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► **B** REGULATION (EC) No 294/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

establishing the European Institute of Innovation and Technology

(OJ L 97, 9.4.2008, p. 1)

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**REGULATION (EC) No 294/2008 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL**

**of 11 March 2008**

**establishing the European Institute of Innovation and Technology**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and  
in particular Article 157(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social  
Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the  
Treaty <sup>(3)</sup>,

Whereas:

- (1) The Lisbon Growth and Jobs Agenda underscores the need to develop conditions which are attractive to investment in knowledge and innovation in Europe in order to boost competitiveness, growth and jobs in the European Union.
- (2) Member States are primarily responsible for sustaining a strong European industrial, competitive and innovative base. However, the nature and scale of the innovation challenge in the European Union also require action to be taken at Community level.
- (3) The Community should provide support to foster innovation, in particular through the Seventh Framework Programme for Research, Technological Development and Demonstration Activities, the Competitiveness and Innovation Framework Programme, the Lifelong Learning Programme and the Structural Funds.
- (4) A new initiative at Community level, the European Institute of Innovation and Technology (hereinafter referred to as the EIT) should be established to complement existing Community and national policies and initiatives by fostering the integration of the knowledge triangle — higher education, research and innovation — across the European Union.
- (5) The European Council of 15 and 16 June 2006 invited the Commission to prepare a formal proposal for the establishment of the EIT to be presented in autumn 2006.

<sup>(1)</sup> OJ C 161, 13.7.2007, p. 28.

<sup>(2)</sup> OJ C 146, 30.6.2007, p. 27.

<sup>(3)</sup> Opinion of the European Parliament of 26 September 2007 (not yet published in the Official Journal), Council Common Position of 21 January 2008 (OJ C 52 E, 26.2.2008, p. 7) and position of the European Parliament of 11 March 2008 (not yet published in the Official Journal).

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- (6) The EIT should primarily have the objective of contributing to the development of the Community's and the Member States' innovation capacity, by involving higher education, research and innovation activities at the highest standards. In so doing, the EIT should facilitate and enhance networking and cooperation and create synergies between innovation communities in Europe.
- (7) The activities of the EIT should address strategic long-term challenges for innovation in Europe, particularly in trans- and/or inter-disciplinary areas including those already identified at European level. In so doing, the EIT should promote periodic dialogue with civil society.
- (8) The EIT should give priority to the transfer of its higher education, research and innovation activities to the business context and their commercial application, as well as to supporting the creation of start-ups, spin-offs and small and medium-sized enterprises (SMEs).
- (9) The EIT should primarily operate through excellence-driven, autonomous partnerships of higher education institutions, research organisations, companies and other stakeholders in the form of sustainable and long-term self-supporting strategic networks in the innovation process. These partnerships should be selected by the Governing Board of the EIT on the basis of a transparent and excellence-based process and designated as Knowledge and Innovation Communities (hereinafter referred to as KICs). The Governing Board should also steer the activities of the EIT and evaluate the activities of the KICs. Membership of the Governing Board should balance experience from the business and the higher education and/or research worlds as well as from the innovation sector.
- (10) In order to contribute to the competitiveness and to reinforce the international attractiveness of the European economy and its innovation capacity, the EIT and the KICs should be able to attract partner organisations, researchers and students from all over the world, including by encouraging their mobility, as well as to cooperate with third-country organisations.
- (11) Relations between the EIT and the KICs should be based on contractual agreements, which will set out the KICs' rights and obligations, ensure an adequate level of coordination and outline the mechanism for monitoring and evaluating KICs' activities and outcomes.

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- (12) There is a need to support higher education as an integral, but often missing, component of a comprehensive innovation strategy. The agreement between the EIT and KICs should provide that the degrees and diplomas awarded through the KICs should be awarded by participating higher education institutions, which should be encouraged to label them also as EIT degrees and diplomas. Through its activities and work, the EIT should help promote mobility within the European Research Area and the Higher Education Area as well as encourage the transferability of grants awarded to researchers and students in the context of the KICs. All these activities should be carried out without prejudice to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications<sup>(1)</sup>.
- (13) The EIT should establish clear and transparent guidelines for the management of intellectual property, which should foster the use of intellectual property under appropriate conditions. These guidelines should provide that due account is taken of the contributions to be made by the various partner organisations of the KICs, irrespective of their size. In the event of the activities being funded under the Community Framework Programmes for Research and Technological Development, the rules of those programmes should apply.
- (14) Appropriate provisions should be made to guarantee the liability and transparency of the EIT. Appropriate rules governing its functioning should be laid down in the Statutes of the EIT.
- (15) The EIT should possess legal personality and, in order to guarantee its functional autonomy and independence, it should administer its own budget whose revenue should include a contribution from the Community.
- (16) The EIT should seek to raise an increasing financial contribution from the private sector and from income generated by its own activities. Therefore, it is expected that industry, the finance and service sectors will contribute significantly to the budget of the EIT and, in particular, to the budget of the KICs. The KICs should aim at maximising the share of contributions from the private sector. The KICs and their partner organisations should publicise the fact that their activities are undertaken in the context of the EIT and that they receive a financial contribution from the general budget of the European Union.

<sup>(1)</sup> OJ L 255, 30.9.2005, p. 22. Directive as last amended by Commission Regulation (EC) No 1430/2007 (OJ L 320, 6.12.2007, p. 3).

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- (17) The Community contribution to the EIT should finance the costs arising from the establishment, administrative and coordination activities of the EIT and the KICs. In order to avoid double funding, these activities should not benefit simultaneously from a contribution from other Community programmes, such as the Framework Programme for Research, Technological Development and Demonstration Activities, the Competitiveness and Innovation Framework Programme, the Lifelong Learning Programme, or from the Structural Funds. Furthermore, in the event that a KIC or its partner organisations apply directly for Community assistance from these programmes or funds, their applications should be treated without any preference over other applications.
- (18) The Community budgetary procedure should be applicable as far as the Community subsidy and any other grants chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>.
- (19) This Regulation establishes a financial envelope for the period 2008 to 2013 which is to be the prime reference for the budgetary authority, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(2)</sup>.
- (20) The EIT is a body set up by the Communities within the meaning of Article 185(1) of Regulation (EC, Euratom) No 1605/2002 and should adopt its financial rules accordingly. Consequently Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 <sup>(3)</sup> should apply to the EIT.
- (21) The EIT should produce an annual report, outlining the activities conducted in the preceding calendar year and a rolling triennial work programme outlining its planned initiatives and allowing the EIT to respond to internal and external developments in the fields of science, technology, higher education, innovation and other relevant areas. These documents should be transmitted to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions for information. The European Parliament, the Council and the Commission should be entitled to present an opinion on the draft of the EIT's first triennial work programme.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

<sup>(2)</sup> OJ C 139, 14.6.2006, p. 1. Interinstitutional Agreement as amended by Decision 2008/29/EC of the European Parliament and of the Council (OJ L 6, 10.1.2008, p. 7).

<sup>(3)</sup> OJ L 357, 31.12.2002, p. 72.

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- (22) The strategic, long-term priority fields and financial needs for the EIT for a period of seven years should be laid down in a Strategic Innovation Agenda (hereinafter referred to as SIA). Given the importance of the SIA for the Community innovation policy and the resulting political significance of its socio-economic impact for the Community the SIA should be adopted by the European Parliament and the Council on the basis of a Commission proposal prepared on the basis of a draft provided by the EIT.
- (23) It is appropriate that the Commission initiate an independent, external evaluation of the operation of the EIT, in particular with a view to preparing the SIA. Where appropriate, the Commission should make proposals to amend this Regulation.
- (24) It is appropriate to pursue a gradual, phased implementation of the EIT in view of its long-term development. An initial phase with a limited number of KICs is needed in order to evaluate properly the functioning of the EIT and the KICs and, where necessary, to introduce improvements. Within a period of 18 months from its creation, the Governing Board should select two or three KICs in areas that help the European Union to face current and future challenges, which could include such fields as climate change, renewable energy and the next generation of information and communication technologies. The selection and designation of further KICs should be enabled after the adoption of the first SIA, which, in order to address the long-term perspective, should also include detailed modalities on the operation of the EIT.
- (25) Since the objective of the action to be taken, namely to establish the EIT, cannot be sufficiently achieved by the Member States and can therefore, for reasons of scale and transnationality, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

*Article 1***Subject matter**

A European Institute of Innovation and Technology (hereinafter referred to as the EIT) is hereby established.

*Article 2***Definitions**

For the purpose of this Regulation, the following definitions shall apply:

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1. ‘innovation’ means the process, including its outcome, by which new ideas respond to societal or economic needs and demand and generate new products, services or business and organisational models that are successfully introduced into an existing market or that are able to create new markets and that provide value to society;
2. ‘Knowledge and Innovation Community’ (KIC) means an autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network, regardless of its precise legal form, based on joint mid- to long-term innovation planning to meet the EIT challenges and contribute to attaining the objectives established under Regulation (EU) No 1291/2013 of the European Parliament and of the Council <sup>(1)</sup> (‘Horizon 2020’);
3. ‘co-location centre’ means a geographical area where the main knowledge triangle partners are based and can easily interact, providing the focal point for the KICs’ activity in that area;

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5. ‘partner organisation’ means any organisation which is a member of a KIC and may include, in particular, higher education institutions, research organisations, public or private companies, financial institutions, regional and local authorities, foundations and non-profit organisations;

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6. ‘research organisation’ means any public or private legal entity which undertakes research or technological development as one of its main objectives;
7. ‘higher education institution’ means a university or any type of higher education institution which, in accordance with national legislation or practice, offers degrees and diplomas at masters or doctoral level, irrespective of its denomination in the national context;
8. ‘degrees and diplomas’ means qualifications resulting in masters or doctorates awarded by participating higher education institutions in the context of higher education activities undertaken in a KIC;

**▼ M1**

9. ‘Strategic Innovation Agenda’ (SIA) means a policy document outlining the priority fields and the long-term strategy of the EIT for future initiatives, including an overview of planned higher education, research and innovation activities over a period of seven years;

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<sup>(1)</sup> Regulation (EU) No 1291/2013 of 11 December 2013 of the European Parliament and of the Council establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

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- 9a. ‘Regional Innovation Scheme’ (RIS) means an outreach scheme targeted at partnerships between higher education institutions, research organisations, companies and other stakeholders, in order to foster innovation across the Union;
10. ‘Stakeholder Forum’ means a platform open to representatives of national, regional and local authorities, organised interests and individual entities from business, higher education, research, associations, civil society and cluster organisations, as well as other interested parties from across the knowledge triangle;
11. ‘KIC added-value activities’ means activities carried out by partner organisations or KIC legal entities, if applicable, contributing to the integration of the knowledge triangle of higher education, research and innovation, including the establishment, administrative and coordination activities of the KICs, and contributing to the overall objectives of the EIT.

*Article 3***Mission and Objectives**

The EIT’s mission is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the Union in order to address major challenges faced by European society. It shall do this by promoting synergies and cooperation among, and integrating, higher education, research and innovation of the highest standards, including by fostering entrepreneurship.

The EIT’ General Objectives, Specific Objectives and result indicators for the period from 2014 to 2020 are defined in Horizon 2020.

**▼ B***Article 4***EIT bodies**

1. The bodies of the EIT shall be:

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- (a) a Governing Board composed of high-level members experienced in higher education, research, innovation and business. It shall be responsible for steering the activities of the EIT, for the selection, designation and evaluation of the KICs, and for all other strategic decisions. It shall be assisted by an Executive Committee;

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- (c) a Director, appointed by the Governing Board, who shall be responsible to the Governing Board for the administrative and financial management of the EIT and shall be the legal representative of the EIT;



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(d) an Internal Auditing Function which shall advise the Governing Board and the Director on financial and administrative management and control structures within the EIT, on the organisation of financial links with KICs and on any other subject requested by the Governing Board.

2. The Commission may appoint observers to take part in the meetings of the Governing Board.

3. The detailed provisions regarding the EIT bodies are set out in the Statutes of the EIT, annexed to this Regulation.

*Article 5***Tasks**

1. In order to achieve its objective, the EIT shall:

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(a) identify, in accordance with the SIA, its main priorities and activities;

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(b) raise awareness among potential partner organisations and encourage their participation in its activities;

**▼ M1**

(c) select and designate KICs in the priority fields in accordance with Article 7 and define their rights and obligations by agreement, provide them with appropriate support, apply appropriate quality control measures, continuously monitor and periodically evaluate their activities, ensure an appropriate level of coordination and facilitate communication and thematic cooperation between the KICs;

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(d) mobilise funds from public and private sources and use its resources in accordance with this Regulation. It shall in particular seek to raise a significant and increasing proportion of its budget from private sources and from income generated by its own activities;

(e) encourage the recognition in the Member States of degrees and diplomas which are awarded by higher education institutions that are partner organisations and which may be labelled EIT degrees and diplomas;

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(f) promote the dissemination of best practices for the integration of the knowledge triangle, including among KICs, in order to develop a common innovation and knowledge transfer culture, and encourage participation in outreach activities, including in the RIS;

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(g) seek to become a world class body for excellence in higher education, research and innovation;

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- (h) promote multidisciplinary approaches to innovation, including the integration of technological, social and non-technological solutions, organisational approaches and new business models;
- (i) ensure complementarity and synergy between EIT activities and other Union programmes, where appropriate;
- (j) promote the KICs as excellent innovation partners inside and outside the Union;
- (k) establish a Stakeholder Forum to inform about the activities of the EIT, its experiences, best practices and contribution to Union innovation, research and education policies and objectives and to allow stakeholders to express their views. A meeting of the Stakeholder Forum shall be convened at least once a year. Member States' representatives shall meet in a special configuration, within the meeting of the Stakeholder Forum, to ensure appropriate communication and flow of information with the EIT, and be informed of the achievements of, give advice to, and share experiences with, the EIT and the KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall also ensure appropriate synergies and complementarities between EIT and KIC activities with national programmes and initiatives, including the potential national co-financing of KIC activities.

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2. The EIT shall have power to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT.

*Article 6***KICs**

1. KICs shall undertake in particular:
  - (a) innovation activities and investments with European added value, fully integrating the higher education and research dimensions to attain a critical mass and stimulating the dissemination and exploitation of results;

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- (b) cutting-edge and innovation-driven research in areas of key economic and societal interest and drawing on the results of European and national research, with the potential to strengthen Europe's competitiveness at international level and find solutions for the major challenges faced by European society;

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- (c) education and training activities at masters and doctoral level, as well as professional training courses, in disciplines with the potential to meet future European socio-economic needs and which expand the Union's talent base, promote the development of innovation-related skills, the improvement of managerial and entrepreneurial skills and the mobility of researchers and students, and foster knowledge-sharing, mentoring and networking among the recipients of EIT-labelled degrees and training;
- (d) outreach activities and the dissemination of best practices in the innovation sector with a focus on the development of cooperation between higher education, research and business, including the service and financial sectors;
- (e) to seek synergies and complementarities between KIC activities and existing European, national and regional programmes, where appropriate.

2. KICs shall have substantial overall autonomy to define their internal organisation and composition, as well as their precise agenda and working methods. In particular, KICs shall:

- (a) establish governance arrangements which reflect the knowledge triangle of higher education, research and innovation;
- (b) aim to be open to new members whenever they add value to the partnership;
- (c) function in an open and transparent way, in accordance with their internal rules;
- (d) establish business plans with objectives and key performance indicators;
- (e) develop strategies for financial sustainability.

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3. The relationship between the EIT and each KIC shall be based on a contractual agreement.

*Article 7***Selection of KICs****▼ M1**

1. A partnership shall be selected and designated by the EIT to become a KIC following a competitive, open and transparent procedure. Detailed criteria for the selection of the KICs, based on the principles of excellence and innovation relevance, shall be adopted and published by the EIT. External and independent experts shall be involved in the selection process.

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- 1a. The EIT shall launch the selection and designation of KICs according to the priority fields and time schedule defined in the SIA.
2. In accordance with the principles enshrined in paragraph 1, the selection criteria for the designation of a KIC shall, inter alia, include:
- (a) the current and potential innovation capacity, including entrepreneurship, within the partnership as well as its excellence in higher education, research and innovation;
  - (b) the partnership's capacity to achieve the goals of the SIA and thereby contribute to the general objective and priorities of Horizon 2020;
  - (c) a multidisciplinary approach to innovation, including the integration of technological, social and non-technological solutions;
  - (d) the partnership's capacity to ensure sustainable and long-term self-supporting financing, including a substantial and increasing contribution from the private sector, industry and services;
  - (e) an appropriately balanced participation in the partnership of organisations active in the knowledge triangle of higher education, research and innovation;
  - (f) the demonstration of a plan for the management of intellectual property appropriate to the sector concerned, including the way in which contributions from the various partner organisations have been taken into account;
  - (g) measures to support the involvement of, and cooperation with, the private sector, including the financial sector and in particular SMEs, as well as the creation of start-ups, spin-offs and SMEs, with a view to the commercial exploitation of the results of the activities of KICs;
  - (h) readiness to establish concrete measures to interact and cooperate with the public and third sectors, as appropriate;
  - (i) readiness to interact with other organisations and networks outside the KIC with the aim of sharing best practices and excellence;
  - (j) readiness to establish concrete proposals for synergies with Union and other relevant initiatives.

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3. The minimum condition to form a KIC is the participation of at least three partner organisations, established in at least three different Member States. All such partner organisations must be independent of each other, within the meaning of Article 8 of Regulation (EU) No 1290/2013 of the European Parliament and of the Council <sup>(1)</sup>.

4. In addition to the condition set out in paragraph 3, at least two thirds of the partner organisations forming a KIC shall be established in the Member States. At least one higher education institution and one private company shall be part of each KIC.

5. The EIT shall adopt and publish criteria and procedures for financing, monitoring and evaluating the activities of the KICs prior to the launching of the selection procedure for new KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall be promptly informed of them.

*Article 7a***Principles for the evaluation and monitoring of KICs**

The EIT shall, on the basis of key performance indicators set out, inter alia, in Regulation (EU) No 1291/2013 and in the SIA, and in cooperation with the Commission, organise continuous monitoring and periodic external evaluations of the output, results and impact of each KIC. The results of such monitoring and evaluations shall be reported to the European Parliament and to the Council and shall be made public.

*Article 7b***Duration, continuation and termination of a KIC**

1. Subject to the outcome of the continuous monitoring and periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of seven to fifteen years.

2. The EIT may establish a framework partnership agreement with a KIC for an initial period of seven years.

3. The Governing Board may decide to extend the framework partnership agreement with a KIC beyond the period initially set, within the limits of the financial envelope referred to in Article 19, if this is the most appropriate way to achieve the objectives of the EIT.

4. In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures, including the reduction, modification or withdrawal of its financial support or the termination of the agreement.

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<sup>(1)</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

**▼B***Article 8***Degrees and diplomas**

1. Degrees and diplomas relating to the higher education activities referred to in Article 6(1)(c) shall be awarded by participating higher education institutions in accordance with national rules and accreditation procedures. The agreement between the EIT and the KICs shall provide that these degrees and diplomas may also be labelled EIT degrees and diplomas.
2. The EIT shall encourage participating higher education institutions to:
  - (a) award joint or multiple degrees and diplomas, reflecting the integrated nature of the KICs. However, these may also be awarded by a single higher education institution;

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- (aa) disseminate best practices on horizontal issues;

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- (b) take into account:
  - (i) Community action undertaken in accordance with Articles 149 and 150 of the Treaty;
  - (ii) action undertaken in the context of the European Higher Education Area.

*Article 9***Independence of the EIT and consistency with Community, Member State or intergovernmental action**

1. The EIT shall carry out its activities independently of national authorities and external pressures.
2. The activity of the EIT shall be consistent with other action and instruments to be implemented at Community level, in particular in the fields of higher education, research and innovation.
3. The EIT shall also take appropriate account of policies and initiatives at regional, national and intergovernmental levels in order to make use of best practices, well established concepts and existing resources.

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**▼B***Article 11***Legal status**

1. The EIT shall be a Community body and shall have legal personality. In each of the Member States, it shall enjoy the widest possible legal capacity accorded to legal persons under national legislation. In particular, it may acquire or dispose of movable and immovable property and be a party to legal proceedings.

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2. The Protocol on the Privileges and Immunities of the European Communities shall apply to the EIT.

*Article 12***Liability**

1. The EIT shall be solely responsible for meeting its obligations.
2. The contractual liability of the EIT shall be governed by the relevant contractual provisions and the law applicable to the contract in question. The Court of Justice shall have jurisdiction pursuant to any arbitration clause contained in a contract concluded by the EIT.
3. In the case of non-contractual liability, the EIT shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in any dispute relating to compensation for such damage.

4. Any payment by the EIT for covering the liability referred to in paragraphs 2 and 3 and the costs and expenses incurred in connection therewith shall be considered expenditure of the EIT and shall be covered by the resources of the EIT.
5. The Court of Justice shall have jurisdiction in actions brought against the EIT under the conditions provided for in Articles 230 and 232 of the Treaty.

*Article 13***Transparency and access to documents**

1. The EIT shall ensure that its activities are conducted with a high level of transparency. In particular, the EIT shall set up an accessible, free website providing information about the activities of the EIT and individual KICs.

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2. The EIT shall make public its rules of procedure, its specific financial rules referred to in Article 21(1) and the detailed criteria for the selection of the KICs referred to in Article 7 before issuing calls for proposals for the selection of the KICs.

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3. The EIT shall make public without delay its rolling triennial work programme and annual activity report referred to in Article 15.
4. Without prejudice to paragraphs 5 and 6, the EIT shall not divulge to third parties confidential information it has received for which confidential treatment has been requested and is justified.
5. The members of the EIT bodies shall be subject to the confidentiality requirement referred to in Article 287 of the Treaty.

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The information gathered by the EIT in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(1)</sup>.

6. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents <sup>(2)</sup> shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying that Regulation no later than six months after the EIT has been set up.

7. Official documents and publications of the EIT shall be translated in accordance with the Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community <sup>(3)</sup>. The required translation services shall be provided by the Translation Centre for bodies of the European Union, set up by Council Regulation (EC) No 2965/1994 <sup>(4)</sup>.

*Article 14***Financial resources**

1. The EIT shall be financed through a contribution from the general budget of the European Union within the financial envelope as set out in Article 19 and other private and public sources.

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2. The KICs shall be financed, in particular, from the following sources:

- (a) contributions from partner organisations, forming a substantial source of funding;
- (b) voluntary contributions from Member States, third countries or public authorities within them;
- (c) contributions from international bodies or institutions;
- (d) revenue generated by the KICs' own assets and activities and royalties from intellectual property rights;
- (e) capital endowments, including those managed by the EIT Foundation;

<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(2)</sup> OJ L 145, 31.5.2001, p. 43.

<sup>(3)</sup> OJ 17, 6.10.1958, p. 385/58. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(4)</sup> OJ L 314, 7.12.1994, p. 1. Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).



**▼ M1**

- (f) bequests, donations and contributions from individuals, institutions, foundations or any other national bodies;
- (g) the contribution from the EIT;
- (h) financial instruments, including those funded from the general budget of the Union.

Contributions may include contributions in kind.

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- 3. The modalities for accessing funding from the EIT shall be defined in the financial rules of the EIT referred to in Article 21(1).

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- 4. The EIT contribution to the KICs may cover up to 100 % of the total eligible costs of KIC added-value activities.

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- 5. The KICs or their partner organisations may apply for Community assistance, in particular in the framework of Community programmes and funds, in accordance with their respective rules and on an equal footing with other applications. In that case, such assistance shall not be attributed for activities already funded through the general budget of the European Union.

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- 6. The EIT contribution shall not, on average, exceed 25 % of a KIC's overall funding.

- 7. The EIT shall establish a competitive review mechanism for allocating an appropriate share of its financial contribution to the KICs. It shall include assessing the KICs' business plans and performance as measured by continuous monitoring.

### *Article 15*

#### **Programming and reporting**

- 1. The EIT shall adopt a rolling triennial work programme, based on the SIA, once it is adopted, containing a statement of the major priorities and planned initiatives of the EIT and the KICs, including an estimate of financing needs and sources. It shall also contain appropriate indicators for monitoring the KICs and EIT activities using a results-oriented approach. The preliminary rolling triennial work programme shall be submitted by the EIT to the Commission by 31 December of the year which ends two years before the entry into force of the triennial work programme in question (year N - 2).

**▼ M1**

The Commission shall deliver an opinion on EIT specific objectives as defined in Horizon 2020 and its complementarities with Union policies and instruments within three months of the submission of the work programme. The EIT shall take due account of the Commission opinion and, in the event of disagreement, justify its position. The final work programme shall be transmitted by the EIT to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee of the Regions for information. Upon request, the Director shall present the final work programme to the committee responsible of the European Parliament.

2. The EIT shall adopt an annual report by 30 June each year. The report shall outline the activities conducted by the EIT and the KICs during the preceding calendar year and assess the results with respect to the objectives, indicators and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT. The EIT shall transmit the annual report to the European Parliament and the Council and inform them of the activities of the EIT, its contribution to Horizon 2020 and to the Union innovation, research and education policies and objectives at least once a year.

**▼ B***Article 16***Monitoring and evaluation of the EIT**

1. The EIT shall ensure that its activities, including those managed through KICs, shall be subject to continuous and systematic monitoring and periodic independent evaluation, to ensure both the highest quality of outcome, scientific excellence and the most efficient use of resources. The outcomes of the evaluations shall be made public.

2. By June 2011 and every ► **M1** three ◀ years after the entry into force of a new financial framework, the Commission shall provide for an evaluation of the EIT. This shall be based on an independent external evaluation and shall examine how the EIT fulfils its mission. It shall cover all activities of the EIT and the KICs and shall assess the added value of the EIT, the impact, effectiveness, sustainability, efficiency and relevance of the activities pursued and their relationship and/or complementarity with existing national and Community policies, to support higher education, research and innovation. It shall take into account the views of stakeholders, at both European and national level.

**▼ M1**

2a. The Commission may carry out further evaluations of themes or topics of strategic relevance, with the assistance of independent experts, to examine the progress made by the EIT towards the objectives set, identify the factors contributing to the implementation of the activities and identify best practices. In so doing, the Commission shall fully consider the administrative impact on the EIT and the KICs.

**▼B**

3. The Commission shall forward the results of the evaluation, together with its own opinion and, where appropriate, any proposals to amend this Regulation, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

*Article 17***SIA**

1. By 30 June 2011 at the latest and every seven years thereafter, the EIT shall prepare a seven-year draft SIA and submit it to the Commission.

**▼M1**

2. The SIA shall define the priority fields and the long-term strategy for the EIT and shall include an assessment of its socioeconomic impact and its capacity to generate the best innovation added-value. The SIA shall take into account the results of the monitoring and evaluation of the EIT as referred to in Article 16.

2a. The SIA shall include an analysis of potential and appropriate synergies and complementarities between EIT activities and other Union initiatives, instruments and programmes.

**▼B**

3. The SIA shall include an estimate of financial needs and sources in view of the future operation, long-term development and funding of the EIT. It shall also contain an indicative financial plan covering the period of the financial framework.

**▼M1**

4. Acting on a proposal from the Commission, the European Parliament and the Council shall adopt the SIA in accordance with Article 173(3) of the Treaty on the Functioning of the European Union.

**▼B***Article 18***Initial phase**

1. Within 12 months after its creation, the Governing Board shall submit the draft of the first rolling triennial work programme, referred to in Article 15(a), to the European Parliament, the Council and the Commission. The European Parliament, the Council and the Commission may each address an opinion to the Governing Board on any subject covered in draft within three months of the day on which they received it. Where such opinions are addressed to it, the Governing Board shall reply within a period of three months, indicating any adjustments in the priorities and planned activities.

**▼B**

2. Within a period of 18 months from the date of creation of the Governing Board, the EIT shall select and designate two or three KICs in accordance with the criteria and procedures set out in Article 7.

3. The Commission shall submit the proposal for the first SIA, on the basis of the draft provided by the EIT, to the European Parliament and the Council before the end of 2011.

In addition to the content of a SIA in accordance with Article 17, the first SIA shall include:

- (a) detailed specifications and terms of reference concerning the operation of the EIT;
- (b) the modalities for cooperation between the Governing Board and the KICs;
- (c) modalities of the funding of the KICs.

4. After the adoption of the first SIA in accordance with Article 17(4), the Governing Board may select and designate additional KICs pursuant to the provisions of Articles 6 and 7.

**▼M1***Article 19***Budgetary commitments**

1. The financial envelope from Horizon 2020 for the implementation of this Regulation during the period from 1 January 2014 to 31 December 2020 is set at EUR 2 711,4 million in current prices.

2. That amount shall constitute the prime reference for the European Parliament and the Council during the budgetary procedure, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management <sup>(1)</sup>.

3. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the financial framework. The EIT financial contribution to the KICs shall be provided under this financial envelope.

**▼B***Article 20***Preparation and adoption of the annual budget**

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses. Administrative expenditure shall be kept to a minimum.

2. The financial year shall correspond to the calendar year.

3. The Director shall draw up an estimate of the revenue and expenditure of the EIT for the following financial year and shall forward it to the Governing Board.

<sup>(1)</sup> OJ C 373, 20.12.2013, p. 1.

**▼B**

4. Revenue and expenditure shall be in balance.

**▼M1**

5. The Governing Board shall adopt the draft estimate, accompanied by a draft establishment plan and the preliminary rolling triennial work programme and forward them to the Commission by 31 December of the year N - 2.

6. On the basis of the estimate, the Commission shall enter in the draft general budget of the Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget.

**▼B**

7. The budgetary authority shall authorise the appropriations for the subsidy to the EIT.

8. The Governing Board shall adopt the EIT budget, which shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

9. The Governing Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the EIT budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

10. Any substantial modification of the budget shall follow the same procedure.

*Article 21***Implementation and control of the budget**

1. The EIT shall adopt its financial rules in accordance with Article 185(1) of Regulation (EC, Euratom) No 1605/2002. These may not depart from Regulation (EC, Euratom) No 2343/2002 except where the EIT's specific operating needs so require and with the Commission's prior consent. Due account shall be given to the need for adequate operational flexibility in order to enable the EIT to achieve its objectives and attract and retain private sector partners.

**▼M1**

1a. The financial contribution to the EIT shall be implemented in accordance with Regulation (EU) No 1290/2013 and with Regulation (EU) No 1291/2013.

**▼B**

2. The Director shall implement the budget of the EIT.

**▼B**

3. The accounts of the EIT shall be consolidated with the Commission's accounts.

**▼M1**

4. Upon a recommendation from the Council, the European Parliament shall, before 15 May of the year N + 2, give a discharge for the year N to the Director in respect of the implementation of the EIT budget.

**▼B***Article 22***Protection of the financial interests of the Community**

1. With a view to combating fraud, corruption and other illegal acts, Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) <sup>(1)</sup> shall apply to the EIT in its entirety.

2. The EIT shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) <sup>(2)</sup>. The Governing Board shall formalise this accession and adopt the necessary measures to help OLAF carry out internal investigations.

3. All decisions adopted and contracts concluded by the EIT shall provide explicitly that OLAF and the Court of Auditors may carry out on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.

**▼M1***Article 22a***Winding up of the EIT**

In the event of the EIT being wound up, its liquidation shall take place under the supervision of the Commission in accordance with the applicable laws. The agreements with the KICs and the act establishing the EIT Foundation shall lay down the appropriate provisions in such situation.

**▼B***Article 23***Statutes**

The Statutes of the EIT, as set out in the Annex, are hereby adopted.

*Article 24***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

<sup>(1)</sup> OJ L 136, 31.5.1999, p. 1.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 15.

▼ M1

## ANNEX

**Statutes of the European Institute of Innovation and Technology**

## SECTION 1

**COMPOSITION OF THE GOVERNING BOARD**

1. The Governing Board shall consist both of appointed and of representative members.
2. There shall be 12 appointed members, appointed by the Commission, providing a balance between those with experience in business, higher education and research. They shall have a four-year non-renewable term of office.

Whenever necessary, the Governing Board shall submit to the Commission a proposal for appointment of a new member(s). The candidate(s) shall be chosen on the basis of the outcome of a transparent and open procedure, involving consultation with stakeholders.

The Commission shall have regard to the balance between higher education, research, innovation and business experience as well as to gender and geographical balance and an appreciation of the higher education, research and innovation environment across the Union.

The Commission shall appoint the member(s) and inform the European Parliament and the Council of the selection process and of the final appointment of those members of the Governing Board.

In the event that an appointed member is unable to complete his/her term of office, a substitute member shall be appointed by the same procedure as the incapacitated member in order to complete the latter's term of office. A substitute member who has served for a period of less than two years may be re-appointed by the Commission for an additional period of four years at the request of the Governing Board.

During a transitional period, the Board members initially appointed for a six-year period shall complete their term of office. Until that time there shall be 18 appointed members. Within six months of entry into force of this Regulation, one third of the twelve members appointed in 2012 shall be chosen by the Governing Board with the Commission's approval to serve for a two-year period, one third for a four-year period and one third for a six-year period.

In exceptional and duly justified circumstances, in order to maintain the integrity of the Governing Board, the Commission may, at its own initiative, terminate the term of office of a member of the Board.

3. There shall be three representative members elected by the KICs from among their partner organisations. They shall have a two-year term of office, renewable once. Their term of office shall cease if they leave the KIC.

The conditions and procedures for the election and replacement of the representative members shall be adopted by the Governing Board on the basis of a proposal from the Director. This mechanism shall ensure an appropriate representation of diversity and shall take into account the evolution of the KICs.

During a transitional period, the representative members initially elected for a three-year period shall complete their term of office. Until that time there shall be four representative members.

4. The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity, autonomy and coherence, in an independent and transparent way.

▼ **M1**

## SECTION 2

**RESPONSIBILITIES OF THE GOVERNING BOARD**

The Governing Board shall take necessary strategic decisions, in particular:

- (a) adopt the EIT's draft Strategic Innovation Agenda (SIA), triennial rolling work programme, budget, annual accounts and balance sheet and annual activity report, on the basis of a proposal from the Director;
- (b) adopt criteria and procedures for financing, monitoring and evaluating the activities of the KICs, on the basis of a proposal from the Director;
- (c) adopt the selection procedure of the KICs;
- (d) select and designate a partnership as a KIC or withdraw the designation where appropriate;
- (e) ensure the continuing evaluation of the activities of the KICs;
- (f) adopt its rules of procedure, those for the Executive Committee, as well as the specific financial rules of the EIT;
- (g) define, with the Commission's agreement, appropriate fees for members of the Governing Board and of the Executive Committee; such fees shall be benchmarked against similar remuneration in the Member States;
- (h) adopt a procedure for selecting the Executive Committee and the Director;
- (i) appoint and if necessary dismiss the Director, and exercise disciplinary authority over him/her;
- (j) appoint the Accounting Officer and the members of the Executive Committee;
- (k) adopt a code of good conduct regarding conflicts of interest;
- (l) establish, where appropriate, advisory groups which may have a defined duration;
- (m) set up an Internal Auditing Function in accordance with Commission Regulation (EC, Euratom) No 2343/2002 <sup>(1)</sup>;
- (n) be empowered to establish a Foundation with the specific objective of promoting and supporting the activities of the EIT;
- (o) decide on the language policy of the EIT, taking into account existing principles on multilingualism and the practical requirements of its operations;
- (p) promote the EIT globally, so as to raise its attractiveness and make it a world-class body for excellence in higher education, research and innovation.

## SECTION 3

**FUNCTIONING OF THE GOVERNING BOARD**

1. The Governing Board shall elect its Chairperson from among the appointed members. The term of office of the Chairperson shall be two years, renewable once.
2. Without prejudice to paragraph 3, the Governing Board shall adopt decisions by simple majority of members having a right to vote.

<sup>(1)</sup> Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 72).



**▼ M1**

However, decisions under points (a), (b), (c), (i) and (o) of Section 2, and under paragraph 1 of this Section shall require a majority of two thirds of its members having the right to vote.

3. The representative members may not vote on decisions under points (b), (c), (d), (e), (f), (g), (i), (j), (k), (o) and (p) of Section 2.
4. The Governing Board shall meet in ordinary session at least three times a year and in extraordinary session when convened by its Chairperson or at the request of at least one third of all its members.
5. The Governing Board shall be assisted by the Executive Committee. The Executive Committee shall consist of three appointed members and the Chairperson of the Governing Board, who shall also chair the Executive Committee. The three members other than the Chairperson shall be chosen by the Governing Board from among the Governing Board's appointed members. The Governing Board may delegate specific tasks to the Executive Committee.

## SECTION 4

**THE DIRECTOR**

1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. The Director shall be appointed by the Governing Board for a term of office of four years. The Governing Board may extend that term of office once by a four-year period when it considers that the interests of the EIT are best served by so doing.
2. The Director shall be responsible for operations and for the day-to-day management of the EIT and shall be its legal representative. The Director shall be accountable to the Governing Board and report to it on an ongoing basis on the development of the EIT activities.
3. The Director shall in particular:
  - (a) organise and manage the activities of the EIT;
  - (b) support the Governing Board and the Executive Committee in their work, provide the secretariat for their meetings and supply all information necessary for the performance of their duties;
  - (c) prepare a draft SIA, a preliminary rolling triennial work programme, the draft annual report and the draft annual budget for submission to the Governing Board;
  - (d) prepare and administer the KICs selection process and ensure that the various stages of that process are carried out in a transparent and objective manner;
  - (e) prepare, negotiate and conclude contractual agreements with the KICs;
  - (f) organise the Stakeholder Forum, including the special configuration of Member States' representatives;
  - (g) ensure the implementation of effective monitoring and evaluation procedures relating to the performance of the EIT in accordance with Article 16 of this Regulation;
  - (h) be responsible for administrative and financial matters, including the implementation of the EIT budget, taking due account of advice received from the Internal Auditing Function;
  - (i) be responsible for all staff matters;
  - (j) submit the draft annual accounts and balance sheet to the Internal Auditing Function, and subsequently to the Governing Board, through the Executive Committee;

**▼M1**

- (k) ensure that the obligations of the EIT with regard to the contracts and agreements it has concluded are met;
- (l) ensure effective communication with the Union's institutions;
- (m) act in the interests of the EIT, safeguarding its goals and mission, identity, autonomy and coherence, in an independent and transparent way.

## SECTION 5

**STAFF OF THE EIT**

1. The staff of the EIT shall consist of personnel employed directly by the EIT under fixed-term contracts. The conditions of employment of other servants of the European Union shall apply to the Director and the staff of the EIT.
2. Experts may be seconded to the EIT for a limited period. The Governing Board shall adopt provisions enabling seconded experts to work at the EIT and defining their rights and responsibilities.
3. The EIT shall exercise, with regard to its staff, the powers which are devolved to the authority authorised to conclude contracts with its staff.
4. A member of staff may be required to make good, in whole or in part, any damage suffered by the EIT as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.