



**SeaDataNet**

*PAN-EUROPEAN INFRASTRUCTURE  
FOR OCEAN & MARINE DATA  
MANAGEMENT*



## ***Governance Framework*** *preliminary study*

Possible models for the future (new) association of SeaDataNet partners



# 1. Principles <sup>(1)</sup>

## 1.1. Main objectives for adopting a “SDN governance framework”

Studying a governance framework for the SDN Infrastructure is part of the SeaDataNet 2 Project commitments to EC ...

Giving a legal personality to the project partnership should allow to:

- collect and manage the legacy of the SDN projects in a **formal and sustainable** manner;
- formalize **rights and duties** between partners, and their contribution to maintaining an operational infrastructure;
- define common goals for further developments, and establish the **governance** of the partnership;
- facilitate expanding the partnership with **additional data providers** as members (with same rights and duties);
- facilitate positioning the partnership as a counterpart for the EU, to discuss & contract **data management services**.



# 1. Principles (2)

Amongst the common goals and objectives one can already identify:

- foster **cooperation and coordination** among SDN partners by establishing a formal degree of “association”;
- sustain SDN **e-infrastructure** (tools, metadata, data, products, services) on the long run (beyond current project);
- act as **authoritative and competent voice** on data management and information systems at EU level;
- encourage **links** between national systems;
- promote the **pan-European** e-infrastructure at a high level for members' countries and European organizations;
- contribute further to data management and information systems, in support of **EU policies**;
- foster the necessary **developments** on data management and information systems, and their implementation.

A legal entity, by nature, has many rights like the following (to name a few):

- **contract** directly with sponsors and customers;
- **buy and sell** goods and services;
- **hire** people.

The partners will have to define how extended will these rights be, in order to serve the objectives of the partnership.



# 1. Principles <sup>(3)</sup>

## 1.2. Governance

On top of the **general rules** set in the official statutes, the partnership will have to agree on its **internal regulations**.

The following topics, at least, are to be covered:

- **governance** structure and bodies, such as the members' assembly, the executive board, the director;
- Intellectual Property Rights (**IPR**) policy;
- rules for **membership**;
- contribution in cash ("**fee**") or in kind to the work of the partnership;
- registered **office**;
- **finances**.

## 1.3. Data Policy

Further, the partnerships will have to agree on the documents describing the relationship with the e-infrastructure users:

- data **dissemination** policy (for data users);
- data and metadata **submission and sharing** policy (for data producers).



# 1. Principles (4)

## 1.4. Duties of the Associates

The partners will have to ensure provision of the services on a long-term basis (after the end of the SDN project), i.e.:

- ownership, governance and permanence of the **Internet Domain Name(s)** (such as [www.seadatanet.org](http://www.seadatanet.org)) and of the related namespaces;
- availability of **discovery** (metadata) services, including **common vocabulary** governance and services;
- availability of **data access** services;
- maintenance of **metadata and data** including quality assurance.



## 2. Possible legal frameworks <sup>(1)</sup>

### 2.1. European Research Infrastructure Consortium (ERIC)

- legal entity based on **EU law** (Article 171 of the EC Treaty) with legal personality recognised in all EU MS
- primary task is to establish and operate a **Research Infrastructures** of EU interest, involving several countries
- task to be pursued on a **non-economic basis** (but funded participations to other projects is possible)
  
- **flexible organization** (statutes, membership rights and obligations, bodies and competences, new members)
- members' **liability** is generally limited to their respective contributions (no capital requirement).
- recognised as international organisation, **VAT exempt** (under certain limits and conditions) in all EU MS
  
- **conditions:** required, open, added value to ERA, mobility of knowledge/researchers, dissemination
- **membership:** majority of (at least 3) MS (members negotiate participation), third countries, international bodies
- **structure:** seat in EU (or associate) country, activities anywhere, agreed governance, assembly & director (board)



## 2. Possible legal frameworks (2)

### 2.2. European Economic Interest Group (EEIG)

- promote economic activities of a **consortium** (from different MS) by pooling of resources, activities or skills
- very flexible and contractual **structure** with at least 2 partners from 2 MS
  
- formed by companies, firms and other **legal entities** (professionals) recognized (with registered office) in EU MS
- partners are personally **liable** with their own assets (!)
- (economic) **activities** must be related to, but cannot replace, those of the members
- **profits** not foreseen, but possible (members to be taxed accordingly)
- cannot **employ** directly more than 500 persons
- **contract** of formation to include name, official address and objects, members' data, duration (except if indefinite)
- **contract** to be filed at the registry designated by each MS (conferring full legal capacity throughout the EU)
- notice of formation or dissolution must be published in **the Official Journal of the EU** (C and S series)
- **official address** must be within the EU (may be transferred from one MS to another subject to certain conditions)
- at least 2 **organs**: the members acting collectively and the manager(s) (representing and binding with 3<sup>rd</sup> parties)
- each member has one **vote** (some may have more, but no member may hold majority); unanimity may be required



## 2. Possible legal frameworks (3)

### 2.3. Non-Profit (International) Organization (NPO)

- not set up under EU law, so **may vary** from one MS to another, even if available in most MS
- **rules** of the coordinating body MS may be adopted, or alternatively Belgium law may be chosen
- under **Belgium law**, regulations & prerequisites are very similar to EEIG, except for:
  - the organization shall pursue activities of **non-profit** nature
  - oo direct **financial advantages** for members (but income related to marginal costs may be redistributed)
  - members are **not personally liable**





## 2. Possible legal frameworks (4)

### 2.4. Comparison of the 3 alternative models

	PROS	CONS	to be considered
ERIC	<ul style="list-style-type: none"> <li>- designed for research</li> <li>- adopted (2010) by EurARGO</li> <li>- adopted (2013) by EMSO</li> </ul>	<ul style="list-style-type: none"> <li>- not flexible structure</li> <li>- MS application to the EC (MS delegating mar.dat.man. to partners as public service)</li> </ul>	
EEIG	<ul style="list-style-type: none"> <li>- flexible structure (contract between partners)</li> <li>- chosen by EUMETNET</li> <li>- considered by EuroGOOS</li> </ul>	<ul style="list-style-type: none"> <li>- not designed for research (economic interest oriented)</li> <li>- personal liability of members</li> <li>- no experience with DG RTD</li> </ul>	<ul style="list-style-type: none"> <li>- status of non EU members</li> </ul>
NPO	<ul style="list-style-type: none"> <li>- flexible structure (contract between partners)</li> <li>- not economic interest oriented</li> <li>- chosen by EuroGeographics</li> <li>- chosen by EuroGOOS</li> </ul>	<ul style="list-style-type: none"> <li>- adopted under Belgian law (not European framework)</li> </ul>	<ul style="list-style-type: none"> <li>- legal framework for coord. Belgian law? Other? What if coord. changes?</li> </ul>



## 2. Possible legal frameworks (5)

### 2.5. Conclusion

- 1) applying as an ERIC involves a very long-term “roadmap” and must proceed at the Ministerial level in each MS (a “road” may prove to be impossible, such as in France),
- 2) the main goals of SDN are not related to economical interests (showing economical interests may causes disturbances of various kinds with data providers)
- 3) the most **effort-effective approach seems to be the Non-Profit International Organization** (in particular the Belgian international NPO)



### 3. Tentative roadmap

Whatever the final choice (NPO, ERIC or alternatively EEIG), the following actions will be required:

- **writing a MoU**, prefiguring the internal rules that will be applied (“internal contract”)
- setting up a WG in charge of conducting the process towards the application for the adopted legal framework
- involving experts in legal affairs in this process (possibly as part of the WG in charge)
- presenting the MoU during the next SDN meeting (under the aegis of the steering committee)
- amending and signing (by all partners) within the following 6 months
  
- **writing all documents** required to apply for the chosen legal entity (to be done by the WG within 6 months) :
  - name, seat, ..., statutes of the legal entity
  - implementing rules which complement the statutes and may include Data Policy
  - potential contributions of the partners and MS, and their breakdown
  
- enlisting help for negotiations between partners and respective MS (in the case the ERIC is chosen)
- **formal approval** of the steering committee and formal presentation during the SDN final plenary meeting
- **formal signature** of partners during the following 3 months

Some incompressible delays must be taken in account: for example, following the application to the EC, **the typical timing for the decision about the setup of an ERIC could be between 6 and 8 months.**