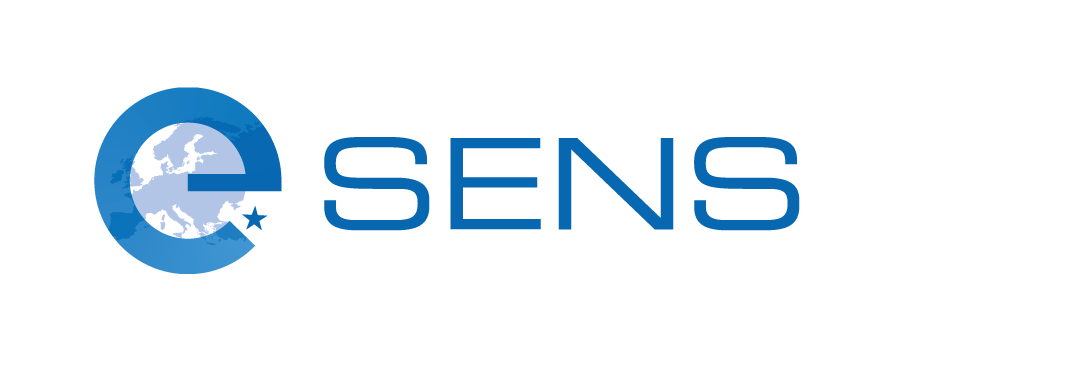
Submitted to the EC on Jun/19/2017

**COMPETITIVENESS AND INNOVATION FRAMEWORK PROGRAMME**

**ICT Policy Support Programme (ICT PSP)**



Project acronym: e-SENS

Project full title: Electronic Simple European Networked Services

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D3.5v3 Preliminary proposal for long-term sustainability within the CEF – Position Paper on Governance

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This deliverable consists of two parts:

a) a position paper which contains a summary of the main results of the work carried out by WP3 since the start of e-SENS. Based on these results WP3 developed a proposal for a European IT governance model for the long-term and a proposal for a legal-organisational framework, namely an already existing European Agency, which shall maintain and sustain the e-SENS building blocks and also other European IT solutions.

b) an evaluation of the feedback of the national experts involved in e-SENS on the position paper. There is a consensus about the position paper in e-SENS which means that all national experts support the position paper and the ideas which are contained in it, but they also pointed out room for improvement and challenges.

History

|  |  |  |  |
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Table of contents

[History 3](#_Toc468784735)

[Table of contents 4](#_Toc468784736)

[List of Figures 6](#_Toc468784737)

[List of Tables 7](#_Toc468784738)

[List of Abbreviations 8](#_Toc468784739)

[Executive Summary 9](#_Toc468784740)

[1. Introduction 11](#_Toc468784741)

[1.1. Scope and Objective of Deliverable 11](#_Toc468784742)

[1.2. WP3 General Objectives and Vision 12](#_Toc468784743)

[1.3. Methodology of Work 12](#_Toc468784744)

[1.4. Relations to Internal e-SENS Environment 13](#_Toc468784745)

[1.5. Relations to External e-SENS Environment 13](#_Toc468784746)

[1.6. Quality Management 13](#_Toc468784747)

[1.7. Risk Management 14](#_Toc468784748)

[1.8. Legal Issues 15](#_Toc468784749)

[1.9. Structure of the document 15](#_Toc468784750)

[2. Position Paper “Proposal for a European IT governance model and a legal-organisational framework” 16](#_Toc468784751)

[2.1. Introduction 16](#_Toc468784752)

[2.2. The Proposal for a long-term European IT Governance Model 17](#_Toc468784753)

[2.2.1. Methodology 17](#_Toc468784754)

[2.2.2. Goals and principle of the model 18](#_Toc468784755)

[2.2.3. Roles of communities in the model 20](#_Toc468784756)

[2.2.4. Mission and organisational aspects of the model 21](#_Toc468784757)

[2.2.5. Funding 22](#_Toc468784758)

[2.3. The Proposal for a legal-organisational framework for the European IT Governance Model 24](#_Toc468784759)

[2.3.1. Stakeholders’ preferences 25](#_Toc468784760)

[2.3.2. Legal criteria to be met 26](#_Toc468784761)

[2.3.3. Operational Set-Up 27](#_Toc468784762)

[2.3.4. Decision Making 28](#_Toc468784763)

[2.3.5. Final Recommendations 28](#_Toc468784764)

[2.3.6. Appendix in the position paper 29](#_Toc468784765)

[3. General feedback on the Position Paper 32](#_Toc468784766)

[4. Feedback on the proposed European IT Governance Model 34](#_Toc468784767)

[4.1. Feedback on funding of the Governance Model 36](#_Toc468784768)

[5. Feedback on the proposed legal-organisational framework 37](#_Toc468784769)

[Conclusion 38](#_Toc468784770)

[I. References 40](#_Toc468784771)

[II. Appendix I – List of not directly in the document addressed comments 42](#_Toc468784772)

List of Figures

[Figure 1: A centralised coordination and cooperation forum for communities 19](#_Toc468784773)

[Figure 2: Strategic Coordination Boards 22](#_Toc468784774)

[Figure 3: Illustration of the funding scheme 23](#_Toc468784775)

[Figure 4: Preferred legal-organisational framework 25](#_Toc468784776)

[Figure 5: New vs. existing legal-organisational framework 26](#_Toc468784777)

List of Tables

[Table 1: Abbreviations 8](#_Toc468784778)

[Table 2: Quality Checklist 14](#_Toc468784779)

[Table 3: Risks 14](#_Toc468784780)

[Table 4: Summary of Comparison DG Programme, EU-Agency and NPO 31](#_Toc468784781)

List of Abbreviations

|  |  |
| --- | --- |
| **Acronym** | **Explanation** |
| BB | Building Block |
| CEF | Connecting Europe Facility |
| DG | Directorate General |
| DSI | Digital Service Infrastructure |
| EC | European Commission |
| e-CODEX | e-Justice Communication via Online Data Exchange |
| ENED | European Network for Electronic Data Exchange in the health care sector |
| epSOS | European Patients Smart Open Services |
| e-SENS | European Simple Electronic Networked Services |
| EU | European Union |
| IT | Information Technology |
| LSP | Large Scale Project |
| WP3 | e-SENS Work Package 3 “Sustainability and Long-term Governance” |
| MS | Member States |
| PEPPOL | Pan-European Public Procurement Online |
| SPOCS | Simple Procedures On-line for Cross-border Services |
| STORK | Secure Identity Across Borders Linked |

Table 1: Abbreviations

Executive Summary

e-SENS – Electronic Simple European Networked Services – is a Large Scale Pilot (LSP) aimed at promoting interoperability between public services in Europe based on the results of the previous LSPs: PEPPOL, e-CODEX, STORK, epSOS and SPOCS. The technical Building Blocks (BBs) developed and piloted by those LSPs are consolidated, improved and extended to new domains by e-SENS. The project focuses on the high-level BBs: e-ID, e-Signature, e-Documents and e-Delivery. One objective of e-SENS is the long-term governance and maintenance of the cross-community and cross-border technical solutions, which enable cross-border public services. In this respect e-SENS is also concerned with sustainability.

The goal of e-SENS Work Package 3 “Sustainability and long-term governance” (WP3) is to pave the way for sustainability and long-term governance of the building blocks and their usage and interoperability within all European Member States and Associated Countries. WP3 provides guidelines and recommendations for the future maintenance of the BBs and for future policy development concerning the sustainability and governance of the interoperability architecture of the BBs.

A task of WP3 - namely WP3.5 “Governance Implementation” - deals with long-term governance (beyond the CEF, after 2020) and proposed in previous deliverables[[1]](#footnote-1) – inter alia – a governance structure consisting of several boards, which carry out different activities to ensure the long-term consolidation and maintenance of the technical solutions across domains. Based on an analysis a legal-organisational framework - namely an already existing European Agency - is proposed in which the governance model shall be embedded. It is important that the ideas and proposals made by WP3 are supported by the members of the e-SENS consortium. A unanimous approval of a future governance structure provides a solid ground for bringing the ideas to the attention of the EC and also the national decision-makers. Besides this, the external reviewers requested in the review recommendations[[2]](#footnote-2) the support of the WP3 ideas by the national experts involved in e-SENS.

In order to raise awareness and achieve support from the national experts[[3]](#footnote-3) regarding the WP3 proposal in the area of governance, a position paper was drafted which summarises the main results in the area of governance which WP3 has achieved since the start of the project. The position paper contains a proposal for a long-term European IT governance model as well as a proposal of a legal-organisational framework in which this model shall be embedded.

The national experts within e-SENS were asked to approve or non-approve the position paper and provide feedback, comments and statements. No reaction by the national experts was considered as an approval. All national experts (22 out of 22)[[4]](#footnote-4) supported the position paper. Detailed feedback was received by 12 national experts (AT, DE, DK, EE, GB, IT, LU, NL, PL, PT, RO, SI).

In this respect, this deliverable consists of two parts:

1. Chapter 2: A position paper drafted by WP3 and updated according to the feedback received from the national experts within e-SENS.
2. Chapter 3, 4 and 5: An evaluation of the feedback of the national experts involved in e-SENS on the position paper. The national experts gave general feedback on the position paper, on the proposed European IT governance model and the legal-organisational framework.

As stated all national experts (in total 22) that participate in e-SENS supported the proposals of the position paper. The importance of an ICT governance model and a legal-organisational framework to ensure the long-term sustainability of cross-border digital service infrastructures was emphasized. Despite the support of the position paper, two national experts made the reservation that, if implemented, the legal-organisational framework has to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. In addition, there would still be open issues and questions that need to be solved.

Detailed feedback was provided by 12 of the national experts. This feedback contained positive aspects, pointed out challenges and room for improvement.

Some of the positive aspects mentioned by the national experts are:

* The proposed model allows for domestic control, freedom of choice and flexibility of the communities instead of aiming at ruling them.
* The gradual and stepwise evolution to the long-term governance model has low risk of disruptions, and makes the transitioning easy and flexible.

Some of the challenges and points of attention mentioned are:

* A gradual and stepwise evolution is seen as the only possible way for implementation; yet it still does not warrant for success. Namely, the proposed model would not only affect the EU level, but would be utmost important to change and improve also the MSs level.
* The new structure will need to settle specific priorities and have a big knowledge of all the LSPs and the way they work.

Some of the suggestions for possible further improvement or analysis are:

* It was raised that it is worth to analyse more in detail the costs of set-up and maintenance of an Agency, as one of the possible legal-organisational forms for the implementation of the European IT governance model.
* It is suggested to take into consideration aspects on how the governance model could give guidance to the usage of building blocks throughout their whole life-cycle.

Some aspects pointed out by the national experts will be considered in the future work of WP3. Others should be taken up in the political decision-making process after the ending of e-SENS.

# Introduction

## Scope and Objective of Deliverable

Since the beginning of e-SENS in April 2013 progress has been made in developing, consolidating and piloting Building Blocks. It is important that the results are sustained and governed also after the ending of the project.

Based on this, WP3 “Sustainability and long-term governance” has made efforts regarding several sustainability aspects. One result is the proposal of a long-term European IT governance model which shall ensure the governance and sustainability of the technical solutions used in the EU to facilitate the delivery of public electronic services. This governance model shall be embedded in a legal-organisational framework for which WP3 also makes a proposal.

It is important that not only WP3 develops ideas and makes proposals, but that the e-SENS consortium will support them. A unanimous approval of a future governance structure provides a solid ground for bringing the ideas to the attention of the EC and, subsequently, the national decision-makers. Besides this, the external reviewers requested in the review recommendations the support of the WP3 ideas by the national experts involved in e-SENS.

In order to raise awareness and achieve support from the national experts[[5]](#footnote-5) regarding the WP3 proposal in the area of governance, a position paper was drafted which summarises the main results in the area of governance which WP3 has achieved since the start of the project. The position paper contains a proposal for the long-term European IT governance model and its legal-organisational framework (already existing EU-Agency). As stated, the position paper is just a summary of the main results, WP3 has achieved so far. It is important to consider the different WP3 deliverables in the area of governance (the various deliverables of D3.4vX, D3.5vX and D3.6vX) in order to receive more background knowledge and a detailed insight. This cannot be covered by the position paper due to the necessity of brevity.

The national experts within e-SENS were asked to approve or non-approve the position paper and provide feedback, comments and statements. No reaction by the national experts was considered as an approval. There is a consensus within e-SENS regarding the support of the position paper. Feedback was received by 12 national experts (AT, DE, DK, EE, GB, IT, LU, NL, PL, PT, RO, SI). The opinions given cannot be considered as official opinions of the Member States, but give further insight in the discussions and opinions and challenges MS may see regarding the future governance of European IT solutions.

This deliverable contains on the one hand the position paper on the long-term European IT governance model and its legal-organisational framework, which was updated according to the feedback provided by the national experts. One the other hand it encloses the evaluation of the feedback received by the national coordinators. This feedback reaches from pointing out positive aspects of the proposal to questions and the need of further evaluation to food for thought and recommendations regarding the future and the implementation of the governance model and its legal-organisational framework. The feedback provided gives input to the work of WP3, but should also be considered by decision-makers on national and European level dealing with the governance of European IT solutions and the role of the building blocks in it.

## WP3 General Objectives and Vision

The e-SENS Work Package 3 (WP3) ‘Sustainability and Long-Term Governance’ concerns the long-term consolidation and maintenance of the technical solutions developed within e-SENS. The goal of Work Package 3 is to pave the way for sustainability and long-term governance of the e-SENS Building Blocks (BB) and their support in creating interoperable public services across all European Member States and Associated Countries. The findings of e-SENS WP3 may be considered for the sustainability of the CEF Building Block DSIs and its future IT governance structure.

WP3.5 deals with long-term governance (beyond the CEF) and proposes – inter alia – a governance structure consisting of several boards, which carry out different activities to ensure the long-term consolidation and maintenance of the technical solutions across domains. Furthermore it proposes a legal-organisational framework, namely an already existing European Agency, in which the governance model shall be embedded.

## Methodology of Work

The position paper “Proposal for a European IT governance model and a legal-organisational framework” builds the basis of this deliverable. The position paper contains a summary of the most important findings and results of WP 3 in the area of “long-term governance”. The position paper describes in detail which steps (e.g. analysis, evaluation etc.) were followed since the beginning of e-SENS in April 2013 to develop a proposal for a long-term European IT governance model and its legal-organisational framework.

Since it is the aim of WP3 to achieve great support of its ideas on long-term governance within the e-SENS consortium, the position paper was sent to the national experts in e-SENS. The national experts were asked for the approval of the proposed ideas and to state if they

1. In general, support the position paper, because …
2. No support of the position paper, because …

The national experts have also been asked to send feedback and state with which aspects they can agree and with which aspects they may not agree. Since WP3 was aiming at receiving a profound opinion on the proposals (governance model and legal-organisational framework), the national experts were asked to coordinate with the relevant experts in the respective country who are involved in European aspects, dealing with technical solutions, governance etc.. There was a timeframe of six weeks which gave the national experts the possibility to respond. It was stated by WP3 that no reaction on the position paper means approval of the ideas. One reminder was sent to the national experts one week before the deadline. In the end feedback from 12 national experts out of 22 has been received (AT, DE, DK, EE, GB, IT, LU, NL, PL, PT, RO, SI). The answers were handled anonymously and cannot be considered as official opinions of the Member States, but they give insight in the opinions and discussion which happen within the Member States.

The analysis of the remarks, comments and statements received from the national experts showed that the feedback can be grouped in different categories, which were used to draft the outline of this deliverable. The comments were grouped as followed:

1. General feedback on the position paper
2. Feedback on the proposed European IT governance model
   1. Feedback on the funding of the governance model
3. Feedback on the proposed legal-organisational framework
4. List of non-addressed comments

Author teams have been set up to evaluate on the different comments and draft the different chapters accordingly. Some comments received by the national coordinators lead to an update of the position paper (the final version can be found in this deliverable). Others may be seen as “food for thoughts” in the future and recommendations where more detailed work is needed. The author team tried to address every comment given by the national experts. Comments which were not directly integrated in the position paper or the deliverable are listed in the Annex of this deliverable with an explanation or a response to the comment.

## Relations to Internal e-SENS Environment

It is important that the ideas developed by WP3 are supported by the e-SENS consortium. In this respect and following up the recommendations given by the external reviewers in the e-SENS review meeting in June 2016, WP3 developed a position paper containing the main results of its work since the start of e-SENS, namely a proposal for a European IT governance model and a proposal for a legal-organisational framework (beyond 2020).

In order to receive approval and support of the position paper as well as feedback from the e-SENS consortium, the national experts have been involved in the development of this deliverable.

## Relations to External e-SENS Environment

It is important for e-SENS and WP3 to consider the current discussions and initiatives at European level in order to come up with realistic and implementable intentions and ideas for long-term sustainability. In this respect, e-SENS is closely working with different CEF experts on national and European level in order to get input and feedback for its work.

## Quality Management

This section provides the concepts used to ensure the quality of the deliverable.

|  |  |  |
| --- | --- | --- |
| **Category** | **Remarks** | **Checked by** |
| Conformance to e-SENS template | OK | WP3M |
| Language & Spelling | OK | WP3M |
| Delivered on time | Planned for September 2015 | WP3M |
| Each technology description contains the correct elements | OK | WP3M |
| Consistency with description in the TA and in other e-SENS deliverables | OK | WP3M |
| Contents is fit for purpose | OK | WP3M |
| Contents is fit for use | OK | WP3M |
| Commitment within WP | OK | WP3M |

Table 2: Quality Checklist

## Risk Management

This section describes the process used for effective risk management. It summarises the risks identified for creating this deliverable D3.5v3. This includes identifying the risks, risk analysis, risk assessment and defining responses and risk owner.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Description** | **Probability** | **Impact** | **Priority** | **Response** | **Owner** |
| Approval of/ Feedback to the position paper (basis of the deliverable) not delivered in time | high | high | high | Sending reminder to the national experts | WP3.5 leader |
| Less feedback provided by the national experts | medium | small | small | - | - |
| Contributions by  the authors are  not delivered in  time/ the deadlines  are not met | medium | medium | medium | Controlling timeline and reminding the partners to meet the deadlines/ monitoring the delivery | WP3.5 leader, |
| Contributions by the authors do not have the sufficient quality and quantity | medium | high | high | Monitoring of the development process of the deliverable | WP3.5 leader, |
| Content is not as detailed as expected or is too detailed | medium | high | high | Drafting a table of content and formulation of guidelines and expectations | WP3.5 leader, |
| Sensitivity to make a clear choice for an extension of an Agency; risk of being impartial | high | high | high | Liaising with experts that have voiced such an opinion. | WP3.5 leader, WP3M |

Table 3: Risks

## Legal Issues

No legal issues as such have arisen during the writing process of this deliverable. Nevertheless, it is important to cooperate continuously with WP4 to be able to address any legal issue concerning the implementation of a future governance structure.

## Structure of the document

The document is structures into five chapters.

Chapter 1 describes the rationale for drafting the deliverable, defines how the work was planned and completed, and the methodology it followed. It describes where the work fits, in relation to other deliverables in WP3 and the relation to the external environment of e-SENS.

Chapter 2 contains the position paper, which describes the proposal of a long-term European IT governance model and its legal-organisational framework.

Chapter 3 focuses on the general feedback which was received by the national experts. It describes the reasons why the national experts approve or not approve the positions paper.

Chapter 4 provides the evaluation of the feedback on the proposed European IT governance model. It describes the positive aspects seen by the national experts, but also suggestions for improvement regarding the implementation of the governance model. Furthermore Chapter 4 deals with funding aspects and evaluates on the opinions the national experts have regarding funding.

Chapter 5 deals with the feedback of the national experts of the proposed legal-organisational framework. It shows that an already existing European Agency is a valuable option for the governance of European IT solutions. However, the chapters also presents the challenges the national experts see in this construct and it is pointed out that further analysis might be needed as well.

Conclusions and recommendations are found in the “Conclusion”-chapter.

# Position Paper “Proposal for a European IT governance model and a legal-organisational framework”

## Introduction

e-ID, e-Signature, e-Delivery and e-Documents are examples of IT components - so called building blocks (BBs) - that make cross-border digital services work. Starting a business abroad, finding foreign speed offenders or applying for a university in another European Union (EU) Member State (MS) is made possible by BBs that are developed in EU projects like e-SENS (Electronic Simple European Networked Services).

The EU e-Government Action Plan 2016-2020 has already referred to the importance of the interoperability of BBs as enablers for electronic cross-border services. Furthermore, it is stated under Action 3: “The Commission will ensure the long-term sustainability of cross-border digital service infrastructures”. Based on this policy position, and feedback from European experts, it can be seen that there is a consensus on the need for a future European IT governance structure.

The ambition is that the European building blocks that have been put forward by various programmes and initiatives should seamlessly fit together now and in the future. This fit among building blocks will become a major opportunity to strengthen the European Digital Single Market. Therefore, strong coordination between interoperable IT components across the EU is a prerequisite. The building blocks and e-Services will not be temporary outputs that need to be governed for the duration of a pilot project, an EU action plan or programme, or until an acceptable level of maturity has been reached where the building block can be considered final and ready for use. Permanent governance will be required: technical solutions will need to be enhanced, maintained and expanded for an unlimited duration. This calls for a suitable European IT governance model and an EU-level legal policy instrument that has no inherent limitations on its duration. The model will guarantee the existence of the BBs for cross-border use and will be a strong catalyst for the realisation of the EU Digital Single Market.

e-SENS, the Large Scale Pilot project, has been tasked – amongst other things - to look beyond the term of the Connecting Europe Facility (2020) and propose a long-term governance model that enables the interoperability and delivery of cross-border public e-Services. This may contribute to giving input to Action 3 of the e-Government Action Plan 2016-2020.

This document presents a long-term European IT governance model, which aims at coordinating and ensuring coherence of the technical solutions used in the EU to facilitate the delivery of public electronic services. e-SENS proposes a governance model that supports technical communities and domain-specific communities in aligning their respective developments and creating new synergies. This needs to be embedded in a legal-organisational framework, which gives the communities and the coordination forum legal rights and also obligations. This framework is also presented in this document.

e-SENS proposes the organisation and design of a future European IT governance model. However, the first steps regarding its implementation need to be planned and decided in the mid-term, meaning in the course of the CEF, by the political decision makers.

The position paper does not assume to constitute an exhaustive, independent or impartial exposition on all possible models or legal-organisational frameworks for long-term governance and sustainability; the latter is the remit of full-fledged policy assessment studies. Rather, as the title implies, it presents and argues a position, or opinion, on requirements and priorities to be taken into account when designing a model, and proposes a model based on this.

The expertise and opinions of e-SENS national experts, the wider e-SENS community and the CEF Expert Group have shaped the position paper and the proposal to a large degree. However, while all inputs have been considered, not all suggestions have been incorporated into the paper, which is only intended to provide a contribution to the broader process of deciding on a model and a legal-organisational framework for long-term governance and sustainability.

## The Proposal for a long-term European IT Governance Model

This chapter presents a proposal for a European IT governance model, after 2020, when the Connecting Europe Facility (CEF) financing programme has ended. The proposal was developed within the e-SENS ‘Sustainability and long-term governance’ work package.

### Methodology

The methodology deployed to formulate a proposal for a long-term European IT governance model included following steps[[6]](#footnote-6):

1. Consolidation of the sustainability strategies developed by the five previous Large Scale Pilots (PEPPOL, SPOCS, STORK 1.0/2.0, epSOS, e-CODEX)[[7]](#footnote-7)
2. Evaluation of preliminary ideas and intentions for a future governance structure and definitions of stakeholder roles, which have been suggested by e-SENS national experts[[8]](#footnote-8)
3. Identification of principles which need to be considered regarding a future governance structure (stakeholder needs, openness and transparency, universality, legal criteria)[[9]](#footnote-9)
4. Presentation of ideas and suggestions for the implementation of a future governance structure (required actions for short-, medium- and long-term to achieve the long-term vision)[[10]](#footnote-10)
5. Analysis of national IT governance structures (best practices/ lessons learnt)[[11]](#footnote-11)
6. Elaboration of scenarios for the organisational forms of a future governance structure (DG Programme, Agency, Non-Profit Organisation (NPO))[[12]](#footnote-12)
7. Evaluation of recommendations and suggestions for the organisation of a future European IT governance structure based on a survey addressed to the representatives of the CEF expert group[[13]](#footnote-13)
8. Draft of a European long-term governance model and evaluation[[14]](#footnote-14)
9. Feasibility check of, and feedback[[15]](#footnote-15) about, the proposed European long-term IT governance model through a questionnaire addressed to the e-SENS communities[[16]](#footnote-16)

### Goals and principle of the model

The governance model should enable synergies across communities on policy, organisational and technical levels in a resilient (i.e. flexible and self-adapting) and efficient way. The long-term governance model is expected to facilitate the delivery of integrated and interoperable public electronic services by the communities in the EU. Above all, it should support potential new technical and domain communities to become mature and fully developed so that they could join the shared governance structure.

The term “community” refers to BB communities (like e-ID, e-Signature, e-Delivery) as well as domain communities (like e-Health, e-Justice, e-Procurement). These are communities consisting of the EC, MS, private stakeholders, standardisation organisation etc., which are involved in the development, maintenance, implementation and operation of technical solutions necessary to fulfil public electronic services. Communities are independent entities, with their own way of working, funding etc. There might be overlaps between a BB community and a domain community (e.g. in the field of e-Delivery since most of the domains use e-Delivery).[[17]](#footnote-17)

A long-term IT governance model needs to:

1. Provide central coordination that helps communities share information and solve problems in a coherent and efficient way
2. Be flexible and able to adapt to changes of technical and political nature yet unknown
3. Fit into a variety of legal and technical environments
4. Support and incorporate political intentions and purposes
5. Facilitate financial aspects and those of other resources

The proposed governance model would be in charge of ensuring proper information and knowledge sharing in a pro-active manner amongst all interested communities, to assure good collaboration. It would ensure a strong alignment of communities’ decisions when they have a strong impact on cross-domain matters. Such decisions would be taken in the governance forum by representatives of the interested communities and governments. The communities remain autonomous and keep operating in their respective fields, with full responsibility for maintaining and developing the use of the common solutions that they deem useful. Consequently, the long-term governance model relies on the principle of subsidiarity[[18]](#footnote-18), as a universal and omnipresent rule. Subsidiarity is a [founding principle of the EU](http://www.researchgate.net/publication/233608466_Subsidiarity_as_a_Principle_of_Governance_in_the_European_Union), whereby decisions are made at the immediate level that is consistent for their resolution. While the governance structure coordinates the key topics across communities, the communities themselves should take care of all main decisions, operating, implementing, delivering and further improving sphere of activity.



Figure 1: A centralised coordination and cooperation forum for communities

### Roles of communities in the model

The governance model does not aim at dominating the communities. Each community shall have its own governance arrangement and should participate in the governance model to exchange best practices and define principles for cooperation in different matters related to building block and domain communities. However, joining the governance model requires the fulfilment of some expectations.

Regardless of the actual individual community legal, organisational or operational structure, it is expected that each technical and domain community is able to (and aims at) ***deliver*** public electronic services or cross-domain building blocks, and ***cooperate*** with other communities in the joint governance model.

From the experiences gathered in multiple Large Scale Pilots and in the course of e-SENS, it has been of major importance that each technical and domain community:

* is able to ***operate and deliver***, meaning either handling the development and support for a BB, or providing public electronic services that rely on these BBs, usually via service providers and other industry players in the field
* is able to ***influence the policy making*** in its field at MS and EU level, for instance via a strong commitment or ownership by one or more European Commission Directorate Generals (EC DGs) in the field
* has a clear and known ***responsible entity[[19]](#footnote-19)***, which is efficient and pro-active and acts as a first contact point to facilitate contacts. It should have a good knowledge and vision of the stakeholders and functioning of the whole community to efficiently route information. A possible option is to set up a permanent secretariat
* ***involves interested experts*** in defining the evolution of the community, including interested MSs, Standardisation Organisations and sometimes (public) users' representatives (e.g. ministries, administrations), to ensure the societal, technical and organisational (in one word: policy) relevance of the community actions

Some communities are already mature enough to join the proposed governance model[[20]](#footnote-20): these are mainly domain communities, e.g. OpenPEPPOL, ENED Network. Other communities still need to improve their governance and maturity (mainly the BB communities). This means that there is still room for improvement regarding the governance of the different domain and technical communities within e-SENS to ensure long-term sustainability of the solutions.

### Mission and organisational aspects of the model

From the e-SENS experience, the experience of other Large Scale Pilot projects before it, and [the feedback of different national and European experts](http://www.esens.eu/fileadmin/user_upload/D3.6_Scenarios_for_Governance_part_2_white_paper.pdf), a selection of key coordination topics has been made:

* Identifying and defining new technical or domain communities to be integrated, prioritising these integrations and helping to find funding for the needed integration and maturation efforts. In short: coordinating the efforts to expand the governance structure
* Managing choices on architectural interoperability of BBs and their coherent evolution. In short: coordinating the architecture
* Creating synergies in delivering the needed e-Services and support to (public) users. In short: governing the electronic services
* Mutually supporting the marketing efforts of each community, creating synergies to share an existing user base and expand market and take up of available BBs. In short: coordinating the business development efforts

In the proposed long-term governance model, these four topics are coordinated by four strategic boards: **Expansion Board, Architecture Board, Solution Servicing Board and Business Development Board**.

Furthermore, another strategic board, namely the **Reciprocity Board,** is proposed to coordinate efforts in the area of non-financial contributions, which will be explained in more detail in the section about “funding”.

***Overall tasks of the five Strategic Boards:***

***1. Expansion Board:*** The Expansion Board will coordinate efforts to select and integrate new communities in the governance model. This selection will include an assessment of the economic potential for and from new communities. The integration will involve the collection of funds needed for in-depth integration and meeting the community prerequisites.

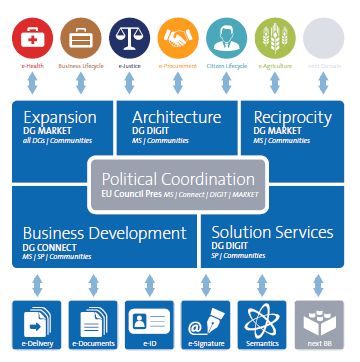
***2.******Architecture Board:*** The Architecture Board will coordinate cross-community architectural and technical issues that have an impact on existing or new-community services, issues like technical sustainability and technical development for instance.

***3.******Solution Servicing Board:*** The Solution Servicing Board will be responsible for the coordination of activities that deliver services to public users (e.g. administrations, ministries etc.). It will aim at fostering synergies amongst Service Providers and sharing best practices in governing the communities’ more operational bodies.

***4.******Business Development Board:*** The Business Development Board will coordinate efforts for increasing the usage of existing cross-community services and BBs and will provide support to new users in the new field (e.g. new countries that will use the technical solutions and new domains). This coordination will reinforce and leverage the communities marketing and communication means.

***5. Reciprocity Board:*** The Reciprocity Board will coordinate efforts to design, implement and improve reasonable balance mechanism to facilitate the creation of a natural balance between contributions and obtained value by MS and stakeholders involved. Instruments and regulations can be designed to encourage major contributors and help less active observers become active contributors across both BB and domain communities.

In the event of divergent views between the different Strategic Boards, a**Political Coordination Board** is expected to serve as conflict solving and escalation mechanism. The Political Coordination Board could also provide a link to the European Commission and to the formal representations of the Member States and Associated Countries. This is mainly relevant in relation to the flow of information between the strategic boards and e.g. political decision-makers. The Political Coordination Board should support the cooperation between the five boards.



***Figure 2: Strategic Coordination Boards***

### Funding

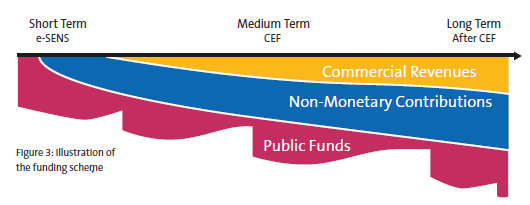
e-SENS proposes a funding structure that evolves successively from the current projects-based settings, with funding provided by both the EU and partners, into a coordinated scheme that aggregates revenues of a different nature to finance its operations and development.

To put this more schematically, three sources of funding are possible:

1. Countries (via their administrations) and enterprises can contribute through non-financial contributions: in expertise, BB components, training material and more.
2. Public funds are used to support crucial efforts, such as the integration of new domains. The [CEF program](http://ec.europa.eu/digital-agenda/en/connecting-europe-facility)me for example is the primary source of such funds in the medium-term until 2020, and illustrates the working of such a type of source.
3. Commercial revenues are generated[[21]](#footnote-21) from provisioned additional services (co-designed in medium-term (until 2020) and standardised in Service Level Agreements in the long-term (beyond 2020) and the licensing of assets.

In the long run, the proposed basis for the funding should mainly become non-monetary contributions from the different players within the ecosystem of the relevant communities of the BBs and domains, complemented by extra public funds applied to integration efforts.

To put this more schematically, three sources of funding are described and the development in a timeline in a figure below:



***Figure 3: Illustration of the funding scheme***

Since the governance model should require a limited amount of operational funds, it is proposed to rely mainly on the principle of reciprocity, which is a powerful and sustainable value creation mechanism to ensure a balance between contributions and obtained value. Instruments and regulations can be designed to foster a “reasonable balance” to motivate major contributors and help less active observers become active contributors. Finding acceptable terms for these “reasonable balance” mechanisms across communities and/or countries is thus identified as another key coordination topic in the long term governance model. This crucial aspect will be coordinated by the Reciprocity Board.

To sum up, the proposed governance model creates coordination between distinct and independent groups and actors. Despite possible challenges, it helps solving problems without creating undue administrative burden or bureaucratic processes for the communities themselves. It structures and enables the coordination on key technical, business and political topics, while keeping bureaucracy and overheads to a strict minimum. It is inherently flexible, and is able to include new common technical components that facilitate public e-Services in Europe and foster their use in new administrative domains.

## The Proposal for a legal-organisational framework for the European IT Governance Model

The proposed governance model needs to be embedded in a legal-organisational framework, which creates binding legal rights and/ or obligations for the communities. Furthermore, and according to previous e-SENS[[22]](#footnote-22) findings, it should be public-sector driven, with the support of stakeholders, public users and standardisation bodies.

e-SENS formulated three possible legal-organisational scenarios (namely, a DG programme, a European Agency and a Non-Profit-Organisation) based on legal, organisational, financial, architectural and domain-related criteria in order to support decision-makers in their discussions and investigation of a future legal-organisational framework[[23]](#footnote-23). The analysis undertaken by e-SENS has shown that each scenario has advantages and disadvantages[[24]](#footnote-24). It became clear that:

1. A DG Programme has the advantage of high EC involvement and relative ease of establishment, but lacks stakeholder involvement and is dependent on periodical political decisions to extend the programme for a new term, at least if permanent governance mechanisms are desired.
2. An Agency is a good organisational form to include the EC, MS and stakeholders. Furthermore, funding from different resources is possible. Principal weaknesses are the larger effort and cost for establishing an Agency, and the need to organise coordination with specific policy DGs that have thus far held a policy-specific building block within its remit.
3. A Non-Profit-Organisation (NPO) is an organisational structure that is well suited to the involvement of stakeholders, even though MSs will most likely be involved in a strategic manner rather than involved at the level of task execution. Furthermore, the set-up costs can be an advantage. However, EC and MS involvement might be more problematic.

### Stakeholders’ preferences

Based on these findings the members of the CEF Expert group have been asked - via a questionnaire - about their preferences on a possible legal-organisational framework.[[25]](#footnote-25) The result is the following:

Figure 4: Preferred legal-organisational framework

Although the answers provided by the experts do not completely reflect the official position of the Member States and Associated Countries, it can be observed that the scenarios “DG Programme” and “European Agency” are seen as the most suitable options.

The CEF experts were also asked if a new legal-organisational framework should be established or if an already existing governance solution should be responsible for the maintenance and governance of European IT solutions. The majority of the respondents prefer the reuse of an already existing governance solution. Their preference is either for the prolongation of a “DG Programme” or the enlargement of an “Agency”. The non-profit organisation scenario is not strongly supported by the stakeholders, which is likely based on the consideration that a pure non-profit option does not permit a strong driving role for the Member States. While this may acceptable for some building blocks, most of the current regulatory and policy mechanisms do foresee strong public sector involvement – principally from the Member States and from the European Commission – which renders a full NPO scenario less attractive. This is the reason why the assessment below focuses mainly on the Programme and Agency options and further discards the option of an NPO.

***Figure 5: New vs. existing legal-organisational framework***

### Legal criteria to be met

It is important that a legal-organisational framework would meet certain legal criteria so that a reliable governance structure can be established. More specifically, the legal-organisational framework must be able to satisfy applicable institutional legal constraints (i.e. it must be viable under EU law), functional legal constraints (i.e. it must be capable of satisfying the legal challenges in relation to governance, e.g. trustworthiness, stability, and openness) and it should be aligned with existing prior legal inputs such as existing legislation at European and national levels.

Ensuring permanent governance requires an EU level legal policy instrument that has no inherent limitations to its duration.

A legal-organisational instrument must be chosen that avoids the need for active political decisions about continuation. Technical solutions and e-Services require a permanent governance approach at EU level, rather than a series of provisional working schedules.

In order to be credible and effective, the creation of a legal-organisational framework for the governance model proposed by e-SENS must take into account existing legal frameworks (e.g. eIDAS Regulation, eu-LISA Regulation, CEF) that have aimed at addressing aspects of the governance of building blocks. The objective is not necessarily to replace these existing legal initiatives. Rather, it is to build a robust governance framework around them that can integrate the existing structures in accordance with their already existing rules - creating the possibility for gradual alignment of these rules where and when appropriate - and to address governance issues that have not been regulated yet.

A single body or programme is clearly preferable in order to ensure alignment and consistency between the governance of all the building blocks and e-Services, as it would reduce the risk of misalignment in terms of continuity, organisation, resources, etc. Conceptually, it is of course viable to use multiple legal instruments to establish multiple agencies or programmes, e.g. linking one Agency to the building blocks, and one programme to an e-Service. Reliance on a multitude of bodies or programmes might also facilitate the integration of on-going work in existing international forums, including specifically European and international standardisation bodies that provide some of the components of the building blocks. Nonetheless, the risk of misalignment is greater with multiple organisations, agencies or programmes.

### Operational Set-Up

The e-SENS IT governance model could be implemented either via an Agency or via a DG programme[[26]](#footnote-26), provided that certain requirements can be satisfied and that stability can be ensured. The following subsection explains the reasoning behind the final proposal between these two options.

There are arguments that cause e-SENS to elaborate on the option of an Agency:

1. A significant concern is that programmes are in principle linked to a specific DG. This implies that, if governance is entrusted to a single programme, this would be led by one DG only. This seems to be a suboptimal choice, since various building blocks and e-Services touch on the competences of multiple DGs. Therefore, opting for a programme rather than for an Agency to implement the e-SENS governance proposal would require that multiple programmes would be needed (rather than a single programme), simply to avoid a single DG encroaching on the legal competences of other DGs. While agencies can also have a greater policy affinity with a single DG than others, simply on the basis of their field of activity, this is not always or necessarily true.
2. Perhaps more importantly, a future European IT Agency would be politically independent from any single DG, which might be expected to facilitate cooperation or interaction across multiple DGs. In simple terms, the coordination between DGs (as well as Member States and other stakeholder communities) can be structurally built into an Agency without any bias. While agencies can also have a greater policy affinity with a single DG than others on the basis of their field of activity, this is not always or necessarily true, and indeed the fact that a single Agency would be competent for both generic building blocks and for multiple policy specific building blocks would counteract this risk, since no single DG would dominate.
3. Other reasons that favour an Agency over a DG programme are expanded on in the e-SENS deliverable D3.5v2 “Preliminary Proposal for long-term sustainability within the CEF”. They include notably:
   1. the greater flexibility of an Agency in obtaining funding from third parties (which may partially offset the disadvantages of an agency’s higher cost)
   2. the greater importance that could be given to non-governmental stakeholders, like NGOs, research centers, end users (i.e. citizens), including by participating in the governance mechanism
   3. the greater potential for durability favours an Agency: agencies can and commonly are created for unlimited durations, while both programmes and agencies can be created for only a limited duration
   4. the greater possibility for involving Member States and private sector stakeholders
   5. the greater possibility for stable and transparent funding: an Agency would be established through a specific regulation that provides stable funding for its specific tasks, and organises the participation of various stakeholder entities as envisaged in the proposal
   6. the relevant structures (such as the boards nominated in the IT governance proposal) can also be established through a Regulation (in the same way as has been done i.e., for the eu-LISA Regulation), which would similarly task the Agency with permanent operational responsibilities.

### Decision Making

Decision making competences would not be allocated to the proposed Agency since this would likely contradict the Treaties or at least require substantial modifications to existing law. Rather, the Agency would be tasked with establishing permanent cooperation mechanisms between existing communities including Expert Groups (such as those established by the eIDAS Regulation or those provisionally existing within the CEF, but also those which are not yet adequately covered, such as those within DG MARE). These cooperation mechanisms would have preparatory, advisory and coordination roles, assisting in the preparation of regulatory activity wherever required and permitted under EU law.

Where necessary, the Agency would also be tasked with setting up new cooperation mechanisms in relation to building blocks or e-Services that lack such building blocks, e.g. via specific executive boards that interact with the Agency’s Political Coordination Board (as described in the e-SENS governance proposal). The most appropriate participants to be appointed to the Political Coordination Board are representatives of Member States and other relevant stakeholders[[27]](#footnote-27). Depending on the underlying legislative framework it needs to be codified which parties have voting rights and which parties have more an advisory role.

In this way, the Agency would be vested with the required powers to support the currently existing legal decision making process, integrating all prior existing components and initiatives, and filling the gaps as required while remaining within the boundaries set out by existing legislation.

### Final Recommendations

Considering all the findings mentioned above - and notwithstanding the need for a formal and more exhaustive policy assessment study on this issue - the e-SENS consortium proposes to entrust an already existing decentralised Agency with the task of encapsulating and integrating existing governance and decision making processes into a single and coherent structure. To reach such a situation, no ‘big-bang’ approach is foreseen in which a single body would suddenly and immediately take over the governance and regulatory powers with respect to all building blocks and e-Services, since such a solution would likely be to create significant legal challenges and policy tensions. Rather, a gradual and stepwise evolution is envisaged, in which the tasks of the Agency would initially focus more on coordination as a transitory phase, by incorporating existing structures and decision making processes that have already been established through prior policies and legislative intervention. Gradually, the Agency would receive additional governance tasks and responsibilities. It could also support legal decision making in the framework of existing legislation and the European Institutional Framework (EIF). This would allow the e-SENS governance model to be put into practice, while avoiding a potentially disruptive break in prior policy initiatives.

### Appendix in the position paper

e-SENS carried out a preliminary comparison of the three mentioned organisational forms, which are located in the table below. The ways in which the different organisational forms meet the different criteria, which will be taken into account when establishing a future IT governance structure, were analysed.

|  |  |  |  |
| --- | --- | --- | --- |
| **Criteria** | **DG Programme** | **Agency** | **Non-Profit Organisation** |
| **Member State involvement** | MSs included in decision-making on the work programme via the comitology during creation; later MSs may only have a cooperating role, where EC decides & approves work programme; | MSs are decision-makers on the coordination board; via an ‘alert-warning system’ the EC can warn the EP and Council in the event of serious reasons for concern (e.g. regarding mandate or EU law in respect to upcoming decisions the by Agency); | MSs involved on political and strategic levels; MSs could be in the strategic and coordination board depending on setup. |
| **EC involvement** | EC as primary decision-maker; | EC & possibly a EP-designated member in coordination board alongside the total number of MSs and maybe Associated States; executive boards set up with participation of EC representatives; | EC involvement is possible |
| **Stakeholder involvement** | Only indirectly though MS representatives and through interaction at conferences, workshops and meetings; | Offers the possibility to co-decide with EC and MSs in the strategic boards; also an option to consult non-deciding stakeholders; | Cross-cutting representation of different stakeholders is a defining feature of the NPO; |
| **Set-up costs** | Development activities are covered internally by EC; possibly low initial and transfer set-up costs, but depend e.g. on mission and scope; costs related to changing the legal framework should also be taken into account. | Set-up is expected to be more expensive: e.g. through a lengthy legal process associated with the establishment and considerable recruitment costs; these costs will be less if the parameters of an existing Agency can be re-used or expanded. | Based on high level estimations, will depend - besides other issues - on mission and scope; set-up costs can therefore be low |
| **Maintenance costs** | Annual maintenance costs for overall set of IT components can be very high; but is not expected to vary significantly between the organisational forms; | Annual maintenance costs for overall set of IT components can be very high; but is not expected to vary significantly between the organisational forms; | Annual maintenance costs for overall set of IT components can be high; but is not expected to vary significantly between the organisational forms; |
| **Ability to avoid market fragmentation** | Well positioned to ensure freedom of a Single Market and avoid market fragmentation; | The driver avoiding fragmentation is cooperation between MSs, EC & stakeholders. These three are typically involved in decision making. Also Agency benefits from the legal expertise possessed by MSs and the EC, and on EC budget ensuring requirements are open and IPR would be on a royalty free basis; | Not inherent in the NPO organisational structure, but there would be the inclusive, community and cross stakeholder nature of a typical NPO support exchange and interoperability at all levels; |
| **Ability to enhance architectural coherence** | Well positioned politically to implement the EU interoperability framework (EIF), also adopted jointly usually by EP and Council, so well positioned to enhance architectural coherence from a legal point of view; | Provided through the actors (EC, MS and EP & Council when needed), the Agency could cope with ‘designers’ of EU interoperability framework and the MSs to implement solutions; MSs can decide on using technical solutions. | The NPO itself doesn’t guarantee architectural coherence, but the general characteristics can promote and sustain a focus on interoperability; NPO can agree to adopt the EIF. |
| **Funding from different sources** | Different funding schemes, such as co-funding, procurement, and bonds are possible for a DG programme, but it always involves partial EU funding. During its lifetime changes in funding may be complicated; a condition for receiving funding could be the use of the EIF. | It is up to the decision-makers to decide how to attract funding. If desired, alongside the allocated budget, funding from revenue obtained by charging transactions that use developed solutions may act as a source of revenue. An Agency would allow funding to come from different sources. | NPO allows any kind of funding, but mutual agreements with all stakeholders providing funds are needed to ensure legal, operational, economic and organisational clarity. Funding from the EU is possible, but a special framework is needed for this (e.g. a DG programme). |

Table 4: Summary of Comparison DG Programme, EU-Agency and NPO

# General feedback on the Position Paper

22 national experts within the e-SENS consortium were asked to provide their feedback on the proposal for the long-term European IT governance model and its legal-organisational framework described in the position paper. There is a consensus among the national experts[[28]](#footnote-28) to support the proposals of the position paper. Detailed feedback was provided by 12 of the national experts that were addressed.

The national experts emphasised once more the importance of an ICT governance model and a legal-organisational framework to ensure the long-term sustainability of cross-border digital services infrastructures. It was stated that technical solutions will have to be enhanced, maintained and expanded for an unlimited duration and will be a strong catalyst for the achievement of the EU digital single market.

According to them, the position paper describes and justifies the need of a long-term governance structure that will ensure the existence of technical solutions in every European country to support the technical Building Blocks that are already making the interoperability cross-border possible, in several businesses and social areas.

It was mentioned that the proposals indicated in the position paper are strong and rich proposals that can be a perfect starting point for debating and agreeing on a long term European governance model.

Moreover, additional comments on specific aspects of the proposed IT governance model and the legal-organisational framework were received.

The fact that the proposed model allows for domestic control, freedom of choice and flexibility of the communities instead of aiming at ruling them, was an aspect that was strongly agreed on.

Also, the gradual and stepwise evolution to the long-term governance model adopted in the position paper was supported as it has low risk of disruptions, and makes the transitioning easy and flexible.

Another positive aspect of the position paper that was pointed out was that it addresses the need for strong coordination and a common approach of the activities in the ongoing digitization process. The purpose of the proposed governance model is to enable a thoroughly coordinated development of e-Services at EU level, based on the previous coordination of the BB development at LSP level resulting in good and common user experience.

Lastly, the organisational model for the management of an Agency based on a cost-benefit service was considered advantageous.

Despite the fact that all national experts approved the position paper, two approving countries stated some reservations. They mentioned that the results of the position paper, if implemented, have to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. Another national expert mentioned that the position paper lacks some vigor in the justification of the methodology for the decision-making on the type of governance framework. Some criteria (such as the criteria for the scenario assessment) and choices (including the legal-organisational framework) need better explanation. There are still open issues and questions that need to be solved.

# Feedback on the proposed European IT Governance Model

Part of the feedback provided by the national experts within e-SENS is directly related to the proposal of the European IT Governance Model. This paragraph will summarise these remarks.

Some positive aspects were mentioned. A response considers the development of IT governance at European level, as referred to in the paper, as a very positive development. A reference is made to an experience at national level and with national IT governance, which led to convergence of views of decision makers in an earlier stage than before and also led to more efficient investments in national generic infrastructure for digital government. This national example illustrates a possible way such a development can work.

Another response sees the proposal, which recommends the inclusion of all the needed tasks into an existing Agency, as the most practical way to start to incorporate the existing structured communities.

Another remark was that e-SENS results from an idea to recombine existing ideas and solutions, and as such is already a part of an evolutionary process of self-sustainability in very important contexts. This makes the governance model itself prone to self-correctness; under the condition it combines well the legal, political, socio-economic and technical decisions.

***Points of attention***

Next to the supportive statements, some additional questions and points of attention regarding the governance model were given in the feedback.

One national expert stated that the governance model is not convincingly rigorous, which is why one should be more critical about the boards-structure. However, this is a positive thing at this point, as it is much more important to show awareness of what needs to be done than confidence that it will be done in an unambiguous manner. On the other hand, this should be well-compensated with an elaboration on the flexibility of the governance model, the type of risks envisaged to be on the way and the way the model would sustain regardless of the obstacles. In other words, the sustainability and resilience of the governance model should be defended as well.

Another national expert stated that Member States are formally involved in the decision-making concerning European Interoperability and that at the same time it seems that the European Interoperability administration and leadership are centralised through the proposed governance model. One national expert emphasises subsidiarity principle, and states that - as much as possible - e-SENS components should be distributed and administered by Member States.

In addition to this, the remark was made that it is crucial that Member States are in charge of deciding on changes. DG DIGIT could assist in this respect or bring together any expertise. It is suggested that it should be discussed whether the IT governance should encompass only generic BBs or also sector specific BBs and in this way affecting other or even all domains at EU level. The remark was made that implementing a model as proposed would in practice have to face a number of challenges and barriers, as indicated also in the Position Paper’s recommendations in paragraph 3.5. A gradual and stepwise evolution is seen as the only possible way for implementation; yet it still does not warrant for success. Namely, the proposed model would not only affect the EU level, but would be utmost important to change and improve also the MSs level. At present the MSs have different organisations and approaches to digitization. Some are very mature in such coordinative development, and some are facing the same challenges as the EU level does. The openness to the EU level and readiness to follow proposed changes would strongly depend on the political level of support from the MS. On the other hand the proposed governance model would have a positive effect on the coordinative development within MS. It would be very important to keep the relations between MS and EU level, regarding the responsibility and sovereignty, balanced.

Another remark was that there is a risk that components necessary for interoperability could get divided between different boards. This would not support the idea of central coordination. Therefore it needs to be ensured that the same governance body will organise all central coordination.

Remarks were made on the suggested number of strategic boards listed in the proposed governance model and their names. There will be some crossover between the boards and the existing CEF governance (particularly around eIDAS), this will need attention during implementation. Also some doubts about the organisation of processes with this number of boards are mentioned. These processes could become restrictive and stifling for innovation. In addition, it is said that there seem to be overlaps between the boards[[29]](#footnote-29) and that the board structure in general seems too cumbersome, especially in such an early phase of the proposal. Furthermore, the role of the Reciprocity Board is seen as vague and practically not operationalized much. The question remains whether a separate board is needed for this matter.

The suggestion is made that in the beginning perhaps two boards (one ‘Content Management Board’ and one body that deal with budget) could be sufficient. During the development, depending which decisions are necessary, the number of boards could then evolve or expand in due time. It is mentioned that it is important that any of the boards need to be composed of experts from Member States to ensure careful decision-making. In addition, the Political Coordination Board may have to arbitrate issues that may easily become very complex or technical.

It was suggested by one national expert that it should be stressed and clearly stated in the position paper that technical sustainability and technical development should be in the responsibility of the Architecture Board. To support this aspect it is suggested that it might be beneficial to add some differentiation in the governance model depending on the BB or domain community or add some differentiation in the governance model for services and BBs with different level of maturity and adoption.

Another point that is made is to have more attention should be focussed on clear distinction between the roles of client and contractor. Suggestion is made that more study should expand on this. The (expanded role of an existing) European Agency should function as: 1) the secretariat of an ecosystem of building blocks, 2) the role of the client or supervisor and 3) implementation of the management of the BB. This seems to be comparable with the model of a sort of ‘European CIO office’.

In one of the remarks it is stated that it is essential to create a dedicated structure to coordinate the process of development of a proposed structure, because most of the existing communities have already strong governance mechanisms and are delivering important practical results, but are in different stages of development. So, it is concluded, the new structure will need to settle specific priorities and have a big knowledge of all the LSP and the way they work.

It was also stated from one national expert that the implications and adaption practices for new technical solutions delivered by other future projects and initiatives (expansion of the set of BBs) need to be defined in more detail. At least, an evaluation or some kind of analysis is needed if the requirements for the IT governance model stated at the beginning of the position paper are met by the proposed model when it will be implemented.

## Feedback on funding of the Governance Model

During consultation of the position paper it was raised that it is worth to analyse more in detail the costs of set-up and maintenance of an Agency, which was considered in the document as one of the possible legal-organisational forms for the implementation of the European IT governance model. Another national expert mentioned that it is necessary to evaluate the funding and the legal-organisational framework together in more detail and that it needs to be shown how the two are related to each other. At this stage of conception it is too early to describe in detail a financial model of any proposed solution for the implementation of the governance model. The position paper shows general directions, which should be described more into detail in the future. However, it should be noted that financial issues have been mentioned and analysed in several deliverable of e-SENS Work Package 3[[30]](#footnote-30). Furthermore, the position paper mentions that the establishment of an Agency - respectively using an already existing Agency - for the maintenance of technical solutions increases the ability to obtain stable funding for its conduct. Also the principle of reciprocity was mentioned as a powerful and sustainable value creation mechanism to cover operational costs of the governance model regardless of the legal-organisational form to be chosen.

Moreover, one national expert mentioned that defining the mechanisms of reciprocity, which would underlie the activities of the Reciprocity Board, would be a big challenge. Also it was raised that reciprocity would not cover the operational costs of the Agency and the costs would have to be ensured at the European level. However, three sources of funding are mentioned in the position paper to finance operational costs: non-financial contribution of countries via their administration and enterprises, public funds and commercial revenue. Possible operational costs may be covered by these sources of funding. However, it needs to be mentioned that the proposed governance model will not carry out any operational task; the focus is on cooperation and coordination. Operations and developments will be carried out by the different communities.

Other comments regarding the position paper concerned the links between the new building blocks and funds. According to one of the experts it is important that the business case is leading in financing any new building blocks or considering it to be integrated in the governance model. An important condition is that the use of the building block justifies the investment. But it also needs to be mentioned that building blocks or building block communities who will be integrated in the governance model also need to bring added value to the other communities.

Besides this, it was suggested to take into consideration aspects how the governance model could give guidance to the usage of building blocks throughout their whole life-cycle. As an example a life cycle of IT system was given, where it is a ratio between efforts and costs. It was proposed to use procedures for change management what helps to manage all aspect during the first few years of existence of building blocks. Strategic boards, mentioned in the position paper, will deal with the definition of such procedures. This will happen when strategic boards begin their work.

# Feedback on the proposed legal-organisational framework

Several Member States provided their feedback on the proposal for a legal-organisational framework. A recurring concern was that the position paper was misconstrued as a systematic policy study, while – as several commenters rightly pointed out – it however did not provide a comprehensive assessment of all available policy options. The position paper expresses unambiguously that it represents perspectives and preferences based on the results and experiences achieved during the project itself, namely the work of WP3[[31]](#footnote-31). It is not intended or capable of being a full policy option assessment; this would exceed the remit and resources of the project.

A related type of comment voiced by two Member States was that the position paper should not express a preference for any governance scenario, since this choice is ultimately a policy choice. There is indeed a political choice to be made, which e-SENS should not pre-empt – but this should not stop the project from expressing preferences. The objective is after all to express an opinion, and absolute neutrality should therefore not be an objective. However, a comment has been added to explicitly recognise the need for a more systematic and comprehensive assessment of all policy scenarios. The position paper does not obviate the need for such a comprehensive examination of the strengths and weaknesses of all governance scenarios.

Several suggestions were made to better balance the assessments of governance scenarios. The position paper ultimately results in a preference for a decentralised Agency, preferably by extending the mandate of an existing Agency. However, some commenters felt that this preference was expressed early on in the paper, and that some strength from other governance scenarios were insufficiently highlighted. Inversely, the weaknesses of the Agency option were not always clearly underlined. This has been remedied in the updated version of the position paper, thus providing a fairer and more complete assessment.

It is recognised by the national experts – however - that only the Agency and DG Programme options are highlighted in the position paper, with other scenarios (transfer to a non-governmental organisation, public-private partnership, Member State governance without EU control, handover to DGs without a programme, etc.) receiving limited attention. This is correct; however, the emphasis was on the Agency and Programme options because these were reported by a vast majority of stakeholders as the preferred scenarios[[32]](#footnote-32), with other scenarios barely being reported at all. This seems indicative of the fact that such other scenarios are likely highly suitable for some building blocks, but likely not for all. At any rate, it is repeated (and has been stressed in the e-SENS position paper) that a comprehensive policy option assessment must indeed be done, but exceeds the mandate of e-SENS.

Conclusion

National experts of all beneficiaries in e-SENS were asked for their feedback and support on a position paper, which contains a summary of the main results of the work carried out by WP3 in the area of governance since the start of e-SENS. Based on these results WP3 developed a proposal for a European IT governance model for the long-term and a proposal for a legal-organisational framework, namely an already existing European Agency, which shall maintain and sustain the e-SENS building blocks and also other European IT solutions.

All national experts [[33]](#footnote-33) from countries participating in e-SENS support the position paper and the ideas which are contained in it, but they also pointed out room for improvement and challenges. Despite the support of the position paper, two national experts made the reservation that, if implemented, the legal-organisational framework has to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. In addition, there would still be open issues and questions that need to be solved.

Based on the feedback provided by 12 national experts, the original position paper was improved and is contained in this deliverable.

Some of the positive aspects mentioned by the national experts are:

* The fact that the proposed model allows for domestic control, freedom of choice and flexibility of the communities instead of aiming at ruling them.
* The gradual and stepwise evolution to the long-term governance model adopted in the position paper is supported as it has low risk of disruptions, and makes the transitioning easy and flexible.
* The principle of reciprocity is mentioned as a powerful and sustainable value creation mechanism to cover operational costs of the governance model, regardless of the legal-organisational form to be chosen.

Some of the challenges and points of attention mentioned are:

* A gradual and stepwise evolution is seen as the only possible way for implementation; yet it still does not warrant for success. Namely, the proposed model would not only affect the EU level, but would be utmost important to change and improve also the MSs level.
* The openness to the EU level and readiness to follow proposed changes would strongly depend on the support of the political level from the MS. On the other hand the proposed governance model would have a positive effect on the coordinative development within MS. It would be very important to keep the relations between MS and EU level, regarding the responsibility and sovereignty, balanced.
* The new structure will need to settle specific priorities and have a big knowledge of all the LSPs and the way they work.

Some of the suggestions for possible further improvement or analysis are:

* A recurring concern was that the position paper was misconstrued as a systematic policy study, while it however did not provide a comprehensive assessment of all available policy options. Some national experts explicitly recognise the need for a more systematic and comprehensive assessment of all policy scenarios. Scenario’s other than Agency and DG Programme did receive limited attention. However, the two scenarios were reported by a vast majority of stakeholders as the preferred ones for the future.
* It was raised that it is worth to analyse more in detail the costs of set-up and maintenance of an Agency, as one of the possible legal-organisational forms for the implementation of the European IT governance model.
* The funding and the legal-organisational framework should be evaluated together and also there should be a common elaboration on how the two are inter-related. In that sense, the regulatory frameworks for different domains should be taken into account when commenting the feasibility of the funding schemes in the first place.
* It is said that risk implications could be another criteria to assess the legal-organisational framework.
* It is suggested to take into consideration aspects on how the governance model could give guidance to the usage of building blocks throughout their whole life-cycle.

Some of these challenges and suggestions will be taken up in the further deliverables of WP3 of e-SENS, other will need attention from CEF or others in the external environment of e-SENS.

1. References
2. e-SENS D3.5v1 (September 2013) “Preliminary proposal for long-term sustainability within the CEF – Opinion of national experts within e-SENS”: *This report presents ideas, suggestions and recommendations regarding the future governance of the e-SENS results within the CEF/ Ten-Tele Regulation in order to ensure the sustainability of the solutions. The national experts within e-SENS were asked to give their opinion about the results of D3.4v1 “Preliminary proposal for a governance body”. The findings of this will form the basis for further investigations and elaborations* 🡪 https://www.esens.eu/sites/default/files/e-SENS\_D3.4\_0.pdf
3. e-SENS D3.6v1 (December 2013) “Scenarios for governance models on short, medium and long-term”: *This deliverable presents intentions and ideas regarding a scenario to reach self-sustained governance in the long-term. The scenario for long-term sustainability is based on a hybrid model and relevant principles; it focuses on finances, governance and operations and takes into account life-cycle management. The conclusion is that a hybrid approach is the most viable, taking into account the fact that both the BB and the domains depend upon each other and must co-exist in a hybrid scenario. The deliverable also presents a set of criteria, requirements, stakeholder needs and legal considerations that must be addressed to present a holistic governance model for sustaining the e-SENS components.* 🡪 https://www.esens.eu/sites/default/files/e-SENS\_D3.6\_0.pdf
4. e-SENS D3.4v2 (September 2014) “Preliminary proposal for a governance body – Implementation plan of a governance model”: *This deliverable, D3.4, presents ideas and suggestions for the implementation of a future governance structure to ensure the sustainability of the e-SENS building blocks. The timeframes (short term - e-SENS project, medium term - CEF funding and long term - after 2020) are presented in chronological order re the actions required to achieve the long term vision. The implementation plan proposes that concrete tasks and stakeholders are defined when developing ideas about the governance structure, its policy, operations, funding, communications and implementation support.* 🡪 https://www.esens.eu/sites/default/files/e-SENS\_D3.4\_%282%29.pdf
5. e-SENS D3.5v2 (September 2014): “Preliminary proposal for long-term sustainability within the CEF – Analysis of national governance structures, proposal of an governance model and description of possible legal-organisational frameworks”: *The deliverable aims at presenting concrete ideas and suggestions for the organisation of a future IT governance structure in Europe1, which will ensure the sustainability of the e-SENS Building Blocks (BB). In the first part of the document, national IT governance structures are analysed. The analysis focuses on organisational aspects, best practices and lessons learnt. In the second part, organisational functions for a future IT governance structure in Europe is proposed. Finally, three possible organisational forms2 (DG Programme, Agency, NPO) of a future governance structure in which the organisational functions may be embedded are described. The proposals illustrated in the document focus on the long-term perspective, meaning the time after the expiration of the CEF/ beyond 2020.* 🡪 https://www.esens.eu/sites/default/files/e-SENS\_D3.5.pdf
6. e-SENS D3.6v2 (March 2015) „Scenarios for governance models on short, medium and long-term – MS preferences on long-term sustainability“: *This deliverable presents opinions of representatives in the CEF expert group on the necessity and preference for a European IT governance structure in the long-term (beyond 2020; after the expiration of the CEF) for building block DSIs like e-ID, e-Signatures, e-Delivery and e-Documents. Based on the results of the survey recommendations for the organisation of a future IT governance structure in Europe are presented.* 🡪 https://www.esens.eu/sites/default/files/e-SENS\_D3.6\_%282%29.pdf
7. e-SENS D3.4v3 (September 2015) “Preliminary proposal for a governance body – Refinement of the governance model, future activities and transition”: *This deliverable focuses on the refinement of the e-SENS governance model. It explains in detail the principles and organisation of a long-term IT governance structure, the activities which need to be carried out and the tools which might be used to ensure the long-term sustainability of the technical solutions across domains. Besides this the document elaborates on the transition of the CEF governance model to the long-term e-SENS proposal.* 🡪 https://www.esens.eu/sites/default/files/e-sens\_d3.4\_3.pdf.pdf
8. e-SENS D3.4v4 (March 2016) “Preliminary proposal for a governance body – Feedback of the BB and domain communities within e-SENS about the proposed European IT governance model”: *BB and domain communities play an important role in the e-SENS proposal for a European IT governance model. In order to be able to participate in the proposed long-term governance model, communities need to fulfil some expectations and shall already have a governance structure in place. This deliverable contains the evaluation of a questionnaire answered by the different communities within e-SENS to verify whether the BB and domain communities already fulfil these expectations and to receive feedback on the proposed governance model. In addition, this deliverable deals with legal measures and proposes a legal-organisational framework in which the IT governance model may be embedded.* 🡪 https://www.esens.eu/sites/default/files/e-sens\_d3\_4v4\_preliminary\_proposal\_for\_a\_governance\_body\_legal\_measures\_v1.pdf
9. Appendix I – List of not directly in the document addressed comments

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| --- | --- | --- |
|  | **Comments made by the national expert** | **Reaction/ respond by WP3** |
| 1 | The upcoming Council Conclusions on the eGovernment Action Plan are not considered. | The position paper summarises the work of e-SENS WP3. The upcoming council conclusions did not play a role in this matter. |
| 5 | We also recommend taking into account the principles of economy, efficiency and budget discipline as well as previous models such as OpenPEPPOL when presenting the sustainability strategy. | This comment is seen as “food for thoughts”. |
| 6 | In the Recommendations a phased approach to the introduction of this decentralised body is mentioned - are there any suggestions for timeline / roadmap for this to happen? | It is planned that the next deliverable D3.4v5 “Preliminary proposal for a governance body” (due in Winter 2016/2017) will contain an implementation plan for the mid-term (until 2020), which will list possible actions and activities which need to be carried out. |
| 7 | Position paper: Chapter “Structure of the model”: *“A selection of key coordination topics has been made:*   * *Identifying and defining new technical or domain communities to be integrated, prioritising these integrations and helping to find funding for the needed integration and maturation efforts, in short: coordinating the efforts to expand the governance structure.”*   Comment by national expert: What about identifying new legal requirements? | The identification of new legal requirements is something which may be handled within the boards, but it is not seen as a key coordination topic. |
| 8 | One would ask the questions: Why would the national experts wait until the final deliverables to state their preference on the governance model? The process has been ongoing for the whole duration of the project and such ‘collisions in opinions’ should have resulted in a debate long before the required feedback took place. This should be explained more carefully. | WP3 took a step-by-step approach towards the proposal of a long-term governance model and a legal-organisational framework. The national experts within e-SENS were regularly informed about and involved in the work of WP3, especially during several meetings of the General Assembly and via several review cycles of the deliverables. This means that the national experts had several opportunities to voice their opinion on the future governance model and the legal-organisational framework since these results have been achieved before the development of the position paper. |
| 9 | It should be stressed whether the governance framework is meant to have legal effect and/or influence the creation of future policies as well, or it is meant more as a facilitator and supporter of the existing legal components and initiatives. | This depends on the mandate and scope of the governance framework. |

1. e-SENS D3.4v3 and e-SENS D3.4v4 [↑](#footnote-ref-1)
2. This is about review recommendation of the third year of e-SENS (1 April 2015 - 31 March 2016) [↑](#footnote-ref-2)
3. National experts are e.g. the national coordinators, which are the beneficiaries in e-SENS. A national

   Coordinator represents his/ her national consortium in the General Assembly of e-SENS and is authorised to make decisions on behalf of the National Consortium. [↑](#footnote-ref-3)
4. Two of the approving countries made the reservation that the results of the position paper, if implemented, have to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. [↑](#footnote-ref-4)
5. National experts are e.g. the national coordinators, which are the beneficiaries in e-SENS. A national

   Coordinator represents his/ her national consortium in the General Assembly of e-SENS and is authorised to make decisions on behalf of the National Consortium. [↑](#footnote-ref-5)
6. These steps were carried out since the start of e-SENS (April 2013). Details about the different actions and efforts including detailed results can be found in the various deliverables of e-SENS Work Package 3 “Sustainability and long-term governance”. [↑](#footnote-ref-6)
7. e-SENS D3.4v1 (September 2013): https://www.esens.eu/sites/default/files/e-SENS\_D3.4\_0.pdf [↑](#footnote-ref-7)
8. e-SENS D3.5V1 (September 2013): https://www.esens.eu/sites/default/files/e-SENS\_D3.5\_0.pdf [↑](#footnote-ref-8)
9. e-SENS D3.6v1 (December 2013): https://www.esens.eu/sites/default/files/e-SENS\_D3.6\_0.pdf [↑](#footnote-ref-9)
10. e-SENS D3.4v2 (September 2014): https://www.esens.eu/sites/default/files/e-SENS\_D3.4\_%282%29.pdf [↑](#footnote-ref-10)
11. e-SENS D3.5v2 (September 2014): https://www.esens.eu/sites/default/files/e-SENS\_D3.5.pdf [↑](#footnote-ref-11)
12. e-SENS D3.5v2 (September 2014): https://www.esens.eu/sites/default/files/e-SENS\_D3.5.pdf [↑](#footnote-ref-12)
13. e-SENS D3.6v2 (March 2015): https://www.esens.eu/sites/default/files/e-SENS\_D3.6\_%282%29.pdf [↑](#footnote-ref-13)
14. e-SENS D3.4v3 (September 2015) and e-SENS D3.5v2 (September 2014): https://www.esens.eu/sites/default/files/e-sens\_d3.4\_3.pdf.pdf [↑](#footnote-ref-14)
15. Community representatives see various benefits to this but also challenges. The benefits include e.g. clear and well-structured definition of roles and responsibilities; work that is less project-driven and ad hoc; costs that can be shared when solving/executing common issues etc. The challenges include e.g. having a high number of potential representatives on any board would lead to a difficulty in assigning appropriate actors with sufficient know-how; difficulties in considering community specific requirements etc. [↑](#footnote-ref-15)
16. e-SENS D3.4v4 (March 2016): https://www.esens.eu/sites/default/files/e-sens\_d3\_4v4\_preliminary\_proposal\_for\_a\_governance\_body\_legal\_measures\_v1.pdf [↑](#footnote-ref-16)
17. e-SENS D3.4v3 p.9; https://www.esens.eu/sites/default/files/e-sens\_d3.4\_3.pdf.pdf [↑](#footnote-ref-17)
18. When developing a governance model several principles need to be taken into account. As stated in D3.6v2 (p.16) the following principles were considered by developing the e-SENS proposal: meeting stakeholders’ needs, openness and transparency, universality and legal criteria. [↑](#footnote-ref-18)
19. This entity acts as a Single Point of Contact within a community. This is a central contact point within a community to which several topics and issues shall be addressed. [↑](#footnote-ref-19)
20. More details can be found in the e-SENS deliverable D3.4v4. Joining the governance model requires the fulfilment of some expectations, e.g. communities shall already have some kind of governance structure in place. In order to find out if the BB and domain communities within e-SENS already meet the mentioned expectations and are mature enough to join the model a questionnaire was developed by WP3, which was evaluated in e-SENS D3.4v4. [↑](#footnote-ref-20)
21. e-SENS D3.4v2: All assets are available for free to all members, under copy-left-non-commercial terms, in their “basic” form (usable, and with minimum documentation to be usable). In this way an organisation is willing to invest in using the components for inclusion in their services, because that organisation can have a business-model based on additional help (advanced documentation, training material, dedicated support, software customisation, basic/cloud infrastructure) that will be provided for a fee (in cash or nature). [↑](#footnote-ref-21)
22. e-SENS D3.5v1 [↑](#footnote-ref-22)
23. e-SENS D3.5v2 [↑](#footnote-ref-23)
24. See Appendix of this position paper [↑](#footnote-ref-24)
25. e-SENS D3.6v2 [↑](#footnote-ref-25)
26. Since, the preference of experts were predominantly about an (extension of an) Agency or a DG programme, the analysis here does not take into account the option of an NPO that was preferred by a minority. [↑](#footnote-ref-26)
27. A similar function is attributed to the Management Board of e.g. the eu-LISA Agency, so there is some precedent for this set-up. See notably Article 12 and 13 of the eu-LISA Decision, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011R1077> [↑](#footnote-ref-27)
28. Two of the approving countries made the reservation that the results of the position paper, if implemented, have to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. [↑](#footnote-ref-28)
29. It was also stated that the “Expansion Board” and the “Business Development Board” are quite overlapping. The Business Development Board is actually presented as overlapping with the rest of the boards, so it was mentioned that it is hard to see it as a stand-alone board. [↑](#footnote-ref-29)
30. e-SENS D3.4v2; e-SENS D3.4v3; e-SENS D3.5v2; e-SENS D3.6v1; e-SENS D3.6v2 [↑](#footnote-ref-30)
31. The different legal-organisational forms have been assessed in e-SENS D3.5v2. Besides this the deliverable e-SENS D3.6v2 contains a summary of the preferences on a legal-organisational framework from the national experts of the CEF Telecom Expert group. [↑](#footnote-ref-31)
32. e-SENS D3.6v2 contains a summary of the answers provided by the national experts of the CEF Telecom expert group. The DG Programme and the Agency were seen as the most suitable scenarios. [↑](#footnote-ref-32)
33. Two of the approving countries made the reservation that the results of the position paper, if implemented, have to be confirmed by an impact assessment and that any adjustment of a mandate of an agency can only be decided by the competent authorities. [↑](#footnote-ref-33)