

Unlocking the Fifth Freedom

Science Europe Response to the Call for Evidence on the ERA Act

Introduction

The European Research Area has been the subject of renewed focus following the adoption of the [Pact for Research and Innovation](#) by the European Union in November 2021. The new ERA governance has provided a much-needed impulse to the EU's policies on research. As a result, the ERA policy agendas for [2022-2024](#) and [2025-2027](#) address the most important issues that the sector faces.

The new ERA governance has been characterised by more open and inclusive exchanges, including with stakeholders. This has led to increased ownership over EU policy and a successful Policy Agenda 2022-24. The ERA Act should build on the major developments driven by these policy interventions and the EU's Framework Programmes, as well as on support from the European Commission and Council, to further develop a coherent and holistic framework for European research.

Major challenges still hinder progress towards realising a true, single, borderless market for research and innovation that fosters excellent science across Europe. The current policy instruments have not sufficiently addressed these structural challenges:

- Research and innovation investments still fall short of two key targets: dedicating 3% of GDP to R&I, set by the [European Council in March 2002](#), and increasing the public part of that funding to 1.25% of GDP by 2023, as set out in the Pact. Recent [Eurostat data](#) indicate slow progress in investments by EU Member States, with an average of 2.08% of GDP in 2013 increasing to 2.22% in 2023. However, significant differences exist between countries, with investments ranging from 0.5% to 3.6% of GDP. Additionally, most investment comes from the business sector.
- The cardinal values of the European Union, including those protected in its [primary law](#), increasingly face challenges. Recent [proposals to weaken Gender Action Plans](#) (GAPs) have raised alarm, and there is currently no action or structural policy that addresses sustainability in research in the ERA Policy Agendas. Other examples are: [equality, diversity, and inclusion \(EDI\)](#); [academic freedom](#); and [environmental sustainability](#).

The ERA Act can be an opportunity to address these challenges and create a single market for excellent research, enabling the free movement of people, knowledge, and ideas. This process should follow an evidence- and needs-based approach to avoid mis- or overregulation. To that end, dedicated dialogues with the scientific community and its representative organisations should be held.

Overall objectives and structure of the ERA Act

Science Europe considers that the ERA Act should, first and foremost, aim to support research excellence and create a level playing field for the European Research Area. An ERA Act should strengthen the legal foundation for the full deployment of a single borderless market for research and the realisation of the fifth freedom outlined in the report by Enrico Letta '[Much More Than a Market](#)'.

We consider that the ERA Act needs to foster and incentivise policies and initiatives that uphold and promote [values that are core to research](#) and that promote excellent research across Europe. Similarly, the ERA Act proposal should incentivise increased investments in research, including by supporting underperforming countries to strengthen their capacity. Such an approach would be better suited to driving progress than exclusively focusing on setting hard targets and obligations.

Furthermore, the ERA Act must tackle the following sub-objectives:

- Enhance the protection of academic freedom in the European Research Area, without compromising the EU acquis or the rights established by the Council of Europe and the United Nations frameworks.
- Support international collaboration (both within the ERA and with international partners) and the free flow of people and knowledge, including through the portability of social benefits and pension rights across EU Member States. Also provide support for enabling measures that facilitate researcher mobility, while ensuring appropriate safeguards with regard to research security.
- Improve inclusiveness and the accessibility of research, with a particular focus on promoting equality, diversity, and inclusion and open science in line with European and international law.
- Support and reinforce the EU R&I ecosystem by creating opportunities for, and strengthening, the co-operation between universities, research centres, and businesses as a driver of competitiveness in research and innovation.
- Contribute to reducing the gap between European countries where large disparities in investment levels exist. Building the capacity of less research-intensive countries to enable them to invest in research and innovation at the national level should be a key focus.
- Adopt a 'minimum standards' approach, allowing national governments and stakeholders to implement more protective or ambitious policies or initiatives. In this context, we consider that a Directive would be the best type of legislative instrument for the Act.

A thorough impact assessment should carefully consider the risks and benefits of legislating on all the included issues. It should focus on answering whether the Act or other forms of intervention would be better suited to achieving the aims of the ERA. In addition, it should properly analyse whether a single proposal or two (the ERA Act itself and distinct legislation on academic freedom) – would be more conducive to supporting academic freedom.

Recommendations for the ERA Act

To meet the challenges and highlighted objectives, Science Europe considers that the following elements should be included in the ERA Act:

A. Incentivising investment and co-ordination

- Incentivise national governments to make progress towards the target of dedicating 3% of GDP to R&I with 1.25% of GDP coming from public funding. Member States could be invited to monitor progress within the framework of the European Semester and continue periodic benchmarking and peer-review exercises.
- Support underperforming countries to build their capacity to invest in research and innovation and reduce dependence on EU funds.
- Promote co-operation and exchange between EU Member States, and include Associated Countries whenever possible to foster investments in research, for instance through the European Semester.
- Promote the use of – or changes to – the EU's economic and fiscal framework to enable countries to increase public spending in research and innovation without being considered in breach of fiscal rules.

B. Promoting core values

- The ERA Act should be based on shared values and contribute to their implementation. We consider that it should prioritise supporting the implementation of these values, including equality, diversity, and inclusion, as well as academic freedom and institutional autonomy, rather than proposing adaptations to the EU acquis or international law.
- In particular, following this approach, the EU legislation should:
 - Promote equality, diversity, and inclusion and fight all forms of discrimination. This must include further support for the Gender Action Plans and steer progress in key areas, such as inclusive gender analysis and gender-based and sexual violence.
 - Address the backslide in the protection of academic freedom and institutional autonomy, especially through the development of monitoring and non-compliance mechanisms. These efforts should be coherent with the Council of Europe and United Nations frameworks and avoid creating conflicts between laws. We consider that a separate legislative proposal on academic freedom would be more appropriate. Independent legislation on academic freedom must also safeguard the institutional autonomy of research organisations, including their capacity to define and implement the necessary changes to research culture.

C. Support advancement in research culture

- The ERA Act should incentivise and support progress towards advancing research cultures. We consider that the measures that the Act would introduce should enable and support research culture to be governed by autonomy and freedom; collaboration, integrity and ethics; equality, diversity, and inclusion; openness and transparency; and care and collegiality.

- The ERA Act should not aim to set the content, objectives, and mechanisms that implement changes in research culture, but provide an enabling environment for the scientific community to define advancement in research assessment, open science, integrity and ethics, research security, international collaboration, and mobility.
- In particular, the ERA Act should aim to provide a framework that would fully enable the scientific community to:
 - Navigate the (unavoidable) risks of international collaboration, while preserving co-operation as the default approach of research. The ERA Act should therefore incentivise a proactive 'due diligence' approach to research security, following proportionate measures such as risk appraisals, investment in capacity building, and information sharing amongst all involved stakeholders.
 - Incentivise mobility and the free flow of people and knowledge. This should include measures to incentivise the creation of a harmonised visa system that enables researchers and research staff to exercise their right to mobility, as well as facilitate family reunification. The Act should also contribute to the progress of portability of social rights for individuals involved in research activities.
 - Promote action on environmental sustainability, including through the use of environmental criteria in the management practices of research organisations and EU and national public procurement.
 - Support the EU's policy objectives in key areas, such as promoting Diamond Open Access, reforming research assessment in line with the Coalition for Advancing Research Assessment (CoARA), and rationalising and reusing research infrastructures.

D. Implementation and links with other legislative acts

- The ERA Act should make appropriate links with relevant legislative texts, particularly those that include research-specific provisions. The Impact Assessment should analyse the following Directives: on [open data and the re-use of public sector information](#) (including Article 10); on [copyright and related rights](#) in the Digital Single Market (including Article 3); on the [Digital Services Act](#) (including Article 40); and the European Innovation Act.
- A legislative action to develop a framework for secondary publication rights (SPRs) and copyright-related rights (CRRs), as explicitly foreseen in the [ERA Policy Agenda 2022–24](#), is still to be proposed. The Impact Assessment should investigate whether it should be included in the ERA Act or a standalone legislative proposal.
- The ERA Act should avoid creating new bodies and mechanisms where existing ones are already adequate to implement the relevant provisions.
- The ERA Forum and its sub-groups have proven themselves to be effective monitoring governance mechanisms for the European Research Area. The ERA Act should investigate how to make the appropriate connections between its development and implementation and the current ERA governance.

Conclusion

The ERA Act offers a significant opportunity to provide a level playing field for research and innovation, and to create a legislative framework conducive to the realisation of the fifth freedom. We consider that it should be one or several pieces of legislation that aim to encourage co-ordinated investment in research, as well as progress in promoting shared values. It will be essential to carefully consider which areas to include in the package and to weigh the risks and benefits of each. As the Act represents a new and bold step towards a more integrated European Research Area, evidence-based decision making from the early stages will be crucial to achieving success.

Science Europe is the organisation representing major public organisations that fund and perform excellent, ground-breaking research in Europe. It brings together the expertise of some of the largest and most respected European research organisations to jointly push the frontiers of how scientific research is produced and delivers benefits to society.