

**COMMISSION IMPLEMENTING DECISION (EU) 2021/960****of 30 April 2021****setting up the Extreme Light Infrastructure – Extreme Light Infrastructure European Research Infrastructure Consortium (ELI ERIC)***(notified under document C(2021) 2923)***(Text with EEA relevance)****(Only the Bulgarian, Czech, German, Hungarian, Italian and Lithuanian texts are authentic)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) <sup>(1)</sup>, and in particular point (a) of Article 6(1) thereof,

Whereas:

- (1) Czechia, Hungary, Italy, and Lithuania requested the Commission to set up the Extreme Light Infrastructure – Extreme Light Infrastructure European Research Infrastructure Consortium (ELI ERIC). Germany and Bulgaria have made known their decisions to participate in ELI ERIC initially as observers. They have agreed that the Czech Republic will be the host Member State of ELI ERIC.
- (2) Regulation (EC) No 723/2009 has been incorporated in the Agreement on the European Economic Area (EEA) by Decision of the EEA Joint Committee No 72/2015 <sup>(2)</sup>.
- (3) The Commission has, pursuant to Article 5(2) of Regulation (EC) No 723/2009, assessed the application and concluded that it meets the requirements set out in that Regulation.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 20 of Regulation (EC) No 723/2009,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The Extreme Light Infrastructure – Extreme Light Infrastructure European Research Infrastructure Consortium (ELI ERIC) is set up.
2. The essential elements of the Statutes of ELI ERIC are set out in the Annex.

*Article 2*

This Decision is addressed to the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Italian Republic and the Republic of Lithuania and Hungary.

Done at Brussels, 30 April 2021.

*For the Commission*

Mariya GABRIEL

*Member of the Commission*

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<sup>(1)</sup> OJ L 206, 8.8.2009, p. 1.

<sup>(2)</sup> Decision of the EEA Joint Committee No 72/2015 of 20 March 2015 amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (OJ L 129, 19.5.2016, p. 85).

## ANNEX

**ESSENTIAL ELEMENTS OF THE STATUTES OF ELI ERIC***Article 1***NAME**

There shall be a single-sited European research infrastructure with operational facilities in multiple ELI ERIC member countries, set up as a European Research Infrastructure Consortium (ERIC) under Council Regulation (EC) No 723/2009 <sup>(1)</sup> and named 'The Extreme Light Infrastructure ERIC' and commonly referred to as 'ELI ERIC'.

*Article 2***TASKS AND ACTIVITIES**

1. ELI ERIC shall operate the high-power laser facilities described in the Technical and Scientific Description (Annex I) (the 'ELI FACILITIES') as a single integrated organisation, with a unified governance and single management structure. The ELI ERIC General Assembly (hereinafter referred to as 'GA') may recognise and include additional ELI FACILITIES according to item (d) of Article 25(9).
2. ELI ERIC shall manage access to the ELI FACILITIES for users through an international peer-review system. In order to achieve its objectives, ELI ERIC shall in particular:
  - a) Exploit the full scientific potential of the ELI FACILITIES, by collaborating closely with user communities, developing and making available a set of complementary sources and instruments, providing efficient services and optimum conditions for users, and by undertaking outreach activities to new potential users;
  - b) Sustain excellence and improve the value, quality and effectiveness of the Members' research communities through international peer-reviewed access;
  - c) Provide a unique platform for the development of know-how to the Members by coordinating research and development of relevant technologies, coordinating the joint training of scientific and technical personnel, and by promoting collaboration between leading research centres and with industry;
  - d) Develop and implement a policy and strategy for innovation, including intellectual property, technological exploitation, and support to industrial development;
  - e) Ensure an efficient internal and external communication, promoting the ELI ERIC activities and disseminating the scientific and technical results;
  - f) Carry out any other activity in support of ELI ERIC's objectives.
3. ELI ERIC shall operate on a non-economic basis. ELI ERIC may carry out limited economic activities, provided that they are closely related to its principal tasks, and do not jeopardise the achievement of these tasks. Details shall be specified in the FINANCIAL RULES.

*Article 3***STATUTORY SEAT**

The Statutory Seat of ELI ERIC shall be in Dolní Břežany, Czech Republic.

*Article 4***DURATION AND WINDING-UP**

1. ELI ERIC shall be established for an initial period of 20 years and may be prolonged, subject to a decision of the GA in accordance with item (f) of Article 25(9).

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<sup>(1)</sup> Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1).

2. The winding-up of ELI ERIC shall require a decision of the GA in accordance with item (k) of Article 25(10) and be notified to the European Commission according to Article 16 of Regulation (EC) No 723/2009. Such a decision shall include at least:

- a) The number of liquidators and rules of functioning of the board of liquidators in case of plurality of liquidators;
- b) Appointment of the liquidators and indication of the liquidator who shall be legal representative of the winding-up of ELI ERIC;
- c) The criteria for the winding-up, including the possible transfer of activities to another legal entity, and the powers of the liquidators.

3. Without undue delay after the closure of the winding-up procedure, and in any event within 10 days after such closure, the ELI ERIC shall notify the Commission thereof.

4. In case of dissolution, ELI ERIC shall remain bound in respect of all pending obligations and undertakings towards third parties. The decommissioning and/or re-use of each ELI FACILITY shall be taken over by the respective HOST MEMBER.

#### *Article 5*

##### **LIABILITY REGIME**

1. ELI ERIC shall be liable for its debts.
2. The financial liability of the MEMBERS for the obligations of ELI ERIC shall be limited to their respective contributions to ELI ERIC in respect of the last full year of operations.
3. ELI ERIC shall take appropriate insurance to cover the risks specific to its operations.

#### *Article 6*

##### **ACCESS POLICY FOR USERS**

1. ELI ERIC shall offer USERS access to the ELI FACILITIES through a transparent selection process based on an international peer-review procedure of proposals managed through an electronic common entry point. The selection criteria shall be based on scientific quality and feasibility of the experiment. Ethical aspects involved in the evaluation of proposals or performance of access should be dealt with the support of the Ethical Advisory Committee referred to in Article 29.

2. USERS requiring and accessing technical and/or scientific services outside of the peer-review selection-based access shall pay the appropriate price of the services received, in accordance with the limits as referred to in Article 2(3).

3. The principles of the ACCESS POLICY FOR USERS are outlined in Annex I to these Statutes and shall be defined and detailed in a specific policy. That policy shall take into account the European Data Protection legal framework related to the sharing of personal data of USERS among the MEMBERS.

#### *Article 7*

##### **SCIENTIFIC EVALUATION POLICY**

1. ELI ERIC shall regularly evaluate and benchmark the quality of its scientific activities by international peer review, including a periodic assessment of its impact on the European Research Area, the regions hosting its activities and at international level.

2. ELI ERIC shall ensure that research carried out by its USERS meets the highest standards of quality and excellence and shall promote training and exchanges of best practices. Ethical aspects should be assessed by the Ethical Advisory Committee referred to in Article 29. ELI ERIC shall assess the impact and effectiveness of its research policy and programme design, as well as the resources required to support these standards.

*Article 8***DISSEMINATION POLICY**

1. ELI ERIC's tasks and activities aim to strengthen research, technology development, and innovation in Europe and worldwide. ELI ERIC will, in particular, conduct communication and dissemination activities to support that aim, using a variety of platforms to reach all relevant stakeholders and the general public.
2. ELI ERIC shall promote the dissemination to the research community, industry, and the general public of the scientific activities, results, publications, and the scientific-technical knowledge resulting from its activities. Consistent with Article 6 whereby access is open, and granted on the basis of scientific excellence, ELI ERIC shall also pursue a policy of open access to FAIR data sets and metadata, as referred to in Article 13, as well as to scientific publications derived from publicly-funded research conducted at ELI ERIC.

*Article 9***INTELLECTUAL PROPERTY RIGHTS POLICY**

1. The term 'Intellectual Property' shall be understood in accordance with Article 2 of the Convention Establishing the World Intellectual Property Organisation signed on 14 July 1967.
2. Subject to the term of any contract between ELI ERIC and users, intellectual property rights created, obtained or developed by users shall be owned by those users.
3. ELI ERIC shall adopt an Intellectual Property Rights Policy and specific processes and procedures in accordance with item (e) of Article 25(10).

*Article 10***EMPLOYMENT POLICY**

1. ELI ERIC shall ensure equal treatment and opportunities for its personnel and shall support mobility with a view to foster professional training and development of personnel.
2. The policy of hiring and managing the staff shall be defined by the ELI ERIC Director-General (hereinafter referred to as 'DG') and approved by the GA. The employment policy shall apply international-level selection and evaluation procedures, as well as remuneration principles aiming to competitively attract and retain highly qualified staff. The selection procedures for ELI ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities. Recruitment and employment shall not be discriminatory.
3. ELI ERIC shall have a single employment policy defined in accordance with the laws of the countries in which staff is employed.

*Article 11***PROCUREMENT POLICY**

The ELI ERIC DG shall define a procurement policy to be approved by the GA. This procurement policy shall respect the principles of transparency, proportionality, mutual recognition, equal treatment, competition and non-discrimination.

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