

European Research Infrastructure Consortium

ERIC: legal framework

2008/0148(CNS) - 25/07/2008 - Legislative proposal

PURPOSE: the establishment of “European Research Infrastructures” (ERI).

PROPOSED ACT: Council Regulation.

BACKGROUND: since January 2000 the European Union has been pushing for the creation and development of a European Research Area (ERA) that consolidates and support the so-called “fifth freedom”, namely the free movement of knowledge across Europe. One of the key pillars supporting the ERA is the development of world class research infrastructures. Research infrastructures are large-scale projects typically environmental observatories, genomic data bases, imaging systems, clean rooms for nano-electronics, irradiation facilities for materials research and super-computers. Yet, although they play a key role in the construction of an efficient research and innovation environment, they are becoming increasingly complex and more expensive thus placing them beyond the reach of a single research group, region, nation or even continent. One of the major difficulties for setting up new European research infrastructures – other than scarcity of resources and the complexity of technical and organisational issues, is the lack of an adequate legal framework that allows for the creation of appropriate partnership with partners from different countries.

CONTENT: the purpose of this proposal, therefore, is to facilitate the joint establishment of research infrastructures of European interest among several Member countries associated with the Community R&D Framework Programme. More specifically speaking, the Commission is proposing the creation of a framework Regulation that provides a common legal framework based on Article 171 of the EC Treaty.

In short, an ERI will be a legal entity with a legal personality and the right to be recognised as such in all of the EU Member States. It will be based on membership namely, the Member States, third countries and intergovernmental organisation. Their primary role will be the establishment and operation of research infrastructures. The Commission proposes that the structure of an ERI be flexible. Members will be allowed to define, in the Statutes, member rights and obligations and other internal arrangements. Members’ liability on ERI debt will, in principle, be limited to their respective contributions albeit that some flexibility will be included in the statutes to modify any such arrangements. The applicable law will be Community law, the law of the State of the statutory seat or that of the State of operation regarding certain safety and technical matters. The Statutes and their implementing rules must comply with such applicable law.

ERI's will be international bodies or organisations in the sense of the Directive on value-added tax, on excise duties and on public procurement and as such it will be exempted from VAT and excise duties and its procurement procedures will fall outside of the EU’s public procurement Directives.