

**COMMISSION IMPLEMENTING DECISION (EU) 2017/499****of 17 March 2017****on setting up the e-Science and Technology European Infrastructure for Biodiversity and Ecosystem Research — European Research Infrastructure Consortium (LifeWatch ERIC)***(notified under document C(2017) 1648)***(Only the Dutch, French, Greek, Italian, Portuguese, Romanian Slovenian 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, Greece, Spain, Italy, the Netherlands, Portugal, Romania and Slovenia requested the Commission to set up the e-Science and Technology European Infrastructure for Biodiversity and Ecosystem Research — European Research Infrastructure Consortium (LifeWatch ERIC). They have agreed that Spain will be the host Member State of LifeWatch ERIC.
- (2) 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.
- (3) 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 e-Science and Technology European Infrastructure for Biodiversity and Ecosystem Research — European Research Infrastructure Consortium named 'LifeWatch ERIC' is set up.
2. The essential elements of the Statutes of LifeWatch ERIC are set out in the Annex.

*Article 2*

This Decision is addressed to the Kingdom of Belgium, the Hellenic Republic, the Kingdom of Spain, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, Romania and the Republic of Slovenia.

Done at Brussels, 17 March 2017.

*For the Commission*  
Carlos MOEDAS  
*Member of the Commission*

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<sup>(1)</sup> OJ L 206, 8.8.2009, p. 1.

## ANNEX

**ESSENTIAL ELEMENTS OF THE STATUTES OF LIFEWATCH ERIC**

*The following Articles and paragraphs of the Articles of the Statutes of LifeWatch ERIC provide for the essential elements in accordance with 6(3) of Council Regulation (EC) No 723/2009*

*Article 2***Task and activities, ERIC Components**

1. The main task of LifeWatch ERIC shall be to establish and operate the infrastructure and information systems necessary to mobilise and integrate data and algorithms for biodiversity and ecosystem research, including enhancing understanding, linkages and synergies with other societal challenges such as climate change adaptation and mitigation, and to provide analytical capabilities.
2. To this end LifeWatch ERIC shall undertake and coordinate a variety of activities, including but not limited to:
  - (a) The operation of a distributed research infrastructure that shall encompass enabling capabilities for demand-driven biodiversity data mobilisation; integrated access to distributed data resources; the provision of services for data discovery, analysis, modelling and visualisation; web-based and site-based support for users; and digital environments for scientific cooperation and experimentation.
  - (b) The support to and cooperation with national and international facilities on the basis of service level agreements, with respect to data mobilisation and data sharing; computational capacity; and development of new infrastructure capabilities — including exploration of a role as a broker coordinating requirements and delivery plans between national and international facilities, institutions and organisations if so requested by them.
  - (c) The building of capacity in order to foster new opportunities for large-scale scientific development; to enable accelerated data capture with new technologies; to support knowledge based decision-making for the management of biodiversity and ecosystems; and to support training programmes.
  - (d) The maintenance of a capacity for the upgrading of the research infrastructure, the innovation and valorisation of knowledge and technology, and the development of new analytical capabilities.
  - (e) The undertaking of any other tasks closely related to the above mentioned activities that the General Assembly may decide.

*Article 1***Name, seat, location and working language**

1. There shall be an e-Science and Technology European Infrastructure for Biodiversity and Ecosystem Research — European Research Infrastructure Consortium hereinafter referred to as 'LifeWatch ERIC' which is set up as a European Research Infrastructure Consortium (ERIC) under Regulation (EC) No 723/2009.
3. The statutory seat of LifeWatch ERIC shall be in Seville, Kingdom of Spain (hereinafter referred to as Host Member State).

*Article 18***Duration**

LifeWatch ERIC shall be established for an indefinite period of time.

*Article 19***Winding up and Insolvency**

1. The winding up of LifeWatch ERIC shall be decided by a qualified majority vote of the General Assembly.
2. Without undue delay and in any event within 10 days after adoption of the decision to wind up LifeWatch ERIC, LifeWatch ERIC shall notify the European Commission about the decision.

3. Upon adoption of the decision to wind up LifeWatch ERIC, its Executive Board, acting in accordance with the laws of the jurisdiction of the Host Member State, shall arrange for the liquidation of its assets and activities, under the following principles:
  - (a) Any physical support item made available by the member hosting a Common Facility or Distributed Center shall be returned.
  - (b) Any further assets shall be used to cover the liabilities of LifeWatch ERIC and the costs relating to its winding up. Any financial surplus shall be distributed among the members at the time of the winding up in proportion to their total basic financial contributions made from the beginning of the operation of LifeWatch ERIC.
  - (c) Concerning in-kind and other contributions, the Executive Board after approval by the General Assembly and as far as practicable, may transfer LifeWatch ERIC activities and know-how to institutions with similar objectives. In case that there are no equivalent institutions, the assets other than financial surplus remaining after payment of LifeWatch ERIC debts shall be apportioned among the members in proportion to their accumulated annual contributions unless otherwise provided for under service level agreements. Where possible, allocation of assets will be made to the members who have contributed them.
4. The winding-up leading to the decommissioning of LifeWatch shall be subject to the deadlines applicable to the withdrawal and termination of membership provided for under Articles 5(1), 5(2), and 5(6).
5. LifeWatch 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*.

#### Article 14

### **Resources, Budgetary Principles, Liability and Insurance**

3. LifeWatch ERIC shall be liable for its debts. The members shall not be jointly liable for the debts of LifeWatch ERIC. The liability of the members for the debts of LifeWatch ERIC shall be limited to their respective contributions.

#### CHAPTER 6

#### **POLICIES**

#### Article 15

### **Access to LifeWatch ERIC Facilities and Dissemination Policy**

1. LifeWatch ERIC shall be a facilitator of research and learning and shall not restrict access to available data and algorithms unless these are in conflict with any conditions of use agreed in advance with their owner(s).
2. LifeWatch shall establish and operate its infrastructure for biodiversity and ecosystem research at the European level. The services provided shall be determined by a decision of the General Assembly which may distinguish between the services provided to members and non-members and their researchers.
3. Decisions on the prioritisation of the specific services provided by LifeWatch ERIC shall be adopted by the General Assembly, taking into consideration the outcome of an independent evaluation process lead by the Scientific and Technical Advisory Board.
4. In case the capacity to provide access is limited for financial and/or technical reasons, the General Assembly shall establish, within its available resources, competitive grant programmes to allow successful applicants to benefit from the proposed capabilities. Applications from any country over the world shall be assessed by independent Evaluation Committees nominated by the Executive Board, following suggestions from the Scientific and Technical Advisory Board. The grant programmes, the evaluation procedure and terms of reference that the General Assembly may establish shall meet generic requirements of scientific excellence and fair practices.
5. The Executive Board may propose to the General Assembly policies on requirements concerning general or ad hoc legal relationships with data users. Access for the general public shall be granted unless the services or resources are constrained by licensing conditions imposed by the owners. LifeWatch ERIC shall follow relevant European Union policies and regulations.

6. The General Assembly, subject to Article 3(2) of the Regulation (EC) No 723/2009, by an absolute majority vote may decide to charge fees for general access to specific communities or to all of them concerning specific services provided by LifeWatch ERIC, as well as to license its own tools or products either as commons or submitted to licensing.
7. The data access and dissemination policy of LifeWatch ERIC shall follow the best international practices with respect to public data, such as those established by the European Union, and shall recognize the rights of the owners of data and algorithms and shall take full account of any related ethical or legal issues. LifeWatch ERIC shall promote excellence in research, teaching and learning and support a culture of 'best practice' through promotional and training activities.
8. LifeWatch ERIC shall encourage researchers using LifeWatch ERIC to make their research results publicly available and shall request researchers of members to make results available through LifeWatch ERIC.
9. The dissemination policy shall identify the various target groups, and LifeWatch ERIC shall use several channels to reach these groups, such as web portal, newsletter, workshops, presence in conferences, articles in magazines and daily newspapers.

#### *Article 16*

### **Scientific and Technical Evaluations**

1. LifeWatch ERIC shall establish a Scientific and Technical Advisory Board as an independent body of qualified scientists and experts. Its terms of reference shall be proposed by the Executive Board to the General Assembly for approval. The members of the Scientific and Technical Advisory Board shall be appointed for a term of four years' renewable. The Scientific and Technical Advisory Board may issue recommendations to the Executive Board. These recommendations shall be fully disclosed to the General Assembly which may issue Implementing Rules or Guidelines for further guidance to the Executive Board.
2. The General Assembly may approve appropriate compensation for the tasks undertaken by the members of the Scientific and Technical Advisory Board and Evaluation Committees.
3. An Ad-hoc Evaluation Committee shall be established at the fourth year of each five-year period of planning to assess the overall scientific and technical performance of LifeWatch ERIC and to make strategic recommendations for the next five-year period. Its members shall be appointed by the General Assembly, taking into account the recommendations of the Scientific and Technical Advisory Board. They shall be appointed on a personal basis, not representing any particular country or institution.

#### *Article 17*

### **Data Access and Intellectual Property Rights Policies**

1. LifeWatch ERIC acknowledges that part of its value as an infrastructure is based on the enhancement of the benefits of knowledge which is in the public domain. Open Source and Open Access principles shall be favored.
2. LifeWatch ERIC shall provide guidance to researchers to ensure that research using material made accessible through LifeWatch ERIC shall be undertaken within a framework that recognizes the rights of data owners and privacy of individuals. Provenance of data shall be ensured and the data policy of LifeWatch ERIC, when depending on contributing external data resources and/or other infrastructures, shall be subject to agreements with these partners in accordance with this Article, and shall be managed by one of the members of the Executive Board determined by the General Assembly.
3. Users and service providers, having access to data, know-how or other intellectual property rights resources in the custody of, or generated by LifeWatch ERIC, shall acknowledge the intellectual property rights and other rights of owners vested in the submission information protocols or agreements and memoranda of understanding. LifeWatch ERIC data users and service providers must demonstrate due diligence in ensuring that rights in the data within their custody are appropriately managed.

4. LifeWatch ERIC shall ensure that users agree to the terms and conditions governing access, and that suitable security arrangements are in place regarding internal storage and handling.
5. LifeWatch ERIC shall publish the arrangements for investigating and resolving allegations of internal professional misconduct, security breaches or confidentiality disclosure regarding data and services in its custody.

#### *Article 12*

### **Employment Policies**

1. LifeWatch ERIC shall not discriminate on the basis of race, ethnicity, religion, gender, age, physical or mental disability, sexual orientation, or because of marital or parental status. This policy shall extend to all rights, privileges and activities of staff. LifeWatch ERIC may engage in policies of affirmative action concerning female staff for which purpose the General Assembly shall approve an affirmative action plan before any staff contract is announced.
2. The CEO shall have management authority over the staff and shall be responsible for the conditions of employment and for each position announced for recruitment, subject to budgetary limits approved by the General Assembly, Implementing Rules, Guidelines and policy decisions taken by the General Assembly. The CEO, unless otherwise stated, may delegate specific functions to one or more members of the Executive Board.
3. LifeWatch ERIC's recruiting, interviewing, hiring and promotion/demotion activities shall be carried out in a manner consistent with the principles of paragraph 1 and shall abide by the principles and restrictions on employment set out in Implementing Rules, Guidelines or general mandates or policies approved by the General Assembly.
4. The employment policies set out in the Implementing Rules shall be based on the principles and conditions approved by the General Assembly and be subject to applicable laws and regulations of the Host Member State or the laws of the country where the activities of LifeWatch ERIC are conducted.

#### *Article 13*

### **Procurement policies and tax exemption**

1. All tenders shall be published on the LifeWatch ERIC website and in the members' and observers' territories. LifeWatch ERIC shall include a declaration of tendered procurements in the annual activity report.
  2. The General Assembly shall approve Implementing Rules on public procurement that shall determine the minimum amount beyond which contracts shall only be awarded after advice from the Scientific and Technical Advisory Board.
  3. The procurement policy of LifeWatch ERIC shall be based on the principles of transparency, non-discrimination, and competition, taking into account the need of ensuring that bids fulfill the best technical, financial and delivery requirements, while providing advanced notification to industry and service providers about required specifications.
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