

## **THE LEGAL STATUS OF COST**

COST – the acronym for “European CO-operation in the field of Scientific and Technical Research” – is the longest running and widest European intergovernmental framework for coordination of research activities supported by national funds.

Established through an exchange of letters initiated by the President of the Council of the European Communities on 4 November 1969 and 24 July 1970, and the Resolution of 23-24 November 1971 by the Conference of European Research Ministers it has been subsequently developed and supported by further COST Ministerial Conferences. COST is presently usually referred to as “COST: European Cooperation in Science and Technology”.

Although very successfully operating for more than 40 years COST still does not have a legal personality and consequently cannot become a contractor in the Framework Programmes : hence the need of having an implementing agent for COST.

The lack of legal personality of COST was put in particular evidence in 2003, when the European Commission (EC) ceased to provide the scientific secretariat and the financial administration of COST.

The Committee of Senior Officials of COST (CSO) then started discussions with the European Science Foundation (ESF), which led to the establishment of a COST-ESF Memorandum of Understanding (MoU) in September 2002, according to which ESF accepted to act as the COST Implementing Agent and to provide and manage the administrative, technical and scientific secretariat for COST, its Technical Committees and its Actions. The COST Ministerial Conference in May 2003 endorsed the MoU between COST and the ESF. A contract between the EC and the ESF was concluded in July 2003 for the entire period of the Sixth Framework Programme (FP6).

This COST-ESF cooperation was in line with the conclusions of the EU Council of 26 November 2002 which welcomed "efforts currently being undertaken in the context of ERA to achieve closer linkage with other

European co-operation initiatives such as COST and ESF, with a view of creating synergies while respecting their complementary roles".

In October 2006 COST and ESF approved an Addendum to the COST-ESF MoU with the objective of strengthening COST and ESF as two actors fostering the ERA and further developing the synergy between them, while maintaining a clear distinction between their individual characteristics and their complementary roles. The ESF was invited to continue to act as the Implementing Agent for COST during the Seventh Framework Programme (FP7). In January 2007 negotiations between the EC and the ESF for the grant agreement for COST in FP7 were started.

In June 2007 the "Final Review of COST in the Sixth Framework Programme", the so-called "Monfret Report" commissioned by the European Commission at the end of FP6, made the following recommendations on the governance of COST: "either COST should create an independent legal entity or the ESF should take over the full operation of COST including the strategy formulation and the linkages with the Member States".

The COST Committee of Senior Officials took the recommendations of the "Monfret report" into very serious consideration.

On one side COST confirmed its decision to appoint ESF as its implementing agent for FP7, only to ensure the continuity of COST activities for the benefit of the European scientific community. The ESF-EC Grant Agreement for FP7 was signed in July 2007.

On the other side, in 2007 the COST CSO started the re-examination of the COST legal status and appointed Professor Raoul Kneucker as Rapporteur on this question. Based on his report, released in September 2008, various possible solutions were examined. The solution that appeared to have the strongest support from the CSO delegations, the "COST Office Association", was given particular attention.

In June 2009 the COST CSO commissioned a SWOT (strengths, weaknesses, opportunities, threats) analysis on COST-ESF Relationship from Technopolis, who built their report on the assumption that it would

be desirable for COST to establish a legal personality, whatever the future relationship with ESF would be, even in the case ESF would continue providing services to COST.

On the basis of the above results, during 2010, the COST CSO took important decisions regarding the two recommendations of the Monfret Report.

On one side, the representatives of the 35 COST Member States unanimously rejected the possibility of ESF taking over COST.

On the other side, 26 (later 27) COST Member States voted in favour of establishing an independent COST Office Association (Summary of Conclusions 178th COST CSO meeting May 2010 COST Doc. 4173/10).

The subject was carefully examined by the COST Committee of Senior Officials (CSO) during 2007, 2008 and 2009. (The legal status - Belgian Law - Questions & Answers).

On 8 June 2010 at the initiative of Germany and Spain a meeting to set up the COST Office Association (COA) as an independent legal entity in the form of an international non-profit making Association under Belgian law was convened in Brussels at the Permanent representation to the European Union of Germany. (Preparatory letters 1st GA - Summary Conclusions 1st GA).

COA was set up on 1 July 2010 by 10 COST Member States as founding members: Bosnia & Herzegovina, Bulgaria, Croatia, Czech Republic, Finland, Germany, Hungary, Italy, Spain, Turkey.

With the publication of its Statutes and of the names of the members of its Administrative Board in the Moniteur Belge on 17 September 2010 COA has been officially established as an International non – profit Association (AISBL) under Belgian Law (COA Publication Moniteur Belge - Royal Decree)

Greece and Israel also joined COA at a later stage (Preparatory Documents 2nd GA - Summary Conclusions 2nd GA).

Other COST countries are expected to join COA in the near future. All COST countries have been informed about the procedures to be followed to join COA and about the needed approval of the applications to join COA by the COA General Assembly.