

COMMISSION IMPLEMENTING DECISION (EU) 2016/1757
of 29 September 2016
on setting up the European Multidisciplinary Seafloor and Water Column Observatory —
European Research Infrastructure Consortium (EMSO ERIC)

(notified under document C(2016) 5542)

(Only the English, French, Greek, Italian, Portuguese, Romanian and Spanish texts are authentic)

(Text with EEA relevance)

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) ⁽¹⁾, and in particular point (a) of Article 6(1) thereof,

Whereas:

- (1) Ireland, Greece, Spain, France, Italy, Portugal, Romania and the United Kingdom requested the Commission to set up the European Multidisciplinary Seafloor and Water Column Observatory — European Research Infrastructure Consortium (EMSO ERIC).
- (2) Ireland, Greece, Spain, France, Italy, Portugal, Romania and the United Kingdom have agreed that Italy will be the host Member State of EMSO ERIC.
- (3) The Commission has, in accordance with 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 European Multidisciplinary Seafloor and Water Column Observatory — European Research Infrastructure Consortium named 'EMSO ERIC' is hereby set up.
2. The essential elements of the Statutes of EMSO ERIC are set out in the Annex.

Article 2

This Decision is addressed to Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Portuguese Republic, Romania and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 29 September 2016.

For the Commission
Carlos MOEDAS
Member of the Commission

⁽¹⁾ OJ L 206, 8.8.2009, p. 1.

ANNEX

ESSENTIAL ELEMENTS OF THE STATUTES OF EMSO ERIC**1. TASKS AND ACTIVITIES****1. The tasks of EMSO ERIC shall be as follows:**

- (a) the development and provision of the facilities owned by EMSO ERIC together with all facilities made available to EMSO ERIC by the Members for undertaking activities carried out by the Members to achieve the objectives of EMSO ERIC at European level to allow scientific communities and other interested stakeholders to access the data and facilities of ocean observatories throughout Europe;
- (b) the management of the existing fixed-point deep-sea floor and fixed-point water column observatories around Europe to contribute to EMSO ERIC for agreed periods of time for use by EMSO ERIC, including access by qualified European and international scientific communities;
- (c) the coordination and support of the activities of existing fixed-point deep-sea floor and fixed-point water column observatories around Europe, promoting the continuity and quality of time series and reliable data management;
- (d) the provision and rationalisation of access to EMSO ERIC infrastructure by qualified European and international scientific communities, whose projects shall be evaluated for such purpose;
- (e) the support to the leadership of Europe in marine technologies and the sustainable use of marine resources, through partnership with industries and other relevant stakeholders;
- (f) the integration of research, training, and information dissemination activities. EMSO ERIC shall be the central point of contact for research, training, education and dissemination activities for ocean observatories in Europe in order to enable scientists and other interested stakeholders to make efficient use of ocean observatories around Europe;
- (g) the establishment of connections with international initiatives relevant to open ocean observation, to act as a representative of Europe in these fields in other parts of the world to set up and to promote international cooperation in these fields; and
- (h) the synchronisation of investment and operational funds, in a way to optimise national, European and international resources.

2. In carrying out the tasks of EMSO ERIC, it shall:

- (a) ensure the high-quality of its scientific services by:
 - (i) defining an overall scientific strategy through the adoption of a periodically updated long-term strategic plan;
 - (ii) outlining future scientific developments and assessing the achievement of scientific objectives;
 - (iii) evaluating experiments proposed by users;
 - (iv) reviewing site scientific objectives; and
 - (v) managing the communication with scientific and other users;
- (b) enable access to the EMSO infrastructure, which shall include:
 - (i) establishing selection criteria for access that shall be developed in accordance with the advice of the relevant scientific user community;
 - (ii) managing integrated access to ocean observatories around Europe;
 - (iii) managing standardisation issues and defining guidelines for calibration and registration of instruments according to predefined requirements;

- (iv) working to enable long-term data series acquisition on the deep-sea floor and throughout the water column; and
- (v) coordinating the storage and use of data for scientific research as well as the timely delivery of data for use in geo-hazard early warning and operational oceanography;
- (c) build capacity in order to foster the coordinated training of scientists, engineers and users;
- (d) act as an advocate of the science community involved in ocean observation;
- (e) promote innovation and transfer of knowledge and technology, providing services and engage in partnerships with industry;
- (f) carry out any other activities necessary for accomplishing the tasks of EMSO ERIC.

2. STATUTORY SEAT

The statutory seat of EMSO ERIC shall be in Rome on the territory of the Italian Republic, hereinafter referred to as the 'Host Member'.

3. NAME

A European Multidisciplinary Seafloor and Water Column Observatory — European Research Infrastructure Consortium (EMSO ERIC) is set up under Regulation (EC) No 723/2009.

4. DURATION AND THE PROCEDURE FOR WINDING-UP

1. EMSO ERIC shall be established until 31 December 2024.
2. The Assembly of Members may decide to wind up EMSO ERIC by a 2/3 majority vote of the Members in attendance.
3. Notification on the decision to wind up EMSO ERIC and on closure of the winding-up procedure in accordance with Article 16 of Regulation (EC) No 723/2009 shall be made by the Director-General.
4. Any assets remaining after payment of EMSO ERIC's debts shall be apportioned among the Members in proportion to their accumulated contribution to EMSO ERIC at the time of dissolution.

5. BASIC PRINCIPLES

5.1. Access policy for users

- (a) Access to data produced by EMSO ERIC shall, wherever possible taking into account third-party licences and any pre-existing arrangements, be free and open to all members of scientific institutions and other stakeholders. In addition access to the EMSO ERIC infrastructure shall be granted to qualified European and international scientific communities, whose projects shall be evaluated for such purpose. EMSO ERIC shall employ selection criteria that shall be developed in accordance with the advice of the relevant scientific user community. Use and collection of data is subject to the relevant statutory provisions of data privacy.
- (b) Members shall make reasonable efforts to host visiting scientists, engineers and technicians for collaborations with those directly involved in EMSO ERIC activities in their laboratories.

5.2. Scientific evaluation policy

- (a) The annual scientific evaluation of EMSO ERIC activities shall be carried out by the Scientific, Technical and Ethics Advisory Committee. The evaluation report shall be submitted for approval to the Assembly of Members.

- (b) A review of the activities and operation of EMSO ERIC shall be conducted every 5 years by a team of independent experts to be designated by the Assembly of Members, on proposal from the Scientific, Technical and Ethics Advisory Committee.

5.3. Dissemination policy

- (a) EMSO ERIC may disseminate collected data to users other than the members of scientific institutions and other stakeholders and qualified European and international scientific communities subject to evaluation for a fee. Such fee shall be calculated on the basis of the full costs connected to the use of EMSO ERIC infrastructure by that user, in compliance with Directive 2003/4/EC of the European Parliament and of the Council ⁽¹⁾ and Directive 2007/2/EC of the European Parliament and of the Council ⁽²⁾ and other applicable law. The preceding requirement for a financial contribution shall not apply to requests for catalogue access and, in respect of all other requests, shall not exceed a reasonable amount.
- (b) Where data produced by EMSO ERIC is shared with third parties EMSO ERIC shall retain all rights, interest and title in such data.
- (c) EMSO ERIC users shall be encouraged to publish their results in the peer-reviewed scientific literature, to present communications in scientific conferences, as well as in other media targeted at larger audiences including the general public, the press, citizen groups and education institutions.
- (d) EMSO ERIC shall develop added-value data products to serve a broad range of private and public users, with the aim of developing products to meet stakeholders' needs.

5.4. Intellectual property rights policy

- (a) Intellectual property shall mean property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.
- (b) Any and all intellectual property rights, which are created, obtained or developed by EMSO ERIC shall vest in and be owned absolutely by EMSO ERIC.
- (c) The Assembly of Members shall determine the policies of EMSO ERIC relating to the identification, protection, management and maintenance of Intellectual Property Rights of EMSO ERIC, including access to those rights, as established in the EMSO ERIC Implementing Rules.
- (d) The Director-General shall propose a pricing policy based on full cost-recovery in consultation with the Executive Committee and to be approved by the Assembly of Members.
- (e) With respect to questions of intellectual property rights, the relations between the Members and Observers of EMSO ERIC shall be governed by the respective national legislation of Members and Observers and by international agreements to which the Members and Observers are parties.
- (f) The provisions of these Statutes and the Implementing Rules shall be without prejudice to the background intellectual property rights owned by Members and Observers.

5.5. Employment policy, including equal opportunities

- (a) EMSO ERIC shall be an equal opportunity employer. The procedures for selecting applicants for EMSO ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities.
- (b) Employment contracts shall comply with applicable national laws and regulations of the country in which staff carries out their activities.
- (c) Subject to the requirements of national legislation, each Member shall within its jurisdiction facilitate the movement and residence of nationals of Members involved in the tasks of EMSO ERIC and of the family members of such nationals.

⁽¹⁾ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

⁽²⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

5.6. Procurement policy respecting the principles of transparency, non-discrimination and competition

- (a) EMSO ERIC procurement policy shall be governed by principles of transparency, equal treatment, non-discrimination and open competition.
 - (b) The procurement policy shall be defined in detail in the Implementing Rules.
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