

Work package 2

Deliverable: D2.4 Package of legal documentation

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The main outcomes

- Introducing requirements and process for establishing an association as an implementation structure for the future BANOS Programme in accordance with the Finnish legislation
- Providing the draft rules of the BANOS Association, as well as other founding documents, for establishing an association in Finland

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Description of task: (i.e. as in the Description of Work)

An efficiently functioning dedicated implementation structure (DIS) is the key element of a successful programme. Although the current BONUS Art. 185 DIS – European Economic Interest Grouping (EEIG) – has been serving flawlessly for the Baltic Sea programme, there are other options of possible legal forms (e.g. association). In a broader context, and taking into account currently ongoing developments, both the evaluation of H2020 and the preparation of Horizon Europe provide elements with potentially suitable partnership instruments. Therefore, the first and foremost sub-task under this task is to analyse the options of the DIS legal form and agree on a final proposal among the participating NFIs. Once the legal form is decided, the steps to follow will include drawing (or updating, should EEIG be selected as the legal form) the DIS statutes and the liability agreement, as well as preparing a package of internal regulations, e.g. rules for handling the cases of conflict of interest and confidentiality rules.

The analysis will be used for proposing the establishment of a DIS optimally fit for the future programme. This task will mostly involve legal experts of the participants; several working meetings will be necessary for negotiating and agreeing upon DIS and drafting the respective legal documents. The work on this task will continue from M1 till M36. It is expected that the decision on DIS is adopted in M26; by M32 the draft package of the legal documentation is ready and by M36 the draft package of the necessary internal regulations is ready.

Note:

Report – Deliverable 2.4

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1 Executive summary

Based on the previous deliverables in the task 2.1 *Agreeing on a dedicated implementation structure* and the consultations with the BANOS CSA members, held as bilateral discussions in the autumn of 2020, a package of legal documents for founding an association in Finland has been drafted. This package includes three necessary documents for establishing an association in accordance with the Finnish legislation: a charter of an Association signed by founders, rules of the BANOS Association (referred to hereafter as the Association) and a request for an exemption for having a chairperson non-resident of Finland. All draft documents meet the basic legal requirements, yet they can be easily modified if necessary.

The deliverable briefly explains the basics of the Finnish Association Act and introduces the minimum requirements for establishing an association in Finland. It also describes the content of each legal document and the process of registering an association in the Register of Associations. The draft legal documents are included as annexes to the deliverable.

2 Introduction

The first deliverable, D2.1 *Options for the legal form of the future programme's dedicated implementation structure*, of this task presented an analysis of possible options of the implementation structure (IS) for the future BANOS Programme as planned in the BANOS CSA. Also, the methodology for the selection of the optimal IS was introduced, which included a selection tree of three levels: 1) choosing between IS or no-IS; 2) selecting a location; 3) selecting an appropriate legal form.

The above mentioned methodology was used as part of the bilateral consultations with the BANOS CSA members that were held in October 2020. The main outcome of the bilateral discussions were¹:

- 1) It is preferable that the future BANOS Programme, even if associated with the Horizon Europe funded Partnership Candidate Sustainable Climate Neutral and Productive Blue Economy (SBE Partnership), maintains its dedicated implementation structure (DIS). An independent legal status of such structure is desirable.
- 2) It is recommended to consider maintaining the BANOS DIS in Helsinki (FI). If it is preferred to re-locate the DIS to another country, the second most supported choice would be Copenhagen (DK). Co-location with an existing relevant initiative/organization, like HELCOM or ICES, was also proposed to enhance stakeholder engagement and reduce costs.
- 3) The preferable legal form of the BANOS DIS would be an non-profit association under national law.

In addition to above, a possible co-location of BANOS Programme with another relevant entity was suggested by FORMAS during bilateral discussion, and the matter was also discussed in the BANOS Steering Committee in November 2020. To date, the co-location with HELCOM has been investigated and the negotiations are currently ongoing. There has been a positive response from all relevant parties - especially from the Finnish governmental authorities and HELCOM Head of Delegates. A more in-depth examination of options for co-location will be conducted with a view to negotiating a co-location agreement and implementing such an arrangement, provided that it is deemed feasible and in the interest of both HELCOM and BANOS.

Based on conclusions drawn in the BANOS CSA deliverable D2.1 *Options for the legal form of the future programme's dedicated implementation structure*, now a package of legal documents for founding an association in Finland has been drafted. This package includes 1) a charter of the Association signed by founders (Annex 1); 2) rules² of the Association (Annex 2) and 3) a request for exemption for having a chairperson non-resident of Finland (Annex 3).

3 Founding an association in Finland

3.1 Association under Finnish law

The Finnish law recognises three types of associations: registered associations, unregistered associations and associations founded by statute for a special purpose. The applicable law is Finnish Associations Act (503/1989)³. Finnish Patent and Registration Office (PRH) keeps the Finnish Register of Associations which

¹ See BANOS CSA Deliverable 2.1 for more details on methodology and information supporting conclusions.

² Term 'rules' has been preferred over 'statutes' because it is used in the Finnish Association Act.

³ <https://www.prh.fi/en/yhdistysrekisteri/act.html>

contains details of registered associations, such as their rules and details of persons entitled to sign for associations.

3.2 Minimum requirements for an association in Finland

An association must have at least three founders. All founding members – if natural persons - must be aged at least 15 years. An association can also be founded by an organisation, such as a registered association, a public body, a company, or a foundation. For legal registration purposes the rules of an association, as well as the charter of association, must be written in Finnish or in Swedish, however, an official translation in English is provided as needed.

The mandatory provisions of the rules are the following:

- **Name of the association** must be distinctive enough from other associations already registered. An association registered in Finland must have the abbreviation “ry⁴” at the end of its name.
- **Domicile:** one municipality in Finland can be indicated as the domicile of the association.
- **Purpose and forms of activity:** An association registered in the Register of Associations has a non-profit purpose, meaning a goal or a purpose for which it operates. The forms of activity are the practical ways in which the association implements its purpose. In addition, the association may have supporting activities to collect funds for its activity.
- **Liabilities of members:** Liability to pay fees must be included in the rules. Any other liabilities of members must also be stated in the rules. Note: According to the Finnish Associations Act (503/1989) *“The members of a registered association shall not be personally liable for the commitments of the association.”*
- **Executive Committee/Steering Committee:** The number of the members in an executive committee/steering committee must be stated in the rules. The minimum size of a committee is the chairperson and two members. The size of the executive committee can also be determined by indicating the minimum and maximum number of its members.
- **Operations inspectors or auditors:** The number of operations inspectors or auditors and their term of office must be mentioned in the rules.
- **Accounting period:** The accounting period is a 12-month period specified by the association rules.
- **Date of ordinary (annual) meeting:** The date of the ordinary (annual) meeting must be indicated in the association rules. In the ordinary (annual) meeting, the association decides on its executive committee/steering committee, auditors and operations inspectors, adoption of financial statements, and on discharge from liability.
- **Manner of and period for convening meetings:** The manner of convening meetings must be specifically mentioned in the rules and not be left for the executive committee/steering committee to decide.
- **Use of assets in the case of dissolution/termination:** An association must mention in its rules how its assets must be used if it is dissolved or terminated.
- Provisions for the **persons entitled to sign** for the association: If an association wants another person(s) beside(s) the chairperson to be able to act and sign on behalf of the association, a provision about the person(s) entitled to sign for the association must be stated in the rules.

⁴ ry = rekisteröity yhdistys, a registered association in Finnish

3.3 Process with Finnish Patent and Registration Office

An association is established by holding a founding meeting at which the charter of the respective association is signed by founders and the rules of the association are accepted. After the founding meeting a start-up notification, consisting of a charter of association and rules, shall be sent to PRH for filing with the Register of Associations. If an exemption application for having a chairperson non-resident in Finland is agreed to be submitted, it is included in the start-up notification.

PRH examines the documents provided and either accepts them or asks for corrections. In April 2021, the average processing time is stated to be 40 working days (8 weeks). A new association filed with the Register of Associations is also issued a Business ID once its start-up notification has been registered in the Business Information System (BIS).

All registered associations must keep their details recorded in the Register of Associations up to date. A registered association must file a notification of changes with the Register of Associations when any changes occur in 1) the address or contact details of the association, 2) the chairperson or persons entitled to sign for the association or 3) the association's rules.

4 Legal documents for BANOS Association

The package of legal documents for establishing the BANOS Association contains 1) the charter of the Association to be signed by founders (Annex 1); 2) rules of the Association (Annex 2) and 3) a request for exemption for having a chairperson non-resident of Finland (Annex 3). All three draft documents (presented here as English translations) meet the basic legal requirements, but can be modified if considered necessary. The more detailed management procedures of the Association will be defined in the Operational Procedures of BANOS (included in the D2.6. *Set of internal documents*).

4.1 Charter of Association

A charter of an association is a document signed by the founding members of the association at the founding meeting. It declares that those who have signed the document have decided to found the association, have joined to it as members and have approved the rules for it. The document shall be dated on the founding meeting date and it includes the rules of the association as an annex.

4.2 Rules of the Association

The first section of the rules defines the name and the domicile of the Association, i.e. BANOS ry and Helsinki, Finland. The purpose and activity of the Association are described in the second section. The following three sections explain the membership issues, i.e. mechanisms for applying for and withdrawing from membership and liability of members.

Two proposed organs of the Association are outlined in the section 6: the Steering Committee and the Director. The roles and responsibilities as well as selection and meeting procedures of the organs are described in the sections 7-9. It should be noted that three options for the voting rules have been introduced (see Art 7 of the Annex 2, p. 12). Out of these options, the one that best represents the views of the members should be selected. Persons entitled to sign on behalf of the Association are defined in section 10 and the financial activities and

funding of the Association are described in section 11. Finally, section 12 sets out the procedure for dissolving the Association.

4.3 Request for an exemption for having a chairperson non-resident in Finland

According to the Finnish Associations Act, the chairperson must be resident in Finland. If applied for, the PRH can grant the association an exemption from this provision. The model request for an exemption explains the purpose of the association, the composition of the association's members, the mechanism of choosing the chairperson and justifies why the exemption is necessary. The exemption is applied for the functioning of the association in general – i.e. not for a certain person mentioned by name. The request shall be signed by a person having the right to act on behalf of the association.

5 Conclusion

Setting up an association in Finland is reasonably easy with relatively light amount of bureaucracy and short processing time. In addition to the legal founding documents, the association – if decided to be established - must file notifications with the Finnish Prepayment Register and Employer Register if it is to act as an employer and pay wages. The documentation for this next step will be made later at the appropriate time, if the decision to establish the BANOS Association as is described above is made.

Annexes:

Annex 1: Charter of association

Annex 2: Rules of the BANOS association

Annex 3: Request for exemption for having a chairperson non-resident in Finland

Annex 1: Charter of the BANOS Association (unofficial translation)

Charter of the BANOS Association

We, the undersigned as representatives of organisations, have set up an association called [BANOS], joined it and approved the following rules for it.

Helsinki, [date]

Organisation 1, represented by [name]

Signature 1

Organisation 2, represented by [name]

Signature 2

Organisation 3, represented by [name]

Signature 3

Annex 2: Rules of the BANOS Association (unofficial translation)

Rules of the BANOS Association

1 § Name and domicile of the Association

The name of the Association is **BANOS ry** (*ry = rekisteröity yhdistys, a registered association in Finnish*), hereafter called the Association. The domicile of the Association is Helsinki, Finland. The Association is governed by the Finnish Associations Act (in Finnish *'Yhdistyslaki 503/1989'*).

2 § Purpose and forms of activities

The purpose of the Association is to act as a strategic platform for development, updates and implementation of the Strategic Research and Innovation Agenda of joint Baltic Sea and North Sea Research and Innovation Programme (BANOS SRIA) in order to support achieving and maintaining good environmental status and development of sustainable blue economy in Europe through a provision of research and innovation outputs.

In order to achieve the purpose of the Association, it shall carry out the following activities:

- Updating BANOS SRIA and planning its practical implementation
- Organising joint calls for research and innovation proposals, evaluation of the received proposals, and recommending the selected proposals for funding
- Supervising implementation of research and innovation projects selected in its calls for proposals
- Establishing and maintaining stakeholder networks and fora serving the purpose of the Association
- Producing, publishing and distributing of media (as electronic, printed, video, audio etc.) serving the purpose of the Association
- Participating as a beneficiary in consortia of various projects serving the purpose of the Association
- Establishing and maintaining memberships in various networks and partnerships serving the purpose of the Association
- Collecting and handling data related to performance and impact of relevant research and innovation activities in the BANOS geographic area⁵
- Promoting the European and world-wide exchange of experience in joint programming of research and innovation
- Representing opinions and interests jointly accepted by its members at various fora

In addition, the Association may carry out all activities which directly or indirectly promote the achievement of the abovementioned non-profit purpose, including secondary commercial and profitable activities within the boundaries of what is legally accepted and of which the profits shall always be fully reserved for the realisation of the non-profit purpose.

3 § Members

The Association should have at least three members.

Membership to the Association is open to public and private national or international organisations which are either funding or promoting scientific research or innovation in the countries around the Baltic Sea and the North Sea.

⁵ 'BANOS geographic area' here includes territory covered by the Baltic Sea and Greater North Sea and all sovereign countries bordering these two seas.

The organisation intending to join BANOS ry should direct their written application to the Steering Committee. Membership can only be granted by the Steering Committee of the Association, taken by an unanimous decision of all members.

Each member should appoint two natural persons (a 'permanent representative' and a 'substitute representative') who may attend and represent the member in the meetings and decision-making of the Association.

4 § Liability of the members

The members are liable to pay annual membership fee as decided by the Steering Committee. The annual membership fee to be paid by each member shall be calculated by applying the criteria and ratio adopted by the Steering Committee.

Upon admission of a new member in a certain financial year, such member should pay the full annual membership fee for the year in which they join the Association.

The members are not personally liable for the liabilities and obligations of the Association.

5 § Withdrawal and termination of the membership

A member can withdraw as a member from the Association by sending a letter to the Steering Committee, signed by a duly authorised representative. The withdrawal shall take effect at 1 January of the following year. The withdrawing member remains liable for the payment of any due and unpaid membership fee.

Any member may be expelled if he seriously fails in his obligations or if he causes or threatens to cause serious disruption in the operation of the Association. This requires, after an audition of the concerned member, a unanimous decision by the Steering Committee, where the concerned member cannot take part in.

6 § Organs of the Association

The organs of the Association are

- Steering Committee
- Director, appointed by the Steering Committee

The Steering Committee is the highest co-operation organ of the members of the Association. It determines the guidelines for all the activities and all policies of the Association.

The Steering Committee is composed of the all members, which are duly represented in accordance with Article 3. A Chair and a Vice-Chair of the Steering Committee shall be appointed among the representatives of the members for a term of two years.

7 § Meetings of the Steering Committee

The Steering Committee shall convene at least once every calendar year ("Annual Meeting"). Special meetings ("Special Meeting") can also be held upon decision by the Steering Committee or the Director or upon the

request of one third of the members. The Annual Meeting should be held within six months after the end of the financial period.

The Steering Committee determines the date and place of each meeting. In addition to being represented in the meetings, members have the possibility to vote on issues on the agenda in writing (by a letter or an e-mail), using data connection or by other communication means.

An invitation to Steering Committee meeting is sent to the members' representatives by e-mail, letter or any other written means no later than thirty (30) days prior to the date of the meeting, together with a draft agenda. Any member may request to add an item to the agenda up to twenty (20) days before the meeting by informing the Chair of Steering Committee and Director by e-mail. The amended agenda shall be circulated to all addressees of the invitation letter in the same manner as the invitation letter at the latest fifteen (15) days before the meeting.

The decision making of the Steering Committee is based on consensus. In case of voting, the voting rules shall be as follows:

Option 1:

Each member has one vote in the Steering Committee if there is one member from a participating state. If there is more than one member in any of the participating states, the number of votes is standardized so that each participating state has an equal number of votes which equals with the greatest number of members in a single participating state. Votes between the members representing the same participating state are distributed equally. If there are several representatives for one member, one of the representatives should express the vote on behalf of such member. For the sake of clarity, it is noted that international organisations have one vote each. The Steering Committee has a quorum if two-third (2/3) of its members are present.

Option 2:

Each member has one vote in the Steering Committee, to be expressed by one of its representatives. If there is more than one member in any of the participating state, the members of the participating state shall have one vote together. If there are several members for one participating state, one of the representatives should express the vote on behalf of such state (as determined among themselves). If there are several representatives for one member, one of the representatives should express the vote on behalf of such member. For the sake of clarity, it is noted that international organisations have one vote each. The Steering Committee has a quorum if two-third (2/3) of its members are present.

Option 3:

Each member has one vote in the Steering Committee, to be expressed by one of its representatives. If there are several representatives for one member, one of the representatives should express the vote on behalf of such member. For the sake of clarity, it is noted that international organisations have one vote each. The Steering Committee has a quorum if two-third (2/3) of its members are present.

The Steering Committee may decide to allow permanent or temporary observers and experts to attend to the Steering Committee meetings. Observers and experts shall not have voting rights at the Steering Committee.

8 § Power of decision of the Steering Committee

The Steering Committee decides unanimously, i.e. by agreement of all members, on:

- any amendments to the rules of the Association;
- assignment of any property of significance to the activities of the Association;
- admit new members;

- approval of the annual budgets;
- dissolution of the Association

The Steering Committee decides by a two-third majority of the voting members on

- approval of the annual accounts and discharging from liability for the accounts;
- the election and discharge of an auditor
- the appointment of the Director
- establishing fixed term or ad hoc committees and advisory groups in order to fulfil the purpose of the Association

As far as these rules (or the applicable mandatory regulation) do not specify any other decision-making order, all other decisions of the Steering Committee are taken with a two-third majority of the votes. Abstentions are not taken into account in two-third majority votes.

The Steering Committee shall carefully attend to the affairs of the Association in compliance with the law, the rules, and resolutions adopted by the Association. The proper functioning and administration of the Association shall be defined in the operational procedures confirmed by the Steering Committee.

9 § Director

The Association shall be managed by one natural person (the "Director"), to be appointed by the Steering Committee. The Steering Committee decides on terms of employment of the Director.

The Director is responsible for the implementation of the decisions of the Steering Committee and for the normal and current everyday management of the Association. The Steering Committee can delegate further responsibilities on the Director via operational procedures or on a case-by-case basis.

10 § Persons entitled to sign the name of the Association

The right to represent the Association, including the right to sign the name of the Association, is entitled to the Chair of the Steering Committee and the Director, both acting solely. The Steering Committee may authorise other persons to sign the name of the Association.

11 § Financial activities and funding of the Association

The financial year of the Association shall be the calendar year (1.1. - 31.12.).

The bookkeeping of the Association shall be managed by the Director in accordance with the applicable legislation of Finland. The Director shall be responsible for drawing up each year the budget for the next financial year and preparing the annual accounts after the end of each financial year.

The annual accounts of the Association shall be audited by an auditor. The Steering Committee appoints either one auditor and one deputy auditor or a publicly certified audit community for the next financial year in the Annual Meeting.

The Association will be funded primarily by membership fees, but can also be funded by other means such as subsidies, contributions, gifts, loans, sponsoring and own revenues.

12 § Dissolution of the Association

The Association shall be dissolved if a decision to that effect has been made unanimously by the Steering Committee.

If the Association is dissolved, its funds will be transferred to activities in accordance with the purpose of the Association and in accordance with the decision of the Steering Committee that decided to dissolve it.

Annex 3: Request for exemption for having a chairperson non-resident in Finland (an unofficial translation)

REQUEST FOR EXEMPTION

[BANOS ry] applies to the Finnish Patent and Registration Office for permission to deviate from the requirement laid down in section 35 of the Associations Act (503/1989) regarding the domicile of the chairperson of the Association's Steering Committee and requests permission that the chairperson of the Steering Committee of the Association does not have to be a resident in Finland.

[BANOS ry] is an association set up by [number] public and private national or international organisations which are either funding or promoting scientific research or innovation in the countries around the Baltic Sea and the North Sea. The rules of the Association stipulate that organisations (legal entities) funding or promoting research or innovation in the countries around the Baltic Sea and the North Sea may become members. The operational activities of the Association are carried out through a secretariat located in Helsinki. The Steering Committee nominates from among its members – i.e. the representatives of the member organisations - a chairperson and a vice-chairperson. The term of office of the chairperson and the vice-chairperson is two years. Since the majority of the Association's members are residing outside Finland, it is impossible to implement the requirement that the chairperson of the Steering Committee should be domiciled in Finland. We therefore request permission to deviate from the domicile requirement of the chairperson of the Steering Committee.

Helsinki, [date]

Signature:

[name, address, phone number]