

# FAQ

## General Information about ESS ERIC



### **What is an ERIC?**

A European Research Infrastructure Consortium (ERIC) is a legal framework created by the European Union (see "What is the background and purpose of an ERIC?" below for further information).

An ERIC accords research infrastructures the capacity to set up joint undertakings or other structures necessary for research, technological development, and demonstration programmes. Like a limited liability company (such as a Swedish Aktiebolag), an ERIC is an international legal entity with legal personality and full legal capacity that is recognised in all EU Member States. In the same way that limited liability companies and other types of companies and organisations can enter into and execute agreements and other documents with legally binding effect, so too can an ERIC.

Consequently, the European Spallation Source ERIC ("ESS ERIC") will be liable for any debts and obligations, contractual or otherwise, which it may assume from time to time. In addition, the ESS ERIC is not immune from seizures of its assets in cases of forced recovery of debts nor does it have immunity from insolvency proceedings, which will in general be governed by Swedish law.

### **Will the transfer from ESS AB to ESS ERIC affect me as a supplier/contractor/business partner to ESS?**

No - your agreement/engagement with the European Spallation Source (ESS), together with all rights and obligations of both parties, will be transferred to ESS ERIC and the ESS ERIC will continue to fulfil ESS AB's obligations under that agreement. This means that your agreement will continue to be in force on unchanged terms, except with ESS ERIC as your formal counterparty. Any commerce with or deliveries to ESS under your agreement should, from the date set out in the notification of transfer of your agreement, be made with and/or addressed to ESS ERIC.

### **What laws and reporting obligations will apply to the ESS ERIC?**

ERICs are governed by Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (the "ERIC Regulation", found [here](#)). In addition to the ERIC Regulation, ERICs are governed by other such EU legislation applicable to all companies and organisations within the European Union. Further, with certain exceptions (e.g., in relation to procurement), the laws of Sweden will apply to ESS ERIC and its operation since the statutory seat of the ESS ERIC will be in Lund, Sweden (with the exception of the DMSC in Denmark).

The ESS ERIC will also be regulated by its own "Statutes", which have been agreed on by the Members of the ESS ERIC (similar to a company's Articles of Association (Sw. bolagsordning)).

# FAQ

## General Information about ESS ERIC



These Statutes have been approved by the European Commission and form part of the European Commission's Decision to establish the ESS ERIC. In addition to the general reporting obligations that apply to Swedish companies, the ESS ERIC will also report to the European Commission. An annual activity report, including accounting information, will be prepared and made public each year. However, the European Commission's role will be limited with respect to an ERIC and can only act if informed or requested by the members of the ERIC.

### **Who will own the ESS ERIC?**

ESS is a European project with, at present, 17 Partner Countries with Sweden and Denmark as host nations. In addition, more than 50 universities, research institutes, and laboratories from all over the world are taking part in the ESS collaboration. The ERIC will not be "owned" as such by a particular government or organisation. Rather, it will be formally comprised of Members and Observers. It is the intention of the ESS project that all 17 Partner Countries join the ESS ERIC as either a Member or Observer in due course. Furthermore, the ESS ERIC welcomes participation by any other state or organisation that can contribute to its work.

### **How will the ESS ERIC be governed?**

A Council will mainly govern the ESS ERIC, with delegates representing each Member. The delegates will comprise various committees and advise the Council on matters ranging from administrative and financial to scientific and technical issues. In addition, a Director General will be appointed by the Council and tasked with carrying out the day-to-day management of the ESS ERIC. The Director General will be the legal representative of the ESS ERIC.

### **What is the background and purpose of an ERIC?**

The European Spallation Source (ESS) was originally set up to operate as a Swedish limited liability company, European Spallation Source AB (Reg. No. 556792-4096). However, the ESS Partner Countries have agreed to manage ESS in a more appropriate form; namely, a "European Research Infrastructure Consortium" (ERIC), and to transfer the construction and operation of ESS to such a consortium.

The purpose of ERICs and the ERIC regulation is to assist in the joint establishment and operation of research facilities with European interest among several EU Member States and countries associated with the Community R&D Framework Programme, and to help further develop European policy for research infrastructures. ERICs address one of the major difficulties identified in the establishment of new European research infrastructures (apart from scarcity of resources and the complexity of technical and organisational issues), specifically, the lack of an adequate, consensual legal framework allowing the creation of an appropriate partnership with participants from different countries.

The ERIC provides such a framework, which offers the opportunity to drastically reduce the time necessary to authorise European Research Infrastructures by avoiding the repetition of project-by-project negotiations on the best legal form for an international research

# FAQ

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organisation and by avoiding discussions in the Members' respective national parliament each time approval is needed (i.e., for an international agreement).

Associated countries, third countries other than associated countries, and intergovernmental organisations may also be Members of an ERIC (see the ERIC Regulation for further details). An ERIC is not a European Agency or Body, but an international body or organisation in the sense of the directives on value-added tax and excise duties. It is also considered an international organisation within the meaning of the EU directive on public procurement, which means that the ERIC will follow its own procurement rules instead of the EU directives on public procurement.

For further information on the purpose of the ERIC regulation, please see the European Commission's webpages (found [here](#) and [here](#)).