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COMMISSION IMPLEMENTING DECISION (EU) 2017/1213

of 4 July 2017

on setting up the Integrated Structural Biology — European Research Infrastructure Consortium (Instruct-ERIC)

(notified under document C(2017) 4507)

(Only the Czech, Danish, Dutch, English, French, Italian, Portuguese and Slovak texts are authentic)

(OJ L 173, 6.7.2017, p. 47)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Implementing Decision (EU) 2019/768 of 8 May 2019	L 126	67	15.5.2019

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COMMISSION IMPLEMENTING DECISION (EU) 2017/1213

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on setting up the Integrated Structural Biology — European Research Infrastructure Consortium (Instruct-ERIC)

(notified under document C(2017) 4507)

(Only the Czech, Danish, Dutch, English, French, Italian, Portuguese and Slovak texts are authentic)

Article 1

1. The Integrated Structural Biology — European Research Infrastructure Consortium named ‘Instruct-ERIC’ is set up.

2. The essential elements of the Statutes of Instruct-ERIC are set out in the Annex.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the French Republic, the State of Israel, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, the Slovak Republic and the United Kingdom of Great Britain and Northern Ireland.

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ANNEX

ESSENTIAL ELEMENTS OF THE STATUTES OF INSTRUCT-ERIC

The following Articles and paragraphs of the Articles of the Statutes of Instruct-ERIC provide for the essential elements in accordance with 6(3) of Regulation (EC) No 723/2009

1. **Objectives and Activities**

(Article 4 of the Statutes of Instruct-ERIC)

1. The objective of Instruct-ERIC is to establish and operate a distributed pan-European Research Infrastructure called Instruct, specifically:

(a) to facilitate the advancement of integrative structural cell biology;

(b) to make available a managed access to state-of-the-art European structural biology facilities and specialist expertise;

(c) to further the development of the Instruct technology; and

(d) to provide training in integrative techniques in the field of structural biology.

2. To this end Instruct-ERIC shall undertake and coordinate a variety of activities, including but not limited to:

(a) those offered by Instruct Centres such as the provision of infrastructure to the structural biology user community and other Instruct training, networking and dissemination activities;

(b) the creation and operation of the Instruct Hub that provides the central coordinating role for all Instruct Activities offered through Instruct Centres;

(c) the provision of access to structural biology infrastructure at Instruct Centres using an Instruct web-portal incorporating peer review and scheduling for access reserved for Instruct users by an Instruct Centre;

(d) the coordination by the Instruct Hub of training courses and workshops on techniques and methods relevant to structural cell biology, enabling the dissemination of expertise, the stimulation for exchange and co-development with industry;

(e) the coordination by the Instruct Hub of joint programmes between Instruct Centres that support new technical and technological approaches that enable better integration across structural biology technologies;

(f) the coordination of programmes with companies that develop innovative structural biology technologies enabling their effective uptake by Instruct Centres, making these available for access to academic and industrial researchers in Europe;

(g) the bridging of structural, cell and systems biology communities by coordinating joint actions including meetings, conferences and workshops;

(h) any other related action that helps strengthen research in the European Research Area.

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3. Instruct-ERIC shall construct and operate on a non-economic basis, in order to further promote innovation as well as transfer of knowledge and technology. Limited economic activities may be carried out provided that they are closely related to its principal mission and that they do not jeopardise the achievements thereof.

2. **Establishment of Instruct-ERIC**

(Article 2 of the Statutes of Instruct-ERIC)

1. There shall be a European Research Infrastructure called the 'Integrated Structural Biology', hereinafter referred to as 'Instruct'.

2. Instruct shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of the ERIC Regulation (EC) No 723/2009 modified by Council Regulation (EU) No 1261/2013 ([1]) and be named 'Instruct-ERIC'.

3. **Seat**

(Article 3 of the Statutes of Instruct-ERIC)

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Instruct-ERIC shall have its statutory seat in Oxford, United Kingdom. Should the United Kingdom become a third country within the meaning of the Regulation (EC) No 723/2009, the statutory seat shall be located in Florence, Italy.

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4. **Duration**

(Article 29 of the Statutes of Instruct-ERIC)

Instruct-ERIC shall exist for an indefinite period of time. It may be wound-up in accordance with Article 30.

5. **Winding up**

(Article 30 of the Statutes of Instruct-ERIC)

1. The winding up of Instruct-ERIC shall follow a decision of the Council in accordance with Article 13.

2. Without undue delay and in any event within 10 days after adoption of the decision to wind up Instruct-ERIC and again on closure of Instruct-ERIC, Instruct-ERIC shall notify the European Commission about the decision.

3. Assets remaining after payment of Instruct-ERIC debts shall be apportioned among the Members in proportion to their accumulated annual in-cash contribution to Instruct-ERIC. Liabilities remaining after winding up, including Instruct-ERIC assets, shall be apportioned among the Members in proportion to their accumulated annual in-cash contribution to Instruct-ERIC and not exceeding the amount of one annual contribution.

4. Instruct-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*.

([1]) Council Regulation (EU) No 1261/2013 of 2 December 2013 amending Regulation (EC) No 723/2009 concerning the Community legal framework for a European Research Infrastructures Consortium (ERIC) (OJ L 326, 6.12.2013, p. 1).

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6. **Liability**

(Article 21 of the Statutes of Instruct-ERIC)

1. Instruct-ERIC shall be liable for its debts.

2. The Members are not jointly liable for the debts of Instruct-ERIC.

3. Each Member's financial liability for Instruct-ERIC's debts and liabilities shall be limited to their respective contributions provided to Instruct-ERIC as set out in Annex 2.

4. Instruct-ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of Instruct-ERIC.

7. **Access Policy**

(Article 25 of the Statutes of Instruct-ERIC)

1. Each Member hosting one or more Instruct Centre shall provide infrastructure access, subject to the approved access procedure, to successful applicant(s). Each Instruct Centre shall identify the fraction of their infrastructure capacity that is made available for Instruct-approved access projects. Approval of Instruct-ERIC access proposals is granted by the Access Committee based on the international expert review driven by scientific excellence first, also taking account of technical and operational feasibility.

2. The delivery of access services shall be overseen by the Director taking into account:

(a) the scientific (peer) review of the project;

(b) the logistic assessment performed by the Instruct Centre(s) involved on the technical feasibility of the project, the expected timeline and scheduling of the work at the Centre; and

(c) the resources made available, financial and in-kind, by the Instruct Centre and the Instruct Hub to support the requested access, specifically the capacity for Instruct access at the requested Instruct Centre, and sufficient central access funds, managed by the Instruct Hub.

3. Instruct-ERIC shall accept proposals from any user for access to Instruct-ERIC infrastructure.

4. Instruct-ERIC shall ensure open access for researchers from institutions in the Members includes access to data, tools and services offered by Instruct Centres. Member users shall be eligible to apply for Instruct-ERIC funded access to infrastructure, training courses, workshops, attendance at conferences or any other activity offered and supported by Instruct-ERIC. Access to data and tools shall be governed by the Instruct-ERIC Data Management and Biologicals Policies and in the case of collaborative work, agreement between all users, as defined in Article 27.

5. Users from non-Members may apply for access using the proposal system. For academic or pre-competitive research, an academic fee will be charged for access. Academic fees may also be charged to non-commercial users requesting access through an Intergovernmental Organisation and that are not located in one of the Members.

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6. Users requesting access to Instruct infrastructure for proprietary research shall be charged a commercial fee for access. In this case, the data arising from access will belong to the user and there shall be no obligation to disclose or publish it.

7. Priority for access shall always be given to the Members.

8. Users of Instruct-ERIC infrastructure for non-proprietary research shall agree to publish the data arising from the access and make the data publicly available.

8. **Independent Scientific Advisory Board (ISAB)**

(Article 17 of the Statutes of Instruct-ERIC)

1. The ISAB shall be established to advise the Council on any scientific and strategic matters relevant to Instruct-ERIC. The ISAB shall review the performance of the Instruct Centres in order to provide the Instruct Council with recommendations of approval or removal of research facilities as Instruct Centres and with advice on progress and future strategic and scientific goals, needs, opportunities, taking account of the global context.

2. The ISAB shall comprise a minimum of five and a maximum of eight scientific and technical experts appointed by the Council. The ISAB shall elect a Chairperson from its members by simple majority. The mandate of the appointed Chairperson shall be automatically extended so that they can fulfil their term in the Chair. The ISAB members shall not be directly involved in the management of Instruct-ERIC, and shall be usually experts from outside Europe. Members of the ISAB may be proposed to the Council by the Director. Any potential conflicts of interest should be declared before consideration by the Council. Members of the ISAB are appointed for a 3-year term, renewable once, by 1 to 3 years. Members of the ISAB shall be required to sign a non-disclosure agreement no later than 30 days after their nomination or before any confidential information is exchanged, whichever date is earlier.

3. The ISAB shall meet at least once per year to assess the overall scientific and strategic progress made by Instruct-ERIC against its scientific vision and other challenges.

4. Members of the ISAB shall be reimbursed by Instruct-ERIC for reasonable travel and accommodation expenses, as directed by the Council.

9. **Dissemination Policy**

(Article 26 of the Statutes of Instruct-ERIC)

1. Instruct-ERIC shall be a facilitator of research and shall as a general rule encourage as free access as possible to research data. Irrespective of this principle Instruct-ERIC shall promote high quality research and shall support a culture of ‘best practice’ through training activities.

2. Instruct-ERIC shall generally encourage researchers to make their research results publicly available and shall request all users to acknowledge Instruct-ERIC accordingly.

3. The dissemination policy shall describe the various target groups, and Instruct-ERIC shall use several channels to reach the target audiences, such as web portals, newsletter, workshops, presence in conferences, articles in magazines, daily newspapers and social media.

4. Publications arising from Instruct-ERIC supported activities should acknowledge the support of staff and the use of experimental resources of Instruct-ERIC.

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10. **Data Management, Intellectual Property and Biologicals Policies**

(Article 27 of the Statutes of Instruct-ERIC)

1. Generally open source and open access principles shall be favoured.

2. All data generated as a result of Instruct-ERIC activities should, in the first case, remain the property of the originating scientist or his/her employing institution. Subject to pre-existing obligations including to various establishments, grant funding agencies or other third parties, Users of Instruct infrastructure may require agreements on intellectual property rights to be in place before work commences. Intellectual property protection for the Users shall be the sole responsibility of the users.

3. Where access to Instruct-ERIC infrastructure is provided for collaborative projects, the users shall agree shared ownership of experimental data or materials prior to commencement of the access work. Shared intellectual property protection for all users in the collaborative work is the responsibility of the users.

4. Instruct-ERIC shall provide guidance (in the form of its Data Management and Biologicals Policies) to users of Instruct-ERIC infrastructure to ensure that research undertaken using material made accessible through Instruct-ERIC shall be undertaken within a framework that recognises, to the extent applicable under the laws and regulations of its host country, the rights of data owners and privacy of individuals, and ownership of data and tools generated as a result of Instruct-ERIC activity must be clearly defined.

11. **Employment Policy**

(Article 28 of the Statutes of Instruct-ERIC)

1. Instruct-ERIC may employ staff which shall be appointed and dismissed by the Director.

2. The Council shall approve the staff plan prepared by the Director while approving the workplan.

3. The Director shall provide the Council with information in advance on employment vacancies and the staff plan. The Council shall decide which positions require its approval in terms of selected candidates.

4. The selection procedures for Instruct-ERIC staff positions shall be transparent, non-discriminatory, respect equal job opportunities and affirmative action consistent with the applicable labour laws. Where employment contracts are offered, these shall follow the national laws of the country in which staff are employed.

12. **Procurement Policy**

(Article 24(1) of the Statutes of Instruct-ERIC)

The Council shall approve detailed rules on procurement procedures and criteria which Instruct-ERIC shall be obliged to follow. This procurement policy shall respect the principles of transparency, proportionality, mutual recognition, equal treatment and non-discrimination.