



## **A8.1, O2: Risk assessment for establishing the ECIU University and analyses of the possible hick-ups in national and European legislation**



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## Abstract

This report provides a first analysis of risks in developing a new European University. The analysis has been carried out as part the initial draft of ECIU University business plan in spring 2021. The brief analysis demonstrates that there are multiple risks related particularly to political decision making, resourcing, future market position as well as legal risks. Furthermore, legislative risks related to education are discussed in deliverables 8.1.1 and 8.1.3., and thus they are not further elaborated here. The second part of the report concentrates on the aspects of a European University as a legal entity, demonstrating the aspects which speak for the need for a legal entity.

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## 1 Introduction

Establishing a European University is based on numerous strategic assumptions. Many of them are uncertainties currently, which as such represent risks for timely decision-making on the future of ECIU University. The goal of ECIU University is to be an agile ecosystem with room for flexibility and experimentation but the speed of implementation can be harmed by different risk factors.

In section 2, some of the prominent risks are sketched. They all impose a relatively high probability and high impact on the agile implementation of ECIU University and should thus be considered carefully. Initial mitigation measures are also explored below. Section 3 demonstrates the need for a European University as a legal entity.

## 2 Risk analysis

### 2.1 Political risks

Table 1 lists some of the core political risks, relevant in the ECIU University context, mainly concentrating on ECIU internal decision-making and joint understanding on the future steps.

Internal/external	Risk	Mitigation
Internal	Major strategic decisions are not made in time because of multiple uncertainties surrounding development of the future vision.	<ul style="list-style-type: none"> <li>Phased decision-making.</li> <li>Trust in the development and the planning work, even if not all details fully clear.</li> </ul>
Internal	Decision-making is slow and unable to keep pace with project pace because of inconsistent levels of engagement on the part of member institutions, insufficient dedicated resources and a desire for consensus.	<ul style="list-style-type: none"> <li>Design governance structure with clear mandated supranational structure.</li> </ul>
Internal	Disagreement/misalignments between members about the future steps.	<ul style="list-style-type: none"> <li>Prioritise the common vision, strategy and operation.</li> <li>Trust and acceptance of different opinions. Accept that full consensus is not always a realistic goal.</li> <li>Separate organisational responsibility for the ECIU university ecosystem.</li> </ul>
Internal	A member university decides to step out of the consortium.	<ul style="list-style-type: none"> <li>Avoid continuity dependency on one member/ balancing responsibilities.</li> </ul>
Internal	Internal political obstacles to progress or political blockades.	<ul style="list-style-type: none"> <li>Continuous institutional attention to inform and involve the relevant parts of the organisation.</li> </ul>

Table 1. Political risks

### 2.2 Resource risks

Second, resource related risks are laid out in Table 2, both external and internal. Future funding and finding resources also in the ECIU member universities are major issues, which need consideration from multiple aspects.

Internal/external	Risk	Mitigation
External	Discontinued public funding	<ul style="list-style-type: none"> <li>Spread risks by developing a diversified revenue model.</li> </ul>
External	Influence of external funders	<ul style="list-style-type: none"> <li>Joint (ethical) rules of engagement.</li> </ul>
Internal	No member funding available (or allowed).	<ul style="list-style-type: none"> <li>Clear rules of alternative strategies to ensure an equal playing field.</li> <li>Different scenarios for the future revenue streams with the role of the member universities varied.</li> </ul>
Internal	Insufficient involvement of staff, the possible consequence of disconnecting ECIU University from the member universities.	<ul style="list-style-type: none"> <li>Grassroot ownership.</li> <li>Build expert communities.</li> <li>Internal communications.</li> <li>Change management as an essential element in the strategic roadmap.</li> </ul>
Internal	Insufficient dedicated staff to focus on the new growing organisation.	<ul style="list-style-type: none"> <li>Hire and appoint dedicated staff.</li> </ul>
Internal	No capacity (or too slow availability) of staff to meet the rising demands for education.	<ul style="list-style-type: none"> <li>Joint capacity planning based upon the absorption levels of member organisations.</li> <li>Timely hiring of dedicated staff.</li> </ul>
Internal	Unequal cost structures throughout the consortium.	<ul style="list-style-type: none"> <li>Joint framework on payments</li> </ul>

Table 2. Resource risks

### 2.3 Market risks

Table 3 shows risks related to ECIU University's attempt to establish its position in the market. In addition, the relationship between ECIU University and the member universities in the market needs to be considered.

Internal/external	Risk	Mitigation
External	Low or no market interest (customers).	<ul style="list-style-type: none"> <li>Diversified market segmentation and sufficient marketing power.</li> </ul>
External	(Slow) acceptance of micro-credentials as valid alternative learning.	<ul style="list-style-type: none"> <li>Stay on the forefront of European lobby and ensure acceptance by a number of large and relevant stakeholders (companies).</li> </ul>
Internal	Cannibalization of the member universities' market.	<ul style="list-style-type: none"> <li>Clear roles and responsibilities, transparent rules.</li> </ul>

Table 3. Risks in the market position

## 2.4 Legal risks

Finally, there are legal risks to be considered as shown in Table 4.

Internal/external	Risk	Mitigation
Internal	Member universities are not allowed to invest in the joint organisation.	<ul style="list-style-type: none"> <li>Search for alternative organisational (legal) forms.</li> </ul>
External	Educational offerings are bound to the national public contexts.	<ul style="list-style-type: none"> <li>Lobby for change.</li> </ul>
External	(Sudden) change of legislation (national or European)	<ul style="list-style-type: none"> <li>Staying close to political decision makers.</li> </ul>

Table 4. Legal risks

## 3 Arguments for a legal entity

The arguments for the legal entity are as follows:

### Fundamental arguments

- To trigger new levels of long-term institutionalised creation of knowledge, research, and innovation between higher education institutions, and other (public/private) actors and societal organisations of various countries to serve new markets and solve broad challenges in Europe.
- The legal entity should be a vehicle to realise deeper cooperation across borders, disciplines, and cultures: this is essential for Europe to further develop and to build resilience.
- To overcome the difficulties for sustainable cross-border cooperation across Europe, supporting exchanges, synergies, creativity, and innovation.

### Current obstacles

- Administrative and regulatory:
  - The current legal entity of ECIU University is set-up according to national law (Foundation under Dutch law), which brings difficulties when sharing financial, human, digital and physical resources, infrastructures, and services, as well as joint education, research, innovation, and service to society activities.
  - Member States' interpretations of existing recommendations, rules and regulations differ. Even if, in theory, the tools for smooth collaboration were there, these different interpretations would cause a lot of harm and trouble in reality.
  - Overcoming the cultural and political differences between member states. Political differences can usually be explained by different legal regulations. Cultural differences are those so-called "soft" aspects, closely related to interpretations, which cannot be explained by written rules.
  - Legal challenges, being compliant with the GDPR, VAT, IPR, FDI, competition law, public procurement.

- Creating a joint identity: Being acknowledged as a true European university, recognised at the European level in a sustainable and long-term manner.

**Needs:**

- Need for a European level of resource management – going beyond a ‘joint’ way of working, as ECIU is going beyond simply putting something together, allowing for different interpretations.
  - European human resources, staff recruitment, management, and secondment, including European social security and pensions.
  - European data management, ethics, and intellectual property.
  - European physical and online infrastructure management, including common IT management and solutions.
  - European financial resources to buy goods and services, apply for EU funding and receive other funds, such as private or national funding.
- European learner recruitment and management (including portability of grants; learners’ rights, including social security; no double fees; automatic recognition of learning outcomes).
- Simplified accreditation of modules, personalised learning paths and European degrees.
- Simplified internal and external quality assurance processes, including unified procedures.
- Joint access to international networks and databases.
- The need to stay agile and flexible, ineffective layers of governance and the danger of additional transaction costs. This is also very much related to the right of the member states for different interpretations on the currently available mechanisms, even if they would work in principle. That is why we need to look for other solutions.
- European level of governance.
- European offering of learning.
- European support for innovation common or one additional marketing label.
- European activities at new markets.
- The need for ecosystem creation going beyond higher education institutions.

## 4 Summary

The risk considered in this report show the extent and complexity of operations in ECIU University and the risks connected to it, including the need to establish a true European entity that is able to facilitate innovative education, research, innovation and make an impact. Many of the risks are high, and if realised, they have a major impact on the development of ECIU University. However, the risks are manageable when all different stakeholders – ECIU University, national actors as well as European policy makers – are willing to see the innovative value of ECIU University and support its development by taking the mitigation actions needed.

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