried out in a responsible and accountable manner.

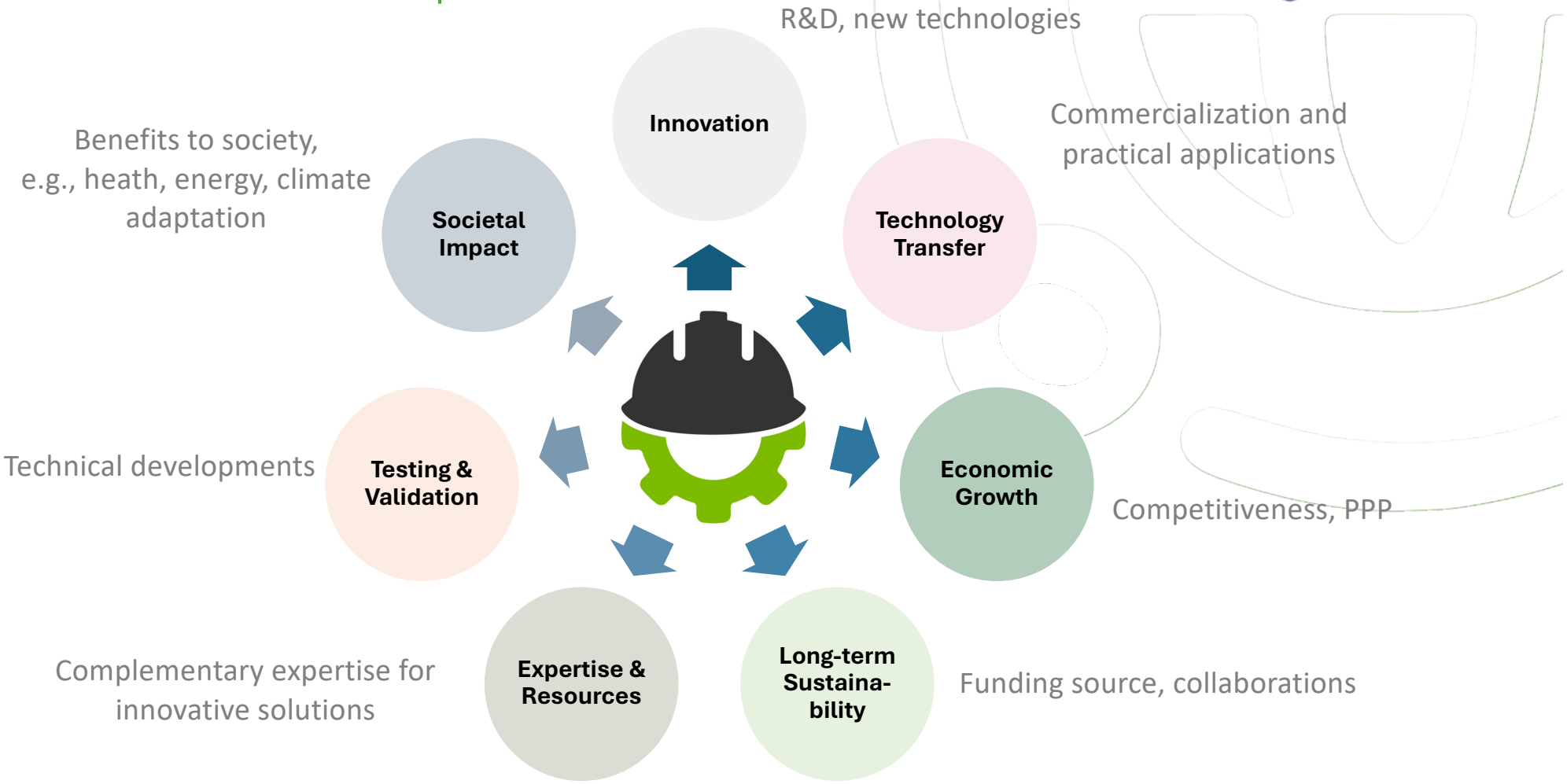
RI-specific Ethical Aspects

- **Awareness of ethical conduct** → RI governance and management (e.g. implementation of ethical advisory board)
- **Conflict of interest** → e.g., due to multiple representation in RI governance, compromised judgement, competing interests, …

  → personal - financial - institution-level
- **Scientific responsibility** → Ensuring compliance with good scientific practice, fair competition, FAIR data principles, acknowledging contributions, …
- **Ethical approach to animal research** → avoid animals where possible, reduce to a minimum, avoid possible pain, suffering, distress, or harm
- **Personal data protection** → robust processes for handling and storing personal data



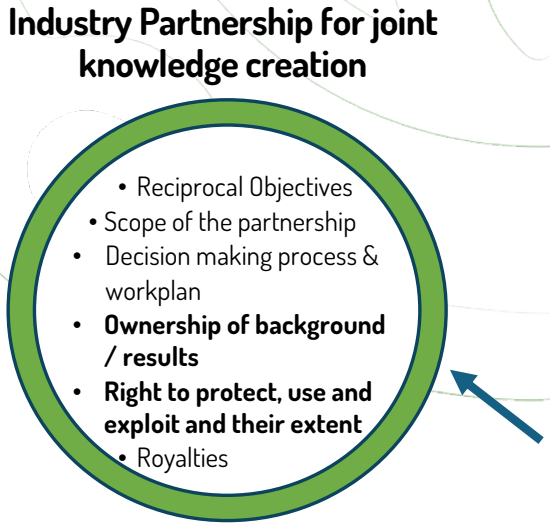
Collaboration with the private sector



Collaboration with the private sector

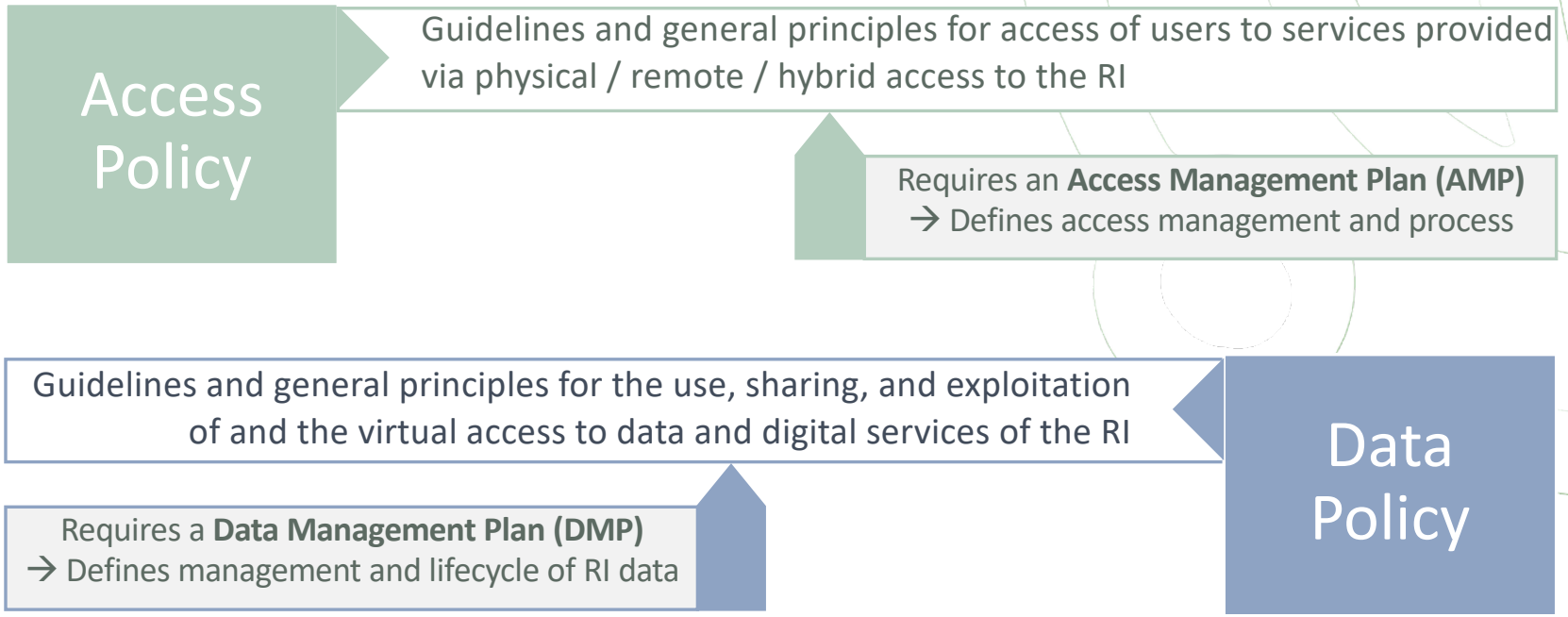
- Industry as a **user** → professionalised services, proprietary research, confidentiality agreement
- Industry as a **partner** → collaboration agreements
- Industry as a **supplier** (of equipment)

- Need for clear guidelines and legal frameworks
- In particular for IPR and shared IPR



"The protection and enforcement of IPR should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, **to the mutual advantage of producers and users of technological knowledge** and to a balance of rights and obligations."

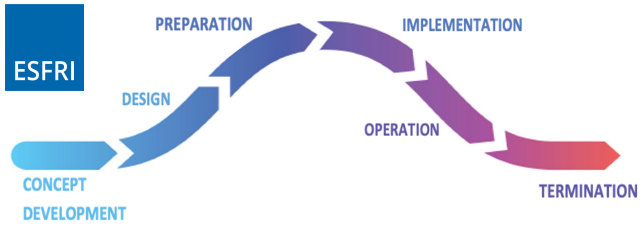
Access & Data Policies… in more details



Access Policy

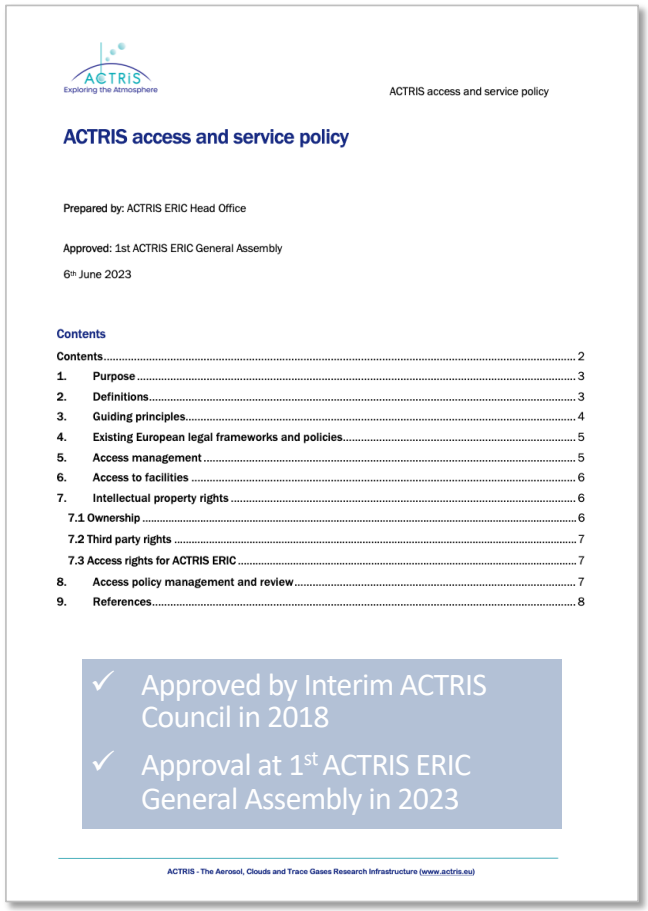
Providing guidelines and general principles for access of users to services provided via physical / remote access to the RI

- Mandatory document for all ESFRI RIs
- Criteria for scientific evaluation in relation to the user strategy



- **Key topics to address in access policy**:
  - Who are the key actors → Users
  - Type of RI services and how they can be access and used
  - Contractual and legal aspects
  - Costs for accessing services

ACTRIS Access & Service Policy – An Illustration



ACTRIS access and service policy

ACTRIS access and service policy

Prepared by: ACTRIS ERIC Head Office

Approved: 1st ACTRIS ERIC General Assembly

6th June 2023

Contents

- ✓ Approved by Interim ACTRIS Council in 2018
- ✓ Approval at 1st ACTRIS ERIC General Assembly in 2023

ACTRIS - The Aerosol, Clouds and Trace Gases Research Infrastructure (www.actris.eu)

ACTRIS Service and access policy

1. Purpose
2. Definitions
3. Guiding principles
4. Existing European legal frameworks and policies
5. Access management
6. Access to facilities
7. Intellectual property rights
8. Access policy management and review
9. References

ACTRIS Access & Service Policy – 1. Purpose

- The purpose of this access and service policy document is to give guidelines and describe the general principles for access provided by ACTRIS to Users.

ACTRIS Access & Service Policy – 2. Definitions

- **Access**" means the legitimate and authorised physical, remote and virtual admission to, interactions with and use of Research Infrastructures and to services offered by Research Infrastructures to users.
- "**ACTRIS data**" means ACTRIS data from observational National Facilities and exploratory National Facilities complying with the procedures established within ACTRIS. A more detailed definition of ACTRIS data is given in the ACTRIS data policy.
- "**ACTRIS tools**" mean both digital and non-digital tools for data and instrument operation offered by ACTRIS to users.
- "**Background**" means data, databases, data products and data related tools or any other intellectual property rights generated before the access activities at the Central Facilities or National Facilities started.
- "**Competitive access**" means access to the ACTRIS Central Facility and National Facility services through a selection process via SAMU.
- "**Excellence-driven access mode**" means access primarily depending on the scientific excellence of an application.
- "**FAIR principles**" means guiding principles to make data Findable, Accessible, Interoperable and Re-usable.
- "**Free access**" means free-of-charge access for Users.
- "**Market-driven access mode**" means access defined through an agreement between the ACTRIS ERIC and the User, which may be tailored to the User needs.
- "**Technical need-driven access mode**" means access primarily depending on the technical needs of the User to increase the performance and quality of its research activities.
- "**Physical access**" means physically access of Users to the services of an ACTRIS Central Facility or National Facility.
- "**Remote access**" means access to an ACTRIS Central Facility or National Facility without Users physically visiting the facility.
- "**SAMU**" means the Service Access Management Unit of the ACTRIS Head Office.
- "**Side-ground**" means data, databases, data products and data related tools or any other intellectual property rights generated at the same time the access activities at the Central Facilities or National Facilities take place but which are not generated as part of the access activities.
- "**User**" means a person, a team, or an institution from any sector, including public and private sector, making use of ACTRIS data or other ACTRIS services, including access to ACTRIS facilities.
- "**Virtual access**" means Free access provided through communication networks.
- "**Wide access**" means free and broadest possible access to ACTRIS data and digital services to guarantee maximum availability and visibility of the data and services provided by the Data Centre.

ACTRIS Access & Service Policy – 3. Guiding Principles I

- ACTRIS ERIC shall provide **physical access, remote access and virtual access** to resources and services for the science community to conduct research and foster innovation.

✓Type of access

- ACTRIS promotes **open access** to the services provided by the ACTRIS Central Facilities and National Facilities for **all users** in order to conduct scientific experiments, use the state-of-the art research instruments and equipment, and benefit from technical services (e.g., calibrations), expert support, and training and educational services, or access specific ACTRIS Data Centre services.

✓Open access
✓Users
✓Type of services

- ACTRIS is committed to provide access to its services and resources according to the **user needs** but within the limits of the **facilities' capacities**.

✓User strategy

ACTRIS Access & Service Policy – 3. Guiding Principles II

- Virtual, physical and remote access to the Central Facilities and National Facilities **is centrally coordinated** by the ACTRIS ERIC. Users will access the ACTRIS services through a **single entry point**. **Virtual access** is **wide access** to ACTRIS data and digital tools and does not require a selection process. **Competitive access** is **physical or remote access** to the ACTRIS Facilities, including access to specific services offered by the Data Centre and shall be **managed by the SAMU** and requires a **selection process**.

✓Access management

✓Selection process

- ACTRIS aims at providing **free access for users**, where possible. Virtual access to ACTRIS data and digital tools is free access, and is given in compliance with the ACTRIS data policy. Virtual access to other ACTRIS tools may also be freely accessible. Competitive access to ACTRIS services is made on user demand and might involve **user fees**. Detailed guidelines shall be given in the ACTRIS **Access Management Plan**.

✓Costs for access

✓AMP

ACTRIS Access & Service Policy – 3. Guiding Principles III

- **Wide publicity measures** and outreach activities will be implemented to advertise the opportunities of ACTRIS services.
- A mechanism for **user feedback** will be implemented by SAMU to regularly collect information from the User on the range and quality of the ACTRIS services and to properly tailor them according to evolving User needs.
- ACTRIS ERIC shall respect and comply with any **European and national legislation** as applicable regarding the protection of personal data and privacy, environmental science data as well as health and safety at work.
- **Ethical guidelines** approved by the ACTRIS ERIC General Assembly for ACTRIS shall be applied to this Access and service policy.

✓Communication

✓Access reporting & monitoring

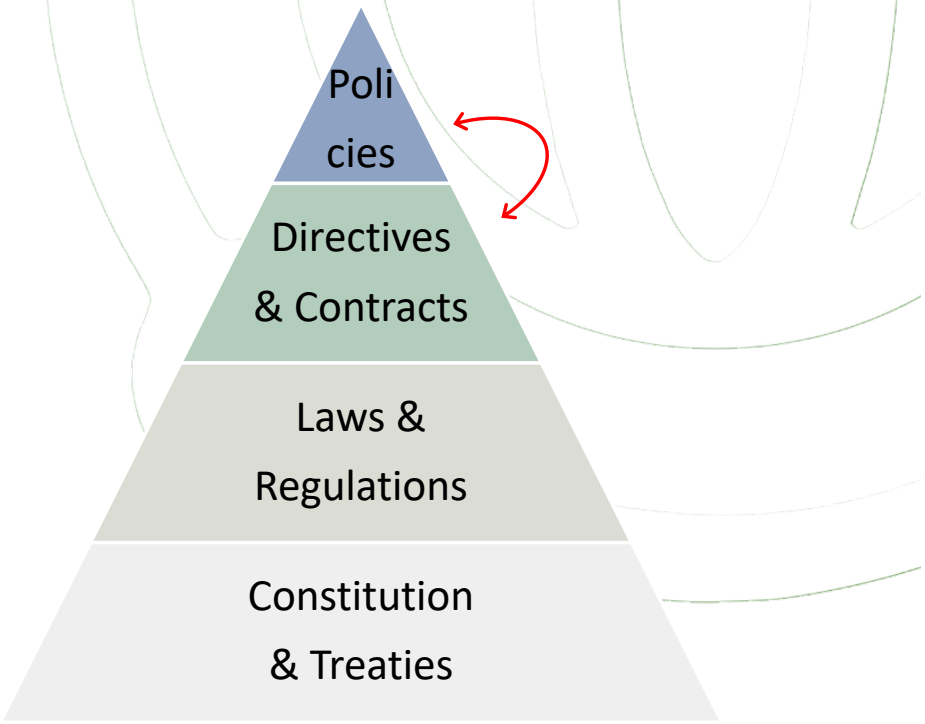
✓Legal compliance

✓Ethical compliance

ACTRIS Access & Service Policy – 4. Existing legal frameworks and policies

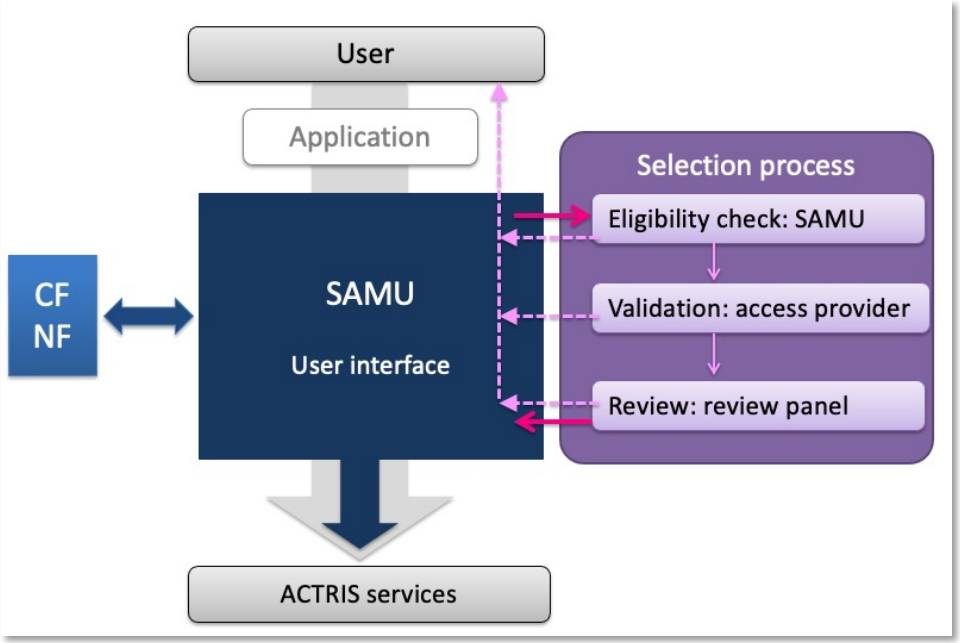
This access policy takes into account the overall European legal framework related to environmental data, information and databases, health and safety at work, in particular the

- Aarhus Convention (access to environmental data),
- Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work,
- Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 on establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (sharing of the spatial information among public sector organisations and access to the spatial data),
- Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases,
- Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs,
- Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information and amendments to it,
- European Charter for Access to Research Infrastructures (principles and guidelines for access policies), and
- OECD Principles and Guidelines for Access to Research Data from Public Funding.



This access and service policy acknowledges the ongoing work of the European Commission to foster the FAIR principles for data access, sharing and use. This access policy also acknowledges the relevant international initiatives for the observation of the Earth System (e.g. GEOSS) and national policies and legislations with the aim of full and open exchange of data and metadata and providing access to elaborated data products with minimum time delay and at possible no costs.

ACTRIS Access & Service Policy – 5. Access Management



- ✓Centralized access
- ✓SAMU
- ✓Interaction between main actors
- ✓Selection process and access modes

→ Access Management Plan

ACTRIS Access & Service Policy – 6. Access to Facilities I

- In case of physical and remote access, the Central Facilities and National Facilities shall provide the requested services in accordance with the approved application and shall ensure smooth access to **services and logistics for users**, supported if needed by the SAMU. **On-site support and guidance** shall be provided to users. Virtual access is not competitive and will be provided directly by the ACTRIS ERIC.

✓Facility /provider obligations

- Users are responsible for complying with any applicable **national legislations and host institutions regulations**, especially safety regulations.

✓Legal compliance

- Users shall be responsible for their own **insurances**. The hosting institutions have the right to request that certain insurances are taken and also to request proof for that.

✓Liability

ACTRIS Access & Service Policy – 6. Access to Facilities II

- Users are encouraged to **disseminate the results** from work done through the provided access in peer-reviewed publications, and shall acknowledge the contribution and support provided by ACTRIS. In accordance with good scientific practice, users are expected to **acknowledge** the use of the facility and the contribution of those persons working at the ACTRIS facilities. Users are normally expected to make their publications available through **open access** repositories.

- ACTRIS ERIC promotes **FAIR principles** which shall be applied to data resulting from access services. Central Facilities and National Facilities shall contribute to ensure the quality of the data. ACTRIS ERIC shall offer the users the possibility to **submit their data** resulting from the access to the ACTRIS Data Centre where it will be archived and made available in accordance with the ACTRIS Data Management Plan and the ACTRIS data policy immediately or after an agreed period of time.

✓User obligations

✓Ethical practice standards

✓FAIR data

✓Access to data

ACTRIS Access & Service Policy – 6. Access to Facilities III

- No warranties are given by the ACTRIS ERIC, the National Facilities, the Data Centre or the Topical Centres and they **disclaim any express and implied warranties of non-infringement** of third party intellectual property rights, patentability, safety, industrial or commercial suitability or fitness for a particular purpose of the data, tools, products or services provided in accordance with this policy.

✓Liability

→ *ACTRIS ERIC does not guarantee or is not responsible if the use of their services or data violates the IP of someone else*

ACTRIS Access & Service Policy – 7. IPR I

- **Ownership** and intellectual property rights to any data or data related tools, databases, software, prototypes, new tools or methodologies or any other products that are generated in relation to the access shall belong to those who have generated them in accordance with the applicable legislation. Those who have jointly generated work shall have **joint ownership** and they shall agree separately upon the conditions of the joint ownership.

Those who have generated **background** or **side-ground** shall own all rights to the Background and Side-ground.

✓Protection of property rights by owner
- exclusive copyrights
- IPR protection

✓IPR of back- and side-ground

ACTRIS Access & Service Policy – 7. IPR II

- **Third party rights** are intellectual property rights which the ACTRIS ERIC, the National Facilities and/or the Central Facilities have not generated themselves and do not own. If ACTRIS ERIC, the National Facilities, or the Central Facilities use such third party rights as part of their own intellectual property, they have to ensure that the intellectual property rights of the third parties are respected and that they have the authorisation of the right holders to grant access rights in accordance with this policy.

✓Protection of property rights by owner
- exclusive copyrights
- IPR protection

ACTRIS Access & Service Policy – 7. IPR III

- If the users submit their **data** resulting from the access to the ACTRIS Data Centre, the users shall give to the ACTRIS ERIC a **worldwide, free of charge, perpetual, transferable, non-exclusive right to use for any purpose the data** and related documents generated by them within the Physical, Remote or Virtual access. This right includes, but is not restricted to, the right to modify, reproduce, sublicense, incorporate to other data, other databases or other tools as well as produce new developments.

- For justified and legitimate reasons ACTRIS ERIC may allow **exceptions to the expected access rights**, for example, when use of the results by ACTRIS could jeopardize a potential industrial/commercial use, violate the rules on personal data protection or on confidentiality for security reasons, or for any other legitimate reason to be agreed upon in writing case by case basis. Such exceptions are agreed upon with the ACTRIS ERIC.

✓Protection of user IPR

✓Access rights to user's IPR

✓IPR of private sector users

Access Management Plan (AMP)

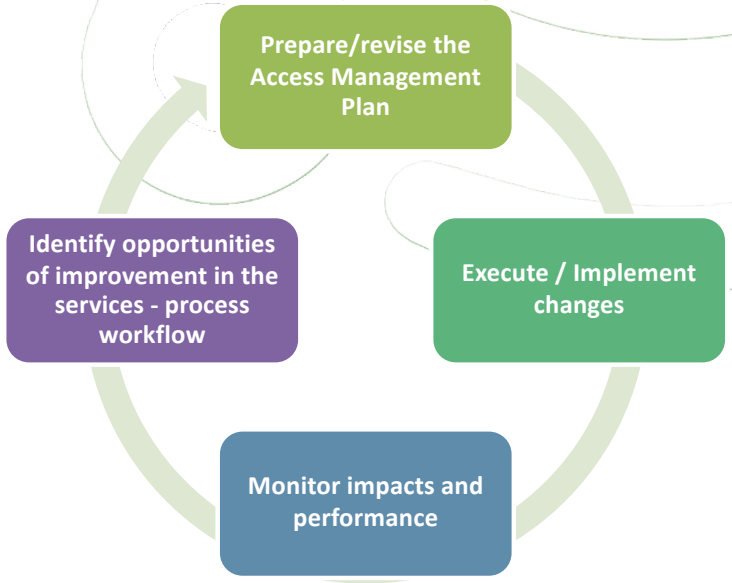
Purpose

- Defining the access management and process
- Detailing how principles set out in the Access Policy are implemented and how access will be (practically) managed in the entire RI

Principles

- ✓ Process approach
- ✓ User centered design
- ✓ Continual improvement

Living document !



ACTRIS Access Management Plan

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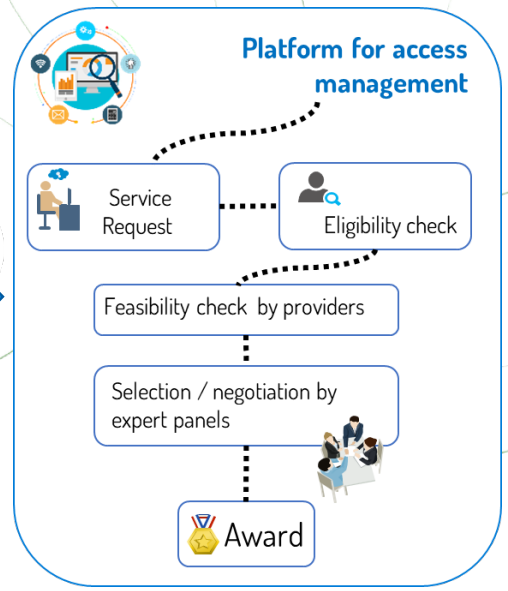
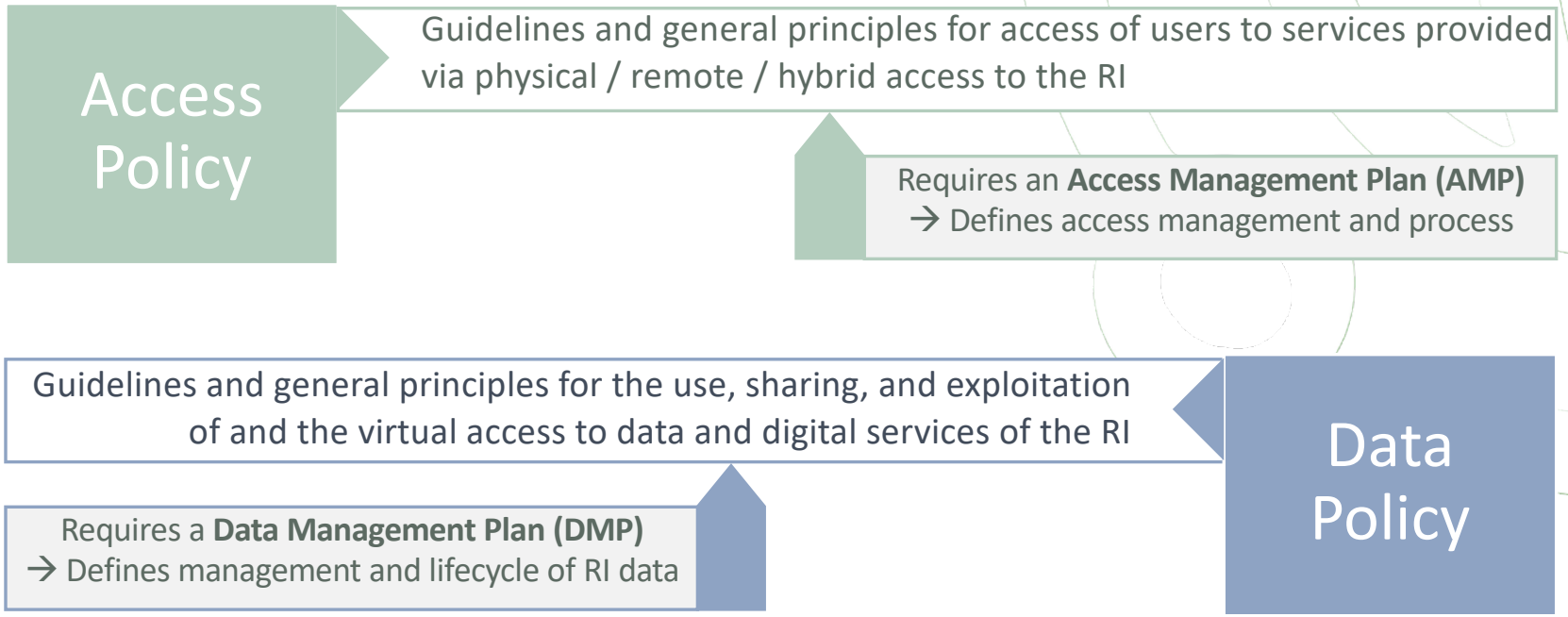


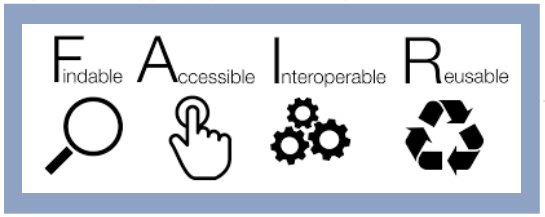
Access & Data Policies… in more details



Data Policy

Guidelines and general principles for the use, sharing, and exploitation of and the access to data and digital services of the RI

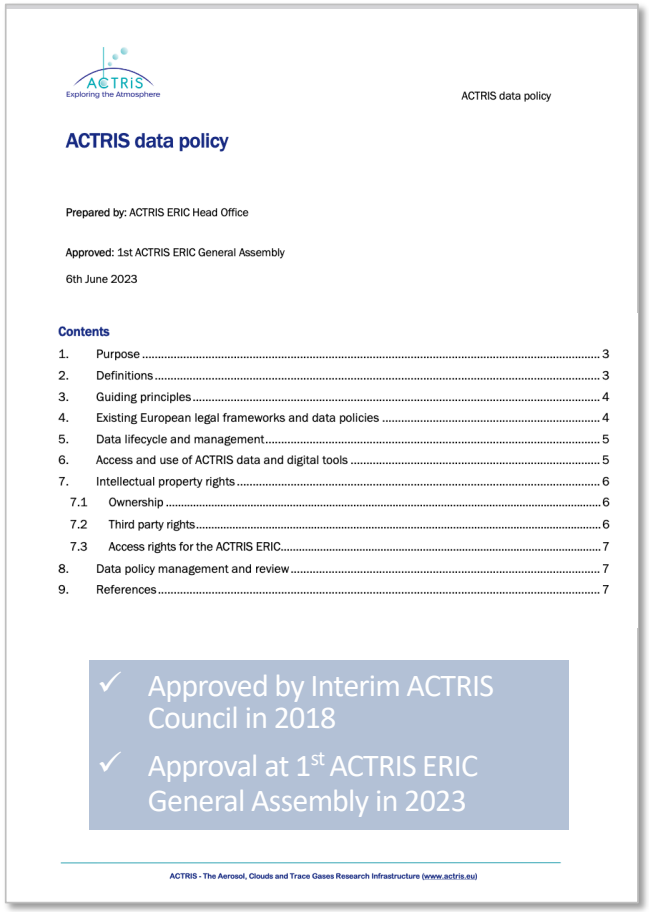
- Promoting culture of openness to research data
- Towards common standards on sharing of data
- Exchange of good practices in data access and sharing
- Promoting scientific and social return on investment of public funds



The value of data lies in their use. Full and open access to scientific data should be adopted as the international norm for the exchange of scientific data derived from publicly funded research.

US National Research Council, 1997

ACTRIS Data Policy – An Illustration



ACTRIS data policy

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Prepared by: ACTRIS ERIC Head Office

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ACTRIS Data policy

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2. Definitions
3. Guiding principles
4. Existing European legal frameworks and data policies
5. Data lifecycle and management
6. Access and use of ACTRIS data and digital tools
7. Intellectual property rights
8. Data policy management and review
9. References

ACTRIS Data Policy – 3. Guiding Principles I

- ACTRIS shall provide effective **access for a wide user community** to its resources and services, including high-quality data and digital tools, to foster innovation and to **apply FAIR principles** to the data and metadata.
- ACTRIS ERIC supports the European Commission's approach: "**As open as possible**, as closed as necessary".
- However, **reasonable restrictions that are still in line with open access principles** may be implemented for specific data sets, especially when access to them could jeopardize a potential industrial/commercial use, violate the rules on personal data protection or on confidentiality for security reasons. Potential restrictions will be proposed by the Data Centre Management board and more detailed rules of managing the process shall be provided in the ACTRIS ERIC internal rules.
- It is expected that access to ACTRIS data is **free-of-charge** and that ACTRIS data should be fully available for others to use with as few restrictions as possible.

✓ Wide, virtual access
✓ FAIR principles

✓Open access

✓Costs for access

ACTRIS Data Policy – 3. Guiding Principles II

- For technical reasons, access to ACTRIS data through machine to machine (M2M) interfaces may be **constrained** for a certain period of time when specific machines acquire large amounts of data at the expense of the general user. In case of any limitations over time, consideration should be given to whether the current system is to be upgraded.
- Users of ACTRIS data and digital tools are normally expected to make resulting publications available through **open access repositories**. Open source for software is encouraged and recommended, when possible. Users are also expected to cite ACTRIS when using ACTRIS data in publications.
- ACTRIS ERIC shall respect and comply with any **European and national legislation** as applicable regarding the protection of personal data and privacy as well as environmental science data.
- **Ethical guidelines** approved by the ACTRIS ERIC General Assembly for ACTRIS shall be applied to this data policy

✓(Some limitations to open access)

✓Open access to publications

✓Legal compliance

✓Ethical compliance

ACTRIS Data Policy – 5. Data Lifecycle and Management

- The ACTRIS Data Centre shall provide ACTRIS data from National Facilities and Topical Centres. ACTRIS data from the National Facilities and the Topical Centres shall be submitted to the Data Centre **within a specified deadline after the measurements** are performed. The ACTRIS Data Centre shall make the data available to the users as soon as quality control procedures are done and potential issues are solved. ACTRIS **data shall be available through the Data Centre**.

- ACTRIS is only given a **right to use the data** provided by the National Facilities, the National Facilities being entitled to **license their data** to others as well. However, the ACTRIS label on the data is uniquely defined and can only be given by the ACTRIS ERIC to data provided through the Data Centre, unless otherwise agreed.

- ACTRIS data is preserved for **long-term archiving**. As a part of the archival process and in order to ensure good data management, ACTRIS is **documenting each step of the data lifecycle**, including collection, curation, data production, preservation, publishing and use of data. Details of the data lifecycle and data management are provided in the ACTRIS **Data Management Plan**

✓Centralized access to data

✓Interaction between main actors and data provision

✓Right of use

(DOI assignment)

✓DMP

ACTRIS Data Policy – 6. Access and use of data and digital tools I

- ACTRIS data and digital tools shall be available according to **license conditions** for both non-commercial and commercial purposes. The aim is to use a small defined suite of licenses with similar kind of principles for both ACTRIS data and the digital tools. It is intended to use licenses like Creative Commons license **CC BY 4.0** for data and metadata and open source licenses for software. Data provided through access to ACTRIS facilities shall be handled in accordance with the ACTRIS Access and services policy. These data may be regarded as ACTRIS data if the requirements for ACTRIS data are fulfilled. Data that has been collected before the establishment of the ACTRIS ERIC and not considered as ACTRIS data may also be made available for users. The aim is to apply the same principles of licensing to this data whenever feasible.

✓Licensing

- The data policy shall be implemented in compliance with the **ACTRIS access and service policy**.

✓Compliancy of policies

ACTRIS Data Policy – 6. Access and use of data and digital tools II

- Open, free, and easy access is the guiding principle, but in case of specific agreements or for other justified reasons agreed upon with the data originators, restrictions may be allowed so that access to some ACTRIS data, digital tools and services may be **available only after a certain period of time or require authentication** and separate permission.

- ACTRIS ERIC may also apply a **registration process** if seen feasible. Furthermore, access to specific services offered by the Data Centre (e.g. in case of limited capacity) may require a **selection process** that is then implemented following the principles described in the ACTRIS access and service policy.

✓Restricted access

✓User tracking via authentication

✓Virtual vs remote access

ACTRIS Data Policy – 6. Access and use of data and digital tools III

- The persons and organisations, that have originally generated ACTRIS data or digital tools or produced different levels of ACTRIS data, must be **attributed**. For this purpose, the ACTRIS ERIC will have the responsibility that the most feasible technical solution for attaching **identifiers to the ACTRIS data and digital tools** is implemented. Clear information about the procedure to acknowledge ACTRIS and attribute the contributors in the future use of the ACTRIS data and digital tools, will also be established.

  The data originators are responsible for clarifying and identifying who should receive attribution. Attribution should be given to ACTRIS in case substantial amount of metadata is harvested by external metadata services.

- No warranties are given by the ACTRIS ERIC, the National Facilities, Data Centre or Topical Centres and they disclaim any **express and implied warranties of non-infringement** of third party intellectual property rights, patentability, safety, industrial or commercial suitability or fitness for a particular purpose of the data or digital tools provided in accordance with this policy.

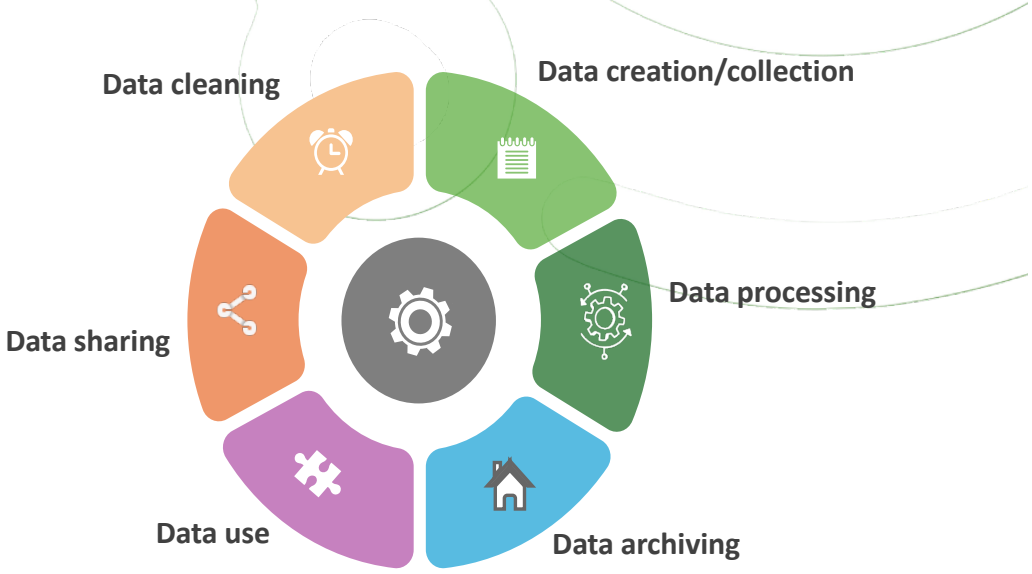
✓Credits to authors (via DOI) – CC **BY**4.0

✓Disclaimer

Data Management Plan (DMP)

Purpose

- Defining the management and lifecycle of data
- Roadmap for managing, storing, sharing, and preserving data, ensuring that it is used responsibly, efficiently, and ethically
- Continuous updating (online working document)



Data Managemen Plan (DMP)

Data Management plan for ACTRIS - Aerosol, Clouds and Trace Gases Research InfraStructure

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What is your main take away from the session on the access legal framework?

Join at

sli.do or **slido.com**

#ITIN1

ITINERIS

THANKS!

IR0000032 – ITINERIS, Italian Integrated Environmental Research Infrastructures System
(D.D. n. 130/2022 - CUP B53C22002150006) Funded by EU - Next Generation EU PNRR-Mission 4 “Education and Research” - Component 2: “From research to business” - Investment 3.1: “Fund for the realisation of an integrated system of research and innovation infrastructures”

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Ministero dell'Università e della Ricerca
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