



Task 1.1

Final report of the Strategic Committee with decisions and recommendations

EGAI - UNITA AS A MODEL FOR INSTITUTIONALIZED UNIVERSITY COOPERATION: FROM THE EUROPEAN GROUPING OF ECONOMIC INTEREST TO THE EUROPEAN GROUPING OF ACADEMIC INTEREST

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Abstract

The purpose of the present report is to encapsulate the position of the Strategic Committee, the body composed by the leaders of the different WPs and task forces, which took care of the management and coordination of the project implementation. The document seeks to address the main questions that underpinned the EGAI project team's work, regarding the suitability of the EEIG as a cooperation tool to institutionalize the partnership between higher education institutions, while also outlining present and foreseeable obstacles to the achievement of such purpose. The report sums up the main decisions that were adopted to accomplish the set goals and summarizes the most relevant outcomes of the research conducted.

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1. Introduction

The project “EGAI - Unita as a Model for Institutionalized University Cooperation: from the European Grouping of Economic Interest to the European Grouping of Academic Interest” (hereinafter, “EGAI”) intended to examine, test and facilitate the use of a European Grouping of Economic Interest (EEIG) as an instrument of institutionalized university cooperation, with the ultimate goal of providing valuable input for the design of a new grouping, speculatively named European Grouping of Academic Interest (EGAI).

EGAI includes the members of the UNITA-Universitas Montium alliance (hereinafter, “UNITA”), supported by their respective national authorities in the field of higher education, the other Universities associated with UNITA, the Italian authority competent for the registration of the EEIG (CCIAA of Turin) and other alliances or entities interested.

The purpose of the present document is to summarize the events organized within the framework of the project, while gathering the main findings that have emerged from the research activities. To this end, the report will consist of an introductory section, useful to set the background for the actions of the project team, and of a descriptive section, aiming at outlining the activities carried out by the different work packages. The last two sections will seek to address the main reflections shared among the Strategic Committee: the former encapsulates the main results of the research conducted on the EEIG, the latter the main recommendations drawn from the experience gained and the scientific events organized.

The activities carried out as part of the EGAI project have produced some initial outcomes that are worthy of consideration, which are summarized in the present report. Nonetheless one year revealed itself as a very limited period of time to carry out extensive research on these topics. For this reason, the EGAI team is already prolonging the research activities beyond the project’s deadline, with a view to gather more comprehensive results in a scientific publication. In any circumstance, in order to attain exhaustive conclusions on the matter, an extension of the experimentation period seems certainly necessary. In particular, the identification of the inherent features of an academic grouping regulated under EU law must build on a comprehensive investigation of the national legal frameworks of all 27 member States in which it will be destined to operate.

2. Background

In 2021 a task force of legal experts from all members was formed within the UNITA alliance, which proceeded to analyze the different legal forms that could be used to institutionalize their cooperation in a medium- and long-term perspective, with the aim to support joint activities and finance the long-term sustainability of the alliance. Following in-depth analysis, the **European Economic Interest Grouping (EEIG)** was identified as the preferable solution among those offered by the European Union legal system,¹ and on the 13th January 2023 the grouping was officially registered at the Chamber of Commerce of Turin.

In October 2022, the partners of the alliance participated in the call for proposals for **European policy experimentation in higher education** under the “Pilot institutionalised EU cooperation instruments to explore the feasibility for a possible European legal status for alliances of higher education institutions”, funded under the Erasmus+ program. The EGAI project was one of the four proposals to be selected and was awarded funding to carry out the envisaged experimentation activities for 12 months, beginning on the 1st April 2023.

The aim of the project was, on one hand, to render the EEIG concretely operational and observe its functioning, on the other, to identify the necessary features of a legal form specifically conceived for inter-university cooperation, such as the EGAI. For this purpose, a team composed of 15 legal and/or economic experts from all the partners universities has conducted an in-depth analysis to define a number of elements, such as the activities to be entrusted to the EEIG, the legal tools to ensure the sharing of personnel, data and material resources and the economic and financial needs of the grouping.

The results previously achieved within UNITA allowed the EGAI project to take a more substantive and advanced approach, aiming not only at conducting a preliminary study to experiment existing legal forms, but rather at carrying out a concrete testing of the one that had already been chosen.

¹ The analysis carried out by the partners - which can only be briefly recalled here - has taken into account the EEIG, EGTC, ERIC, SE and non-profit associations under national law. The latter were firstly excluded because of their national connotation, whereas the EGTC was ruled out due to its complex establishment procedure as well as its inherent nature, which seems more appropriate for cross-border cooperation between neighboring Member States. The Societas Europaeae was likewise excluded because of constraints posed by national legal systems (especially French law) regarding the establishment of for-profit entities by public bodies. The ERIC, on the other hand, was deemed to have too narrow of an object in relation to the missions associated with universities (as well as its overly complex establishment procedure).

Concurrently, the UNITA alliance was funded for the second time in the European Universities Initiative call under the Erasmus+ program. This time, however, the EEIG participated to the call jointly with the partner universities and received funding as a member of the consortium.

3. Description of the activities

In order to carry out the aforementioned activities, four different **Work Packages** have been created.

3.1. The **WP1 (Coordination Board)**, led by the University of Torino, foresaw two different bodies: the Coordination Committee, which was participated by the representatives of the partners and by the members of UNITA project WP1 (to ensure the tightest synergy with the UNITA alliance), and the Strategic Committee, composed by the leaders of the different WPs and of the task forces formed therein, which has scheduled monthly meetings (both online and on-site) to take care of the management and coordination of the project implementation. For the performance of quality processes and the assessment of the project's compliance with the planned activities, the Strategic Committee also availed itself of the collaboration of the Quality and Evaluation Board (QEB) of the UNITA alliance.

3.2. The **WP2 (EEIG as an instrument of academic cooperation - legal research)** had the overall objective of conducting legal research to investigate the compatibility of the chosen legal entity with the specific needs that arise from cooperation within university alliances. The analysis carried out built upon the testing of the concrete functioning of the UNITA EEIG and ultimately led to the identification of the necessary improvements that need to be implemented to render this grouping a suitable option for institutionalized cooperation in the academic field.

Within the work carried out by WP2 a number of **deliverables** were produced.

3.2.1. Firstly, the University of Pau and Pays de l'Adour produced a report titled "**Analysis on the object of the academic EEIG**", concerning the investigation of the possible purpose of an EEIG in the context of university teaching, knowledge transfer and research activities. The report sought to analyze the activities that can be entrusted to the UNITA EEIG and to clarify their definition, while also seeking to shed light on the notion of economic and ancillary activity of the EEIG, particularly as understood under European Union law and by the Court of Justice of the EU. By doing so, it identifies in concrete terms what economic activities can be considered legally compatible with the institutional missions of universities and it highlights issues that might arise in relation to the financing of EEIGs.

3.2.2. Following the lead of the University of Saragozza, a “**Toolkit of legal instruments for the functioning of the EEIG**” was created, conceived both as a reference document for the EEIG and its members, but also as a helpful instrument for other alliances of European universities that decide to create an EEIG to institutionalize their cooperation. To this end, the toolkit has been published on the institutional website of the alliance (available at the following address: https://univ-unita.eu/Sites/unita/en/Pagina/unita#egai_project).

The toolkit includes the legal instruments that regulate the internal functioning of the EEIG, namely its statutes and its internal regulation, translated in the different languages of the partner universities. Moreover, it contains a report describing the main obstacles encountered (or foreseen) by the member universities concerning the sharing of data, personnel, and material resources with the EEIG. The report is based on the main points extracted from a survey filled by the member universities.

Building on the lessons learnt from the test activity organized by WP3 (see *infra* 3.3.), the toolkit also contains some models of contracts required for the day-to-day functioning of the EEIG as regards the transfer of resources from the member universities, as well as a proposal for a possible framework agreement to further regulate the relationships between the members and the EEIG in a more detailed and structured way. Finally, the toolkit includes a model of recruitment notice for administrative and teaching personnel to be used by the EEIG for hiring its own staff.

3.2.3. In addition to what was originally outlined in the project, a **scientific conference** titled “Paving the way for European Universities” was organized by the University of Savoie Mont Blanc and held in Chambéry on March 7-8th 2024. During the conference, the participants and attendees explored the legal challenges posed by the sustainability of the European university Alliances.

The opening session had a rather political meaning, as it was dedicated to a roundtable discussion between Rectors, Vice-rectors, representatives of the European Commission DG for Education, Youth, Sport and Culture. The following session featured a roundtable aimed at comparing the national higher education legal frameworks of the States involved in the alliance. This discussion built upon the findings of a questionnaire that was circulated among the partners, which also included an **interview with the respective Ministries** in charge of higher education and research, aimed at identifying their vision of European university alliances as well as the legal obstacles they might have foreseen.

Upon conclusion of the introductory discussions **the results of the legal analysis were presented**, beginning with an overview of the obstacles connected with the use of different cooperation tools, in collaboration with representatives of university alliances that adopted different instruments (e.g., EGTC or national instruments such as the Belgian AISBL). Subsequently, several speakers discussed the main challenges arising from inter-university cooperation, such as cross-border accreditation, data sharing, public procurement, funding, participation of universities of non-EU countries, governance structures and academic freedom as a founding value of interuniversity cooperation. The conclusive session aimed at tracing the path forward on the long road to the construction of European universities.

The scientific conference, which was attended by 70 people online and 30 in person, served as a platform for presenting project findings, engaging with experts in relevant fields, and disseminating research outputs to a wider audience.

3.2.4. As the conclusive product of the research activity of the WP2, the University of Savoie Mont Blanc produced a **“Proposal for a new regulatory framework”**, aiming at describing the possible new regulatory framework that could be established for the operation of a legal entity for academic cooperation purposes. This document explores the need for a legal entity and the advantages and disadvantages of the current legal tools available, while also delving into the competences of the Union to adopt a new regulation in this matter. The recommendations included in this proposal not only build on the theoretical background elaborated throughout the research activities, but also take into account the findings emerged during the scientific events organized within the project, which aimed at fostering discussion on the relevant topics with academics and practitioners from other European universities’ alliances.

3.3. The **WP3 (Testing the EEIG through the organization of a lifelong learning activity)**, led by the University of Beira Interior was entrusted with the task of testing the operability of the EEIG through the organization of a lifelong learning activity on “Interpersonal skills and sustainability”. In this context, several speakers were invited to discuss topics such as work and team management, leadership, sustainable development and environmental and social sustainability.

The workshop was directed at staff from SMEs and provided opportunities for in-depth exploration of specific themes, facilitating hands-on learning experiences and fostering networking among participants. This activity also represented the first initiative formally organized in collaboration with the EEIG, thus granting the opportunity to stipulate the first service contracts between the University and the grouping, necessary to employ the teachers involved in the event.

3.4. The **WP4 (Impact and dissemination)** was in charge of the dissemination of the results of the research activities as well as of the lessons and best practices learned within the EGAI project, with a view to contributing to the European debate on inter-university cooperation. The dissemination activities were directed towards both the scientific community and university staff and all the relevant information have been published in the project-specific section within the alliance's website, managed by the University of Beira Interior (available at the following address: https://univ-unita.eu/Sites/unita/en/Pagina/unita#egai_project).

Several activities have been organized: the kickoff of the project, two webinars, and a Spring School (as well as the already mentioned workshop and scientific conference).

3.4.1. The **webinars** were both held at the University of Pau and Pays de l'Adour and provided platforms for knowledge exchange and discussion among stakeholders from academia, industry, and policy-making bodies, covering topics such as the role of universities in regional development, strategies for enhancing international collaboration, and best practices in project management.

The first webinar, which took place on September 12th 2023, concerned the so called "University EEIG" and sought to identify the issues arising in relation to the provision of services of general economic interest (SGEIs). Among the topics discussed were the examination of SGEIs and institutional activities of universities, the possibility to attract private funding and the institutionalization of cooperation between private universities. The session was topped up by some reflections on the legal regime of an EEIG participated only by public entities.

The second webinar, which was held on March 15th 2024, addressed specific issues regarding the functioning of a university EEIG, focusing on the topic of copyright and the rules applicable to intellectual property in the context of the EEIG's activities, as well as on the implications of applying competition law and employment law to a similar grouping.

3.4.2. The **Spring School** was hosted in Timisoara from the 15th to the 19th of March 2024 and saw the participation of 32 people in person (and partially online, due to the hybrid nature of the event) and 5 entirely online. The Spring school provided a unique opportunity for intensive learning and networking, bringing together students, researchers, and administrative staff to delve deeper into project themes through lectures, group activities, and interactive sessions. Participants gained valuable insights into the challenges and opportunities of inter-university cooperation and developed skills to enhance their contributions to collaborative initiatives.

The activities started off with a presentation of the UNITA alliance and the EGAI project, followed by a roundtable where representatives of other alliances had the chance to present themselves and their affiliated entities. Concerning the more technical aspects, the discussion started with an in-depth comparison between the different cooperation instruments available, and then moved to the challenges for the creation of a new grouping, the obstacles arising from the transfer of human and material resources as well as those connected to the sharing of data and intellectual property rights. In this context, the legal toolkit was officially presented to the attendees and discussed with peer administrative staff in charge of the implementation and management of other European universities' alliances. This was a fruitful occasion to assess the document, while sharing best practices and discussing potential hurdles to the concrete functioning of the grouping from a practical standpoint.

3.4.3 The **scientific conference** was replaced by the final event for all the policy experimentation projects scheduled for April 29th, according to the agreement with the DG Higher Education.

4. The EEIG as an instrument for institutionalized university cooperation: main findings

4.1. The advantages of the EEIG

After the completion of the research activities, the UNITA partners remained consistent with the original idea of choosing a **cooperation instrument among those provided by the EU legal framework**. This choice relies on several factors.

4.1.1. Unlike other alliances of European Universities, the feedback of which was gathered through invitation of representatives to the dissemination events organized within the project, UNITA still emphasizes the advantage of offering a **common legal framework** to the partner universities capable of guaranteeing the highest level of homogeneity when interpreting the relevant legal provisions. However, it must be born in mind that this common discipline does not regulate the entirety of the matter, which remains also subject to the provisions adopted at national level.

However, this choice is not only supported by reasons of technical convenience, but also relies on a deep understanding of the symbolic value of adopting an EU instrument, which confirms the European dimension as the inherent cultural and legal dimension of institutional cooperation between universities. This decision builds on the awareness that the creation of the European higher education and research area is strictly intertwined with the strengthening of the internal market and the European identity.

In addition to that, a “psychological advantage” is generally associated with the adoption of EU cooperation tools, which are deemed to make international partnerships appear more reliable and trustworthy to stakeholders, both public and private (e.g. local entities, SMEs...).

4.1.2. Among the main advantages that justified the choice of an EEIG is the simplicity with which it can be set up. This feature allowed for the prompt development of a legal structure which, although not endowed with full legal personality (the partners share an unlimited, joint and several liability), is capable of performing a number of tasks independently (hiring its own personnel, stipulating contracts, accessing funding...). To have such a legal entity set up in a reasonable time was among the main interests of the alliance’s partners.

The establishment procedure of the grouping is indeed characterized by a **limited formality**: all that is required is admission into a special national register - held by the member State where the grouping has its official seat - and limited publications in national and European gazettes and bulletins, with no requirement for the notary deed. Furthermore, unlike the case of the EGCT, **no authorisation is required** for the constitution of the EEIG, neither at EU level nor at the level of the member states involved.

In addition to that, the absence of an obligation on the partners to provide a minimum share capital has allowed the member Universities to create the grouping **without recurring to conspicuous investments**. This feature is not to be underestimated, especially when including in the partnership Universities with different sizes and financial capabilities.

4.1.3. A second reason that justified the choice of the EEIG is that its members benefit from significant leeway when shaping the organization and the governance structure of the grouping. **Flexibility** is thus ensured, as the EEIG is not only governed by the substantive provisions of its Regulation, but also by conditions agreed upon by its constituent members, thus leaving many substantive aspects to the members themselves to regulate. A similar mechanism allows the founding members, on one hand, to provide the grouping with a structure fit for their purposes, on the other, to apply modification to the anatomy of the grouping if required in response to unpredictable changes in the needs of the members or in the relevant legal framework.

The European regulation merely prescribes that organs of the grouping should be «the members acting collectively» and «the manager or the managers». This allows the partners to regulate further bodies in their statutes, with broad discretion as regards the extent of the powers and prerogatives

of the latter. The enjoyment of significant leeway in the customization of the organizational structure of the grouping allows for its adaptation to the specific needs of higher education institutions, specifically as regards the **representation in the governance bodies of the various components of the academic communities**, which proves critical to provide the EEIG with technical and representative legitimacy.

The UNITA EEIG governance structure consists of three main bodies.

The “Conseil Stratégique”, composed by all the Rectors and/or Presidents of the partner universities, which formulates the strategic addresses of the EEIG. Among its duties are the approval of the annual programme of activities as well as the annual budget and business plan. It is also responsible for the adoption of the most sensitive decisions for the grouping’s life, such as those concerning entry in new partnerships, amendments of the statutes or exceptions to the principle of financial equality.

The “Comité de Proposition et de Pilotage”, composed of three teaching units, one student and one administrative unit per each university, which are elected or nominated by their sending institution. This body is entrusted with the execution of the acts adopted by the Conseil Stratégique, it has the power to make proposals and it exerts control over the Conseil de Gérance.

The “Conseil de Gérance”, participated by one member for each University, who is elected or nominated by the governance board. This is the executive board of the EEIG entrusted with day-to-day administrative activities (e.g. drawing up the budget and business plan to be approved by the Conseil Stratégique).

4.1.4. The breadth of the possible **purpose of the grouping** should also be listed among the advantages of this legal form. The broad notion of “**economic activities**” elaborated by the Court of Justice allows for the entrustment of a wide number of tasks to the grouping, which can be used to carry out actions aimed at the creation of revenue.

Nonetheless, the economic nature of the activities does not imply the pursuit of profit to be distributed among the partners, nor it is intended to lead to the substitution of public funding as the main source of subsistence of the alliance. A similar choice would in fact bring the alliance in line with the “corporate university” model, which stands in potential contrast with the acceptance of academic freedom as one of the founding values of public universities.

Conversely, the EEIG seems a suitable solution to pursue a different model of higher education institution, namely the so called “**entrepreneurial university**”, characterized by its ability to innovate, recognize and create opportunities and capability to produce spillover knowledge through the development of an internal system for knowledge commercialization including patenting and licensing. Moreover, the grouping is an appropriate tool to provide custom-made further-education courses, consultancy services, editorial activities, conferences, official translations and certification of competences and so on.

4.1.5. The grouping’s sustainability is ensured not only through the performance of the aforementioned activities, but also through the **participation in calls** organized by public entities for the funding of supporting training and research activities, both as the sole applicant or jointly with the alliance’s partners. Indeed, although the EEIG cannot arguably access the entirety of EU calls for funding (e.g. as it cannot issue a request for an Erasmus Charter, it might be limited in its possibility to benefit from funding under the Erasmus+ program), it was successfully enlisted among the applicants for the present call under the “Pilot institutionalised EU cooperation instruments to explore the feasibility for a possible European legal status for alliances of higher education institutions” and it has successfully received part of the funding provided therein.

4.1.6. Further advantages of this legal form are the possibility to accept **members of both public and private nature**, which marks a clear distinction with the EGTC (which faces stronger resistance as regards participation by private entities), although the involvement of members of a private nature might give rise to complications vis-à-vis public procurement rules, as further specified in the final recommendations (see *infra* 5.4.) and the advantageous applicable **tax regime**, as the economic activities of the EEIG are only subject to stamp tax and VAT.

4.2. The disadvantages of the EEIG

The analysis conducted during the past twelve months also highlighted a number of shortcomings that are associated with the adoption of the EEIG as the legal entity to ensure the institutionalization of the partnership between the UNITA alliance’s members.

4.2.1. Firstly, limits arise from the previously mentioned **object of the grouping**. In particular, several questions could be raised regarding the employment of the EEIG as an instrument to jointly perform the main institutional activities of higher education institutions.

4.2.1.1. Although this is considered an advantage in a sense, the fact that EEIG can only be entrusted with “**economic activities**” certainly represents a limitation vis-à-vis the employment of this instrument for the **joint organization of academic activities**. According to the interpretation of the

Court of Justice, teaching activities cannot be regarded as having an economic nature when they are mainly funded through public funds.² It is likely that the same interpretation can be applied to public research activities.

These findings show that activities related to the two main institutional missions of higher education institutions, teaching and research, can only be entrusted to an EEIG if they are mainly funded by the students or by a third party. As a result, the organization of vocational courses can be delegated to the EEIG, but not the organization of training activities that are included in study programs leading to the award of a diploma with legal value. Likewise, the grouping can be assigned research projects from third parties, but it could not autonomously conduct fundamental (or non-instrumental) research.

Hence, although the exact scope of the notion of “economic activity” is rather unclear - and can be subject to modification in the future due to changes in the interpretation of the Court of Justice - it certainly does not include some of the activities that should be placed at the core of academic cooperation.

4.2.1.2. A second array of limits that are linked to the EEIG’s possible object arise from the obligation on the grouping to only perform activities of an “**ancillary nature**” to those carried out by the members. This means that the EEIG cannot in any circumstances replace its members in the performance of their institutional tasks. This second limit clearly restricts the opportunities of the EEIG to perform tasks that can be considered at the core of the institutional missions of its members (e.g. the organization of a course of study).

Due to these limitations, the EEIG could be considered a useful tool for the organization of support services but **not for the strategic coordination** of the alliance’s partner. At current stage the only foreseeable solution to achieve that purpose seems **non-institutionalized cooperation**, to be established through the signature of conventional agreements formalizing the partners commitment to adopt joint decisions for the pursuit of some (or all) of their institutional missions.

4.2.2. Further limits descend from the legal nature of the EEIG, which is a **body regulated under private law** with no power to adopt administrative acts or decisions. In particular, regulations adopted by the EEIG are not accorded the legal effects normally associated with public law norms: as they are adopted in the exercise of private autonomy, they merely produce contractual obligations upon the parties.

² CJEU, GC, 11 September 2007, Herbert Schwarz et Marga oojcs-Schwarz c/ Finanzamt Bergisch Gladbach, Case C-76/05, Rec. p. I-6849, Points 40-41.

4.2.2.1. The private nature of the grouping gives rise to a first number of questions concerning the **staff of the EEIG** and the applicable legal discipline.

First of all, the EEIG is subject to **labour law**, whereas in the member States where the partners reside, university staff are predominantly subject to public law. This discrepancy in the applicable legal framework leads to some specific misalignments and disadvantages: for instance, under Italian law, the maximum duration of fixed-term employment contracts is shorter in the private sector (two years) than in the public sector (three years). Moreover, these drawbacks are not compensated by the possibility to implement flexible models of employment typical of private law organizations. In fact, the EEIG is based in Italy and is therefore to be considered subject to the regulations provided for the employment of personnel in companies under public control, which entail several limits descending from the so-called “**quasi-publicity**” regime (e.g., on recruitment, liability for damages...).

4.2.2.2. Additional obstacles have been identified as regards the possibility for the partner universities to **transfer their own staff** to work for a period of time for the EEIG. The **secondment of personnel** was identified as a suitable tool for the needs of academic cooperation as it would allow to employ within the EEIG staff from the partner universities, who not only are highly qualified personnel, but are also familiar with the functioning of higher education institutions, the UNITA Alliance and project management. On the other hand, it could represent an opportunity for the universities’ staff to become familiar with the operational aspects of the EEIG.

However, as secondment is generally considered as a means to post personnel temporarily to perform other public functions, difficulties might arise depending on whether the secondment occurs between public administrations or from a public administration to a private entity, as is the case of the EEIG. In light of the specificities of the UNITA alliance, the studies conducted for the creation of the legal toolkit demonstrated that secondment would not come without **serious obstacles** in many of the countries involved.

Considering that the secondment of university personnel may prove highly burdensome (if not totally impossible) in most of the member States to which the UNITA partners belong, the only foreseeable alternative to detach personnel from the partner universities to the grouping is to resort to **unpaid leaves** or suspensions. However, there are limits (for example, regarding maximum time periods) and conditions for such requests for unpaid leave. Furthermore, the latter can prove **seriously detrimental vis-à-vis the recognition of work** periods for the purpose of career progression, especially for academic staff. The work carried out for the EEIG cannot be considered relevant in the career

of researchers for the purpose of accessing upgrading or salary supplements as the grouping is recognized neither as a higher education institution, nor as a different institution specifically conceived for the performance of fundamental research and dissemination.

4.2.2.3. A third array of questions connected to the private nature of the grouping concerns the possibility for the partner universities to **share material resources** with the EEIG.

In particular, the purpose of goods owned by most public administrations, including universities, is to serve the public interest. As a result, the process to transfer the ownership of such goods from a public to a private entity, like the EEIG, follows a complex bureaucratic process established by law with the need of the authorisations of a number of public authorities. In some cases it may even be impossible to accomplish.

4.2.3. Another relevant complication stems from the limitation imposed by the EEIG regulation, according to which the members of the grouping must have their activity **in the territory of the European Union**. This specificity has not posed significant problems so far, as the founding members of the UNITA alliance all belong to EU Member States. However, were the UNITA alliance to expand its boundaries, this might constitute an obstacle if alliances were to open to universities outside the EU. Indeed, two universities from third countries (Switzerland, Ukraine) have recently become associated members of the alliance, but the grouping's regulation still prevents them from becoming full members.

4.2.4. Finally, another limitation of the EEIG is the **unlimited, joint and several liability** of its members. Although this element constitutes an indicator of strong commitment from the partners and emphasizes the necessary relationship of mutual trust between the partners, preoccupations have arisen in relation to the potential financial exposure it causes.

4.2.5. In conclusion, there is no doubt that the EEIG can successfully be used as an instrument for cross-border cooperation on specific projects or for long term purposes, by public entities even in the academic field. This grouping allows for the “pooling of resources by constituent members for the accumulation of common technical knowledge, the carrying out of common research, the development of common know-how, novel or improved processes and products as well as the coordination of centralized administration of highly-specialised services”³.

³ M.K. Meseilles, ‘The European Economic Interest Grouping - A Chance for Multinationals?’, *European Business Law Review*, 26(3), 391, 2015.

However, as it will be further elaborated in the following section, this corporate form does not come without significant limitations that risk seriously hindering the scope of its operations. In light of this, the **need for a different legal instrument**, specifically conceived for partnerships among higher education institutions, is evident.

5. Recommendations and future perspectives

The need for an institutionalized cooperation **instrument specifically conceived for higher education institutions** has clearly emerged from the research activities carried out within the project. The creation of a similar tool would not only allow for the joint performance of the core institutional activities of universities, which at current stage seems precluded by the adoption of the EEIG, but would also significantly facilitate other complementary activities.

5.1. First of all, the adoption of a similar instrument would open the door for **easier access to calls** awarding different forms of funding for higher education institutions, at the national, EU or international level. The analysis conducted on the EEIG has shown that in most cases access to similar sources of funding is conditional upon the grouping being recognized as a higher education institution.

The question whether an alliance of European universities could be considered as a higher education institution in itself is still open, as it is still unclear whether the action of the European Union aiming at creating a grouping with such features would entail (forbidden) harmonization of national legislation. Consequently, the possibility for the **recognition of a similar grouping as a higher education institution** could ultimately be considered a matter for the Member States to handle.

However, a unitary status for partnerships between European universities could significantly help in this regard, as it would be possible for the institutions awarding the funding to include the newly created tool among the possible participants to the call, without necessarily going through an official procedure aiming at recognizing the aforementioned status.

5.2. The creation of a tailor-made instrument would also allow for the creation of a truly European university, fostering **visibility and attractiveness** for international students. In the future, such an institution could potentially deliver a **European degree** (or at least a European label), namely a higher education diploma to be automatically recognized in all member States according to a smoother procedure than those descending from the implementation of directive 2005/36/EC on the recognition of professional qualifications.

5.3. The creation of an instrument of institutionalized cooperation specifically conceived for higher education institutions would also help as regards the **management of the groupings' staff**.

As previously explained, the secondment of university personnel may prove highly burdensome, if not totally impossible, in most of the States where the UNITA alliance partners have been established. Hence, university staff may have to ask for unpaid leave or a suspension of their contract if they want to work for the EEIG. This is surely an aspect to be taken into account when considering the legal nature to attribute to this potential new entity, which should be conceived as a body **regulated under public law**.

Further obstacles persist as regards the circulation of workers from one Member State to another, which at the current stage are not regulated by European acts. Obviously there is free movement of persons and European citizens can move to live and work in other EU countries without the need for a visa or work permit. There is EU legislation for posted workers, but workers who voluntarily choose to work for an employer located in a different EU country still face hurdles regarding their status, for instance due to the absence of a harmonized system of social security.

5.4. Furthermore, the analysis carried out by the WP2 has highlighted the need for adaptation of the EU rules on **public procurement**, which should ensure compliance of European universities' alliances with the relevant legal framework.

In order for the partners to entrust contracts directly to the grouping, it is necessary that the EEIG can be considered as an in-house organization according to the definition provided by Directive 2014/24/EU. In particular, the participation of private members in the grouping may prevent it from being classified as in-house, giving rise to the paradoxical situation where the universities should resort to a public competition to entrust any activity to the grouping. At current stage the UNITA alliance is only participated by public universities, but this is a feature to be taken into account given the large number of private universities operating in the EU area.

5.5. On a more general note, emphasis should be placed on the need to carry out more in-depth research on the **national legal frameworks of all 27 EU Member States**, to assess the compatibility of the existing instruments with the domestic regulations on the relevant matters. This is a mandatory step in order to understand what should be the features of a legal entity specifically conceived for cooperation between higher education institutions.

Indeed, the results of the research activities conducted within the EGAI project proves relevant only with reference to 5 EU Member States (Italy, France, Spain, Portugal, Romania). As the constraints

to the utilization of existing cooperation instruments are deeply connected to the limits imposed by national legislations, a similar analysis needs to be extended to a broader range of countries before conclusive recommendations can be made in relation to the creation of a new legal tool for institutionalized cooperation.