Legal status for alliances: the way forward

**Moderator:** Tine Delva
(European Commission)

**Speakers:**
Barbara Gagliardi (EGAI)
Daniela Craciun (ESEU)
Eric Tschirhart (Leg Uni-GR)
Timothée Toury (STYX)
Legal status for alliances: The way forward

Insights from ESEU – A European Status for ECIU University

Daniela Craciun
University of Twente, CHEPS/KiTeS
“A European Legal Status will not be a single solution for a single problem.”

Paper published Feb 10th 2022
“(...) design institutionalised cooperation instruments, based on a preliminary thorough assessment of their necessity, benefits and feasibility.

The aim is to give alliances, on a voluntary basis, the latitude to act together, make common strategic decisions, experiment joint recruitment, design joint curricula or pool resources and human, technical, data, education, research and innovation capacities.”

European Council Conclusions 5 April 2022
Aim of ESEU

Understand how suitable existing European legal instruments are for the strategic vision of ECIU & how to move forward to realize the strategic ambitions of the alliance.

How?

- Developed use cases
- Analysed of 4 European instruments for cooperation
- Gathered insights from:
  ✓ Alliance members
  ✓ Stakeholders
  ✓ National ministries
  ✓ Other users of European legal instruments for cooperation
<table>
<thead>
<tr>
<th>Hiring of staff</th>
<th>Receiving public &amp; private funding</th>
<th>Providing flexible learning paths</th>
<th>Creating private revenue on continuous education</th>
<th>Investing into &amp; managing facilities</th>
<th>Managing data-related issues</th>
<th>Managing IPR-related issues</th>
<th>Buying &amp; owning goods &amp; services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NL foundation</strong></td>
<td>Need to navigate differences in i.e. national tax &amp; social security law</td>
<td>Account to be taken of non-profit nature NL foundation</td>
<td>No automatic recognition &amp; quality assurance subject to national law</td>
<td>Consideration of legislation on cross-subsidising &amp; of non-profit nature of foundations</td>
<td>Account to be taken of non-profit nature NL foundation</td>
<td>Data management subject to GDPR</td>
<td>IPR subject to national law</td>
</tr>
<tr>
<td><strong>EGTC</strong></td>
<td>Need to navigate differences in i.e. national tax &amp; social security law</td>
<td>Geared mainly to public domain</td>
<td>No automatic recognition &amp; quality assurance subject to national law</td>
<td>Instrument mainly aimed at public domain &amp; aimed at structural matters, not teaching activities</td>
<td>Investments possible</td>
<td>No provisions on management of data</td>
<td>No provisions on IPR</td>
</tr>
<tr>
<td><strong>SE</strong></td>
<td>Staff needs to be hired in subsidiaries &amp; additional criteria on worker involvement</td>
<td>Limited possibilities public funding</td>
<td>No automatic recognition &amp; quality assurance subject to national law</td>
<td>Need for verification if companies can provide education</td>
<td>Investments possible</td>
<td>No provisions on management of data</td>
<td>No provisions on IPR</td>
</tr>
<tr>
<td><strong>SCE</strong></td>
<td>Staff needs to be hired in subsidiaries &amp; additional criteria on worker involvement</td>
<td>Public &amp; private possible, but regard for national law on cooperatives</td>
<td>No automatic recognition &amp; quality assurance subject to national law</td>
<td>Need for verification if companies can provide education</td>
<td>Investments possible</td>
<td>No provisions on management of data</td>
<td>No provisions on IPR</td>
</tr>
<tr>
<td><strong>EIT (KIC)</strong></td>
<td>Subject to national law &amp; dependence EIT</td>
<td>Subject to national law &amp; dependence EIT</td>
<td>No automatic recognition &amp; quality assurance subject to national law</td>
<td>Subject to national law &amp; dependence EIT</td>
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<td>Subject to national law &amp; dependence EIT</td>
<td>No provisions on IPR</td>
</tr>
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Source: Kortese et al. (2023)
Facing uncertainty & complexity

Stretch the mold of the Dutch foundation
Roadmap – Where do we go from here?

3 SCENARIOS

**Scenario 1:**
Do nothing
- Keep ECIU current legal status as Dutch foundation

**Scenario 2:**
Design a new instrument
- ECIU’s preferred scenario, but lengthy political process

**Scenario 3:**
Adapt an existing instrument
- Most feasible scenario - EGTC (UniGR, STYX) & EGEI (UNITA)
Adapting the EGTC for HE cooperation – Recommendations from ECIU

(1) Remove explicit consent from all member states

(2) Enable recognition as a HEI

(3) Provide clarity on the provision of staff

(4) Provide clarity on the hiring of staff

(5) Strong preference for limited liability

(6) Allow for a private dimension

(7) Strengthen European dimension

For more details, see the Roadmap developed by ESEU
What would be the benefits of a European legal status?

<table>
<thead>
<tr>
<th>HEIs</th>
<th>Staff</th>
<th>Learners</th>
</tr>
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<tbody>
<tr>
<td><strong>Financial:</strong> Pool resources and capacities, joint access to funding</td>
<td><strong>Employment:</strong> Improved employment opportunities, clarity on tax &amp; social security</td>
<td><strong>Education:</strong> Improved learning opportunities &amp; study offer, access to learning resources</td>
</tr>
<tr>
<td><strong>Governance:</strong> Make common strategic decisions easier, build trust, legal certainty</td>
<td><strong>Resources:</strong> Facilitate access to the ecosystem of partner universities</td>
<td><strong>Internationalisation:</strong> Increased opportunities for staff mobility and cooperation on all missions of HE</td>
</tr>
<tr>
<td><strong>Internationalisation:</strong> Facilitate transnational collaboration, increase attractiveness</td>
<td><strong>Internationalisation:</strong> Seamless short-term &amp; long-term mobility, facilitate recognition of learning periods, graduate with a European degree</td>
<td></td>
</tr>
</tbody>
</table>
A European legal status for transnational cooperation would help fulfill the high ambitions of European cooperation in education, research innovation & service to society.

Want to know more about the ESEU project? Check out our findings:

ESEU Roadmap

ESEU project results
A Blueprint for a European Degree
Legal Status for Alliances: the Way forward
Brussels, 29th April 2024

From the European Grouping of Economic Interest to the European Grouping of Academic Interest

Barbara Gagliardi
Università degli Studi di Torino
The Unita Choice: The European Economic Interest Grouping (EEIG)

EU CONSORTIUM set up to pool means and other resources and share losses and costs (Reg. EEC n. 2137/85 of 25 July 1985)

Statute written and discussed in 2021-2022

Formally approved by each member in summer 2022

EEIG registered at the Turin Chamber of Commerce in Jan. 2023

Presentation and funding of a pilot project in Jan. 2023 (EGAI)

EEIG funded within the UNITA second phase in June 2023
Is it the EEIG a suitable solution?

The reasons of our choice: **flexibility and easy establishment**

First EU-Specific Company Form
«more than a joint venture, but less than a merger» (Fleischer, 2010)

Model of the **ENTREPREUNERIAL UNIVERSITY**: Innovation and creation of opportunities; development of a comprehensive internal system for knowledge commercialization, including patenting and licensing, new companies creation, custom-made further-education courses, consultancy services, contract research by providing a support structure, "natural incubator", through different stakeholders (RADKO et al., 2023)

LIMITS: **ANCILLARY AND ECONOMIC ACTIVITIES**
Institutionalising Cooperation: What for?

- **SUPPORT SERVICES**
  - EEIG

- **STRATEGIC COORDINATION of all/some of the partners’ non-economic activities**
  - EGAI

Pic from https://visiblenetworklabs.com/
What do we need?

Analysis based on Portugal, Spanish, French, Italian and Romanian legal systems

EUROPEAN GROUPING OF ACADEMIC INTEREST
How should the EGAI be?

EXPLICITLY DEVOTED TO ACADEMIC COOPERATION

Based on ACADEMIC FOUNDING VALUES: ACADEMIC FREEDOM and INSTITUTIONAL AUTONOMY

For easier ACCESS TO INTERNATIONAL, EU AND NATIONAL FUNDING for HE

For easier recognition in ACADEMIC STAFF CAREER PATHWAYS

Under the RESPONSABILITY OF HE NATIONAL MINISTERS

University is not an administration like any other
How should the EGAI be?

- **EASY TO ESTABLISH**
- **HAVING A PUBLIC LAW NATURE**
- **EXPLICITLY OPEN TO NON EU PARTNERS**
- **EXPLICITLY OPEN TO PRIVATE UNIVERSITIES AND OTHER HE INSTITUTIONS**

- **To be coherent with TRADITIONAL UNIVERSITY AUTONOMY**
- **For easier SECONDMENT OF ACADEMIC AND NON ACADEMIC STAFF**
- **To increase ACADEMIC COOPERATION at the global level**
- **To comply with PUBLIC PROCUREMENT RULES**
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