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Data Infrastructure***

D 5.3

Report on Governance Structure

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ABBREVIATIONS

ASBL	Association sans but lucratif (Not-for-profit organization)
AV	General Assembly (Algemene Vergadering)
EEIG	European Economic Interest Grouping
EGTC	European Grouping of Territorial Cooperation
ERIC	European Research Infrastructure
DoW	Description of Work
FP7	Framework Programme 7
MS	Member State
NGSO	National Geological Survey Organisation
RvB	Board of Directors (Raad van Bestuur)
VAT	Value Added Tax
VZW	Vereniging Zonder Winstoogmerk (Not-for-profit organization)
WP	Work Package

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1 Introduction

1.1 Scope

The development and maintenance of the EGDI requires a legal and organizational framework that stimulates the open availability of geological data while taking into account the legal requirements and policy choices made on a global, European and national level.

Legal matters with regard to data accessibility, licensing, trust and authentication are discussed in Deliverables 5.1 (trust and authentication) and 5.2 (data accessibility, licensing, and existing policies on these issues). This report discusses the governance of the infrastructure: the tasks and processes that need to be governed; the possible organizational structures and arrangements; the relationships between EGDI and other initiatives and developments and their consequences for EGDI governance; and legal, business and funding models.

1.2 What is governance?

According to a definition of the US EarthCube initiative¹: “Governance refers to the processes, structure and elements that determine, within an organization or system of organizations, how power is exercised, how stakeholders have their say, how decisions are made, and how decision makers are held accountable”.

This definition makes clear that governance is a **process**. This report will describe (in chapter 5) a number of possible “governance models”, as well as (in chapter 6) a number of legal entities which could be used to implement these models. However, possible **roadmaps** towards this implementation (to be discussed in deliverable 1.3) are equally important.

Governance is closely related to **ownership**: (co-)owning a thing or a process gives a person or organization the right to say what should happen with it; and vice-versa, being involved in the governance of a thing or process gives a person or organization a sense of ownership. Ownership, in turn, is closely related to **funding** and thus to **business models**.

¹ Earthcube governance working group (2012): Earthcube governance framework: a proposal to the community – documentation, research and recommendations, sep 2012, v1.0

2 Methodology

2.1 Governance meetings within the consortium

A dedicated core-consortium meeting on governance issues was held on December 9th. An important outcome of this meeting was a concrete list of tasks and estimate of required resources (manpower and funding) for different levels of maintenance of the EGDI. The notes of that meeting are presented in Appendix 1.

In the framework of the activities of the Task Force Governance (see below), a number of joint meetings with several initiatives were held; in particular:

- Joint meeting of EGDI-Scope board and Minerals4EU WP leaders, followed by TF Governance Meeting, Brussels, 20 November 2013;
- TF Governance meeting, Schiphol Airport, 16 December 2013;
- TF Governance meeting & Spatial Information Expert Group meeting, Paris, 30-31 January 2014;

Furthermore, governance issues were discussed in many face-to-face discussions at different occasions

2.2 Task Force Governance

In October 2013, the EuroGeoSurveys General Meeting decided to establish a Task Force Governance to coordinate the governance aspects of EGDI/EGDI-Scope, the Minerals4EU project (an FP7-funded project on creating a “Minerals Intelligence Network for Europe”), and the EuroGeoSurveys Strategy (which aims at the development of a “European Geological Service”). The reason for setting up the Task Force “Governance” was that each of these initiatives is developing long-term concepts (The European Geological Data Infrastructure, a Minerals Intelligence Permanent Body, the European Geological Service, an ERA-NET/Article 185 Joint Research Program on Applied Geoscience), that all require appropriate funding models, steering mechanisms, organizational and membership models, etc., and that are – at least in part – interrelated.

The Task Force was composed of:

- Mr. Paul Bogaard (chair), representing the EuroGeoSurveys Strategy Task Force
- Mr. Jørgen Tulstrup, representing the EGDI-Scope project
- Mr. Jarmo Kohonen, representing the Minerals4EU project

- Mr. Francois Robida, representing the Spatial Information Expert Group
- Mr. Daniel Cassard, representing the Mineral Resources Expert Group.

The Task Force has the following tasks:

- Ensure regular exchange of ideas between the EGS Strategy Task Force, the EGDI-Scope Project, the Minerals4EU project and the wider EGS membership on governance aspects
- Identify the main common elements as well as the main differences in the governance requirements of each of the above initiatives
- Develop a set of common guiding principles to which the governance models of each of the above initiatives could apply
- Develop a common framework for discussing governance aspects
- Describe (at least) three different broad governance frameworks incorporating all of the above initiatives and their pros and cons.

The work of the Task Force Governance ran in parallel with the EGDI-Scope project, and this reports draws heavily on the outcome of that work.

3 Dependencies

3.1 EGDI as key element of a future European Geological Service

The EGDI is a key element of the EuroGeoSurveys strategic vision towards the development of a European Geological Service (figure 1), which has received strong support from the European Commission. This strategic vision forms an important framework for EGDI governance, as this is strongly interlinked with governance of the future European Geological Service

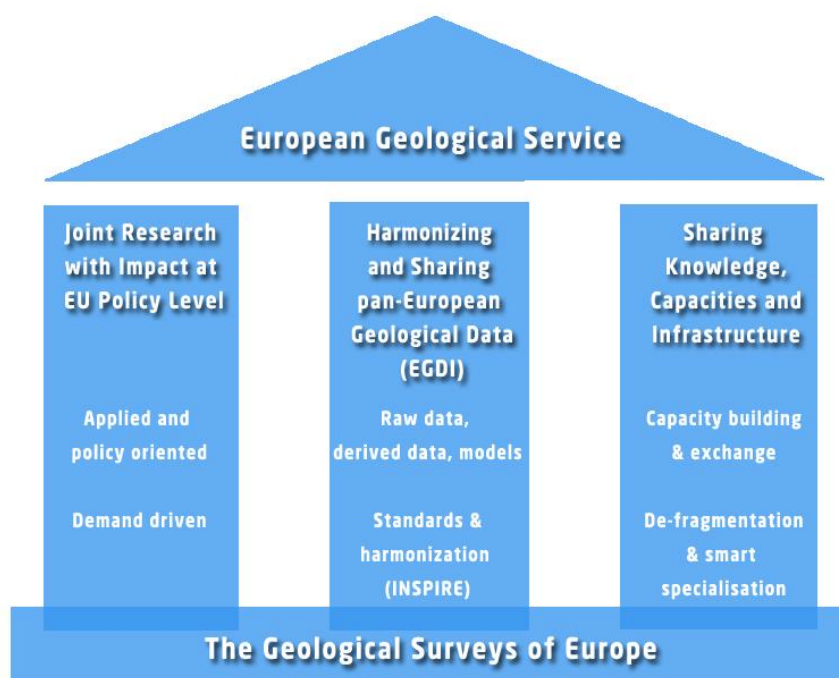


Figure 1: Graphic representation of the EuroGeoSurveys strategic vision towards development of a European Geological Service (source: “The Geological Surveys of Europe, for Europe - The EuroGeoSurveys vision towards a Geological Service for Europe). The EGDI is the 2nd of 3 pillars supporting this development. The Information services that the EGDI will deliver will be developed through joint research projects and programmes (Pillar 1, left). EuroGeoSurveys Expert Groups will be an important vehicle for sharing knowledge, capacities and infrastructure (Pillar 3, right), and will have a strong input into the formulation of a joint Strategic Research Agenda supporting Pillar 1), and in the prioritization of development of information services (Pillar 2).

3.2 Conceptual governance framework and position of EGDI and other initiatives with respect to this framework

Figure 2 shows a conceptual framework for governance as presented in the Task Force Governance report:

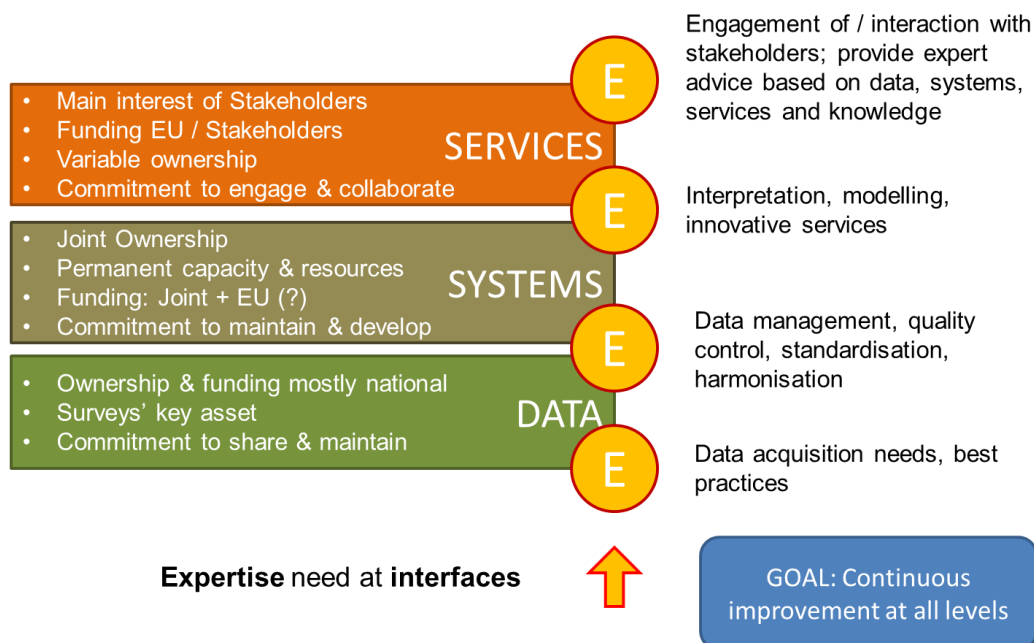


Figure 2: conceptual governance framework (Source: EGS Task Force Governance report)

This figure is similar to – and has parallels with – the ‘3-tier’ model (access tier – mediation tier – client tier) used in the description of information systems (e.g. EGDI-Scope, Minerals4EU), but shouldn’t be confused with it. The 3-tier model describes different technical elements of an information system; the Data-Systems-Service model aims to describe different ‘levels’ of governance:

- Data level: National data** are the key asset of both national geological surveys and of their collaboration in EuroGeoSurveys. These data are in most cases **owned** by national surveys and/or their governing organisations (mostly ministries), and maintained on the basis of national **funding**, but they could also be data owned by external partners like the industry and maintained by the surveys. EGDI will build on the willingness – and thus the **commitment** - of national surveys to share available national data, knowledge and expertise, and to maintain and keep up to date the services that allow this.

- *System level*: the system level can refer to the technical infrastructure, but also e.g. to the system/mechanism of making joint capacity and expertise available (e.g. through expert groups). At the system level, NGSOs jointly are the most important players and owners. Maintenance and further development of the system depends on long-term availability of capacity and resources. Funding may come from members and/or from EU; where it actually comes from will have an impact on ownership, and thus on governance. As long as EU funding is not available, NGSOs may decide to start building the system from own resources. This requires commitment, and willingness to make resources available.
- *Services level*: NGSOs' key asset is at data level. Making those data available at EU level requires the system level. But the main interest of the stakeholders is at service level. (where the term "service" is meant in a generic way that can take very different forms: they include spatial data services such as OneGeology-Europe or e.g. a service on mineral deposits; portals providing access to these data services; regular reports such as the minerals yearbook or minerals foresight study produced in Minerals4EU; or the provision of expert advice to stakeholders on request.).
- This is the most complicated level in terms of governance. Services developed by NGSOs are often of direct interest to "intermediate" users i.e. users with technical / geoscientific expertise who use the information in our services to produce reports or derived information services (e.g. by combining with data from other communities, to advice end-users. Often the end-user provides the funding. Funding for this will have to come from stakeholders. This may vary from service to service. Long-term commitment needed here is to engage and collaborate with stakeholders: both end-users (policy level, industry), and intermediaries (organizations such as JRC or EEA). In fact, the primary stakeholder for the EGDI probably is the European Geological Service itself, as the EGDI is instrumental in providing pan-European information.

In time, the aim should be to *continuously improve* at all levels, to create maximum added value. This requires *expertise*, especially at the *interfaces between* the different levels.

The EGDI, the European Geological Service and projects such as Minerals4EU each have their position with respect to this conceptual framework (figure 3).

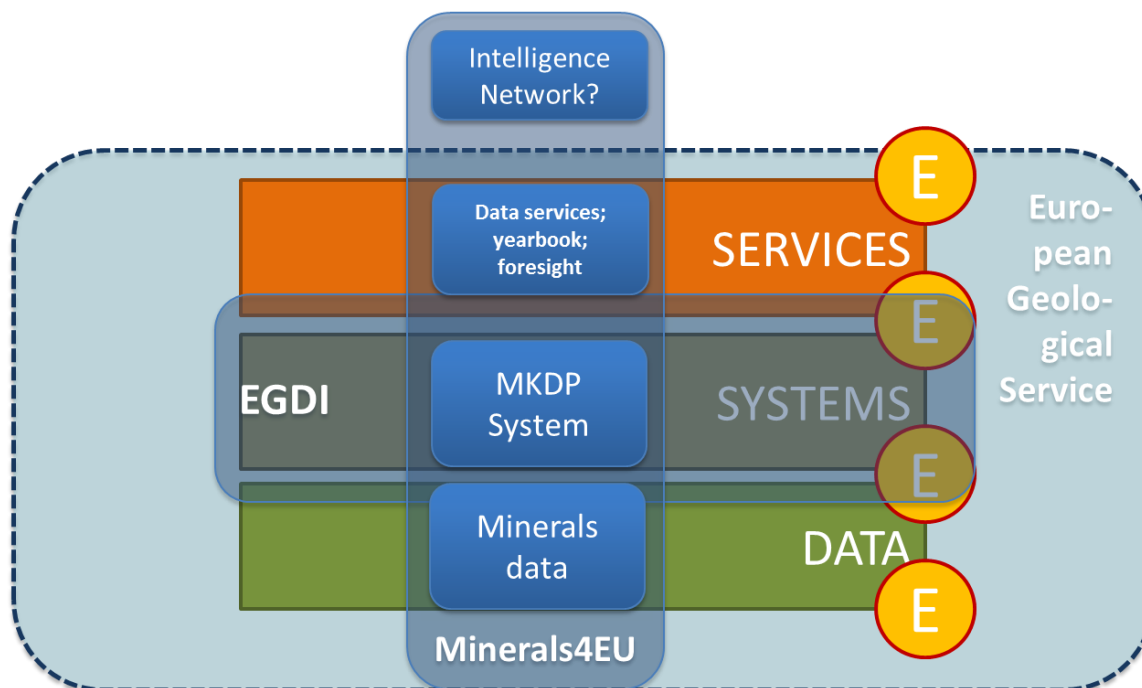


Figure 3: Position of different initiatives within the conceptual framework. The EGDI (as infrastructure) is primarily dealing with the SYSTEM level, as a vehicle for sharing and harmonizing data, and providing information services. The Minerals4EU project (and likewise other projects developing pan-European information services) deals with each level: sharing and harmonizing (minerals) data; developing the information system (as a pilot for EGDI), and providing a number of information services to relevant stakeholders and end-users. The European Geological Service covers data, systems and services across a range of geological domains, including minerals, and thus covers the entire framework. The European Geological Service can provide services to the Minerals Intelligence Network, but also to other topical stakeholder networks (e.g. an Energy Intelligence Network, a Groundwater Intelligence Network, etc.)

EGDI: Focus of EGDI is on the implementation, maintenance and further development of the system level. Services will be developed in individual projects that contribute to the EGDI (unless major funding for EGDI implementation comes available). Expertise is mainly needed to i) maintain and further develop the system; ii) connect the data level to the system level; iii) connect the system level to the service level.

Minerals intelligence network and permanent body: The Minerals Intelligence Network has a focus on the services level. Its purpose is to connect a range of stakeholders involved in minerals intelligence across the raw materials value chain. The role Geological Surveys play in this network is to provide information services (these include the minerals yearbook and the annual minerals foresight study) to the other stakeholders; stakeholder engagement is needed

to make sure these services conform to their needs. The Raw Materials Knowledge Data Platform (RKDP) has a relation to *all* levels, in the specific domain of Raw Materials. It is about developing raw materials information *services*, based on *data* owned and made accessible by national surveys as well as the *system* to serve them. The *system* to be developed can be seen as a full-scale pilot of the EGDI, and its maintenance and further development is focused on the *system* level.

Other topical networks can work (or have worked) in a similar fashion:

- NGSO could provide a number of geo-energy related services (Shale gas, conventional oil and gas, geothermal energy, and energy storage potential, possible conflicts with other subsurface use, etc.) to an Energy Intelligence Network.
- The PanGeo project focused on developing a specific Ground Stability Hazard service, based on both earth observation and local geological data and information, in close consultation with stakeholders (local authorities), and developed a system (portal) to make this service available. The end result could / will be transferred to the EGDI and be made available there, which can happen independently of the project and/or further commercial deployment of the service

EGS Strategy Implementation (ERA-NET, Article 185): The ERA-NET / Article 185 will, if realized, provide funding for projects in which services in a number of different domains are developed, based on data and knowledge of national surveys. These services will contribute to the development of the EGDI and be served through the EGDI system. As such, the program is relevant at all levels, similar to the RKDP of MINERALS4EU. The *management* of the program, however is more 'system' focused, although the system meant here is related to management of funding, writing calls, implementing and managing projects etc.

European Geological Service: The European Geological Service is the overarching framework for the strategy and is thus relevant at all levels. Its general concept is to provide geological knowledge and information tailored to the needs of EU stakeholders (service level). The information provided by the European Geological Service is based on the knowledge of National Surveys (data level). The system in this case is the general system in which national data, expertise and capacity are made available. The EGDI is part of that system, but it also includes the work of experts / expert groups, sharing facilities, etc.

3.3 Dependencies on parallel developments

3.3.1 INSPIRE

The INSPIRE Framework Directive is an important driver for the development of EGDI. It provides a legal framework for harmonization of data, as well as data- and technical standards and requirements (see also D5.2, Chapter 2). EGDI can support individual NGSO in their obligation to conform to INSPIRE legislation, to exchange knowledge and experience, etc. Working jointly on the development of EGDI will enable NGSO to build services on top of INSPIRE and extend its application. EGDI also offers NGSO an opportunity to jointly take responsibility for the maintenance and further development of (part of) the INSPIRE themes geology, minerals, energy, natural risk zones, and (ground) water. Such a responsibility would require a clear mandate to and commitment of NGSO, and consequently has an impact on governance.

3.3.2 EPOS

EGDI aims to become a central, European facility for sharing and making available geological data and derived information services, as held mostly by NGSO – e.g. borehole data, groundwater data, data on mineral and energy resources, etc. EGDI focusses on data and information that is

- Harmonized on a pan-European level
- Aimed at supporting policy and strategy development, e.g. related to mineral and energy resources, subsurface spatial planning etc.

The European Plate Observing System (EPOS) is an integrated solid Earth Sciences research infrastructure approved by the European Strategy Forum on Research Infrastructures (ESFRI), with the main goal to “promote and make possible innovative approaches for a better understanding of the physical processes controlling earthquakes, volcanic eruptions, unrest episodes and tsunamis as well as those driving tectonics and Earth surface dynamics.

Although both initiatives have a clearly different focus and goal, there is room for many synergies between the different communities and several NGSO are involved in both EGDI and EPOS.

In terms of governance, issues that could be addressed include:

- At national level, NGSO could provide repositories for preserving and harmonizing also academic geological data, thus contributing to the success of both EGDI and EPOS;

- EGDI could cover certain specific data domains of EPOS, such as geological repositories (figure 4). Discussions on this are already in place;
- Special provisions could be made for academic users to allow access of datasets and information services that are not available on EGDI free of charge.

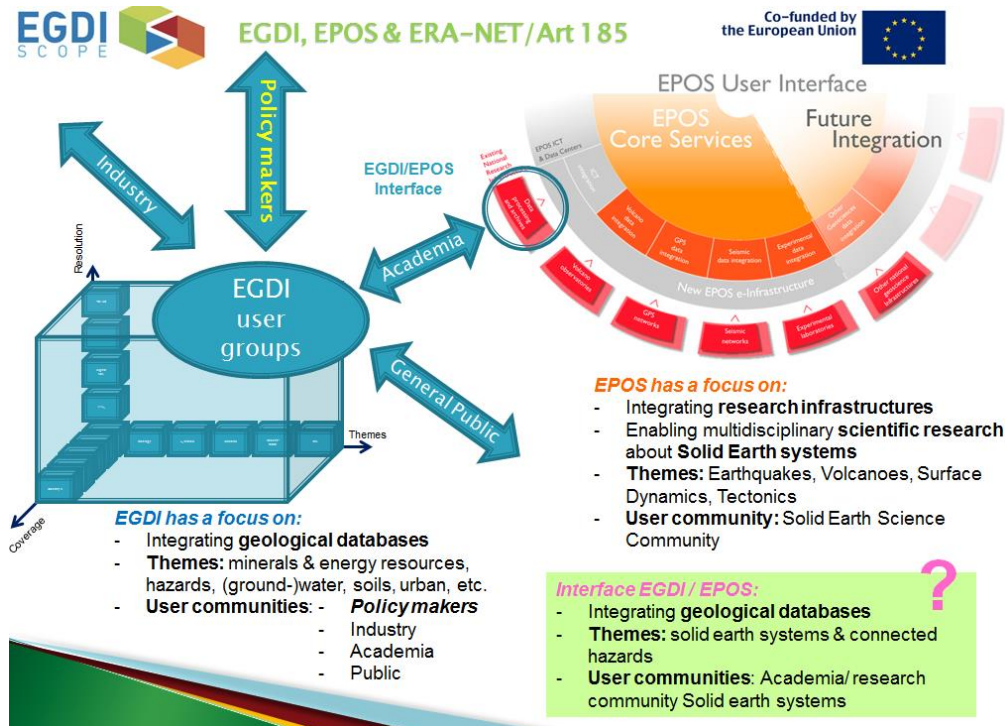


Figure 4: Relation between EGDI and EPOS

3.3.3 Group on Earth Observations (GEO)

GEO is a voluntary partnership of governments and international organizations that is coordinating efforts to build a Global Earth Observation System of Systems, or GEOSS. Originally focused on Earth Observation data from space and airborne platforms, GEO has an increasing focus on in-situ data (including geological data) as well. Like INSPIRE, GEO provides another important framework for data and architectural standards. In addition, GEO is a network with a global dimension. EuroGeoSurveys actively contributes to GEO.

3.3.4 EU projects

It is foreseen that, after initial implementation, the further development of EGDI (new data services, new technology development) will be driven by individual EU projects. For that process to function properly, governance provisions are needed to:

- Ensure that appropriate project opportunities are identified at an earlier stage, and procedures are in place to jointly engage in such projects;

- Ensure that provision are included, already at the proposal stage of such projects, that projects will conform to technical and data requirements of EGDI, and project results will be made available to EGDI after the project ends;
- Enable the EGDI organization to participate directly in projects, or even coordinate them.

4 Governance models

4.1 What needs to be governed?

The implementation and running of the EGDI requires a 'central facility' that a. o.:

- prepares annual work plans and sets goals and targets;
- acts as central contact point for all issues related to EGDI;
- takes care of internal and external communication;
- maintains the central infrastructure, including portal(s) and website(s), the central database;
- acquires and manages financial resources;
- manages all other daily affairs of the infrastructure;

4.2 Tasks of the central facility

Table 1 gives an overview of the tasks of the central facility, and an estimate of the minimal effort per year required to carry out these tasks (these numbers refer to effort required for *maintenance* of the infrastructure; the effort for *building* the infrastructure is much larger). The table makes a distinction between:

- “Central tasks” that are carried out at the central infrastructure level; these are subdivided again into:
 - Central: tasks that need to be carried out by a body or person who is independent of individual geological surveys;
 - Delegated: tasks that relate to the central infrastructure but **could** be delegated to an individual survey (e.g. hosting and management of the central database)
- “Distributed tasks” that are carried out at *each* individual survey (or data provider).

As can be noted in table 1, the estimated effort for *data standard management* and *central database management* has a wide range; for these tasks a *minimum* level (pure maintenance; only concern is that system keeps working) and *maximum* level (continuous effort to keep system at optimal performance) effort was estimated. For other tasks, the effort depends on the number of services served by (or numbers of projects connected to / using) the EGDI.

Each of the tasks is described in more detail below:

Daily management: a daily manager has to be in place that has overall responsibility for managing all EGDI related affairs

Survey contacts: there has to be an assigned contact person at each survey who is responsible for maintaining contacts with the central facility, and oversees implementation of local actions at their local survey.

Table 1: tasks of the EGDI central facility (required for maintenance of the infrastructure) and estimated annual effort (NB: these are very rough first estimates).

	Central Tasks		Distributed tasks (effort per survey / data provider)
	Central	Delegated	
Daily management	0,5 fte		
Survey contacts EGDI			5 days
Annual work plan	0,2 fte		1 day
Write tender, specify requirements for outsourced (delegated) tasks	<0,1 fte		
Daily maintenance of technical infrastructure		0,3 fte/50K€	5 days
Central database management		min 0,1 fte max 2 fte	
Data standard Management - Maintenance standards INSPIRE / OGC		min 0,2 fte, max 2,0 fte	0 - 0,2 fte
Portal management Software tools		1 fte (4 projects) 2 fte (10 projects)	
Connection with new projects for EGDI		< 0,1 fte	
Quality and content control	< 0,1 fte		0,1 fte
Central contact point	0,1 fte		
Helpdesk - IT - Content		1 fte	
Secretariat & Communication	1 fte		
Legal tasks		0,1 fte	0,1 fte
Results:	Min: 5 FTE		Min: 0,2
For 4 projects	Max: 7 FTE		Max: 0,4
For 10 projects	8 - 10 FTE		0,6 FTE (x31)

Annual work plan: annual activities and priorities, estimates of related efforts and budget, etc. have to be written down in an annual work plan, in such a way that all parties involved in the EGDI can monitor and steer these activities. This is mainly an effort of the central facility, but also requires input from individual surveys

Write tender; specify requirements for outsourced (delegated) tasks: As shown in the table, some of the tasks of the central facility must be carried out at “truly” central level, but others could be outsourced to individual surveys or even to external parties. However the requirements for such tasks should be clearly defined. Also, there might be several candidates to carry out a certain

task, in which case it could be decided to tender the task and award it to the best bidder (in whatever terms). Writing out such tenders, and specifying requirements for delegated tasks, is done at central level.

Daily maintenance of technical infrastructure: maintenance of the hardware and software on which the EGDI is run. This may require both manpower and cash (for buying hardware or e.g. for external hosting).

Central database management: Data providers will deliver national data and information services via web services to the central infrastructure in a central database. Users will access information services (via web portal(s)) through this central database (see e.g. deliverable 4.3). Estimated effort varies between minimum (few data services, pure maintenance) and maximum (larger number of data services, continuous optimization).

Data standard management: EGDI information services need to comply to European and international data standards (such as OGC, INSPIRE, etc.), which are itself subject to change. Estimated effort varies from minimum (reactive: occasional updating of data standards in case of minor changes – major changes in standards would require additional efforts and thus additional funding) to pro-active (EGDI takes itself an active role in the further development of standards).

Portal management: information services served by EGDI are accessible to users via (a) web portal (s). At these portals, users are able to search, display and download data, overlay several data types, and (possibly) to work with selected data (e.g. acquire statistics on selected data, draw cross-sections, etc.). The complexity of this task depends on the complexity of the provided information service, and on the number of datasets served. It also depends on whether data are served through a single EGDI portal, or specific portals dedicated to specific data services, or both (see e.g. deliverable 4.3)

Connection with new projects for EGDI: The EGDI will gradually be extended with new data services, which are developed within dedicated projects. Extension of the EGDI will be mostly done within the context of these projects, so the effort identified in table 5.1 is fairly small (most additional effort will be likely required in the development phase of such projects).

Quality and content control: Data providers need to ensure that the data and information services they provide to the central facility are of sufficient quality, and comply with standards required by the central facility.

Central contact point: dealing with all central inquiries related to the infrastructure

Helpdesk: separated in IT (both to external (users of information services) and internal (data providers) users) and content (support and explanations on the content and proper use of data services)

Secretariat and communication: support to management of the infrastructure: communication (website, newsletters, brochures, presentations, press releases etc.), preparing reports and work plans, keep financial accounts, prepare meetings, support decision making processes, etc.

Legal tasks: all tasks related to maintenance of and issues related to data licenses, as well as to the further development of the central facilities' legal structure

4.3 Legal & organisational tasks of the central facility

In setting up and running the central facility, the following tasks will have to be carried out:

Create statutes: Depending on the legal form of the organisation. For example, if it is decided to create an ERIC, then the statutes need to comply with article 10 of Council Regulation 723/2009 (see also chapter 6);

Determine tasks and activities:

- Determine the purpose (mission, goals and objectives) of the body
- Determine statutory seat (which will determine the applicable law)
- Determine the name of the organisation
- Determine the members, associated members, etc.
- Duration and procedure for winding-up
- Basic principles
 - Access policy for users
 - Intellectual property rights policy and licensing policy (data IN, data OUT)
 - Employment policy (incl. Equal opportunities)
 - Procurement policy (transparency, non-discrimination, competition)
 - Data policy
- The rights and obligations of the members (e.g. Obligation to make a contribution to a balanced budget and voting rights)
- Bodies of the organisation
 - Their roles and responsibilities
 - Manner in which they are constituted and in which they decide
 - Amendment procedure of the statutes (e.g. for admitting a new member)
 - For example:

- Assembly of members as body with full decision making powers (including budget)
- Director or board of Directors appointed by assembly as executive body and legal representative
- Daily manager or management team
- Working groups
- Budgetary principles, accounts, audit
- Applicable law and jurisdiction
- Liability of the members/of the body
- Reporting and control
 - Determine for example annual activity report, etc.
 - Procedure to approve these reports, etc.
- Ensuring compliance with EU and national legislation (e.g. maintenance privacy policy, INSPIRE developments and European PSI re-use policy, etc.)

4.4 General provisions and boundary conditions

From formal and informal discussions on governance issues within the EGDI project, the Task Force Governance and the EuroGeoSurveys strategy process, a number of general provisions and boundary conditions for EGDI governance were distilled:

- EGDI Governance needs to be aligned with objectives of EGS strategy, and relevant to practical needs to sustain EGDI, the future European Geological Service, and results from relevant projects such as OneGeology-Europe, Minerals4EU, EmodNet, PanGeo, and many others;
- EGDI Governance needs to facilitate alignment of its objectives with these other initiatives
- EGDI Governance needs to address business models. This includes not only funding but also the positioning and scope of the organization and the activities to be governed.
- EGDI Governance needs to address the need/obligation for commitment at national level
- EGDI Governance should provide maximum efficiency and effectiveness
- EGDI Governance needs to address requirements on future projects:
 - Data / service development of related projects should follow EGDI specifications;
 - Services developed should be transferred to EGDI at the end of the project (from development organization (project) to management organization (EGDI));
 - There is a need for a clear policy on project participation:

- Who determines (and how) whether a project opportunity is of interest to joint EGS membership participation, and of relevance to EGDI?
- Who determines (and how) who will coordinate writing of proposal
- Who determines (and how) which partners will be involved in individual proposals?
- Can we find a way of actively involving all partners, even if participation of all as full partner is not feasible (for budgetary or organizational reasons)?
 - Successful transfer suggests that EGDI management organization should have the ability to be directly involved in such projects?
- Overarching guiding principles for architectural development of EGDI should be:
 - interoperability WITHIN datasets;
 - interoperability BETWEEN datasets;
 - efficiency through re-use of tools across datasets;
 - long-term maintenance of datasets by surveys;
 - flexible framework, allowing surveys to deliver products at best AVAILABLE scale;
 - include datasets when they become available
- EGDI Governance has to address the need to keep the data and information provided through EGDI up-to-date and reliable.

4.5 Governance models

4.5.1 Current EGS model

EuroGeoSurveys is already in place as a legal body, and as a functioning platform for collaboration between the National Geological Surveys of Europe. An overview of the current governance of EGS is therefore useful as a starting point for the analysis of future governance models. EGS is established in Brussels as a non-profit making organization under Belgian law. EGS has two categories of membership: Full Members and Associated Members.

- Full Members are the Geological Survey Organisations of an EU member state, or of a member country of the European Free Trade Association or of a country that is recognized by the European Commission as an accession candidate.
- Associated Members are the Geological Survey Organisations of any European country, as defined by the Council of Europe, which is not covered by the conditions for Full

Member countries. At the time of writing, EGS has 28 full members and 3 associate members.

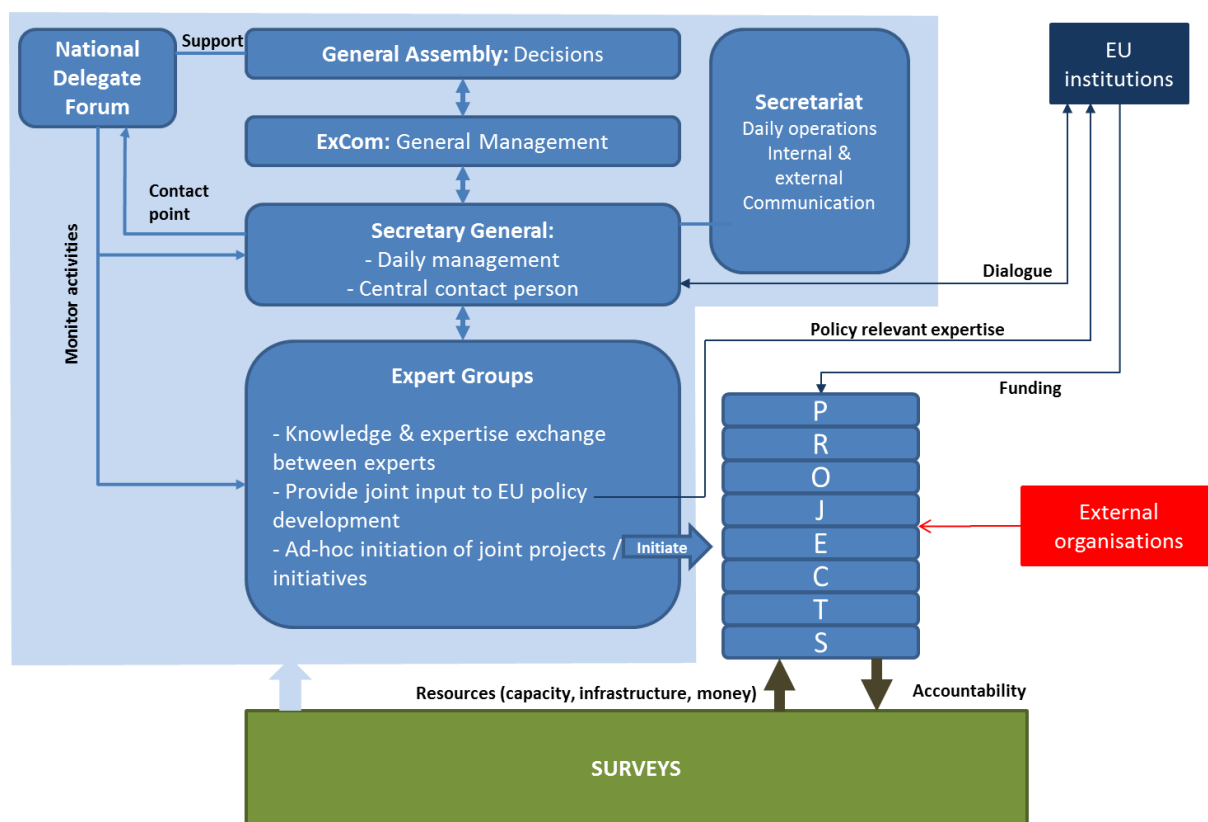


Figure 5: Current governance structure of EuroGeoSurveys

The organizational structure of EuroGeoSurveys is shown in figure 5. It comprises the following bodies:

- General Assembly
 - Main decision making body
 - Composed of the directors of the EGS members institutes (associate members may attend General Assembly meetings but may not vote)
- Executive Committee
 - Daily management body
 - Composed of 4 members (president, vice-president, treasurer, member), who are elected for a period of 3 years.
- EGS Secretary General and Office:
 - Organize internal EGS affairs
 - Is main liaison with EU institutions, other European associations and international organizations

- The Secretary General and office staff are employed by EGS. The Secretary General is elected for 4 years
- Expert Groups:
 - Provide platforms for exchange of knowledge & expertise between members' experts on specific topics (current topics are Spatial Information, Mineral Resources, Geo-Energy, Marine Geology, Geochemistry, Groundwater resources, Earth Observation & Geohazards);
 - Provide joint input to European policy development (examples include the INSPIRE data specifications for Geology, Mineral resources, Energy resources, groundwater and Natural Risk Zones; the CCS directive; the Water Framework Directive and Groundwater Directive; the Strategic Implementation Plan of the European Innovation Platform on Raw Materials, etc.)
 - Initiate, on an ad-hoc basis, joint research initiatives and EU project proposals
 - Are created or disbanded on decision by the General Assembly;
 - Report regularly to the Secretary General and once per year to the National Delegate Forum
 - But otherwise operate fairly autonomously
- National Delegates:
 - Assist the General Assembly by preparing General assembly meetings
 - Are the main contact point to individual surveys for the EGS office
 - Monitoring EGS and Expert Group activities on behalf of their organization
- Projects are (often) initiated through Expert Groups
 - EGS as an organization may participate in EU projects involving its members, but only in limited roles (e.g. advisory board, communication); it cannot coordinate projects.

Funding for EGS activities (including salaries of the Secretary General and Office staff) is primarily derived from membership fees, but increasingly also through participation in EU projects.

Members are not liable for damages resulting from EGS activities.

Members can leave the organization at any time.

4.5.2 “Intermediate” model: EGDI as part of EGS

The second governance model is called “intermediate” because it could function as a temporary model between the end of EGDI-Scope and the establishment of EGDI as a legal entity. The model takes the current EGS situation as a starting point, but adds a separate organizational part for EGDI. The model is shown in figure 6.

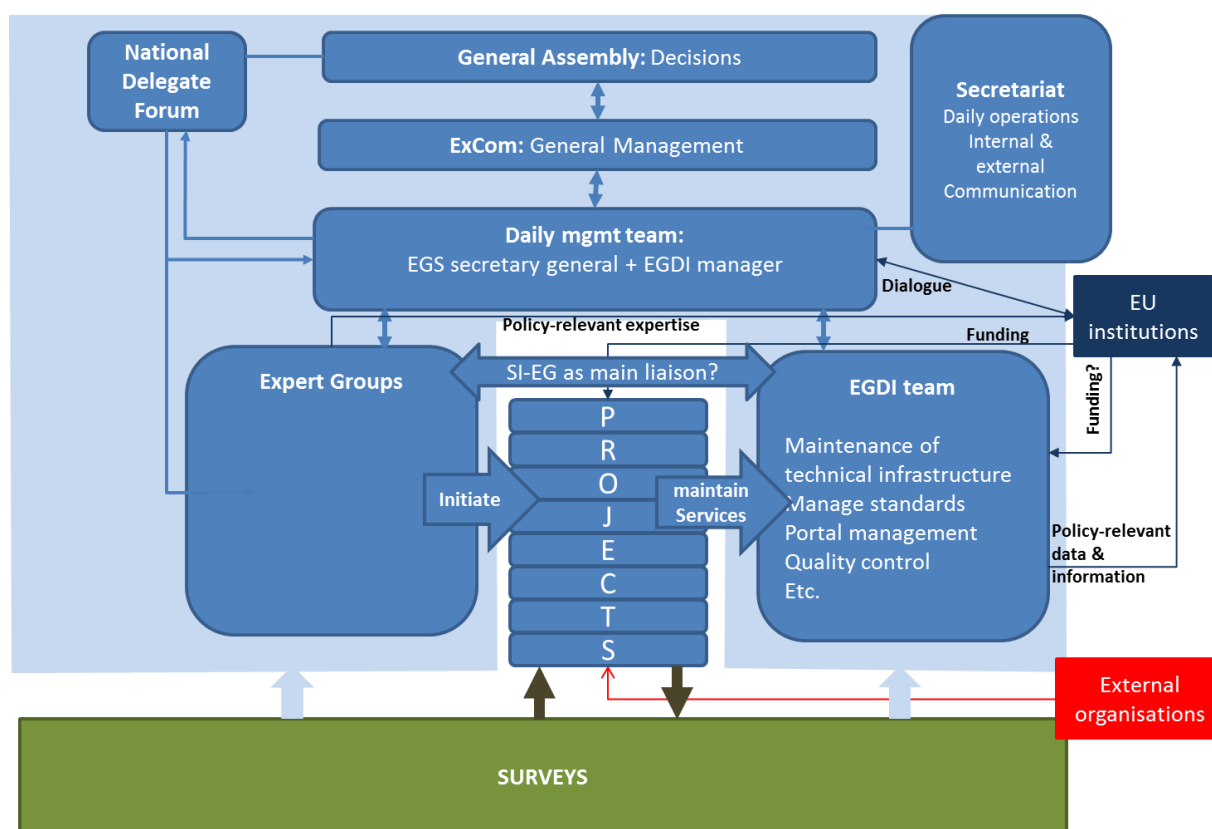


Figure 6: organizational structure of the “Intermediate” model

Characteristics and requirements of the model are:

- Decision making (General Assembly) and daily management (ExCom) bodies are responsible for both current EGS operations and operation of the EGDI.
- EGDI is managed by a separate EGDI manager, who:
 - Operates on an equal footing with the Secretary General;
 - With the secretary general forms a daily management team;
 - Has its own tasks, responsibilities, budget, and staff;
 - Is elected and hired similar to the position of secretary general;
- EGS office staff supports Secretarial, organizational, accounting and communication activities of EGDI as well as EGS organization;

In this model, rules on project engagement and integration with EGDI need to be put in place as soon as possible (see section 5.4)

Funding in this model could derive from EGS members (in cash and/or in kind), from contributions from ongoing and new projects, and/or from EU funding for a dedicated EGDI implementation project.

Advantages of this model are:

- It can be fairly easily derived from the current EGS structure;
- EGS and EGDI decision making is in the same hands -> effective and efficient;
- Flexible operation and structure.

Disadvantages are:

- Current weaknesses of the EGS model (fairly low level of commitment, no provisions on liability, large dependence on voluntary member contributions) are not resolved;
- EGS Secretary General and EGDI manager can become “two captains on one ship”;

4.5.3 Separate legal entity model

In this model, EGDI is set up as a separate legal entity from EGS, but is closely related to it. The model is shown in figure 7.

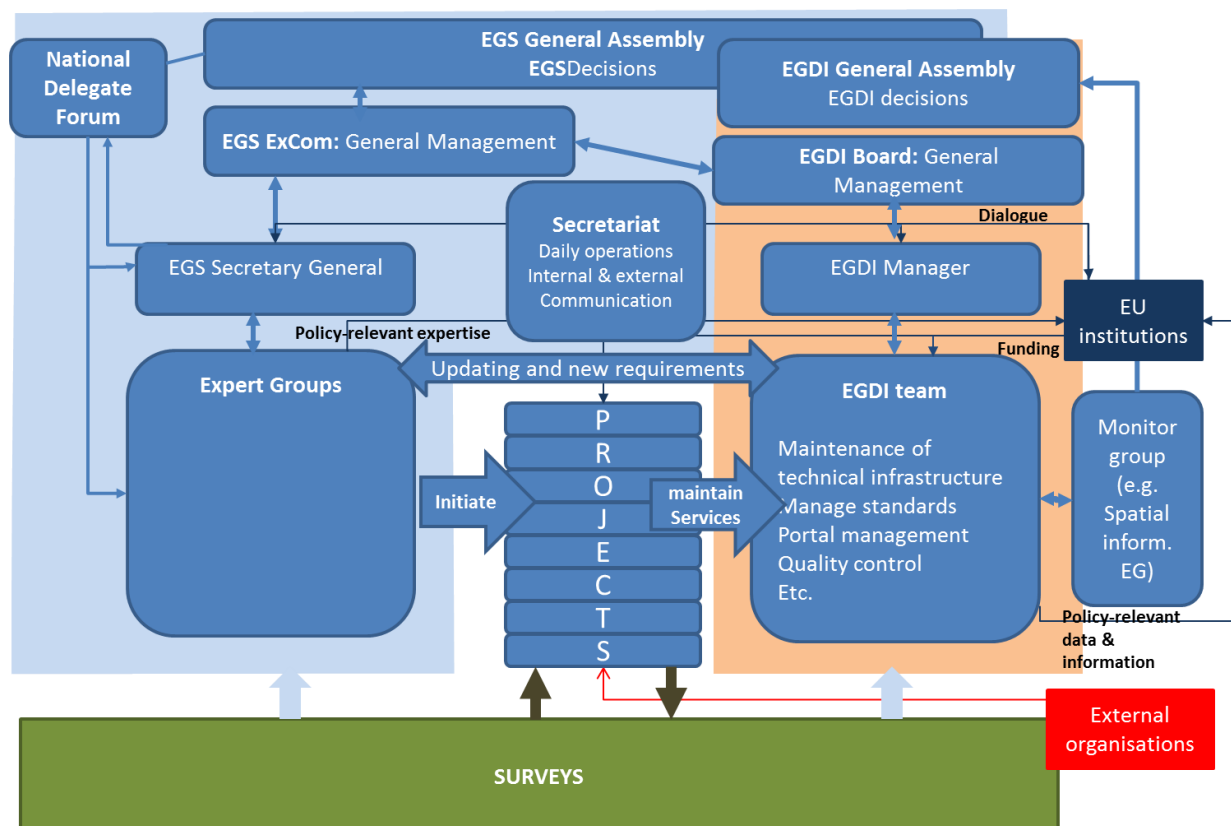


Figure 7: Structure of the separate legal entity model

Characteristics of this model are:

- The EGS organisation remains largely as-is.
- The secretariat remains part of EGS, but may carry out services for EGDI.
- The EGDI legal body has a General Assembly similar in composition to the EGS general assembly, but only open for NGSOs who fully participate in the EGDI legal entity. Other EGS members could be associate members to the EGDI legal body, participate in general assembly meetings, but not vote.
- EGDI has a separate board. The chairman of the EGDI board could have a fixed seat on the EGS ExCom (as additional member, or as one of the current members but not president).
- Expert groups have a role not only in initiating projects, but also in maintaining and updating already implemented datasets on the EGDI, and in identifying additional requirements for the EGDI
- The EGS Spatial Information Expert Group, which deals with standardisation and harmonisation of datasets, could have a special role in monitoring EGDI development on behalf of member surveys – similar to the role National Delegates have in EGS

Advantages (and requirements) of this model are:

- Setting up EGDI as a separate legal entity allows to include stronger commitments, obligations of membership and rules of decision making compared to EGS; EGS members not willing or able to make such commitments can remain member of EGS and thus stay involved in the network;
- Depending on the form of legal body chosen (see chapter 6) It would be possible for the EGDI organization to engage in contracts and EU project activities, also on behalf of its members; Such engagement could include coordination of projects;
- The model allows for clearly separated responsibilities and decision making between EGDI and EGS, while still maintaining strong relations between both organisations;

Disadvantages:

- Setting up a separate legal entity will take time and dedicated effort. Therefore this model is more suited for a later stage, where dedicated funding for EGDI implementation is available.

5 Legal bodies or permanent infrastructures for the EGDI

There are a number of options for 'permanent infrastructures' for the EGDI-scope project at this moment. A number of important considerations hereby are:

- Pursued activities by the entity;
- Non-profit making objective;
- Cost considerations;
- Complexity of the setting-up procedure;
- Management of the company or association; and
- Financial plans
- Membership

5.1 European Research Infrastructure (ERIC)

5.1.1 Introduction

The EU legal framework for a **European Research Infrastructure Consortium (ERIC)** entered into force on 28 August 2009. This specific legal form is designed to facilitate the joint establishment and operation of research infrastructures of European interest.

Complementing national and inter-governmental schemes, the ERIC Regulation provides a common legal framework based on Article 187 of the Treaty on the Functioning of the European Union (TFEU).²

5.1.2 Main features of an ERIC

An ERIC has legal personality based on European law (Article 171 of the EC Treaty). Its main tasks are to establish and operate a research infrastructure. This task has to be pursued on a non-economic basis, but some limited economic activities are however possible.

This essentially means that the major part of the activities in question that EGDI scope would provide, must be an activity that the market could not provide.³ In contrast, an economic activity

² TFEU, OJ C 115,9.5.2008

³ COM (2004) 83; referring to cases C-160/91 Poucet, C-218/00 CISAL di Battistello, C-67/96 Albany, C-180/98 Pavlov

is an activity that consist of offering goods and/or services on a given market. This activity must be capable of being carried on, at least in principle, with a view to profit.⁴

The mere fact that a fee might be charged does not on its own make this an economic activity under the condition that the access and related research support do not correspond to what the market could provide.

Economic activities are allowed to a limited extent, which means to the extent that is needed to allow an ERIC to engage in cooperation with industry, carry out technology transfer and contribute to innovation. The conditions are stipulated in article 3 (3) of the ERIC Regulation. These activities should above all remain secondary and they must never prevail over the execution of the main task of the ERIC.

The ERIC is an easy-to-use legal instrument providing:

- the spirit of a truly European venture (also allowing the participation of non-European countries)
- a legal personality and full legal capacity recognised in all EU Member States
- flexibility to adapt to the specific requirements of each infrastructure, leaving the members to define in the statutes, case by case, membership rights and obligations, bodies of the ERIC and their competences
- some privileges/exemptions allowed for intergovernmental organisations
- a faster and more cost-efficient process than creating an international organisation

The ERIC is a legal tool which is appropriate only for high-profile research infrastructures with a European dimension. Therefore, according to the European Commission, only a limited number of ERICs are expected to be set up in the coming years.

5.1.3 Setting up an ERIC

To set up an ERIC as regulated by Council Regulation 723/2009⁵ a number of conditions for the Research Infrastructure as well as conditions for membership have to be fulfilled.

The conditions to set up the ERIC are the following:

- Necessary for European research activities
- Open to the European research community

⁴ For an ERIC, this would also mean the capability of financially self-sustaining/repaying the initial investment.

⁵ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community Legal framework for a European Research Infrastructure Consortium (ERIC)

- Added value in the development of the European Research Area and significant improvement in relevant S&T fields
- Contribution to mobility of knowledge/researchers in ERA
- Contribution to the dissemination and optimisation of results of activities.

The conditions for membership are as follows.

- At least three Member States must agree to establish and operate together a research infrastructure
 - Member States must jointly hold the majority of the voting rights in the assembly of members
 - A state may be represented by one or more public entities or private entities with a public-service mission, e.g. research organisations or research councils
- Associated countries, third countries and intergovernmental organisations may also be members

The ERIC decides on the procedure for accepting new members. According to article 9 (2) conditions must be fair for other EU Member States to join. This for example includes the compensation for investments already made.

The members submit the file to the Commission, which, with the aid of independent experts, examines whether the conditions of the ERIC Regulation are fulfilled. After that, a committee composed of representatives of the EU Member States gives an opinion on the file by qualified majority, following which the Commission decides on the application.

The Commission has provided a document with practical guidelines on the ERIC Regulation and the setting up of the ERIC in which you will also find a compliance check-list and an overview of the application process for the ERIC.⁶

5.1.4 Internal structure

The statutory seat has to be in an EU-Member State or in a country associated to the EU Framework programmes. Operations and further sites of the ERIC may be located either in or outside the EU.

The members agree on the governance structure of the ERIC in the statutes as well as on IPR policy and financing. The structure has to include two mandatory bodies⁷:

⁶ You can find these guidelines in English via the following link:
http://ec.europa.eu/research/infrastructures/pdf/eric_en.pdf

- a member's assembly (the body having full-decision making powers, including the adoption of the budget) and
- either a director or a board of directors (appointed by the assembly of members, as the executive body and legal representative of the ERIC, further specified by the statutes)

5.1.5 Statutes

The statutes set the main rules for the governance and the financing of the ERIC. Article 10 lists a number of essential provisions covering the following principles:

- A list of members, observers and where applicable, of entities representing members and the conditions of and the procedure for changes in membership and representation in compliance with article 9;
- The tasks and activities of the ERIC;
- The statutory seat in compliance with article 8 (1);
- The name of the ERIC in compliance with article 8 (2);
- The duration, and the procedure for the winding up in compliance with article 16;
- The liability regime, in compliance with article 14(2);
- The basic principles covering;
 - The access policy for users;
 - The scientific evaluation policy;
 - The dissemination policy;
 - The intellectual property rights policy;
 - The employment policy, including equal opportunities;
 - The procurement policy respecting the principles of transparency, non-discrimination and competition;
 - A decommissioning, if relevant;
 - The data policy
- The rights and obligations of the members, including the obligation to make contributions to a balanced budget and voting rights;
- The bodies of the ERIC, their roles and responsibilities and the manner in which they are constituted and in which they decide, including upon the amendment of the Statutes, in compliance with article 11 and 12;
- The identification of the working language(s).

⁷ Article 12 ERIC

- References to the rules implementing the Statutes.

The statutes shall be publicly available on the website of the ERIC and at its statutory seat.

As regards the obligation to make contributions to a balanced budget, this is to ensure the sustainability of the facility over its lifetime. These provisions, in combination with the conditions for withdrawal of membership, should as a minimum ensure financing for the first five years of the lifetime of the ERIC.

5.1.6 Member's liability

Article 14 (1) of the Regulation provides that an ERIC is liable for its debts. It has no immunity from seizures of its assets in case of forced recovery of debts. It is also not immune from insolvency proceedings, which will in general be governed by the law of the statutory seat (article 16 (4) is just complementary to applicable insolvency law).

Article 14 (2) concerns the liability of the members of an ERIC for its debts. The default regime is liability for each member limited their committed contributions. Contributions may be financial or 'in kind', there is no capital requirement.

Committed is defined as 'paid or promised in a legally binding way.' So indicative projections or planning without and enforceable commitment do not qualify for such liability.

Members may specify in the statutes a fixed liability above their respective contributions or unlimited liability. If members' liability is unlimited, appropriate insurance to cover any risks of the construction and operation has to be taken by the ERIC.

5.1.7 Law applicable to the internal functioning of an ERIC

Article 15 of the ERIC Regulation focuses on the applicable law to the functioning of the ERIC. European Union law, in particular the ERIC Regulation, will apply to the setting up and the governing of the ERIC.

The law of the state where the ERIC has its statutory seat will also apply, in particular this will be relevant for the requirements regarding preparation, filing, auditing and publication of accounts (article 13 (5)).

The third source to govern the ERIC will be the Statutes, adopted in conformity with the sources of law referred to above, and any implementing rules complying with its statutes.

As regards social security provisions, EC regulations on coordination of social security schemes⁸ determine the legislation applicable for social security.

The European Court of Justice (ECJ) will have jurisdiction over litigation among the members in relation to the ERIC, between the members and the ERIC and over any litigation to which the EU is a party.

European Union law will apply to disputes between the ERIC and third parties and in cases where this is not covered by EU law; the law of the State where the ERIC has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

For individual employment contracts, an ERIC is governed by the same provisions as any other employer. Consequently, the employment contract can specify which national law is applicable, but such choice of law is subject to the normal rules.⁹

5.1.8 Public procurement procedures, VAT and excise duty

According to article 7.3 of the ERIC Regulation, the ERIC will not be bound by the procedures of the Public Procurement Directive but they can set their own procurement rules based on transparency, non-discrimination and competition. ERIC is an international organization within the meaning of the Public Procurement Directive.¹⁰

The ERIC will also be exempted from paying VAT and excise duty because each ERIC will be recognized as an international body/organization for the purposes of the Directives on VAT¹¹ and excise duty¹² by the country hosting its seat.

5.2 European Economic Interest Grouping (EEIG)

A **European Economic Interest Grouping (EEIG)** is a grouping created by the European Parliament and the Council in order to facilitate or develop the economic activities of its

⁸ Regulation 1408/71 of the Council of 14 June 1970 on the application of Social Security schemes to employed persons and their families moving within the Community and Regulation 574/71 of the Council of 21 March 1972 fixing the procedure for implementing Regulation 1408/71

⁹ Regulation 593/2008 of the EP and of the Council of 17 June 2008 on the law applicable to contractual obligations (OJ L 177m 4.7.2008, p. 6)

¹⁰ Directive 2004/18/EC of the EP and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134, 30.04.2004, p 114-240

¹¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, p. 1-118

¹² Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, OJ L 76, 23.3.1992, 1.

members by a pooling of resources, activities or skills. This type of grouping is ruled in accordance with Council Regulation (EEC) No 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG).

The European Economic Interest Grouping structure allows legal entities to found a legally independent cooperation entity with the aim of facilitating, streamlining and developing their economic activities. This form of association **cannot** be used to found a new enterprise or to combine all the activities of its members. The EEIG was specifically designed to make it easier for companies in different countries to do business together or to form consortia to take part in EU programmes. Consequently, the EEIG's activities must be ancillary to those of its members and it must play a supporting role (e.g. joint accounting or prospecting). Any profit or loss it makes will be attributed to its members according to the relevant clause in the contract or, failing such a clause, in equal shares.

5.2.1 Setting up an EEIG

An EEIG can be formed by companies, firms and other legal entities governed by public or private law which have been formed in accordance with the law of a Member State and which have their registered office in the European Union (EU). It can also be formed by individuals carrying on an industrial, commercial, craft or agricultural activity or providing professional or other services in the EU.

According to article 4 of the EEIG Regulation, a grouping must at least comprise of two companies, firms or other legal bodies which have their central administrations in different Member States or two natural persons who carry on their principal activities in different Member States or a combination of one legal body and a natural person as described in the above paragraph.

5.2.2 Practical guidelines

The contract to form the EEIG must be filed at the registry designated by each Member State. If incorporated in Belgium for example, a copy of the articles of incorporation (content) must be filed at the registry within 15 days of the final articles of incorporation being drawn up. The registrar arranges publication in the Belgian Official Gazette.

All documents submitted will be kept in a file at the registry of the commercial court, in the register of legal entities.

The articles of incorporation will also be published in the Official Journal of the European Union (C and S series). When the grouping is dissolved, a notice should also be published in the Official Journal of the EU.

Registration in this manner confers full legal capacity on the EEIG throughout the EU.

A grouping's official address must be within the EU. It may be transferred from one Member State to another subject to certain conditions. The contract for the formation should also contain its name, official address and objects, the name, registration number and place of registration, if any, of each member of the grouping and the duration of the grouping, except where this is indefinite.

5.2.3 Internal structure

Each member of an EEIG has one vote, although the contract for its formation may give certain members more than one vote provided that no one member holds a majority of the votes. The Regulation lists those decisions for which unanimity is required.

The EEIG must have at least two organs: the members acting collectively and the manager or managers. The managers represent and bind the EEIG in its dealings with third parties even where their acts do not fall within the objects of the grouping.

An EEIG may not invite investment by the public. An EEIG does not necessarily have to be formed with capital. Members are free to use alternative means of financing.

5.2.4 VAT and liability

The EEIG is liable for VAT and employee's social insurance but it is not liable to corporation tax. This is because the EEIG is not deemed to have legal personality for income tax purposes, so that its results are only taxable as profits or benefits derived by its members. The EEIG is thus not designed to make profits for itself. If it does, then these will be attributed to the members and taxed as such.

The EEIG moreover has unlimited liability which means that each member of the EEIG has unlimited joint and several liability for its debts. This serves as a counterweight to the contractual freedom which is at the basis of the EEIG and the fact that members are not required to provide a minimum amount of capital.

5.3 European Grouping of Territorial Cooperation

A **European Grouping of Territorial Cooperation (EGTC)** is a legal instrument created by the European Parliament and the Council in order to overcome the obstacles hindering territorial cooperation, ruled by Regulation (EC) no 1082/2006 of the European Parliament and of the Council of 5 July 2006 and subsequent amendments (COM(2011) 610 final/2). The EGTC Regulation should facilitate the implementation and management of actions of territorial cooperation.

The EGTC is invested with legal personality and as such, will enable regional and local authorities and other public bodies from different member states, to set up cooperation groupings with a legal personality. As such, the EGTC will have capacity to act on behalf of its members, and of the regional and local authorities of which they are composed. According to Article 7, an EGTC shall act “within the confines of the tasks given to it.”

The EGTC is unique in the sense that, as stated before, it enables public authorities of various Member States to team up and deliver joint services, without requiring a prior international agreement to be signed and ratified by national parliaments. Member States must however agree to the participation of potential members in their respective countries. The law applicable for the interpretation and application of the convention is that of the Member State in which the official EGTC headquarters are located.

5.3.1 Setting up of an EGTC

If EGDI-scope would deem the EGTC the best suitable option, each prospective member must notify its Member State of its intention to participate in an EGTC and send that Member State an admissible application, together with a copy of the proposed convention and statutes. Approval or denial should be given within a deadline of 6 months.

5.3.2 Internal Structure

Members of EGTC can include the following:

- Member States
- Central governments
- Regional or local authorities
- Associations
- Any other public body

An EGTC must have members from at least two Member States. The organs of an EGTC must at least include:

- An assembly, made up of representatives of its members,
- A director, who represents the EGTC and acts on its behalf.

The Convention can set out additional organs.

5.3.3 Convention and bylaws

The composition and powers of an EGTC as well as its tasks and competencies have to be described in a convention. This convention should also specify the extent of the territory under which it may execute its tasks.

An EGTC convention¹³ sets out in particular:

- The name of the EGTC and its headquarters (registered office);
- The list of EGTC members;
- The area it covers (extent of territory);
- Its objectives and tasks;
- Its mission;
- Its duration and the conditions governing its dissolution;
- Appropriate arrangements for mutual recognition including for the purposes of financial control;
- Procedures for amending the convention notably concerning personnel (management, recruitment procedures and nature of personnel contracts).

This convention must be concluded unanimously by all the members of the EGTC.

On the basis of this convention, Member States shall adopt the statutes or bylaws. These statutes should at a minimum contain all the provisions of the convention together with the operating provisions of the EGTC's organs and their competencies, as well as the number of representatives of the members in the relevant organs. These statutes should also contain the decision-making procedures of the EGTC, the working language or working languages, the arrangement for its functioning, the arrangements for the members' financial contributions and the applicable accounting and budgetary rules, the arrangements for members' liability, the

¹³ Article 8 of Regulation No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC)

authorities responsible for the designation of independent external auditors, and the procedures for amending the statutes.¹⁴

5.3.4 Liability

An EGTC is liable for its debts whatever their nature. To the extent that the assets of the EGTC are insufficient to meet its liabilities, the members shall be liable for the EGTC's debts whatever their nature. Each member's share is fixed in proportion to its contribution, unless the national law under which a member is formed excludes or limits the liability of that member. These arrangements for contributions must be fixed in the statutes.

If the liability of at least one member of the EGTC is limited as result of national law under which its formed, the other members can also limit their liability in the statutes.

5.3.5 Law applicable to the functioning of an EGTC and jurisdiction

According to Article 2, the EGTC shall be governed by the EGTC Regulation (European law), the provisions of the convention and the statutes as described above and the laws of the Member State where the EGTC has its registered office.

According to Article 15, Union legislation will apply to disputes involving the EGTC, except where otherwise provided for in the EGTC Regulation. Where there is no Union legislation provided for, the competent courts for the resolution of disputes shall be the courts of the Member State where the EGTC has its registered office.

5.4 Non-profit organization

According to Belgian law (our working hypothesis) a permanent infrastructure or common entity could also assume the juridical form of a non-profit organization between at least three natural or legal persons. In concreto, in the non-profit organization which is called VZW or ASBL according to Belgian law, the legal person will be represented by a natural person.

The VZW is an entity, composed of several members, for the attainment of clearly defined purposes for a limited or unlimited period of time. A VZW can (1) **never** pursue a **profit-making objective** and (2) it can **never distribute profits** to its members.

¹⁴ Article 9 of the EGTC Regulation

The VZW is not prohibited from generating surplus revenues but they must be retained by the organization for its self-preservation, expansion or other workings. The organization that has surplus revenues should use these to achieve its goals rather than distribute them as profits or dividends.

5.4.1 Setting up

A VZW can be recognized to have legal personality if the following conditions are met:

- The registered office must be in Belgium;
- There are minimum three members;
- The Statutes contain the obligatory provisions;
- The statutes and the members' general data must be registered in the Belgian Official Gazette.

If these conditions are not fulfilled, then the organization will be considered as an association *de facto* and as a consequence, this organization will not have legal personality.

ASBLs/VZWs must also register with the Crossroads Bank for Enterprises. They are given an identification number which must be included in all official documentations.

No minimum capital is required to set up a VZW/ASBL.

5.4.2 Statutes

The statutes must be recorded in writing. They may be drafted in the form of a private deed, in the presence of the founders only, or in the form of an official deed.¹⁵

The statutes and a list of members of the first management board must be sent for publication in the Belgian Official Gazette. The list of members must moreover be filed at the registry of the Court of First Instance within a month of the statutes being published.

The information that must be included in the statutes is the following:

- Full name of the organization, the address of its registered office and the district in which it is situated;
- The purpose of the organization;
- Duration of the VZW;
- The minimum amount of members which should not be less than three;

¹⁵ An official deed is drawn up before a notary, following the notarisation procedures in accordance with Belgian legislation

- The names, addresses and nationalities of the founders or in case it concerns a legal person, the name, legal form and address of the seat;
- Procedure and conditions for accession and resignation of members;
- Conditions governing the appointment, resignation or deposition of directors, their powers and the way in which they can exercise those powers either alone or as a college as well as the duration of their mandate;
- The powers of the general meeting and the procedure to organize a meeting as well as the way in which its decisions will be reported to other members as well as third parties;
- Procedure for amending the statutes;
- The maximum amount of financial contributions of the members;
- What will happen with the capital in case the VZW is wound up.¹⁶

5.4.3 Internal structure

Belgian VZW legislation foresees two obligatory organs but there is a possibility to create additional organs.

The General Assembly (AV) is created by the founders of the VZW. The General Assembly is appointed in the statutes and its tasks and powers are published. The founders of the VZW are normally also members of the General Assembly. The members of the AV are 'active' members which means that these members also have voting rights.

The General Assembly's purpose is to exercise control over the Board of Directors. The AV takes the most important decisions, the Board of Directors will execute them under supervision of the AV.

The powers of the AV are statutory, described by Belgian legislation, or expressly defined in the statutes. The statutory powers are 'minimum' powers so these can never be transferred to another organ.

The Board of Directors (RvB) is a collegial body, responsible for the day-to-day administration of the association. All powers which are not statutory or expressly granted by the statutes to the AV, are automatically powers of the Board.

The Board of Directors is the 'executive' organ of the VZW, subordinate to the Assembly. The Board will generally come together more often and perform the daily management of the

¹⁶ Prims H and Cuyppers, J., VZW-zakboekje 2007, Kluwer, 38.

association. The general policy of the association of the association however, emanate from the Assembly.

Optional organs that can also be included in the statutes include:

- Executive committee of VZW for the daily administration (such as acts or transactions which are of minor importance such as paying the rent, dismissal of employee for misconduct, etc.)
- Representative body (for example, representation of the VZW with third parties or in Court)
- Steering Committees

5.4.4 Liability

The VZW is liable for its debts whatever their nature. The directors of this VZW are not personally liable for agreements in case they acted as representative of the VZW.¹⁷ There are a limited amount of exemptions to this in accordance with national corporate law for example if a director has acted *male fide* or in bad faith.

5.4.5 VAT

If a tax investigation reveals that an ASBL/VZW is engaging in profit-making operations or is in fact a commercial company posing as a non-profit organization, it will be subject to corporation tax and will need to comply with the relevant accounting rules. If its activities are indeed non-profit making, the ASBL/VZW is only subject to the income tax on legal entities.

ASBLs/VZWs are also subject to VAT, although they are usually exempted.

¹⁷ Article 2bs, 14 and 16 of the VZW law (Belgium)

6 Governance aspects of financial models

Funding aspects are discussed in this deliverable because the source of funding has a direct impact on governance. A prime function of governance is to decide on and account for spending of funding in a transparent way. External funds (e.g. from EU sources) come with a set of rules and conditions that need to be accounted for in governance structures. And if EGDI is funded (in part) by its members, these need to have a say in that process as well.

A number of possible sources of funding for EGDI implementation have been identified:

In kind capacity from EGDI member organisations

Part of EGDI development can be facilitated through voluntary contribution of expertise by EGDI member organisations. In order to effectively carry out work and deliver results, such capacity needs to be organised and steered. At the time of writing of this document, a number of EGS members have already volunteered to make capacity available for a “bridging phase” between the end of the EGDI-Scope project and the possible availability of EU funding for the implementation phase. This phase will be implemented as a project, with steering structures being put in place by the EGS ExCom and General Meeting. Governance in this phase will follow the “Intermediate” model (chapter 5).

Cash contributions from EGDI member organisations

EGDI membership could involve the requirement to pay a membership fee. Such a fee would realistically cover primarily the most basic operations of EGDI (salary of EGDI manager and/or critical support staff; office space and expenses, communication, etc.). In a transitional period, part of the current EGS membership fees could be dedicated to EGDI operations. Provisions need to be made in EGDI governance on how such contributions can be spent, and how they are accounted for. This includes:

- Rules for determining the contribution for individual members, possibly accounting for different membership levels;
- Procedures for making, auditing and approving annual budgets and accounts;
- Procedures for dealing with winding down the organisation

Budgets from running projects

Several running projects have been identified that could contribute to the development of EGDI. These include EModnet-2, Minerals4EU, EURare, and others. All of these projects are working towards implementing information systems in a specific field that could be aligned in the framework of EGDI. However, currently no formal agreements for doing this, or for transferring

results to an EGDI organisation after project end are currently in place. It could be considered, as soon as a “skeleton” EGDI organisation is in place and (preferably) before these projects are finished, to close a formal agreement between these projects and the EGDI organisation, to transfer results.

Budgets from future projects

A key assumption for EGDI development is that, while the main infrastructure implementation should be funded through a dedicated EU project, development of individual datasets, as well as dedicated EGDI functionality needed for such datasets, should be funded through individual future projects.

Successful application of this principal requires that procedures are put in place to facilitate this, such as:

- Provisions for EGDI as an organisation (and possibly on behalf of its members) to participate directly in projects, so that optimal alignment between project and EGDI requirements can be achieved during the project;
- Standard paragraphs, to be included e.g. in project Consortium Agreements, to arrange:
 - Commitment of projects and its participants to comply with EGDI data standards, quality and control procedures, architecture, and licensing principles
 - Commitment to transfer the management and maintenance of datasets to EGDI after the end of the project

Dedicated EU project or programme funding for EGDI implementation

EGDI / EGS intend to apply to e.g. the Horizon 2020 Research Infrastructure programme for dedicated project funding to implement EGDI (in fact, the EGDI-Scope funding was explicitly intended as a preparatory step for such a dedicated project. Governance of such a project will have to comply with standard Horizon 2020 rules and principles (or rules and principles of other EU or regional / national / international funding programmes).

Funding from public-public partnership programmes (ERA-NET / Article 185)

The National Geological Surveys of Europe are in discussion with the European Commission on the creation on a public-public partnership, funded jointly by the European Union and the EU member states, which would be a stepping stone towards creating a European Geological Service. Such a programme could either support dedicated projects, which in turn could contribute to EGDI development, or could provide dedicated funding for EGDI implementation. Governance implications are similar to what is already mentioned above.

Funding by Industry

This could come in several different forms:

- Industry could be directly interested in funding the implementation of EGDI
- Datasets and/or information products could be made available at a price to users, including industry
- EGDI could engage in joint projects with industry to develop added-value products, based on information provided through EGDI, and e.g. benefit from the proceeds of the results of such projects

Appendix 1:

Notes Governance meeting, Dec. 9th 2013, Brussels

Report EXcom on EGDIscope

- Fully supportive of EGDI
- Happy with participation at EGU Vienna, EGS will have booth there
 - o Tuesday 29th April, 10u30
 - o Special plenary session with invited politicians from Brussels
 - Focus on EP committee on ENV and IND&Research, intergroup on environment, health and climate change
 - Someone from EC (but EP will have more weight than EC)
 - o We will promote EGDI
 - o Science policy workshop on the role of geoscientists in public policy
 - EGDI will come naturally into the discussions
- Concern with Minerals4EU
 - o Project manager that M4EU is not an independent project from EGDI
 - o Conceived as one pillar of EGDI, as written also in DoW
 - o Up to TaskForce to try to work on it, not too disruptive
- Move forward diplomatically
- Not yet meeting with Wim Janssen
- EGDI needs financing source
 - o Luca tries to have meeting with person from Research Infrastructure
 - o But not enough

Discussion on EGDI-scope memo: update on governance

- Let's make a more graphical demonstration of our visions
- Is every geological survey able to join? What does different tiers of membership mean?
- Spatial expert group: normally meeting in February, most of the chairs then organize a meeting in January to prepare for the February meeting (up to François)
 - o February meeting would be a sensible place to deliver it, they want input from these experts on this deliverable
 - o Teleconference amongst ourselves to discuss
- Expert groups in Minerals4EU, must have role in EGDI
- Expert groups: time must be dedicated to possibilities with EGDI
- Meeting should be organized, something regular

Design and implementation

- Spatial expert group could formally or informally be part of it
- Minerals4EU at present most important case study for EGDI, they are at this moment the project implementing part of EGDI

- Core project:
 - o Minerals4EU/EUrare
 - o 1GE+
 - o EmodNet (implemented by EC)
- We need a 'central facility' – should be main focus of discussion on governance
- Common tasks
- Technical guidelines
- Legal tasks

	<i>Central Tasks</i>		<i>Distributed tasks</i>
	<i>Central</i>	<i>Delegated</i>	
Annual work plan	0,2		1 day (X31)
Outsourced: daily maintenance of technical infrastructure		0,3/50K€	5 days per year per survey (31 surveys in total)
Write tender, specify requirements	<0,1	X	
Data standard Management - Maintenance standards INSPIRE/OGC	X	min 0,2 fte, max 2,0 fte	min 0 per survey, max 0,2 FTE per survey
Central database management	X	min 0,1 max 2 people	
Connection with new projects for EGDI	X	Less than 0,1	
Portal management - 1GE - Min4EUEmodnet - EURare Software tools		1 FTE (4 projects)	
Quality and content control	< 0,1 FTE		0,1 on average X31
Legal tasks - Communication -		0,1 FTE	0,1 FTE x 31
Central contact point	0,1 FTE		
Helpdesk - IT - Content		1 FTE	
Survey contacts EGDI			5 days per year X31
• Daily management • Secretariat • Communication	0,5 FTE 1 FTE		
Results: For 4 projects	Min: 5 FTE Max: 7 FTE		Min: 0,2 Max: 0,4
For 10 projects	8 – 10 FTE		0,6 FTE (x31)

Numbers per year

Permanent Operational Infrastructure

Data standards management

- Maintaining
- Influencing, contributing (going to all meetings, part of designing, etc.)
 - o Coordination
 - o Up to individual surveys to get involved

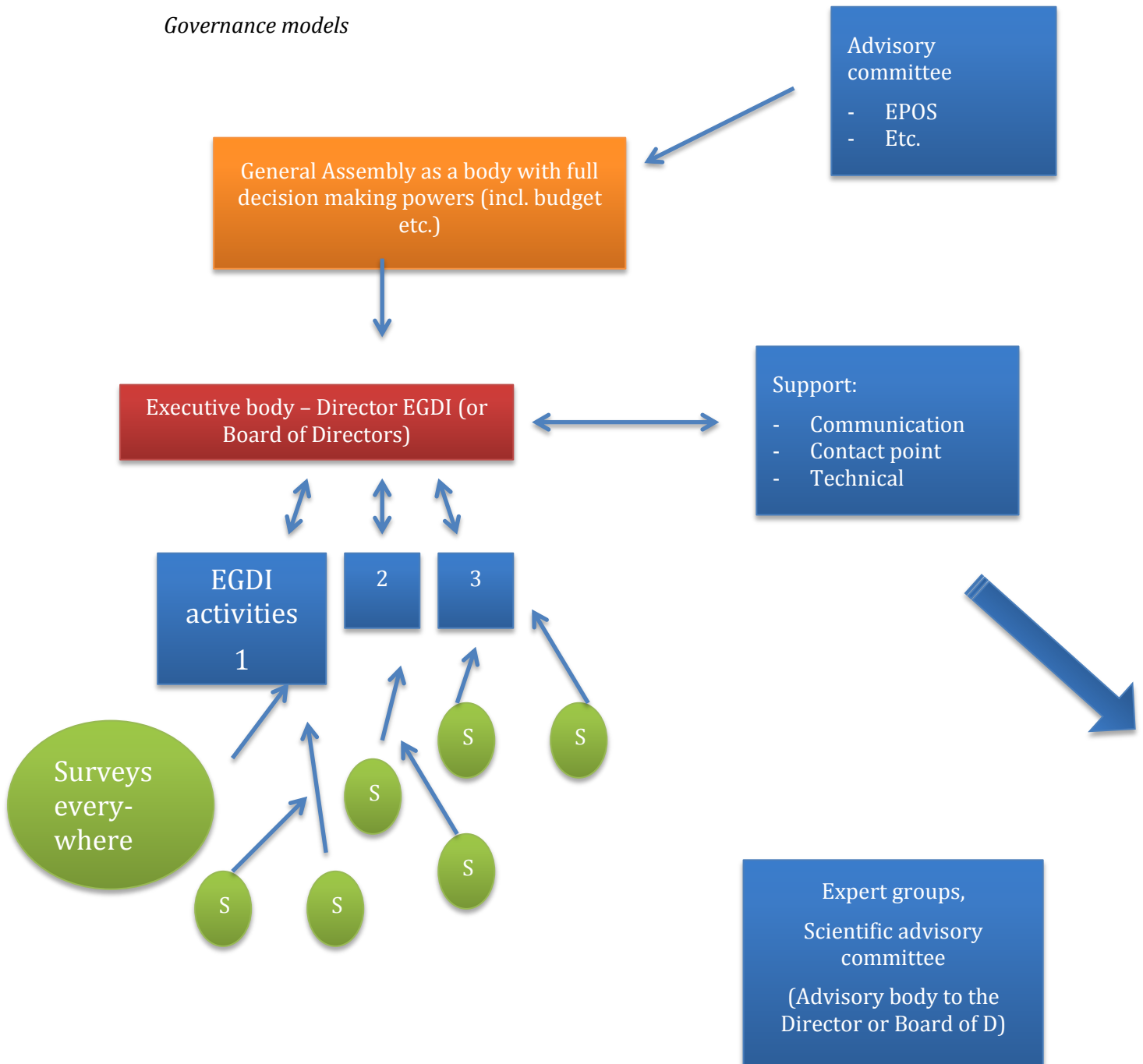
Data management

- Sizable task
- Central database of users, data, metadata
- Data created by EGDI on its own e.g. Imodnet will not be distributed, someone needs to maintain that
- E.g. PanGeo partially distributed, partially pdf file

Portal management

- Maintained at same place
- Different divisions (Dutch example Paul)
- Content must be maintained, portal will die, but content needs to live on within EGDI structure, we don't need to maintain all these different portals
- Paul: EGDI could take over knowledge system part on behalf of M4EU, egdi could run that data, might be wider than surveys, they are competent for text on portal etc.
 - o Luca: this works for M4EU but for most other projects might not work, because EGDI needs system that runs continuously and other projects would die
 - o We need self-sufficient system
 - o There are projects that needs to exist on their own
- E.g. Subcoast for example, portal will die, we can absorb it as EGDI but who will maintain it?

Governance models



Decisive Representation

- Operational scenarios
 - Bigger/smaller central office: 2 FTEU / 6-8 FTE
 - Or delegate activities to surveys
 - Or surveys outsource capacity

Overview of possibilities for permanent bodies

Sara is working on this.