COMMISSION IMPLEMENTING DECISION (EU) 2025/7

of 7 January 2025

setting up the Cherenkov Telescope Array Observatory ERIC (CTAO ERIC)

(notified under document C(2025) 9)

(Only the Czech, English, French, German, Italian, Polish, 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) ([1]), and in particular Article 6(1), point (a), thereof,

Whereas:

(1) Austria, Czechia, France, Germany, Italy, Poland, Slovenia, Spain and the European Organisation for Astronomical Research in the Southern Hemisphere submitted to the Commission an application in accordance with Article 5(1) of Regulation (EC) No 723/2009 to set up the Cherenkov Telescope Array Observatory (CTAO) ('the application'). Switzerland has made known its decision to participate in CTAO ERIC initially as an observer.

(2) The applicants have agreed that Italy would be the host Member State of CTAO 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 Cherenkov Telescope Array Observatory ERIC (CTAO ERIC) is set up.

2. The essential elements of the Statutes of CTAO ERIC as referred to in Article 6(3) of Regulation (EC) No 723/2009 are set out in the Annex.

([1]) OJ L 206, 8.8.2009, p. 1, ELI: http://data.europa.eu/eli/reg/2009/723/oj.
([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, ELI: http://data.europa.eu/eli/dec/2016/755/oj).

Article 2

This Decision is addressed to the Czech Republic, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Swiss Confederation and the European Organisation for Astronomical Research in the Southern Hemisphere.

Done at Brussels, 7 January 2025.

For the Commission
Ekaterina ZAHARIEVA
Member of the Commission

ANNEX

ESSENTIAL ELEMENTS OF THE STATUTES OF CTAO ERIC

1. **Name and seat**

(Article 1 of the Statutes of CTAO ERIC)

1. There shall be a European Research Infrastructure called the Cherenkov Telescope Array Observatory (CTAO).

2. CTAO shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of Regulation (EC) No 723/2009 and be named Cherenkov Telescope Array Observatory ERIC (CTAO ERIC).

3. CTAO ERIC shall have its statutory seat and its headquarters in Bologna, Italy.

2. **Tasks and activities**

(Article 2 of the Statutes of CTAO ERIC)

1. The task of CTAO ERIC shall be to construct an observatory for ground-based gamma-ray astronomy as described in the 'Scientific and Technical Description of the CTA Observatory', (Alpha configuration) and to further operate, upgrade and decommission this facility. The construction costs are laid down in the CTAO Cost Book.

2. CTAO ERIC shall carry out the following activities among others:

   (a) contribute to top-level research, technological development, innovation and societal challenges and thus representing an added value for the development of the European Research Area (ERA) and beyond;

   (b) ensure a full scientific exploitation of the CTAO and its suite of instruments;

   (c) grant effective access to Users in accordance with the Access Policy set out in Article 3;

   (d) contribute to the dissemination of scientific results;

   (e) make optimum use of resources and know-how; and

   (f) any other action necessary related to the paragraphs from (a) to (e).

3. CTAO ERIC shall pursue its principal task on a non-economic basis. However, it 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. CTAO ERIC shall record the 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.

3. **Access policy for users of the Cherenkov Telescope Array Observatory**

(Article 3 of the Statutes of CTAO ERIC)

1. CTAO ERIC will provide effective access for European and international researchers (Users) based on scientific merit, technical feasibility and/or other relevant criteria pertinent to the aim of CTAO ERIC. A limited amount of Observing Time shall be made available to scientifically meritorious proposals from researchers not belonging to a Member, Strategic Partner, Third Party or Observer, hereinafter called Other Users, under specific access terms, as defined by the Council.

2. Access to CTAO can be in the form of access to CTAO Observing Time, or in the form of access to archival CTAO Data Products (Article 33). Details of access shall be defined in an Access Policy, adopted by the Council (Article 25(13)(j)), which shall define the different types of proposals and provide for an appropriate level of opportunity for large legacy programmes (Key Science Projects).

3. The Director-General is responsible for time allocation by organising and managing a peer review process during which scientific excellence and feasibility of proposals are evaluated. Procedures and evaluation criteria shall be made publicly available on the CTAO ERIC website. The Director-General shall report annually to the Council on the time allocation.

4. Users' Time denotes the Observing Time available after Guaranteed Time Observations arising from contractual obligations of CTAO ERIC are taken into account. The Users' Time will be split between Open Time for Standard Proposals and Key Science Project (KSP) time for large legacy programmes, International Community Observing Time for Other Users and Director General's Discretionary Time (DDT). The definitions are in the Scientific and Technical Description of the CTA Observatory

5. Other Users shall contribute to the operation costs relating to their use of the CTAO, as defined in the Access Policy and the respective partnership agreements.

6. The provision in Article 3(5) of the Statutes shall not apply to the time allocations granted by CTAO ERIC through special agreements (e.g. hosting agreements).

4. **Scientific Evaluation**

(Article 4 of the Statutes of CTAO ERIC)

The scientific and technical activities of CTAO ERIC shall be evaluated annually by the Scientific and Technical Advisory Committee (Article 28). Details shall be defined in a Scientific Evaluation Policy, adopted by the Council (Article 25(13)(k)).

5. **Dissemination of Research Results**

(Article 5 of the Statutes of CTAO ERIC)

1. CTAO ERIC shall be a facilitator of research and shall as a general rule encourage open access to research data. Irrespective of this principle, CTAO ERIC shall promote high-quality research and shall support a culture of 'best practice' through training activities.

2. CTAO ERIC shall request Users to make their research results publicly available and to make results available through CTAO ERIC.

3. CTAO ERIC shall adopt its own Dissemination Policy (Article 25(13)(l)). The Dissemination Policy shall describe the various target groups, and CTAO ERIC shall use several channels to reach the target audiences, such as web portals, newsletters, workshops, presence in conferences, articles in journals, magazines and daily newspapers.

6. **Intellectual Property Rights**

(Article 6 of the Statutes of CTAO 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. CTAO ERIC shall adopt its own Intellectual Property Rights Policy (Article 25(13)(m)).

3. CTAO 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 CTAO ERIC, except if covered by separate contractual agreements or where mandatory legislation or these Statutes state otherwise.

4. The background Intellectual Property of the Members or their representing entities shall remain their property. It shall be licensed to CTAO ERIC if necessary and through specific agreements.

7. **Employment**

(Article 7 of the Statutes of CTAO ERIC)

1. CTAO ERIC shall be an equal-opportunity employer. Employment contracts shall be governed by the laws of the country or territory in which staff is employed.

2. Subject to the requirements of national legislation, each Member shall within its jurisdiction seek to facilitate the movement and residence of nationals of the Members, Observers and Strategic Partners involved in the tasks of CTAO ERIC and of the family members of such nationals.

3. The selection procedures for CTAO ERIC staff positions shall be transparent, non- discriminatory and respect equal opportunities. Recruitment and employment shall not be discriminatory.

4. CTAO ERIC shall encourage the formation of an institutionalised employee representation.

8. **Procurement**

(Article 8 of the Statutes of CTAO ERIC)

1. CTAO ERIC shall treat procurement candidates and tenderers equally and without discrimination regardless of whether they are based within the European Union. Detailed rules on procurement procedures and criteria shall be set out in the Procurement Policy adopted by Council (Article 25(12)(i) of the Statutes). This Procurement Policy shall respect the principles of transparency, competition, proportionality, mutual recognition, equal treatment, non-discrimination and sustainability.

2. Procurement by Members, Observers, Strategic Partners and Third Parties concerning CTAO ERIC activities shall be done in such a way that due consideration is given to CTAO ERIC needs, technical requirements, and specification issued by the relevant bodies.

3. The Procurement Policy shall stipulate that its provisions shall not apply to procurements made by CTAO ERIC using funds channelled through CTAO ERIC according to Article 21(4) of the Statutes. In these cases, the Basic Principles for In-Kind Contributions to CTAO ERIC and the In-Kind Contribution Framework (Annex B) shall be applied instead of the Procurement Policy.

9. **Duration**

(Article 9 of the Statutes of CTAO ERIC)

CTAO ERIC shall be established for an indefinite term.

10. **Winding up**

(Article 10 of the Statutes of CTAO ERIC)

1. The winding up of CTAO ERIC shall be decided by the Council in accordance with Article 25(13)(h) of the Statutes.

2. Without undue delay and in any event, within 10 days after adoption of the decision to wind up CTAO ERIC, CTAO ERIC shall notify the Commission about the decision.

3. Without undue delay and in any event, within 10 days of the closure of the winding up procedure, CTAO ERIC shall notify the Commission thereof.

4. CTAO ERIC shall cease to exist on the day on which the Commission publishes the appropriate notice in the *Official Journal of the European Union*.

11. **Dissolution of CTAO ERIC or discontinuation of its tax privileges**

(Article 11 of the Statutes of CTAO ERIC)

1. Upon dissolution of CTAO ERIC or discontinuation of its tax privileges and tax allowances the Members shall not receive anything more than their paid cash contributions and the actual value of their contributions in-kind.

2. Upon dissolution of CTAO ERIC or discontinuation of its tax privileges and tax- allowances, the assets of CTAO ERIC exceeding the paid cash contributions and the actual value of the contributions in-kind shall be transferred to another public legal entity or another tax-privileged corporation or to another legal entity pursuing objects similar to those of CTAO ERIC for the promotion of science and research.

12. **Liability regime and insurance**

(Article 12 of the Statutes of CTAO ERIC)

1. CTAO ERIC shall be liable for its debts.

2. The Members are not jointly liable for the debts of CTAO ERIC. The Members' financial liability for the debts of CTAO ERIC shall be limited to their respective annual contribution.

3. CTAO ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of CTAO.