Chapter IV

European Administration

Indirect administration and the administrative cooperation

The European Administration course (20 teaching hours) is divided to 5 blocks (chapters).

A chapter is designed for **4x45 minutes** of studying!

Advices for your individual work:

1. Read the reading material! You may use the additional slideshow to see a graphical version of your reading! By clicking on the hyperlinks, you can get some additional information, or you can refresh your basic knowledge!

2. Try to test your knowledge with the help of the exercises! They help you to process the material in depth and the terms and significant definitions help you to catch up quickly with the mainstream of the material!

3. Do the test of multiple choices for a final check upon your newly gained knowledge!

4. If you have further plan to deepen your knowledge on the issue, the collected literature helps you to step on that path!

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READING MATERIAL NO. 4.

INDIRECT ADMINISTRATION AND THE ADMINISTRATIVE COOPERATION

I. EU LAW ON INDIRECT ADMINISTRATION

1.1. The execution of EU law in a mode of 'sincere cooperation'

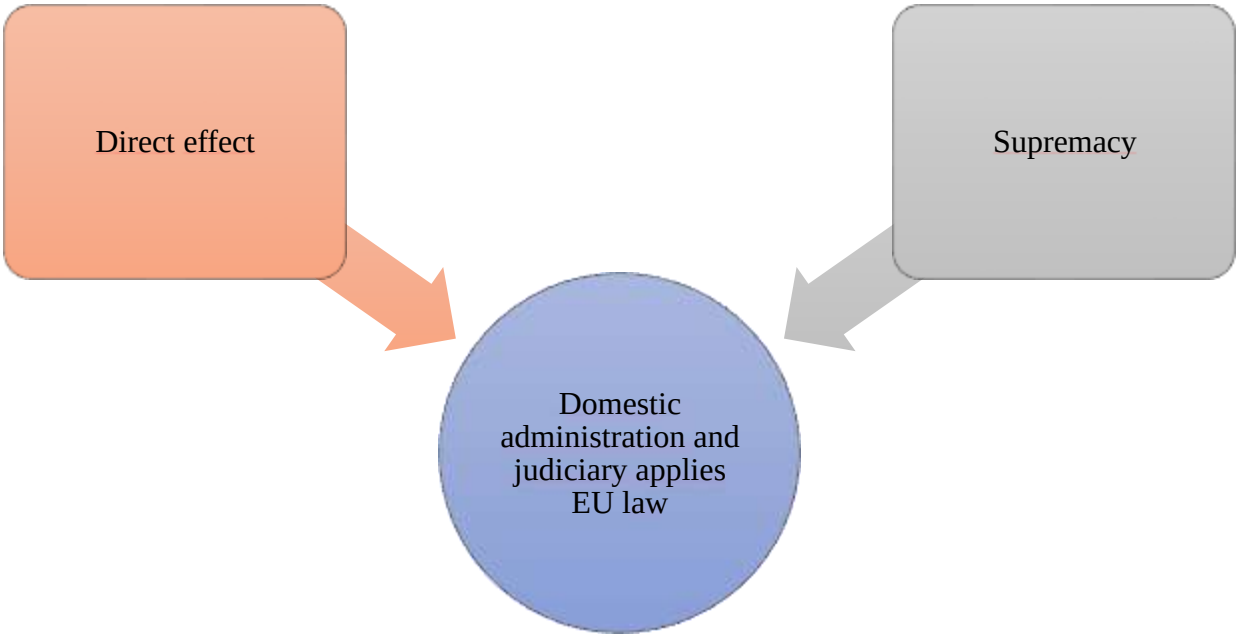
The EU and the Member States share the common interest of execution the commonly settled objectives, however, the ultimate law application and enforcement lies in the hands – or to be correct the public administration and judicial organs – of Member States.

EU law not just obliges Member States but also directly affect the legal relationship of persons, that is impose obligation on them and also gives them rights. Enforcing the obligations and giving effect to rights is the task of Member State administration and in case of breach of EU law, the Member State judicial organs are at disposal to seek for judicial protection.

Direct effect is a principle of EU law. It enables individuals to immediately invoke a European provision before a national or European court [C-26/62 Gend en Loos]. and by virtue of the doctrine of the ***supremacy of EU law***, provisions of EU law with direct effect take precedence over domestic laws [C-6/64 Flaminio Costa v. ENEL]. Taken together, the principles of direct effect and supremacy mean that treaty provisions may be used to make claims before domestic authorities and courts and override domestic law. [C- 43/75 Defrenne]

> *Direct applicability and direct effect of different types of EU legislation was recognized in case-law of EU courts. The term 'direct effect' was first used by the CJEU in a van Gend en Loos case. In this case, the CJEU identified three situations necessary to establish the direct effect of primary EU law. These are that: (1) the provision must be sufficiently clear and precisely stated; (2) it must be unconditional and not dependent on any other legal provision; (3) it must confer a specific right upon which a citizen can base a claim.*
> *Directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. So, individuals right and obligations depend on the national implementing measure. Therefore, the CJEU's decision to extend the principle of direct effect to directives was crucial: if the Member State makes a mistake in the implementation or ignores implementation, the rights and obligations of the individuals are also affected. The rationale for attributing direct effect to directives was to secure the 'useful effect' of EU legislation.*
> *Where rights conferred by a directive are violated by the State or by emanations of the State, a citizen can exercise **vertical direct effect**. Vertical direct effect concerns the relationship between EU law and national law, and the State's obligation to ensure its legislation is compatible with EU law. Citizens can apply it in claims against the State [C-41/74 Van Duyn]*
> *The doctrine of indirect effect is of vital importance to the enforcement of EU rights against private persons (**horizontal direct effect**). As directives have only vertical direct effect in claims based on directives against private persons, domestic law may*

> *be the only legal basis for a claim. The domestic court is obliged to exert itself to ensure that domestic law is interpreted consistently with the EU directive.*
> *Individuals may rely on the provisions of a directive which fulfil the 3 conditions described above before the national courts are met, all organs of the administration, including decentralized authorities such as municipalities, are obliged to apply those provisions.* [C-103/88 Fratelli Costanzo]



National public administration and the competence to regulate it has always been reserved for Member States. Despite some sector specific normative rules of administrative nature, the execution of EU law has always been a ***result- based obligation (obligation de résultat).***

The EU competences are, namely, governed by the principle of conferral in the view of the principles of subsidiarity and proportionality. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

The ***principle of sincere cooperation*** [Article 4 (3) TEU] has always been the most comprehensive principle for the structure and functioning of the European integration that keeps together this *complex, decentralised, decision-making structures* with different levels of action and different actors. to the need to ensure coherence and harmony in the absence of a hierarchical relationship between these different levels.

The principle of cooperation is two-way: not only are the Member States bound by it, but also the EU; it applies to the mutual relationship between them.

<table>
<tr><td colspan="2">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.</td></tr>
<tr><td>Obligation of the EU towards Member States</td><td>Obligation of the Member State towards the EU and each other</td></tr>
<tr><td>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.)</td><td>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.</td></tr>
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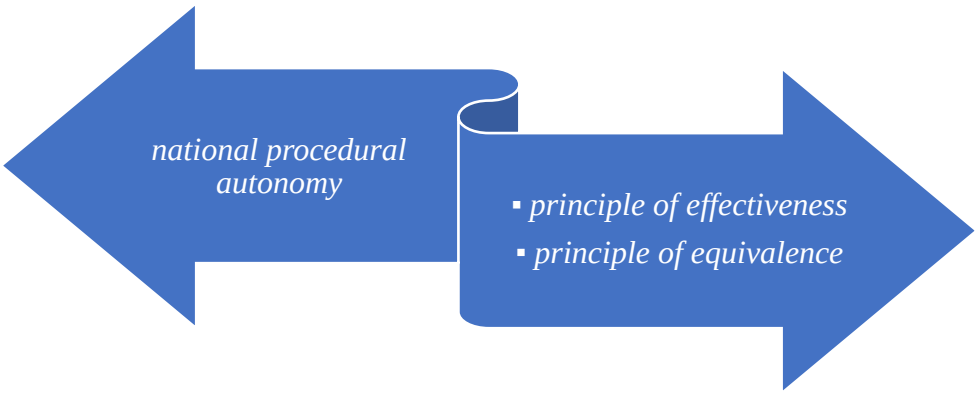
1.2. Principles governing the application of EU law: result- based obligation of the executive and judicial organs

The basic principles governing the issue of execution of EU law are “umbrella principles”, which means they englobe many requirements:

➢ **rule of law** based on Article 2 TEU including the expectation of **good administration** based on Article 298 TFEU, on SIGMA and Art. 41 of the EU Charter; and the

➢ **principle of sincere cooperation** based on Article 4(3) TEU.

The detailed basic principles which are the consequences of the converging relationship of the two major one, were laid down first in 1976 by case-law. [C- 33/76 Rewe-Zentral]
Where rights are conferred on individuals by EU law, it is for national courts to protect those rights. However, *national procedural autonomy* (national rules concerning national legal systems) must be protected by the EU.
Member States must ensure that remedies for breaches of EU law can be obtained at national level without undue burden (*the principle of effectiveness*) and Member States must have remedies available to be able to give effect to EU law just as effect is given to national law (*the principle of equivalence).*



1.2.1. Principle of procedural autonomy

When the EU has no competence to rule an issue entirely, the Member States must ensure the application of the EU law provision in question in the course of its own legal system according to its own national law. At the same time, however, the national legal systems are under an important '*obligation de résultat*', meaning that the enforceability of Union law rights must be ensured by virtue of the Union principles of equivalence and effectiveness.

> *"...**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]
> *"...according to settled case-law of the Court, in the absence of EU rules on the matter, it is for the **national legal order of each Member State** to establish procedural rules for actions intended to safeguard the rights of individuals, in accordance with the **principle of procedural autonomy**..."*. [C-3/16 Aquino]
> *"... it must be borne in mind that, in accordance with the Court's settled case-law, in the absence of EU rules governing the matter, it is for the **domestic legal system of each Member State**, in accordance with the principle of procedural autonomy, **to designate the courts and tribunals having jurisdiction** and to lay down the detailed procedural rules governing actions **for safeguarding rights which individuals derive from EU law**, the Member States having none the less responsibility for ensuring that those rights are **effectively protected** in each case"* [C-425/16 Raimund]

1.2.2. Principle of equivalency

The ***equivalence criterion*** 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. Meanwhile, the equivalence principle cannot be interpreted as an obligation for the Member States to extend their most favourable national regime on (judicial) procedure to all actions based on EU law.

> *"The principle of equivalence requires that the rule at issue be **applied without distinction**, whether the infringement alleged is of Community law or national law, where the purpose*

> *and cause of action are similar. (…) In order to determine whether the principle of equivalence has been complied with … the national court -which alone has direct knowledge of the procedural rules governing actions in the field … must* ***consider both the purpose and the essential characteristics*** *of allegedly similar domestic actions" [*C-326/96 *Levez]*
> *"the principle of equivalence requires that actions based on an infringement of national law and similar actions based on an infringement of EU law be treated equally and not that there be equal treatment of national procedural rules applicable to proceedings of a different nature or applicable to proceedings falling within two different branches of law."* [C-200/14, Câmpean]

1.2.3. Principle of effectiveness

Effectiveness must be understood as the ***ability to pursue the goal*** established by the norm of EU substantive law. Effectiveness of EU substantive law has to be guaranteed at all times and by any means. The conditions laid down by the domestic norms should not make it *"impossible in practice to exercise the rights which the national courts are obliged to protect*" [C- 33/76 Rewe-Zentral]

> *"…any requirement of proof which has the effect of making it virtually impossible or excessively difficult to secure the repayment of charges levied contrary to community law would be incompatible with community law".* [C-*199/82 Amministrazione delle Finanze dello Stato v SpA San Giorgio]*

Even if rules are not less favourable than those governing similar domestic situations (so it corresponds to the principle of equivalence at first sight) they may make it excessively difficult or impossible in practice to exercise the rights conferred by EU law (principle of effectiveness).

In case of directives, if the **State has failed to implement the directive in national law by the end of the period prescribed or where it has failed to implement the Directive correctly and** as far as their subject-matter is worded in an unconditional and sufficiently precise way, those provisions may be relied upon by an individual against the State. It is important to note that the reason for which an individual may, in the circumstances described above, rely on the provisions of a directive in proceedings before the national courts is that the obligations arising under those provisions **are binding upon all the authorities of the Member States**. [C-103/88 Fratelli, C-8/81 Becker, and C- 152/84 Marshall/Southampton]

1.2.4. Principle of consistent interpretation (principle of conforming or loyal interpretation)

It is the duty to interpret the norm of EU law ***in accordance with the objective*** that it pursues and in order ***to ensure full effect to the EU substantive law***. It is a task that the national judge is not only obliged to accomplish but is further expected to accomplish in ***good faith***.

> *"The requirement for national law to be interpreted in conformity with Community law is inherent in the system of the Treaty, since it permits the national court, for the matters within its jurisdiction, to ensure the full effectiveness of Community law when it determines the dispute before it"* [*Joined cases C-397/01 to C-403/01, Pfeiffer]*

> *"Any provision of a national legal system and any legislative, administrative or judicial practice which might impair the effectiveness of Community law by withholding from the national court having jurisdiction to apply such law the power to do everything necessary at the moment of its application to set aside national legal provisions which might prevent Community rules from having full force and effect are incompatible with those requirements which are the very essence of Community law". [C-35/76 Simmenthal]*
>
> *"Community law must be interpreted as meaning that a national court which, in a case before it concerning Community law, considers that the sole obstacle which precludes it from granting interim relief is a rule of national law* ***must set aside that rule****" [C-213/89 Factortame]*

In case of ***directives*** which require domestic implementation, the national courts are required to interpret their national law ***in the light of the wording and the purpose of the Directive*** in order to achieve the result referred in it. [C-14/83 von Colson]

1.2.5. Effective legal protection

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by European Union law. [Article 19(1) TEU] National judges are decentralized EU judges.

> *"(…)Article 47 of the Charter, it is apparent from the Court's case-law that that provision constitutes a reaffirmation of the principle of* ***effective judicial protection****, a* ***general principle*** *of European Union law stemming from the constitutional traditions common to the Member States, which has been enshrined in Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950." [C- 93/12 Agrokonsulting]*
>
> *"(…) judicial review of compliance with the European Union legal order is ensured, as can be seen from Article 19(1) TEU, not only by the Court of Justice but also by the courts and tribunals of the Member States."* [C-456/13 P T & L Sugars Ltd]
>
> *"The national courts and tribunals, in collaboration with the Court of Justice, fulfil a duty entrusted to them both of ensuring that in the* ***interpretation and application*** *of the Treaties the law is observed" [Opinion 1/09]*
>
> *"(…) it is for the* ***Member States to establish a system of legal remedies and procedures*** *which ensure respect for the fundamental right to effective judicial protection [C-583/11 Inuit Tapiriit Kanatami, para 100]. That obligation on the Member States was reaffirmed by the second subparagraph of Article 19(1) TEU, which states that Member States 'shall provide remedies sufficient to ensure effective judicial protection in the fields covered by EU law' (Inuit Tapiriit Kanatami para. 101). That obligation also follows from Article 47 of the Charter as regards measures taken by the Member States to implement Union law within the meaning of Article 51.* [C-456/13 *P T & L Sugars Ltd]*

Effective legal protection, however, cannot be interpreted as an obligation to change the national remedy system or create new forum except for the case when no legal remedy is available.

> *"(…) neither the FEU Treaty nor Article 19 TEU intended to* ***create new remedies*** *before the national courts to ensure the observance of European Union law other than those already laid down by national law [C-432/05 Unibet]. The position would be otherwise only if the structure of the domestic legal system concerned were such that there* ***was no remedy making it possible****, even indirectly,* ***to ensure respect for the rights*** *which individuals derive from European Union law, or again if the sole means of access to a court was available to parties who were compelled to act unlawfully (see, to that effect, Unibet, para. 41 and 64)". [C-583/11 P, Inuit Tapiriit Kanatami]*

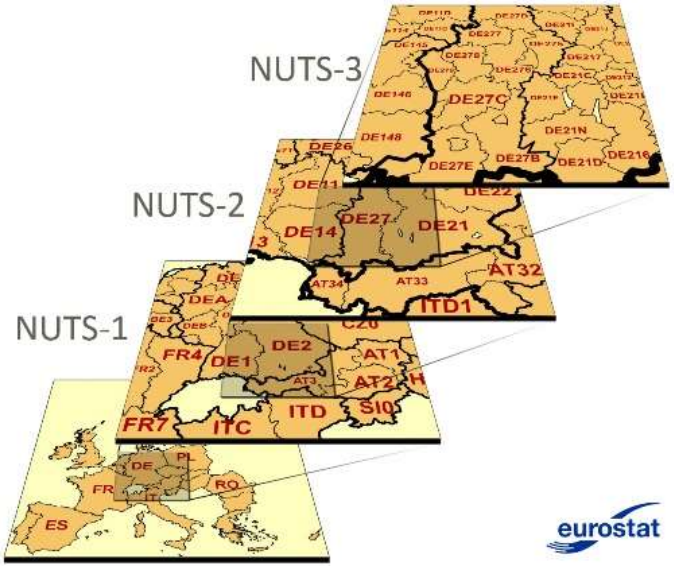
1.3. Respect of traditional Member State administrative organisation

In fact, the EU has no intention to harmonise the public administration structure of Member States, although there are some tools which requires so.

1.3.1. The uniform territorial uniting system for statistical reasons

The NUTS classification (*Nomenclature of territorial units for statistics*) is a hierarchical system for dividing up the economic territory of the EU for the purpose of:

- The collection, development and harmonisation of European regional statistics
- Socio-economic analyses of the regions
    - NUTS 1: major socio-economic regions
    - NUTS 2: basic regions for the application of regional policies
    - NUTS 3: small regions for specific diagnoses
    - LAU1 and LAU2 as small local administrative units.
- Framing of EU regional policies: Regions eligible for support from cohesion policy have been defined at NUTS 2 level



1.3.2. Secondary legislation requirements to serve a common policy

Certain common policy rulings necessary restricts Member States' freedom to organise the corresponding part of their public administration.

In the context of a reorganisation of the data protection authority by the Hungarian government, the six-year term of the Data Protection Commissioner, appointed in 2008, was prematurely brought to an end in 2011 (instead of 2014). The abrupt termination the Hungarian Data Protection Commissioner's term in office by the government constitutes an infringement of the independence of the Hungarian Data Protection Authority and is hence in breach of EU law. [C-288/12 Commission v. Hungary]

> *Hungary decided to create a new national agency for data protection, replacing the existing Data Protection Commissioner's Office from 1 January 2012. 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. Hungary addressed some of the Commission's concerns by amending its national legislation on 3 April 2012 to make the new National Agency for Data Protection independent in line with EU law.*
> *The independence of data protection supervisors is guaranteed under Article 16 of the Treaty on the Functioning of the EU and Article 8 of the Charter of Fundamental Rights. In addition, EU rules on data protection (Directive 95/46/EC) require Member States to establish a supervisory body to monitor the application of the Directive acting in complete independence.*
> *Hungary's decision to cut short the Data Protection Commissioner's term was against EU law. The independence of national data protection authorities is the very cornerstone of guaranteeing effective data protection rights for our citizens. Lack of independence means lack of effective supervision and oversight, and a lowering of the level of data protection. The requirement for national data protection authorities to act in complete independence has already been confirmed by the Court of Justice in two other cases. In its rulings in cases concerning Germany [C-518/07 Commission v. Germany] and Austria [C-614/10 Commission v Austria] the Court underlined that data protection supervisory authorities have to **remain free from any external influence, including the direct or indirect influence of the state**. The mere **risk of political influence** through state scrutiny is sufficient to hinder the independent performance of the supervisory authority's tasks.*

1.4. Staff on indirect administration: national civil service

There is no harmonisation on public service except for general requirements for those who perform their duties by EU law application: the ***public service principles*** and the ***European Code of Good Administrative Behaviour*** drafted by the Ombudsman and approved by the EP on 6 September 2001 are standards to be respected.

> *The Code, like Article 41 of the Charter and the public service principles, is directly applicable only to the institutions and civil servants of the European Union. Nonetheless, the Code has provided inspiration for certain similar texts in Member*

> *States of the European Union, candidate states and third countries. Furthermore, as the explanations that accompany the Charter of Fundamental Rights make clear, the right to good administration is based on the case law of the Court of Justice concerning good administration as a general principle of EU law. Such general principles also bind the Member States when they are acting within the scope of EU law.*

On the other hand, employment in the public service needs to be clarified as the ***free movement of workers does not apply to employment in the public sector***.

> *Article 45*
> *1. Freedom of movement for workers shall be secured within the Union.*
> *(…)*
> *4. The provisions of this Article shall not apply to employment in the public service.*
> *Article 51*
> *The provisions of this Chapter (aka Title IV Free movement of persons, services and capital - Chapter 1 Workers) shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.*

This derogation has been interpreted in a very restrictive and functional way by the CJEU: only those posts involving the ***exercise of public authority*** and ***of responsibility for safeguarding the general interest of the state*** concerned (such as its internal or external security) may be restricted to its own nationals.

> *The exception to freedom of establishment must be restricted to those of the activities which in themselves involve a **direct and specific connexion with the exercise of official authority**; it is not possible to give this description, in the context of a profession such as that of avocat, to activities such as consultation and legal assistance or the representation and defence of parties in court, even if the performance of these activities is compulsory or there is a legal monopoly in respect of it. [C-2/74 Reyers]*
> *The case-law declared that it is discrimination on the base of nationality if the following positions are maintained only for nationals: The exemption does not refer to the following posts: 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. [Barnard (2016) p. 474.]*
> *None of the following jobs has been recognized as employment in the public service either: 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 [Barnard (2016) p. 471-472.]*

It is the **nature of the relevant activities** themselves, not by reference to that status as such, that it must be ascertained whether those activities fall within the exception. When the exercise of public law powers is purely marginal and ancillary, the

The nationality requirement, applied in respectively, for access to the profession of notary constitutes discrimination on the ground of nationality prohibited. However, Notaries in Latvia, for instance, are regarded as public officers who are subject only to the law and perform their functions on a fully independent basis. Their principal task is to draw up authentic instruments. It is true that, the notary's ascertainment, before carrying out the authentication of a document or agreement, that all the conditions required by law for drawing up that document or agreement have been satisfied, pursues an objective in the public interest, namely to guarantee the lawfulness and legal certainty of documents entered into by individuals. However, the mere pursuit of that objective cannot justify the powers necessary for that purpose being reserved exclusively to notaries who are nationals of the Member State concerned. [C-47/08 Commission v Belgium, para. 94 and 95] By imposing a nationality requirement for access to the profession of notary, for example, Belgium, France, Luxembourg, Austria, Germany and Greece and the Republic of Latvia has failed to fulfil their obligations under Articles 49 TFEU and 51 TFEU. [C-151/14 Commission v Latvia].

II. ADMINISTRATIVE COOPERATION

2.1. Governmental cooperation

Governmental cooperation means those administrative channels which are established in each Member State to the preparation of ***national point of view*** later represented in the definitive forum of State interests: at the European Council meetings, in the Council, in COREPER (*Comité des représentants permanents*), in the relevant working group and in those Comitology committees which help the Commissions work when it issues executive norms.

The preparation of national point of view according to the States' best interest is done according to the domestic norms in each and every Member States, however, there are some common elements that can be seen:

- ***Ministerial responsibility:*** the highest responsible public administrative body for a certain policy in each State is the competent minister, therefore for each EU policy, a competent minister shall be appointed to handle a certain topic.
- ***Principle of involvement:*** a certain EU policy topic may belong to more ministers' competency area or the interest of civil societies, local governments or other entities and experts and sometimes the national parliaments shall be also consulted. Their representation and involvement in the preparation of in the national point of view shall be ensured. It is up to the domestic law of Member States that regulates who is entitled to be involved but according to the EU requirements, the transparency and plurality supposes a widespread social support and high level of professionalism behind a national point of view and not just political unity.
- ***Unity at Member State level:*** a national point of view which is represented in EU institutions and organs shall represent a coherent opinion free from the disagreements of internal political forces. All tensions shall be settled on national ground.

- ***One -stop shop coordination:*** there shall be one central organ which is responsible for the infrastructural and procedural background of the formulation of the national point of view.

The governmental cooperation is the channel of national point of views of member States.

Each Member State establishes their national point of view at the level of central administration in their State, and then, first, they confront them at EU level in the working groups to harmonise the 27 seven different views into one acceptable one. After the working group debates, it is the COREPER which discusses the document and the debates that are still pending between point of views. Once the COREPER is ready, the competent formulation of the Council will see the document and ministerial representative of the Member States will give the States' vote.

In all stages, the national point of view is not the sole decision of the participant agent, but it is a document resulting from constant discussion at national level. In each stage, the document goes back to the national centre which is responsible for the governmental coordination in EU affairs.

As the voting in the relevant formation of the Council is approached, the expertise is fading, and the political element is getting stronger. While the working groups are collection of national experts and there are approximately 150 of them according to specific policy areas, the COREPER collects professional diplomats in 10 different groups, and in the formulation of the Council, it is the competent minister who votes, though by the time the document reaches this level, the possibility to debate over interests is almost impossible. The COREPER stands for the 'Committee of the Permanent Representatives of the Governments of the Member States to the European Union'. [TFEU 240(1)]

COREPER I is composed of each country's deputy permanent representatives and have sessions every week. It prepares the work of 6 Council configurations:

- *agriculture and fisheries (AGRI - only financial issues or technical measures on veterinary, phytosanitary or food legislation)*
- *competitiveness (COMPET)*
- *education, youth, culture and sport (EYCS)*
- *employment, social policy, health and consumer affairs (EPSCO)*
- *environment (ENVI)*
- *transport, telecommunications and energy (TTI)*

COREPER II is composed of each member states' permanent representatives and meets every week. It prepares the work of 4 Council configurations:

- *economic and financial affairs(ECOFIN)*
- *foreign affairs (FAC)*
- *general affairs*
- *justice and home affairs (JHA)*

COREPER is not a decision-making body; as it is composed of the 'permanent representatives' from each member state, who, in effect, are their country's ambassadors to the EU, they express the position of their government. They are the prolonged hands of the governments in Brussels.

2.2. Composite administrative procedure

Composite administrative procedures involve at least one non-national actor in the administrative procedure while the proceeding authority applies EU law to issue a decision (***composite administrative procedure in a broad sense***). It may cover horizontal and vertical or both type of cooperation among the actors. Composite procedures suppose the allocation of responsibility to national and supranational authorities for distinct elements within a procedural framework. Composite procedures involve contributions by the supranational and the national authorities, co-regulation provides a possibility for interaction between the supranational authorities and private actors (***composite administrative procedure in a strict sense***).

- In their ***bottom-up*** version, they entrust a national authority with the initiation of a procedure with the final decision being made on Union level.
- In their ***top-down*** variant, they start on the EU level but terminate on the national level.

Horizontal cooperation supposes that the cooperating authorities are at the same level of European administration, i.e. it mainly covers the Member States' competent authorities' relationship.

Vertical cooperation describes the relationship between direct and indirect administration, i.e. the EU level institutions and organs with the Member State authorities.

2.2.1. Mutual assistance

2.2.1.1. The definition of mutual assistance

Mutual assistance is a basic form of **support between authorities** in the exercise of administrative tasks within the scope of EU law. Mutual assistance consists of a requesting authority requesting administrative support from the requested authority which is located in a different EU jurisdiction.

> *The concept of mutual assistance is well known among states primarily in criminal matters to ensure extradition of fugitive criminals but in administrative matters is it also getting more important. Due to jurisdiction matters, it is always based on international agreements between the interested parties. Agreements of the EU with third countries on mutual administrative assistance in customs matters see here.*

In the context of EU law, the main elements in the procedure that leads to the necessity of mutual assistance is that:

- the requesting authority cannot fulfil one of its tasks by itself,
- the requested authority from another Member State or the EU is in the

- position to give the requesting authority what is necessary for it to fulfil its task,

The assistance requested can take ***various forms***:

- ✓ the transmission of information,
- ✓ the conduct of an inspection, or
- ✓ the service of a document.

> *The need for such assistance primarily arises out of the principle of territorial reach of public authority, which hinders the requesting authority from completing the task itself. Therefore, assistance can either occur horizontally (between two administrative authorities from different Member States) or vertically (between the administrative authority of a Member State and another belonging to the EU)*

Today, **no** general piece of legislation exists which provides a **clear procedure for cross-border or multi-level mutual assistance**. Instead, EU and Member State authorities rely either on sector-specific rules which exist in a limited number of cases or on respective conventions of the Council of Europe. The obligation to adhere to the principle of sincere cooperation may positively influence the interpretation of sector-specific rules on mutual assistance, but it is not enough to deduce concrete obligations for mutual assistance.

Diverse concepts of mutual assistance exist in academic literature as well as in sector-specific EU law. The respective rules in sector-specific law also quite diverse. Some sector-specific instruments simply establish an to provide mutual assistance by means of a general reference without further specifying the duties subsumed under this concept. The same legal phenomenon is **sometimes** referred to as **mutual assistance** and sometimes as **administrative cooperation**, sometimes the former is subsumed under the latter.

> *The IMI seeks to facilitate the realization of 'mutual assistance' obligations (which are not defined further) by means of a structured information mechanism. It operationalizes Directive 2006/123 which in turn does not clearly define mutual assistance but simply uses the term, apparently on the assumption that its meaning is obvious. Directive 2006/123 is one of the legislative acts which provide a set of rules which are subsumed under the more general heading of 'mutual assistance'.*

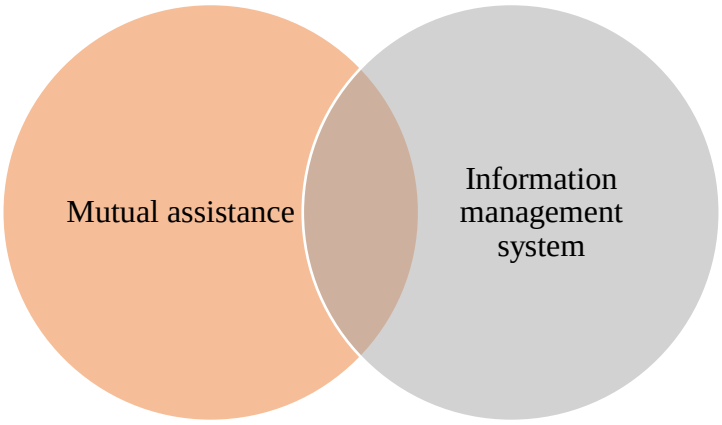
RENEUAL Model Rules (Book V) proposes the establishment of a clear a basic standard for the uniform ruling of mutual assistance which fulfil the requirements of good administration: scope of application; duties of the requesting and the requested authority, the rights of a person concerned to be informed and the allocation of costs.

> *Electronic forms of communication are standard in present-day administration; their use should be encouraged wherever this is possible. Formal structures exist in a variety of fields such as taxation and customs, as well as in alert systems. However, the*
> *The language is a crucial issue in mutual assistance. Many existing legislative acts the question of language for either the request or its response or both. It follows the general concept expressed in the confers upon the requesting authority the primary responsibility for the fulfilment of its tasks. It can be expected that the necessary efforts of time and expense required for translation will be borne by the administration which will benefit from*

the acts of assistance of another authority. This proposed solution has two advantages: First, a requesting authority can better judge exactly which information is the most accurate for the purpose of its procedure than the requested authority. Additionally, parties to the procedure will then be able to review the accuracy of the information by also having access to the original document and thereby being able to analyse the accuracy of the translation.

2.2.1.2. Delimiting mutual assistance and information exchange management systems

Information management is a core feature of each administrative procedure. The **sharing of information** is a key element of decentralised yet effective implementation of EU law within the internal market. Information-related activities are often the essence of composite decision-making procedures. Mutual assistance is a core element of EU administrative law and consists to a large extent in informational mutual assistance.



inter-administrative information management activities consisting either in certain forms of *inter-administrative information exchange* or *in databases* directly accessible to public authorities.

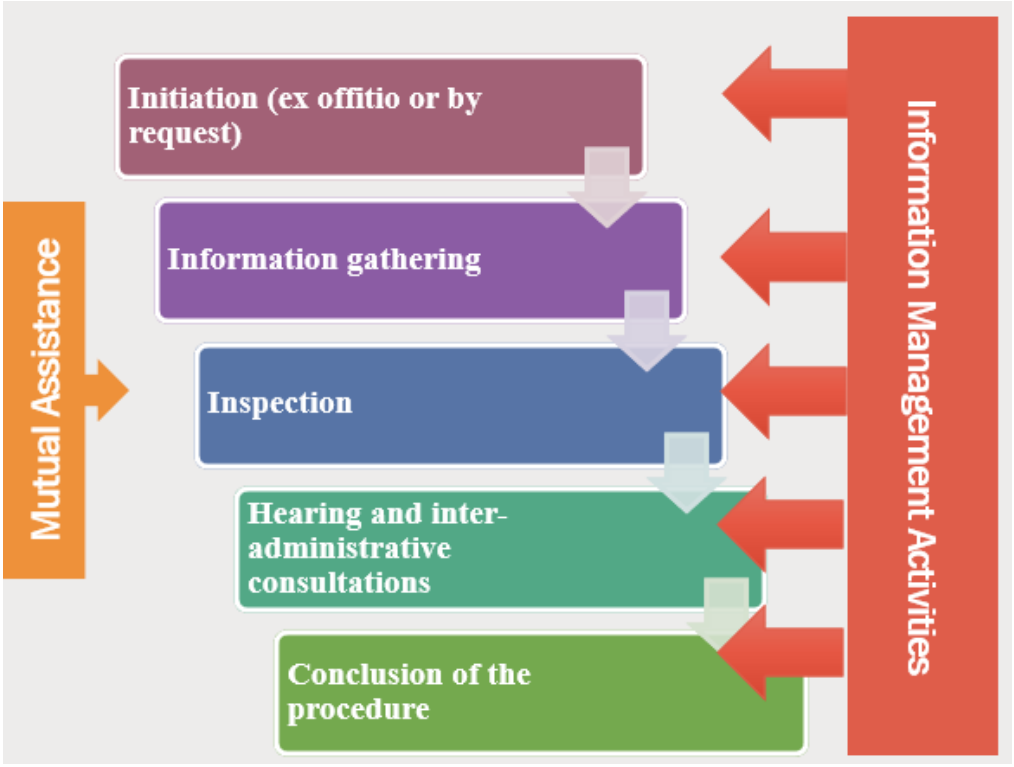
Generally, the assistance rendered is ***supplementary***. It is distinct from a 'delegation', by which an authority entrusts another authority with a task, which would otherwise form part of its normal obligations, in its entirety. This supplementary function of mutual assistance affects the grounds on which an authority may refuse a request. Moreover, requests for mutual assistance operate without the safeguards necessary in information networks; hence they should not be used to create such ad-hoc information networks. Nor should requests be excessive so as to not overburden the administrative authorities either of a Member State or of the EU. The principle of proportionality, which applies to requests for and acts of mutual assistance, serves as a safeguard against potentially excessive burdens has a narrow scope of applicability in that its rules apply to mutual assistance in in the procedural phase leading up to and preparing administrative action and especially administrative decisions. Book V is not applicable to judicial and enforcement assistance.

An example for this is the cooperative exchange of information under the Internal Market Information System (IMI) which functions through the use of pre-defined (and pre-translated) workflows. While the IMI seeks to facilitate what it refers to as 'mutual assistance' it does so by means of a structured information system which

poses distinct challenges. A one-size-fits-all rule cannot adequately cover both a system such as the IMI as well the most basic form of assistance which one authority can provide another. By clearly distinguishing the two, this danger is avoided while all forms of information exchange are still covered by the model rules. As a result of this approach, the concept of mutual assistance does not cover some of the instances EU law refers to as "mutual assistance", including the above-mentioned mechanism in the IMI. This also means that the challenges which are inherent to such more advanced forms of information exchange evolving towards the creation of administrative networks, including inter alia rules on coordinated supervision or technical interoperability.

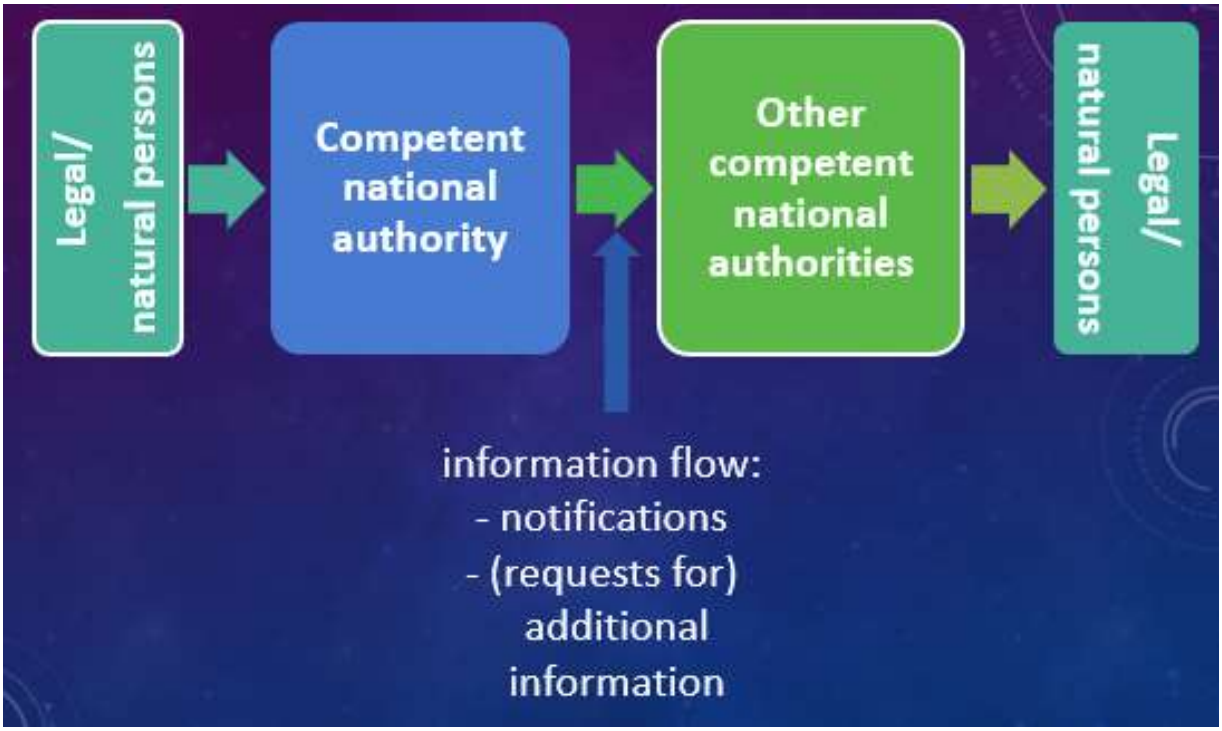
<table>
<tr><th colspan="3">Composite administration</th></tr>
<tr><th>Classical cooperation form</th><th>Mutual assistance under EU law</th><th>Information exchange mechanism</th></tr>
<tr><td>mutual assistance</td><td>mutual assistance</td><td>systematic information exchange</td></tr>
<tr><td>ad hoc</td><td>ad hoc</td><td>regular information flow</td></tr>
<tr><td colspan="2">request for assistance for being able to execute its task</td><td>pre-defined workflow allowing authorities to communicate and interact with each other in a structured manner</td></tr>
<tr><td colspan="2">the requested authority may refuse to assist</td><td>duty to inform without prior request</td></tr>
<tr><td>official diplomatic way for request - reply via central administration
(often Foreign Ministries)</td><td>direct connection between the requesting and the requested authority</td><td>contact points and/or direct connection between the requesting and the requested authority</td></tr>
<tr><td>based on reciprocity & international agreements</td><td>▪ based on the need to proceed and issue a decision
▪ perhaps sector specific EU law</td><td>based and pre-defined by sector specific EU law</td></tr>
</table>

A legal framework for composite information management activities is necessary to steer the informational course of composite administrative procedures and provide the various actors involved in such procedures with legal certainty as to their tasks and obligations.

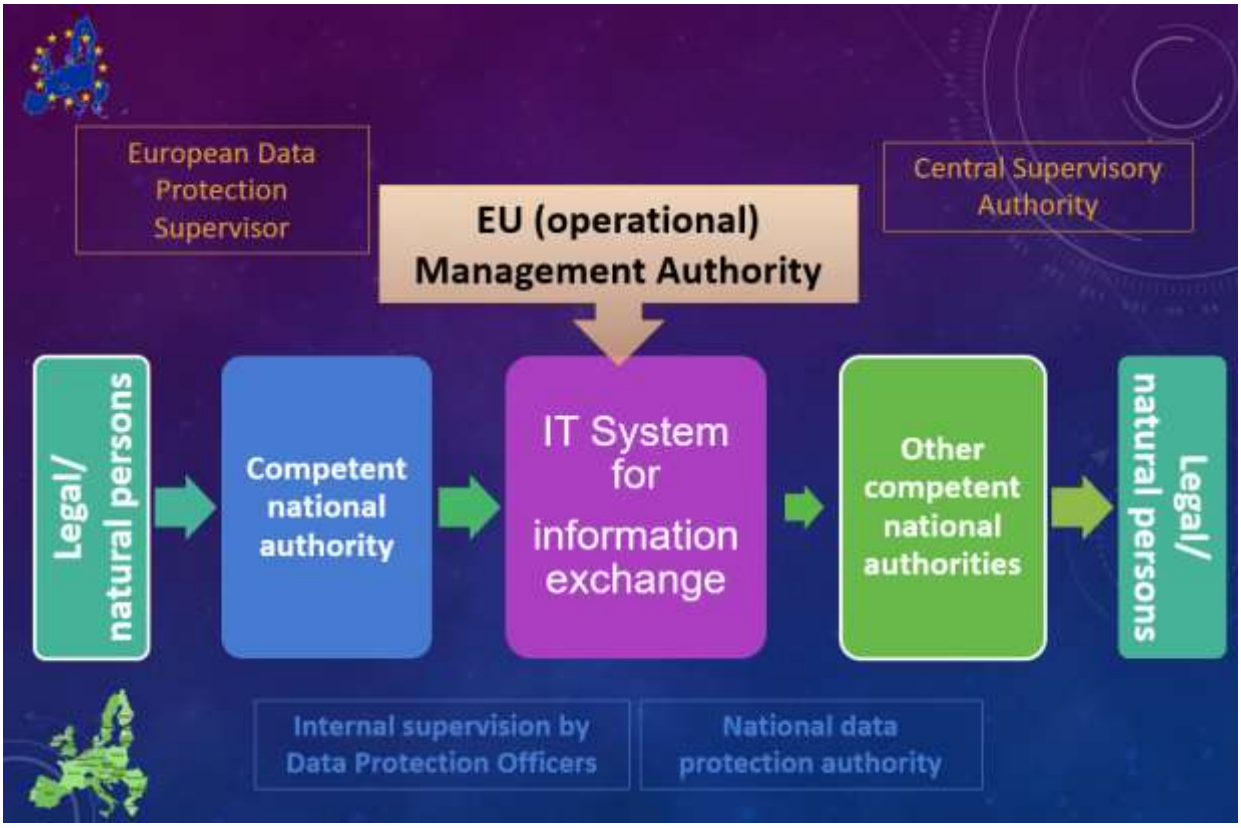


The complexity of information management varies according to policy to policy but in general, the following structures can be observed.

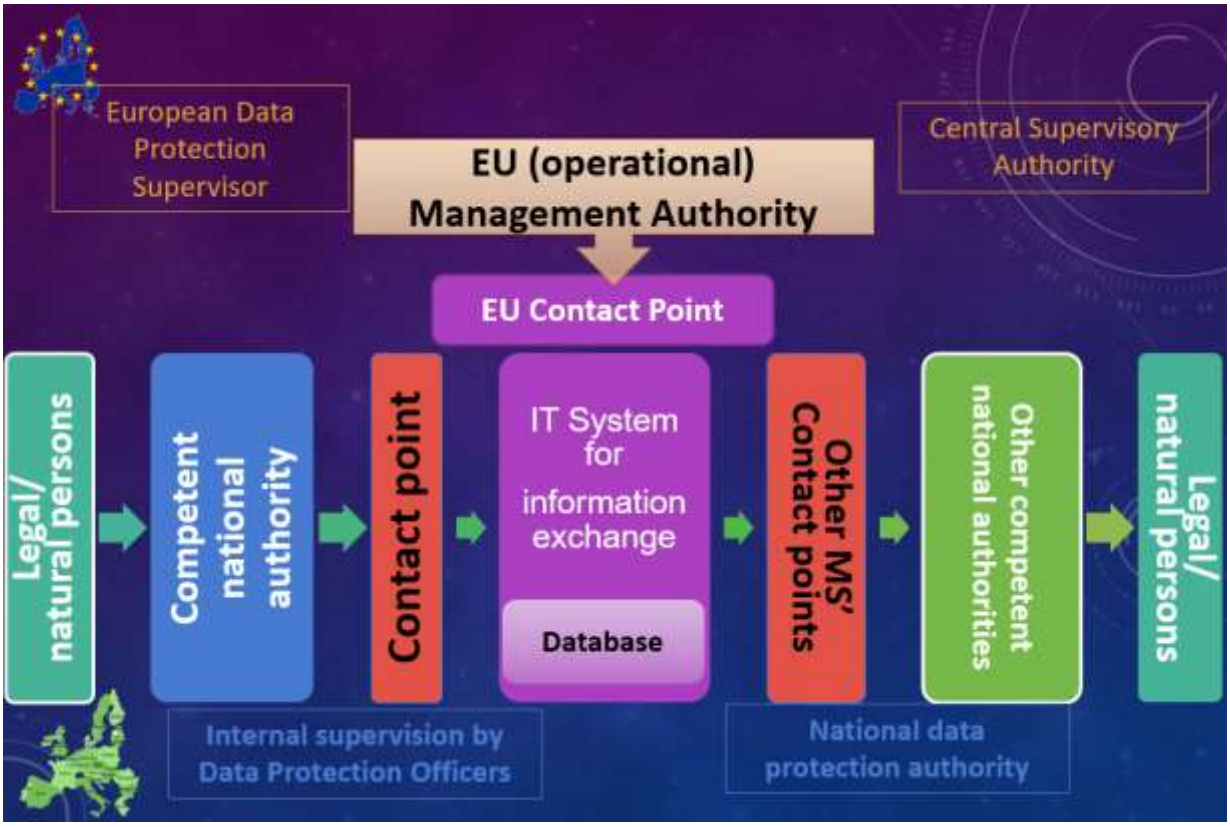
a) A simple duty to inform



b) Duties to inform - supported by an information system



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



2.3. European administrative networks

The European Union is constantly working on a sphere where national borders are invisible for the four freedoms (*a single market in which the free movement of goods, services, capital and persons is assured, and in which citizens are free to live, work, study and do business)* and the EU law can be enjoyed everywhere according to the same content and with the same guarantees.

In order to overcome the deficiencies of the EU which does not have its own administrative authorities' structure, European ***administrative networks*** (EANs) are established. They consist of institutional representatives of national executives – primarily departments and/or agencies – with tasks in the realm of national implementation or enforcement of EU policies. It includes horizontal and vertical cooperation among the competent organs and authorities and the nature and normative background of such co-work depends on the Europeanisation of the policy in question.

Due to the immediate connection with the competent authorities, their problem-solving abilities so they fulfil an important role in facilitating the implementation and enforcement of EU policies. As the European Union's legislative competences are different, the EU acquis is also different in different legal areas, the implementation and executive task of Member State administration is different, so as the level of their networking. Due to the lack of EU legislative competences to regulate administrative issues for decades, the administrative co-operation has led to intensive and often seamless co-operation between national and supranational administrative actors and activities.

Therefore, networks under the scope of the EU and their tasks and capacities are also different, however, there are some features that make some basic categorisation possible. There is no general normative background for the networks, therefore these categories are the product of legal literature. It also follows, that the borders between the categories are not rigid; they are traversable, so one network may fill in more than one.

2.3.1. Information networks

Information networks are established to channel and to co-ordinate the generation and editing of data relevant to an administrative activity. These are *constant channels for systematic cooperation* to share information and ensure data flow in an automatic way, without the possibility of rejecting of collaboration or retaining of information.

> *The Visa Information System (VIS) 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. The Entry/Exit System (EES) is a new scheme that will be established in the near future (according to the European Commission, it will contribute to achieving full interoperability of EU information systems by 2020), by the European Union. The main purpose behind the founding of the EES is to register entry and exit data of non-EU nationals crossing*

*the external borders of EU Member States in order to strengthen and protect the external borders of the Schengen area, and to safeguard and increase the security for its citizens. The EES will consist of the following: The EES will be composed of a **Central System**. Each of the member states will have their own **National Uniform Interface** (NUI) connected to the Central system through a secure and encrypted Communication Infrastructure. A **Secure Communication Channel** will connect the EES Central System and the VIS Central System. **Web Service** – through which third country nationals traveling to the Schengen area will be able to check how many days longer they can remain in the Schengen territory.*

2.3.2. Enforcement/executive networks

Enforcement or executive networks establish a channel for cooperation to the aim of producing one single decision of one of them, so it is like a mixture of a systematic discussion forum and of mutual assistance without the limits and restrictions of the latter. In composite administrative procedures when the case has international element, and the relevant authorities need to contact each other, share information, handle documents or other evidence that the other authority in a different Member State need it to decide upon a case.

The Schengen Information System (SIS) is the most widely used and largest information sharing system for security and border management in Europe. SIS enables competent national authorities, such as the police and border guards, to enter and consult alerts on persons or objects. An SIS alert does not only contain information about a particular person or object but also instructions for the authorities on what to do when the person or object has been found. Specialised national SIRENE Bureaux located in each Member State serve as single points of contact for the exchange of supplementary information and coordination of activities related to SIS alerts. The Schengen Information System is basically an information network, but it also supports police and judicial cooperation by allowing competent authorities to create and consult alerts on missing persons and on persons or objects related to criminal offences. therefore, in certain aspects, it is also the basis of a law enforcement cooperation among authorities.
Another example is The Rapid Alert System for dangerous non-food products (RAPEX) allows the 31 participating countries (EU countries, Norway, Iceland and Liechtenstein) and the European Commission to exchange information on products posing a risk to health and safety of consumers and on the measures taken by these countries to do away with that risk. The system also covers products posing risk to health and safety of professional users and to other public interests protected by relevant EU legislation (e.g. environment and security). It does not cover food, pharmaceuticals and medical devices, which are covered by other mechanisms. National authorities take measures to prevent or restrict the marketing or use of those dangerous products. Both measures ordered by national authorities. Every Friday, based on this information provided by the national authorities, the Commission publishes a weekly overview of latest alerts. The published alerts include: information on the product, identified risk and measures taken in the notifying country; list of other countries where the notified product was found on their market and where measures were also taken; notifications on products posing serious risk and less than serious risk; notifications on professional products and on those posing risk to other public interests. RAPEX was established by the General Product Safety

Directive (GPSD) in 2004. On the basis of the decision of the dangerous products can thus be withdrawn from the market and recalled from consumers everywhere in the European Economic Area thus the same level of EU law enforcement can be achieved without carrying out the same administrative procedure everywhere, so it also serves as an enforcement network. This mechanism contributes to the activity of national consumer protection authority as alerts substitute for the whole procedure of an official control and the decision-making. Namely, rules concerning safety of products under the scope of the General Product Safety Directive shall be the same everywhere in the EU (and in the European Economic Area) thus in the particular case when a national authority declares that a product is not in conformity with the EU law, this decision is therefore normative for all the national authorities in all the Member States in which that product is on the market. In Hungary, the Hungarian Authority for Consumer Protection is responsible to cooperate in the RAPEX system. Just for illustration: a toy pushchair named „Love Baby My Lovely" was withdrawn from the market because the product does not comply with the requirements of the Toy Safety Directive and the relevant European standards. In fact, the safety lock and the frame are not sufficiently resistant to load and can easily release and break respectively; causing the pushchair to collapse and thus this may cause injuries to children. So, it was reported and then, on the basis of an authority act issued in one Member State, all the countries had to withdraw the product from the market. Therefore, the act (decision) was not only an information but a source of obligation, the same as it would have been issued by the authority of all the States who are members of the network.

2.3.3. Quasy regulatory networks

Regulatory networks cover the systematic cooperation of competent authorities to identify the best practice and help the interpretation of EU law and the application of EU norms to achieve its purposes with a normative content. Due to strict legislative competency rules, the network is not empowered to legislate, thus the norm established this way is *soft law*. Even if practical concerns would support the self-regulation of a legal area and while improving effectiveness and rule harmonization, EANs may seriously damage EU legitimacy.

The European Commission and the national competition authorities in all EU Member States cooperate with each other through the European Competition Network (ECN). This creates an effective mechanism to counter companies which engage in cross-border practices restricting competition. As European competition rules are applied by all members of the ECN, the ECN provides means to ensure their effective and consistent application. Through the ECN, the competition authorities inform each other of proposed decisions and take on board comments from the other competition authorities. In this way, the ECN allows the competition authorities to pool their experience and identify best practices. The objective of the European Competition Network is to build an effective legal framework to enforce EC competition law against companies who engage in cross-border business practices which restrict competition and are therefore anti-consumer. Therefore, their soft law – as they are not vested with legislative powers – is supposed to be treated as obligatory.

It should not be mixed with comitology work. EU law sometimes authorise the European Commission to adopt implementing acts, which set conditions that ensure a given law is applied uniformly. Comitology refers to a set of procedures, including meetings of representative committees, that give EU countries a say in the implementing acts. During the procedure, the Member State work together, form opinion on the Commission's draft but the Member States' opinion has no coercive force on the Commission's further act.

Regulatory networks are often seen in other legal areas of less prominent networking structure. As the basic EU norms that call the competent authorities to cooperate does not go beyond this and contains no details for the normative background of the cooperation and until the Lisbon Treaty, there was no legislative competence for the EU to rule administrative cooperation, the cooperating authorities has started to regulate their own work and while they are performing their task related to the proper implementation of an EU policy, they adopt *common guidelines, recommendations, guides, communications, work reports, statements,* etc. with the aim to help legal practice, therefore to produce legal effect without formal legal force of such documentation. In the point of view of proper application of EU law, it is useful and seems efficient. Meanwhile, both sides of *legitimacy and accountability* are challenged.

European regulatory networks European regulatory networks (ERNs) is an important expression of the institutionalization of a European Union (EU) multilevel regulatory administration.

Speaking about the normative background of the networks of European administration, three key factors shall be settled:

- ***the 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;*
- ***the 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, it has a certain level of supervision but no right to give orders/amend decisions and/or withdraw the power of the national authorities);
- ***and the autonomy of the network members vis-à-vis national governments***: *it is based on domestic law.*

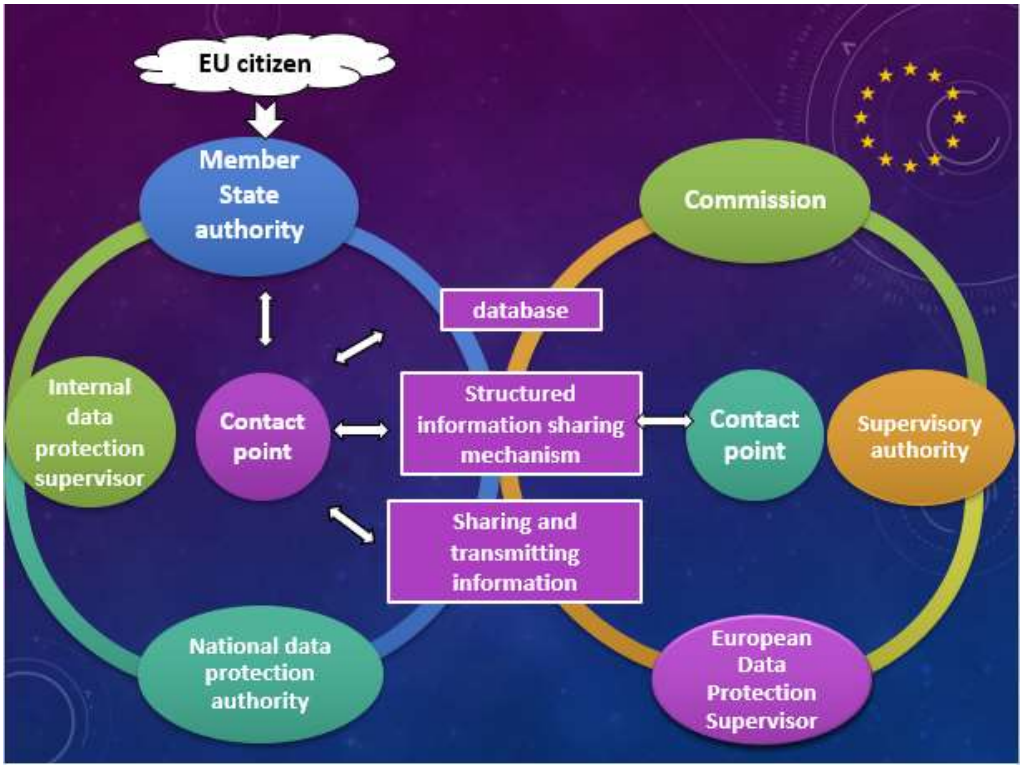
Concrete answers for these questions should be laid down in ***binding sources of EU law***, but it is often missing as the necessity called to life the networks, but the legal background have not yet reached the traces, so the majority of these issues are found in *soft law*. The European Union is based on the rule of law. This means that every action taken by the EU is founded on treaties that have been approved voluntarily and democratically by all EU member countries and the regulatory power is not directly vested to authorities.

The problem lies in the multiple actors' contribution and the lack of proper legal background for their relationship to answer the major questions:

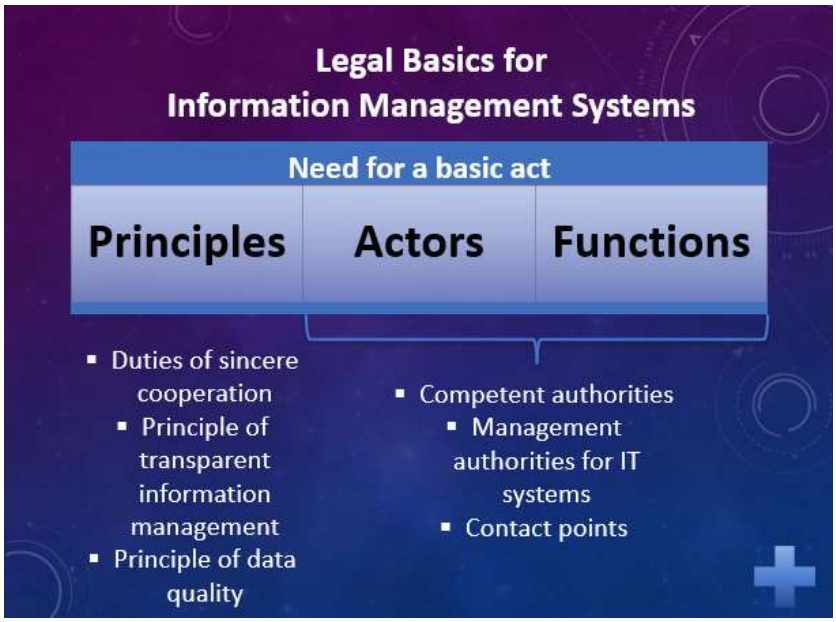
Delimitation of responsibility

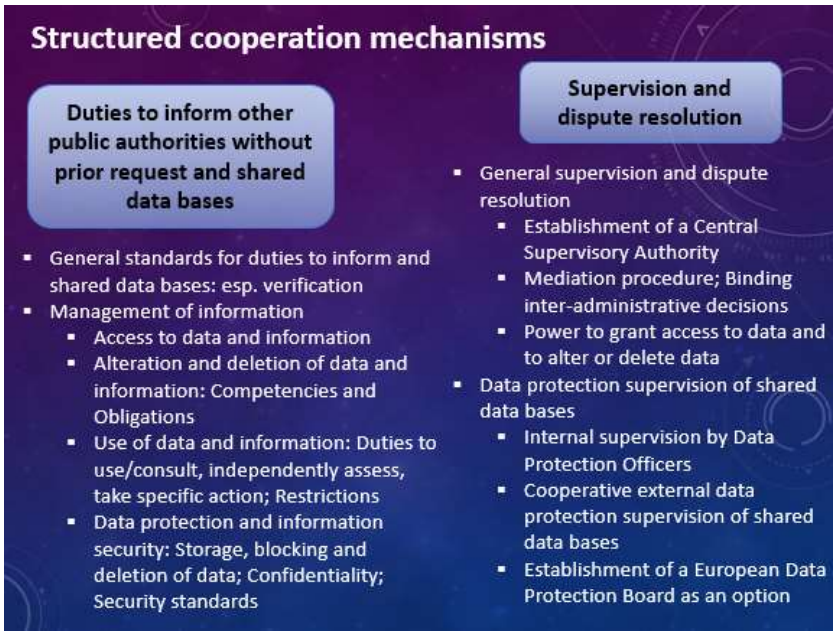
scope of normative rules, collision and forum shopping

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



A binding legal act should be able to cover the scope of the following basic issues.





As for the cooperation of the authorities in order to effectively implement EU law, it was only the Lisbon Treaty which introduced a competence for regulation of ***administrative cooperation***.

> *TFEU Article 197*
>
> *1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.*
>
> *2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.*
>
> *3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the Member States and between them and the Union.*

In case of administrative cooperation issues, the EU can only intervene to support, coordinate or complement the action of EU Member States with legally binding EU acts.

The relevance of binding source of law to adopt is a key to not just the proper functioning of EU law in conformity with the rule of law, but also significant in the point of view of citizens whose legal cases are handled according to EU law in composite administrative procedure. The EU law, inter alia, ensures the *right to good administration* as a fundamental right. To enjoy the benefits of this right/to fulfil the obligation by the

authority, the proper structural and procedural normative background for the complete procedure including the cooperation of the authorities of different jurisdiction is indispensable. Soft law cannot fil such gap as it cannot create obligation with legal force, therefore, it cannot be invoked in legal disputes as argumentation.

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- ReNEUAL Model Rules on EU Administrative Procedure. Book V – Mutual assistance. http://www.reneual.eu/images/Home/BookV-mutual_assistance_online_publication_individualized_final_2014-09-03.pdf

Useful websites:

- EUR-lex. https://eur-lex.europa.eu/homepage.html
- The University of Luxembourg's CVCE.eu research infrastructure (in EN, FR, DE): https://www.cvce.eu/en

SIGNIFICANT TERMS AND DEFINITIONS

Administrative cooperation	collaboration of administrative systems of the EU and member States horizontally and vertically either in an *ad hoc* or in a systematised nature
composite administrative procedure	In a broad sense: Composite administrative procedures involve at least one non-national actor in the administrative procedure while the proceeding authority applies EU law to issue a decision In a narrow sense: Composite procedures involve contributions by the supranational and the national authorities, co-regulation provides a possibility for interaction between the supranational authorities and private actors
direct effect	it enables individuals to immediately invoke a European provision before a national or European court. This principle only relates to certain European acts. Furthermore, it is subject to several conditions
enforcement/executive networks	networks that complete and supports composite administrative procedures when the case has international element, and the relevant authorities need to contact each other, share information, handle documents or other evidence that the other authority in a different Member State need it to decide upon a case
European administrative networks (EAN)	horizontal and vertical cooperation among the competent organs and authorities and the nature and normative background of such co-work depends on the Europeanisation of the policy in question
mutual assistance	basic form of support between authorities in the exercise of administrative tasks
nuclear option	procedure of Article 7 TEU against a Member State which is accused of committing 'serious and persistent breach' of EU values.
principle of consistent interpretation	the duty to interpret the norm of EU law in accordance with the objective that it pursues and in order to ensure full effect to the EU substantive law
principle of effectiveness	the domestic norms should not make it "impossible in practice to exercise the rights which the national courts are obliged to protect
principle of equivalency	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 procedural autonomy	when the EU has no competence to rule an issue entirely, the Member States must ensure the application of the EU law provision in question in the course of its own legal system according to its own national law
sincere cooperation	the EU and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties

supremacy of EU law	it means that if there is conflict between European law and the law of Member States, European law highly prevails

EXERCISES TO TEST YOUR KNOWLEDGE

1. Which famous Hungarian case is giving us the message?

Torubarov case	Sólyom case

a) the duty to ensure the 'full effectiveness of Union law' *(effet utile*).
b) the mutual cooperation of domestic authorities of Member States.
c) the significance of the form of individual decision-making and giving a reason to it.
d) the significance of the form of individual decision-making and giving a reason to it in case of restriction of right granted by the EU law.
e) legal remedy against administrative decisions
f) formality of administrative decisions

2. Is your country's administrative system in conformity with the NUTS system? What are the following levels in your country and how many of them do you have?

NUTS1	
NUTS2	
NUTS3	
LAU1	
LAU2	

3. Can you mention a case before the CJEU in which your country was involved, and the Court revealed any violation of EU law related to the functioning of the country's public administration?

case:

problem:

solution:

TEST OF MULTIPLE CHOICES

1. The notion of '*administrative cooperation'* in a broad sense covers…
a) the interaction between the Member States administrative authorities and the Commission.
b) the interaction between the Member States administrative authorities (horizontal cooperation).

c) all types of cooperation forms between direct and indirect administration either in horizontal or vertical way: governmental cooperation, different forms of mutual assistance and all kinds of cooperation via information management systems, too.

2. The mutual assistance of authorities of the Member States…
a) is a general obligation to ensure the proper application of EU law but it does not require EU authorities to do so.
b) is a general obligation to ensure the proper application of EU law but it has no general procedural law as a background legislation, so different forms of cooperation may be legislated in various forms of norms and the content may also vary from policy to policy.
c) is regulated by bilateral or multilateral treaties and Member States act according to their assumed international obligations in connection with EU law; otherwise they are not obliged to cooperate with each other.

3. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish the necessary measures to enhance the administrative cooperation …
a) to help EU organs to completely take on the role of administrative authorities in the future.
b) and it shall uniformize Member States' administrative system and all the laws related to it.
c) but it shall not aim any harmonisation of the laws and regulations of the Member States.

4. The substantive rules of public administrative law
a) are domestic competence to regulate and EU law shall not expand on them.
b) can also be also regulated by EU law and Member States, too as it belongs to the issues of shared competence.
c) are domestic competence and in principle shall not be regulated and harmonised by EU law although there are indirect requirements that may result so.

5. Coordination of EU affairs at Member State level

a) is regulated by the Commission to ensure the uniformity among Member States' practice.
b) is ensured by the national parliaments.
c) is completely a domestic competence although the principles that govern this area are common in all Member States.

6. The Committee of permanent representatives
a) is responsible for the preparation of the Commission's work.
b) is the preparatory organ of the working groups of the Council.
c) is the prolonged hand of the Member States' to prepare the documents for the Council's meetings.

7.) National parliament and the governments…
a) do not cooperate in the coordination of EU affairs at Member State as in the Council, the Member States are represented by ministers.
b) cooperate in the coordination of EU affairs at Member State according to the rules established by the EU Treaties.
c) cooperate in the coordination of EU affairs at Member State according to Member States' constitutional norms.

8. The execution of EU law has always been a *result- based obligation, therefore*
a) Member States have always had procedural autonomy.
b) Member States have always had procedural autonomy recently restricted by the principle of sincere cooperation.
c) Member States have always had procedural autonomy restricted by the principle of sincere cooperation along with the requirement of effective and equivalent application of EU law.

9. ……..shall provide remedies sufficient to ensure effective legal protection in the fields covered by European Union law.
a) Member States
b) CJEU

10. There is no respect of traditional Member State administration by the EU.
a) it is absolutely true.
b) it is not true, the EU respects Member State administration however, there are some requirements which influence modifications and sometimes new legislation by States.
c) it is not true; the Member States administrative traditions are the same due to the fact that they are all democratic States therefore the EU law does not make any requirements to fulfil.

11. The civil service of indirect administration
a) is the civil service of each and every Member States and all EU citizens are entitled to be employed.
b) is the civil service of each and every Member States and the anti-discrimination rules related to the free movement of work does not expand to these positions.
c) is the civil service of each and every Member States and they are entitled to make restrictions on the employment of non-national EU citizens in certain positions related to the exercise of public authority.

12. Governmental cooperation
a) is done according to the same EU norms.
b) is done according to the same principles.
c) is not a harmonised issue at all.

13. Composite administrative procedures are
a) can be horizonal and vertical procedures.
b) can be only horizonal procedures.
c) can be only vertical procedures.

14. The main difference between mutual cooperation and the cooperation within a European administrative network
a) is the existence of an informational management system to support cooperation within the European administrative network. This latter shall never include mutual assistance.
b) is the existence of an informational management system to support cooperation within the European administrative network. This latter may also include mutual assistance.
c) is the online nature of the activity.

15. Information exchange networks

a) have proper legal background with a binding nature since the entry into force of the Lisbon Treaty.
b) should have a proper binding normative background to cover the question of jurisdiction and responsibility inter alia.
c) do not need any common step; the current fragmental, sector specific solutions can meet the needs in the view of each policy.

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