



European Administration

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The background of the slide is split. The left side features a blue map of Europe with yellow stars, resembling the European Union flag. The right side is a dark purple gradient with faint, abstract circular lines and arrows. The main title is in white, bold, uppercase letters.

EUROPEAN ADMINISTRATION

Chapter IV Indirect administration

The slideshow is designed to help the understanding of the reading material of 4x45 minutes of studying!

I. EU law on indirect administration

1. The execution of EU law in a mode of 'sincere cooperation'
2. Principles governing the application of EU law: result-based obligation of the executive and judicial organs
3. Respect of traditional Member State administrative organisation

II. Staff on indirect administration: national civil service

III. Administrative Cooperation

1. Governmental cooperation
2. Composite administrative procedure
3. European administrative networks

MULTI-LEVEL ADMINISTRATIVE SYSTEM OF THE EU

Supranational
institutions and
bodies of the EU

Direct administration

Indirect
administration

Administrative authorities of
the Member States

Varies from State to
State

Own traditional
structure of the state



The background is a dark blue gradient. On the left side, there is a large, semi-circular scale with white tick marks and numbers ranging from 150 to 260. Several concentric circles and arcs are drawn in white and light blue, some with arrows indicating a clockwise direction. A dotted line extends from the top left towards the center. In the bottom right corner, there is a large, solid purple arrow pointing downwards.

I. EU LAW ON INDIRECT ADMINISTRATION

**General feature of international cooperation =>
execution is a domestic issue**

result- based obligation (*obligation de résultat*)

**Success of the integration & effective execution is a
matter of common interest and depends on a well-
functioning public administration**

**Abstract and concrete conditions and requirements
settled by the EU**

Pre-accession
requirements

Rule of law &
democracy

Jurisdiction and
applicability of law

Concrete policy
requirements on
procedure and structure

Fundamental rights &
procedural guarantees

Direct
effect

Supremacy

Domestic
administration
and judiciary
applies EU law

How?

*national procedural
autonomy*

- *principle of effectiveness*
- *principle of equivalence*

ARTICLE 4 TEU

PURSUANT TO THE **PRINCIPLE OF SINCERE COOPERATION**,
THE UNION AND THE MEMBER STATES SHALL, **IN FULL
MUTUAL RESPECT**, ASSIST EACH OTHER IN CARRYING OUT
TASKS WHICH FLOW FROM THE TREATIES.



RESULT- BASED OBLIGATION (OBLIGATION DE RÉSULTAT)

Obligation of the EU towards Member States

The EU Union shall respect:

- that the *competences* not conferred upon the Union in the Treaties remain with the Member States
- the *equality* of Member States before the Treaties
- their *national identities* inherent in
 - ✓ their fundamental structures,
 - ✓ political and constitutional structure (inclusive of regional and local self-government)
- their essential *State functions*, including
 - ✓ ensuring the territorial integrity of the State,
 - ✓ maintaining law and order and
 - ✓ safeguarding national security. (In particular, national security remains the sole responsibility of each Member State.)



Obligation of the Member State towards the EU and each other

Member States shall:

- *take any appropriate measure*, general or particular, to ensure fulfilment of the obligations
 - ✓ arising out of the Treaties or
 - ✓ resulting from the acts of the institutions of the Union
- *facilitate the achievement* of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

Principle of procedural autonomy

- “...**in the absence of community rules** on this subject, it is for the domestic legal system of each Member State to designate the courts having jurisdiction and to determine the procedural conditions governing actions at law intended to ensure the protection of the rights which citizens have from the direct effect of community law.” [C- 33-76, Rewe-Zentral]

Principle of equivalency

- requires that procedures for actions aimed at guaranteeing the protection of rights of individuals provided for by EU norms cannot be less favourable than those used for similar actions in the domestic procedural system.

Principle of effectiveness

- excessively difficult or impossible in practice to exercise the rights conferred by EU law
- Directives!

Principle of consistent interpretation

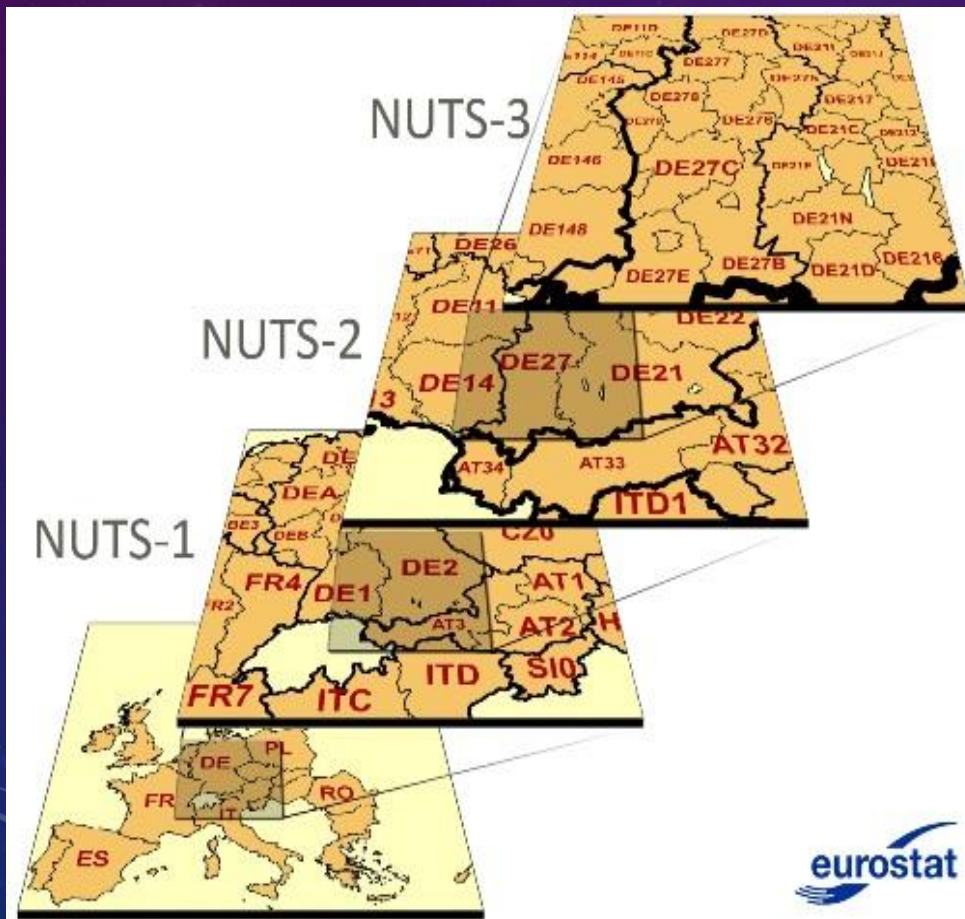
to ensure full effect to the EU substantive law
(to put aside conflicting national norm)

Principle of effective legal protection

- Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by European Union law

Respect of traditional Member State administrative organisation, except for...

a) The uniform territorial uniting system for statistical reasons



Nomenclature of territorial units for statistics

- NUTS 1: major socio-economic regions
- NUTS 2: basic regions for the application of regional policies
- NUTS 3: small regions for specific diagnoses

Hungary decided to create a new national agency for data protection, replacing the existing Data Protection Commissioner's Office from 1 January 2012.

a) Secondary legislation requirements to serve a common policy

As a result, the six-year term of the incumbent Data Protection Commissioner, who was appointed in 2008, was prematurely put to an end. The new rules also created the possibility that the prime minister and president could dismiss the new supervisor on arbitrary grounds.

The independence of data protection supervisors is guaranteed under:

**Article 16 of the TFEU*

**Article 8 of the Charter of Fundamental Rights.*

**EU rules on data protection (at that time: Directive 95/46/EC) require Member States to establish a supervisory body to monitor the application of the Directive acting in complete independence*

Lack of independence means lack of effective supervision and oversight, and a lowering of the level of data protection.

Hungary breached EU law with the method of reorganizing its administrative system of data protection



C-288/12

The background is a dark blue gradient with abstract white and light blue circular patterns. On the left, a large circular scale with tick marks and numbers (160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260) is visible. Other circular elements include concentric circles, dashed lines, and arrows, suggesting a technical or scientific theme.

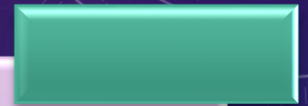
II. STAFF ON INDIRECT ADMINISTRATION: NATIONAL CIVIL SERVICE

National civil servants



The *public service principles* and the *European Code of Good Administrative Behaviour* are apply when they execute EU law

The *free movement of workers* does not apply to employment in the public sector





only those posts involving the **exercise of public authority** and of **responsibility for safeguarding the general interest of the state** are concerned as exemptions!

- ✓ road traffic accident expert, whose reports were not binding on courts;
- ✓ the technical job of designing, programming and operating data processing systems;
- ✓ transport consultants;
- ✓ vehicle inspectors;
- ✓ court translators;
- ✓ notaries;
- ✓ certification activities carried out by companies classified by certification bodies,
- ✓ security guards;
- ✓ teacher is state school;
- ✓ state nurse;
- ✓ foreign language assistant in a university;
- ✓ various posts on the state railways,
- ✓ a local government employee,
- ✓ trainee lawyer, seaman;
- ✓ a job in research not involving sensitive research work;
- ✓ a post in the lower echelons of the civil service;
- ✓ local authority posts for architects,
- ✓ supervisors and night watchmen;
- ✓ posts for advising the state on scientific and technical questions



The background is a solid dark blue. It features several faint, light blue geometric elements. On the left side, there is a large, semi-circular scale with tick marks and numbers ranging from 150 to 260. Overlaid on this and other parts of the background are several concentric circles of varying sizes. Some of these circles have small arrows indicating a clockwise direction of rotation. The overall aesthetic is technical and modern.

III. ADMINISTRATIVE COOPERATION



a) Governmental cooperation

Participation in
the work of
direct
administration

b) Mutual assistance

cooperation by e.g. exchange
of information; conducting
inspections for a requesting
authority

c) European administrative networks

structured forms of
information
exchange with or
without databases

Composite administrative procedure

a) Cooperation by central administrations of the Member States with the EU in governmental issues

Collaboration with institutions of direct administration

Council of the EU

Commission

Implemented and delegated acts

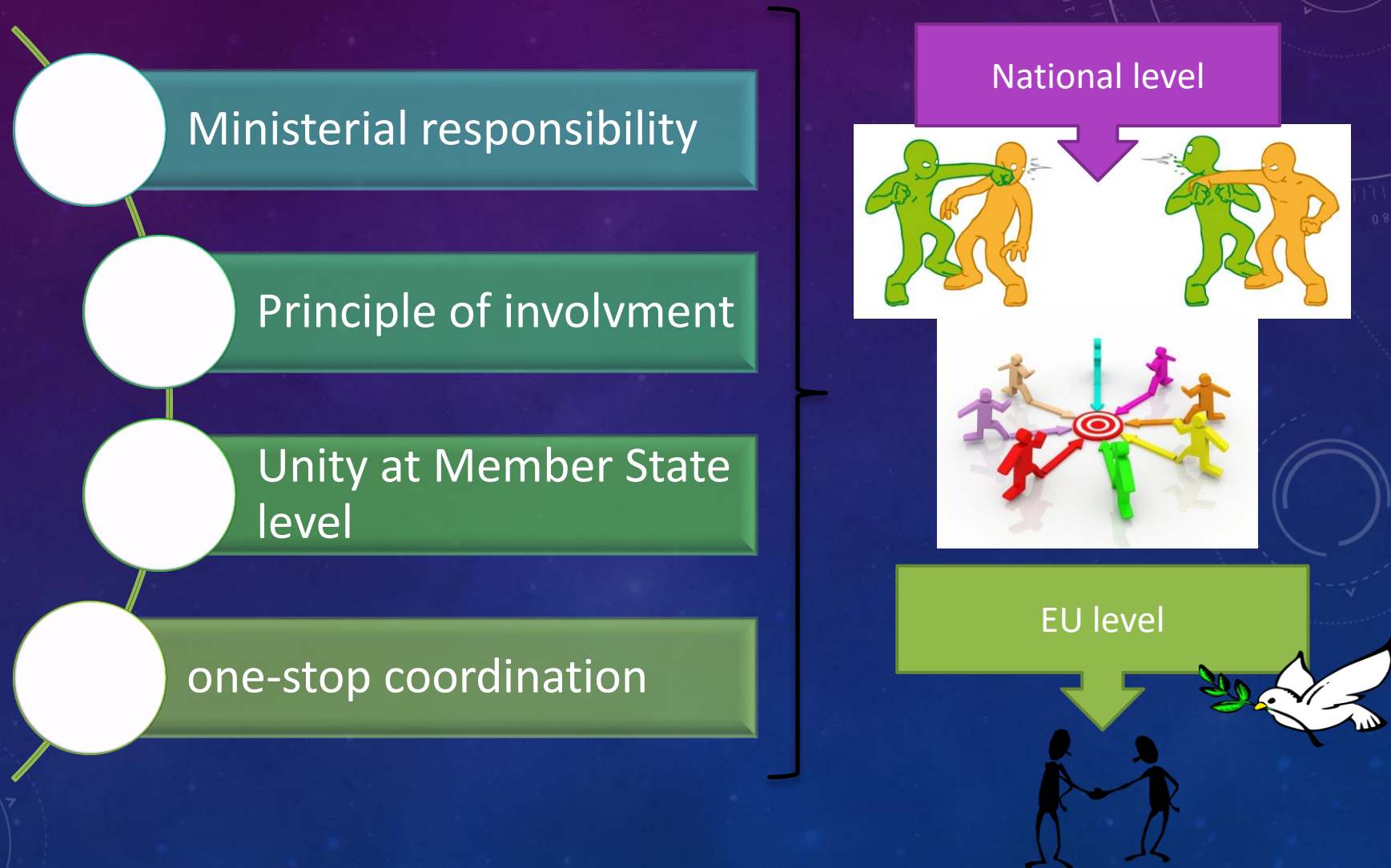
Implementation issues
Requiring domestic
legislation

Executive domestic norms
(government & ministerial
decrees)

Initiate legislation



Principles of coordination of EU affairs at Member State level



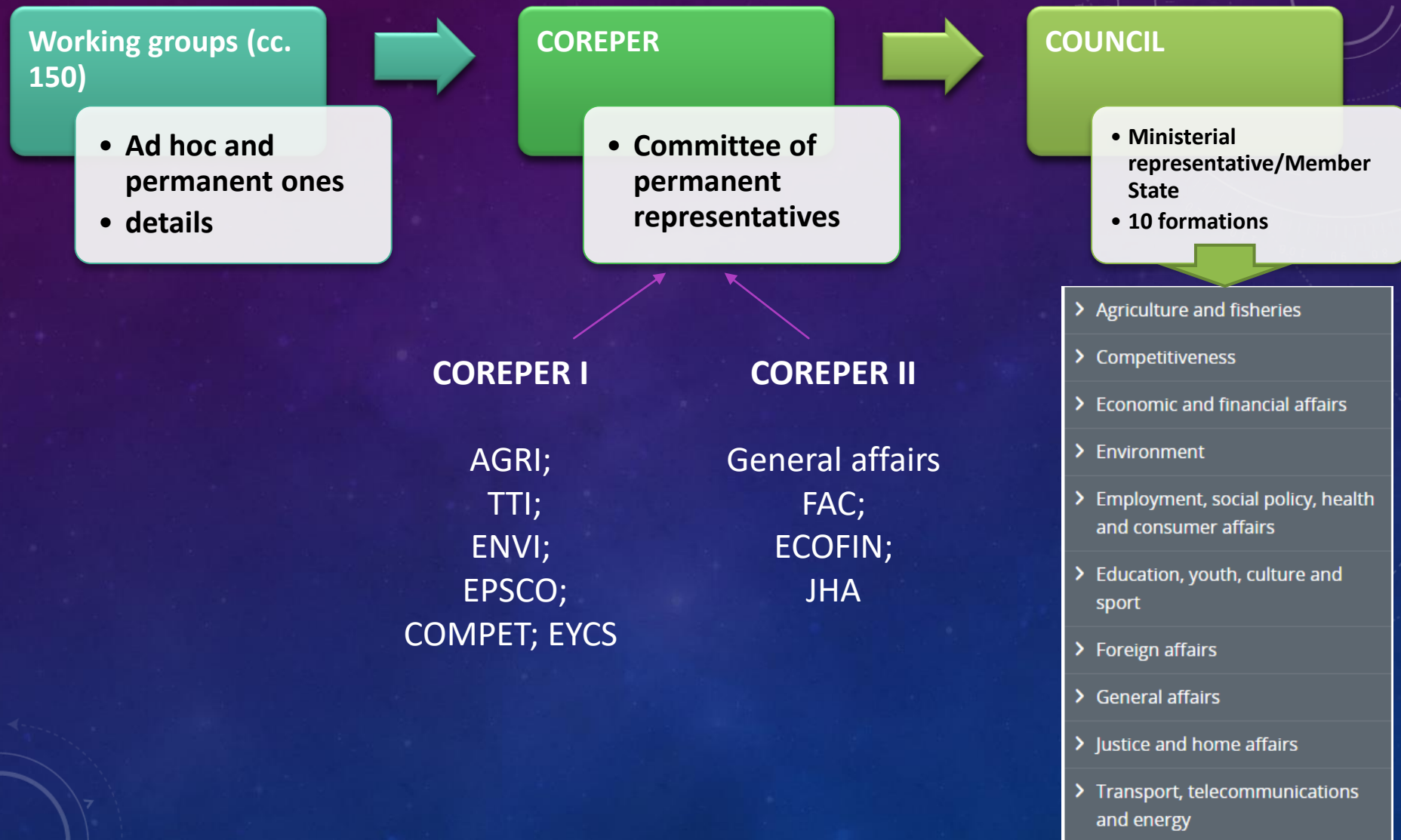
Council configuration	Main responsible ministry in Hungary
General Affairs (GAC)	Ministry of Foreign Affairs
Foreign Affairs (FAC)	Ministry of Foreign Affairs
Economic and Financial Affairs (ECOFIN)	Ministry for National Economy
Justice and Home Affairs (JHA)	Ministry of Interior, Ministry of Public Administration and Justice
Employment, Social Policy, Health and Consumer Affairs (EPSCO)	Ministry of Human Resources, Ministry for National Economy
Competitiveness	Ministry for National Economy, Ministry of Foreign Affairs*
Transport, Telecommunications and Energy (TTE)	Ministry of National Development
Agriculture and Fisheries	Ministry of Rural Development
Environment (ENVI)	Ministry of Rural Development
Education, Youth, Culture and Sport (EYC)	Ministry of Human Resources



Interministerial
Coordination Committee
of EU Affairs

- it reviews the implementation of tasks resulting from EU membership
- it manages the electronic distribution of Council documents arriving from the EU within Hungarian public administration

Formulation of legislative texts adopted finally by the Council....



Cooperation of the competent authorities by nature

Organ/authority of direct administration



National authority



National authority

Horizontal

Vertical

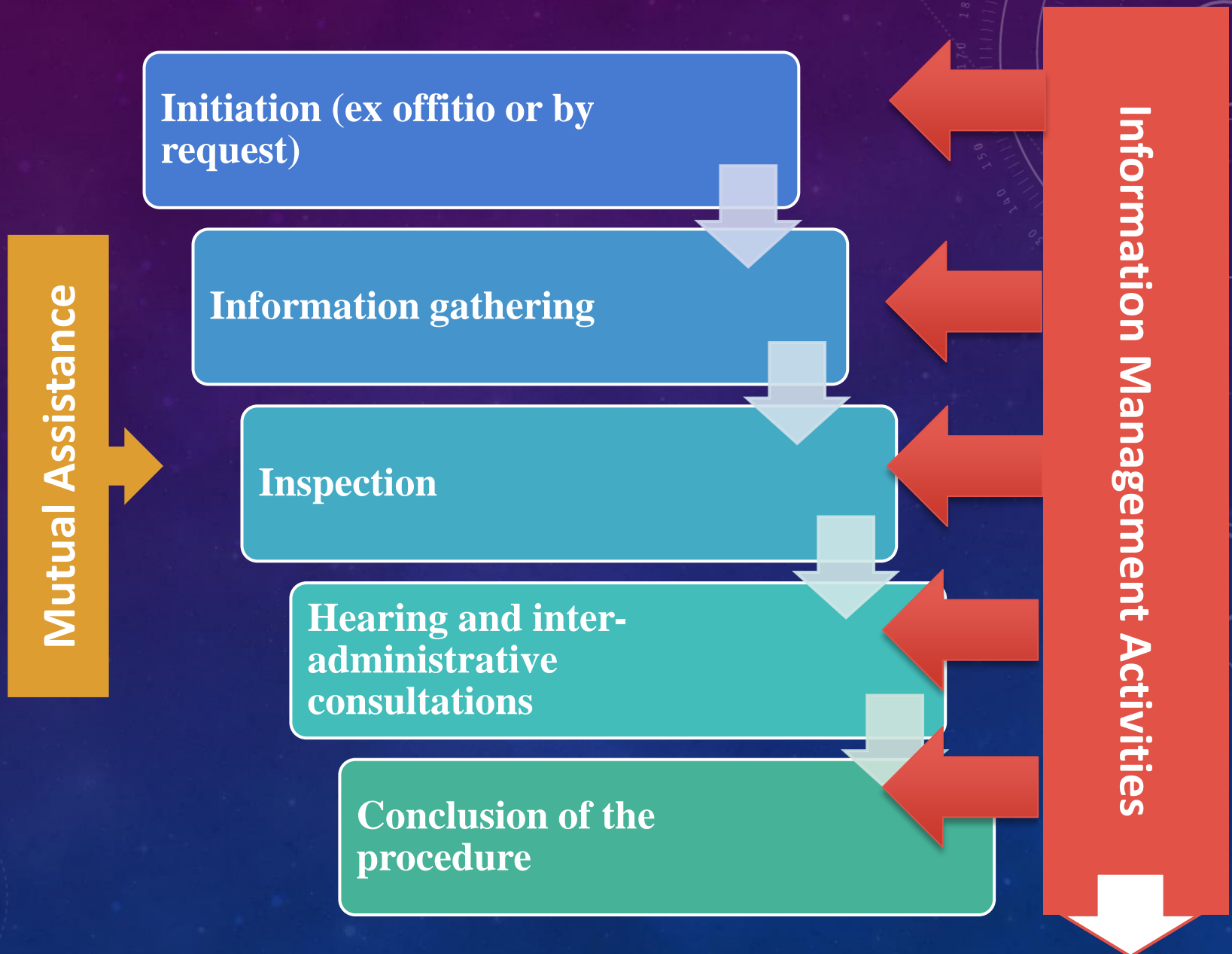
Composite administration

Classical cooperation form	Mutual assistance under EU law	Information exchange mechanism
mutual assistance	mutual assistance	systematic information exchange
ad hoc	ad hoc	regular information flow
request for assistance for being able to execute its task		pre-defined workflow allowing authorities to communicate and interact with each other in a structured manner
the requested authority may refuse to assist		duty to inform without prior request
official diplomatic way for request -reply via central administration (often Foreign Ministries)	direct connection between the requesting and the requested authority	contact points and/or direct connection between the requesting and the requested authority
based on reciprocity & international agreements	<ul style="list-style-type: none"> based on the need to proceed and issue a decision perhaps sector specific EU law 	based and pre-defined by sector specific EU law

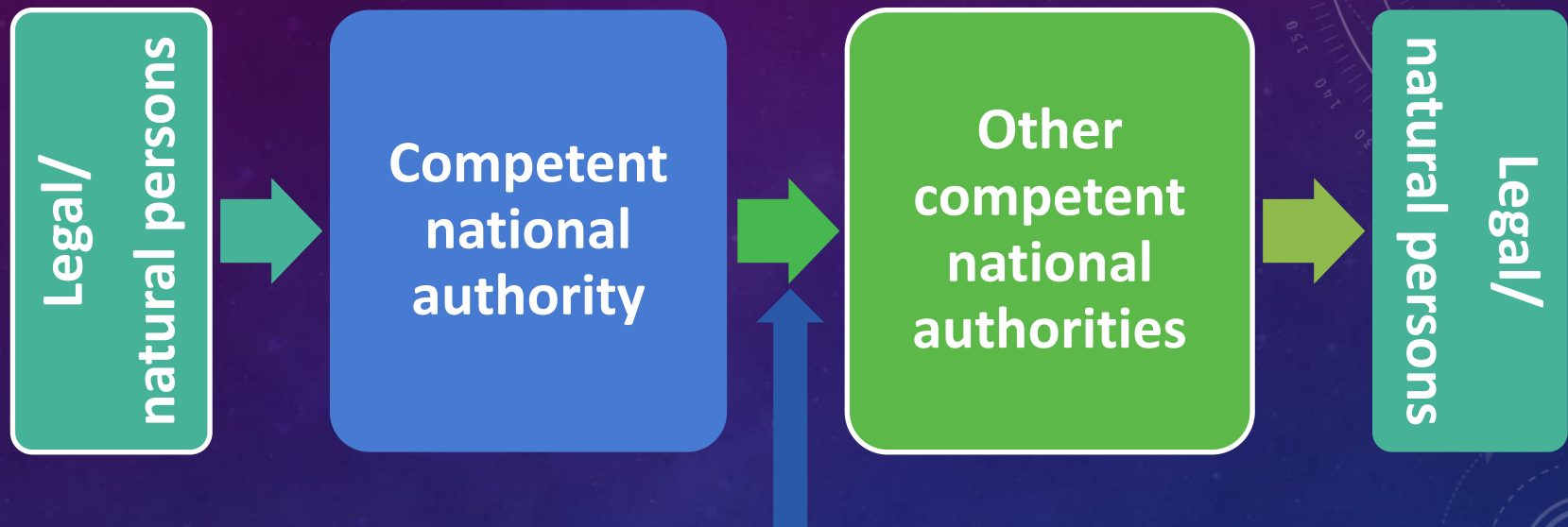
Mutual assistance

**Information
management
system**

Single case decision-making procedure



a) Duty to inform



information flow:

- notifications
- (requests for) additional information

b) Duties to inform - supported by an information system



European Data
Protection
Supervisor

**EU (operational)
Management Authority**

Central Supervisory
Authority

**Legal/
natural persons**

Competent
national
authority

IT System
for
information
exchange

Other
competent
national
authorities

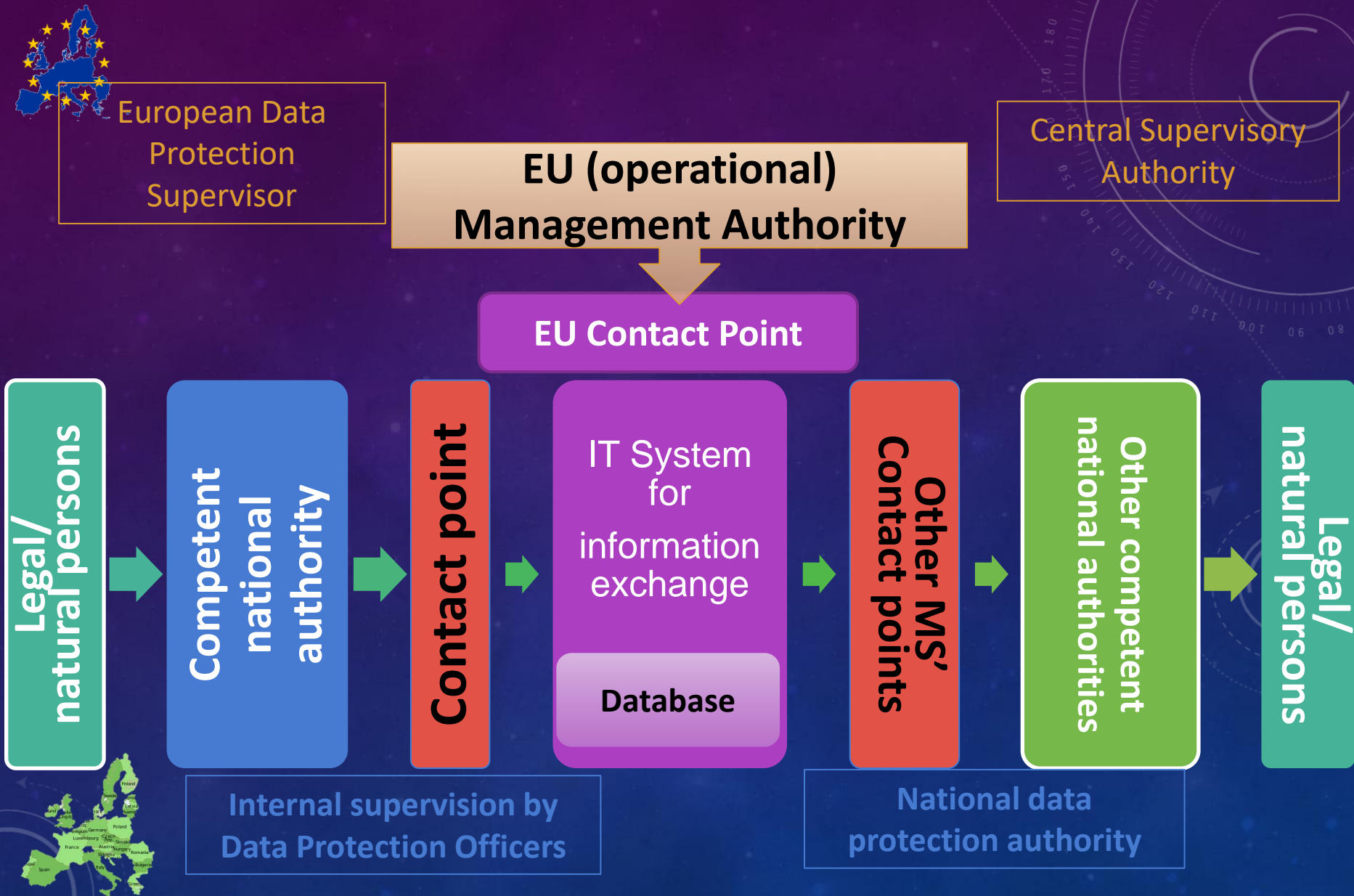
**Legal/
natural persons**

Internal supervision by
Data Protection Officers

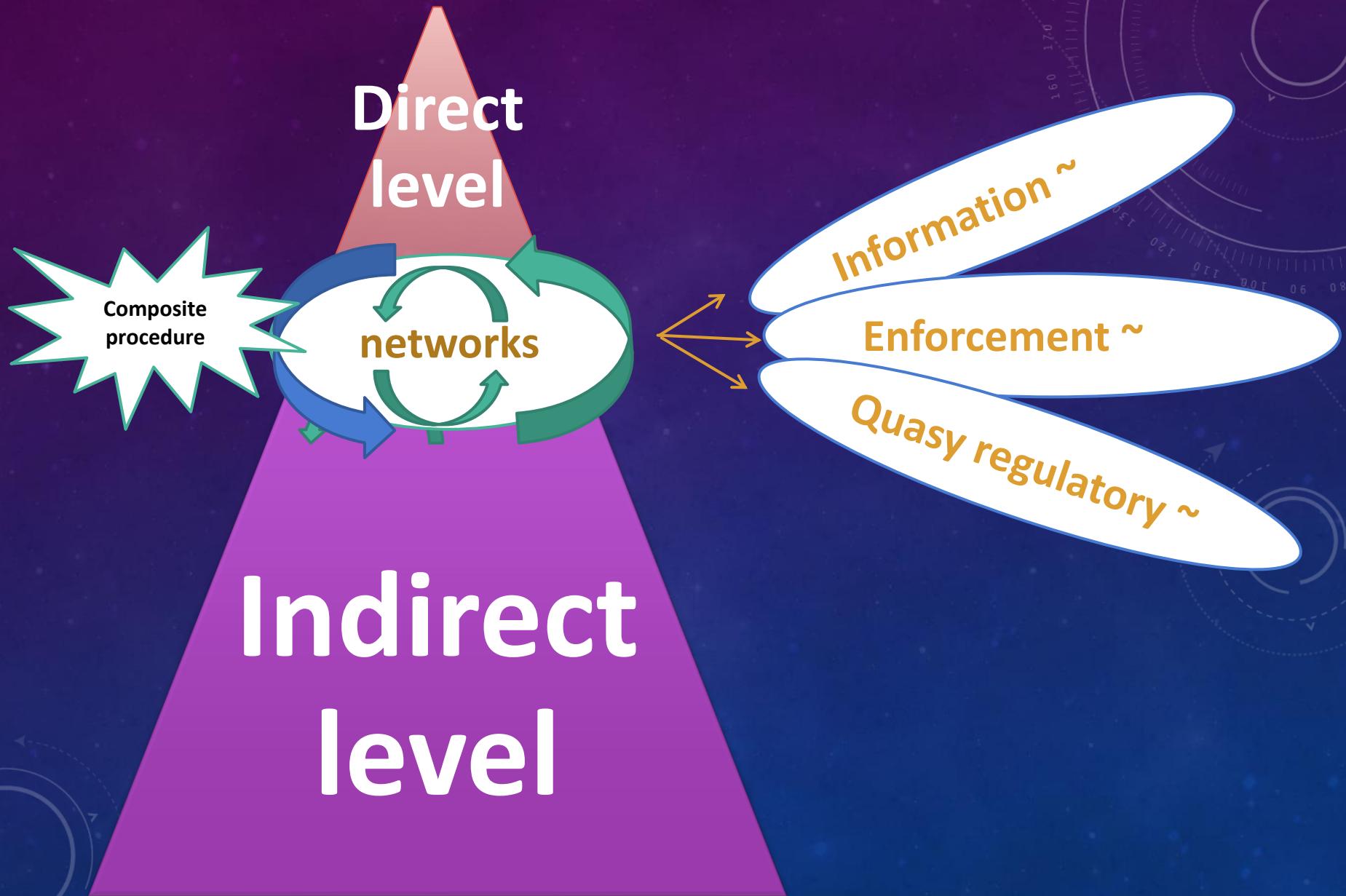
National data
protection authority



c) Duties to inform supported by an information system and a database



European administrative networks (EANs)



Internal Market Information System (IMI)



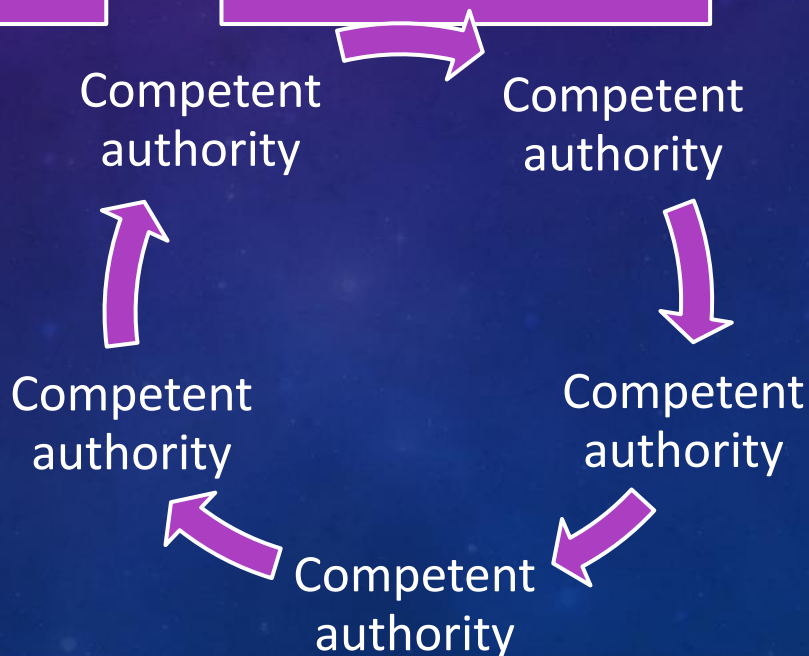
**1-to-1
workflow**



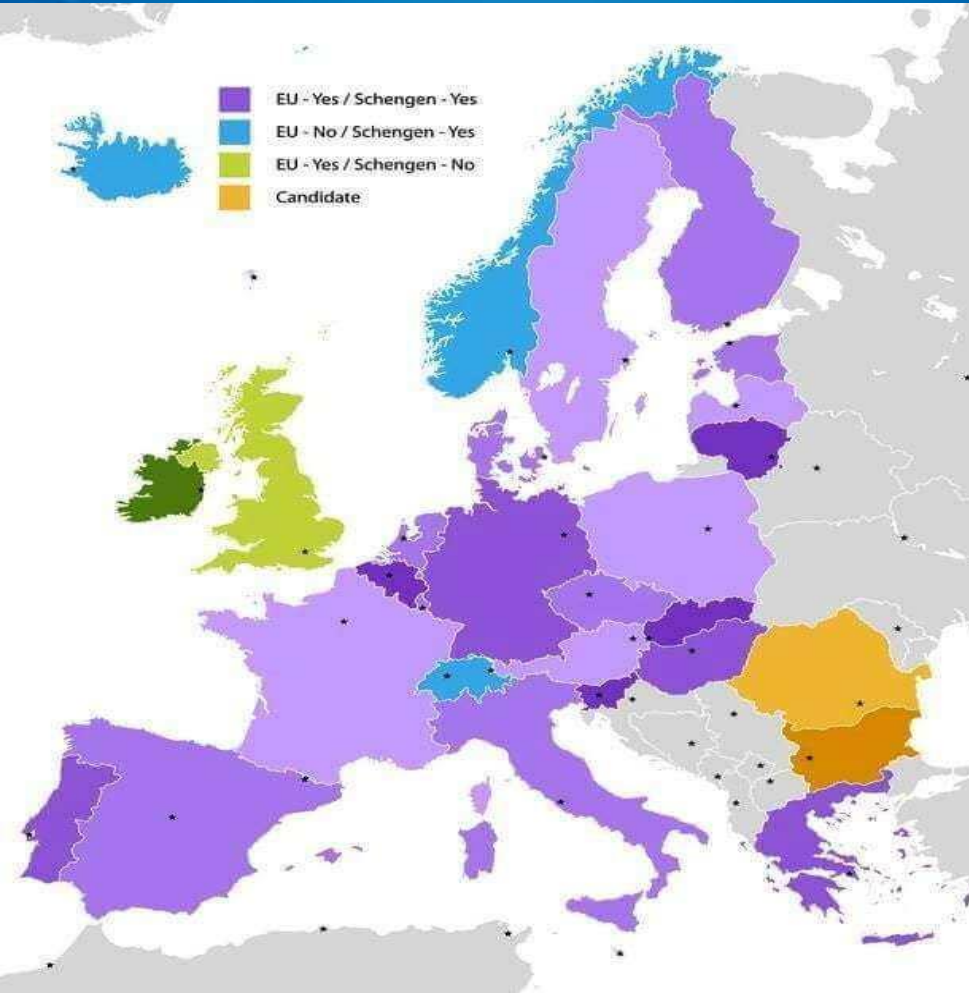
**1-to-many
workflow**



Repositories



Regulation (EU) N° 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation')



a) Information networks

- allows Schengen States to **exchange visa data**. It consists of a central IT system and of a communication infrastructure that links this central system to national systems.
- VIS connects consulates in non-EU countries and all external border crossing points of Schengen States.
- It processes data and decisions relating to applications for short-stay visas to visit, or to transit through, the Schengen Area.
- The system can perform biometric matching, primarily of fingerprints, for identification and verification purposes.

Coming soon!

ENTRY / EXIT SYSTEM (EES)

How will the system work?

EES will collect:



EES will record:



EES will replace:



To whom will it apply?

to non-EU nationals, visa-required and visa-exempt travellers in the Schengen area.



Who is using EES data?

The competent Member State authorities



Border guards



Consular officers dealing with visas

Who will be able to access data in the EES?

Member States

Law enforcement authorities

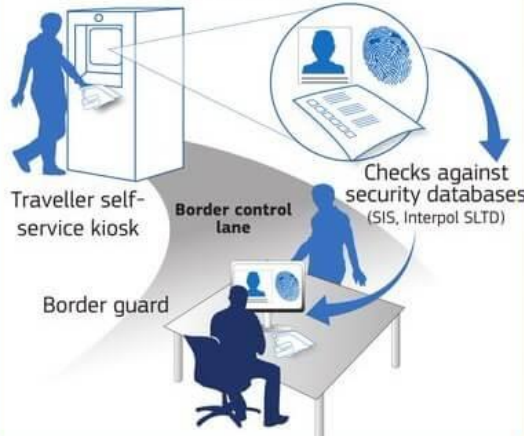
Europol

will have access for criminal identification and criminal intelligence



Border crossing facilitation

for all non-EU nationals



Expected outcomes of EES

It will provide:

- Precise information in a rapid and automated way to border guards during border checks;
- Information to border guards on refusals of entry of non-EU nationals and enable refusals of entry to be checked electronically in the EES;
- Precise information to travellers on the maximum length of their authorised stay;
- Precise information on who is overstaying their authorised stay;
- Evidence-based support to visa policy.

As regards access for law enforcement purposes, the expected impact of the EES will be:

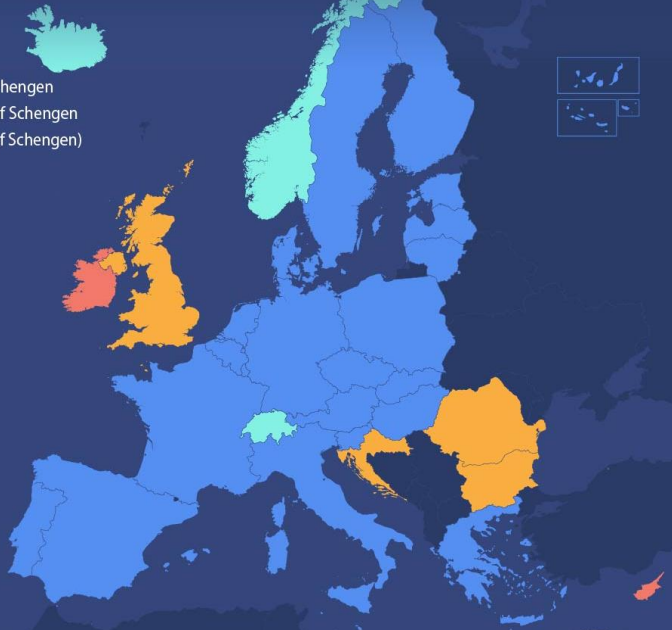
- Support the identification of terrorists, criminals as well as of suspects and victims of crime;
- Provide a record of travel histories of non-EU nationals including crime suspects, perpetrators or victims of crime. It would thus complement the information in the SIS.

MEMBERS OF SIS:

- 22 EU countries part of Schengen
- 4 non-EU countries part of Schengen
- 4 EU countries (not part of Schengen) with special conditions

NON-MEMBERS OF SIS:

- Cyprus and Ireland



MEMBERS OF THE SCHENGEN INFORMATION SYSTEM (SIS)

WHAT TYPE OF ALERTS CAN BE ISSUED?

EXISTING ALERTS



Refusal of entry
or stay of third-
country nationals



Persons wanted
for arrest



Missing
persons



Persons in order to assist
with a judicial procedure



Persons and objects for discreet
or specific checks



Falsified
documents

Objects for seizure
or use as evidence in
criminal procedures



NEW ALERTS



Return decisions



Wanted Unknown Person
alerts on the basis of
fingerprints
left at crime scenes



Persons and
objects for
inquiry checks



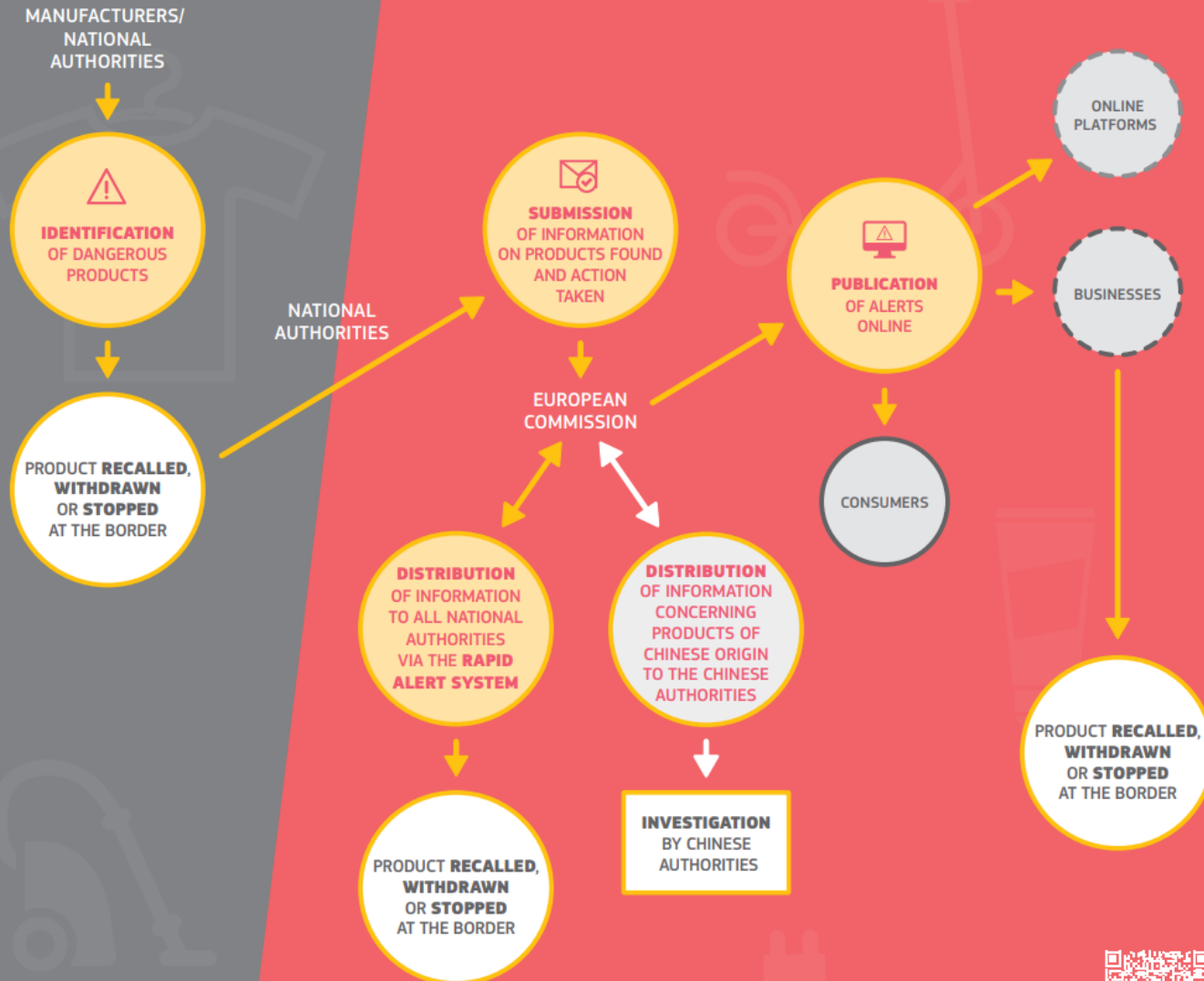
Preventive alerts to
signal children at risk
of parental abduction
(under strict conditions)



b) Enforcement/executive networks

RAPID ALERT SYSTEM FOR DANGEROUS NON-FOOD PRODUCTS

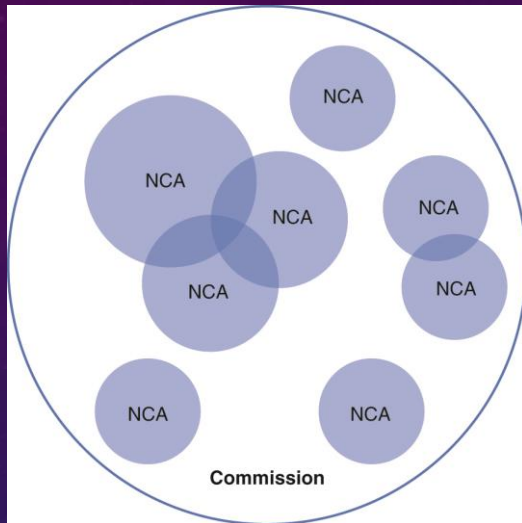
Related Documents	
> Operational guidelines (for national authorities)	
> Operational guidelines (for businesses)	
> Regulation 765/2008 on requirements for accreditation and market surveillance relating to the marketing of products	
> Guidance on relationship between GPSD 2001/95/EC and market surveillance provisions of Regulation (EC) No 765/2008	
> Guidelines for businesses to manage recalls and other corrective actions	



- In EU
- Iceland
- Liechtenstein
- Norway



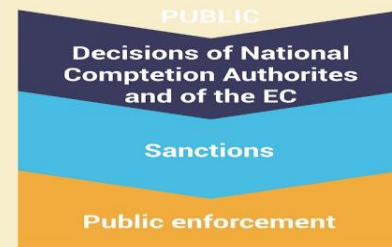
c) Quasy regulatory networks



PUBLIC AND PRIVATE ENFORCEMENT OF EU COMPETITION LAW



EU
Competition
Law



Communication from the Commission

Infringements of Article 101 or 102 of the Treaty on the Functioning of the European Union (‘TFEU’), hereafter the ‘EU competition rules’, cause great harm to the economy as a whole and hamper the proper functioning of the internal market.

on
quantifying

In order to prevent such harm, the Commission has the power to impose fines on undertakings and associations of undertakings for infringing EU competition rules.

harm

in actions for damages

based on breaches of Article 101 or 102

The objective of the fines imposed by the Commission is deterrence, i.e. sanctioning the undertakings concerned (specific deterrence) and deterring other undertakings from engaging in, or continuing, behaviour that is contrary to Articles 101 and 102 TFEU (general deterrence).

of
the

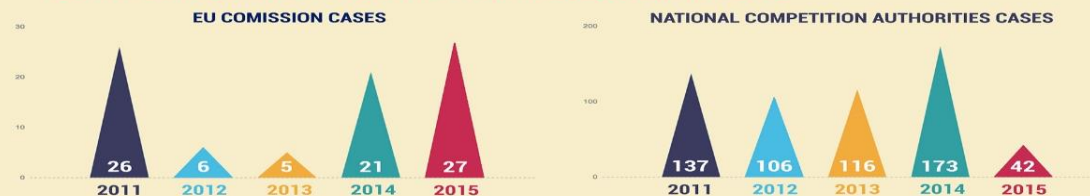
Infringements of Article 101 or 102 TFEU cause great harm to consumers and undertakings. Anyone who has suffered harm through an infringement of EU competition rules has a right to compensation.

Treaty on the Functioning of the

The point of damages claims is to repair the harm suffered because of an infringement.

European Union

EUROPEAN COMPETITION NETWORK CASES 2011-2015



*This material reproduces the information provided by the European Commission – DG Competition on its official online platform

Normative background for networks of European administration (?)

Co-operation
between network
members

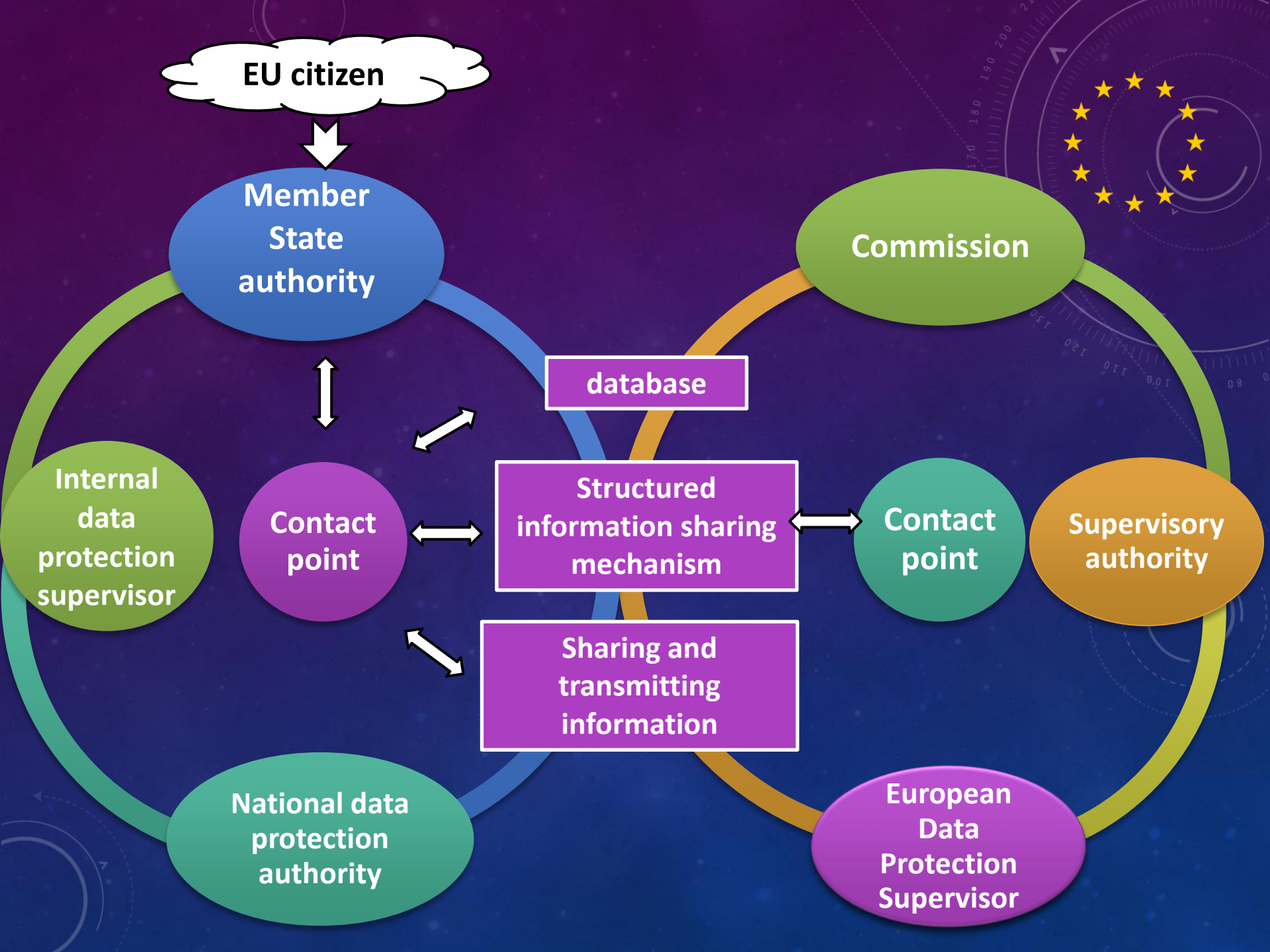
- for procedural aspects, the EU acquis often has taken the form of soft law due to the lack of legislative competence for long

Commission's
control of the
network

- EU law according to the competence of the EU in a certain field of law but never as a superior administrative authority above the member state administration; the commission in general has not authority power

the autonomy of the
network members vis-à-
vis national governments

- it is based on domestic law



Legal Basics for Information Management Systems

Need for a basic act

Principles

Actors

Functions

- Duties of sincere cooperation
 - Principle of transparent information management
 - Principle of data quality
- Competent authorities
 - Management authorities for IT systems
 - Contact points



Structured cooperation mechanisms

Duties to inform other public authorities without prior request and shared data bases

- General standards for duties to inform and shared data bases: esp. verification
- Management of information
 - Access to data and information
 - Alteration and deletion of data and information: Competencies and Obligations
 - Use of data and information: Duties to use/consult, independently assess, take specific action; Restrictions
 - Data protection and information security: Storage, blocking and deletion of data; Confidentiality; Security standards

Supervision and dispute resolution

- General supervision and dispute resolution
 - Establishment of a Central Supervisory Authority
 - Mediation procedure; Binding inter-administrative decisions
 - Power to grant access to data and to alter or delete data
- Data protection supervision of shared data bases
 - Internal supervision by Data Protection Officers
 - Cooperative external data protection supervision of shared data bases
 - Establishment of a European Data Protection Board as an option

REMEDIES AND LIABILITY

Delimitation of
responsibility

scope of normative rules,
collision and forum
shopping

Where to find justice in
case of maladministration,
breaches of rules?



Legal basis for composite procedures => binding source of law

Thank you very much for your kind attention!

Next chapter:
Supervision of European administration

This teaching material has been made at the University of Szeged, and supported by the European Union by the project nr. EFOP-3.6.2-16-2017-00007, titled Aspects on the development of intelligent, sustainable and inclusive society: social, technological, innovation networks in employment and digital economy. The project has been supported by the European Union, co-financed by the European Social Fund and the budget of Hungary.

