

**COMMISSION IMPLEMENTING DECISION (EU) 2018/272****of 20 February 2018****on setting up the European Marine Biological Resource Centre — European Research Infrastructure Consortium (EMBRC-ERIC)***(notified under document C(2018) 826)***(Only the Dutch, English, French, Greek, Italian, Portuguese 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) (<sup>1</sup>), and in particular point (a) of Article 6(1) thereof,

Whereas:

- (1) Belgium, France, Greece, Israel, Italy, Norway, Portugal, Spain and the United Kingdom requested the Commission to set up the European Marine Biological Resource Centre — European Research Infrastructure Consortium (EMBRC-ERIC). They have agreed that France will be the host Member State of EMBRC-ERIC.
- (2) Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, 2 years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend that period. As a consequence, after the withdrawal date, and without prejudice to any provisions of the withdrawal agreement, the UK will be considered a third country within the meaning of Article 2(b) of Regulation (EC) No 723/2009 for the purposes of this Implementing Decision.
- (3) 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>).
- (4) 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.
- (5) The Committee for the implementation of the Regulation on the Community legal framework for a European Research Infrastructure Consortium has not delivered an opinion within the time limit laid down by its chair,

HAS ADOPTED THIS DECISION:

**Article 1**

1. The European Marine Biological Resource Centre — European Research Infrastructure Consortium named 'EMBRC-ERIC' is set up.
2. The essential elements of the Statutes of EMBRC-ERIC are set out in the Annex.

(<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 [2016/755] (OJ L 129, 19.5.2016, p. 85).

*Article 2*

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

Done at Brussels, 20 February 2018.

*For the Commission*

Carlos MOEDAS

*Member of the Commission*

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**ANNEX****ESSENTIAL ELEMENTS OF THE STATUTES OF EMBRC-ERIC**

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

**1. Tasks and Activities**

(Article 4 of the Statutes of EMBRC-ERIC)

1. EMBRC-ERIC shall operate on the basis of a central organization as a distributed operation of individual Nodes in a coordinated way as defined in a Service Level Agreement (SLA), managed by the Executive Director supported by the Secretariat, the Committee of Nodes and Liaison Officers. The relations between the Headquarters and the Nodes and/or Operators, and their resources, shall be regulated through the SLAs for the provision of services, products and activities to support the high-level ambitions of this research infrastructure.
2. EMBRC-ERIC shall provide a single access entry point to a comprehensive portfolio of services and research platforms, marine ecosystems, biological resources, E-infrastructure and metadata.
3. The services offered and the activities undertaken by EMBRC-ERIC shall include, but are not limited to:
  - (a) Access to a portfolio of research platforms, biological resources, analytical services and data;
  - (b) Joint research and development activities through a coordinated, long-term development programme among national Nodes;
  - (c) Support of access to marine biological material, including genetic material, and advice and guidance on the use of marine bio-resources;
  - (d) Integrated workflows of high quality services for access to biological, analytical and data resources by deploying common underpinning technologies and practices;
  - (e) Strengthening of the connection of science with industry through a coordinated knowledge and technology transfer service;
  - (f) Training facilities and courses for researchers and technical personnel;
  - (g) Collaboration with research infrastructures in related and/or complementary fields;
  - (h) Engagement with relevant stakeholders of the European maritime regions, to support their environmental policies and blue bio-economy.
4. The activities will be implemented in accordance with the policies provided for in Articles 21 to 26 of the Statutes that will be appended to the Rules of Operations and made available to users.

**2. Statutory seat of EMBRC-ERIC**

(Article 2(2) of the Statutes of EMBRC-ERIC)

EMBRC-ERIC shall have its statutory seat in Paris, France.

**3. Name**

(Article 2(1) of the Statutes of EMBRC-ERIC)

The name of the research infrastructure shall be the European Marine Biological Resource Centre- European Research Infrastructure Consortium, hereinafter called 'EMBRC-ERIC'.

#### 4. Duration

(Article 27 of the Statutes of EMBRC-ERIC)

1. EMBRC-ERIC shall be established for an initial period ending on 31 December 2040.
2. Without prejudice to Article 8 of the Statutes, EMBRC-ERIC shall continue to exist for successive five year periods after the initial period subject to a decision of the General Assembly in accordance with Article 15(9) of the Statutes.

#### 5. Winding up

(Article 28 of the Statutes of EMBRC-ERIC)

1. The winding up of EMBRC-ERIC shall follow a decision by the General Assembly in accordance with Article 15(9) of the Statutes.
2. The Commission shall be notified in writing within 10 days by the Executive Director of:
  - (a) the General Assembly's decision to wind up; and again of
  - (b) the closure of the winding-up procedure.
3. Without prejudice to Article 9 of the Statutes, any assets and liabilities remaining after payment of the EMBRC-ERIC's assets or debts shall be apportioned among the Members in proportion to their accumulated contribution to EMBRC-ERIC at the time of dissolution.
4. EMBRC-ERIC shall cease to exist on the day on which the Commission publishes the appropriate notice in the *Official Journal of the European Union*.

#### 6. Liability

(Article 9 of the Statutes of EMBRC-ERIC)

1. EMBRC-ERIC shall be liable for its debts.
2. Each Members' liability towards EMBRC-ERIC's debts and liabilities, of whatever nature, shall be limited to their respective contributions provided to EMBRC-ERIC.
3. EMBRC-ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of EMBRC-ERIC.

#### 7. Access Policy, Data Policy and Dissemination

(Article 22 of the Statutes of EMBRC-ERIC)

1. The EMBRC-ERIC policies for access, data and dissemination on how EMBRC-ERIC provides access to portfolio of services and research platforms, marine ecosystems, biological resources, E-infrastructure shall be submitted for approval by the Executive Director to the General Assembly.
2. Access to EMBRC-ERIC shall be open to all types of users, including from all European and non-European countries, not necessarily for free. Requests will undergo a streamlined process involving eligibility and feasibility checks. The EMBRC-ERIC technical and scientific description provides further details regarding the conditions for users' access.
3. Access will be monitored and user satisfaction measured with a feedback mechanism as part of quality assurance for continuous improvement of access and services.
4. EMBRC-ERIC will promote E-infrastructure interoperability and standardization in order to deal with large volumes of different types of generated data, and develop or adopt community endorsed data handling protocols, tools and expertise.

5. EMBRC-ERIC will promote open source and open access principles for data and will foster knowledge transfer and the dissemination of data and information by liaising with existing European initiatives of relevance for environmental and biological data and bioinformatics, such as ELIXIR and Lifewatch ERIC, and recognized data repositories such as EurOBIS, Emodnet, PANGAEA, GEOSS and COPERNICUS.
6. The EMBRC-ERIC Access Policy, Data Policy and Dissemination Policy shall be adopted by the General Assembly in accordance with Article 15(10) of the Statutes and appended to the Rules of Operation.

## **8. Scientific Evaluation Policy**

(Article 23 of the Statutes of EMBRC-ERIC)

1. A scientific review of the EMBRC-ERIC activities, services and platforms shall take place every three years coordinated by the Executive Director and shall be presented to the General Assembly.
2. The EMBRC-ERIC Scientific Evaluation Policy shall be adopted by the General Assembly in accordance with Article 15(10) of the Statutes and appended to the Rules of Operation.

## **9. Intellectual Property Rights**

(Article 21 of the Statutes of EMBRC-ERIC)

1. The Executive Director shall prepare after consultation with the Science and Innovation Advisory Board, the EMBRC-ERIC Intellectual Property Rights Policy relating to the identification, allocation, protection, management and maintenance of Intellectual Property Rights as well as technology transfer activities resulting from these Intellectual Property Rights and submit this for approval to the General Assembly.
2. The EMBRC-ERIC Intellectual Property Policy shall regulate the rights of ownership and use within EMBRC-ERIC and toward third parties and contractual partners, securing a compliant and fair use with fair compensation models for the intellectual input and ownership of any EMBRC-ERIC participants.
3. No provision in these Statutes shall be understood as having effect on Intellectual Property Rights and Intellectual Property policies of the Operators as determined under relevant laws and regulations of the Members and international agreements to which they are a party.
4. Intellectual Property Rights which arise, are created, obtained or developed by EMBRC-ERIC Staff shall vest and be owned by EMBRC-ERIC.
5. The EMBRC-ERIC Intellectual Property Rights Policy shall be adopted by the General Assembly in accordance with Article 15(10) of the Statutes and appended to the Rules of Operation.

## **10. Employment Policy**

(Article 24 of the Statutes of EMBRC-ERIC)

1. EMBRC-ERIC shall be an equal opportunity employer. The selection procedures of applicants for EMBRC-ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities.
2. Employment contracts shall comply with applicable national laws and regulations of the countries in which staff carry out their activities.
3. EMBRC-ERIC shall advertise all vacancies and shall set an adequate time-period for the receipt of applications.
4. EMBRC-ERIC shall not offer any position to any applicant before the lapse of the above-mentioned time period.
5. The Employment Policy shall be adopted by the General Assembly and appended in the Rules of Operation and published on the website of EMBRC-ERIC.
6. The Employment Policy is governed by the laws of the Host Member.

**11. Procurement Policy**

(Article 25 of the Statutes of EMBRC-ERIC)

1. The Executive Director shall prepare for approval by the General Assembly in accordance with Article 15(10) of the Statutes detailed rules on procurement procedures and criteria.
  2. The EMBRC-ERIC procurement policy shall respect the principles of transparency, proportionality, mutual recognition, equal treatment, competition and non-discrimination.
  3. Under the EMBRC-ERIC procurement policy, EMBRC-ERIC shall make its procedures for tendering for products and services, procurement and publication of tenders available at the EMBRC-ERIC website.
  4. The EMBRC-ERIC Procurement Policy shall be adopted in accordance with Article 15(10) of the Statutes and appended to the Rules of Operation.
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