

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT EUROPEAN RESEARCH  
INFRASTRUCTURE CONSORTIUM  
(AMENDMENT) (EU EXIT) REGULATIONS 2018

*Monday 3 December 2018*

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**The Committee consisted of the following Members:**

*Chair:* MR VIRENDRA SHARMA

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|--|---|
| † Charalambous, Bambos ( <i>Enfield, Southgate</i> ) (Lab)                         | † Mann, John ( <i>Bassetlaw</i> ) (Lab)                         |
| † Cunningham, Mr Jim ( <i>Coventry South</i> ) (Lab)                               | † O'Brien, Neil ( <i>Harborough</i> ) (Con)                     |
| † Eagle, Ms Angela ( <i>Wallasey</i> ) (Lab)                                       | † Onwurah, Chi ( <i>Newcastle upon Tyne Central</i> ) (Lab)     |
| † Harper, Mr Mark ( <i>Forest of Dean</i> ) (Con)                                  | † Perkins, Toby ( <i>Chesterfield</i> ) (Lab)                   |
| † Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> )           | † Perry, Claire ( <i>Minister for Energy and Clean Growth</i> ) |
| † Jayawardena, Mr Ranil ( <i>North East Hampshire</i> ) (Con)                      | † Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)                    |
| † Latham, Mrs Pauline ( <i>Mid Derbyshire</i> ) (Con)                              | † Smith, Royston ( <i>Southampton, Itchen</i> ) (Con)           |
| † Letwin, Sir Oliver ( <i>West Dorset</i> ) (Con)                                  | † Umunna, Chuka ( <i>Streatham</i> ) (Lab)                      |
| † McDonald, Stuart C. ( <i>Cumbernauld, Kilsyth and Kirkintilloch East</i> ) (SNP) |   |

Dominic Stockbridge, *Committee Clerk*

† **attended the Committee**

# First Delegated Legislation Committee

Monday 3 December 2018

[MR VIRENDRA SHARMA *in the Chair*]

## Draft European Research Infrastructure Consortium (Amendment) (EU Exit) Regulations 2018

4.30 pm

**The Minister for Energy and Clean Growth (Claire Perry):** I beg to move,

That the Committee has considered the draft European Research Infrastructure Consortium (Amendment) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Sharma. We are discussing what I will refer to as ERICs, as opposed to Ernies. European research infrastructure consortia are bodies set up to support major international science and research collaboration within the European Union, and they provide a legal structure enabling countries and organisations to work together to tackle international research challenges. They are primarily funded through ERIC member contributions, not the EU budget, and they are expected to last for many years, often having lifetimes of decades. Crucially, any country can be a member of an ERIC, and as the consortia are not funded through an EU budget, there is no requirement to contribute to an EU budget to receive funding into an ERIC structure.

The UK is a long-standing member of the ERIC structure. We host two ERICs—the European social survey based at City, University of London, and Instruct, an ERIC looking at integrated structural biology based at the University of Oxford—and we are a member of 12 consortia. By the end of last year we had contributed roughly £64 million to the structure. Our total annual contribution is approximately £1.6 million a year, which does not include our financial contributions to the European spallation source ERIC, a large consortium to which we have contributed £165 million so far.

The projects are extremely important. They feed into research communities right across the UK, including in marine sciences, astrophysics, human health, welfare and societal changes, and they provide world-class collaboration for our world-leading scientists. For example, the integrated structural biology ERIC gives the UK scientists working within the scheme access to a flagship nanotechnology facility in Belgium—technology that we do not have access to domestically.

The draft regulations make technical and drafting amendments designed to facilitate our ongoing participation in ERICs, regardless of the outcome of our negotiations with the EU. Participation in an ERIC is open to any country; as such, there is no legal reason why the UK could not continue to participate in the projects. However, we would need to satisfy the requirement for third-country membership, and the instrument before us addresses deficiencies in the retained EU ERIC regulation—the legal framework for the creation and operation of the consortia—that will arise as a result of the United Kingdom's exit from the EU.

The instrument does not implement new policy; it enables us to participate, should we wish to, in the future. For example, the instrument removes provisions that are for the European Commission to enforce, such as when an ERIC changes its statutes. Additionally, provisions that relate to Commission activities, such as the production of annual activity reports by ERICs, are also removed. The amended regulations will ensure that ERICs continue to have the same attributes, such as legal personality, as they have under the ERIC regulation as it applies on exit day.

The European Statutory Instruments Committee considered the regulations, reporting on 5 September. It noted the role of the European Court of Justice in ERICs, and I want briefly to explain why the SI makes no amendment to that role post-exit. Membership of any ERIC requires recognition that the European Court of Justice has a limited role. Just as if we had a trade deal with a third-party country, there would be conversations and an appeal route to a third-party adjudicator. Specifically, should a dispute arise between ERIC members, or between the ERIC and a member, the Court could be asked to form an opinion on whether an ERIC member is fulfilling its obligations under ERIC statutes.

That is completely different from the role of the Court of Justice of the EU in ruling on compliance by EU member states in the treaty on European union and the treaty on the functioning of the European Union, which refers to the broad *acquis* of law underpinning those treaties. This provision refers specifically to the obligations under the ERIC statutes, which is not an area where penalties could be imposed for non-compliance. Any remedy would be applied by the individual ERIC in line with its own rules, which the members of the consortium agree to sign up to when they join. Should we choose to remain as a member of existing ERICs or to enter additional ERICs and pick up the benefits that our world-class scientists would like to achieve, the influence of the ECJ in adjudicating on the statutes of the ERIC would have no influence on UK sovereignty. We remain free to leave ERICs at any time of our choosing, although there are rules about when we can leave, which would be entirely consistent with those multimillion-pound research projects.

The UK's leadership in science and innovation is supported and strengthened by international collaboration, and projects such as ERIC facilitate such collaboration. In turn, that helps further to consolidate our world-leading reputation for science, research and innovation. Should we decide to retain membership of existing ERICs post-exit or to join new ones, we would need to comply with those bodies' membership rules, which is the purpose of the statutory instrument.

I hope that we confine remarks in Committee to specific technical points on ERICs, rather than have a broader conversation about European science and innovation, which I am not going to answer today. I hope that we can reach agreement, because those bodies remain an important part of our international scientific collaboration. I commend these regulations to the Cttee.

4.37 pm

**Chi Onwurah** (Newcastle upon Tyne Central) (Lab): It is a real pleasure to serve under your chairpersonship on such an important subject, Mr Sharma. With the

article 50 deadline so close and the Government in such disarray—as demonstrated by the recent resignation of the former Science Minister, the hon. Member for East Surrey (Mr Gyimah)—we need more than ever the process of scrutiny that statutory instrument Committees allow.

Science is a great British success story, supporting jobs and growth across the country. From Newton to Hawking, and from Lovelace to Franklin, British scientific giants have bestrode the world. It is a global success story: in science and innovation, we are the partner of choice of our European neighbours and countries across the world. British science has benefited from what the director of the Campaign for Science and Engineering, Dr Sarah Main, describes as:

“A web of collaborations, shared facilities and cross-border research programmes...which has led to a rich flow of ideas, people and research funds into the UK.”

According to the Government’s 2013 report, the increasing internationalisation of UK science, powered in part by European collaboration, has allowed us to surpass the United States in science productivity.

As the Minister has explained, ERICs are one of the legal forms that underpin this collaboration, and they are crucial to the success of British science. We take a leading role in many pan-European organisations, with facilities often located in our country. Instruct-ERIC, for example, was set up to support structural biology research infrastructure, and has six centres in the UK. ECCSEL ERIC, which provides laboratory infrastructure for important research in carbon capture and storage, has a near surface gas monitoring facility and six carbon dioxide capturing facilities in the UK.

Even when such facilities are not located in the UK, participation in ERICs gives our researchers access to facilities, data, knowledge and contracts that would otherwise be inaccessible. That is beneficial not just for public research organisations but for the private sector, both through the tendering of construction opportunities to private businesses and through the use of ERICs to disburse funding for research projects, to which private organisations may be contributing. ERICs are therefore an important interface between research funding at the state and pan-European levels and the research endeavours of public and private institutions. Strengthening that interface will be crucial if we are to achieve the ambition shared on both sides of the House of meeting—and on the Opposition side, surpassing—the OECD average of 2.4% of gross domestic product invested in research and development.

The draft regulations are an attempt to pave the way for the continuation of current laws governing the establishment of ERICs when we leave the European Union. I will not go into the details that the Minister set out, but the Opposition are satisfied that the SI does not represent a policy change. The Government’s impact assessment says that the SI will not have a direct impact on business and research organisations, and that is true in the strictest sense. The SI does not change the process for joining an ERIC, or the rules under which they are governed. Crucially, as the Minister set out, countries do not need to be members of the European Union or its framework programmes to be a member of an ERIC, so we will continue to participate in ERICs even if we are not able to join Horizon Europe as an associate member.

However, I emphasise that it would be naive to assume, as the Minister seems to be doing, that the level of our participation in European framework programmes will have no impact on whether the UK continues to join new and existing ERICs. Science funding and investment have already been severely knocked by the chilling impact of not knowing what our relationship with Horizon will be after Brexit. Funding for UK science from Horizon 2020 was down by a fifth last year, while more and more universities tell me that Brexit chaos is freezing them out of funding opportunities. It is vital that we secure associated status with Horizon Europe, as CaSE and the Royal Society have called for and as Labour has pledged. I am glad that the Government are committed to seeking associated status, but am concerned by the lack of any apparent contingency plan if negotiations fail to secure that status.

That uncertainty is compounded by confusion at domestic level. Despite their lofty rhetoric on science spending, the Government have not produced a long-term funding plan. Disbursement through the challenge fund is uneven and unpredictable, while measures to support innovation through the tax code are continually being introduced and then axed. Finally, with the Government’s long-anticipated White Paper on migration supposedly around the corner, British science needs clarity on how and to what extent it will be able to access European talent after breakfast—Brexit. [HON. MEMBERS: “Ah!”] Perhaps we will just have breakfast instead.

In conclusion, the Opposition will approve the SI, as we believe it is necessary for the continuing functioning of our science sector post-Brexit. However, the Government would do well to consider what else they need to do to ensure that we continue to be the scientific partner of choice for the world.

4.43 pm

**Ms Angela Eagle** (Wallasey) (Lab): It is a pleasure to have you in the Chair for this Committee, Mr Sharma.

I am a member of the House of Commons European Statutory Instruments Committee, which decided to refer this SI back to the Government and ask them to have an affirmative debate on it—perhaps that is why I am here. We did not do that because we wanted to cause trouble; rather, we felt that the structure the SI amends is so important to the UK that we needed some explanation on the record from the Minister for Energy and Clean Growth, which would say a little bit about future policy. She has begun to do that, but I wanted to ask her a few questions about how she and her Department see our ongoing approach to ERICs evolving over time.

The Minister rightly says that two ERICs are hosted in this country. What effect, if any, will our leaving the European Union have on the size and workload of the ERICs that are hosted here? Might there be moves to take them somewhere else as a result of our move from EU member status to non-EU member status? Will she comment publicly on whether our move from EU member status to third-country status will have any implications for how the ERIC process works, especially with respect to the setting up of new ERICs? Do she and her Department have in mind policy changes, administrative changes or changes of approach, rather than a technical amendment, which is important but not the whole story, to ensure that, in the move from EU member status to third-country status in the ERIC structure, we shore up our involvement?

[Ms Angela Eagle]

Does the Minister feel that, as a third country, there is any possibility that we will host a new ERIC? Given that we do not have any idea of what our immigration policy will look like, as the White Paper on that has been delayed until after the meaningful vote in a couple of weeks' time, as my hon. Friend the Member for Newcastle upon Tyne Central said, will the Minister indicate her Department's approach to immigration policy? When I was campaigning for this country to remain in the EU, I went round a lot of universities and one of the main things I was told was that it would be catastrophic for research and being leaders in the field to have a narrow approach to immigration. In particular, there must be collaboration across borders. Those of us who have been involved in science policy know that having cross-border co-operation without barriers is key to keeping this country at the forefront of future policy, as knowledge becomes more and more specialised.

Will the Minister give us a few indications of her Department's thoughts on these important issues, so we can set a policy context for the draft regulations? The issue is not that the regulations are not technical—they are—but that the context in which ERICs have operated in the past will now change. Will the Minister tell us a bit more about her thought process and her Department's approach to how we deal with trying to ensure that our commitment to ERICs and our capacity to be involved and to have a leading role in new ERICs is projected effectively in the future in the new context?

4.48 pm

**Claire Perry:** I thank hon. Members for that series of interesting and helpful questions, which I will try to answer.

There was a series of questions about our post-Brexit position on ERICs and the scientific leadership that we wish to exert. It is absolutely right that we continue to discuss this. I should have declared an interest, Mr Sharma: I am married to a world-leading scientist—Professor O'Neill of Cambridge University—who has participated not in ERICs, but in a number of Europe-wide research projects. I know very clearly what the risks and benefits are of continuing or not continuing international collaboration.

The point about the talent pool is significant, because of course scientists are not fungible. Part of the reason why we have been able to attract so much investment, both domestically from private sector sources and from overseas, including Horizon—as of 28 September, we were second only to Germany in the funding commitments we have received—is that we have an astonishingly strong science and innovation research base. Arguably, we need to focus on scale-up to get from research to commercialisation, but that has nothing to do with our position in the European Union; it is to do with our will to harness industrial investment after early stage research and development.

I and the Department remain very positive about the outlook for the UK's role in participating in world-leading science and innovation. We have taken a couple of domestic measures, including providing an additional £7 billion to the public funding of R&D from 2017 to 2020, which I understand to be the biggest increase that has ever been made. We are also working through sector

deals to try to align the principles of the industrial strategy with the very practical steps that different sectors are taking forward, including on R&D-specific projects, places and individuals funded through those sector deals. It feels to me entirely fundamental to the UK's progress—I believe that this should have happened regardless of our decision on Brexit—to harness that world-leading science and innovation base in a way that delivers more of an alignment with the industrial strategy.

**Chi Onwurah:** I thank the Minister for the tone of her response, but I take issue with her proposition that the ability of UK companies to scale up is not related to whether we are part of the European Union. Funding is one thing, but access to talent and potential markets for scale-ups are obviously related to whether we have access to one of the world's biggest trading blocs.

**Claire Perry:** The hon. Lady is right. It is why the proposed framework is to have as close as possible alignment on goods. I know she speaks to many universities and researchers, so she will know that we have an endemic problem with scale-up. What tends to happen is that the intellectual property is sold overseas before the commercialisation stage, and often the full commercialisation of projects and services is done by overseas companies, rather than the IP being held back in the UK—but I am digressing slightly. Forgive me, Mr Sharma.

I am going to address the migration points. I thank the hon. Member for Wallasey for her contributions to the European Statutory Instruments Committee. I know she has a lot of stuff going on with that, and these are important questions. Third countries cannot host ERICs, so there is a question about hosting versus participation. We host two ERICs and we are members of 12. This relates to our future negotiations, which are spelled out in the political declaration, but we have expressed a desire to continue to host. We hope that our special status as one of the world leaders—I cannot remember the patent numbers, but I believe we are up there with economies very much larger than ours—will allow us some special status for ERICs hosting. I believe that is part of the future negotiations.

**Ms Eagle:** Clearly it is worrying that third countries cannot host ERICs given that we are about to become a third country. Will the right hon. Lady indicate the sort of timescale and approach or process that will be in place for trying to negotiate ERIC 2 or whatever we want to call it?

**Claire Perry:** I will clarify my remarks to the hon. Lady in writing, but I believe that forms part of the negotiation we are having around Horizon 2020 and the entire science and innovation piece. It is part of the ongoing negotiations before we have a legal political declaration, if that makes sense, on a future framework, but I will clarify that in writing to her.

The hon. Lady asked me a very important point about migration. She is absolutely right. We have benefited enormously from the incredible talent of those who come to study in the UK and who often choose to remain and work here, and that absolutely must continue. She also asked me to say a little bit about policy. I do not want to pre-empt my right hon. Friend the Home Secretary, but essentially the policy position we have

taken on migration is one that is entirely consistent with wanting to remain a world leader in science and innovation, and that has been stated in every public declaration. It has also been reiterated in every conversation we have.

Since January 2018, we have made a series of changes to the immigration rules to support that objective. For example, we have doubled the number of exceptional talent tier 1 visas for those qualifying in science, engineering, the humanities, medicine and so on. We have expanded the number of institutions that can sponsor international researchers, making it easier for research councils to bring in researchers for two years under a temporary work route. We have waived the resident labour market tests for supernumerary international researchers and members of sponsored research teams, and we have enabled faster switching between students visas, which are tier 4, and highly skilled tier 2 visas.

**Ms Eagle:** Obviously, any expansion and increased flexibility in that area will be very important to maintaining the UK's leading place as a centre of scientific and research excellence. The Minister will probably be more familiar with this than I am, given her announcement regarding her personal arrangements, but when I went around the country meeting university researchers, what I heard about that concerned me more than anything else was the bureaucracy involved in granting visas. It takes much longer to get researchers from non-EU countries, as well as to get UK researchers into third countries. There is a bureaucracy issue, a timing issue and uncertainty about whether visas will be granted, which makes it much easier to organise research where there is free movement. That is the key issue that will bind us in the future if we do not get it right.

**Claire Perry:** As always, the hon. Lady makes an important point. She is right to distinguish between EU and global talent pools. Of course we want to attract the best and the brightest, wherever they come from, to work in the research and innovation sector, to be part of the industrial strategy, and to benefit the wider-UK economy.

Something that is not in my briefing notes but which the hon. Lady might find interesting is that one of the challenges, I am told, is that not enough home-grown students, particularly women, are emerging from our education system to be grown into those research and innovation positions. One might hope that, in time, we will see more acceleration of women and others through our education system, until we reach the point where we can fill more of those important research positions with UK talent. Regardless, we will still be open to the best and the brightest supporting our world-leading research and innovation base, and as we have been absolutely clear, both in public and in conversations across Government, we want to make sure that we work closely with the research sector to ensure that our visa arrangements

are closely aligned to the sector's needs. She makes an important point: it is not just the availability of research, but the ease of access. If we are bidding in a global talent pool, we must make sure that we have streamlined activities.

**Toby Perkins (Chesterfield) (Lab):** I understand what the Minister said a moment ago about not wanting to pre-empt the Home Secretary. Many of us wish that he had in fact pre-empted her and had his White Paper out in time for the meaningful vote. I note that many of the statements in part two were made by the person described as the Minister of State for Universities, Science, Research and Innovation, the hon. Member for East Surrey, who resigned from the Government a few days ago. Can the Minister tell us whether he would have been in this Committee today had he not resigned from his post, and what we should read into the fact that he has made a number of statements telling us that we should not be worried, but now has so little confidence in the Government's approach that he no longer wants to be a part of it?

**The Chair:** Order. Please keep to the regulations we have in front of us. The hon. Gentleman did not, and the Minister need not reply to his intervention.

**Claire Perry:** Thank you, Mr Sharma.

**Chi Onwurah:** In the context of ERICs, I feel that it is important to emphasise that we all wish for more women not just to come forward, but to be encouraged to be part of science. Speaking as an engineer myself, I know the virtue of collaboration is that different people from different disciplines and different backgrounds come together to create innovation. That is not an issue with regard to whether or not home-grown women are accessing the skills pool.

**Claire Perry:** The hon. Lady is absolutely right. I think she rather supports the point that I made earlier, which is that scientists are not fungible. That is why I believe that we should maintain very strong confidence in the UK's incredible reputation in science and innovation. We have world-leading science bases and research, and that is entirely strengthened by collaboration, as she said. Projects such as ERIC will help to facilitate such collaboration. I would be grateful to the Committee for allowing the regulations to proceed, because they are simply a technical clearing out of some rules that will no longer apply, and they will enable us to maintain our membership of ERICs post-exit, or to join new projects. I therefore commend the regulations to the Committee.

*Question put and agreed to.*

5 pm

*Committee rose.*

