



COMMISSION IMPLEMENTING DECISION (EU) 2023/2881
of 20 December 2023
setting up the Low Frequency Array European Research Infrastructure Consortium (LOFAR ERIC)
(notified under document C(2023) 8904)
(Only the Bulgarian, Dutch, English, German, Irish, Italian and Polish 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) Bulgaria, Germany, Ireland, Italy, the Netherlands and Poland submitted to the Commission an application in accordance with Article 5(1) of Regulation (EC) No 723/2009 to set up LOFAR ERIC ('the application').
- (2) The applicants have agreed that the Netherlands would be the host Member State of LOFAR 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 impacts of gamma-ray astronomy, astrophysics, particle physics, plasma physics and fundamental physics.
- (5) 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 Low Frequency Array European Research Infrastructure Consortium (LOFAR ERIC) is set up.
2. The essential elements of the Statutes of LOFAR ERIC as referred to in Article 6(3) of Regulation (EC) No 723/2009 are set out in the Annex.

Article 2

This Decision is addressed to the Republic of Bulgaria, the Federal Republic of Germany, Ireland, the Italian Republic, the Kingdom of the Netherlands and the Republic of Poland.

⁽¹⁾ OJ L 206, 8.8.2009, p. 1 (as amended by Regulation (EU) No 1261/2013, OJ L 326, 6.12.2013, 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, 20 December 2023.

For the Commission
Iliana IVANOVA
Member of the Commission

ANNEX

ESSENTIAL ELEMENTS OF THE STATUTES OF LOFAR ERIC**1. Legal form and name**

(Article 1 of the Statutes of LOFAR ERIC)

A European Research Infrastructure Consortium shall be established. This Consortium shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of Regulation (EC) No 723/2009 as amended by the Regulation (EU) No 1261/2013 (hereinafter 'the ERIC Regulation') and be named 'LOFAR ERIC'.

2. Statutory seat

(Article 2 of the Statutes of LOFAR ERIC)

LOFAR ERIC shall have its statutory seat in Dwingeloo, the Netherlands; hereinafter referred to as 'Host Country'.

3. Tasks and activities

(Article 3 of the Statutes of LOFAR ERIC)

1. The principal task of LOFAR ERIC shall be to assure coordinated exploitation of the LOFAR infrastructure, to produce world class scientific research and to pursue further development, with the aim to maximise productivity and impact for the Members and the international scientific community, positioning LOFAR ERIC as a world-leading distributed research infrastructure with a long-term perspective, located in LOFAR ERIC Member countries as well as in other countries where LOFAR ERIC has decided to locate some of its facilities.
2. In pursuit of its principal task, LOFAR ERIC shall carry out the following activities:
 - a. ensuring coordinated operation and scientific exploitation of LOFAR facilities as a cohesive infrastructure, under a common long-term strategy and common policies, for maximal scientific output and impact for the Members and the international community;
 - b. provide effective access to LOFAR ERIC science services for the user community, incorporating principles of peer review and open science principles;
 - c. general operation of LOFAR ERIC, covering legal, governance and financial aspects;
 - d. participating in EU, (multi-)national and other third-party funded projects that are in line with the goals of LOFAR ERIC.
3. LOFAR ERIC may also carry out the following activities:
 - a. pursuing further development of the LOFAR infrastructure, and related facilities and scientific capabilities;
 - b. conducting a strategic dialog to optimise the role of LOFAR ERIC in the global science community;
 - c. developing new Memberships and partnerships as established in Articles 14 and 19;
 - d. promoting LOFAR ERIC interests with respect to national, European and international stakeholders;
 - e. seeking further sources of funding, in particular but not limited to upgrades and extensions;
 - f. fostering training, outreach and international cooperation;
 - g. any other related activity necessary to achieve its principal task.

4. LOFAR ERIC shall pursue its principal task on a non-economic basis. Without prejudice to State aid applicable rules, LOFAR ERIC may carry out limited economic activities provided that they are closely related to its principal task and that they do not jeopardise the achievement thereof.
5. LOFAR ERIC shall record costs and revenues of its economic activities separately and shall charge market prices for them, or, if these cannot be ascertained, full costs plus a reasonable margin.

4. Duration and the procedure for the winding up

(Article 4 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC shall exist for an indefinite period of time, but it may be wound up in accordance with the procedure laid down in paragraphs (2) to (6).
2. The winding up of LOFAR ERIC shall be decided by the Council in accordance with Article 27(6)(d).
3. Without undue delay and in any event within ten (10) days after adoption of the decision to wind up LOFAR ERIC, LOFAR ERIC shall notify the European Commission about the decision.
4. Assets remaining after payment of LOFAR ERIC debts shall be apportioned among the Members in proportion to their annual contribution to LOFAR ERIC as specified in Article 21.
5. Without undue delay and in any event within ten (10) days of the closure of the winding up procedure, LOFAR ERIC shall notify the European Commission thereof.
6. LOFAR 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.

5. Liability and insurance

(Article 5 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC shall be liable for its debts. LOFAR ERIC shall not be liable for liabilities arising from the operation of separately owned LOFAR facilities.
2. The Members shall not be jointly liable for the debts of LOFAR ERIC. The members' financial liability for the debts of the LOFAR ERIC shall be limited to the value of each individual member's respective annual contribution agreed upon in the annual budget.
3. LOFAR ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of LOFAR ERIC.

6. Access policy to LOFAR ERIC services

(Article 6 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC shall provide and support effective user access opportunities to the LOFAR ERIC services for the pursuit of scientific research. These services shall include, amongst others: carrying out observations, generating science data products, running a publicly accessible science data archive, user support and training.
2. The LOFAR ERIC services provided shall be publicly announced and documented, together with the access opportunities, procedures and allocation criteria for these various services.

3. The Access policy governing all LOFAR ERIC services for scientific research shall be set and maintained by the Council, with its principles decided as per Article 27(6)(b) and its implementation decided as per Article 27(5)(e).
4. The Access policy of LOFAR ERIC shall safeguard that, of the total amount of operations budget spent on provision of services, a majority is directed to support research by the global community. When open access is offered on a competitive basis, it shall be awarded through independent scientific peer review.
5. The Access policy of LOFAR ERIC shall also safeguard the eligibility for all Members of LOFAR ERIC to benefit from Reserved Access; this will regulate entitlement to parts of the available opportunities for user access to LOFAR ERIC services.

7. Scientific Evaluation Policy

(Article 7 of the Statutes of LOFAR ERIC)

The activities of LOFAR ERIC will be evaluated by an independent panel of international experts at least once every 5 years. The evaluation protocol (including the aims, terms of reference, composition of the panel and nomination procedure for panel members) shall be set by the Council as per Article 27(5)(j). The panel reports to the Council.

8. Dissemination Policy

(Article 8 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC shall be a facilitator of research and shall as a general rule encourage open science principles to research data.
2. LOFAR ERIC shall encourage researchers to make their results and data publicly available (open access) also through LOFAR ERIC.
3. LOFAR ERIC shall use multiple channels to reach the target audiences, including web portal, workshops, presence in conferences, articles and news media.
4. Scientific data generated through LOFAR ERIC services will, as far as legally permitted, be available and openly accessible to any researchers, scientific institutions and other stakeholders, under Council policies in line with open science principles and with the data policy as prescribed in Article 32.

9. Intellectual Property Rights Policy

(Article 9 of the Statutes of LOFAR ERIC)

1. The term 'Intellectual Property' shall be understood according to Article 2 of the Convention Establishing the World Intellectual Property Organisation signed on 14 July 1967.
2. LOFAR ERIC shall adopt its own Intellectual Property Rights policy (Article 27(5)(h)). LOFAR ERIC shall be the owner of all Intellectual Property resulting from its activities under these Statutes including, but not limited to, Intellectual Property produced by staff employed by LOFAR ERIC under the conditions established in the LOFAR ERIC Intellectual Property Rights policy, except where covered by separate contractual agreements or where mandatory legislation or these Statutes state otherwise.
3. The background Intellectual Property of the members or their representing entities shall remain their property. It shall be licensed to LOFAR ERIC if necessary and through specific agreements.
4. Members that contribute to their share of costs for development work done by other Member(s) may use the resulting intellectual property freely for scientific purposes only. If a Member of LOFAR ERIC wishes to use any intellectual property for commercial gain, permission must be obtained from the Member owner of the intellectual property.

10. Employment Policy

(Article 10 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC may employ staff. LOFAR ERIC employment policy shall be governed by the laws of the country in which staff is employed.
2. The selection procedures, recruitment and employment for LOFAR ERIC staff positions shall be transparent, non-discriminatory and respect equal opportunities. All positions in LOFAR ERIC shall be announced publicly.

11. Procurement Policy

(Article 11 of the Statutes of LOFAR ERIC)

1. LOFAR ERIC shall treat procurement candidates and tenderers equally and without discrimination, regardless whether or not they are based within the European Union. LOFAR ERIC procurement policy shall respect the principles of transparency, non-discrimination and competition. Detailed rules on procurement procedures and criteria shall be set out by the Council.
 2. Procurement by Members and Observers concerning LOFAR ERIC activities shall be done in such way that due consideration is given to LOFAR ERIC needs, technical requirements and specifications issued by the relevant bodies.
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