



EXCHANGE OF EXPERIENCE WORKSHOP

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Options for a Legal Structure

Harry Tuinder
Research Infrastructure Unit
DG Research, Science & Innovation
European Commission



Legal Structure

- **Why a Legal Personality and not a Consortium Agreement or MoU based cooperation?**
- **A Legal Entity Allows for:**
 - creation of a central management structure at international level
 - employment of staff
 - strategy agreed at international level
 - long term support of activities, not necessarily time limited
 - pooling of resources from the members
 - being a legal counterpart in (international) cooperation activities
- **Without legal entity: a Network not an Infrastructure**



Legal Structure Options

➤ **National: examples**

- GmbH (e.g. CTAO); Ltd (e.g. Instruct); AISBL (e.g. Extreme Light Infrastructure Delivery Consortium (ELI DC))
- Advantages:
 - Known (by the national administration) and proven legal structure
 - Short lead time for establishment
 - Allows for membership from private and public entities
 - Flexibility in accordance with applicable national laws

➤ **European**

- European Research Infrastructure Consortium (ERIC)
- Advantages:
 - Recognition of legal personality in all EU MS
 - Membership only for States and Intergovernmental Organisations
 - Recognition by the European Commission
 - Exemption VAT and Excise duties under certain conditions
 - Exemption of Procurement Directives



Legal Structure Options (2)

➤ **International Organisation**

- Treaty based International Organisation e.g. CERN, ESO, EMBL, ITER, (future) SKA
- Advantages:
 - privileges and immunities
 - stable legal basis independent of Member countries
 - exemption of most taxes and duties
 - create own staff regulations ensuring equal treatment in salaries and taxation independent of nationality of staff
 - immunity from legal procedures unless otherwise accepted by the IO



POINTS OF ATTENTION

➤ **Character of membership:**

- Exclusively States and International Organisations
- Private and public national entities
- Only European or also non-European entities/States

➤ **Character of the Research Infrastructure:**

- Single sited or distributed
- Physical construction or federation of existing (local) Research Infrastructure
- Protection of investments needed because of substantial amount or location of facilities
- Long term character of the cooperation and activities within the Research Infrastructure

➤ **Political Support:**

- Clear leading entity/State for establishing and supporting the Research Infrastructure
- In case of ERIC or International Organisation support by States (and in case of International Organisations) and national parliaments