

DELIVERABLE D2.5 - LEGAL STATUSES OF EDUC

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Abstract	<p>The present report expresses the state of play for task 2.4, which aims at benchmarking and adopting a legal status. It provides a first overview on legal options, case studies and good practices. Why would alliances opt for a legal status? What legal options are available at the European and the national level? How do other alliances approach the question of a legal status?</p> <p>As the SC agreed on postponing the adoption and implementation of a legal status to the rollout phase, this document shall also serve as a point of reference for the future task team that will pursue the benchmarking and deliberation.</p>
Keywords	Legal entity; Legal status; Legal personality; EGTC; Governance; Consortium

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1. Purpose of this document

The present report expresses the state of play for task 2.4 which aims at benchmarking and adopting a legal status. After the Steering Committee had agreed upon postponing the adoption of a legal entity to the roll-out phase, WP2 focused its work on deliberation and benchmarking. EDUC partners took this decision in light of external and internal developments in the second half of the pilot phase.

Externally, the European Commission is pursuing a step-by-step approach towards a European legal statute for alliances. By mid-2024, the European Commission plans to present a proposal for a legal statute. The Commission's future proposal will consider the results of several tools including an external study, an Erasmus+ call to pilot European legal instruments and ongoing consultations with EU Member States, and HEI stakeholders. The external study, in particular, is expected to deliver a thorough analysis of existing legal instruments both at the national and the European level by the end of 2022.

Internally, EDUC set the ground for expanding its membership from 6 founding institutions to 8 partner universities in the second half of the pilot phase. As the adoption of a legal entity requires a long-term commitment and consensus among all partners, EDUC decided to postpone the decision to the next funding phase when all 8 universities will be full partners.

Within the scope of WP2, this report concentrates on a first overview on legal options, case studies and good practices. This document shall also serve as a point of reference for the future task 1.2 team that will look after a thorough benchmark resulting in the adoption of a legal statute by 2026.

2. Definitions and acronyms

For a better understanding, this section explains and defines acronyms used in the text.

2.1 European legal instruments

EEIG	European Economic Interest Grouping
EGTC	European Grouping of Territorial Cooperation
ERIC	European Research Infrastructure Consortium

2.2 National legal instruments

AISBL	<i>Association internationale sans but lucratif</i> , international non-profit organisation under Belgian law
ASBL	<i>Association sans but lucratif</i> , non-profit organisation under Belgian or Luxembourg law

- E.V. *Eingetragener Verein*, non-profit organisation under German law
- IVZW *Internationale vereniging zonder winstoogmerk*, international non-profit organisation under Belgian law
- VZW *Vereniging zonder winstoogmerk*, non-profit organisation under Belgian law

3. EU Policy Framework

In January 2022, the European Commission presented a **phased policy approach towards a legal statute for alliances** in its Communication on a European strategy for universities. The question of a legal statute is one of the key initiatives to foster the transnational integration of higher education institutions, closely linked to a joint European degree, the European Universities initiative as a whole, and European Student Card Initiative. As the question of a legal statute touches upon national law, the European Commission underscored the voluntary character of the initiative at several occasions.

In this framework, the **European Commission launched a call** in June 2022 to pilot both a legal statute and a joint European degree label. When it comes to the legal statute, the objective of the call is to evaluate existing European legal instruments (e.g. EGTC). The European Commission will select 3-5 projects. In close cooperation with public authorities at the local, regional and national level, pilot projects are expected to advance significantly with the implementation of the chosen legal instrument within one year starting in late 2022 or early 2023. The call is designed in such a way that pilot projects will be asked to disseminate findings and recommendations across the higher education community including alliances. EDUC will therefore benefit from the results of the pilot projects in any case to deliberate on whether European or national instruments are most suitable for the alliance.

FOR-EU1, the **informal network of the alliances** founded under the Erasmus+ call 2019, will act as a sounding board for the pilot call. As such, it will provide a forum for continuous exchanges on the progress made by the pilot projects. EDUC members will also continue their activities in the FOR-EU1 subgroup on Governance and legal frameworks, which met on a regular basis since 2019, to monitor developments at all levels.

Parallel to that, the European Commission launched an **external study** on legal statutes, which is conducted by PPMI. **Results are expected at the end of 2022**. The study will include a mapping of current legal instruments available at the national and the European level, an analysis of their suitability to foster transnational integration, an account of best practice models using legal entities and recommendations for future EU policy making.

4. Why a legal status for alliances?

Transnational alliances face a lot of administrative and regulatory barriers when carrying out their activities. A legal entity can help overcome some of these obstacles under a common legal umbrella, e.g. joint financial management and application to funding, joint provision of

educational and research activities, pooling of infrastructures and services, joint human resource management.

To assess the added value of a legal entity in general and specific legal instruments, a needs analysis is generally the first step. Within the scope of the FOR-EU1 network, EDUC and other alliances collected and shared their respective priorities. Alliances were also asked to contribute to the design of the external survey commissioned by DG EAC through FOR-EU1 and FOR-EU2.

The main objectives for establishing a legal entity that alliances identified are as follows:

- Visibility: Joint identity & image
- Long-term collaboration and sustainability while keeping the autonomy of the partners
- Delivery of joint European awards and degrees
- Joint application for European projects and funding
- Recruit, hire and share staff / Share infrastructures / Buy goods and services
- Run all the necessary university functions in a unified way
- Joint admission and registration of students
- Joint access to international networks
- Europass, facilitation of automatic recognition
- Joint data management and ethics
- Compliance with legal regulations and taxation rules
- Institutional accreditation and joint quality assurance
- Association of partners of all types

For EDUC, the central criteria indicated were visibility and sustainability as a signifier of long-term commitment and collaboration, the possibility to jointly apply for European and other funding lines, the option to share infrastructures and possibly staff, as well as a joint access to international networks as part of EDUC's outreach strategy.

5. What are the legal instruments available?

According to their needs, alliances can choose from a number of legal instruments available both at the European and the national level.

5.1 European legal instruments

EDUC's pilot proposal gives priority to the European Grouping of Territorial Cooperation (EGTC) tool. This legal instrument is thus explored in the following section. For the sake of completeness, this section also provides an overview on the European Research Infrastructure Consortium (ERIC) which seems less suitable for alliances. Other European legal instruments such as the European Economic Interest Grouping (EEIG) appear not to be suitable either.

European Grouping of Territorial Cooperation (EGTC)

The EGTC is a European legal instrument that fosters territorial cooperation and cohesion. It allows public entities of different EU Member States and third countries to establish a legal entity with full legal personality. Introduced in 2006, the EGTC Regulation governed the first cooperation model with a legal personality under European law. The European Committee of the Regions runs an [EGTC platform](#) including an official overview of existing EGTCs, legal sources, and [guidelines](#) on how to establish EGTCs. The guidebook from 2021 dedicates one of its chapters to approval and registration procedures and national specifics.

EGTCs need to be established in close cooperation with the relevant national and regional authorities in the respective countries. Respective authorities must approve the founding documents, which are the EGTC convention and statutes, and possibly other required documents. Approval and registration procedures vary greatly across the EU Member States. Some countries offer a simplified procedure if the registered office of the EGTC is in another country. Membership from a non-European country may require more steps. Informal consultations with the relevant approval authorities are recommendable early on during the founding process. In the federal state of Brandenburg, for instance, the responsible authority is the Brandenburg Ministry of the Interior and for Municipalities. Public entities based in Brandenburg should consult with the approval authority as early as possible.

Apartment from permanent members, additional stakeholders can engage through committees, working groups, advisory boards or as associated partners.

The legal form of an EGTC depends on the Member State where the EGTC has its registered office. National law defines whether the EGTC is subject to public or private law. Spain, Italy and France, for instance, consider an EGTC a public entity.

Next to the legal form, the place of the registered office determines various rules such as liability, financial management and auditing, fiscal rules, recruitment and payment of staff, social security rules, and public tendering procedures.

An EGTC must incorporate at least two governance bodies:

- **Assembly:** is made up of the representatives of the EGTC members and establishes the annual budget
- **Director:** represents the EGTC and acts on its behalf

EGTC members can create additional bodies in the statutes (e.g. president, vice-president, executive committee, board, general secretariat, joint office, advisory boards).

As regards budgeting, EGTCs may use all types of financial instruments available at the EU level. Other possible funding sources are membership fees, contributions in kind, service and tuition fees, project funding at other levels.

For the creation of an EGTC, the European Committee of the Regions suggests three steps:

- **Needs assessment:** identify needs on the ground, reflect on the suitability of the tool
- **Preparation phase:** develop a common understanding on decisive features of the EGTC (geographic extent, thematic focus, principle tasks, objectives, registered office, financial regulations, budget, review of national legislative frameworks and liability aspects)
- **Implementation phase:** develop the EGTC convention and statutes (founding documents) and describe the structures, legal framework and working routines

The description of tasks and objectives should be as broad and flexible as possible to avoid lengthy changes shortly after. The statutes can be amended more easily than the convention. Details about the composition, tasks and working routines should thus be part of the statutes.

Once the needs are clear, the consortium should take a formal decision to prepare the next steps and confirm the commitment of all future EGTC members to engage and provide resources during the whole setting up process.

The chart below presents major benefits, challenges and risks for setting up an EGTC:

Benefits	Challenges and risks
Permanent structure with a legal personality recognised in and by all EU member states	Complexity of the alignment and implementation process due to national specifics
Visibility for transnational cooperation	Caution required with regard to legal aspects (e.g. liability) based on different national implementation rules
Proximity to the EU policy level, access to information and funding instruments	Complexity of legal, financial and fiscal aspects requires a thorough deliberation process and expert advice
Staff can be employed directly for the benefit of all EGTC members	Taxation (reduction or exemption) requires a member-state specific analysis
Members keep their autonomy by transferring tasks to the EGTC	Rules and procedures may differ for non-EU member states

Members can be different types of entities as long as they are governed by public law

Time-consuming preparation and implementation process

Low foundation and running costs

European Research Infrastructure Consortium (ERIC)

The [European Research Infrastructure Consortium](#) is a legal instrument that aims at facilitating the operation of large research infrastructures. Projects need to have an added value for the European Research Area (ERA). There are about 25 ERICs in action, including for instance the Survey of Health, Ageing and Retirement in Europe (SHARE-ERIC) and the European Social Survey (ESS).

Membership is possible for EU member states, associated and third countries, as well as intergovernmental organizations. The statutory seat of an ERIC needs to be located on the territory of a Member State or an associated country member of the ERIC. The governance structure of an ERIC is flexible according to its statutes.

Approval procedures to join or host an ERIC vary from country to country. Applicants should collaborate early on with the relevant national authorities. The European Commission provides practical [guidelines](#).

5.2 National legal instruments

Non-profit associations under national law can be an alternative to European legal instruments when it comes to the foundation of a legal entity. There are different types of HEI consortia that established a legal entity under national law to foster transnational cooperation.

Within the European University initiative, a handful of alliances have chosen a national legal entity either under Belgian, Dutch or German law. Una Europa is a non-profit association based in Belgium. ECIU is a foundation under Dutch law. Their good practice examples will be further explored in section 6.

The [University of the Greater Region](#) (UNIGR) and its seven member universities in Belgium, France, Germany and Luxembourg established a non-profit association under Luxembourg law. The consortium offers a variety of cross-border study programmes involving two or more partner universities and other higher education institutions, including two joint Master degrees. UNIGR pools many services and facilities which are open for all of its members.

Longstanding consortia that run joint Master degrees, including Erasmus Mundus programmes, can also serve as case studies. The [Network on Humanitarian Action](#) (NOHA) comprises 12 European partner universities and 14 global partner institutions. Based on its mission and objectives, it established an international non-profit organisation under Belgian law (AISBL) to run its joint Master's degree in International Humanitarian Action. The [Global Campus of Human Rights](#) is a large network of 100 international universities that offers seven regional Master's programmes. Its legal form is a non-profit association under Italian law.

6. How do other consortia approach the issue?

This section explores good practice examples for existing legal entities in the European higher education area. When it comes to the case studies and good practice examples, the methodology was mostly based on document (website) analysis and informal consultation meetings with alliance representatives (e.g. FOR-EU1 core group and subgroup on Governance and legal frameworks).

6.1 Case Study 1: Eucor – The European Campus EGTC

[Eucor](#) – The European Campus was the first EGTC to be created by higher education institutions in 2015. The transnational consortium in the Upper Rhine region dates back to 1989 and has five member universities in France, Germany and Switzerland. Its main objective is to promote cross-border mobility of students and researchers. Member universities pool resources, pursue common focus areas and foster cooperation of their service centers.

The case of Eucor is also interesting because the consortium was the starting point for [EPICUR](#) European University, which was founded under the ERASMUS+ call 2019. While Eucor continues to exist as a trinational consortium with an interregional focus and its own legal personality, the four Eucor member universities located in France and Germany joined forces with partner universities in other EU countries to build EPICUR. In informal conversations, Eucor representatives report that they decided against becoming a European university alliance themselves because their Swiss partner university was not eligible to the call.

The registered office of the EGTC is in Freiburg, Germany. The EGTC is thus subject to the national legislation of Germany and the federal state of Baden-Württemberg. Freiburg became the location of the registered office because the Eucor presidency lay with the University of Freiburg at the time when the EGTC was established. Financially, the University of Freiburg is reimbursed by the EGTC for the infrastructure and resources it provides for the Eucor secretariat. The responsible authority in the federal state of Baden-Württemberg, the Regional Council of Freiburg, provided strong political support to the initiative.

In informal consultation meetings, Eucor representatives shared the following benefits of the EGTC model:

- Joint applications for funding schemes and joint management of research projects
- Visibility of the transnational cooperation activities and branding
- Long-term planning that is independent from internal changes at the member institutions
- Stability through a truly European status

Eucor's assembly is the decision-making body of the EGTC and is made up of the Rectors and Presidents of the member universities. The President of the assembly and the EGTC is elected for 3 years. In addition, Eucor has a Commission of Vice-Presidents, which supports the President in strategic and substantive matters. The secretariat (Freiburg) and the coordination

office (Strasbourg) provide support to the other bodies and are responsible for liaison with the decentralised coordination structures in the member universities and the day-to-day management of the alliance. A student council with an elected steering committee of students to represent their views in Eucor bodies accompany the delivery of projects and activities.

Eucor prefers to rely on existing structures of the member universities. When it comes to human resources, the member universities hire staff and can be reimbursed by the EGTC. Due to different national legislations and issues such as taxation, this is the preferred procedure by the EGTC and its members.

Students, once enrolled in one of the Eucor member universities, benefit from free mobility and access to all courses within the Eucor network. They remain enrolled at their home university but can use all services provided within the network including access to online services, student dining halls, student housing, student transport rates, libraries etc.). The EGTC cannot enroll students directly or award credits or degrees. A Eucor agreement guarantees recognition of course results obtained at a Eucor partner university but recognition remains at the discretion of the home university on a case-by-case basis. Diplomas are provided by the respective universities.

6.2 Overview for the European university initiative

Currently, only 6 out of the 44 alliances selected under the three ERASMUS+ calls in 2019, 2020 and 2022 appear to have a legal entity. All of them opted for a national legal entity under Belgian, Dutch or German law. Based on informal consultations with alliances in the FOR-EU groups, many alliances chose their legal entity out of practical considerations because one of their member institutions already had experience with a certain national legal instrument. National legal entities can be seen as an interim solution for alliances to give themselves a sustainable governance structure, more visibility and an entity which can receive and distribute its own funding as well as employ central staff to the benefit of all member institutions. For instance, ECIU and Una Europa had a legal entity right from the start in 2019 whereas 4EU+ and EU-CONEXUS established theirs in preparation of the 2022 ERASMUS+ call.

The chart below provides an overview of alliances with an existing legal entity. In many cases, one of the partner universities is located in the country where the legal entity is based. Belgium, and particularly Brussels, are most prominent given the proximity to EU institutions and the European dimension of the initiative.

	Legal entity	Type	Country	Central office / Correlated partner
Circle U.	unknown	Non-profit international association (ivzw/AISBL)	BE	Leuven (BE) University of Louvain (BE)
ECIU University	European Consortium of	Foundation (Stichting)	NL	Brussels (BE)

	Innovative Universities			University of Twente (NL)
EU-CONEXUS	EU-CONEXA	Non-profit international association (ivzw/AISBL)	BE	unknown -
FilmEU	unknown	Non-profit association (vzw/ASBL)	BE	Unknown LUCA School of Arts (BE)
4EU+	4EU+ European University Alliance E.V.	Non-profit association (EV)	DE	Heidelberg (DE) Heidelberg University (DE)
Una Europa	Una Europa vzw	Non-profit association (vzw/ASBL)	BE	Brussels (BE) Catholic University of Leuven (BE)

When it comes to European legal entities for cross-border collaboration, there are no existing role models among the European university alliances. Some alliances are expected to pilot European legal instruments under the ERASMUS+ call launched in summer 2022 (see section 3). According to an informal survey among alliances, which was conducted prior to the opening of the pilot call, alliances were asked about their plans to apply to the call and to establish a legal entity. Most of the alliances, including EDUC, are still flexible about the type of legal entity to adopt in the near future.

The chart below gives an account of the alliances that have already decided to adopt a specific type of legal entity according to the informal survey:

	Type of legal entity	Reason for selection
ARQUS	Foundation under private law	Award joint degrees
EUNICE	Non-profit international association under Belgian law	
Eut	European Grouping of Territorial Cooperation (EGTC)	Strong integration ambitions, solid structure, flexibility to define bodies
EUTOPIA	Non-profit international association under Belgian law	

Unita	European Economic Interest Grouping (EEIG)	European legal instrument, easy to establish, underlines strong commitment of its members
Unite!	Non-profit association under German law (E.V.)	

Alliances opting for a non-profit association under national law, either in Belgium or Germany, gave the following reasoning for their decision:

- easy to establish and allowing further development
- matches necessities
- flexibility
- low foundation costs
- statutes allow great creativity in designing the structures and operational modalities
- Proximity to EU institutions (Belgian law)
- allows to recruit personnel, to fund common activities beyond the project frame, answer to project calls, sign contract and work as an entity with associated and external partners, offer one visible contact point, respecting the autonomy of each partner institution

6.3 Case Study 2: European Consortium of Innovative Universities (ECIU)

ECIU is another example of an alliance, which had a legal status in place at the beginning of the pilot phase of its ECIU University. As a consortium, ECIU was founded in 1997. Its current legal personality is a foundation under Dutch law (stichting).

According to ECIU's website, ECIU has a Presidium which of is made up of four members: ECIU President, ECIU Vice-President, ECIU treasurer and Coordinator Erasmus+ ECIU University. The members of the Presidium are elected by the ECIU Board, which consists of the Rectors, Directors and Vice-Rectors of the ECIU member universities.

ECIU University has a permanent office in Brussels, which is a joint office with Aalborg University, one of ECIU's members. Head of the ECIU Brussels Office is Olga Wessels, who also leads the FOR-EU1 core group with alliance coordinators.

In a [paper](#) published by ECIU University in February 2022, the alliance states that even with a legal status under national law it still faces obstacles when it comes to sharing resources, personnel, infrastructures and services or to the provision of joint education and research activities. It therefore welcomes the initiative of the European Commission to explore the feasibility of a European legal instrument for university alliances.

6.4 Case Study 3: Una Europa vzw

Una Europa is one of the few pioneering alliances that established a legal status early on. Una Europa vzw (Vereniging zonder winstoogmerk) is a non-profit association under Belgian law established in February 2019. The main purpose was to give their alliance a long-term and sustainable framework right from the start of the pilot phase. The Belgian vzw was chosen because the alliance coordinator KU Leuven is based in Belgium and had some experience with this legal entity already. The alliance preferred a national association because it was easier to handle than a European model such as EGTC.

The governance structure differentiates between the decision-making level of Una Europa vzw and the project-delivery level of their ERASMUS+ project 1EUROPE. The General Assembly is the highest decision-making body and consists of the partner universities and university-related members (such as foundations and alumni organisations) represented by their Rectors or Presidents. The Board of Directors oversees the management of Una Europa vzw and is formed by the Vice-Rectors for International Policy and the Secretary-General of Una Europa vzw. The two spheres of the alliance and its project are linked through the Executive Committee, which is chaired by the Project Coordinator of 1EUROPE and includes the members of the Board of Directors of Una Europa vzw. The legal set-up is flexible to include more partners in the future when the alliance grows.

Una Europa vzw has an office in Brussels on the campus of KU Leuven. Currently, there are 4 colleagues hired and paid by the legal entity directly. The Una Europa vzw team in Brussels provides support to all alliance members. The core team consists of the Secretary-General, a management assistant, a communications officer and a policy officer.

Collaboration between the legal entity and the member universities is based on sustainability and subsidiarity. The alliance avoids creating parallel structures. One such example is the seed-funding instrument to foster research, which the legal entity put in place while the common application and evaluation procedure has been established at the level of the alliance.

When it comes to the financial set-up, the partner universities pay an annual membership fee to the association. In addition, the association tries to identify and apply to other funding sources. According to Una Europa, the most important feature of their legal entity is to ensure sustainability of the alliance independently from the project lifecycle under funding schemes such as ERASMUS+ and Horizon Europe. Una Europa also uses their legal entity to provide seed funding for researchers.

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