Opinion of the Committee of the Regions on the ‘Community Legal Framework for a European Research Infrastructure (ERI) and Joint Programming in Research’

(2009/C 76/02)
**POLICY RECOMMENDATIONS**

THE COMMITTEE OF THE REGIONS

1. believes that the regions and local authorities play a crucial role in the European Research Area (ERA) in that they bring this policy to the European people and are in touch with stakeholders' day-to-day concerns. This Committee therefore argues that the regions should play a strategic role in initiatives to strengthen and enlarge the ERA, especially in those which involve setting up robust research facilities in innovative settings and cooperating in research;

2. welcomes the two initiatives which have been put forward and recognises that they make an important contribution to deepening and widening the ERA. In its opinion on The ERA: new perspectives (1) the Committee emphasised the need to intensify the process of establishing the ERA as a step towards making Europe the most dynamic economy in the world;

3. stresses that the regional and local authorities should be considered as the basic units for regional and economic management and that European regional and local authorities should play a key role in implementing the new Lisbon agenda to support a more competitive European economy through an innovation-focused strategy;

4. highlights the fact that each of the European regions is different in terms of their economic fabric and level of maturity and specialisation. This Committee therefore underlines the need to bear these differences in mind when linking up the regions to improve global competitiveness. It must, therefore, be ensured that certain regions' specific characteristics, such as remoteness, are not grounds for exclusion when these regions apply to set up an ERI. Steps should thus be taken to ensure that the outermost regions (OR) are able to access this virtual infrastructure network;

5. calls on Member States to make coordinated, joint decisions with the regions on innovation policy, and on the methods and instruments used to promote this policy, so that the results achieved also respond to the existing need at local and regional level;

6. agrees with the conclusions reached by the Competitiveness Council (2) on improving the governance of the ERA by taking a long-term view of the project, which will be jointly developed by the Commission and Member States, in collaboration with stakeholders and the European people. This Committee therefore supports the intention to involve all stakeholders, and especially the scientific community, in the governance of the ERA, from the initial drafting stages onwards, thereby respecting the principle of subsidiarity and forging links with other policies on education, innovation, and cohesion;

7. urges the European Commission and Member States to take the measures necessary to ensure that local and regional authorities are fully and effectively involved in the governance of the two initiatives in question;

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8. supports the establishment of a Community legal framework that was requested by Member States in order to facilitate the setting up and effective implementation of infrastructures promoting excellence in Europe that foster research and will ultimately improve Europe's ability to compete with third countries;

(1) Cdr 83/2007 fin.

9. calls on the Commission to include the regions as full members alongside Member States, intergovernmental organisations and third States, when laying down the criteria and requirements for ERI membership. The regions should be thought of as independent managing units rather than representatives of a Member State, as they have sufficient resources and capacity, together with the fully-fledged scientific and technological systems required to cope with the shared leadership process involved in setting up and implementing large infrastructures promoting excellence;

10. suggests that when the members of an ERI are regions or local authorities at least three of them should belong to different Member States — irrespective of the origin of the other members of the ERI — in order to ensure that the ERI is transnational;

11. welcomes the fact that ERIs can be funded both through the Framework Programme for Research and the Structural Funds. In addition, the Committee suggests that other sources of private and public funding available in Member States should also be used in a coordinated way;

12. suggests that mechanisms for coordinating strategy are set up at European level. These mechanisms would involve relevant stakeholders to ensure that a coherent policy for the ERIs is effectively implemented, and would deal with important issues like assessing the initiatives and solving problems on where to locate the new ERIs;

13. agrees with the Commission on the need to promote initiatives which coordinate stakeholders in order to facilitate the exchange of information and expertise, and increase the multiplier effect of benefits for the economic, scientific, academic and technological fabric of the different regional and local authorities involved. The Committee therefore welcomes the European Portal on Research Infrastructures recently set up by the European Commission in collaboration with the European Science Foundation;

14. acknowledges that existing legal forms are not fully adequate for setting up European research infrastructures, and recognises the need to develop a framework at European level to ensure that the infrastructures work more effectively and barriers to international research are eliminated;

15. notes that there are other existing instruments at international, national and European level which ERIs will complement. While some of these instruments were set up for a specific purpose, others — such as the European Grouping of Territorial Cooperation (EGTC) — have wider objectives: facilitating and promoting territorial cooperation to strengthen economic and social cohesion in different fields. The Committee therefore recommends that the ERIs are integrated coherently with the EGTCs and other existing instruments in order to obtain the best possible results from all of them;

16. urges that EGTCs be specifically considered as an alternative legal instrument for setting up research infrastructures with a European dimension (1). Recitals 5 and 9 from the new Council Regulation should therefore make clearer, more explicit reference to this point;

17. highlights the current geographical distribution of European research infrastructures which, mainly for historical reasons, are located in Western Europe and should be planned so that they are distributed evenly throughout Europe and, where possible, among Member States too. This decentralised distribution of facilities will achieve benefits for the regions and at the same time meet the need at European level for new infrastructures, and could be strengthened by a virtual network connecting all these facilities, providing particular support for small or medium-sized research infrastructures that could be important for the development of knowledge in areas of strategic importance and for economic development and innovation in the regions and local areas concerned;

18. agrees with the conclusions reached by the Competitiveness Council on 30 May 2008 which call on the Commission and Member States to support regional and local authorities in applying for, building and implementing modern research infrastructures. The Committee suggests:

— ensuring the regional and local authorities are more fully involved in developing the European Strategy Forum on Research Infrastructures (ESTRI) roadmap, and, especially, in prioritising the 35 key projects of European interest already approved,

— taking into account the importance of the regional and local authorities and their involvement in ERIs,

— ensuring that ERIs work coherently alongside other legal forms that exist in Europe at national and regional level, such as the European Grouping of Territorial Cooperation,

— facilitating the decentralisation of ERIs through a suitable legislative framework so that all Member States, regions and local authorities benefit,

— ensuring that local and regional authorities are truly involved in efficient governance of the ERIs;

19. highlights the importance of the regional and local authorities in developing innovative settings for ERIs, as regional policy has a significant impact on attracting scientists and promoting ERIs as centres for regional development. ERIs thus have the potential to produce significant socio-economic benefits for the cities and regions in which they are located;

20. agrees that the European Commission should make the decisions on the ERIs as, in the view of the Committee, this procedure would be simpler and shorter than if each decision on the ERIs had to be taken on a case-by-case basis by the Council. In order that the decisions made in this process are taken in a fully transparent and legitimate way, the Committee suggests that details are provided on the European Commission’s assessment criteria and that a management committee is established — made up of representatives of the Member States, and/or, where appropriate, the regions or local and regional authorities or their associations — which would have a decisive influence on the decisions taken by the Commission regarding the ERIs. The Committee also suggests that suitable coordination mechanisms are set up in Member States to ensure that the opinion of each Member State in the management committee reflects the opinion of the regional or local authorities it is representing;

21. welcomes the removal of administrative, legal and tax barriers in the legal form proposed for the ERIs in this regulation, e.g. tax exemptions and more flexible procurement procedures, which in the view of the Committee will help to simplify the process of setting up large research infrastructures, ensuring greater efficiency and better results;

22. highlights the importance of the regional and local authorities in promoting joint research programmes as they are more in touch with the specific local situation in terms of science, technology and the economy, and therefore know when cooperation on areas of strategic importance is required. In fact some regions in Europe are already successfully leading or are involved in coordination and collaboration instruments for research programmes, as in the case of the ERA-NET projects. The Committee of the Regions stresses that, as well as the Member States the regional authorities should above all be involved in promoting cooperation agreements in the framework of joint programming;

23. points out the need to include in the proposal and appropriately define the most effective coordination mechanisms that will allow the agreements between the different regional and local authorities that make up Europe to work smoothly;

24. is aware that there is a real need for a programme containing these elements; the Committee believes however that implementing this programme ought not to impose any additional burden on the Member States and the regions and therefore suggests that it be supported by the Commission, both in terms of facilitating agreements and through the commitment of financial resources, as this is essential to ensure that the programme produces satisfactory results. The Committee suggests that the Commission sets up a separate fund to support this initiative;

25. suggests that, before launching new programmes, both the EU and Member States should try all possible ways of achieving synergies between existing transnational policies and cooperation instruments and establishing the mechanisms which will ensure that existing coordination programmes are used to the full, such as the ERA-NET programme, the open method of coordination, and the European Technology Platforms for example;

26. recognises the importance of setting up initiatives focussed on achieving coordination and cooperation between the stakeholders involved in European research, development and innovation, in order to achieve the objective set out in the Lisbon Strategy of turning Europe into the most competitive and dynamic economy in the world. This Committee suggests however that the process of coordination should be organised from the bottom up, taking into account the principles of variable geometry and subsidiarity. In this respect, allowing the regions to participate voluntarily in this process should be seen as a step towards promoting variable geometry;

27. agrees with the Commission on the need to tackle the challenges that go beyond the national sphere jointly, as it is the regional and local authorities themselves who best understand the problems and difficulties they have to deal with, and it is precisely by bringing together resources, people and knowledge that the likelihood of finding solutions to the most complex scientific and technological problems is increased;

28. calls for the priority topics in the framework of joint programming to be decided in a consensual way, taking into account the large number of regions with relevant skills and experience, and carrying out tailored consultation exercises with the scientific community and all stakeholders involved in each field;

29. suggests that, due to its design and spirit of change, this programme sets out a pragmatic, flexible and detailed roll-out programme in which regional priorities for research also play an important role.
II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Recital (6)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>CoR Amendment</th>
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<tbody>
<tr>
<td>(...) Such research infrastructures may be ‘single-sited’ or ‘distributed’ (an organised network of resources).</td>
<td>(...) Such research infrastructures may be ‘single-sited’ or ‘distributed’ (an organised network of resources). It is important to maximise regional and local benefits through distributed research infrastructures, and account should be taken of the potential support that setting up a virtual network of infrastructures in Europe could bring to ERIs.</td>
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Reason

Setting up ‘distributed’ research infrastructures would not only yield benefits for the regions and local authorities but would also meet the existing need in Europe to develop new infrastructures. The infrastructures would be strengthened by establishing a virtual network linking up all the facilities.

Amendment 2

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 3(c)

<table>
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<tr>
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<tr>
<td>The European research community, composed of researchers from Member States and from countries associated to the Community research, technological development and demonstration programmes can effectively have access to it; and</td>
<td>The European research community, composed of researchers from Member States, the regional or local authorities, and from countries associated to the Community research, technological development and demonstration programmes can effectively have access to it; and</td>
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Reason

The regions and local authorities play a crucial role in the ERA. They should, therefore, participate actively in all the relevant initiatives especially those connected with the establishment of robust research institutions, innovative environments and research-related cooperation activities.

Amendment 3

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 4(1)(c)

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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>a technical and scientific description of the research infrastructure to be established and operated by the ERI, addressing in particular the requirements set out in Article 3.</td>
<td>a technical and scientific description of the research infrastructure to be established and operated by the ERI, together with an account of the socio-economic effects the ERI will have at regional level, addressing in particular the requirements set out in Article 3.</td>
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Reason

It is important to emphasise the advantages and benefits that implementing a research infrastructure will bring at local and regional level, not only in scientific and technological terms but for the whole region.

**Amendment 4**

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 6

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<td>(...)</td>
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<td>2. An ERI shall have in each Member State the most extensive legal capacity accorded to legal entities under the law of that Member State. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings.</td>
<td>2. An ERI shall have in each Member State or region the most extensive legal capacity accorded to legal entities under the law of that Member State territory. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings.</td>
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<td>(...)</td>
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<td>4. Member States shall take all possible measures to accord the ERI the most extensive exemption from taxes further to those referred to in paragraph 3, in conformity with State aid rules.</td>
<td>4. Member States and regions shall take all possible measures to accord the ERI the most extensive exemption from taxes further to those referred to in paragraph 3, in conformity with State aid rules.</td>
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Reason

See reason for amendment 2.

**Amendment 5**

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 7(1)

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<th>Test proposed by the Commission</th>
<th>CoR Amendment</th>
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<tr>
<td>An ERI shall have a statutory seat, which shall be located on the territory of a member which shall be a Member State or a country associated to a Community research, technological development and demonstration programme.</td>
<td>An ERI shall have a statutory seat, which shall be located on the territory of a member which shall be a Member State, region or a country associated to a Community research, technological development and demonstration programme.</td>
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Reason

See reason for amendment 2.

**Amendment 6**

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 8

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<tr>
<td>1. The following entities may become members of an ERI: (a) Member States (b) third countries (c) inter-governmental organisations.</td>
<td>1. The following entities may become members of an ERI: (a) Member States (b) regional or local authorities (c) third countries (d) inter-governmental organisations.</td>
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</tbody>
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2. An ERI must at all times have at least three Member States as members. Further Member States may join as members at any time on fair and reasonable terms specified in the Statutes.

3. Member States shall jointly hold the majority of the voting rights in the assembly of members referred to in Article 12(a).

4. Any Member State or third country may be represented by one or more public entities, including regions, or private entities with a public-service mission as regards the exercise of specified rights and the discharge of specified obligations as a member of the ERI.

Reason

See reason for amendment 2.

Amendment 7

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 9

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<tr>
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<td>The Statutes shall contain at least the following:</td>
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<td>(...)</td>
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<td>(h) basic principles covering:</td>
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<td>(i) ... (viii)</td>
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<td>(ix) policy for communication with local and regional public authorities, stakeholders and members of the public in the area where the ERI will be set up.</td>
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Reason

It is important to emphasise that part of the role of ERIs is to disseminate and optimise the results of the activities carried out by the scientific community.

Amendment 8

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 18(2)

<table>
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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>An ERI and the Member States concerned shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the task of the ERI.</td>
<td>An ERI, the regional or local authorities and the Member States concerned shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the task of the ERI.</td>
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**Reason**

See reason for amendment 2.

**Amendment 9**

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 19

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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation.</td>
<td>Member States and the regional or local authorities shall make such provisions as are appropriate to ensure the effective application of this Regulation.</td>
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**Reason**

See reason for amendment 2.

**Amendment 10**

Proposal for a Council Regulation on the Community legal framework for a European Research Infrastructure (ERI), Article 21

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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>1. The Commission shall be assisted by an advisory committee.</td>
<td>1. The Commission shall be assisted by an advisory managing committee made up of representatives of all the Member States, and/or regional authorities where relevant.</td>
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<tr>
<td>2. When reference is made to this Article, Articles 3 and 7 of Decision 1999/468/EC shall apply.</td>
<td>2. When reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply.</td>
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**Reason**

Having a managing committee and procedure instead of an advisory committee will ensure that, if the European Commission's decision on an application to set up an ERI is not in line with the opinion of the Committee, the Commission will have to communicate this to the Council. The Council could then take a different decision by qualified majority. The managing committee would be made up of representatives of all Member States and/or regional authorities where relevant.


The President
of the Committee of the Regions
Luc VAN DEN BRANDE