

COMMISSION IMPLEMENTING DECISION (EU) 2022/2297**of 19 October 2022****setting up the European Solar Research Infrastructure for Concentrated Solar Power (EU-SOLARIS ERIC)***(notified under document C(2022) 7351)***(Only the French, German, Greek, 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) ⁽¹⁾, and in particular Article 6(1), point (a) thereof,

Whereas:

- (1) Germany, Spain, France, Cyprus and Portugal, submitted to the Commission an application to set up the European Solar Research Infrastructure for Concentrated Solar Power (EU-SOLARIS ERIC) ('the application'). Portugal has made known its decision to participate in EU-SOLARIS ERIC initially as an observer.
- (2) The applicants have agreed that Spain would be the host Member State of EU-SOLARIS ERIC.
- (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 ⁽²⁾.
- (4) 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. In the course of the assessment, the Commission obtained the views of independent experts in the field of Solar Research Infrastructure for Concentrated Solar Power.
- (5) The measures set out in this Decision are in accordance with the opinion of the Committee established under Article 20 of Regulation (EC) No 723/2009,

HAS ADOPTED THIS DECISION:

Article 1

1. The European Solar Research Infrastructure for Concentrated Solar Power (EU-SOLARIS ERIC) is hereby set up.
2. The essential elements of the Statutes of EU-SOLARIS ERIC are set out in the Annex.

Article 2

This Decision is addressed to the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Republic of Cyprus and the Portuguese Republic.

⁽¹⁾ OJ L 206, 8.8.2009, p. 1.⁽²⁾ 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).

Done at Brussels, 19 October 2022.

For the Commission
Mariya GABRIEL
Member of the Commission

ANNEX

ESSENTIAL ELEMENTS OF THE STATUTES OF EU-SOLARIS ERIC

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

1. Name and seat (Article 1 of the Statutes of EU-SOLARIS ERIC)

1. A European Research Infrastructure Consortium (ERIC) is created, under the name of 'European Solar Research Infrastructure for Concentrated Solar Power' (hereinafter, 'EU-SOLARIS ERIC'), pursuant to the provisions of Council Regulation (EC) No 723/2009, of 25 June 2009, on the Community legal framework for a European Research Infrastructure (hereinafter 'the ERIC Regulation').
2. The statutory seat of EU-SOLARIS ERIC is established in Almería, Spain.

2. Vision, mission and strategic objectives (Article 2 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall establish and operate a world-class distributed research infrastructure on Concentrated Solar Power/Solar Thermal Energy (CSP/STE) to be set up as a central hub responsible for the coordinated operation of national research centres in CSP/STE technologies, which shall dedicate part of their research and development capacities to EU-SOLARIS ERIC, sharing contents, tools and know-how related to CSP/STE technologies.
2. All research facilities that are part of the ERIC will remain property of their institutions as well as the rights to handle the access to them and the conditions under which it is granted.
3. The relationship between EU-SOLARIS ERIC and the national research centres shall be regulated through signature of specific Service-Level Agreements.
4. To that end, the following constitute the purposes and objectives of EU-SOLARIS ERIC.
5. Vision: To become the European reference research infrastructure in the technological development of CSP/STE and related applications
6. Mission: To offer the best conditions for the development of CSP/STE research activities for the scientific and industrial communities
7. Strategic objectives:
 - a) To coordinate, as a unique infrastructure of distributed character, main existing R & D installations in Europe, providing the most complete and high quality scientific infrastructure portfolio at international level to the CSP/STE sector.
 - b) To establish a single entry point where highly specialised facilities, resources and research services are effectively and optimally offered to users demanding CSP/STE related services.
 - c) To reinforce the collaboration between the scientific institutions, academia and industry, also fostering collaborative research among main European research centres of the sector.
 - d) To identify new requirements for the improvement of the research facilities, and for the construction of new ones (when needed), also optimizing and promoting the specialization of existing ones avoiding unnecessary technological duplication and repetition.

- e) To identify and establish the best research and experimental practices, leading and coordinating the open dissemination of results and experimental data whenever possible, thus contributing to the reinforcement of the European leadership position at an international level.
- f) To maintain Europe at the forefront and leadership of CSP/STE technologies development.

3. **Tasks and activities (Article 3 of the Statutes of EU-SOLARIS ERIC)**

1. In order to fulfil its purposes and objectives, EU-SOLARIS ERIC shall, directly or via third parties, engage in the following activities:
 - a) grant effective access to resources and services made available by the National Nodes, in accordance with the rules established in these Statutes, for the European research and industrial community;
 - b) improve the interoperability between the Research Centres specialised in the field of CSP/STE technologies of the Members and Observers;
 - c) establish and apply technological advances related to resources and services associated to CSP/STE;
 - d) enter into collaboration agreements with third parties;
 - e) provide training and facilitate the mobility of researchers in order to reinforce and structure the European Research Area;
 - f) establish international relations with other organizations and authorities, public or private, European and non-European, interested in its activities and in related fields;
 - g) coordinate activities with other European R & D actors in the field of CSP/STE;
 - h) any other activities required to fulfil EU-SOLARIS ERIC's purposes and objectives.
2. EU-SOLARIS ERIC shall offer access to a portfolio of research facilities and joint research and development activities through a coordinated, long-term development program among National Nodes for non-economic purposes. Nevertheless, EU-SOLARIS ERIC may engage in limited profit-making activities, provided that:
 - a) they are closely linked to its main activities, set out in these Statutes; and
 - b) they do not jeopardize achieving EU-SOLARIS ERIC's purposes or objectives.
3. EU-SOLARIS ERIC shall record the costs and revenues of these economic activities separately and shall charge market prices for them. Any income generated by these economic activities shall be used to further its purposes.

4. **Duration and commencement of operations (Article 4 of the Statutes of EU-SOLARIS ERIC)**

Without prejudice to the provisions of these Statutes on the winding-up and liquidation of EU-SOLARIS ERIC, it shall exist for an indefinite period of time.

5. **Liability and insurance (Article 5 of the Statutes of EU-SOLARIS ERIC)**

1. EU-SOLARIS ERIC shall be responsible for its debts generated as a result of its activity.
2. The financial liability of the members for the debts of the ERIC shall be limited to their respective contributions provided to the ERIC.
3. EU-SOLARIS ERIC shall take out and maintain appropriate insurance to cover any risk relating to the operation of the ERIC.

6. Procedure for winding-up and liquidation of EU-SOLARIS ERIC (Article 6 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall inform the European Commission, via the Managing Director, of any facts which might seriously undermine the purpose of EU-SOLARIS ERIC or obstruct its capacity to fulfil the conditions established in the ERIC Regulation.
2. In particular, EU-SOLARIS ERIC shall be wound up and liquidated in any of the following events:
 - a) as a result of a resolution adopted by the General Assembly, by the majority established in these Statutes; or
 - b) as a result of a decision given by the European Commission, in the terms provided for in the ERIC Regulation.
3. The procedure will be as follows:
 - a) EU-SOLARIS ERIC's Managing Director shall inform the European Commission of the General Assembly's decision to wind-up and liquidate EU-SOLARIS ERIC, within ten (10) days subsequent to the date on which the resolution is adopted.
 - b) Without prejudice to Article 5 of the Statutes, any assets and liabilities remaining after payment of the EU-SOLARIS ERIC's debts shall be apportioned among the Members in proportion to their accumulated contribution to EU-SOLARIS ERIC at the time of dissolution.
 - c) EU-SOLARIS ERIC's Managing Director shall inform the European Commission of the completion of the process to wind-up and liquidate EU-SOLARIS ERIC, within ten (10) days as of the completion of such process.
 - d) EU-SOLARIS 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*
 - e) If at any time during its existence, EU-SOLARIS ERIC is unable to pay its debts, it shall immediately notify the European Commission in accordance with Article 16(4) of Regulation (EC) No 723/2009.

7. User access policy (Article 7 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall promote scientific merit-based access to the services and infrastructures that support and encourage excellence in research in the field of activity of EU-SOLARIS ERIC, as well as a culture of practical improvements through training activities.
2. Access to EU-SOLARIS-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 according to the procedures and evaluation criteria.
3. The procedures and evaluation criteria that grant or limit access to the data and tools of EU-SOLARIS ERIC's infrastructure, and the cost of such access, shall be defined in the access rules or in the internal regulations which shall be drawn up by the Managing Director and approved by the General Assembly, having consulted the Scientific & Technical Committee (STC) and the Board of National Nodes (BNN).
4. Procedures and evaluation criteria shall be made publicly available on the website of EU-SOLARIS ERIC.

5. EU-SOLARIS ERIC shall provide the users of the infrastructure of EU-SOLARIS ERIC with access rules and guidelines to guarantee that the research undertaken using EU-SOLARIS ERIC's infrastructure resources belonging to Research Centres of Member countries (as stated in Article 2 of the Statutes), recognizes and honours the property rights, privacy, ethics and protection of the owner's research infrastructure and data, as well as the obligations on secrecy and confidentiality, and that users comply with the conditions for access, the security measures and the management of the information of the research institutions that participate in EU-SOLARIS ERIC infrastructure.

8. Scientific evaluation policy (Article 8 of the Statutes of EU-SOLARIS ERIC)

The procedure for the scientific assessment of the projects that seek access to the infrastructure of EU-SOLARIS ERIC shall take into account the scientific merit, the unmet needs of the sector and the potential use and impact in the sector, and shall be based on the principles of transparency, equity and impartiality. Such procedure shall be defined in internal regulations, which shall be drawn up by the Managing Director and approved by the General Assembly, having consulted the STC and the BNN.

9. Dissemination policy (Article 9 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall take appropriate measures to promote its infrastructure and its use in research and in any service related to EU-SOLARIS ERIC's objectives.
2. EU-SOLARIS ERIC shall promote the dissemination and exchange of the results obtained through use of its research infrastructure.
3. Without prejudice to potential Intellectual Property Rights, EU-SOLARIS ERIC shall ensure that its users make available to the public the results of the research carried out at the ERIC infrastructures and that they do so via EU-SOLARIS ERIC, in accordance with European and national grant terms and conditions. This will not apply to R & D activities carried out by the Research Centres when using their own infrastructures out of the scope of the ERIC.
4. The dissemination policy shall define the different groups of targets and EU-SOLARIS ERIC shall use all of the channels within its scope to ensure maximum dissemination amongst them.

10. Intellectual Property Rights policy (Article 10 of the Statutes of EU-SOLARIS ERIC)

1. Any and all Intellectual Property Rights (hereinafter 'IPR'), which are created, obtained or developed by EU-SOLARIS ERIC shall vest in and be owned absolutely by EU-SOLARIS ERIC. Nevertheless, limited Data Proprietary periods can be awarded to users.
2. Without prejudice to the conditions established in the contracts entered into between EU-SOLARIS ERIC and Members or Observers, all of the IPR created, arising, obtained or developed by the staff of a Member or Observer shall belong to that Member or Observer.
3. With respect to questions of IPR, the relations between the Members and Observers of EU-SOLARIS 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.
4. The provisions of these Statutes and the internal regulations shall be without prejudice to the background IPR owned by Members and Observers.

5. The Members of EU-SOLARIS ERIC shall agree and approve, through the General Assembly, the EU-SOLARIS' IPR policy and regulations, under proposal of the Managing Director and having consulted the STC and the BNN. The IPR regulation shall determine the rules of EU-SOLARIS ERIC relating to the identification, protection, management and maintenance of IPR of EU-SOLARIS ERIC, including access to those rights.
6. The BNN may recommend to the Managing Director agreements with the national infrastructure centres and consortiums with regard to the research infrastructure of EU-SOLARIS ERIC, in order to guarantee that such entities, and third parties, have access to the scientific knowledge of EU-SOLARIS ERIC research infrastructure.

11. Employment policy (Article 11 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall comply with the principle of equality and non-discrimination.
2. Consequently, in its policy to recruit personnel, EU-SOLARIS ERIC shall offer equal opportunities and shall refrain from discriminating against persons based on gender, race, beliefs, ideology, disability, sexual orientation or for any other criterion which is deemed to be discriminatory in accordance with Community Law.
3. The Managing Director may propose modifications of internal employment regulations, always under the approval of the General Assembly.

12. Procurement policy (Article 12 of the Statutes of EU-SOLARIS ERIC)

1. EU-SOLARIS ERIC shall apply in its procurement fair and non-discriminatory treatment for all the bidders, persons offering goods and persons rendering services. The EU-SOLARIS ERIC procurement policy shall comply with the principles of transparency, non-discrimination and competition.
 2. The Managing Director shall establish detailed internal regulations and criteria to ensure transparency, equality and non-discrimination when awarding contracts. Such rules must be approved by the General Assembly.
 3. The Managing Director shall be responsible for all of EU-SOLARIS ERIC procurement. To this end, the Managing Director shall comply with the national and European procurement regulations applicable at the time. All of the bids should be published on the website of EU-SOLARIS ERIC. The decision to award a contract should be published and should include full justification.
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