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Statutes of the Low Frequency Array European Research Infrastructure Consortium (LOFAR ERIC)

(C/2023/1599)

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PREAMBLE

LOFAR (the LOw Frequency ARray) is a world-leading distributed research infrastructure, with cohesively operated facilities located in several countries, as detailed in the Scientific and Technical Annex.

In 2022 the LOFAR infrastructure is fully operational for radio astronomy research by the international scientific community, through the Stichting ILT (International LOFAR Telescope, hereafter referred to as 'ILT'), a foundation under NL law, with representation from all partners, in nine European countries, that locally own some LOFAR facilities. The ILT long-term strategy is to continue offering a cutting edge research infrastructure for a broad science community; in 2022 the ILT is preparing an ambitious upgrade to the hardware and software (LOFAR2.0, described in the Scientific and Technical Annex).

Setting up of LOFAR ERIC has been requested by the ILT considering the steadily increasing number of partners, the joint long-term vision to continue to develop and operate the infrastructure cohesively, and the broader evolution of European research infrastructures. In particular, to replace the ILT by LOFAR ERIC, the following is recognised:

— LOFAR ERIC defines and implements a common long-term strategy, joint fundraising, and consistent prioritisation of development effort, as well as optimising the availability of the collective partner and LOFAR ERIC owned facilities (including sensor, compute, and data storage resources) that form the LOFAR research infrastructure.

— LOFAR ERIC is the appropriate vehicle to attract and consolidate partners with a range of levels of involvement, and to establish and maintain clear long-term policies and funding stability for the organisation and its infrastructure as a whole.

— LOFAR ERIC, cohered at the (multi-)national level, brings appropriate visibility and recognition at national and European levels, facilitating a dialogue with science policy makers and funders across its working domain.

— LOFAR ERIC, with its unique and cutting-edge facilities, has a continuing role in assuring and stimulating the vitality of the European science community.

CHAPTER 1

Essential Elements

Article 1

Legal form and name

A European Research Infrastructure Consortium shall be established. This Consortium shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of Regulation (EC) No 723/2009 as amended by the Regulation (EU) No 1261/2013 (hereinafter 'the ERIC Regulation') and be named 'LOFAR ERIC'.

Article 2

Statutory seat

LOFAR ERIC shall have its statutory seat in Dwingeloo, the Netherlands; hereinafter referred to as 'Host Country'.

Article 3

Tasks and activities

1. The principal task of LOFAR ERIC shall be to assure coordinated exploitation of the LOFAR infrastructure, to produce world class scientific research and to pursue further development, with the aim to maximise productivity and impact for the Members and the international scientific community, positioning LOFAR ERIC as a world-leading distributed research infrastructure with a long-term perspective, located in LOFAR ERIC Member countries, as well as in other countries where LOFAR ERIC has decided to locate some of its facilities.

2. In pursuit of its principal task, LOFAR ERIC shall carry out the following activities:

a. ensuring coordinated operation and scientific exploitation of LOFAR facilities as a cohesive infrastructure, under a common long-term strategy and common policies, for maximal scientific output and impact for the Members and the international community;

b. provide effective access to LOFAR ERIC science services for the user community, incorporating principles of peer review and open science principles;

c. general operation of LOFAR ERIC, covering legal, governance and financial aspects;

d. participating in EU, (multi-)national and other third-party funded projects that are in line with the goals of LOFAR ERIC.

3. LOFAR ERIC may also carry out the following activities:

a. pursuing further development of the LOFAR infrastructure, and related facilities and scientific capabilities;

b. conducting a strategic dialog to optimise the role of LOFAR ERIC in the global science community;

c. developing new Memberships and partnerships as established in Articles 14 and 19;

d. promoting LOFAR ERIC interests with respect to national, European and international stakeholders;

e. seeking further sources of funding, in particular but not limited to upgrades and extensions;

f. fostering training, outreach and international cooperation;

g. any other related activity necessary to achieve its principal task.

4. LOFAR ERIC shall pursue its principal task on a non-economic basis. Without prejudice to State aid applicable rules, LOFAR ERIC may carry out limited economic activities provided that they are closely related to its principal task and that they do not jeopardise the achievement thereof.

5. LOFAR ERIC shall record costs and revenues of its economic activities separately and shall charge market prices for them, or, if these cannot be ascertained, full costs plus a reasonable margin.

Article 4

Duration and the procedure for the winding-up

1. LOFAR ERIC shall exist for an indefinite period of time, but it may be wound up in accordance with the procedure laid down in paragraphs (2) to (6).

2. The winding up of LOFAR ERIC shall be decided by the Council in accordance with Article 27(6)(d).

3. Without undue delay and in any event within ten (10) days after adoption of the decision to wind up LOFAR ERIC, LOFAR ERIC shall notify the European Commission about the decision.

4. Assets remaining after payment of LOFAR ERIC debts shall be apportioned among the Members in proportion to their annual contribution to LOFAR ERIC as specified in Article 21.

5. Without undue delay and in any event within ten (10) days of the closure of the winding up procedure, LOFAR ERIC shall notify the European Commission thereof.

6. LOFAR 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 5

Liability and insurance

1. LOFAR ERIC shall be liable for its debts. LOFAR ERIC shall not be liable for liabilities arising from the operation of separately owned LOFAR Facilities.

2. The Members shall not be jointly liable for the debts of LOFAR ERIC. The members' financial liability for the debts of the LOFAR ERIC shall be limited to the value of each individual member's respective annual contribution agreed upon in the annual budget.

3. LOFAR ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of LOFAR ERIC.

Article 6

Access policy to LOFAR ERIC services

1. LOFAR ERIC shall provide and support effective user access opportunities to the LOFAR ERIC services for the pursuit of scientific research. These services shall include, amongst others: carrying out observations, generating science data products, running a publicly accessible science data archive, user support and training.

2. The LOFAR ERIC services provided shall be publicly announced and documented, together with the access opportunities, procedures and allocation criteria for these various services.

3. The Access policy governing all LOFAR ERIC services for scientific research shall be set and maintained by the Council, with its principles decided as per Article 27(6)(b) and its implementation decided as per Article 27(5)(e).

4. The Access policy of LOFAR ERIC shall safeguard that, of the total amount of operations budget spent on provision of services, a majority is directed to support research by the global community. When open access is offered on a competitive basis, it shall be awarded through independent scientific peer review.

5. The Access policy of LOFAR ERIC shall also safeguard the eligibility for all Members of LOFAR ERIC to benefit from Reserved Access; this will regulate entitlement to parts of the available opportunities for user access to LOFAR ERIC services.

Article 7

Scientific evaluation policy

The activities of LOFAR ERIC will be evaluated by an independent panel of international experts at least once every 5 years. The evaluation protocol (including the aims, terms of reference, composition of the panel and nomination procedure for panel members) shall be set by the Council as per Article 27(5)(j). The panel reports to the Council.

Article 8

Dissemination policy

1. LOFAR ERIC shall be a facilitator of research and shall as a general rule encourage open science principles to research data.

2. LOFAR ERIC shall encourage researchers to make their results and data publicly available (open access) also through LOFAR ERIC.

3. LOFAR ERIC shall use multiple channels to reach the target audiences, including web portal, workshops, presence in conferences, articles and news media.

4. Scientific data generated through LOFAR ERIC services will, as far as legally permitted, be available and openly accessible to any researchers, scientific institutions and other stakeholders, under Council policies in line with open science principles and with the data policy as prescribed in Article 32.

Article 9

Intellectual Property Rights policy

1. The term 'Intellectual Property' shall be understood according to Article 2 of the Convention Establishing the World Intellectual Property Organisation signed on 14 July 1967.

2. LOFAR ERIC shall adopt its own Intellectual Property Rights policy (Article 27(5)(h)). LOFAR ERIC shall be the owner of all Intellectual Property resulting from its activities under these Statutes including, but not limited to, Intellectual Property produced by staff employed by LOFAR ERIC under the conditions established in the LOFAR ERIC Intellectual Property Rights policy, except where covered by separate contractual agreements or where mandatory legislation or these Statutes state otherwise.

3. The background Intellectual Property of the members or their representing entities shall remain their property. It shall be licensed to LOFAR ERIC if necessary and through specific agreements.

4. Members that contribute to their share of costs for development work done by other Member(s) may use the resulting intellectual property freely for scientific purposes only. If a Member of LOFAR ERIC wishes to use any intellectual property for commercial gain, permission must be obtained from the Member owner of the intellectual property.

Article 10

Employment policy

1. LOFAR ERIC may employ staff. LOFAR ERIC employment policy shall be governed by the laws of the country in which staff is employed.

2. The selection procedures, recruitment and employment for LOFAR ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities. All positions in LOFAR ERIC shall be announced publicly.

Article 11

Procurement policy

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

2. Procurement by Members and Observers concerning LOFAR ERIC activities shall be done in such way that due consideration is given to LOFAR ERIC needs, technical requirements and specifications issued by the relevant bodies.

CHAPTER 2

General Provisions

Article 12

Definitions

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

1) 'LOFAR': The LOw Frequency ARray is a world-leading distributed research infrastructure, with cohesively operated facilities located in several countries, as detailed in the Scientific and Technical Annex;

2) 'LOFAR facilities: the technical elements (including antenna stations, network, processors, software and archive), as detailed in the Scientific and Technical Annex, as required to carry out its tasks;

3) Member': Entity listed in Article 14(1).

4) 'Representing Entity': Entity that a Member or Observer has appointed in accordance with Article 14(5) to represent that Member or Observer.

5) 'Collaborating Organisation': research organisation referred to in Article 19;

6) 'Work Programme': A 5-year plan adopted by the LOFAR ERIC Council to fulfil the purpose and long-term strategy of LOFAR ERIC, including scientific, technological and administrative matters. Annual goals and activities are set by the Council within that framework;

7) 'Financial Model': The policy giving the principles for the financial contributions to LOFAR ERIC, including in-kind contributions, of Members and Observers. The initial Financial Model is specified in Annex II;

8) 'Financial Plan': A 5-year framework of the value and timing of financial resources required to realise the LOFAR ERIC Work Programme. The Financial Plan for the first five years of LOFAR ERIC is specified in Annex II;

9) 'Annual Budgets': Foreseen expenditures and income to carry out the annual goals and activities of the LOFAR ERIC within the framework of the Financial Plan;

10) 'Rules of Procedure': Rules governing the organisation and operation of the LOFAR ERIC Council, adopted in accordance with Article 27(5)(c);

11) 'Qualified Majority' on a proposed decision in a Council meeting, as prescribed in Article 27(5), is achieved when at least 75 % of the members represented vote in favour;

12) 'Unanimity' on a proposed decision in a Council meeting, as prescribed in Article 27, is achieved either when the Chair has ascertained that all of the Members represented have consensus (unanimous consensus), or when none of the members represented votes against and not more than one abstains.

Article 13

Working language

The working language of LOFAR ERIC shall be English.

CHAPTER 3

Membership and Observership

Article 14

Membership, observership and representing entity

1. The following entities may become Members of the LOFAR ERIC with voting rights, or may become Observers of the LOFAR ERIC without voting rights:

a) Member States of the European Union;

b) associated countries;

c) third countries other than associated countries;

d) intergovernmental organisations.

2. Conditions for becoming a Member or an Observer are set out in Article 15.

3. The Membership of LOFAR ERIC must include at least a Member State and two other countries that are either a Member State or an associated country.

4. Member States or associated countries shall hold jointly the majority of the voting rights in the Council. The Council shall determine any modification of voting rights that are necessary to ensure that LOFAR ERIC complies at all times with that requirement.

5. Any Member or Observer referred to in paragraph 1(a) to 1(c) may be represented by one or more public entities or private entities with a public service mission, of its own choosing and appointed in accordance with its own rules and procedures. Each Member or Observer shall inform the Council of any change of its representing entity, of the specific rights and obligations which have been delegated to it or of any other relevant change.

6. The Members and Observers of LOFAR ERIC and their representing entities are listed in Annex I. Annex I shall be kept up to date by the LOFAR ERIC Executive Director.

Article 15

Conditions for becoming a Member or an Observer

1. Entities referred to in Article 14(1) willing to become Members of LOFAR ERIC shall submit a written application to the Chair of the Council. That application shall describe how the entity will contribute to LOFAR ERIC tasks and activities described in the Work Programme and how it will fulfil obligations referred to in Article 17(2). The admission of the entities as new Members shall be subject to approval by the Council in accordance with Article 26(9)(e) and Article 27(5)(f).

2. Entities referred to in Article 14(1) willing to contribute to LOFAR ERIC, but not yet in a position to join as Members, may apply for Observer status. Applicants shall submit a written application to the Chair of the Council. That application shall describe how the entity will contribute to LOFAR ERIC tasks and activities described in the Work programme and how it will fulfil obligations referred to in Article 18(2). The admission of Observers shall be subject to approval by the Council in accordance with Article 26(9)(e) and Article 27(5)(f). Applicants shall be admitted as Observers for an initial period of three (3) years.

3. The Observer status can be changed into Membership at any time after Council approval. The Observer status expires after the initial period of three (3) years, unless an extension is requested and approved by the Council, or when the Observer becomes a Member of LOFAR ERIC.

Article 16

Withdrawal of a Member or an Observer

1. Membership is for a minimum of five (5) years after entry of the member.

2. Notwithstanding the minimum term of membership prescribed in Article 16(1), Members and Observers may withdraw by submitting notice to the Executive Director within three (3) months after a raise of the annual contribution in excess of the agreed Financial Plan is adopted by the Council. A Member or Observer who has given a notice of withdrawal will not be obliged to pay the increase of the contribution.

3. Without prejudice to Article 16(1) and Article 16(2), members and observers that are associated countries, third countries other than associated countries, or intergovernmental organisations, may withdraw from LOFAR ERIC following changes in Council Regulation (EC) No 723/2009 that would materially affect their rights and obligations in relation to LOFAR ERIC. Such changes are considered material where they imply increased fees (including annual contributions or decommissioning costs), amend voting shares, impose requirements contrary to the applicable laws according to Article 35 of these statutes, remove the right to be represented in the Council or other committees, or change their rights related to representation or use of the facility. The liabilities and effects of withdrawal from LOFAR ERIC, including the withdrawing member or observer's share in the costs of decommissioning of LOFAR, shall be initially decided in accordance with Article 27(6), subject to a unanimous vote of LOFAR ERIC Council. Where the Council is unable to unanimously agree the liabilities and effects, these - and any other - liabilities shall be determined according to Article 36. Notwithstanding Article 16(1), the affected member or observer shall (within 6 months of the relevant change to the ERIC Regulations) provide at least three months' notice to the Council of its withdrawal to take effect any time after entry into force of these Statutes.

4. Any membership withdrawal takes place at the end of a financial year. The Member is obliged to serve written notice to the Executive Director at the latest in the financial year before the financial year of withdrawal.

5. Any Observer withdrawal takes place at the end of a financial year. The Observer is obliged to serve written notice to the Executive Director at least six (6) months prior to the date of withdrawal.

6. Members and Observers shall fulfil all, including financial, obligations, as referenced in Article 17(2) or 18(2), before their withdrawal becomes effective.

7. The Council may terminate membership or Observer status if the following conditions are met:

a. the Member or Observer is in serious breach of one or more of its obligations under these statutes;

b. the Member or Observer has failed to rectify such breach within six months after it has received notice of the breach in writing.

8. The Member or Observer referred to in paragraph 7 shall have the right to explain its position to the Council before the Council makes any decision on the issue.

CHAPTER 4

Rights and Obligations of Members and Observers

Article 17

Rights and obligations of Members

1. Rights of the Members shall include:

a. the right to participate in and vote at the Council;

b. the right to appoint a Representing Entity under the terms of Article 14(5);

c. the right for its research community to participate in LOFAR ERIC events, such as workshops, conferences, training courses;

d. the right for its research community to have access to support from LOFAR ERIC for developing relevant systems, processes and services;

e. eligibility to benefit from Reserved Access under the LOFAR ERIC Access policy, in accordance with Article 6(5).

2. Each Member shall:

a. contribute part of the distributed infrastructure or make another contribution that the Council agrees to. The contributions of each Member are laid out in the Financial Plan presented in Annex II, valid for the first 5 years of LOFAR ERIC;

b. contribute an annual amount to the overall operations and development costs, of the LOFAR ERIC, corresponding to the Member's share of the annual LOFAR ERIC budget as approved by the Council in accordance with the Financial Plan presented in Annex II;

c. participate in decision-making on policies and long-term strategy for LOFAR ERIC in line with Article 3(2).

Article 18

Rights and obligations of Observers

1. Rights of Observers shall include:

a. the right to attend meetings of the Council and express their opinion on the agenda of the Council, but have no rights to vote;

b. the right to appoint a Representing Entity under the terms of Article 14(5);

c. the right for its research community to participate in LOFAR ERIC events, such as workshops, conferences, training courses.

2. Each Observer shall:

a. contribute an annual amount to the overall operational and development costs of LOFAR ERIC, corresponding to the Observer's share of the annual LOFAR ERIC budget as approved by the Council in accordance with the Financial Plan presented in Annex II;

b. participate in discussions regarding policy and long-term strategy.

CHAPTER 5

Participation of Collaborating Organisations

Article 19

Participation of Collaborating Organisations

1. LOFAR ERIC may enter into collaboration agreements with Collaborating Organisations in countries that are not Member or Observer of LOFAR ERIC. At most one Collaboration Agreement, representing a national community, can be concluded per country.

2. Collaborating Organisations must to the satisfaction of the Council contribute to fulfilling the tasks and activities of LOFAR ERIC and be representative of the national community that is interested in LOFAR ERIC.

3. The collaboration agreement shall be concluded by the Executive Director of LOFAR ERIC after approval of the Council. The collaboration agreement shall establish the terms and conditions under which the Collaborating Organisation may engage with LOFAR ERIC and commit to tasks and activities set out in Article 3.

4. The duration of that Collaboration Agreement shall be in line with the rules for membership duration as specified in Article 16. The Collaboration Agreement shall stipulate termination if the country of the Collaborating Organisation becomes a Member or Observer of LOFAR ERIC.

CHAPTER 6

Finance and Contribution Model

Article 20

Financial Resources

The financial resources of LOFAR ERIC shall consist of the following:

a. financial contributions of Members and Observers, including any in-kind contributions, in accordance with Article 21. The financial contributions for the first five (5) years of LOFAR ERIC are outlined in the Financial Plan presented in Annex II;

b. host contributions;

c. resources from the Collaborating Organisations;

d. other resources within limits and under terms approved by the Council.

Article 21

Contributions

1. Members shall make annual contributions to the LOFAR ERIC budget in accordance with the Financial Plan, as provided for in Article 22.

2. The Council may accept in-kind contributions, from Members and Observers, in accordance with the Financial Model.

3. Contributions by Collaborating Organisations shall be decided by the Council on a case-by-case basis.

Article 22

Financial Plan

At least every five years the LOFAR ERIC Executive Director shall submit a draft Financial Plan to the Council for consideration and approval. The Financial Plan sets out the basis for each Member's contributions in this five-year period and the maximum agreed budget for LOFAR ERIC for the same period. The Financial Plan shall adhere to the principles of Member and Observer contributions given in the Financial Model, and be geared to the realisation of the Work Programme.

Article 23

Budgetary principles, accounts and audit

1. The financial year of LOFAR ERIC shall begin on 1 January and end on 31 December of each year. The budget of LOFAR ERIC shall be accounted for in Euros.

2. The LOFAR ERIC Executive Director shall present for approval by the Council a budget for the following year no later than 1 October.

3. The accounts of LOFAR ERIC shall be accompanied by a report on budgetary and financial management of the financial year.

4. LOFAR 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 24

Tax and excise duty exemptions

1. VAT exemptions based on Articles 143(1)(g) and 151(1)(b), of Council Directive 2006/112/EC ([1]) and in accordance with Articles 50 and 51 of Council Implementing Regulation (EU) No 282/2011 ([2]), shall be limited to purchases of goods and services made under both of the following conditions:

— for the official and exclusive use by LOFAR ERIC, provided that such purchase is made solely for the non-economic activities of LOFAR ERIC in line with its activities

— by LOFAR ERIC and by any LOFAR ERIC Member as defined in Article 9(1) of Council Regulation (EC) No 723/2009 of June 25, 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC).

2. VAT exemptions shall be limited to purchases exceeding the value of EUR 300.

3. Excise Duty exemptions based on Article 11 of Council Directive 2020/262/EU ([3]), shall be limited to purchases by LOFAR ERIC which are for the official and exclusive use by LOFAR ERIC provided that such purchase is made solely for the non-economic activities of LOFAR ERIC in line with its activities and that the purchase exceeds the value of EUR 300.

4. Purchases by the staff members are not covered by the exemptions.

([1]) OJ L 347, 11.12.2006, p. 1.
([2]) OJ L 77, 23.3.2011, p. 1.
([3]) OJ L 58, 27.2.2020, p. 17.

Article 25

Decommissioning

LOFAR ERIC has the responsibility for decommissioning of hardware owned by LOFAR ERIC. The Council will ensure that LOFAR ERIC has an adequate decommissioning plan (Article 27(6)(e)). Decommissioning of hardware that is contributed to the central operations (by local operators, national owners of LOFAR facilities) is the responsibility of the owner.

CHAPTER 7

Governance

Article 26

Council

1. The Council shall be the governing body of LOFAR ERIC and shall be responsible in accordance with the provisions of these Statutes for the overall direction and supervision of LOFAR ERIC. The Council shall be composed of delegations representing the Members and Observers of LOFAR ERIC.

2. Each Member shall nominate a delegation consisting of up to two delegates. Each Observer shall appoint one delegate.

3. Each Member shall ensure that their delegation:

a. is empowered by the Member with the full authority to vote on its behalf on all subjects discussed during the Council meeting;

b. has appropriate scientific expertise and the ability to represent the community of scientists making use of the LOFAR ERIC facilities.

4. The delegation from each Member shall have one vote, regardless of the number of delegates.

5. All delegates shall be nominated to the Council by each Member and Observer; this should be done in writing to the Executive Director of LOFAR ERIC. The Members and Observers retain the right to revoke the nomination of any of their delegates at any time, and to nominate another delegate in their place.

6. In the case of the absence of an appointed delegate at a given meeting, the Member or Observer may nominate an alternate delegate. Such a nomination should be made in writing to the Executive Director of LOFAR ERIC in advance of the meeting. At that meeting, the nominated alternate delegate will have all of the rights of the delegate they replace.

7. The director of the hosting institute of LOFAR ERIC shall receive a standing invitation to attend Council meetings, and has the right to voice their opinion in the meetings, but is not part of the delegation of the Host Country, and is not entitled to vote.

8. Each Member delegation may request the presence at a specific Council meeting of one additional expert; this should be done in writing to the Executive Director of LOFAR ERIC at least two weeks in advance of that meeting. Such experts will have the right to voice their opinion in the meeting, but are not entitled to cast the vote of the Member.

9. The Council shall at least have the authority to:

a. decide on the long-term strategy and policies of LOFAR ERIC;

b. decide at least every five years the Work Programme and associated Financial Plan of LOFAR ERIC as specified in Article 22, following the principles laid down in the Financial Model;

c. adopt the annual budget of LOFAR ERIC;

d. adopt the annual report of LOFAR ERIC, and approve the audited financial accounts;

e. decide on the accession of a new Member or Observer;

f. decide on the termination of a Membership or an Observer status;

g. decide on proposals for amendments of the Statutes;

h. appoint, suspend, dismiss and supervise the performance of the Executive Director;

i. describe the mandate and specific activities of the Executive Director

j. provide guidelines for the Executive Director to conclude a Collaboration Agreement as referred to in Article 19;

k. create and dismiss advisory bodies as deemed necessary;

l. decide to embark on any new activities in accordance with Article 3(3)(g);

m. decide on how to act in case of a force majeure event considering the contributions referred to in Article 21.

10. The Council shall elect a Chairperson and Vice-chair from amongst the delegates by the majority of votes specified in Article 27(5)(g). The Chair and the Vice-chair shall be elected for a 2-year term, renewable twice. The Vice-chair shall substitute the Chair in his/her absence or in case of conflict of interest.

11. The Council shall meet at least once a year. The meetings of the Council shall be convened by the Chairperson at least four (4) weeks in advance. The Council may meet in any form laid down in the Rules of Procedures.

12. A meeting of the Council may be requested by at least 4 of the Members.

Article 27

Decision Making at the Council

1. The Council shall only deliberate and decide validly when a quorum of voting Members is represented and participating at the meeting. The quorum requires 75 % of the voting Members to be present.

2. If the quorum is not met, a second meeting shall be convened within 4 weeks, by issuing a new invitation, with the same agenda. In the second meeting, the quorum shall be considered met if 50 % of voting Members are participating.

3. On all decisions, the Council shall strive to achieve Unanimous Consensus as defined in Article 12(12).

4. Failing unanimous consensus as per Article 27(3) decisions shall be made through a vote of all Members participating and voting.

5. The following decisions are only passed if they are supported by the Qualified Majority as defined in Article 12(11):

a. decisions to amend the long-term strategy and policies, the LOFAR ERIC Work Programme, or the Financial Plan;

b. decisions to adopt or amend the LOFAR ERIC Annual Budget;

c. decisions to adopt or change the Rules of Procedure;

d. decisions to appoint, suspend or dismiss the Executive Director (Article 28);

e. decisions to amend the implementation of the Access policy (Article 6);

f. decisions to admit a new Member or Observer or to approve a collaboration agreement with a Collaborating Organisation (Article 14 and 19);

g. decisions regarding the appointment of the Chairperson and Vice-Chair of the Council (Article 26(10));

h. decisions concerning the Intellectual Property Rights policy (Article 9);

i. decisions to adopt or amend the Employment policy (Article 10);

j. decisions to adopt or amend the evaluation protocol (Article 7).

6. The following decisions require Unanimity of all LOFAR ERIC Members participating and voting, as defined in Article 12(12);

a. decisions to amend the Financial Model, giving the principles of the Member and Observer financial contributions (Article 22);

b. decisions to adopt or amend the principles of the Access policy (Article 6);

c. decisions to submit a proposal to the Commission to amend the Statutes;

d. a decision to terminate LOFAR ERIC;

e. decisions on decommissioning associated with termination, according to the decommissioning plan as regulated in Article 25.

7. Decisions to terminate a Membership or Observer status requires Unanimity as defined in Article 12(12) of all Members participating and voting, excluding the Member whose status is being decided.

8. Decisions referred to in Article 27(5), 27(6) and 27(7) may only be taken if all Members are informed about the proposed decisions at least two weeks in advance of the meeting.

9. A simple majority of votes cast shall be sufficient to pass all other decisions.

Article 28

Executive Director

1. The Council shall appoint the Executive Director of LOFAR ERIC in accordance with a procedure adopted by the Council. The term for the Executive Director shall be five (5) years, renewable on decision of the Council.

2. The Executive Director shall be the legal representative of LOFAR ERIC.

3. The Executive Director shall be responsible for the implementation of the decisions of the Council and the day-to-day management of all operational activities of LOFAR ERIC. Among others the Executive Director prepares the Annual Budget, Financial Plan and the Work Programme. The Executive Director is supported by the Coordination and Support Office.

Article 29

Coordination and Support Office

LOFAR ERIC Coordination and Support Office shall be the central management office for the daily operations of LOFAR ERIC. It supports the day-to-day management of LOFAR ERIC, including assistance to the Council. It shall be set up and managed by the Executive Director. The budget for the functioning of the CSO is covered in the Financial Plan presented in Annex II.

Article 30

Scientific Advisory Committee

1. The Council shall institute a Scientific Advisory Committee (SAC) to provide independent advice and:

— give feedback to the Executive Director and the Council on the scientific quality of LOFAR ERIC activities;

— provide recommendations to develop LOFAR ERIC scientific and technological functionalities and activities.

2. The Council shall appoint the SAC members, who shall be experienced persons in the fields relevant to LOFAR. The number of SAC members, the terms of reference and rules of procedure shall be defined by the Council.

Article 31

Financial Committee

1. The Council shall institute a Financial Committee (FC) to assist the Executive Director in preparing the Financial Plan and annual budget for review and approval by the Council. The Financial Committee may also assist the Director in cases where other strategic financial planning is needed.

2. The operation of the FC shall be detailed in the Rules of Procedure of the FC, which shall be defined by the Council.

CHAPTER 8

Miscellaneous

Article 32

Data policy

1. Generally, Open Science and Open Access principles, such as offered by the EU open science policy, shall be favoured.

2. LOFAR ERIC shall provide guidance (including via website) to users to ensure that research undertaken using material made accessible through LOFAR ERIC shall be undertaken within a framework that recognizes the rights of data owners and privacy of individuals.

3. LOFAR 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.

4. LOFAR ERIC shall define arrangements for investigating allegations of security breaches and confidentiality disclosures regarding research data.

Article 33

Ethical, Legal and Social Implications policy

The LOFAR ERIC Council shall adopt an ethical, legal and social implications policy on all matters relevant to the operations of LOFAR ERIC, including research integrity and scientific evaluation, employment issues, diversity & inclusion, and sustainability. This policy shall apply to all the activities of LOFAR ERIC.

Article 34

Reporting to the European Commission

1. LOFAR 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 Council and transmitted to the European Commission and relevant public authorities within six months from the end of the corresponding financial year. This report shall be made publicly available.

2. LOFAR ERIC shall inform the European Commission of any circumstances which threaten to seriously jeopardise the achievement of LOFAR ERIC tasks or hinder LOFAR ERIC from fulfilling requirements laid down in Regulation (EC) No 723/2009.

Article 35

Applicable law

The internal functioning of LOFAR ERIC shall be governed:

a. by European 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 Host Country, where LOFAR ERIC has its statutory seat, in the case of matters not, or only partly, regulated by acts referred to in point (a);

c. by these statutes and their implementing rules.

Article 36

Disputes

1. The Court of Justice of the European Union shall have jurisdiction over litigation among the Members in relation to LOFAR ERIC, between Members and LOFAR ERIC and over any litigation to which the Union is a party.

2. European Union legislation on jurisdiction shall apply to disputes between LOFAR ERIC and third parties. In cases not covered by European Union legislation, the law of the State where LOFAR ERIC has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

Article 37

Statutes updates and availability

The Statutes shall be kept up to date and publicly available on LOFAR ERIC website and at the statutory seat.

Article 38

Setting-up provisions

1. A first meeting of the Council shall be called by the Host Country, where LOFAR ERIC has its statutory seat, as soon as possible after the decision of the European Commission setting up LOFAR ERIC takes effect.

2. Before the first meeting is held and no later than forty-five (45) calendar days after the Commission decision setting up LOFAR ERIC takes effect, the Host Country shall notify the Founding Members and Observers of any specific urgent legal action that needs to be taken on behalf of LOFAR ERIC. Unless a Founding Member objects within five (5) working days after being notified, the legal action shall be carried out by a person duly authorised by the Host Country.

3. The Council shall work closely with the ILT to conclude and then enable the execution of a Transition Agreement between the ILT and LOFAR ERIC, regulating, amongst others the transfer of assets and liabilities.

ANNEX I

List of Members and Observers of LOFAR ERIC and their Representing Entities

In this Annex the Members and Observers, and the entities representing them are listed. Annex I shall be updated by the Executive Director on a regular basis.

Members

Country	Representing Entity
The Republic of Bulgaria	Institute of Astronomy and National Astronomical Observatory (IANAO) of the Bulgarian Academy of Sciences
The Federal Republic of Germany	Thüringer Landessternwarte (TLS)
The Republic of Ireland	Dublin Institute of Advanced Studies (DIAS)
The Italian Republic	Istituto Nazionale di Astrofisica (INAF)
The Netherlands	Stichting Nederlandse Wetenschappelijk Onderzoek Instituten (NWO-I)
The Republic of Poland	Ministry of Education and Science

LOFAR ERIC will have the following Collaborating Organisations:

— France: Centre National de Recherche Scientifique (CNRS)

— Latvia: Ventspils International Radio Astronomy Centre (VIRAC)

— Sweden: Onsala Space Observatory (OSO)

— United Kingdom: Science and Technology Facilities Council - UK Research and Innovation (STFC-UKRI)

ANNEX II

Financial Plan of LOFAR ERIC

See separate document.