



## GROOM

Gliders for Research, Ocean Observation and Management

*FP7-Infra-2011-2.1.1 "Design Studies"*

# Deliverable D2.4

## The legal framework for joint management of a European glider component

Due date of deliverable: 30. Sept. 2013

Actual submission date: 10 October 2013

Partner responsible: UT

**Classification: Public**

**Grant Agreement Number: 284321**

**Contract Start Date:** October 1<sup>st</sup>, 2011

**Duration:** 36 Months

**Project Coordinator:** UPMC

**Partners:** UPMC, OC-UCY, GEOMAR, HZG, AWI, UT, FMI, CNRS, IFREMER, HCMR, NURC, OGS, UIB, NERSC, CSIC, PLOCAN, SAMS, UEA, NERC.

Project website address <http://www.groom-fp7.eu>

D2.4

## Table of contents

|   |          |
|---|----------|
| <b>A. Introduction.....</b>   | <b>3</b> |
| <b>I. Is any of the existing rules addressing safety at sea applicable to gliders?.....</b>   | <b>3</b> |
| <b>II. Is the existing legal framework for joint funding and management (e.g. ERIC) suitable in its present form to support the installation of a sustainable European glider infrastructure? .....</b> | <b>3</b> |

## D2.4

### A. Introduction

Most issues related to this deliverable (D2.04 - The legal framework for joint management of a European glider component) have been addressed within the deliverable D2.03 (Legal aspects of glider operations in European Waters). There are two core topics that are specifically relevant and outlined below.

#### I. IS ANY OF THE EXISTING RULES ADDRESSING SAFETY AT SEA APPLICABLE TO GLIDERS?

Conventions which address the issue of safety at sea are the 1974 International Convention for the Safety at Sea (hereafter SOLAS)<sup>1</sup> and the 1972 International Regulations for Preventing Collisions at Sea (hereafter COLREGs).<sup>2</sup> Neither SOLAS nor COLREGs can be directly applied to gliders, though. Art. 2 SOLAS and Part 1 Rule 1 COLREGs make it clear that they are only applicable to ships. It has already been clarified in the legal assessment that GROOM gliders cannot be considered as ships.

However, it is possible that in cases of collision or tort in general, domestic courts could analogously apply certain rules applicable to ships when they are called upon to determine whether the operator's conduct ought to be considered as fulfilling the liability standard of negligence. We therefore re-emphasize the recommendation made in the main assessment that all actors participating in MSR, or operational oceanography respectively, within the framework of GROOM should comply as far as possible with the requirements contained in the already existing codes of conduct designed for gliders or unmanned underwater vehicles.

#### II. IS THE EXISTING LEGAL FRAMEWORK FOR JOINT FUNDING AND MANAGEMENT (E.G. ERIC) SUITABLE IN ITS PRESENT FORM TO SUPPORT THE INSTALLATION OF A SUSTAINABLE EUROPEAN GLIDER INFRASTRUCTURE?

The concept of European Research Infrastructure Consortium (hereafter ERIC) is suitable to be considered as the basis for a sustainable European glider infrastructure. The requirements to be fulfilled are laid down in EC Regulation 723/2009.<sup>3</sup> In case of successful application, the respective ERIC is to be considered as an international organization, *i.e.*, a form of organization which is commonly used for the realization of long-term enterprises. The EU itself acknowledged that ERICs shall serve to fulfill long-term and sustainable purposes; in recital 9 of the aforementioned regulation, it stated that the research infrastructure "should help to safeguard the scientific excellence of Community research and the competitiveness of the Communities economy, as based on medium-

---

<sup>1</sup> United Nations Treaty Series, Vol. 1184 (1980), p. 2. Note that SOLAS does not contain a definition of the term "ship".

<sup>2</sup> Available at: <http://www.admiraltylawguide.com/conven/collisions1972.html> (last visit on 24 September 2013).

<sup>3</sup> Council Regulation No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC), OJ of 8 August 2009, L 206/1.

## D2.4

term to long-term forecasts, through the efficient support of European research activities.” In order to apply for an ERIC it is first and foremost necessary that at least three EU Member States pool together to become members of the consortium. An application submitted solely by private entities is not possible, and neither can such entities or State-funded research institutions become members of ERICs. The application has to be submitted in writing in one of the official languages of the EU and has to fulfil the requirements set forth in Art. 5 and 10 of the Regulation.