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Erzsébet Csatlós

EUROPEAN ADMINISTRATION

The Basic Principles Governing the Administration of the European Union

Iurisperitus Publisher

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Foreword

For more than a decade, various aspects of European Union public administration have been part of the curriculum offered to international students at the Faculty of Law and Political Sciences, University of Szeged. Over the years, this educational content has evolved into a comprehensive and structured textbook, designed to provide students – regardless of their legal background – with a clear and accessible understanding of the EU's administrative system as a unique supranational entity.

This book seeks not only to explain how the EU's administrative framework operates, but also to understand why it functions in the way it does. To that end, it places particular emphasis on the presentation and analysis of landmark cases, helping readers understand the legal logic and policy considerations behind major developments. Wherever possible, the book includes Hungarian cases and examples in detail, offering a uniquely domestic perspective within the broader European context. This "Hungarian flavour" allows students to explore the European administration not only in theory, but also in practice, enriched with experiences drawn from Hungary's legal and administrative environment.

To further support learning, the textbook includes numerous visual aids – such as diagrams, comparative tables, and icons designed to aid memorisation – alongside structured summaries and hyperlinks to additional resources that help bridge the gap between abstract theory and real-life implementation. In additional learning aid is the table of contents at the beginning of each chapter, which not only summarizes the key points of the topic but also helps the reader navigate the text by allowing easy access to specific content through clickable links.

No matter what field you work in, European public administration is not an abstract concept, but a part of our daily lives. Effective implementation of EU law, though it may wear different forms and structures, is equally the task and responsibility of the high-level legislator and the frontline case officer. This book aims to show how, through understanding the system, we also better understand our own role in making it work.

The textbook is complemented by a testbook containing exercises, which primarily supports students engaged in independent study by aiding self-assessment through material divided into blocks. It is also useful for those

preparing for exams to test their knowledge. The multiple-choice tests encourage students to reflect more deeply on the material and assess whether they have truly understood the concepts.

I am deeply grateful to all the students who, over the years, participated in the course – whether in Hungarian or in English – and whose active engagement helped me shape what is now presented on the pages of this book. Their questions, insights, and feedback were an invaluable source of inspiration throughout the development of this material.

I hope this book will serve as a useful companion for following the lectures – or even as a substitute when necessary – offering clarity, structure, and practical insight to guide your learning journey.

Szeged, 30 July 2025

Erzsébet Csatlós, PhD, habil

Abbreviations

ADM	automated decision-making
AMLD	Anti-Money Laundering Directive
CEAS	Common European Asylum System
CEECs	Central and Eastern European Countries
CJEU	Court of Justice of the European Union
DG	Director General
DPOs	Data Protection Officers
DSA	Digital Services Act
EAS	European Administrative Space
EAW	European Arrest Warrant
EBA	European Banking Authority
EC	European Community
ECA	European Court of Auditors
ECHR	European Convention on Human Rights
ECN	European Competition Network
e-CODEX	e-Justice Communication via Online Data Exchange
ECRIS-TCN	European Criminal Records Information System – Third Country Nationals
ECtHR	European Court of Human Rights
ECSC	European Coal and Steel Community
EDPS	European Data Protection Supervisor
EEA	1. European Economic Area 2. European Environment Agency
EEAS	European External Action Service
EEC	European Economic Community
EES	Entry/Exit System
EFSA	European Food Safety Authority
EMA	European Medicines Agency
EMU	Economic and Monetary Union
EPC	European Professional Card

EPPO	European Public Prosecutor's Office
ESCB	European System of Central Banks
ETD	Emergency Travel Document
ETIAS	European Travel Information and Authorisation System
EU	European Union
Eurodac	European Asylum Dactyloscopy Database
Europol	European Police Office
EUTM	European Union Trademark
FADO	False and Authentic Documents Online
Fontex	European Border and Coast Guard Agency
GDPR	General Data Protection Regulation
IAO	Hungarian Immigration and Asylum Office
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGOs	Inter-governmental organizations
IMF	International Monetary Fund
IMI	Internal Market Information System
JITs CP	Joint Investigation Teams Collaboration Platform
MEPs	Members of the European Parliament
NGOs	Non-governmental organizations
OLAF	European Anti-Fraud Office
PRADO	Public Register of Authentic identity and travel Documents Online
RAPEX	Rapid Exchange of Information System
RASFF	Rapid Alert System for Food and Feed
RCD	Registered Community Design
SIS	Schengen Information System
UN	United Nations
VIS	Visa Information System
WTO	World Trade Organisation

I. Introductory Studies: from the Public Administration of a State to the Concept of Public Administration of the European Union

This introductory part aims to explore the evolution of **public administration** from its roots within the **sovereign state** to its transformation in the context of the **European Union (EU).** The journey begins with the foundational concept of public administration as a tool for managing the affairs of a state, and then traces its development across history. This includes key milestones, such as the shift from **absolutism** to a more **structured** and **rule-based administrative system,** and the emergence of **public administrative law** that governed the relationship between the state and its citizens.

In the first part, you delve into the fundamental question of what public administration is, examining its origins, historical development, and role in modern democratic societies. The chapter discusses the **birth of public administration,** especially in light of the **end of absolutism,** and how this has shaped the **modern understanding of governance** and the legal structures that

guide state administration. We explore the critical **relationship** between public administration and **public administrative law** in ensuring accountability and transparency in governance today.

Later, the focus shifts to **international organisations** and their impact on public administration. From the birth of international organisations, this chapter expands on how these entities – ranging from traditional intergovernmental organisations to **supranational** bodies like the EU – have influenced and shaped **public administration** at the state level. By examining different **types of international organisations** and their structures, the text explains their complex relationship with national governments and public administration. Specifically, it highlights how these organisations **administer their affairs** and how they exert influence over the public administration of their member states.

The introductory study seeks to provide a comprehensive introduction to the **evolution** of **public administration,** not only in the traditional state context but also within the evolving **European framework,** where cooperation, shared legal systems, and collective governance continue to reshape how states administer their public services and interact with their citizens. The overarching goal is to reflect on the past, present, and future of public administration in an increasingly interconnected and globalised world.

1. State and its Public Administration

1.1. Meaning of Public Administration

Public administration is as old as human civilisation itself. The word 'administer' comes from the Latin 'ad' (to) and 'ministrare' (serve/manage), meaning 'to serve' or 'to manage affairs'. Administration, in a broader sense, refers to the organisation and coordination of activities aimed at achieving a specific goal. Public administration, in contrast, refers to the management of **collective societal goals,** which are determined and pursued by the commons under the leadership of an elected or designated authority.

While the terms **administration** and **management** are often used interchangeably, they have distinct meanings. *Administration* involves high-level decision-making, including policy formulation, planning, and setting objectives. It is a decisive function, primarily performed at the top level of governance. *Management,* on the other hand, focuses on the implementation of these decisions, ensuring that plans and

policies are executed effectively at the operational level. In this sense, administration encompasses management.

1.2. Public Administration Through History

The structure and function of public administration have evolved alongside society's changing notions of **common goals, leadership, and governance.** In ancient civilisations like Mesopotamia, Egypt, China, and Rome, rulers relied on bureaucratic systems to manage resources, enforce laws, and maintain order.

Before the emergence of modern public administration, governance under **absolute rulers** – such as the monarchies of France, Russia, and other European states – was characterised by **centralised power, limited legal accountability, and a lack of bureaucratic professionalism.** Monarchs ruled by **divine right,** claiming their authority came directly from God, which meant that laws and policies were often subject to their will rather than a structured legal framework. Monarchs, such as Louis XIV of France ("L'État, c'est moi"), ruled with nearly unlimited authority, with governance largely based on royal decrees rather than codified laws. Bureaucratic structures existed, but they primarily served the ruler's interests rather than the public good. Positions in administration were often granted based on **patronage, inheritance, or noble birth,** rather than merit. Corruption and inefficiency were common, as officials had little oversight and were often more loyal to the ruler than to the law.

Key features of public administration under absolute rulers included:

- Government positions were often granted based on favouritism, loyalty, or noble birth, rather than merit or expertise.
- The monarch's will was the law, and there were few institutional checks to limit their power.
- Monarchs imposed taxes arbitrarily to fund wars, luxurious courts, and personal interests, with little concern for public welfare.
- Administrative decisions were made based on personal relationships rather than systematic governance, leading to widespread inefficiency and corruption.

1.3. Rule of Law and Public Administration: The Birth of Public Administrative Law

A key turning point in public administration was its growing connection to the **rule of law,** which ensures that government actions are based on legal frameworks rather than arbitrary decisions.

This principle guarantees **fairness, transparency, and accountability,** preventing abuses of power and ensuring that laws apply equally to all citizens, including government officials. The philosopher **Montesquieu** played a crucial role in shaping this concept. In his work *The Spirit of the Laws* (1748), he advocated for the **separation of powers** – dividing government into legislative, executive, and judicial branches – to prevent tyranny and ensure checks and balances. His ideas laid the foundation for modern legal systems and influenced the shift towards law-based governance. This period is often called **the Age of Enlightenment.**

The **French Revolution** (1789–1799) marked a turning point in public administration, advocating for **equality, meritocracy, and legal certainty.** It dismantled the feudal system and introduced reforms that emphasised governance based on laws rather than the whims of rulers. One of its most significant legacies was the Napoleonic Code (1804), which provided a structured and standardised legal system that influenced administrative systems across Europe and beyond.

Key changes introduced by the French Revolution included:

- ✓ distinct **executive, legislative, and judicial branches** to prevent the concentration of power (separation of powers).
- ✓ The old system of noble privilege was replaced with a **professional civil service** (merit-based bureaucracy), where public officials were selected based on competence rather than birthright.
- ✓ **uniform laws** (Napoleonic codes) were introduced emphasising the rule of law, equality before the law, and state responsibility in governance.
- ✓ Public institutions were restructured to **serve citizens** more effectively, with greater oversight and transparency in administration.

The principles established during and after the French Revolution continue to influence modern governance and public administration worldwide, particularly through the Spring of Nations, which it inspired across Europe.

In other European countries, similar developments took place throughout the **19th and early 20th centuries.** Germany, influenced by *Otto von Gierke* and *Lorenz von Stein,* developed a structured administrative court system, ensuring judicial oversight of public administration. In the United Kingdom and the United States, the idea of **judicial review** emerged, allowing courts to assess the legality of administrative actions.

Public administrative law continues to shape governance today by:

- ☝ public officials must justify their decisions within a legal framework (accountability);

- individuals can challenge government actions through administrative courts (protecting citizens' rights);
- legal procedures help prevent corruption and ensure fair service delivery (efficiency and transparency).
- it establishes a clear separation between the executive, legislative, and judicial branches to prevent abuses of authority.

Today, public administrative law remains a cornerstone of democratic governance, ensuring that public administration functions legally, efficiently, and in the best interest of society. It continues to adapt to new challenges, including globalisation, digitalisation, and changing societal needs, while maintaining its core purpose – serving the common good under a framework of law and accountability.

Public administration refers to the *implementation of government policies, the management of public programs, and the coordination of state institutions to serve society effectively.* It encompasses various functions, including policy-making, regulation, service delivery, and public resource management.

As states evolved, the need **for a legal framework to** regulate the actions of public administration led to the development of **public administrative law** *– the body of laws governing the relationship between the state and government institutions and individuals.* This legal field ensures that public officials operate within established rules, protecting citizens from abuses of power while maintaining the efficiency of state functions.

Public administrative law, in a broad sense, *encompasses all legal norms governing the organisation, functioning, and regulation of public administration.* It is a fundamental branch of public law and consists of several key components:

- **Organisational or structural law:** This refers to the legal norms that govern the establishment, organisation, and authority of public administration bodies and institutions, defining their structure, roles, and responsibilities.
- **Civil service law:** This area deals with the legal norms related to the recruitment, rights, duties, and obligations of public servants and civil employees working within the public administration system.
- **Material law:** This pertains to the substantive norms that define the objectives and goals of public administration, including the legal provisions that regulate the provision of public services, resource management, and the general welfare of society.
- **Procedural law:** This part of public administrative law governs the procedures through which public administration bodies carry out

their duties and responsibilities, including the rights and obligations of parties involved in the administrative process. It also ensures transparency, accountability, and fairness in administrative actions.

Together, these components make **public administrative law** the largest and most comprehensive segment of **public law,** shaping the framework within which public administration operates to achieve its legal, social, and political objectives.

2. Public Administration and the International Organisations

2.1. Definition and Origins of International Organisations

International organisations are *entities established by agreements between sovereign states or other international actors to pursue common goals and cooperate on specific issues of mutual interest.* These organisations operate across national borders and can have legal personality, enabling them to enter into agreements, conduct activities, and fulfil obligations under international law. In most cases, the participating states do not delegate power to them to act on their behalf or impose obligations on them without their direct consent.

International organisations can vary in scope, structure, and mandate, ranging from intergovernmental organisations to non-governmental organisations and supranational bodies.

International organisations were born primarily due to the need for **cooperation** and **coordination** among states to address issues that transcended national borders, which individual countries could not effectively manage alone. International organisations were born out of the recognition that global problems required coordinated action, and that collective governance could provide a more effective and peaceful approach to managing global challenges.

The birth of international organisations can be traced to the 19th century, when the increasing need for global cooperation and the expansion of international trade, diplomacy, and security led to the formalisation of collective efforts. The congresses and treaties of the period, such as the Treaty of Westphalia (1648), laid the groundwork for future collaboration among states, although international

organisations, as we know them today, began to take shape primarily after World War I and World War II.
Nowadays, there are many. Through their work, international organisations have become key players in shaping public administration at the global level, influencing how states govern, interact with one another, and address challenges that transcend national borders.

2.2. Types of International Organisations and their Connection with States' Public Administration

The relationship between international organisations and public administration is complex, as these organisations influence national administrative systems, shape governance frameworks, and contribute to the regulation and management of public affairs on both a global and regional level and also rely on them in their functioning.

(a) Inter-Governmental Organisations (IGOs)

Inter-governmental organisations (IGOs) are the most common type of international organisations, *created by formal agreements between sovereign states.* These organisations are established to facilitate cooperation between states on matters of common interest, such as security, trade, human rights, or environmental protection. IGOs operate through a framework of **binding treaties and agreements,** which are implemented into the domestic legal system by the states, thus IGOs often impact the public administration systems of Member States.

*The **United Nations (UN)** is a typical and widely known example. It was established in 1945 to promote international peace, security, and cooperation among nations.*

(b) Non-Governmental Organisations (NGOs)

Non-governmental organisations (NGOs) are *typically private, non-profit organisations that operate on a global or regional scale, often focused on humanitarian, environmental, or development issues.* While NGOs are **not created by States,** they play a crucial role in global governance and often collaborate with public administrations to address various public policy challenges. NGOs often collaborate with national and international

governments to implement development projects, provide humanitarian assistance, or enforce environmental standards, requiring cooperation with public administrative agencies. As states are not members to NGOs, the achievements are not binding on them.

Amnesty International focuses on human rights advocacy and ensuring compliance with international human rights standards. Greenpeace is an environmental organisation that campaigns for environmental protection and sustainable practices.

(c) Hybrid Organisations

Hybrid organisations *combine elements of both governmental and non-governmental structures, often involving collaboration between states, private entities, and other actors.* These organisations address complex issues that require multi-stakeholder engagement and cooperation across different sectors. Hybrid organisations engage public administrations from multiple countries, requiring national public administration systems to work together and align with each other on health, environment, and development policies.

***The Global Fund** is a partnership between governments, the private sector, and civil society, focused on combating diseases like HIV/AIDS, tuberculosis, and malaria.*

A specific hybrid organisation type is the group of **international financial institutions.** The are organisations that provide financial assistance and advisory services to governments and private sectors for development projects, economic stabilisation, and poverty reduction. These institutions play a crucial role in managing international financial systems and fostering economic development. These institutions directly influence public administration by shaping national **economic policies, public expenditure management,** and **reforms in public financial management.** They also impose certain conditionalities that require governments to make administrative and policy changes, often in areas like fiscal responsibility, anti-corruption measures, or governance reforms.

***The World Bank** provides loans and technical expertise to developing countries to support infrastructure and economic projects. The **International Monetary Fund (IMF)** provides financial assistance to countries facing economic crises and helps maintain global economic stability.*

(d) Supranational Organisations

Supranational organisations go a step further than traditional IGOs by granting a **higher authority** to the organization itself, often *allowing* it to make binding *decisions that override the national laws of Member States.* These organisations are designed to foster greater integration and cooperation among states, often in areas such as economic governance, trade, or law.

Supranational organizations like the EU require Member States to adjust their public administration systems to align with EU policies and directives, affecting areas like taxation, trade regulation, immigration, and environmental law. Public administrative bodies within Member States must ensure compliance with **supranational regulations.** Policy coordination between national public administrations and supranational bodies helps to ensure uniformity and consistency in law and governance across Member States.

3. European Union as a *Sui Generis* Entity

The European Union is often described as a ***sui generis*** international organisation, meaning that it is a unique entity with characteristics that set it apart from both traditional inter-governmental organisations and supranational bodies. The term *sui generis,* which translates from Latin as "of its kind," reflects the EU's distinct legal and political structure, which blends elements of **international cooperation, supranational governance,** and **intergovernmental collaboration** in a way that no other international organisation does. The EU stands as a powerful example of how regional integration can shape the relationship between sovereign states, public administration, and global governance.

The roots of the European Union trace back to the aftermath of World War II, when European nations sought to prevent future conflicts and promote economic cooperation in the region. The idea of economic integration was first materialised through the creation of the **European Coal and Steel Community (ECSC)** in 1951 and later, the **European Economic Community (EEC)** in 1957 through the Treaty of Rome. These early steps towards regional integration were aimed at pooling economic resources and ensuring peace, but they also laid the foundations for the political and institutional development that would eventually lead to the establishment of the EU in 1992 by the **Maastricht Treaty (1992).** This treaty formally established the EU and its core

principles, such as the single market, the Eurozone, and the free movement of people, **goods, services, and capital.** The **Treaty of Lisbon (2009)** further refined the EU's institutional framework, introducing key reforms aimed at enhancing decision-making and governance. Currently, the **Treaty on the European Union (TEU)** and the **Treaty on the Functioning of the European Union (TFEU)** form the solid basis of the integration.

After WWII, Europe was left shattered, with countries facing economic devastation, political instability, and the threat of future wars. European countries realized that rebuilding their economies and securing lasting peace would require cooperation, not competition. There was a strong desire to avoid the repetition of past conflicts, especially between France and Germany, which had been at the heart of both world wars. Key to this thinking was the idea that countries needed to cooperate economically, politically, and militarily to ensure that nationalism, which had led to war, could be replaced with shared interests. In 1950, French Foreign Minister Robert Schuman proposed a bold idea to place the coal and steel industries of France and West Germany under a common authority, to prevent either country from rearming and waging war. This became known as the Schuman Declaration and led to the creation of the European Coal and Steel Community (ECSC) in 1951.

The ECSC, consisting of six founding countries – France, West Germany, Italy, Belgium, the Netherlands, and Luxembourg – was the first step toward European integration. The goal was to pool economic resources in these crucial sectors, which would bind the countries together and make future wars between them unthinkable. The success of the ECSC prompted further steps toward broader integration. In 1957, the same six countries signed the Treaty of Rome, which created the European Economic Community (EEC). The EEC aimed to create a common market and customs union by removing trade barriers, allowing the free movement of goods, services, capital, and labour. This agreement marked a major step forward in the economic integration of Europe. The EEC was designed not just to foster economic cooperation but also to promote political unity and prevent the economic disparities that could lead to conflicts. Over time, the EEC expanded to include more countries, and its policies extended into areas like agriculture, transport, and competition.

In 1960s–1970s, the EEC continued to grow and became a significant economic bloc. The UK, Ireland, and Denmark joined the EEC in 1973, marking the beginning of a wider European integration process. So, in 1986, the Single European Act was signed, creating a single internal market within the EEC. This agreement further reduced trade barriers and harmonised policies to allow for the free movement of people, goods, services,

and capital. The most significant step toward deeper political integration came with the Maastricht Treaty (1992), which established the European Union (EU). The EU went beyond economic cooperation to include political, social, and monetary integration. Key components included the establishment of a single currency (the euro), a common foreign and security policy, and greater coordination on justice and home affairs. In 2007, by the Lisbon Treaty (in force in 2009), the former pillar structure was unified and aimed to make the EU more democratic, transparent, and capable of responding to challenges both within and beyond its borders. Among others, the Lisbon Treaty expanded the powers of the European Parliament, making it a co-legislator with the Council of the European Union in more policy areas, increasing democratic accountability and introduced the ordinary legislative procedure, giving more power to the European Parliament in the legislative process, and streamlined decision-making through qualified majority voting in the Council for most areas; introduced the position of President of the European Council, a role designed to provide continuity and leadership in EU decision-making, replacing the rotating presidency system, introduced the role of High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) to strengthen the EU's external representation and foreign policy coordination; made the Charter of Fundamental Rights legally binding, reinforcing the EU's commitment to human rights, equality, and social justice, and gave the EU a single legal personality, enabling it to sign international treaties and join international organizations in its own name.

3.1. The *Sui Generis* Nature

(a) Combination of Inter-Governmental and Supranational Elements

The **ever-closer union among the peoples of Europe** has been the main objective of European integration since the Treaties of Rome in 1957. However, the organisation has always balanced between the intergovernmental and the community method of functioning, depending on the policy in question and the competence transferred by the Member States to the common legislator. Unlike traditional inter-governmental organisations (such as the United Nations or the World Trade Organisation), which rely on the voluntary cooperation of States, the EU incorporates both **inter-governmental** and **supranational** elements.

The integration is based on a formal instrument of agreement (*founding treaties*) between the governments of nation states; currently, the number of Member States is 27 in total as of 2025.

1. The Member States of the European Union. Source: Publication Office of the European Union, https://op.europa.eu/en/publication-detail/-/publication/e22f8fc8-9007-11ea-812f-01aa75ed71a1

While EU Member States retain sovereignty in certain areas, they also transfer part of their authority to EU institutions in specific policy domains, such as trade, competition law, and environmental regulation. This **dual nature** enables the EU to function as a hybrid organization that allows for a degree of shared governance while maintaining state sovereignty.

(b) Legal Personality

The EU is a legal person, a unique feature that allows it to enter into agreements and treaties with third countries and international organisations, something that is uncommon for intergovernmental organisations. This legal status grants the EU the capacity to act independently on the international stage and makes it a key player in global affairs, from climate change negotiations to trade agreements.

(c) Own Legal System and the Supremacy of EU Law over Domestic Law

One of the most significant aspects of the EU's **supranational character** is the principle of the **supremacy of EU law.** This means that in cases of conflict between national law and EU law, the latter takes precedence. This ensures uniformity and consistency across the union, allowing the EU to act as a cohesive political and economic entity, even when Member States might have diverging interests. The **European Court of Justice of the European Union (CJEU)** plays a pivotal role in ensuring the interpretation and application of EU law across the Member States.

The foundation of the entire integration, and thus its administration, lies in the famous **Van Gend & Loos** judgment (Case 26-62), which stated that the European Economic Community constitutes a **new legal order** of international law for the benefit of which the **states have limited their sovereign rights,** albeit within limited fields, and the subjects of which comprise not only the Member States but also their nationals. **Independently of the legislation of Member States,** community law not only **imposes obligations on individuals** but is also intended to **confer** upon **them rights** which become part of their legal heritage. these rights arise not only where they are expressly granted by the Treaty but also because of obligations which the treaty imposes in a clearly defined way upon individuals as well as upon the member states and upon the **institutions** of the Community.

Van Gend en Loos was a Dutch transport company that was involved in a dispute with the Dutch customs authorities. The company argued that it had been charged an import duty that was contrary to Article 12 of the Treaty of Rome, the founding treaty of the EEC. Article 12 prohibited customs duties on imports and exports between Member States. The issue at hand was whether the Treaty of Rome could be directly invoked by individuals in national courts, or whether only national governments could rely on it.

The EEC Treaty has direct applicability within the territory of a Member State, and all state organs, including public administrative authorities, are obliged to apply it within their competencies. If nationals of such a state can, based on the article in question, claim individual rights, the courts must protect these rights.

Another significant judgment of the time, **Costa v. ENEL** (Case 6-64), established the **supremacy** of community law over domestic law by emphasizing that by contrast with ordinary international treaties, the EEC Treaty has created

its legal system which, on the entry into force of the treaty, became an integral part of the legal systems of the Member States and which their courts are bound to apply.

In 1962, Mr. Costa, an Italian national, contested the nationalisation of the electricity sector in Italy, which led to the creation of the ENEL (Ente Nazionale per l'Energia Elettrica). Costa argued that the nationalisation violated European Community (EC) law, specifically the Treaty of Rome, which established the EEC. The case was referred to the Italian Court, and the judge raised the question of whether Italian law (specifically the law allowing the nationalisation of the electricity sector) conflicted with EU law, particularly the rules governing competition and the free market. The Court of Justice of the EC expressed that by creating a community of unlimited duration, having its institutions, its personality, its legal capacity and capacity of representation on the international plane and, more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the community, the Member States have limited their sovereign rights and have thus created a body of law which binds both their nationals and themselves. The integration into the laws of each Member State of provisions which derive from the community and more generally the terms and the spirit of the treaty, make it impossible for the states, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on a basis of reciprocity. Such a measure cannot, therefore, be inconsistent with that legal system.

The **law stemming from the Treaty,** an independent source of law, **could not,** because of its special and original nature, **be overridden by domestic legal provisions,** however framed, without being deprived of its character as community law and without the legal basis of the community itself being called into question. The transfer by the States from their domestic legal system to the community legal system of the rights and obligations arising under the treaty carries with it a permanent limitation of their sovereign rights.

(d) Institutional Structure

The EU has a complex institutional framework, consisting of several bodies that work together to create and implement policies. These include the European Commission, which acts as the executive and initiates legislation; the European Parliament, which represents citizens and has legislative powers; and the Council of the European Union, which represents the governments of the Member States. These institutions reflect a balance between democratic

representation, executive power, and state interests, further highlighting the EU's distinctive governance model.

(e) Economic and Monetary Union

One of the most prominent features of the EU is its Economic and Monetary Union (EMU), which includes a shared currency, the **euro (€),** used by 19 of the 27 EU Member States. The EMU reflects the EU's supranational economic integration, enabling Member States to coordinate fiscal policies, achieve economic stability, and facilitate the free movement of goods and services. However, the EU's economic governance also faces challenges, as evidenced by the **Eurozone** debt crisis, which underscored the tension between the need for **centralised decision-making** and the desire to maintain national control over fiscal matters.

(f) Role in Global Governance

The EU's unique nature also extends to its role in **global governance.**

Global governance refers to the system of international cooperation and decision-making processes that address global issues, often transcending national borders. It involves a network of institutions, rules, and actors – including governments, international organizations, non-governmental organizations, multinational corporations, and civil society – working together to manage shared challenges such as climate change, trade, security, human rights, and public health.

Global governance doesn't imply a centralised world government, but rather a framework for managing interdependence and resolving issues through collaboration and coordination across countries. It aims to ensure peace, stability, and sustainable development by addressing global problems through collective action, while balancing the interests of diverse stakeholders.

This concept emphasises the need for multilateralism, the rule of law, and international norms to address problems that no single state can solve alone.

As an economic powerhouse, the EU is one of the world's largest trading blocs, wielding significant influence over international economic policies and regulations. It plays an active role in organisations such as the **World Trade Organisation (WTO)** and the **United Nations.** The EU also advocates for **multilateralism** in addressing global issues like climate change, human rights, and conflict resolution, often presenting a unified voice in international forums.

At the same time, the EU's internal governance model – where Member States cede limited powers to EU institutions while retaining sovereign authority over certain policy areas – has served as a model for other regions seeking to enhance cooperation without fully surrendering sovereignty. This has made the EU an influential example of how integration and cooperation can coexist with state sovereignty in an increasingly interconnected world.

3.2. EU and its Administration: a Multi-Level Administrative Structure

The nature of European administration is **similar** to, yet **different** from, national administrations.

National administrations are typically the formal governmental structures within individual countries that manage state affairs. These administrations are governed by the political system of the country, either parliamentary, presidential, or semi-presidential, and are accountable to national legislatures and citizens. The core responsibilities of national administrations often include enforcing laws, collecting taxes, administering public services, and ensuring national security. These tasks are carried out by various ministries and government departments that operate under the authority of the national executive branch.

In contrast, European administration operates at a supranational level, dealing with the governance and policy enforcement of the European Union. While the EU has **no central government** in the same sense as national governments, it does have a complex institutional structure through which its policies and laws are implemented. The European Commission plays a central role in the EU administration, as it proposes legislation, ensures that EU laws are applied, and manages the daily operations of the Union. The Council of the European Union and the European Parliament, alongside the Commission, are involved in the legislative and decision-making processes, but they are distinct from the national administrative structures in terms of their composition and functions.

While national administrations are generally directly accountable to citizens, the European administration operates through representatives who are **indirectly accountable to citizens** of the EU Member States. For example, members of the European Parliament are directly elected, whereas members of the European Commission are suggested by national governments and then appointed by the institutions of the integration throughout a complex appointment system. This distinction reflects the broader principle of

subsidiarity that underpins EU governance, which states that decisions should be made as close as possible to the citizen, while at the same time respecting the role of European institutions in areas where collective action is necessary.

Furthermore, national administrations typically operate within the confines of a single country's legal framework, whereas the European administration must **navigate** the **complex legal systems of multiple Member States.** The need for harmonisation of laws and policies across diverse legal traditions and national interests often makes European administration more complicated and requires careful coordination between EU institutions and national governments.

The European Union operates within a **complex administrative framework** that involves both direct and cooperative administrative structures. These administrative levels reflect the interplay between EU institutions, national administrations, and joint mechanisms designed for collaboration. This essay explores the administration and administrative law of the direct level, both at the EU institutional level and within Member States, as well as the administration and administrative law governing cooperation beyond national jurisdiction.

(a) Administration & Administrative Law of the Direct Level – EU Institutions and Bodies

At the EU level, administration and administrative law of the direct level pertain to the **institutions, organs, and bodies established under EU law.** These include key institutions such as the European Commission, the European Parliament, the Council of the European Union, the CJEU, and various agencies. The European Commission, in particular, plays a central role in implementing EU policies, managing the EU budget, and ensuring compliance with EU law.

The legal framework governing EU institutions is defined by the **Treaties of the European Union,** the **Charter of Fundamental Rights,** and **secondary legislation** such as **regulations, directives, and decisions.**

(b) Administration & Administrative Law of the Direct Level – Member States' Own Administrative Structures

While the EU has its administration, a significant portion of EU law is **implemented at the national level** by the administrative structures of the **Member States.** This means that while the EU sets the legal framework through directives and regulations, national authorities – such as ministries, agencies, and courts – are responsible for execution.

Each Member State has its **administrative system** rooted in its constitutional traditions and legal culture. Despite structure variations, all Member States must ensure **compliance with EU law,** apply **EU regulations directly,** and transpose **EU directives into national legislation.**

(c) Administration & Administrative Law for Cooperation

Beyond direct administration at the EU and national levels, there exist **ad hoc and permanent cooperation mechanisms** in spheres that go beyond national jurisdiction. This cooperation occurs through **vertical** (EU to Member States) and **horizontal** (between Member States) relationships.

⇳ **Vertical Cooperation:** The EU may delegate implementation tasks to national authorities while retaining oversight. However, in general, the competences and influence of the direct level on the indirect level vary depending on the policy area. The **degree of Europeanisation** in a particular field largely depends on the EU's legislative competences in that policy domain.

> *For example, in competition law enforcement, national competition authorities apply EU competition rules at the indirect level but under the supervision of the European Commission. When a case reaches a certain level of significance or cross-border impact, the Commission takes over and proceeds with direct enforcement, ensuring uniform application of competition law across the EU. This illustrates a clear division of competences between the direct and indirect levels. However, in most policy areas, the direct level does not have such enforcement powers and instead focuses on coordination tasks and policymaking, while implementation remains largely in the hands of Member States.*

⇔ **Horizontal Cooperation:** Member States' authorities also cooperate directly in specific policy areas, mostly sharing information on cases for the effective execution of tasks. This cooperation can be facilitated through **agencies, joint committees, or intergovernmental agreements.**

> *Horizontal cooperation among the competent authorities of Member States is often facilitated by structural cooperation mechanisms that enhance information sharing and communication. Additionally, several databases have been established to store crucial data relevant to task performance. For example, the Schengen Information System (SIS) enables Member States to exchange alerts on missing persons, stolen property, or individuals involved in criminal activities, ensuring more effective cross-border law enforcement and security cooperation.*

The EU's administrative framework is a **multi-layered system** balancing the direct administration of EU institutions, the national implementation of EU law, and cooperative mechanisms that transcend national jurisdiction. The evolution of EU administrative law reflects the increasing complexity of governance in a supranational legal order, ensuring efficient policy implementation, legal clarity, and intergovernmental collaboration.

3.3. Concept of the European Administrative Space (EAS)

EAS is based on the idea that, despite differences in national administrative traditions, public administration systems should align through shared values and best practices. This process bridges the gap between Eastern and Western Europe, ensuring that citizens across the continent receive equal-quality public services and have opportunities to participate in policymaking at all levels of governance.

The **European Administrative Space** (EAS) is a *conceptual and practical framework that represents the harmonisation and convergence of public administration systems across European countries, particularly within the European Union.* It is based on common governance principles, legal standards, and administrative practices that aim to ensure efficiency, transparency, accountability, and the rule of law in public administration, meaning that all administrative actions must be legal, transparent, and subject to judicial review. It is supported by EU treaties, legal instruments, judicial rulings, and cooperation mechanisms, which collectively drive administrative modernisation and best practice sharing among Member States.

Through harmonisation, cooperation, and legal integration, the EAS contributes to a more **effective and citizen-oriented** public administration, reinforcing the principles of good governance in a multi-level European system. The **EU is founded on the values of** respect for **human dignity, freedom, democracy, equality, the rule of law, and respect for human rights,** including the rights of persons belonging to minorities. In carrying out their missions, the institutions, bodies, offices, and agencies of the Union shall be supported by an **open, efficient, and independent European administration.**

The inclusion of these lines in the Treaties has been the result of a long and evolving process.

3.4. Sources of European Administration

European administration is shaped by a **complex legal framework** that combines various sources of law at multiple levels of governance. While the European Union primarily focuses on setting substantive legal norms and policy objectives rather than procedural rules, its influence on administrative law and practices within Member States is undeniable. Even though the **EU lacks direct competence to regulate administrative law comprehensively,** the need for a harmonised application of EU law results in significant indirect effects on domestic administrative structures and procedures.

The legal sources of European administration function across different levels of hierarchy, collectively shaping both EU-level governance and national administrative structures.

The Treaties (TFEU and TEU) determine the scope and functioning of the integration as a whole, and then,

- **at the EU level (direct level):** The Commission, Council, and Parliament set objectives and enact binding legal instruments that national administrations must implement.
- **at the national level (indirect level):** Member States must adapt their administrative law and procedures to ensure effective enforcement of EU law. Subnational entities frequently handle the direct execution of EU policies, further embedding EU administrative principles within domestic governance structures.

Despite its lack of competence in regulating administrative procedures, EU law **establishes** administrative law principles for its institutions and bodies **at the direct level** and **exerts an indirect harmonising effect on domestic administrative law** in several ways.

- The CJEU has developed **general principles** that national authorities must respect when implementing EU law. The CJEU also plays a significant role in **interpreting** primary and secondary legislation to determine administrative obligations, clarifying procedural requirements for Member States, and ensuring uniform application of EU law.
- The **Charter of Fundamental Rights of the European Union** plays a crucial role in shaping public administration within the EU by ensuring that fundamental rights and principles guide administrative actions at both the EU and national levels when implementing EU law.
- While procedural autonomy is maintained, **sector-specific EU regulations** often establish procedural obligations in areas like competition law, environmental law, and public procurement.

- EU law promotes administrative **cooperation mechanisms,** such as the European Administrative Network and mutual recognition principles, indirectly influencing domestic administrative frameworks.

4. The Basic Principles of European Administration

The direct level of EU administration plays a crucial role in ensuring the shaping and elaboration of European policies and legislation. However, unlike traditional national administrations, the EU does **not** function through a rigid **hierarchical structure.** Instead, it operates within a multilevel governance system, where the direct level interacts with national administrations in a system of **coordination** and **cooperation** rather than direct control.

One of the defining features of EU administration is the **large variety of organisational and procedural rules** that govern its functioning: the functioning of the institutions and organs at the direct level and influencing the indirect administration.

These rules are designed to accommodate the diverse legal and administrative traditions of the Member States while ensuring that EU policies are effectively implemented. Also, the importance of cooperation among EU institutions, stating that *the European Parliament, the Council, and the Commission shall consult each other and, by common agreement, make arrangements for their cooperation,* is of great significance. This highlights the necessity for collaboration rather than a strict command-and-control model.

Another significant characteristic of the EU administration is the **lack of an organisational hierarchy** between the direct and indirect levels. Unlike national governments, where central authorities oversee lower administrative bodies, the EU relies on coordination and cooperation between its institutions and the Member States' administrations. This ensures that policies are implemented efficiently while respecting national sovereignty and administrative autonomy.

Moreover, the EU's direct authority is relatively **rare in individual cases.** In most situations, Member States serve as the primary executors of EU law, ensuring that regulations and directives are enforced at the national level. This means that while the EU has the power to adopt legally binding rules, their application and enforcement largely depend on national authorities. Direct administrative power is exercised in limited areas, such as competition policy, financial supervision, and external trade negotiations, where EU institutions directly oversee compliance and enforcement.

This structure of EU administration ensures a **balance between supranational governance and national autonomy,** allowing the EU to function effectively without undermining the sovereignty of its Member States.

Now, the focus will shift to the basic principles that aim keep this balance, examining how the EU's administrative system operates across different levels of governance and how national and supranational administrations interact to shape public policy and law enforcement across the EU.

4.1. The SIGMA program and the pillars of principles

The **S**upport for **I**mprovement in **G**overnance and **M**anagement is a joint initiative of the OECD and the European Union since 1992 to promote stability, security, prosperity, and democracy by advancing policies that enhance the economic and social well-being of citizens. SIGMA supports EU enlargement and neighbourhood policies, aiming to unify Member States through political and socio-economic reforms.

The SIGMA Program was the first to describe and analyse the role of public administration in the European integration process, as well as the relationship between the integration and its Member States in this context. In 1999, SIGMA consolidated its concepts and issued the **European Principles for Public Administration,** which clarified the role of public administration in ensuring the effective functioning of European integration. These principles outlined European requirements for Member States while still recognising public administration as a domestic issue.

> *Traditionally, public administration has been considered a domestic affair for Member States. However, national public administrations are responsible for implementing European legislation in a manner that enables citizens to fully exercise the rights granted to them by the EU Treaties, regardless of the Member State in which they reside. This alone justifies the EU's interest in ensuring that each national administration maintains comparable quality and professionalism, thereby strengthening the administrative capacities of all Member States. The requirements of public administration were formally put on the agenda only in the 1990s when former post-Soviet states, undergoing democratic transition, sought to join Western integration. To prevent any regression within the Community, the political leaders of the Member States adopted key public administration requirements at the European Council summit in Copenhagen in 1993, later reinforced by the*

Madrid European Council in 1995. The Copenhagen criteria included the ability to assume the obligations of membership, notably the capacity to effectively implement EU rules, standards, and policies. Central and Eastern European countries applying for EU membership were required to reform their public administrations to meet these accession criteria. To assist candidate states in navigating these often-ambiguous requirements, the SIGMA (Support for Improvement in Governance and Management in Central and Eastern European Countries) program was launched as a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the European Commission.

Furthermore, Community legislation significantly impacts the economic and social conditions of Member States, influencing their economic competitiveness. Since national public administrations and judiciaries guarantee the implementation of EU law, Member States have increasingly recognised the importance of effective public governance in other Member States.

As a result, the basic principles of the functioning of the integration are settled as follows.

- EU institutions **cannot replace** national institutions but must **cooperate** with them.
- **National administrations** are responsible for the implementation and **execution** of EU decisions.
- National administrations must be **reliable, transparent, and operate democratically.**

According to the SIGMA principles, the public administration, to execute the **acquis Communautaire,** must adhere to the following fundamental principles.

The comprehensive body of legal and non-legal norms and values, issued within the Community framework, was termed the acquis communautaire. Since the Lisbon Treaty came into force, eliminating the European Community, this has been referred to as the acquis of the EU, or simply 'acquis'.

- ✓ The **rule of law** shall ensure legal certainty and predictability in administrative actions and decisions, upholding the principle of legality, and safeguarding individuals' legitimate expectations. Administrative bodies must act strictly within their legal authorisation (principle of competence) and, when authorised, must act accordingly (principle of ex officio investigation).
- ✓ The **openness and transparency** shall enable external scrutiny of administrative processes and ensure decisions align with pre-established

rules. The principle of openness ensures accessibility to citizens, while transparency facilitates oversight and accountability.

- ✓ Public administration means it must be **accountable** to administrative, legislative, and judicial authorities to ensure compliance with the rule of law. Each authority is responsible for its actions and omissions before other institutions, courts, or legislative bodies.
- ✓ By following the principle of **efficiency and effectiveness,** public resources must be used efficiently, and administrative actions must effectively achieve policy goals. Effectiveness refers to an optimal balance between resource expenditure and results achieved, making it an essential economic consideration.

A key **shortcoming of the SIGMA** principles is their lack of formal incorporation into legally binding instruments or treaties. While they serve as enforceable guidelines for candidate states, requiring strict compliance, they do not impose obligations on existing Member States.

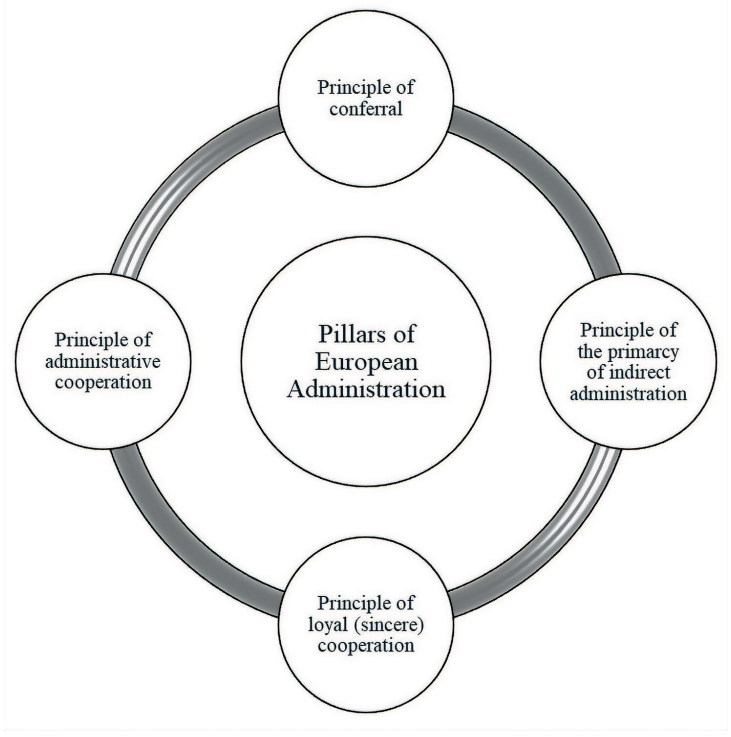
The development of European administration has been shaped significantly by the EU treaties and institutional reforms. The Maastricht Treaty established the European Union with a three-pillar structure, distinguishing between supranational and intergovernmental policies. Although public administration remained primarily under national jurisdiction, the implementation of EU law (acquis) required effective administrative structures in Member States. A key milestone in administration development was the European Commission's 1995 White Paper, which outlined the need for administrative alignment between Central and Eastern European Countries (CEECs) and the EU for smoother integration into the internal market. It emphasized the necessity of mutual transparency, information exchange, and coordination between national ministries and the European Commission. This led to the establishment of permanent administrative channels, strengthening the role of national administrations in EU governance.

The Treaty of Amsterdam reinforced these developments by prioritizing the free movement of persons and creating a unified area of freedom, security, and justice, further highlighting the need for an efficient administrative framework and access to justice. On the other hand, the Treaties did not incorporate any requirements for public administration until the Lisbon Treaty came into force in 2009. While it did not create a unified European administrative system, it formally recognized the importance of good administration as a fundamental right (Article 41 Charter of Fundamental Rights of the EU), acknowledged that EU institutions, bodies, and agencies must conduct their work based on an open, efficient, and independent

European administration (Article 298 TFEU), and established legislative competence for administrative cooperation (Article 197 TFEU).

Due to the **absence of specific rules related to public administration,** the **general principles** of law serve as foundational guidelines, providing broad and abstract frameworks that ensure consistency, fairness, and legal certainty. These principles function as essential regulatory mechanisms, especially when treaty provisions or customary international law do not offer explicit rules.

General principles of law are fundamental legal concepts and norms that are universally recognised across different legal systems. These principles provide a foundation for the interpretation and application of law, ensuring consistency, fairness, and justice. They are often unwritten and can fill gaps when there are no specific legal rules or provisions available. Examples include principles like good faith, equality before the law, the right to a fair trial, and non-retroactivity of laws. They reflect shared values across various cultures and legal traditions.



4.2. Principle of Conferral

The European Union operates under the **principle of conferral,** meaning that it can only *act within the limits of the competences conferred upon it by the **EU Member States** through the Treaties.*

Competences not explicitly granted to the EU remain within the jurisdiction of Member States. The principle shapes not only the legislative authority of the EU but also the framework within which **public administration** at both the EU and national levels operates. As administrative law does not fall under exclusive EU competences, its implementation and execution remain largely a responsibility of national governments. However, the interaction between national administrations and EU institutions is essential to ensure the uniform application of EU law.

When the EU holds **exclusive competence** (Article 3 TFEU), it has the sole authority to legislate and adopt binding acts. Member States may act only if authorised by the EU. This applies to areas such as the customs union, competition rules essential for the internal market, monetary policy for eurozone countries, conservation of marine biological resources under the common fisheries policy, common commercial policy, and the conclusion of international agreements under specific conditions.

In areas of **shared competence** (Article 4 TFEU), both the EU and Member States may legislate and adopt legally binding acts. However, Member States can exercise their authority only when the EU has not acted or has chosen not to act. This principle applies to domains such as the internal market, social policy (as defined in the Treaty), regional cohesion, agriculture and fisheries (excluding marine conservation), environmental protection, consumer protection, transport, trans-European networks, energy, security and justice, public health safety concerns, research and technological development, and humanitarian aid.

In certain policy areas, the EU's role is limited to **supporting, coordinating, or complementing** Member State actions without enforcing harmonisation of laws (Article 6 TFEU). This applies to public health, industry, culture, tourism, education and vocational training, youth and sports, civil protection, and administrative cooperation.

Additionally, the EU may take measures to facilitate the coordination of Member States' economic, social, and employment policies. The EU's common foreign and security policy operates under a distinct institutional framework, with decision-making primarily vested in the European Council and the Council. Legislative activities in this area are limited, and representation is undertaken

by the President of the European Council and the High Representative of the Union for Foreign and Security Policy.

The EU's public administration extends to external relations through its ability to enter into international agreements, as explicitly provided by the Treaties. The EU may conclude agreements in policy areas such as the common foreign and security policy, common commercial policy, association agreements, international organisation relations, research and technological development, environmental policy, development cooperation, economic and financial cooperation with third countries, humanitarian aid, and monetary policy. Where the EU holds exclusive competence, it alone may conclude international agreements. In all other cases, its competence is concurrent with that of Member States.

Public administration within EU Member States is also guided by **the principles of subsidiarity and proportionality** (Article 5 TEU), which ensure that decisions are made at the most appropriate level of governance.

In policy areas where the EU does not hold exclusive competence, it may act only if the objectives of the proposed action cannot be sufficiently achieved by Member States alone but can be better addressed at the EU level (subsidiarity). Any action taken by the EU must be limited to what is necessary to achieve the objectives of the Treaties, preventing overreach and ensuring that interventions do not exceed what is required (proportionality).

These principles are particularly relevant in administrative law, as the implementation and execution of EU legislation often fall within the competencies of Member States. Thus, public administration operates within a framework that balances national sovereignty with the effectiveness of EU governance, ensuring compliance with the Treaties while respecting the autonomy of Member States.

4.3. Principle of Primacy of Indirect Administration

The governance structure of the European Union is based on a complex interaction between the Union institutions and Member States. One of the key principles governing this relationship is the **principle of the primacy of indirect administration,** as enshrined in Article 291 of the TFEU. This principle establishes the primary role of Member States in implementing legally binding Union acts while allowing the EU institutions, particularly

the European Commission and the Council, to exercise implementing powers under specific conditions.

Article 291 TFEU provides the legal foundation for the principle of indirect administration. It establishes the following key points: *Member States are **primarily responsible** for adopting all necessary national measures to implement legally binding Union acts.* This underscores the decentralised nature of EU governance, where national administrations play a central role in enforcing EU law. However, in cases where uniform application is necessary, the Commission and, in some cases, the Council, are granted implementing powers to maintain legal coherence. While this principle upholds the decentralisation of governance and respects national sovereignty, it also requires effective oversight mechanisms to address potential inconsistencies and ensure the smooth functioning of the EU legal order.

In cases where **uniform implementation** is required across Member States, implementing powers may be conferred on the **European Commission** or, in duly justified circumstances, on the **Council.** This ensures coherence and consistency in areas where divergent national measures could undermine the effectiveness of EU law. The European Parliament and the Council establish rules and general principles for **monitoring the Commission's exercise** of implementing powers. These rules are determined through the ordinary legislative procedure, ensuring democratic oversight. The implementing acts should explicitly bear the term "implementing" in their titles, ensuring transparency and a clear distinction from other legislative acts.

4.4. Principle of Sincere (Loyal) Cooperation

In the absence of a structural subordination of Member States to the EU, the principle of sincere (or loyal) cooperation, as set out in Article 4(3) TEU (**loyalty clause**), *requires both the Union and its Member States to assist each other in fulfilling the tasks derived from the Treaties, with **full mutual respect.*** Member States are obligated to take all necessary measures – whether general or specific – to ensure the implementation of obligations arising from the Treaties or the actions of the Union's institutions.

It states as follows:

1. In accordance with Article 5, competences not conferred upon the Union in the Treaties remain with the Member States.
2. The Union shall respect the **equality of Member States** before the Treaties as well as their **national identities,** inherent in their **fundamental structures, political** and **constitutional,** inclusive of regional and

local self-government. It shall respect 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.

3. 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.
   The 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.

As a **core general principle** of EU law (Pupino case C-105/03), the principle of sincere cooperation plays a crucial role in ensuring cohesion and compliance within the European administrative framework. Its impact extends further (Kühne case C-453/00) and includes the following:

- Member States must refrain from any actions that could undermine the achievement of the Union's objectives.
- National administrations are duty-bound to reopen cases when necessary to align them with EU law.
- Administrative authorities are required to act beyond their national competences and set aside conflicting national legislation to ensure the effective application of EU law.

This principle underscores the fundamental role of loyalty and cooperation between Member States and the Union in achieving the EU's objectives and maintaining legal consistency across the Union's various legal and administrative systems.

4.5. Principle of Administrative Cooperation

The effective implementation of EU law by Member States is crucial for the smooth functioning of the European Union. The principle of administrative cooperation, enshrined in Article 197 of TFEU, underscores the shared responsibility of Member States and EU institutions in ensuring the proper application of Union law. This principle fosters collaboration while respecting national sovereignty and administrative autonomy.

Article 197 TFEU establishes that the **effective implementation of EU law is a matter of common interest.** This provision recognises that disparities in administrative capacities among Member States can affect the uniform application of EU law, necessitating a cooperative approach to strengthen national implementation mechanisms.

The TFEU allows the **EU to support Member States** in enhancing their administrative capacity to apply Union law. This assistance may include:

- **Facilitating information exchange** among national administrations.
- **Providing opportunities for civil servant exchanges** to promote best practices.
- **Supporting training programs** to improve expertise in implementing EU policies.

However, participation in such support mechanisms remains voluntary, ensuring that no Member State is obligated to accept assistance against its will. Furthermore, while the European Parliament and the Council may adopt measures to aid administrative cooperation through regulations, such actions cannot lead to the **harmonisation of national laws or regulations.**

Summary of Key Points of Block No. 1

The study of European administrative law begins with an understanding of **public administration within the context of the nation-state** and evolves toward the complex, multi-level administrative structure of the European Union. The first chapter thus provides a foundational overview of this transformation, tracing the historical development of public administration, its interaction with international organisations, and the emergence of a uniquely European administrative model grounded in shared principles and legal norms.

At the national level, public administration is traditionally defined as the system through which a state implements laws and delivers public services to its citizens. This function has evolved in parallel with the development of modern states and legal systems, closely intertwined with the rule of law. Over time, this relationship gave rise to public administrative law, which serves to ensure that public authorities act within legal boundaries and uphold democratic accountability.

The scope of public administration **extends beyond the State through its interaction with international organisations.** These organisations – ranging from inter-governmental and non-governmental organisations to hybrid and supranational entities – have increasingly influenced national administrative systems. Their operations highlight the **growing complexity and interconnectedness** of governance in a **globalised world.** In particular, supranational organisations like the European Union play a central role in reshaping public administration by integrating national legal and administrative systems into broader frameworks.

The **European Union** stands out as a ***sui generis* entity,** combining **both intergovernmental and supranational** features. It possesses its legal personality, a distinct legal order, and a system of laws that takes precedence over domestic legislation. The EU's institutional architecture, its economic and monetary union, and its expanding role in global governance underscore its unique position in the international legal and administrative landscape. Crucially, the EU functions through a **multi-level administrative structure** that involves not only EU institutions but also the national administrations of its Member States. This structure allows for the implementation of EU law both directly – by EU bodies – and indirectly – by national authorities. Administrative cooperation between these levels is essential to ensuring consistency and effectiveness in the execution of EU policies.

A central concept emerging from this arrangement is the **European Administrative Space.** This term refers to the convergence of administrative practices, principles, and standards across EU Member States, guided by a common commitment to good governance, transparency, accountability, and the rule of law. The administration of the European Union is also governed by **several foundational legal principles.** These include the principle of conferral, which limits EU action to competences granted by the Member States; the primacy of indirect administration, which underscores the central role of national authorities in applying EU law; and the principles of sincere and administrative cooperation, which emphasize the duty of mutual support and coordination between national and European levels of governance.

You shall see the **shift** from traditional state-centred public administration to a European model that **blends national and supranational elements.** The development of European administrative law reflects a broader transformation in governance, shaped by legal integration, institutional cooperation, and shared values. At its core lies a commitment to the rule of law and effective public service, ensuring that administration at all levels remains transparent, accountable, and responsive to the needs of the people it serves.

II. European Civil Service Law and its Impact on the Direct Level of Administration

The organisational structure of the European Union's administration is diverse and dynamic, reflecting the complex nature of governance in a union of 27 Member States. Central to the functioning of this administration is the European Commission, which coordinates the implementation of EU laws and policies. Supporting the Commission are various committees, agencies, authorities, and networks, each fulfilling specialised roles that ensure the EU's policies are executed efficiently and effectively. Through these bodies, the EU can balance the interests of its Member States with the overarching goals of integration, cooperation, and regulation. The EU's administrative structure, while complex, is designed to address the unique challenges of governing a multi-layered, multi-national political system.

The European Union's civil service law is central to shaping the administration of the EU, ensuring it is efficient, transparent, and accountable. Its organic development, particularly after the **Merger Treaty of 1965,** led to the creation of a unified administrative system for the three original Communities, which later evolved into the European Union. This legal framework governs

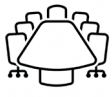
the relationships between the EU institutions and their officials, laying the groundwork for a cohesive European administration.

Key legal principles emerging from EU case law, such as continuity of public service, proportionality, respect for acquired rights, the right to a fair hearing, and legal certainty, provide the foundation for the EU's administrative structure. These principles, inspired by national public service laws, ensure that the administration operates in a just, fair, and transparent manner. The CJEU has been instrumental in the judicial development of the right to good administration, as enshrined in Article 41 of the EU Charter of Fundamental Rights. This right guarantees that individuals' affairs are handled impartially, fairly, and on time, reinforcing accountability in EU institutions.

1. Direct Level of European Administration and its Nature

The European Union operates through a complex, multi-level administrative system that combines EU-level governance with national and regional administrations. At the **direct level,** European administration consists of institutions and bodies that execute EU law, implement policies, and oversee regulatory functions. The **European Commission** and various **EU agencies** play a central role in ensuring the enforcement and uniform application of EU law across Member States. Unlike national administrations, which operate within a **single sovereign legal system,** the EU's direct administration functions **within a supranational framework.**

1.1. Role and Structure of the European Commission



The European Commission is the cornerstone of EU administration and one of the most powerful institutions in the EU framework. It is a group of commissioners who serve as the *executive institution of the Union, tasked with initiating, proposing, and enforcing European laws and policies.* The Commission is composed of *one commissioner from each Member State,* including the President of the Commission, who is elected by the European Parliament. The President of the Commission plays a significant role in shaping the Commission's priorities and overall direction, ensuring that the EU's policies are pursued in line with the broader goals of the Union.

The European Commission has several key functions: it **proposes legislation, monitors the implementation of EU law,** and acts as the **guardian of the EU treaties.** As part of its legislative role, the Commission drafts proposals for new laws and submits them to the European Parliament and the Council of the EU for discussion and approval. Once laws are adopted, the Commission oversees their implementation by Member States and ensures compliance, sometimes taking legal action when necessary.

Structurally, the Commission is divided into **Directorates-General** (DGs) and services that specialise in specific policy areas, such as trade, environment, or competition. These specialised units are responsible for preparing and executing the policies proposed by the Commission. The composition and organisation of the Commission reflect the need for expertise and coordination across diverse policy areas. As a result, the European Commission operates both as a legislative body and as a manager of EU policies and programs, with a central role in decision-making processes at the EU level.

The **European Commission** is the primary executive body of the EU, responsible for **policy execution, law enforcement, and administration.** Its role at the direct level includes the following tasks.

- ☞ The Commission **enforces EU law, manages the budget,** and **implements policies.**
- ☞ It **monitors compliance with EU law** and can initiate infringement proceedings against Member States before the CJEU.
- ☞ While not a legislative body, the Commission **proposes EU legislation** and ensures its proper application once adopted.
- ☞ In some cases, the Commission **directly administers EU programs,** such as competition law enforcement and the allocation of EU funds.

The Commission also interacts with national administrations, ensuring the **harmonised application of EU law** through mechanisms like the **EU Pilot system and infringement proceedings.**

The EU also relies on a large number of agencies and a few authorities in its decision-making process and the execution of EU law. While both are specialised bodies designed to carry out specific tasks, they are distinct in several ways.

1.2. Role of EU Agencies in Direct Administration

An EU agency *is a body established by the EU with a specific mandate to perform technical, scientific, or regulatory tasks.* These tasks typically require specialised expertise that supports the work of EU institutions, such as the European Commission, the European

Parliament, or the Council. Agencies are typically responsible for gathering and analysing data, providing advice, and implementing or managing specific policies.

Agencies have **limited decision-making powers** and often act in an advisory capacity or for technical implementation, rather than having the power to make binding decisions on legal matters or enforce regulations.

The **structure** of EU agencies **varies depending on their function and responsibilities.** However, they generally share common characteristics that define their autonomy, administrative independence, and accountability mechanisms.

Most agencies are governed by a **Management Board,** which consists of representatives from EU Member States. This board provides overall strategic direction, ensures accountability, and supervises the agency's activities. The agency's **Executive Director** is typically responsible for daily operations, supported by staff members who specialise in specific areas of work.

Agencies are created through EU **secondary legislation,** such as regulations or decisions, which set out their tasks, scope, and governance structure. Their **powers and functions are limited** to what is specifically granted to them by their founding legal instruments (e.g., the EU regulation establishing the agency). While agencies may be independent, they still **operate under the oversight** of the European Commission or other EU institutions. However, they are generally tasked with providing independent expertise or recommendations within their respective fields. The Commission oversees and coordinates the work of EU agencies but does not always have direct control over their decisions. While agencies operate **independently,** they remain accountable to the Commission, the European Parliament, and the Council. This relationship ensures checks and balances while maintaining efficiency and specialisation in administration.

The **delegation of powers** from the EU institutions (the European Parliament, European Commission, or the Council of the EU) to these agencies allows for more focused and specialised decision-making. Agencies are often granted **delegated** or **implementing powers** by the European Commission through delegated acts or implementing acts. These powers allow agencies to make decisions or enforce regulations without requiring full legislative intervention from the EU's primary institutions. However, EU agencies serve as **expert bodies assisting the EU institutions,** but they **must remain within legally defined limits** and cannot replace legislative or executive decision-making. Agencies may do

- ✓ **technical and scientific assessments** by providing expertise, research, and evaluations (e.g., EMA assessing medicines, ECHA evaluating chemicals);

- ✓ **implementation of EU rules** by enforcing existing laws and regulations within a clearly defined framework (Frontex assisting in border management);
- ✓ **monitoring and data collection** by gathering and analysing data to support EU institutions (Eurostat, European Environment Agency);
- ✓ **binding decisions in well-defined** cases by taking regulatory actions under strict conditions (as confirmed in the ESMA Short-Selling Case).

*The **Meroni Doctrine** originates from the Meroni v High Authority case (Case 9/56) decided by the European Court of Justice (ECJ) in 1958. This case established key legal principles regarding the delegation of powers by EU institutions, which are highly relevant to the functioning of EU agencies. The case involved the delegation of powers by the High Authority of the European Coal and Steel Community to two private bodies regarding price stabilization measures. The Court ruled that discretionary powers cannot be delegated to bodies that are not subject to strict control by the delegating institution. The Court distinguished between (a) mere technical or executive powers, which can be delegated, and (b) discretionary powers involving policy choices, which cannot be delegated without proper oversight.*

***The ESMA Short-Selling case** (C-270/12) later clarified that some limited discretionary powers may be delegated to agencies if the delegation is clearly defined, strictly regulated, and subject to review. The case concerned Regulation (EU) No 236/2012, which granted the European Securities and Markets Authority (ESMA) the power to adopt binding emergency measures on short selling in financial markets under certain conditions. The UK challenged the regulation, arguing that it violated the Meroni Doctrine by granting ESMA too much discretionary power. The Court upheld the delegation, ruling that the powers given to ESMA were precisely defined and limited and ESMA's actions were based on objective criteria and subject to judicial review. The delegation did not involve broad policy choices, thus not breaching the Meroni Doctrine. The ESMA case clarified and slightly relaxed the strict Meroni principles, allowing agencies some discretionary powers if: (a) the powers are clearly defined, (b) the agency's actions are subject to strict procedural safeguards and oversight, and (c) the measures are based on technical expertise rather than broad political or economic discretion.*

Agencies in the EU generally operate within the confines of a legal framework that sets out their responsibilities and the limits of their powers. As there are **no uniform normative rules** for their set-up and functioning, and they have varied across different contexts, it is difficult to categorise them.

Feature	Executive Agencies	Operational Agencies	Regulatory Agencies	Advisory Agencies
Purpose	Implement EU programs, manage funding	Carry out practical tasks, provide services	Regulate and enforce EU rules in specific sectors	Provide expertise, research, and recommendations
Decision-making power	No independent decision-making	No independent decision-making	Can make binding decisions and issue sanctions	No binding decisions, only advisory opinions
Duration	Temporary (linked to specific EU programs)	Permanent	Permanent	Permanent
Independence	Supervised directly by the Commission	Supervised by the Commission/ Member States	More autonomous but accountable to EU law	Independent but works with EU institutions
Staff	There are no permanent officials; contract employees	Permanent employees and contract agents	Permanent employees, legal and professional experts	Consultants, external experts

1. Comparative chart of agency types

Agencies are **not intended to replace national administrations** but to assist and complement their work by providing expert knowledge, technical assistance, and implementation support in various fields.

To ensure accountability and transparency, many agencies are required to have **internal review procedures** in place. These mechanisms are designed to ensure that decisions made by agencies can be scrutinised and reviewed for compliance with EU law, fairness, and due process. They allow individuals or organisations affected by a decision *to request a review* of that decision within the agency itself. This process can help to resolve disputes and address errors without the need for external intervention. Many agencies, especially those involved in **regulatory** activities, have **Boards of Appeal** that are tasked with reviewing decisions made by the agency. These boards operate as quasi-judicial

bodies and offer an independent appeal mechanism for individuals, companies, or organisations that disagree with the agency's decision. There are no agencies or authorities authorised to adopt binding individual acts without a board of appeal also being instituted to examine appeals against their decisions.

The European Medicines Agency (EMA) has a Board of Appeal that handles disputes concerning marketing authorisations for pharmaceutical products. The European Union Intellectual Property Office (EUIPO) has an Appeals Board that reviews decisions related to trademarks and designs.

In addition to internal review and the Boards of Appeal, decisions made by EU agencies are subject to **judicial review** by the **CJEU.** This provides an additional layer of oversight to ensure that agencies do not overstep their authority or act contrary to EU law. Affected parties can challenge decisions made by EU agencies in the CJEU. This may occur when a decision is considered illegal, exceeds the agency's powers, or violates fundamental rights. Judicial review acts as a safeguard against the misuse of power and guarantees that agencies remain accountable to the EU's rule of law. In practice, judicial review by the CJEU reinforces the **separation of powers** between the EU institutions and upholds the **legality** of the decisions taken by decentralized agencies.

(a) Executive Agencies

Executive agencies are *temporary bodies set up by the European Commission to exercise* decision-making powers and operate under the direct supervision of the Commission. Their role is primarily administrative and financial, ensuring the efficient implementation of EU projects.

- European Research Council Executive Agency (ERCEA) – Manages EU research grants.
- European Climate, Infrastructure, and Environment Executive Agency (CINEA) – Handles funding for climate and energy projects.
- European Education and Culture Executive Agency (EACEA) – Oversees education and cultural programs like Erasmus+.

(b) Regulatory Agencies

These agencies *help enforce and apply EU law by setting technical and regulatory standards.* They develop and enforce EU-wide rules, issue guidelines, and oversee compliance in specific sectors. They help implement EU policies and ensure uniformity across Member States.

Example no. 1. The **European Medicines Agency (EMA)** is responsible for the **evaluation, supervision, and monitoring** of medicines and medical products within the EU. Established in 1995, the EMA plays a critical role in ensuring that medicines are safe, effective, and of high quality before they are made available to the public across EU Member States. It works closely with national regulatory bodies, healthcare professionals, and other stakeholders to maintain and promote public health and safety across Europe.

*The EMA, seated in Amsterdam, operates under the **EU legal framework** established by various EU regulations and directives, including Regulation (EC) No 726/2004, which governs the EMA's operations and the procedures for marketing authorisation of medicinal products. The **EMA** is an independent authority within the EU and is **accountable** to the European Parliament and the European Council. The agency is governed by an Executive Director, who is supported by an **Agency Management Board.** The EMA is composed of several specialized **scientific committees,** each focusing on different aspects of medicinal products, such as human medicines, veterinary medicines, and rare diseases. These committees are made up of experts from national regulatory bodies, academic institutions, and research centres across Europe. Pharmaceutical companies must submit their marketing authorisation applications (MAAs) to the EMA, which conducts a thorough review process. This evaluation is carried out by scientific committees made up of experts from the Member States and is based on clinical trial data, preclinical studies, and other relevant information. The EMA's Committee for Medicinal Products for Human Use (CHMP) is responsible for evaluating human medicines, while the Committee for Medicinal Products for Veterinary Use (CVMP) evaluates veterinary medicines. Once a medicinal product has been evaluated and found to meet the required standards of safety, efficacy, and quality, the EMA can **issue** a **positive opinion** on its marketing authorisation. This opinion is then submitted to the **European Commission,** which grants the **European Union-wide marketing authorisation** for the product. The **centralised procedure** allows medicines that are approved by the EMA to be marketed in all EU Member States and the European Economic Area, including Norway, Iceland, and Liechtenstein, with a single application and evaluation process. The EMA's decision-making process is based on **scientific evidence** and is carried out by the scientific committees mentioned earlier. Once a product is evaluated and a decision is made (such as granting marketing authorisation), the European Commission acts on the agency's*

recommendation to grant EU-wide approval. While the EMA's decisions are crucial for the market approval of medicines in the EU, they ***do not directly enforce laws or regulations*** *but act through recommendations and evaluations. National authorities are responsible for ensuring that approved medicines comply with local regulations.*

Function	EMA	European Commission & National Authorities
Function	Risk assessor & regulator	Regulators
Medicine evaluation	☑ Assesses new medicines & vaccines	☒ Does not conduct a scientific assessment
Market authorization	☑ Issues recommendation	☑ European Commission grants final approval
Post-market surveillance	☑ Monitors safety & adverse drug reactions	☑ National agencies enforce recalls/safety measures
Enforcement	☒ No enforcement power	☑ National authorities inspect manufacturers and distributors

2. EMA: sharing tasks at the direct and indirect administrative level

Example no. 2. **European Food Safety Authority (EFSA)** is a key regulatory agency of the European Union, established in 2002. Its primary role is to provide independent scientific advice on food and feed safety to protect public health and ensure a high level of consumer protection. Below is an analysis of EFSA's functions, regulatory role, strengths, and challenges.

EFSA plays a crucial role in the EU's risk analysis framework, which separates risk assessment (scientific evaluation) from risk management (policy decisions and enforcement). EFSA, seated in Palma, under Regulation (EC) No 178/2002, evaluates scientific data to determine potential risks to human and animal health. While EFSA does not issue regulations, its assessments are fundamental for authorising new food products (e.g., novel foods, GMOs, food additives), setting safety limits for contaminants and pesticides and evaluating health claims on food products. The actual regulation, enforcement, and decision-making are carried out by the European Commission, EU Member States, and other bodies.

	EFSA	European Commission & National Authorities
Function	Risk Assessor	Regulators and executors
Risk Assessment	☑ Conducts scientific evaluations	☒ Not involved
Policy Development	☒ Does not draft laws	☑ Proposes and adopts regulations based on EFSA advice
Regulatory Decisions	☒ No decision-making power	☑ Decides on bans, approvals, and restrictions
Enforcement	☒ Does not enforce rules	☑ National food safety authorities inspect businesses and enforce regulations

3. Table EFSA: sharing tasks at direct and indirect administrative level

(c) Operational Agencies

Some agencies carry out direct administrative functions. They carry out practical tasks, such as managing programs, coordinating cooperation between national authorities, or providing services. They have direct, hands-on functions.

Example no. 1. The **European Border and Coast Guard Agency** (**Frontex,** coming from 'frontières extérieures', French for external borders) manages border control operations. Established in 2004, Frontex's primary mission is to enhance the security of the EU's external borders and assist in the management of migration flows, while ensuring the protection of fundamental rights. Frontex is an enforcement-focused agency that directly supports border security operations while coordinating efforts between EU Member States. While Frontex operates directly at borders, it does not have independent enforcement power – Member States remain in control of national borders.

> ***Frontex,*** *operates under Regulation (EU) 2019/1896, which establishes the agency's role, structure, and operations. seated in Warsaw, as an operational agency, Frontex plays a vital role in the EU's* ***border control operations,*** *assisting national authorities in preventing illegal immigration, human trafficking, cross-border crime, and ensuring the safety and security of EU citizens. The agency works in close collaboration with national border guards, law enforcement agencies, and other EU institutions to carry out its mandate effectively. Frontex is responsible for* ***coordinating and supporting joint border operations*** *across EU Member States and Schengen Area countries. These*

operations often involve border surveillance, search and rescue operations, and assistance to countries facing significant migratory pressure. The agency deploys ***border control teams*** *to Member States when additional resources are required to manage cross-border crime or irregular migration. This can include providing personnel, equipment, and expertise to support national border forces. Frontex assists EU Member States in managing and securing their* ***external borders*** *by providing* ***technical and operational support.*** *This support includes the deployment of border surveillance technologies, such as drones, cameras, and radar systems, to monitor land, sea, and air borders. The agency also helps with* ***training*** *national border guards, ensuring they are well-equipped to deal with evolving border security challenges, and facilitates* ***joint operations*** *that include personnel from multiple Member States. As part of its border security duties, Frontex plays a role in* ***search and rescue operations*** *in the Mediterranean and other EU maritime borders. The agency coordinates with national authorities to provide assistance to migrants who are in distress at sea or at risk of drowning. Frontex conducts* ***risk analysis*** *to identify emerging threats and challenges to the security of the EU's external borders. The agency produces regular reports and assessments on issues such as* ***irregular migration, cross-border criminal activities,*** *and potential threats related to terrorism. Frontex is involved in* ***assisting with the return of individuals*** *who do not have the right to remain in the EU. The agency supports the coordination of* ***joint return operations,*** *in which individuals who have been denied asylum or have overstayed their visas are safely and humanely returned to their home countries. Frontex helps to build border management capacities in countries outside the EU, particularly in neighbouring and partner countries. Frontex is designed to respond quickly to border security crises, whether caused by high levels of migration, natural disasters, or threats to border integrity. The agency can deploy* ***rapid reaction teams*** *and provide support to Member States in emergency situations. While Frontex is an* ***operational agency,*** *it operates with a significant degree of* ***independence*** *in carrying out its tasks. However, it is held accountable to the* ***European Parliament,*** *which scrutinizes its activities and provides oversight of its budget and operations. The agency's activities must also align with fundamental rights and the* ***Charter of Fundamental Rights of the European Union,*** *ensuring that border control measures are carried out in a manner that respects human dignity, freedom, and the right to seek asylum. Frontex is governed by a* ***Management Board,*** *consisting of representatives from all EU Member States. This board provides strategic direction and oversight to the agency, while the* ***Executive Director*** *is responsible for its day-to-day operations. Frontex's operations are often scrutinized due to their potential impact on* ***human rights*** *and* ***asylum seekers.***

	Frontex	EU Member States & European Commission
Function	Operational Agency	Regulators
Border Security Operations	☑ Deploys border guards, drones, and ships	☒ No direct control over Frontex operations
Border Surveillance & Intelligence	☑ Conducts risk analysis	☑ EU Member States use intelligence for policy decisions
Deportations & Returns	☑ Organizes return flight	☑ National governments approve and enforce deportations
Law Enforcement Powers	☒ No independent arrest powers	☑ National border police have full enforcement authority

4. Frontex: sharing tasks at the direct and indirect administrative level

Example no. 2. **Europol** (the European Union Agency for Law Enforcement Cooperation) is an **operational agency** of the European Union that supports and enhances the efforts of national law enforcement agencies in combating serious international crime. Established in 1999, seats in the Hague, is a key institution in the EU's efforts to protect the security of its citizens and maintain public order by assisting national police forces in tackling organised crime, terrorism, human trafficking, drug trafficking, cybercrime, and other cross-border criminal activities. Europol serves as the **central hub for information exchange** and coordination between law enforcement agencies in EU Member States, as well as with other international organisations, non-EU countries, and law enforcement entities. The agency facilitates collaboration among Member States and provides operational, analytical, and strategic support in various criminal investigations.

*Europol operates under a legal framework established by the **Europol Regulation (EU) 2016/794,** which defines the agency's mission, objectives, and powers. This regulation empowers Europol to support Member States in criminal investigations, facilitate the exchange of intelligence, and carry out joint operations and analysis. Europol is specifically **authorised to handle and analyse criminal intelligence** and can **assist in the prosecution** of serious crimes by providing law enforcement authorities with analytical and operational support. However, Europol does not have investigative powers*

on its own – national authorities retain full responsibility for criminal investigations within their jurisdictions.
*Europol's governance is overseen by a **Management Board,** which includes representatives from the national law enforcement agencies of all EU Member States. The **Executive Director** is responsible for the day-to-day management of the agency, and the agency is also guided by a **supervisory board** that ensures its operations respect human rights and data protection standards.*

	Europol	National Law Enforcement
Function	Operational Agency	Executors
Intelligence & Data Analysis	☑ Collects and analyses criminal intelligence	☑ Contributes national crime data to Europol
Operational Support	☑ Assists in cross-border investigations and operations	☑ Leads domestic law enforcement actions and investigations
Cybercrime & Digital Forensics	☑ Supports Member States with technical expertise	☑ Conducts cybercrime investigations on a national level
Counter-Terrorism	☑ Coordinates intelligence-sharing on terrorist threats	☑ Investigates and arrests suspects within national borders
Arrests & Direct Law Enforcement	☒ No power to make arrests	☑ National police forces have arrest and prosecution powers

5. Europol: sharing tasks between the direct and indirect administrative level

(d) Advisory Agencies

These bodies provide ***expert analysis and recommendations*** to guide EU policymaking. Such agencies provide expertise, research, and recommendations to EU institutions and Member States. They do not have binding decision-making powers but influence policy development.

European Environment Agency

Example no. 1. The **European Environment Agency (EEA)** is the EU's primary source of **independent environmental data and analysis.** Unlike regulatory agencies or operational agencies, the EEA has an **advisory role** – it does not create or enforce laws but **provides scientific assessments** and **policy recommendations** to support environmental decision-making.

The EEA is seated in Copenhagen, has a multi-level governance structure, ensuring effective data collection, policy advice, and coordination with EU institutions and national governments. The Management Board is the main decision-making body composed of representatives from each EU Member State, plus Iceland, Liechtenstein, Norway, Switzerland, and the European Commission. It approves the annual work program, budget, and strategic priorities. The Executive Director is appointed by the Management Board for a five-year term and is responsible for the day-to-day management of the EEA, implements the EEA's work program and ensures cooperation with EU institutions.

	EEA	European Commission & National Authorities
Function	Advisory Agency	Regulators and executors
Environmental Data Collection	☑ Collects and analyses environmental data	☒ Relies on EEA reports for decision-making
Scientific Assessments	☑ Provides research and forecasts	☒ Uses EEA assessments to shape policy
Policy Recommendations	☑ Advises on EU environmental strategies	☑ Develops and enforces environmental regulations
Regulation and Law Enforcement	☒ No regulatory or enforcement powers	☑ National governments enforce EU environmental laws

6. EEA sharing tasks between the direct and indirect administrative level

Example no. 2. The **European Union Agency for Fundamental Rights (FRA)** is an independent advisory body that provides expert **analysis and guidance** on fundamental rights issues within the EU. Unlike a regulatory or enforcement agency, FRA does not create laws or handle legal cases like a court – instead, it supports EU institutions and Member States by **conducting research, providing recommendations, and raising awareness** about human rights protections.

1.3. Authorities of Direct Administration

An EU authority is typically a *body that has regulatory or enforcement powers, often related to the internal market, competition, and other areas requiring direct oversight and decision-making authority.*

Similar to agencies, authorities are also **established through EU secondary legislation.** However, they tend to have **more autonomous decision-making powers,** often within specific sectors such as financial regulation, competition law, or market oversight. These bodies are often empowered to make decisions that have direct legal consequences, and their actions may include issuing fines, sanctions, or regulatory measures.

Authorities are usually **more independent than agencies.** They are not merely advisory bodies; instead, they can have executive powers to **regulate, enforce, or make binding decisions** in specific domains. This autonomy allows them to carry out their functions independently from the political institutions of the EU.

Example no. 1. Although the **European Union Intellectual Property Office (EUIPO)** is classified as an **agency,** it has significant decision-making authority in the realm of intellectual property protection within the EU. It operates at a **direct level,** meaning it makes decisions that have **legal consequences** for the parties involved, without the need for further action or approval from other EU institutions. It is responsible for managing intellectual property (IP) rights, primarily trademarks and designs. Unlike advisory agencies, EUIPO has **direct regulatory and enforcement powers** within its jurisdiction.

As an agency, the EUIPO operates under the guidance of EU regulations, such as the EU Trademark Regulation (2017/1001), and the Design Regulation (6/2002/EC). It ensures that its decisions are in line with EU law and the broader legal framework governing intellectual property. One of the main responsibilities of the EUIPO is to examine and decide on applications for the European Union Trademark (EUTM) and Registered Community Design (RCD). EUIPO examines and grants exclusive rights to trademarks and designs valid across the entire EU. It ensures applications meet legal requirements, such as distinctiveness and non-conflict with existing rights and it manages databases like TMview (trademark search) and DesignView (design search). The EUIPO's ***decisions on registration*** *are* ***legally binding*** *within the EU. Applicants who are denied registration can appeal these decisions before the* ***Boards of Appeal*** *within the EUIPO or, in some cases, take their case to the* ***General Court*** *of the EU. If a third party believes that a trademark or design application infringes upon their earlier rights, they can file an opposition to the registration. The EUIPO is responsible for managing opposition proceedings, examining the validity of*

the opposition, and making a final decision. In this role, the EUIPO acts as an impartial decision-making body, assessing the arguments and evidence presented by both the applicant and the opposing party. If the opposition is upheld, the registration is refused; if not, the registration proceeds. The EUIPO has ***Boards of Appeal*** *that review decisions made by the agency in cases of disagreement or disputes over trademark or design applications. These boards make binding decisions that can confirm, reverse, or modify the original decision. The authority of the EUIPO's Boards of Appeal is significant because it provides finality on issues regarding the registration and validity of IP rights within the EU. The decisions made by these Boards are authoritative and are respected across the Member States.*

In some cases, the EUIPO may become ***involved in enforcement decisions,*** *particularly when dealing with issues such as counterfeit goods or IP infringements. The agency itself doesn't have the authority to enforce IP rights directly; it is handled by national authorities.*

Example no. 1. The **European Central Bank (ECB)** is a key institution in the European System of Central Banks (ESCB), and it is tasked with executing **monetary policy** across those countries that use the **euro.** Unlike agencies that generally perform more advisory or technical tasks, the ECB functions as an authority with the power to make binding decisions that affect the economic and financial policies of the Member States within the Eurozone.

The ECB enjoys a high level of ***independence*** *from political influence, which is crucial for maintaining credibility in managing monetary policy. It is specifically prohibited from seeking or taking instructions from any EU institution or national government, as stated in the TFEU. This independence is fundamental to the ECB's ability to make decisions based on economic considerations rather than political pressures, thereby maintaining the trust of investors and the public in the euro.*

As an authority, the ECB has substantial ***decision-making powers*** *that directly impact the financial and economic systems of the Eurozone. Its decisions on interest rates, economic policy, and banking supervision are binding and must be adhered to by the Member States of the Eurozone. Additionally, the ECB has the authority to issue* ***regulations*** *that apply to the financial sector within the EU, such as* ***prudential regulations*** *for banks and financial institutions. These regulations are legally binding and must be implemented by the national authorities of the Eurozone countries. The ECB has the exclusive right to* ***authorise the issuance of euro banknotes,*** *although the actual printing is done by the national central banks of the*

Member States. This power reinforces the ECB's central authority over monetary matters in the Eurozone and ensures the consistency and stability of the euro as a currency.

The ECB has the power to ***impose penalties*** *on financial institutions that violate its regulations, particularly in relation to banking supervision. For example, it can fine banks that fail to meet required capital standards or engage in activities that threaten financial stability. It also plays a role in* ***enforcing compliance with*** *the* ***EU banking rules*** *set by the European Banking Authority (EBA), further solidifying its authority within the EU's regulatory framework.*

Despite its considerable powers, the ECB is designed to be ***accountable*** *to both the European Parliament and the European Council. However, its* ***decision-making autonomy*** *ensures that its monetary and financial decisions are not subject to political interference. The ECB President and other executive board members are required to report regularly to the European Parliament on their activities, ensuring transparency and oversight of their actions.*

2. European Civil Service Law and its Impact on the General Principles of Administration

The European Civil Service forms the subjective element of the European administration and has been one of its most visible and legally structured components. *The relationship between the European administration and its staff necessitated detailed regulations governing the organisation, powers, rights, and obligations within EU institutions, bodies, offices, and agencies.* Over time, the case law of European courts has significantly shaped this legal framework, developing fundamental principles that regulate administrative functions and influence the broader European Administrative Law.

The regulation of the European Civil Service is enshrined in the legislative instruments known as the **Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the EU,** which entered into force on 1 January **1962.**

These legal texts outline the *employment conditions, rights, and obligations of EU civil servants.* Furthermore, European **case law** has played a crucial role in refining these regulations by applying general principles of law to administrative disputes and public service matters.

The European Civil Service Law has **contributed** significantly to the formulation of key **administrative law principles** that **guide the functioning of the European administration.** These principles, which extend beyond public employment, shape the interactions between administrative bodies and citizens and the existence of a single administration was confirmed in the **Merger Treaty (1965),** by building on the case-law on the functional unity of the Communities.

> *The Merger Treaty of 8 April 1965, also known as the Brussels Treaty, marked a significant step in consolidating the European institutions. It completed the process that began with the Treaties of Rome (1957) by unifying key governing bodies – namely, the Council and the Commission – of the three European Communities: the European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom). The treaty formalised the concept of a single administration, meaning that officials were no longer assigned to a specific Community but were instead considered officials of the European Communities as a whole. Now, by the Lisbon Treaty, Article 336 of the TFEU is worded as follows: the European Parliament and the Council shall, acting using regulations by the ordinary legislative procedure and after consulting the other institutions concerned, lay down the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the Union.*

European Civil Service Law is not just an internal EU law but is **guided by general principles of national civil service law;** there is a strong interaction between the two.

> *Advocate General Roemer confirmed in 1965 that gaps in the Staff Regulations could be filled using these principles. The Court of Justice applied them, especially before the adoption of unified Staff Regulations or in the absence of specific rules. These principles, developed through case law, balance public authority powers with individual freedoms. Their application is complex, as European law introduces additional principles governing the relationship between the EU administration and its officials.*
>
> *European Civil Service Law is not merely an internal law of the EU in the same way that international organisations have internal laws for their officials, because it is deeply embedded in the broader legal framework of the EU, which has unique constitutional characteristics. Unlike the internal laws of other international organisations, European Civil Service Law is part of the EU's legal order, which has direct effect and supremacy over national laws in many areas. This means it is subject to judicial review by*

the CJEU and is influenced by fundamental principles of EU law, such as proportionality, non-discrimination, and fundamental rights.
The CJEU has jurisdiction over disputes involving EU civil servants, ensuring that European Civil Service Law aligns with broader EU legal principles. In contrast, most international organisations rely on internal administrative tribunals whose rulings are not subject to external judicial review.
EU civil servants operate within a legal framework that interacts with national laws and policies. Their rights and obligations are shaped not only by the EU Staff Regulations but also by the general principles of EU law, which can be influenced by national legal traditions.
European Civil Service Law is subject to the Charter of Fundamental Rights of the EU and the European Convention on Human Rights (ECHR). This means that the rights of EU officials are protected within a human rights framework broader than that of typical internal laws of international organisations.
EU civil service rules are established through legislative acts adopted by EU institutions, such as the Council and Parliament, which have democratic legitimacy. In contrast, internal laws of international organisations are typically adopted by administrative decisions within those organisations, without the same level of democratic oversight.

The **Staff Regulations of EU Officials** form the core framework for the recruitment, management, and rights of public servants working within EU institutions. Initially designed to standardise the functioning of the European institutions and to provide a legal basis for the work of officials, the Staff Regulations were developed to ensure fairness, transparency, and equal treatment across the EU's various bodies. The regulations **cover all aspects** of an EU official's **career,** from recruitment and remuneration to rights, duties, and retirement.

One of the key features of the Staff Regulations is their **flexibility,** which allows for the integration of evolving legal principles and practices while maintaining a high level of stability in the functioning of EU institutions. The Staff Regulations reflect both the **general principles of law** that govern the European legal system and **specific rules** tailored to the unique nature of the EU civil service. This flexibility ensures that European public servants are subject to a legal framework that guarantees their rights and facilitates the effective implementation of EU policies. The development of the EU civil service was **heavily influenced** by **principles from national public administrations** of the EU Member States. When the EU established its legal framework, it did not function in isolation but sought to incorporate established practices from

the diverse administrative traditions of its Member States. This alignment of European public service rules with those of national administrations created a harmonised system that would be both familiar and adaptable to officials recruited from across the EU.

2.1. European Civil Servants

European public servants are *employees who work for the institutions, agencies, and bodies of the European Union (EU).* They are all types of employees in various types of positions responsible for implementing EU policies, regulations, and programs across various fields.

- **Permanent officials** are the core employees of the EU institutions and are recruited through competitive exams (EPSO).
- **Contract agents** (CAST) and Temporary Agents are hired for specific tasks and projects for a limited period, either on a fixed-term contract or temporary basis.
- **Seconded national experts** (SNEs) come from national governments and contribute their expertise temporarily at EU institutions.
- **Interim staff** is hired on short-term assignments, typically through external agencies.

In general, they are

- ✓ employed by EU Institutions (e.g., European Commission, European Parliament, Court of Justice of the European Union) and other bodies;
- ✓ work for the **collective interest of the EU,** rather than individual Member States;
- ✓ hired under the **EU Staff Regulations,** which define their rights, duties, and employment conditions;
- ✓ enjoy **diplomatic privileges and immunities** in some cases, similar to international civil servants;
- ✓ most of them are recruited through **EPSO** (European Personnel Selection Office) competitions, which include exams and interviews. Contract and temporary positions have different recruitment procedures depending on the institution.

The EPSO selection procedure is a competitive process used to recruit staff for EU institutions and agencies. It consists of several stages, each designed to assess candidates' skills and qualifications.

*First, EPSO publishes **job vacancies on its website,** detailing the job profile, required qualifications, and the application deadline. Candidates must then submit an **online application,** including their CV and motivation letter, through the EPSO portal. The next step involves **computer-based tests** (CBT), which assess verbal, numerical, and abstract reasoning skills. Candidates may also take a **situational judgment test** (SJT), which evaluates decision-making abilities. These tests are eliminatory, meaning only the best performers proceed to the next stage. For some positions, there may be an intermediate selection stage, such as an **e-tray exercise or field-specific tests** to assess technical knowledge. Candidates who pass these tests are invited to an Assessment Centre, where they participate in a case study, group exercise, structured interview, and oral presentation. These exercises test key competencies such as problem-solving, teamwork, and communication.*

*Successful candidates are placed on **a reserve list,** from which EU institutions can select and hire staff as job opportunities arise. However, being on the reserve list does not guarantee immediate employment.*

EPSO runs different types of competitions, including general competitions for permanent officials (AD, AST), specialist competitions for experts, contract agent (CAST) recruitment, and competitions for translators and interpreters. The selection process is highly competitive and merit-based, requiring thorough preparation at every stage.

Test your chances! Click here to explore EPSO test examples for permanent EU civil servants as well as tests for contract staff and agents.

Type of EU Public Servant	Role/ Responsibilities	Employment Duration	Decision-Making Power	Recruitment Process	Examples
Administrators (AD)	Specialize in high-level policy development, advice, and strategic management.	Permanent (career)	☑ Takes a role in decision-making	EPSO competition (exams, interviews)	Senior advisors, policy makers, diplomats
Assistants (AST)	Provide technical and administrative support, manage documents, and assist senior officials in their daily work.		☒ No decision-making, but may influence decision processes through support	EPSO competition (exams, interviews)	Clerks, project assistants, and administrative officers
Secretaries/ Clerks (AST/SC)	Perform administrative tasks, such as organising meetings, managing schedules, and handling correspondence.		☒ No decision-making authority	EPSO competition (exams, interviews)	Office assistants, clerks
Contract Agents (CAST)	Employed on fixed-term contracts to fulfil specific tasks or specialised functions within EU institutions.	Fixed-term contracts	☒ No independent decision-making, but provide expertise in their field	CAST procedures (no exams but application-based)	IT specialists, translators, and project managers
Temporary Agents	Hired for short-term or temporary assignments, typically for a specific project or function.	Temporary (up to 3 years, renewable)	☒ No decision-making, but often assist with policy execution	EPSO or specific institution recruitment	Researchers, legal experts, and external advisors
Seconded National Experts (SNEs)	National officials are temporarily working at EU institutions. They bring their national expertise and serve as a link between national and EU institutions.	Temporary (up to 4 years)	☒ No independent decision-making, but provide expertise and recommendations	National government nomination	Police officers, diplomats, and national experts in policy fields
Interim Staff	Short-term, temporary workers hired through external agencies to assist with administrative work	Temporary (short-term)	☒ No decision-making authority	Hired through external agencies	Receptionists, clerks, and administrative assistants

7 Comparative chart of employment types at direct administration

European civil servants enjoy **several benefits** that contribute to their financial well-being and work-life balance.

*An **expatriation allowance** helps cover the financial burdens of moving to a different country. If a person is recruited from outside the host country, he/she is eligible for an expatriation allowance. This is equivalent to 16% of his/her basic salary and is intended to help you adjust to living and working in a foreign country.*

***Family-related allowances** contribute to the cost of living of families. These include benefits for spouses, children, and other family members to help cover the costs of living and support family needs.*

***Reimbursement of expenses** are reimbursements for certain work-related expenses, such as travel and relocation costs, help reduce the personal financial burden when carrying out official duties or moving for work.*

*European civil servants are subject to a **Community tax** rather than national taxes, which is deducted directly from their salaries. This tax supports the functioning of EU institutions, but it may be lower than national tax rates in some countries. The tax rates range from **8% to 45%,** depending on the level of income. The more a civil servant earns, the higher the percentage of tax they will pay. Some tax exemptions are provided under the Community tax rules. For example, there are exemptions for education expenses and certain social benefits. There are also deductions for civil servants with dependents (e.g., children), and certain personal expenses may be deducted from the taxable income. EU civil servants are not subject to national income taxes in their country of residence (unless they are citizens of that country).*

*EU civil servants are entitled to a **retirement pension.** After a certain number of years of service, civil servants are eligible for a pension, which provides financial security upon retirement. The minimum retirement age for EU civil servants is 63 years. However, this can vary depending on the staff member's date of entry into service and specific conditions. Civil servants can choose **early retirement** starting at **55 years,** but the pension will be reduced depending on how many years earlier they retire compared to the minimum retirement age of 63. Early retirees may face a **pension reduction** for each year they retire before the full retirement age. The pension is based on the number of years of service and the average salary earned during the career. The EU pension system is a defined benefit scheme, meaning the pension is calculated based on the salary level at the time of retirement and the length of service. The pension is calculated based on a percentage of the final salary and the number of years worked. For example, after 35 years of service, the pension could be as high as 70–75% of the final salary. A **survivor's pension** is also provided to the spouse or dependent children of a civil servant who passes away, ensuring financial support for family members after the civil servant's death.*

2.2. Principles Governing the European Civil Service Law

(a) Principles Derived from Member State Administration

The development of the EU civil service was heavily influenced by **principles from national public administrations** of the EU Member States. When the EU established its legal framework, it did not function in isolation but sought to incorporate established practices from the diverse administrative traditions of its Member States. This alignment of European public service rules with those of national administrations created a harmonised system that would be both familiar and adaptable to officials recruited from across the EU.

For example, the EU's commitment to legality, non-discrimination, equal treatment, and accountability reflects principles deeply rooted in national civil service laws throughout the EU. The ***principle of merit*** *in recruitment, which prioritizes competence, qualifications, and impartiality, mirrors the practices of most national civil services. Additionally, the EU also follows national administrative practices by offering* ***social security benefits*** *and* ***family-related allowances*** *to EU officials, ensuring that their personal and professional well-being is supported in the same way as in Member States' public sectors. Moreover, the* ***public service ethos*** *– a commitment to serving the public interest while adhering to ethical standards – remains a foundational principle of both national and European civil services.*

The European civil service adopted the same **high standards of professional conduct** that are found in national public administrations, ensuring that officials work not only for their benefit but also for the betterment of the EU's Member States and their citizens. The EU's approach to public administration draws significantly from the **constitutional and administrative traditions of its Member States.** These national traditions have been essential in shaping the legal framework and principles that guide the conduct of EU officials. The Staff Regulations are a direct reflection of these influences, incorporating principles that are commonly recognised across national public service systems.

One such principle is the ***principle of equal treatment.*** *The equal remuneration principle ensures that EU civil servants receive equal pay for equal work, regardless of nationality or gender. This principle also supports the equality between men and women, as evidenced in cases such as Sabbatini, which helped cement this principle within the EU legal framework. Equal treatment in remuneration and working conditions mirrors the standards*

seen in national civil services, where fairness and non-discrimination are foundational elements of public administration. Similarly, the principle of proportionality, as exemplified in the ***Eick case*** *(Case 13/69), influences the way that decisions are made in European administration. This principle dictates that any action taken by public authorities must be proportionate to the situation at hand, ensuring that decisions and sanctions are not excessive. This principle is applied not only to disciplinary procedures but also in the context of the rights and benefits afforded to EU civil servants.*

The ***Sabbatini case*** *(Case 20/71) exemplifies how an outdated* ***national traditional concept*** *influenced the interpretation of a rule within the European Union and led to discrimination based on gender. At the heart of the case was the issue of the* ***expatriation allowance,*** *which was withdrawn from Luisa Sabbatini, an official of the European Parliament, following her marriage. According to Article 4(3) of Annexe VII to the Staff Regulations, an official would lose the expatriation allowance if they married a person who did not qualify for the allowance, unless the official became the "head of household." The provision referred to the term "head of household," a concept that traditionally implied the male member of the family, especially in the context of the time. In most European Member States, the household was traditionally viewed as being maintained by the male, who was seen as the primary breadwinner and decision-maker. In the case of Sabbatini, the Staff Regulations followed this traditional view, wherein a married female official was only considered the "head of household" in exceptional circumstances, such as the invalidity or serious illness of the husband. This gender-based distinction was explicitly reflected in Article 1(3), which set forth that "head of household" typically referred to a married male official. For women, however, this status was considered rare and was only acknowledged in specific cases of hardship. The Staff Regulations, therefore, implicitly assumed that a woman's role within the household was secondary to that of her husband, and her ability to claim the expatriation allowance was conditioned on this outdated notion. Luisa Sabbatini's situation highlighted this discriminatory rule. Upon her marriage, the European Parliament withdrew her expatriation allowance. This action was based on the assumption that, as a married woman, she could not be considered the "head of household." The Sabbatini case challenged this interpretation, arguing that the regulations, by adhering to traditional gender roles, resulted in a violation of the principle of equal treatment and were incompatible with the Community's principles of equality and non-discrimination. The European Court of Justice found in favour of Sabbatini, ruling that the regulations were discriminatory. The Court emphasised that the rules governing expatriation allowances should not differ based on gender. The Court stated that the Staff Regulations could*

not treat male and female officials differently in terms of the expatriation allowance. In essence, termination of the expatriate status and the eligibility for the allowance had to be based on uniform criteria, regardless of sex. The Court's decision was a significant step in challenging traditional gender roles within the EU. By annulling the decisions made by the European Parliament, the Court reinforced the idea that gender-based distinctions in administrative rules were incompatible with the evolving principles of equality and gender emancipation in the EU. The ruling explicitly stated that treating male and female officials differently, based on the outdated notion of a "head of household," was arbitrary and lacked legal justification.

(b) Role of Case Law in Shaping European Administration

The Court of Justice of the European Union (and all of its antecedents since the beginning of the integration) have played a pivotal role in defining the principles of European administration through case law. In cases like the **Coussios** (T-18/92 and T-68/92), the **legality of disciplinary procedures** was established as a cornerstone of European administrative law. The court ruled that any disciplinary actions taken against EU officials must adhere to **strict procedural rules,** ensuring transparency and fairness. These decisions mirror the procedures followed in national civil service systems, where officials are granted protection against arbitrary or unjust actions. Another key principle forged by the European Courts is the **granting of compensation for moral prejudice** caused to an official, as seen in the **Noëlle** case (Case 24/79). This ruling established that public servants whose rights are infringed upon by the administration can seek compensation for moral harm, further aligning EU administration with principles found in national systems where workers' rights are protected. The **right to a fair hearing** is another essential principle derived from national practices. The CJEU has ensured that EU civil servants have the right to prepare a defence, be informed of the facts, and have access to legal counsel if necessary. This set of rights ensures that the procedural guarantees typically available in national administrations are also present at the European level.

The CJEU have also developed principles that respond to the **specific needs of European law,** particularly in situations that go beyond traditional public administration models. These principles include:

- ✓ the **right to protection of legitimate expectation** (Chomel case, T-123/89) that ensures that EU civil servants can rely on promises made by the administration. If the EU offers benefits, promotions,

or rights, civil servants are entitled to expect these promises to be honoured, aligning with national traditions that safeguard employees' expectations from arbitrary decisions.

- ✓ the **principle of legal certainty** (La Pietra case, T-100/92) mandates that laws and regulations must be **clear and precise** to ensure that EU officials understand their rights and obligations. This mirrors the need for clarity and transparency in national public administration systems.
- ✓ the **principle of good administration** (Loek Rijnoudt, joined cases T-97/92 and T-111/92) that requires that EU institutions function efficiently and ethically, taking into account the interests of both the institution and the individuals it serves. It ensures that decisions are made in a manner that reflects best practices in public administration, as seen in Member States.

The Stanley **Adams case** (C-145/83) highlights the **critical role of procedural guarantees,** particularly confidentiality in administrative proceedings, in the development of European administrative law.

Adams, a former Hoffmann-La Roche executive, acted as a whistleblower by informing the European Commission of the company's anti-competitive practices, which violated Article 86 of the EEC Treaty (now Article 102 TFEU). However, due to insufficient safeguards for his anonymity, his identity was revealed, leading to severe personal consequences, including his arrest and imprisonment in Switzerland. Tragically, this ordeal culminated in his wife's suicide, underscoring the high risks faced by informants and the necessity of robust procedural protections in EU administrative processes. At the time, the EU's competition enforcement mechanisms lacked well-defined procedures to protect whistleblowers, such as guarantees of confidentiality and immunity from retaliation. Adams explicitly requested that his identity remain undisclosed in his communication with the Commission. However, procedural shortcomings resulted in Roche discovering his role, leading to criminal charges under Swiss law for disclosure of business secrets. The case illustrated the dangers of weak procedural safeguards and the high personal costs faced by those cooperating with EU institutions in exposing unlawful practices. The Adams case revealed a ***serious gap in procedural protections*** *within EU administration, prompting reforms in the* ***handling of confidential information.*** *The Adams case serves as a turning point in European procedural law, demonstrating the crucial need for confidentiality and legal safeguards in administrative investigations. The Court of Justice, recognizing the procedural deficiencies that led to Adams' persecution, influenced later legislative developments to*

enhance whistleblower protections and procedural guarantees in EU law. His case remains a cautionary tale that shaped the evolution of European administrative procedures, ensuring that those who act in the public interest are adequately protected.

(c) Protection of Fundamental Rights in European Administration

Another significant dimension of the EU civil service is its commitment to **fundamental rights.** These rights are **protected** not only under EU law but also under **international conventions,** such as the **European Convention on Human Rights (ECHR).** The fundamental law of the European Union is derived from multiple sources, reflecting its supranational nature, the influence of international organisations, and the legal traditions of its Member States. The **fundamental law of the EU** is a product of multiple legal traditions and international influences. The EU treaties, UN human rights frameworks, the ECHR, Member State constitutional traditions, and international obligations all contribute to a legal system that protects fundamental rights and the rule of law. Through the CJEU's case law, these diverse sources are harmonised into a coherent legal order, ensuring that EU administration and policies respect fundamental legal principles.

EU Member States are bound by various international agreements and conventions, which influence EU law, among which the most significant ones play a huge role in shaping the EU's own fundamental rights approach. The United Nations (UN) and the Council of Europe play a crucial role in shaping fundamental rights and principles within the EU legal order.

*The **United Nations** influences EU law primarily through human rights treaties and international legal standards, such as: the Universal Declaration of Human Rights (1948), which inspired many of the principles in the EU Charter of Fundamental Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which shape EU policies on human rights and social justice, the UN Sustainable Development Goals (SDGs), which influence EU legislation on climate change, social rights, and economic justice.*

*The **Council of Europe,** an independent organisation from the EU, has played a significant role in shaping European fundamental law through The European Convention on Human Rights (ECHR), enforced by the*

European Court of Human Rights (ECtHR), which provides a framework for protecting human rights in Europe. EU law incorporates ECHR principles, particularly in the EU Charter of Fundamental Rights. The European Social Charter, which influences EU labour law and social policy. The CJEU often refers to the ECHR and ECtHR case law when interpreting fundamental rights in EU law. Although the EU has not formally acceded to the ECHR, its principles are integrated into the EU legal order. For example, he right to a fair trial under Article 6 of the ECHR is a fundamental right extended to EU civil servants, as illustrated in the ***Dufay case*** *(C-257/85). Similarly, the right to privacy (Article 8 ECHR) is crucial for EU officials, especially in sensitive cases like the* ***A. v Commission case*** *(T-10/93), where the EU was held accountable for violating the privacy rights of an official based on their HIV status. This commitment to fundamental rights is consistent with the protections available in national civil service systems, where employees' private lives and dignity are respected.*

2.3. The Birth of the Rule of Law Principle for European Administration

§ The rule of law is a **cornerstone** of public administration in the EU, ensuring that administrative bodies act legally, fairly, and transparently. The CJEU has played a central role in defining and enforcing this principle through landmark rulings that protect citizens from arbitrary state action. By reinforcing the principles of legality, proportionality, legal certainty, and judicial protection, the CJEU has strengthened the accountability of public administration, making the rule of law an essential part of European governance.

The **rule of law in public administration** ensures that

- ☞ decisions are based on legal authority, meaning that authorities cannot act arbitrarily or beyond their legal powers (**principle of legality**).
- ☞ normative rules are clear and predictable. it means that individuals must be able to understand and anticipate the legal consequences of administrative actions (**principle of legal certainty**).
- ☞ citizens have the right to judicial protection, that is administrative decisions can be reviewed by an independent court (**right to effective judicial review**).
- ☞ **procedural fairness** is upheld, so administrative bodies must respect fundamental rights, including the right to be heard and the right to receive reasons for decisions.

There has been a **long journey** in the history of integration to recognize and enforce these principles, despite the absence of a formal normative rule on such details

*In Eick case (C-13/69) in 1969, the Court ruled that administrative measures must not go beyond what is necessary and appropriate to achieve their objectives. This case reinforced that public authorities must act within reasonable limits and avoid excessive restrictions on individuals' rights (**principle of proportionality**).*

In La Pietra case (T-100/92) the Court emphasized that laws and administrative rules must be clear, precise, and predictable, preventing authorities from acting arbitrarily or retroactively applying laws to the detriment of individuals (principle of legal certainty)

*In Dufay case (C-257/85) the Court highlighted that administrative decisions must be subject to independent **judicial review,** ensuring that individuals can challenge unlawful actions by EU institutions (right to a fair trial and access to justice).*

*In Coussios case (T-18/92 and T-68/92) the Court ruled that administrative disciplinary actions must be lawful, fair, and based on clear procedures, protecting civil servants from arbitrary sanctions (**legality of disciplinary procedures**).*

*In Chomel case (T-123/89) the Court established that public authorities must respect commitments and assurances given to individuals, preventing sudden policy changes that unfairly disadvantage them (**protection of legitimate expectations**).*

The **Charter of Fundamental Rights of the EU** further strengthens the **rule of law** in public administration by guaranteeing: **the right to an effective remedy and a fair trial (Article 47)** that ensure that individuals must have access to courts to challenge administrative decisions and **the right to good administration (Article 41)** ensuring transparency, impartiality, and the right to be heard in administrative procedures.

2.4. The Birth of the Right to Good Administration

The right to good administration is a **fundamental principle** in European Union law, ensuring that individuals are treated fairly, transparently, and efficiently by public authorities. Although **not explicitly stated** in the **founding treaties,** it has been gradually developed and strengthened through the **case law** of the CJEU. Today, it is recognized as a core principle of EU administrative law, enshrined in Article 41 of the EU Charter.

The concept of good administration **emerged from general principles** of EU law, **inspired by** the **constitutional and administrative traditions** of the Member States. Over time, the CJEU has played a crucial role in shaping its scope, ensuring that EU institutions act lawfully, fairly, and in a manner that respects the rights of individuals.

> *For example, the CJEU ruled in Heylens case (C-222/86) that **decisions** affecting individuals must be **reasoned,** ensuring transparency and allowing for legal challenges. This case reinforced the duty to provide reasons as part of fair decision-making. Case La Pietra (T-100/92) established that the principle of **legal certainty** is a fundamental element of good administration, requiring rules to be clear, predictable, and applied consistently. Joined cases Loek Rijnoudt (Cases T-97/92 and T-111/92) introduced the **principle of sound administration,** highlighting the duty of EU institutions to act diligently and fairly when handling administrative matters. Case M. M. (C-277/11) strengthened the **right to a fair hearing,** emphasizing that individuals should be given the opportunity to present their case before a decision that negatively affects them is made. Case Samba Diouf (C-69/10) clarified that the **right to an effective remedy and good administration are interconnected,** ensuring that individuals have access to judicial review when administrative decisions are made.*

Building on these judicial developments, the **right to good administration** was **formally codified in Article 41 of the EU Charter.**

> ***Article 41 – Right to good administration***
>
> *1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.*
>
> *2. This right includes:*
>
> *(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;*
>
> *(b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;*
>
> *(c) the obligation of the administration to give reasons for its decisions.*
>
> *3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.*

Paragraph 3 reproduces the right now guaranteed by Article 340 of the TFEU, while paragraph 4 reproduces the right now guaranteed by Article 20(2)(d) and Article 25 of the TFEU.
The right to access to documents is explored in the next article, which has been taken over from Article 255 of the EC Treaty, on the basis of which Regulation (EC) No 1049/2001 has subsequently been adopted.

Article 42 – Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium
The right to an effective remedy, which is an important aspect of the right to good administration, is guaranteed in Article 47 of this Charter.

Article 47 – Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.
Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.
Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

The Charter **transformed the principle** from a general legal norm into a **binding legal right,** further solidifying the EU's commitment to procedural fairness.

All EU agencies, institutions, and administrative bodies must respect and apply the EU Charter in their decisions and actions. When implementing or applying EU law, Member States must comply with the EU Charter to ensure fair and lawful administration. Therefore, all the fundamental rights guaranteed by the Charter are enforceable during the application of EU law.

EU CHARTER OF FUNDAMENTAL RIGHTS

TITLE I: DIGNITY
1 -Human dignity
2 -Right to life
3 -Right to integrity of the person
4 -Prohibition of torture and inhuman or degrading treatment or punishment
5 -Slavery / Forced Labour

TITLE II: FREEDOMS
6 -Right to liberty and security
7 -Respect for private and family life
8 -Protection of personal data
9 -Right to marry and right to find a family
10 -Freedom of thought, conscience and religion
11 -Freedom of expression and information
12 -Freedom of assembly and of association
13 -Freedom of the arts and sciences
14 -Right to education
15 -Freedom to choose an occupation and right to engage in work
16 -Freedom to conduct a business
17 -Right to property
18 -Right to asylum
19 -Protection in the event of removal, expulsion or extradition

TITLE III: EQUALITY
20 -Equality before the law
21 -Non-discrimination
22 -Cultural, religious and linguistic diversity
23 -Equality between women and men
24 -The rights of the child
25 -The rights of the elderly
26 -Integration of persons with disabilities

Title IV: Solidarity
27 -Workers' right to information and consultation within the undertaking
28 -Right of collective bargaining and action
29 -Right of access to placement services
30 -Protection in the event of unjustified dismissal
31 -Fair and just working conditions
32 -Prohibition of child labour and protection of young people at work
33 -Family and professional life
34 -Social security and social assistance
35 -Health care
36 -Access to services of general economic interest
37 -Environmental protection
38 -Consumer protection

TITLE V: CITIZENS' RIGHTS
39 -Right to vote and to stand as a candidate at elections to the European Parliament
40 -Right to vote and to stand as a candidate at municipal elections
41 -Right to good administration
42 -Right of access to documents
43 -European Ombudsman
44 -Right to petition
45 -Freedom of movement and of residence
46 -Diplomatic and consular protection

TITLE VI: JUSTICE
47 -Right to an effective remedy and to a fair trial
48 -Presumption of innocence and right of defence
49 -Principles of legality and proportionality of criminal offences and penalties
50 -Right not to be tried or punished twice in criminal proceedings for the same criminal offence

TITLE VII: GENERAL PROVISIONS
51 -Field of application
52 -Scope and interpretation
53 -Level of protection
54 -Abuse of rights

8 The content of the EU Charter of Fundamental Rights

3. Supervision of Direct Administration in the EU

The supervision of direct administration in the EU **aims to ensure** that **EU institutions and bodies** act **lawfully, fairly, and under fundamental rights.** This oversight is exercised through administrative, judicial, and political mechanisms.

Supervision or control over the direct level of European administration refers to the **mechanisms** in place to *monitor, review, and ensure the legality, efficiency, accountability, and transparency of activities carried out by the EU institutions and bodies themselves,* such as the European Commission, EU agencies, and other central institutions.

In general, three types of control can be distinguished based on their different nature and tools to maintain order.

- **Administrative** control ensures efficiency, compliance, and internal functioning within the administration.
- **Judicial** control enforces the rule of law and legal rights.
- **Political** control emphasises democratic legitimacy and accountability.

The **ombudsman** (or more neutrally: ombudsperson) plays a unique role in the system of controls over public administration. It doesn't fit neatly into political, judicial, or administrative control – but shares elements of each.

Features	Administrative Control	Judicial Control	Political Control
Nature	Managerial/ administrative	Legal, impartial, objective	Political, often subjective
Exercised by	Higher administrative bodies or internal auditors	Judicial bodies	Elected political bodies (e.g., EP)
Purpose	Efficiency, legality, and internal discipline	Legal compliance and rights protection	Democratic oversight and accountability
Tools	Inspections, audits, and internal review mechanisms	Judicial review and judgments	Debates, hearings, resolutions, and appointments
Decision	Depends on internal regulations	Legal, impartial, objective, binding decisions	Often non-binding (except for votes like no-confidence)

9 Comparison of the main featrues of control types

3.1. Administrative Control

Administrative control refers to the *internal and external mechanisms designed to supervise, audit, and hold the administrative bodies of the EU (mainly the Commission and its agencies) accountable for how they implement and manage EU law and programs.* Administrative control emphasises efficiency, legality, and proper financial management within the administration.

The structure of direct administration has various features, thus the tools to keep them under control by administrative tools are also various. However, generally, the **Internal Audit Service of the European Commission** provides independent advice, opinions and recommendations on the quality and functioning of internal control systems inside the Commission, EU agencies and other autonomous bodies. It has existed as an independent service since 2001 to make recommendations to the departments on how they can improve their management processes. It also audits European agencies and other bodies that receive funding from the EU budget

Outside of the Commission, there are independent organs created with the aim of examination and investigation.

- The **European Court of Auditors** (ECA) is the EU's external auditor, The ECA audits the EU's finances with two main aims: to improve financial management and to provide EU citizens with information about how EU funds are used. It publishes annual and special reports that support EU institutions – particularly the European Parliament and the Council – in holding the European Commission accountable.

It was established in 1975 and operational since 1977. became an official EU institution with the Maastricht Treaty. It is seated in Luxembourg. The ECA examines the EU's financial accounts in detail. In its annual report, it delivers an official opinion to the European Parliament and the Council on whether the EU's accounts are reliable and whether the underlying transactions were legal and regular. Additionally, other EU institutions can request the ECA to provide a formal opinion on any matter related to the EU budget.

- The **European Anti-Fraud Office** (OLAF) has a unique mandate to carry out internal administrative investigations within the institutions, bodies, offices and agencies to fight fraud, corruption, dereliction of duty and any other illegal activity affecting the EU's financial interests.

The European Anti-Fraud Office (OLAF) originated as a task force within the Secretariat-General of the European Commission. Its current form was established in 1999 through Decision 1999/352, granting it an independent mandate to conduct investigations. OLAF is located in Brussels and is responsible for examining cases involving fraud, corruption, and other illegal activities that threaten the EU's financial interests. Its scope covers all areas of EU expenditure – including Structural Funds, the Common Agricultural Policy and rural development funds, direct expenditure, and external aid – as well as certain areas of EU revenue, notably customs duties. In addition, it investigates serious misconduct allegations involving EU staff and members of EU institutions. OLAF's investigations may include conducting interviews, carrying out on-site inspections, and reviewing documents and records. Once an investigation is concluded, OLAF issues recommendations to the relevant EU institutions and national authorities. These recommendations typically call for criminal investigations, financial recoveries, or disciplinary and administrative measures. OLAF also monitors the follow-up and implementation of these recommendations. OLAF investigation are triggered by EU official, staff member, institution representative, or agency head by the following issues: submission of false declarations or forged documents, especially concerning expense claims or allowances; failure to declare conflicts of interest; undisclosed external professional activities; violations of confidentiality and discretion obligations; workplace harassment or other forms of inappropriate behaviour; ethical breaches; misuse or misappropriation of EU funds.

- The **European Public Prosecutor's Office** (EPPO). EPPO is the public prosecution office of the European Union. It is responsible for investigating, prosecuting and bringing to judgment crimes affecting the financial interests of the EU. These include economic and financial crimes, such as the misuse of funds, money laundering, VAT fraud and corruption. Unlike OLAF, it has criminal prosecutorial powers.

The legal basis of the EPPO, the EPPO Regulation, was adopted in 2017, and it started its operations on 1 June 2021 in Luxembourg. 24 EU countries decided to join the EPPO and participate in the

enhanced cooperation. These are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. Denmark, Hungary, and Ireland are not participating in the EPPO. *The central office of the EPPO is located in Luxembourg. By the end of 2023, the EPPO had 42 decentralised offices located throughout the participating EU countries. The European Chief Prosecutor is appointed for 7 years.*

- The **European Data Protection Supervisor** (EDPS) is the data protection authority for the European Union institutions, bodies and agencies.

The data protection rules for the EU institutions are laid down in Regulation (EU) 2018/1725. It is largely identical to the GDPR, applying to private companies and most public administrations in the Member States. Specific rules are set out in the founding Regulations of EU bodies active in the police and justice area (Europol, Eurojust, the European Public Prosecutor's Office). EU institutions consult the supervisory authority through their Data Protection Officers (DPOs). In some cases, consultation is mandatory – for example, before finalising a data protection impact assessment with uncertain safeguards or when drafting internal rules restricting data subjects' rights. In other situations, consultation is voluntary. The authority provides written or verbal advice, either on request or on its initiative. Written advice includes Opinions on prior consultations, Supervisory Opinions, Authorisation Decisions on data transfers, and other formal communications. General guidance for all EU institutions is issued through guidelines, while verbal advice is available via a dedicated DPO telephone hotline. Additional resources, such as case law, guidance documents, and practical tools, are provided through the DPO Corner on the website. The authority also raises awareness, offers training, and conducts audits to assess data protection compliance. It handles complaints from individuals, investigates potential breaches – either proactively or upon receiving information – and follows up on data breach notifications. Periodic surveys and reports help benchmark practices across EU institutions. Where issues are identified, the authority may conduct visits to promote improved compliance.

3.2. Judicial Control

Judicial supervision ensures that EU institutions *operate within the bounds of the law and respect the Treaties.*

It aims to ensure that the institutions, bodies, offices, and agencies of the European Union act within the limits of their powers, by EU law. Judicial bodies have the power to **legally bring an unlawful situation to an end** and **impose binding consequences.**

*Since the establishment of the Court of Justice in **1952,** its mission has been to ensure the review the legality of the acts of the institutions of the Community and then European Union, that the Member States comply with obligations under the Treaties, and interpretation of European Union law at the request of the national courts and tribunals. The Court of Justice of the European Union, which has its seat in Luxembourg, consists of two courts: the **Court of Justice** and the **General Court** (created in 1988). The Civil Service Tribunal, established in 2004, ceased to operate on 1 September 2016 after its jurisdiction was transferred to the General Court in the context of the reform of the European Union's judicial structure. There are several types of procedures that aim to ensure the control:*

- *the action for annulment (Article 263 TFEU) stands for reviewing the legality of EU acts.*
- *the action for failure to act (Article 265 TFEU) challenges an institution's failure to act when required.*
- *the liability actions (Article 340 TFEU) aim at compensation for damage caused by institutions of the EU.*
- *Preliminary rulings (Article 267 TFEU) are tools for interpreting the legality of EU norms at the request of national courts that encounter difficulties applying them in the cases before them.*

As for the labelling of the cases, before 1994, cases were simply numbered by their order and year (e.g. 120/78). On July 1, 1994, a new procedural reform took effect, distinguishing between the Court of Justice and the Court of First Instance (later renamed the General Court). To reflect this, new case prefixes were introduced to indicate which court was handling the case.

C- Court of Justice (the main EU court)
T- General Court (formerly the Court of First Instance)
F- Civil Service Tribunal (existed 2005–2016)

To avoid confusion, the textbook tries to rely on the expression Court when it comes to reference to case-law.

3.3. Political Control

Political control refers to *oversight and influence exerted by elected bodies* – mainly parliaments – over administrative institutions and executives in European governance. It ensures democratic accountability and transparency either **in advance** through appointments or **subsequently** through the possibility of recall.

- European Parliament oversight
  - Approves and can dismiss the European Commission (via vote of confidence/no confidence).
  - conducts hearings, questions, and resolutions to hold the Commission accountable. MEPs regularly submit written and oral questions to the Commission and Council. These allow the EP to scrutinize administrative decisions, challenge policy directions, and demand transparency.
  - The EP evaluates the Commission's annual activity reports and may issue resolutions expressing political positions or concerns
- the Council sets political direction and exercises influence over the Commission through legislative negotiation and policy coordination.
- the Parliament and Council jointly approve the EU budget, providing leverage over administrative priorities.

3.4. Role of the European Ombudsman in European Administration

The European Ombudsman plays a crucial role in ensuring **accountability, transparency, and fairness** in the European Union's administration. Established under Article 228 of the TFEU, the Ombudsman, since the existence of the institution from 1995, serves as an independent body that investigates complaints about **maladministration in EU institutions and bodies.** Through its work, it strengthens the quality of European governance by ensuring that the administration adheres to the highest standards of good practice.

The European Ombudsman is elected by the **European Parliament** for a **renewable term of five years.** The position is filled through an election by Members of the European Parliament (MEPs) from among candidates who

apply for the role. The Ombudsman is required to be completely independent and impartial, free from political influence or pressure.

The European Ombudsman's office is supported by a team of **assistants and experts,** who help investigate complaints and assist in carrying out the Ombudsman's duties.

The European Ombudsman serves as a bridge between EU citizens and the administration, promoting transparency and good administrative behaviour. The European Ombudsman **investigates complaints** from citizens, businesses, and organisations regarding maladministration, which can include **unfair treatment, discrimination, abuse of power, administrative delays, and lack of transparency.** Although the European Ombudsman cannot impose sanctions, it can **recommend solutions, propose reforms,** and enhance the culture of good administration within EU institutions.

The Ombudsman's primary functions thus include:

- **handling individual complaints:** the Ombudsman investigates issues related to administrative failures;
- **promoting good administrative practices:** The Ombudsman encourage institutions to follow fair and efficient procedures and suggests reforms to prevent future cases of maladministration.

The European Ombudsman **works closely** with the **European Parliament:** the EP elects the officeholder, and then, the Ombudsman reports its findings annually to the Parliament. The European Ombudsman holds investigative powers but **does not have direct judicial authority.** While the European Ombudsman cannot annul legislation or decisions, their recommendations carry significant weight and often lead to changes in EU practices. If an EU institution or other organ fails to comply with a recommendation, the European Ombudsman can escalate the matter to the European Parliament, where further action may be taken.

In April 2008, an Irish citizen asked EMA for access to documents containing details of all suspected serious adverse reactions relating to an anti-acne drug. His son had committed suicide after taking the drug. EMA refused his request, arguing that the EU rules on access to documents did not apply to reports concerning suspected serious adverse reactions to drugs. Following his investigation into the Irish citizen's complaint, the Ombudsman concluded that the EU rules on access to documents apply to all documents held by EMA. He, therefore, recommended that EMA review its refusal to grant access to the adverse reaction reports. The Ombudsman also suggested that, as part of a proactive information policy, EMA could provide additional clarifications to make

it easier for the public to understand such data and their significance. In 2010, the EMA accepted the Ombudsman's recommendation to give access to the documents by announcing the release of the adverse reaction reports. The Ombudsman's full recommendation is available by clicking here.

Type of Control	Relation with the European Ombudsman
Political Control	Appointed by and reports to the European Parliament; ensures responsiveness of the administration to democratic norms. However, the ombudsman remains independent of political decision-making.
Judicial Control	Offers an alternative to litigation. While not a court, the ombudsman investigates legality and fairness. Cannot issue binding rulings like a judge, but can recommend corrective actions.
Administrative Control	Acts as an external check on administrative practices, identifying systemic issues and suggesting reforms, but is not part of the hierarchy of administrative control.

10 Features of the European Ombudsman about the different types of control

3.5. Achievements of the European Ombudsman in Developing European Administration

(a) The European Code of Administrative Behaviour (2001)

To standardise and improve the quality of administration, the European Ombudsman introduced the Code of Good Administrative Behaviour, which outlines the principles that EU officials and bodies must follow when interacting with the public.

The Code of Administrative Behaviour was introduced by the European Ombudsman as part of the broader effort to enhance good governance and transparency within the EU. Based on the experiences of the investigations, in 2001, the European Ombudsman, Jacob Söderman, introduced the initial version of the Code of Good Administrative Behaviour, which was the first formal step toward codifying the principles of good administration in the EU. It was designed to establish a comprehensive framework for the behaviour of EU institutions and officials in their dealings with the public, ensuring fairness and transparency in all administrative actions. The Code's creation was inspired by the broader EU values outlined in the TFEU and the EU Charter.

The Code of Administrative Behaviour is a **non-legally binding set of principles** and guidelines that promote good administrative practice within the EU institutions. Although it does not have the force of law, it is a significant tool for ensuring that EU bodies and officials act by the expectations of fairness, impartiality, and transparency. It sets out administrative standards to guide the conduct of EU institutions and their officials in the following key areas.

- **Transparency** expresses the importance of openness in the decision-making process, ensuring that decisions are made publicly, are accessible to citizens, and are based on clear reasons.
- **Fairness and impartiality** require that decisions be made impartially, without bias or prejudice. EU officials must ensure that they treat all individuals and organisations fairly, ensuring equal treatment under the law.
- **Efficiency and timeliness** stress that EU institutions must work efficiently and respond to citizens' requests and complaints in a reasonable timeframe.
- **Accountability** ensures that EU institutions stay accountable for their decisions and actions, ensuring that they can be scrutinised by the public and held responsible for any maladministration.
- **Respect for citizens' rights** is to promote the protection of citizens' rights and ensure that they have the opportunity to express their views and have those views considered in the decision-making process.
- **Non-discrimination** mandates that all individuals, regardless of their nationality, gender, race, or background, be treated equally and without discrimination.

The Code of Administrative Behaviour also sets out the obligations of EU officials to uphold **ethical conduct** and ensures that the administration treats citizens with respect and dignity.

It applies to all EU institutions and other organs of the EU.

(b) Public Service Principles (2012)

In addition to the Code, the European Ombudsman has also set out public service principles, which apply to **all EU civil servants and officials.** These principles guide **ethical and professional conduct,** ensuring that the European administration upholds the highest standards of governance.

The Public Service Principles have a **legal nature** rooted in various primary EU legal sources, including the Treaties, the EU Charter of Fundamental Rights, and the case law of the CJEU. These principles are directly linked to

the EU's broader objectives of good governance, transparency, accountability, and human rights protection. Formally, it is also a non-legally binding set of principles.

The five **Public Service Principles** require the upholding of the following values.

1. **Commitment to the European Union and its citizens** expresses that the officials must act in the interest of the EU and serve the public effectively.
2. **Integrity** requires that officials avoid conflicts of interest and ensure honesty in their actions.
3. **Objectivity** demands that decisions must be based on facts, legal frameworks, and fairness.
4. **Respect for others** implies that all institutions and bodies treat individuals with dignity, courtesy, and equality.
5. **Transparency** ensures that administration must be open, provide clear information, and justify its decisions.

4. Codification of EU Administration

Although the European Union does **not yet** have a single, comprehensive EU administrative procedure act, the codification of various sources of European administration has emerged periodically. Unlike national legal systems, the EU's administrative framework has developed gradually through treaties, secondary legislation, case law of the CJEU, and soft law instruments. The lack of a unified administrative code has led to:

- **fragmentation:** Different institutions follow different rules and procedures.
- **legal uncertainty:** the absence of a single codified text makes it difficult for citizens to understand their rights and obligations.
- **limited access to justice:** The inconsistent administrative practices can hinder citizens' ability to challenge decisions.

The **codification** of EU administration refers to the *process of systematising and organising administrative rules, principles, and procedures into a coherent legal framework that ensures transparency, consistency, and accountability in the functioning of EU institutions.*

The push for codification gained traction in January **2015,** when the **European Parliament** adopted a resolution based on a l**egislative initiative**

report prepared by the Legal Affairs Committee. The report, led by Rapporteur Luigi **Berlinguer,** emphasised the need for a binding and comprehensive administrative law framework for all EU institutions. This initiative was driven by concerns over fragmentation, lack of transparency, and inconsistent application of administrative rules across different EU bodies. The report proposed **common procedural standards,** including:

- ✓ **legal certainty and predictability** in administrative decision-making;
- ✓ **fair procedures and citizens' rights** when interacting with EU institutions;
- ✓ **clear obligations** for EU bodies regarding reasoning and notification of decisions.

Following the European Parliament's initiative, the **European Commission** began evaluating the feasibility of an administrative procedure act. In May **2016,** the Commission acknowledged the importance of good administration but **hesitated to propose** a comprehensive regulation, arguing that existing rules already provided adequate guarantees. However, under continued pressure, the Commission revisited the issue in October **2016,** considering feedback from legal experts, Member States, and stakeholders. The discussion shifted toward assessing how codification could streamline administrative processes, reduce bureaucracy, and enhance legal clarity for both citizens and businesses.

In June **2016,** the European Parliament continued its legislative push under the leadership of Rapporteur Heidi **Hautala.** The renewed efforts emphasised:

- ✓ the **right to good administration;**
- ✓ the need for **uniform rules** for all EU institutions;
- ✓ enhanced **transparency and accountability** in administrative decisions.

By October **2017,** the **European Parliament had reaffirmed its call for codification,** urging the Commission to propose a binding legislative act that would consolidate the principles of EU administrative law into a single text. To involve citizens and stakeholders in shaping the future of EU administrative procedures, a public consultation was launched between December 15, 2017, and March 9, 2018. This consultation allowed individuals, businesses, and legal experts to provide input on the challenges they faced when dealing with EU administration and to suggest improvements. Key takeaways from the consultation included:

- ☝ a **strong demand** for codified rules to enhance legal certainty.
- ☝ concerns over **bureaucratic inefficiencies** in EU institutions.
- ☝ calls for **more accessible and user-friendly** administrative procedures.

Despite significant progress, a fully codified EU administrative procedure act has not yet been adopted. However, the ongoing efforts by the European Parliament and growing public support continue to push for:

- ☞ a **standardized procedural code** for all EU bodies;
- ☞ strengthened **citizens' rights** in administrative interactions;
- ☞ improved **transparency, efficiency, and fairness** in EU decision-making.

The codification of EU administrative law remains a **key for European governance,** ensuring that administrative processes align with the principles of good administration, the rule of law, and democratic accountability.

Summary of Key Points of Block No. 2

The second chapter examines the **direct level** of European administration, focusing primarily on the role of the **European Commission,** the function of **EU agencies,** and the development and application of **European civil service law.** It also addresses how this legal framework shapes the principles and practices of EU administration, particularly through mechanisms of control, supervision, and evolving standards of good governance.

At the heart of the direct administration is the **European Commission,** which acts as the EU's executive body, responsible for proposing legislation, enforcing EU law, managing policies, and representing the Union externally. Alongside the Commission, a network of **EU agencies** supports specific administrative tasks across policy areas. These agencies can be categorised into four main types: **executive agencies,** which manage EU programs; **regulatory agencies,** which set or oversee compliance with standards; **operational agencies,** which carry out concrete tasks (such as border control); and **advisory agencies,** which provide expertise to assist EU institutions in decision-making.

The **authorities of direct administration** collectively form a significant administrative apparatus distinct from the national administrations. Their actions are governed by a dedicated legal framework – **European civil service law** – which has developed to reflect the unique nature of EU governance, while also drawing upon the administrative traditions of Member States. Central to this framework is the European civil servant, an individual working in the EU institutions and agencies, whose rights and duties are defined by the **Staff Regulations** of Officials of the European Union. These regulations embody the values of professionalism, impartiality, accountability, and service to the public interest.

European civil service law is grounded in several **key principles,** many of which have been influenced by Member State legal traditions. In addition, **case law from the Court of Justice of the European Union** has played a critical role in defining and refining these principles. One notable development is the growing importance of **fundamental rights** in the administrative domain, ensuring that civil servants and EU institutions uphold standards of fairness, transparency, and respect for individual rights. Two landmark principles have emerged in this context: the **rule of law** and the **right to good administration.** The former ensures that all administrative action is subject to legal limits and judicial review, while the latter, recognised in the **Charter of Fundamental**

Rights of the EU, guarantees individuals the right to be treated fairly, within a reasonable timeframe, and to be heard in matters affecting them.

Supervision of the direct administration is ensured through a combination of **administrative, judicial,** and **political control.** Administrative oversight involves internal checks and evaluations within EU institutions. Judicial control is primarily exercised by the CJEU, ensuring legality and protecting rights. Political control is exerted by the European Parliament, which holds institutions accountable through budgetary and inquiry powers. In addition, the **European Ombudsman** plays a crucial role in defending citizens' rights and promoting high administrative standards. The Ombudsman investigates complaints, promotes transparency, and has contributed to the development of **soft law instruments,** such as the European Code of Good Administrative Behaviour (2001) and the Public Service Principles (2012), both of which set out ethical and professional standards for EU administration.

Finally, the block touches on the **ongoing debate regarding the codification of EU administrative law.** While much of the EU administration is guided by general principles and sector-specific rules, there is growing interest in creating a more unified, codified set of rules to enhance clarity, consistency, and accountability across all EU bodies and agencies.

III. EU Law on Indirect Administration

The law on indirect European administration highlights the critical role **of Member States** in the execution of EU law. While the EU sets out legal frameworks and requirements, it is primarily the responsibility of Member States to implement these laws at the national level. This relationship between the EU and Member States is shaped by pre-accession requirements, ensuring that each Member State adheres to the rule of law before joining the EU.

EU law imposes result-based obligations on Member States, requiring them to align their national laws with EU principles. This leads to a **balance between harmonisation** (aligning laws across the Union) **and approximation** (gradual alignment of laws over time) in order to achieve integration and effective execution of EU policies. A well-functioning public administration is crucial for the success of this integration, as it directly impacts the implementation of EU law.

The European Union operates through a **multi-level administration,** where both abstract and concrete conditions are established by EU law, often on a sector-specific basis. These conditions include fundamental rights and procedural guarantees, ensuring that the implementation of EU law respects citizens' rights. One of the core principles is that EU law takes precedence over

national law, meaning that if there is a conflict between the two, EU law must be applied.

Importantly, the EU **does not directly harmonise national administrative laws,** leaving Member States with significant autonomy over their domestic administrative structures. However, the **principle of sincere cooperation** (the loyalty clause) is central to the relationship between the EU and Member States. This clause mandates that Member States work in good faith to support the execution of EU law and policies, ensuring that the Union functions effectively and efficiently across all levels of government.

1. Principles Governing Indirect Administration in the European Union

The European Union is a unique legal order distinct from ordinary international treaties. Its founding treaties establish institutions and legal mechanisms that Member States must adhere to, thereby limiting their sovereign rights in expanding areas. This framework of indirect administration is governed by several fundamental principles, ensuring the **uniform and effective application of EU law across Member States.**

The principles governing indirect administration aim to result in so. Supremacy, effectiveness, procedural autonomy, legal certainty, and consistent interpretation work together to balance national sovereignty with the primacy of EU law. These principles reflect the EU's commitment to cooperation, legal protection, and accountability, reinforcing the European legal order.

1.1. Supremacy and Direct Effect

The principle of supremacy establishes that EU law takes precedence over national law. A Member State cannot invoke provisions of its internal legal order to justify non-compliance with EU obligations. Under Article 4(3) of the Treaty on European Union (TEU), Member States **must ensure** that their **national legal systems recognise and enforce EU law obligations without delay or obstruction.** The direct effect principle further reinforces this by allowing **individuals** to **invoke EU law before national courts.**

In Commission v Italy (Case 7/68), the European Commission sued Italy before the European Court of Justice over an export restriction on cultural goods. Italy had a law requiring prior

authorisation for the export of artistic, historical, and archaeological objects. This meant that anyone wishing to export such goods had to apply for permission from the authorities, which could either be granted or denied. The Commission argued that this rule restricted exports and violated Article 30 EEC (now Article 34 TFEU), which prohibits measures having an effect equivalent to quantitative restrictions on trade between Member States. The Italian government justified its rule under the EEC provision, which allows exceptions to free trade for reasons such as the protection of national treasures.
The Court agreed with the Commission that ***requiring prior authorisation*** *for exports was a* ***restriction on trade.*** *However, it* ***also recognised*** *that protecting national treasures was a* ***valid justification*** *under the EEC provision. The Court ruled that Italy* ***could impose such a measure,*** *but only if it was* ***proportionate*** *and* ***not used as a disguised restriction on trade.*** *This case laid the groundwork for future EU legislation on cultural goods (e.g., Council Regulation (EEC) No 3911/92 on the export of cultural goods).*

Additionally, it should be noted that arguing the principles of supremacy and direct effect is not always straightforward, especially when multiple legal fields are involved and the **EU's legislative competences are limited in some areas.** This is particularly evident in the loyalty clause, which reserves certain fields – such as national security, legal order, and territorial integrity – for Member States.

The GM case (C-159/21) highlights the ongoing tension between the principle of supremacy and direct effect of EU law and the reserved competences of Member States, particularly in national security, legal order, and territorial integrity – areas where EU legislative authority is more constrained. In the case of GM, the Court addressed the interplay between national security considerations and procedural safeguards within EU asylum law. The case arose when Hungarian authorities withdrew GM's refugee status based on non-reasoned opinions from national security organs, asserting that his presence constituted a threat to national security. GM challenged this decision, leading to a request for a preliminary ruling from the Court. The Court held that EU law precludes national legislation which allows decisions rejecting or withdrawing international protection based on undisclosed information, purportedly for national security reasons, without granting the individual or their legal adviser adequate access to the substance of the grounds for such decisions. Such practices violate the right to good administration and effective judicial protection under Article 47 of the EU Charter of Fundamental Rights.

The Court determined that national legislation requiring authorities to systematically base decisions on non-reasoned opinions from specialist national security bodies, without independent assessment, is incompatible with EU law. Decision-making authorities must conduct their evaluations and provide reasoned decisions when denying or withdrawing international protection. The Court clarified that a prior criminal conviction known to authorities at the time of granting refugee status does not automatically justify exclusion from subsidiary protection under Article 17(1)(b) of Directive 2011/95/EU. Each case requires individual assessment to determine if exclusion is warranted.
The Court emphasised that while Member States have procedural autonomy, it is constrained by the principles of effectiveness and equivalence. National procedures must not render EU law rights ineffective or less favourable than similar domestic situations. The **principle of sincere cooperation obligates Member States to ensure that national security measures do not undermine the procedural safeguards enshrined in EU asylum law,** *maintaining a balance between protecting national security and upholding individuals' rights to fair procedures.*
The ruling in GM illustrates that the direct effect of EU asylum law is sometimes difficult to enforce when Member States apply procedural autonomy. The Court ruled that Hungarian authorities' reliance on non-transparent security reports violated effective judicial protection, making asylum rights illusory. However, because procedural rules remain under Member State control, enforcing direct effect in practice requires challenging national rules on a case-by-case basis.

1.2. State Responsibility

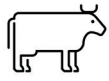
A Member State bears full responsibility for the conduct of its organs, including those that operate independently of the executive branch. Consequently, any failure by a national body to comply with EU law is attributable to the state itself. This ensures accountability and prevents Member States from evading their EU law obligations through internal administrative structures.

In two cases against Italy (Case 30/72 and 9/72), the European Commission brought infringement proceedings against Italy for failing to comply with EU obligations, at that time Community obligations.. These cases reinforced the fundamental principle that a Member State cannot justify non-compliance with Community law by citing internal legal provisions or administrative practices. In both cases, Italy failed to implement certain Community measures correctly and argued that it could not implement certain Community obligations due to national

administrative or legal constraints. The Italian government maintained that responsibility for non-compliance rested with certain ***independent State organs rather than the State itself.*** *Essentially, Italy claimed that these entities were not under direct government control and therefore the state could not be held liable for their actions or inaction.*
The Court ruled that the conduct of any state organ – regardless of its independence from the executive – must be attributed to the state itself. Italy attempted to argue that internal administrative or legal constraints prevented full compliance, but the Court rejected this defence. A ***Member State cannot avoid liability by pointing to the independence of certain State organs.*** *Any action or inaction by a public authority is attributable to the State.*

1.3. Effectiveness

The principle of effectiveness mandates that national courts **fully apply EU law** within their jurisdiction. If necessary, they must refuse to apply conflicting national provisions, including those enacted subsequently. TEU obligates Member States to provide remedies ensuring effective legal protection in areas governed by EU law. The case law of the Court has confirmed that **effectiveness derives from the principle of sincere cooperation.**



In the Simmenthal case (Case 106/77), an Italian company imported fresh beef from France into Italy. Upon importation, the Italian authorities imposed a public health inspection fee on the beef. Simmenthal argued that this fee was contrary to EU law, specifically the rules prohibiting charges having equivalent effect to customs duties under what is now Article 30 of the TFEU. When the case reached the Italian national court, the court recognised the conflict between Italian law (which required the fee) and Community (now EU) law (which prohibited it). However, under Italian constitutional law at the time, only the Italian Constitutional Court had the power to declare a national law unconstitutional, meaning that the ordinary courts could not simply set aside conflicting national provisions.
The legal question before the Court was: must a national court immediately apply Community law and disregard conflicting national laws, or must it wait for a higher constitutional court to invalidate the national provision? The Court delivered a landmark ruling establishing two key principles.

- ***The immediate supremacy of EU (then: Community) law*** *means that national courts must directly apply EU law and* ***set aside any conflicting national law*** *without waiting for constitutional courts or national legislatures to act. The Court ruled that EU law*

automatically prevails over any conflicting national rule, regardless of when the national rule was enacted.

- ***The effectiveness of Community Law,*** *which states that national procedural rules must not delay or obstruct the application of Community law. Any requirement for a national court to seek permission from a constitutional court before setting aside a conflicting national law would undermine the full effectiveness of Community law.*

The case Åkerberg Fransson (C-617/10) is a landmark ruling by the Court concerning the scope of the EU Charter of Fundamental Rights and the principle of ne bis in idem (double jeopardy). Mr. Åkerberg Fransson, a Swedish national, was accused of tax evasion for failing to declare VAT and income taxes. He was first fined administratively by Swedish tax authorities. Later, criminal proceedings were initiated against him for the same tax offences. Fransson argued that this violated the ne bis in idem principle (Article 50 of the EU Charter of Fundamental Rights), which prohibits being punished twice for the same offence. The Court had to determine whether Sweden's tax penalties and criminal proceedings fell within the scope of EU law. The Court ruled that national measures implementing EU law must respect the EU Charter. Since the tax rules concerned VAT, which affects the EU budget, the case fell within the scope of EU law. The Court held that ***double punishment*** *(administrative + criminal)* ***does not automatically violate the ne bis in idem principle*** *if the two penalties pursue different objectives and are proportionate.*
However, it left it to Swedish courts to determine if the penalties were excessive.

The case confédération paysanne (C-298/12) is a significant ruling concerning the regulation and authorisation of genetically modified organisms (GMOs) in the EU. Confédération paysanne, a French agricultural organisation, along with other parties, challenged the authorisation of a genetically modified maize produced by Monsanto. The plaintiffs argued that French authorities should have the right to restrict or ban GMO cultivation at the national level, even if the GMO had been authorised at the EU level.
The CJEU had to determine whether a Member State could unilaterally suspend or prohibit the cultivation of a GMO that had been approved at the EU level, based on its national considerations. The Court ruled that the authorisation system for GMO cultivation falls under EU competence. This means that Member States cannot unilaterally restrict or prohibit the cultivation of an EU-approved GMO. A ***Member State can only impose***

a ban *under Articles 34 and 36 TFEU if it presents new scientific evidence proving a serious environmental or health risk, and if this measure is approved by the European Commission.*

In case Commission v United Kingdom (C-640/13), the European Commission brought an infringement action against the United Kingdom (UK), alleging that the UK had failed to comply with its obligations under EU law regarding the free movement of workers and social security coordination. Specifically, the Commission challenged the UK's practice of requiring a right-to-reside test for access to certain social benefits. The test was intended to ensure that only individuals who had a legal right to reside in the UK could claim certain social benefits. It applied primarily to non-UK nationals, including EU citizens who moved to the UK, requiring them to prove their right to reside under UK immigration and residence rules. To pass the test, a claimant had to show they were legally residing in the UK under specific categories, such as: being a worker or self-employed person, having sufficient resources and health insurance (for economically inactive persons), or being a family member of an eligible person.
Under EU law, particularly Regulation (EC) No 883/2004 on the coordination of social security systems, EU nationals who move to another Member State should be entitled to certain social benefits without discrimination. The Commission argued that the UK's requirement of a right-to-reside test for EU nationals created an unjustified restriction on free movement by imposing additional conditions not found in EU law. The key legal question was if the UK's right-to-reside test violated EU law on social security coordination and non-discrimination against EU nationals. The Court ruled in favour of the UK, holding that Member States must ensure the effective application of EU law and comply with the principle of sincere cooperation under Article 4(3) TEU. However, this does not prevent them from implementing **administrative controls to verify eligibility** *for social benefits. The Court found that the right-to-reside test was justified as a means to ensure that only those who had a genuine right to reside in the UK could claim benefits. The UK was entitled* **to prevent abuse of the welfare system** *and ensure that non-economically active EU nationals did not become an unreasonable burden on the UK's public finances. The Court ruled that the UK's approach did not violate EU social security coordination rules, as EU law does not prohibit Member States from checking whether a claimant legally resides in their territory before granting benefits. The case was significant for European administration and indirect administration as it* **clarified State discretion in social security** *when the ruling confirmed that while EU law ensures social rights for mobile EU citizens, Member States retain some discretion in verifying residency*

to protect their social security systems. This case set a precedent allowing Member States to impose residency conditions for accessing social benefits, shaping future cases on the balance between free movement rights and national welfare policies. It also reinforced the principle of effectiveness when it highlighted that the **effectiveness of EU law does not mean absolute uniformity;** *Member States can apply reasonable administrative controls as long as they do not discriminate unfairly or undermine EU principles.*

1.4. Principle of Procedural Autonomy

Procedural autonomy allows Member States to designate national courts and determine procedural conditions governing legal actions related to EU law. However, these procedures must comply with the principles of equivalence and effectiveness. **They must not be less favourable** than those governing similar domestic cases, nor should they make it excessively difficult for individuals to exercise their EU law rights. This principle operates within the broader framework of conferral and the primacy of indirect administration.

The procedural autonomy is constrained by the EU's overarching legal principles to ensure that national rules do not undermine the functioning of the internal market.

The Dassonville case (Case 8/74) involved a Belgian company (Dassonville) that wanted to import Scotch whisky into Belgium, but it was stopped by a requirement for a certificate of origin. The Court established the Dassonville formula, which defines measures that can be considered a restriction on the free movement of goods. According to this ruling, ***any measure that could hinder, directly or indirectly, actually or potentially, intra-EU trade was prohibited unless justified by exceptions*** *such as public health, safety, or other legitimate concerns. This ruling significantly expanded the scope of what could be considered a restriction on trade between Member States, even if the measure did not explicitly discriminate based on nationality or origin. While Member States have the autonomy to organise their legal and administrative procedures, they must do so in a way that complies with EU law, especially when their actions affect fundamental freedoms like the free movement of goods.*

In case Rewe-Zentralfinanz (Case 33/76), a German company, sought a refund for charges it claimed were unlawfully imposed in violation of Community law. The dispute involved Rewe-Zentralfinanz, a company from Germany, which challenged a national regulation that prevented it from

importing certain agricultural products. The national regulation was inconsistent with the Community law governing the internal market, particularly about the free movement of goods. The specific issue in the case concerned imported French wine, which was subject to additional German quality inspections and approval procedures before it could be marketed in Germany. This quality control requirement effectively acted as a barrier to trade, as it imposed additional restrictions on imported products that were already lawfully produced and marketed in another Member State (France in this case). The regulation hindered the free movement of goods (now governed by Article 34 TFEU), which prohibits quantitative restrictions and measures having an equivalent effect between Member States. Since the French wine already met French quality standards, requiring it to undergo additional testing in Germany was seen as an unjustified restriction on trade. Rewe-Zentralfinanz argued that the German regulation contradicted the Community's rules on the free movement of goods. However, the issue at hand was not just the national regulation itself, but also the question of whether an individual (in this case, a company) could seek legal remedies when national law potentially infringed on Community law.
The case reached the Court, which had to determine whether Community law required Member States to establish specific legal procedures for enforcing EU rights or whether national procedural rules applied. The Court ruled that, in the absence of Community rules on a specific procedural matter, it is up to the legal system of each Member State to determine the procedural rules governing actions intended to protect rights derived from Community law. However, these national rules must comply with two key principles: the (1) principle of equivalence, meaning that national rules must not be less favourable for EU law claims than for similar domestic claims and the (2) principle of Effectiveness meaning that national rules must not make it impossible or excessively difficult for individuals to exercise rights conferred by Community law. Thus, Rewe-Zentralfinanz is a cornerstone case for how Community law is enforced at the national level, balancing national sovereignty with the obligation to ensure the effectiveness of rights ensured by the acquis Communautaire.

The Cassis de Dijon case (Case 120/78) was another landmark case involving the free movement of goods within the EU. The case revolved around a German importer who was unable to import French liquor (Cassis de Dijon) into Germany because it did not meet German alcohol content standards, even though the product complied with French standards. The Court ruled that ***mutual recognition*** *of national standards was required, meaning that if a product is lawfully produced and sold in one Member State, it should generally be allowed to be sold in any other Member State, even if it does*

not fully comply with the other state's national regulations. This decision introduced the ***principle of proportionality,*** *which allows Member States to impose certain restrictions on trade (such as quality control or safety standards) if they are justified, proportionate, and necessary to protect public interests like health, safety, or the environment.*
The Court confirmed that while ***Member States*** *maintain* ***procedural autonomy*** *(i.e., the right to determine their national regulatory processes and standards), such regulations must be* ***justified*** *by legitimate public interests and should not* ***unduly restrict*** *the free movement of goods. The ruling essentially created a* ***balance*** *between procedural autonomy and the need for a harmonised approach to the single market, stressing that the national regulatory measures must be proportionate and non-discriminatory.*

The Aquino case (C-3/16) concerned the rights of a worker. Mario Aquino, a Belgian customs officer, challenged a national tax measure, arguing that it was inconsistent with EU law. He claimed that Belgian tax law discriminated against public sector employees by denying them certain deductions that were available to private sector workers. He argued that this violated EU law principles, particularly the free movement of workers (Article 45 TFEU, ex Article 48 EEC). Mario Aquino was not a foreigner in Belgium – he was a Belgian national. However, the case was still relevant to EU free movement rights because of the potential cross-border impact of the Belgian tax rules, as the key issue was whether national procedural rules (Belgian law) made it excessively difficult for individuals to enforce their EU rights before national courts. If a national tax rule makes it ***less attractive*** *for non-nationals to work in the public sector of a Member State, it could be seen as an* ***indirect restriction on free movement.***
The Court examines rules not just based on their wording but on their effect – even if the law was not explicitly discriminatory, it could still discourage workers from other EU countries. The Court has ruled in several cases that ***even national rules affecting only domestic workers can fall under EU law if they create barriers to free movement in general.*** *If Belgium's tax rule were upheld, other countries might adopt similar rules, potentially hindering EU workers' mobility.*

1.5. Legal Certainty and Legitimate Expectations

The principle of legal certainty requires that EU legal rules be **clear, precise, and foreseeable,** so that individuals and businesses **can understand their rights and obligations.** Legal certainty prevents EU measures from retroactive

application unless explicitly stated and justified by their purpose. The principle of legitimate expectations complements legal certainty by ensuring that individuals and businesses can rely on the stability of the legal framework. These principles interconnect with good faith, sincere cooperation, and effectiveness.

The case of Ireland v Commission (C-199/03) arose from a dispute between Ireland and the European Commission regarding the validity of a decision related to state aid. The European Commission had adopted a decision declaring that Ireland had granted unlawful state aid to certain companies in violation of state aid rules under (now) Article 107 TFEU. Ireland contested this decision, arguing that the Commission had failed to respect the principle of legal certainty and had retroactively applied new interpretations of state aid law. The key legal questions before the Court if the European Commission's decision violated the principle of legal certainty. Can a Community measure take retroactive effect without violating legitimate expectations?
The Court ruled against Ireland, upholding the Commission's decision. It found that the principle of legal certainty requires that EU legal rules be clear, precise, and foreseeable. However, the Court held that Ireland had been sufficiently aware of its obligations under Community state aid law, meaning there was no violation of legal certainty. The Court clarified that EU measures should not have a retroactive effect, unless the objective of the measure specifically requires it, and the legitimate expectations of the affected parties are respected. In this case, the Commission's enforcement of state aid rules did not constitute retroactive application but rather an application of existing law. The ruling reaffirmed that Member States must comply with European state aid rules and cannot justify non-compliance by arguing that prior interpretations were unclear. Ireland had an obligation of sincere cooperation to ensure that its national rules complied with Community law. The case is significant for European administration and indirect administration because it clarified and made it obvious that

- *legal certainty requires Community legislation to be* ***predictable,*** *but Member States cannot claim legal uncertainty as a defence for breaching Community legislation if they had prior knowledge of their obligations;*
- *the* ***Commission*** *has a* ***broad authority to review and enforce state aid rules,*** *ensuring fair competition within the integration;*
- *Ireland could not invoke national administrative practices to justify non-compliance, reinforcing the supremacy of Community law over national law.*

The Joined Cases Falck and Acciaierie di Bolzano (C-74/00 P and C-75/00 P) deal with state aid in the steel industry and the European

Commission's power to recover unlawfully granted state aid under European competition law. Falck and Acciaierie di Bolzano, two Italian steel companies, received state aid from the Italian government. The European Commission found that this aid violated EU state aid rules under the European Coal and Steel Community Treaty. The Commission ordered Italy to recover the aid from the companies. Falck and Acciaierie di Bolzano challenged this decision before the Court, which upheld the Commission's ruling. The companies argued that this violated legal certainty, as they believed the aid was lawful at the time it was granted. They argued that the Commission had exceeded its powers and had not sufficiently justified why the aid was illegal. The Court examined whether the aid distorted competition in the steel sector under EU competition law. Businesses engaged in sectors subject to strict Community competition rules (like steel) should always be aware that state aid might be unlawful. The European Commission's role in monitoring state aid is well established, so companies should not assume aid is lawful without formal approval from the Commission.

1.6. Principle of Equivalence

The principle of equivalence requires that national courts apply legal remedies for EU law infringements in the same manner as they would for violations of national law, provided the purpose and cause of action are similar.

In case of Ms. Levez (C-326/96), a French national, who had worked in the United Kingdom for a period but was later denied unemployment benefits by the UK authorities upon her unemployment. The UK government argued that she did not meet the requirement for having worked in the country for a certain period before being eligible for these benefits. This restriction was based on the belief that non-nationals, including citizens of the Union, should only receive unemployment benefits if they had been employed in the UK for a sufficient time. Ms. Levez challenged this restriction, asserting that it violated her rights under EU law, particularly the principle of free movement of workers. She argued that as a citizen of the Union, she should be entitled to the same social security benefits as UK citizens, regardless of the length of her employment history in the UK. The Court ruled in favour of Ms. Levez, stating that the UK's conditions for access to unemployment benefits violated the rules on the free movement of workers and non-discrimination based on nationality. The court emphasised that EU nationals, even those who had worked briefly or not at all in a Member State, should have equal access to social benefits once they have exercised their right to reside and move freely within the EU.

The Levez case clarified and reinforced the importance of EU law supremacy over national legislation, ensuring that Member States cannot impose unjust restrictions on the rights of EU citizens, particularly regarding social security and the free movement of workers. It also highlighted the importance of indirect administration, where national authorities must adhere to EU principles and cooperate with the broader goals of integration and equality within the EU.

1.7. Principle of Consistent Interpretation

National law must be interpreted in conformity with EU law to ensure its full effectiveness. This principle enables national courts to set aside domestic legal provisions that conflict with EU law. The Treaty on the Functioning of the European Union (TFEU) establishes a comprehensive legal remedy system, ensuring judicial review of EU acts. Article 47 of the EU Charter of Fundamental Rights reinforces the principle of effective judicial protection.

While the TFEU allows direct legal actions in some cases, it does not create new national remedies beyond those established under national law. However, where no such remedy exists, or if access to justice requires unlawful action, national courts must provide effective legal protection.

Joined Cases Pfeiffer (C-397/01 & C-403/01) revealed the problem of a group of German paramedics and medical workers ensuring emergency service (Pfeiffer and others) who worked long hours beyond the limits set by the EU Working Time Directive (2003/88/EC). Specifically, the firefighters ***were required to work excessive hours,*** *exceeding the maximum weekly working time set by the directive (48 hours per week, including overtime). German law allowed for longer working hours in emergency services, but the firefighters argued that this was* ***inconsistent with EU law,*** *as the directive aimed to protect workers' health and safety by limiting excessive working hours. They argued that German national law did not properly implement the directive, leading to excessive working hours that violated EU law. The German court referred the case to the Court to determine how national courts should interpret and apply EU law. The Court reaffirmed the principle of consistent interpretation, stating that national courts must interpret their laws as far as possible in line with EU directives.* ***Even if a directive has not been fully or correctly transposed, national courts must apply national laws in a way that aligns with the directive's objectives.*** *The court emphasised that consistent interpretation applies to all national laws, even those adopted before the directive.*

The Factortame case (C-213/89) arose when Spanish fishing companies operating in UK waters challenged the UK's Merchant Shipping Act 1988. This law required fishing vessels to be majority British-owned to be registered in the UK, effectively blocking Spanish companies from fishing in British waters. Factortame Ltd, a Spanish company, argued that the UK law violated Community law (specifically freedom of establishment under the treaties). The UK courts referred the case to the Court, which ruled that national laws or practices cannot limit the effectiveness of Community law. If a national law conflicts with Community law, national courts must have the power to set it aside to ensure that Community law is fully applied.

In case Inuit Tapiriit Kanatami v. European Commission (C-583/11 P) the problem arose when Inuit Tapiriit Kanatami, a Canadian indigenous organization, and other claimants sought to challenge the European Commission's decision to withhold certain documents related to the EU's negotiations with Canada on a trade agreement, specifically the Comprehensive Economic and Trade Agreement (CETA). The claimants argued that the documents should be made public under the EU's Regulation No. 1049/2001, which grants the public access to documents held by EU institutions. Specifically, the organisation sought access to ***documents related to the EU's internal assessments*** *and positions in relation to the CETA negotiations, which were believed to involve environmental and human rights issues that were of concern to Inuit peoples. The Court ruled that the European Commission had not properly assessed whether the documents could be withheld based on the* ***exceptions to transparency*** *outlined in the EU regulation (such as protection of the public interest, confidentiality, or international relations). The Court held that the Commission's reasoning for withholding the documents was insufficient. The case provided further clarity on how the* ***exceptions to access to documents*** *under Regulation No. 1049/2001 should be interpreted. The Court made it clear that any refusal to provide documents must be based on a specific and detailed assessment of the potential harm that disclosure could cause. General or vague claims of harm are not sufficient. The case is particularly relevant in the context of EU negotiations with third countries, such as Canada in this instance. It shows how EU transparency rules apply even in sensitive areas like trade agreements, where the EU must balance openness with the need to protect certain strategic interests or confidential negotiations. The case highlighted that the* ***EU is not exempt from the rules it requires Member States to follow.*** *It also established a comprehensive system of legal remedies and procedures to ensure judicial review of the legality of institutional acts, entrusting this review to the European Union judiciary.*

1.8. Effective Legal Protection

In the absence of specific EU rules, Member States must provide judicial remedies that adequately protect individual rights derived from EU law. These remedies must not be less favourable than those available in comparable national cases.

In the previously mentioned Rewe-Zentralfinanz case (Case 33/76), the Court ruled that Community law must be fully effective, and national courts must ensure that individuals can effectively exercise their rights granted by Community rules, even in the face of potentially conflicting national rules or regulations. The Court held that the principle of effective legal protection is a cornerstone of the Community's legal system, and that individuals must have access to remedies in national courts when their community rights are violated by national measures.

The Rewe-Zentralfinanz case is highly significant because it laid down the foundation for the ***effective legal protection principle.*** *This principle is now recognised as one of the cornerstones of the EU legal system, and its implications are far-reaching for how Community law is enforced at the national level.*

The case confirmed that individuals (whether citizens, companies, or other entities) have the ***right to effective judicial protection*** *under Community law, which means they can seek legal remedies in national courts when EU rights are violated. This principle ensures that the rights of citizens and entities are protected and enforceable in every Member State. The Rewe-Zentralfinanz case also emphasised the* ***role of national courts*** *in the* ***indirect enforcement of Community law.*** *Even though the integration is a union of sovereign States, national courts play a crucial role in ensuring that Community law is applied correctly within each Member State. If national law conflicts with Community law, the national court has the responsibility to ensure that Community law is properly implemented and that the individual's EU law rights are respected. The principle of* ***effective legal protection*** *has become* ***central to Community (now EU) law,*** *and has been reiterated in numerous subsequent cases. It ensures that* ***EU law is not theoretical or abstract*** *but has a real, practical effect on people's lives. Without the ability to seek remedies in national courts, EU law would be ineffective and unenforceable.*

The principle also impacts ***national legal systems,*** *requiring them to align their procedural rules with EU law. Member states cannot use national rules that limit or restrict access to justice as an excuse to avoid complying with*

EU law. Essentially, national courts are required to ensure that individuals can invoke EU rights and receive a fair and effective remedy.

The Torubarov case (C-556/17) is a pivotal judgment by the Court that underscores the imperative of effective legal protection, particularly when domestic legal frameworks fail to uphold applicants' rights in asylum procedures.

Alekszij Torubarov, a Russian national involved in opposition political activities and facing multiple criminal proceedings in Russia, sought asylum in Hungary in 2013. The Hungarian Immigration and Asylum Office (IAO) rejected Torubarov's asylum application twice. Each rejection was annulled by the Administrative and Labour Court of Pécs, which identified flaws in the IAO's decisions and provided guidance for reassessment. Despite the court's directives, the IAO issued a third rejection, prompting Torubarov to seek judicial review once more. The core question was whether EU law empowers national courts to grant international protection directly when administrative authorities repeatedly fail to comply with judicial decisions, thereby undermining the applicant's right to an effective remedy.

The Court emphasized that Article 46(3) of the Asylum Procedures Directive (Directive 2013/32/EU), in conjunction with Article 47 of the Charter of Fundamental Rights of the EU, mandates that applicants for international protection have access to a full and ex nunc examination of both facts and points of law. This ensures the right to an effective remedy. The CJEU held that if ***an administrative authority disregards a court's annulment*** *decision without presenting new evidence that justifies a different outcome, the* ***national court must have the authority to alter*** *the administrative decision and grant the appropriate international protection status.* ***This may involve applying national laws*** *that prevent such judicial intervention. The Court underscored that the effectiveness of EU law would be compromised if administrative authorities could persistently ignore judicial decisions. Therefore, national courts must be empowered to ensure that applicants' rights are effectively protected. This case serves as a critical reminder of the judiciary's role in upholding the rule of law and protecting individual rights within the EU legal framework.*

In the case of ***Agrokonsulting*** *v. Bulgaria (C-93/12), Agrokonsulting is registered as a farmer in Burgas, Bulgaria. It lodged an aid application. It was rejected for non-compliance with eligibility requirements under Regulation (EC) No 1122/2009 (which lays down rules for cross-compliance, modulation, and the integrated administration and control system under the common agriculture policy). Agrokonsulting brought an action against that decision before the Administrative Court, Burgas.*

Bulgarian law dictated that any administrative appeal against an aid decision by the Director (based in Sofia) must be heard in Sofia, regardless of where the farmland was located
Such rule seems disadvantage farmers (often from rural or remote areas) by forcing them to litigate far from home – with higher costs, longer procedures, and logistical challenges, so the national court asked the Court whether the EU principles of equivalence and effectiveness, and Article 47 of the EU Charter (right to an effective remedy), forbid a national rule that centralizes all appeals in one court (here, Sofia), irrespective of the aid recipients' location.
The Court ruled that such a national rule does not automatically violate EU law, including the Charter and the two procedural principles. National procedural autonomy is respected ***as long as EU-based rights are protected 1. equally and 2. effectively.*** *The national court (in Sofia) must assess whether these standards are upheld in practice. This case clarifies thus the* ***balance*** *between two principles: Member States' procedural autonomy in organizing their courts, and the EU's obligation to ensure that individuals can effectively exercise their rights under EU law without undue burden.*
By emphasising practical conditions (travel distance, delays, costs, etc.), the Court made it clear that procedural design must not, in substance, disadvantage EU aid claimants.

2. Impact of Secondary Legislation on the Indirect Administration

The European Union operates on a **multilevel governance system,** where indirect administration plays a key role in implementing EU law at the national level. While Member States retain **autonomy** over their **administrative structures,** EU secondary legislation (regulations, directives, and decisions) increasingly influences national administrations. This results in a **delicate balance** between respecting traditional Member State administrative organisation and ensuring uniform implementation of EU policies. While national administrative traditions are respected, secondary legislation often introduces requirements that **harmonise** specific administrative practices across Member States.

2.1. The Uniform Territorial Uniting System for Statistical Reasons

One significant example of EU influence is the creation of uniform territorial units for statistical and policy analysis.

The **Nomenclature of Territorial Units for Statistics (NUTS)** is a system developed by the European Union to classify and compare territorial divisions across Member States. Its primary purpose is to provide a **harmonised statistical framework** rather than to function as an administrative or political structure. Established by Regulation (EC) No 1059/2003, it divides Member States into standardised territorial levels. While Member States maintain their regional divisions, they must comply with EU-defined territorial units for statistical reporting. While it plays a crucial role in EU regional policies, it exists **only on paper,** serving as a reference for statistical and economic analysis rather than having any independent governance or legal authority.

The NUTS classification divides each Member State into hierarchical territorial levels:

- **NUTS 1:** Major socio-economic regions (e.g., German *Bundesländer,* French *régions*)
- **NUTS 2:** Basic regions for economic development (e.g., Spanish autonomous communities, Italian regions)
- **NUTS 3:** Small regions for specific diagnoses (e.g., French *départements,* Polish *powiaty,* Hungarian *counties*)

The current NUTS 2024 classification is valid from 1 January 2024. It lists 92 regions at NUTS 1, 244 regions at NUTS 2 and 1 165 regions at NUTS 3 level.

This system enables **comparisons across different countries,** helping the EU allocate regional development funds and assess socio-economic trends. Its existence is **purely technical,** facilitating EU policies like **cohesion funding,** economic planning, and demographic analysis. However, it does not interfere with national sovereignty or impose a unified territorial structure on Member States.

2.2. Secondary Legislation Requirements to Serve a Common Policy

Secondary legislation also influences national administration through sectoral policies. Certain norms require Member States to **adjust their administrative structures or procedures** to ensure harmonized implementation of EU policies.

For example:

- In environmental law, the Water Framework Directive (2000/60/EC) requires Member States to manage water bodies based on river basin districts, rather than traditional administrative boundaries. This redefines governance structures to align with EU ecological objectives.
- Under the Common European Asylum System (CEAS), directives such as the Asylum Procedures Directive (2013/32/EU) impose harmonised procedural standards, impacting *how* national authorities process asylum claims.
- Based on Regulation (EC) No 1/2003 (Modernisation of EU Competition Law), Member States had to establish or empower independent competition authorities
- The former General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) required all Member States to establish an independent data protection authority
- The Digital Services Act (DSA) (Regulation (EU) 2022/2065) requires Member States to appoint Digital Services Coordinators to supervise online platform regulations.
- The Anti-Money Laundering Directive (AMLD) (Directive (EU) 2015/849 & its successors) obligates Member States to set up Financial Intelligence Units (FIUs) for monitoring financial transactions.
- The Environmental Impact Assessment Directive (Directive 2011/92/EU, amended by Directive 2014/52/EU) introduced uniform assessment procedures for large-scale projects affecting the environment and required national authorities to ensure public participation and transboundary consultations.
- The Schengen Border Code (Regulation (EU) 2016/399) imposes harmonised border control procedures, limiting national discretion on Schengen entry/exit rules. Also, it is required to adjust to digital systems like the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS).
- The Dublin Regulation (EU) No 604/2013 and Asylum Procedures (Directive 2013/32/EU) require Member States to establish specialised asylum bodies and courts for handling refugee cases and introduced standardised reception conditions, limiting national variation in asylum procedures.

In a Hungarian case (C288/12), the European Commission challenged Hungary's decision to prematurely terminate the term of its Data Protection Supervisor,

alleging this action compromised the independence required by EU law. Hungary's Data Protection Supervisor, appointed in 2008 for a six-year term, was expected to serve until 2014. However, in 2011, Hungary restructured its data protection framework, replacing the Supervisor with a new National Authority for Data Protection and Freedom of Information. This reorganisation led to the premature termination of the incumbent Supervisor's term, with a new head appointed to the Authority. The core issue was whether Hungary's action of ending the Supervisor's term prematurely violated the requirement of independence for national data protection authorities as mandated by Article 28(1) of Directive 95/46/EC. The Court emphasised that the independence of supervisory authorities is crucial for effective data protection. Such independence ensures authorities can perform their duties free from external influences, including political pressures. The Court noted that the mere risk of political influence could hinder the impartial performance of these authorities. By allowing the premature termination of the Supervisor's term, Hungary introduced a potential for political influence, undermining the authority's independence. The Court asserted that even if Member States have discretion in organising their administrative structures, they must ensure that such arrangements do not compromise the independence of data protection authorities. This ruling underscores that while EU Member States have the autonomy to design their administrative frameworks, this discretion is limited by EU law requirements. Specifically, when EU law mandates the establishment of independent supervisory authorities, Member States must ensure that their national structures comply with these independence requirements. The decision highlights that organisational changes at the national level should not undermine the functional and operational independence of authorities tasked with implementing EU directives.

The Court concluded that Hungary's premature termination of its Data Protection Supervisor's term violated EU law, as it compromised the required independence of the supervisory authority. This case reinforces the principle that EU law can influence national administrative structures, particularly concerning the independence of authorities responsible for enforcing EU regulations.

In another data protection related case (Case C-132/21), the Court of Justice of the European Union (CJEU) addressed the interplay between various legal remedies available under the General Data Protection Regulation (GDPR), focusing on the balance between Member States' procedural autonomy and the need for effective and uniform protection of data subjects' rights. The case originated from a dispute where an individual, referred to as BE, sought access to extracts from a sound recording of a general meeting

of shareholders in which he had participated. After his request was denied, BE lodged a complaint with the Hungarian National Authority for Data Protection and Freedom of Information (the supervisory authority) under Article 77(1) of the GDPR. Concurrently, he initiated legal proceedings against the data controller based on Article 79(1) of the GDPR. This situation raised questions about the relationship between these remedies and whether one should take precedence over the other. Procedural autonomy allows EU Member States to define their own procedural rules for enforcing EU law, provided these rules are not less favourable than those governing similar domestic actions and do not render the exercise of EU rights practically impossible or excessively difficult. In this case, the CJEU reaffirmed that, in the absence of specific EU provisions detailing the relationship between the remedies in Articles 77 to 79 of the GDPR, it falls within the Member States' procedural autonomy to establish national rules governing this relationship. The CJEU emphasized that while Member States have the discretion to determine procedural rules, these rules must not compromise the GDPR's objectives or the rights it protects. Specifically, the Court highlighted that allowing data subjects to pursue both administrative complaints and judicial remedies concurrently and independently is permissible, provided that national law ensures these remedies do not lead to contradictory decisions within the same Member State.

The CJEU confirmed that ***it is up to the Member States to regulate the relationship between the different legal remedies available*** *under Articles 77 to 79 of the GDPR. This means that national law can determine whether a complaint to a supervisory authority (Article 77) takes precedence over court proceedings (Article 79) or vice versa, as long as such rules comply with the principles of equivalence and effectiveness under EU law.*

However, the Court also emphasized that procedural autonomy is not unlimited – national rules must not make it excessively difficult for individuals to exercise their rights under the GDPR. So, while Member States have discretion, they cannot create procedural barriers that would weaken data protection rights.

3. National Civil Service of Member States and the Impact of EU Law on It

The national civil services of EU Member States play a crucial role in ensuring the implementation and the **execution of EU law.** While employment in the public sector remains largely under national control, certain EU principles

and legal frameworks influence its operation, particularly when national administrations execute EU law.

Although civil service employment is traditionally a national competence, **EU law impacts national administrations in specific situations.** The two main areas where EU principles apply are:

3.1. Execution of EU Law by National Civil Servants

When national authorities enforce or apply EU regulations or directives, they must adhere to **EU administrative principles,** including the **principles of good administration,** as outlined in the **European Code of Good Administrative Behaviour.** These include fairness, impartiality, and transparency, and fundamental EU values such as **proportionality, non-discrimination, and legal certainty.**

The National Civil Servants, when they apply EU law, are under the scope of the EU Charter of Fundamental Rights.

3.2. Public Service Exemption in Free Movement of Workers

While the **free movement of workers** (Article 45 TFEU) is a cornerstone of the EU internal market, it **does not apply to employment in the public sector** where jobs involve the exercise of public authority and safeguarding the general interests of the state (e.g., the judiciary, police, military, and diplomacy). However, administrative and technical roles that do not involve such sovereign powers **must comply with EU free movement rules,** allowing citizens from other Member States to apply for such positions.

The CJEU has consistently ruled that the public service exemption must be limited to activities that involve a direct and specific connection with the exercise of public authority.

In the case of Reyners (Case 2/74), the Court dealt with a situation where Mr. Reyners, a Belgian national, sought to become a lawyer in the Netherlands. However, Dutch law required lawyers to be Dutch nationals or nationals of another Member State who had lived in the Netherlands for a certain period of time. Since Mr. Reyners was a Belgian citizen, he was denied the right to practice law in the Netherlands. Mr. Reyners argued that the Dutch law violated the principle of ***free movement of workers,*** *which allowed community citizens to work in any Member State without discrimination based on nationality.*

> *The key issue in the case was whether the free movement of workers under Community law applied to professions like law, which are closely tied to the public service. The Netherlands argued that lawyers, as public officers in certain legal and administrative functions, were part of the public service and, therefore, could be subject to nationality restrictions.*
> *The Court ruled that the free movement of workers applies to all professions, including those related to law, except for certain* ***public service exceptions.***
> *The Court clarified that* ***public service exceptions*** *allow Member States to impose nationality restrictions only on positions that involve the* ***exercise of sovereignty*** *or duties that are fundamental to the state's* ***political or administrative functions.***
> *In this case, the Court did not find that the profession of lawyer in the Netherlands was part of the public service exception that could justify nationality restrictions. Therefore, the Court held that the Dutch law violated Community law by restricting Mr. Reyners' right to practice law based solely on his nationality. The Court concluded that the restriction imposed by the Netherlands was unlawful, and Mr. Reyners was entitled to practice law in the Netherlands under the* ***free movement of workers*** *principle.*

Similarly, the Court has ruled that **many technical, administrative, and consultancy roles do not qualify as 'employment in the public service'.** Jobs that lack decision-making authority or do not involve implementing state policies **must be open to non-nationals.** The following positions **cannot be reserved for nationals,** as they do not involve the exercise of public authority:

- **technical roles:** road traffic accident expert, transport consultant, vehicle inspector, certification bodies.
- **civil service and administrative roles:** local government employees, trainee lawyers, court translators, night watchmen.
- **education and research:** teachers in state schools, state nurses, foreign language assistants, research positions not involving sensitive work.
- **public sector employment with no authority power:** state railway workers, security guards, scientific and technical advisors.

The case-law has reinforced that the **mere fact that a role is in the public sector does not automatically mean it is exempt** from free movement rules. The decisive factor is **whether the role involves public authority functions** such as policy-making, national security, or enforcement of laws.

Summary of Key Points of Block no. 3

The **principle of primacy of indirect administration** has been a key driver of European integration, ensuring that EU law is implemented primarily through national administrations. The EU operates as a **new legal order,** distinct from traditional international cooperation, yet it **lacks direct competence** over Member States' administrative structures. However, **result-based obligations** require national authorities to align with EU objectives.

The operating mode of the composite administration is based on the principle of loyal cooperation. This provision sets out Member States' obligations to the Union, but also reminds the Union of its obligations to the Member States. When implementing binding Union acts, Member States are obliged to implement them completely, consistently, and effectively.

The main obligations stem from **CJEU jurisprudence,** particularly the **principle of sincere cooperation,** which mandates collaboration between the EU and Member States. Other guiding principles include **conferral** (EU powers are limited to those granted by treaties), **procedural autonomy** (Member States retain control over their procedures within EU law constraints), **effectiveness** (EU law must achieve its intended results), **consistent interpretation** (national laws must align with EU law), **equivalence** (EU rights must be enforced no less favourably than national ones), and **effective legal protection** (ensuring judicial safeguards for individuals). Therefore, existing national administrative law must be adapted where appropriate, conflicting provisions repealed or disregarded, and all law fully interpreted in conformity with EU law. These **obligations apply to Member State legislatures, administrations, and judiciaries.**

Secondary EU legislation shapes the execution of administrative tasks across member states. This often necessitates structural and procedural changes in national administrative law to ensure effectiveness, leading to a certain harmonisation of public administration. However, the comparability of territorial units within member states is achieved through a theoretical administrative uniting system, without interfering with territorial integrity.

Furthermore, the **execution of EU law by national civil servants** significantly impacts domestic administration, though employment issues within the civil service **remain a national competence.** Notably, civil service positions are **exempt from** the principle of **free movement of workers,** allowing

Member States to restrict these roles to their nationals when they involve core public service functions.

This framework supports **functional procedural autonomy,** allowing national administrations to implement EU law while maintaining procedural discretion within EU legal boundaries.

IV. Principles of Administrative Cooperation

Cooperation is the *process of working together toward a common goal or mutual benefit.* It involves individuals, groups, or organisations collaborating by **sharing resources, responsibilities,** and **efforts** to achieve a shared objective. Cooperation can take **many forms,** from teamwork in a workplace to international alliances between countries. It often requires communication, trust, compromise, and a willingness to consider others' perspectives.

In the context of the **European Union,** the cooperation encompasses:

- **coordination within national governments to contribute to the work of those** institutions and bodies of direct level which rely on governmental participation. different ministries, agencies, and governmental bodies work together to present a unified position in EU decision-making and manage the implementation of EU norms.
- **horizontal collaboration between Member States and EU institutions:** national organs and authorities cooperate with the **European Commission, the European Parliament, and the Council of the EU** to develop, negotiate, and enforce EU policies and legislation.
- **vertical collaboration, meaning the cross-border cooperation of** Member States' authorities work together to address issues that transcend national borders, such as **environmental protection, border security, and trade regulations,** ensuring consistent and coordinated policies across the EU.

1. Sincere Cooperation in the light of Mutual Trust and Mutual Recognition

Administrative cooperation in the EU ensures the effective implementation and enforcement of EU law across Member States. Since the EU primarily operates through **indirect administration,** where national authorities execute EU policies, cooperation between national administrations and EU institutions is essential. With the increasing complexity of the **internal market,** many issues require **collaboration between authorities,** and various policies depend on both **direct and indirect levels of cooperation,** leading to a composite administration.

The principle of sincere cooperation requires Member States to actively assist the EU in fulfilling its objectives and ensuring the effective enforcement of EU law. The EU functions as a new legal order distinct from traditional international cooperation, but it does not have direct authority over national administrations. As Member States retain their administrative systems, leading to variations in how EU law is implemented. To ensure legal certainty and uniformity, cooperation mechanisms help align national enforcement practices with EU objectives.

The **principle of mutual trust** and **mutual recognition** is of fundamental importance in composite administration, as **they allow an area without internal borders to be created and maintained,** and it is supplemented by the necessary collaboration in certain cases that shall be reciprocal, **mutual assistance.** More specifically, the principle of mutual trust requires, in the area of freedom, security and justice, each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law.

- **Mutual trust** requires that EU *Member States trust each other's legal systems to uphold fundamental rights, democracy, and the rule of law.* It is essential for the smooth functioning of the European legal order, allowing for judicial cooperation in areas such as the European Arrest Warrant (EAW), asylum procedures, and mutual legal assistance.
- **Mutual recognition** means that *decisions made by authorities in one Member State must be recognised and enforced by others.* It is the foundation of instruments like the EAW, cross-border legal cooperation, and administrative recognition of qualifications, judgments, and different types of penalties, inter alia. For example, A professional

qualification recognised in one Member State should be valid in others, requiring cooperation in verification and approval processes.

- **Mutual assistance** is the *act of individuals or groups helping each other for shared benefit.* It involves reciprocal support, where each party contributes and receives help when needed. This can happen informally or formally, and based on cooperation, trust, and a sense of community or solidarity.

The principle of mutual trust and mutual recognition in the area of freedom, security, and justice of the European Union was first explicitly established and recognized in the **Tampere European Council conclusions of 1999** where EU leaders emphasized mutual recognition of judicial decisions as the "cornerstone" of judicial cooperation in both civil and criminal matters. This laid the foundation for later developments in **police cooperation, asylum policies, and judicial collaboration across EU** Member States. The principle of mutual trust, which underpins mutual recognition, was later reinforced in key cases of the Court of Justice of the European Union.

One of the first major cases where the Court of Justice of the European Union formally recognised mutual trust between Member States' legal systems was the Gözütok and Brügge Case (Joint cases C-187/01 and C-385/01). The case dealt with the ne bis in idem principle (the right not to be tried or punished twice for the same offence).

Hüseyin Gözütok was a Turkish national residing in the Netherlands. He was prosecuted in the Netherlands for drug-related offences, but his case was settled ***under the Dutch system*** *of prosecution service discontinuation (transaction), where* ***he paid a fine*** *and was no longer subject to criminal prosecution. Later,* ***Belgium tried to prosecute him for the same drug offences.*** *Gözütok argued that under the ne bis in idem principle (Article 54 of the Schengen Implementing Convention), Belgium could not prosecute him again since the Netherlands had already settled the case.*

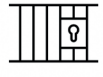
Klaus Brügge was a German national accused of ***manslaughter in Belgium.*** *The* ***German prosecution decided to close the case,*** *meaning there was no trial. However, Belgian authorities wanted to prosecute him for the same offence. Brügge argued that since Germany had closed the case, Belgium could not reopen it based on ne bis in idem.*

The Court ruled that if one Member State had already terminated criminal proceedings on substantive grounds (without a formal trial), another Member State was obliged to recognise that decision. The ruling established that EU Member States ***must trust each other's legal systems and judicial***

decisions. *It laid the foundation for later developments, particularly in the area of judicial cooperation in criminal matters, and it influenced the European Arrest Warrant (EAW) system, reinforcing the idea that national authorities must* ***recognise and enforce judicial decisions from other EU countries without excessive checks.***

When applying EU law, Member States are generally expected to trust that other Member States respect fundamental rights. This means they cannot require a higher level of protection than what EU law provides, nor can they usually verify whether another Member State has followed fundamental rights in a specific case, except in exceptional circumstances.

The purpose of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (Framework Decision) was to replace the multilateral system of extradition based on the European Convention on Extradition of 13 December 1957 with a system of surrender between judicial authorities of convicted or suspected persons to enforce judgments or of conducting prosecutions, the system of surrender being based on the principle of mutual recognition. The Framework Decision aimed to introduce a simplified system of surrender directly between judicial authorities that seeks to replace a traditional system of cooperation between sovereign States – involves action and assessment by a sovereign – to ensure the free circulation of court decisions in criminal matters, within an area of freedom, security and justice. The basis of this sort of collaboration is the ***mutual trust, but not under all circumstances.*** *In the Kovalkovas case, (C-477/16), a European Arrest Warrant (EAW) was issued for Mr. Artūrs Kovalkovs, a Latvian national, by the Public Prosecutor's Office of Lithuania. He was arrested in Ireland under the EAW. He challenged the validity of the warrant, arguing that the issuing authority (Lithuanian Public Prosecutor's Office) was not a judicial authority as required under EU law. The Court ruled that a European Arrest Warrant must be issued by a judicial authority. A prosecutor's office does not qualify as a judicial authority if it lacks independence from the executive government.*



The Aranyosi and Căldăraru (Joint cases C-404/15 and C-659/15 PPU) cases introduced a human rights safeguard to the EAW system, allowing Member States to refuse extradition in cases where prison conditions violate fundamental rights. Mr. Aranyosi, a Hungarian national, was subject to a European Arrest Warrant issued by Hungary for burglary-related offences. He was arrested in Germany, but his lawyers argued that Hungarian prison conditions posed

a risk of inhuman or degrading treatment. Mr. Căldăraru, a Romanian national, was subject to an EAW issued by Romania for driving offences. He was also arrested in Germany, and his defence also cited overcrowded Romanian prisons, arguing that his extradition would violate Article 4 of the EU Charter (prohibition of torture and inhuman or degrading treatment). The Court ruled that ***mutual trust is not absolute*** *and that Member States must assess* ***fundamental rights risks*** *before surrendering a person. If there is credible evidence (such as reports from the European Court of Human Rights or NGOs) that prison conditions in the issuing state pose a real risk of inhuman treatment, the executing state. The ruling limited the automatic application of mutual recognition in the EAW system and introduced a two-step test: a (1)* ***general assessment*** *to determine if there are systemic or widespread problems in the issuing country's prison system, and an (2)* ***individual*** *assessment to examine whether the person specifically faces a real risk.*

The same issue occurred in the case of LM (C-216/18 PPU) involved an EAW issued by Poland for a Polish citizen (LM) who was residing in Ireland. The Irish authorities were asked to extradite LM to Poland. However, LM challenged his extradition, arguing that recent judicial reforms in Poland had undermined the independence of the Polish judiciary. He claimed that if extradited, he would not receive a fair trial due to systemic deficiencies in Poland's judicial system. The Irish High Court was concerned that executing the EAW might violate LM's fundamental rights, particularly the right to a fair trial (Article 47 of the Charter of Fundamental Rights of the EU), so the court referred the case to the Court of Justice of the European Union to clarify whether it could refuse extradition based on concerns about judicial independence in Poland. The case raised the question of whether mutual trust should be automatic, even when serious concerns exist about a Member State's judiciary. The CJEU ruled that while mutual trust is a fundamental principle of EU law, it is not absolute. ***Mutual trust is*** *not automatic* ***and can be challenged*** *in exceptional cases where judicial independence is in doubt.*

While **mutual trust** and **mutual recognition** were initially largely developed in the field of judicial and criminal cooperation, they have gradually expanded into **administrative cooperation** between EU Member States. These principles now apply to areas such as **asylum, taxation, professional qualifications, administrative documents, consumer protection, and market regulations,** also in legislation.

The roots of mutual recognition of administrative decisions, though not explicitly named as such, can be traced back to the Singh case (C-370/90) of 1992. Mr. Singh, an Indian national, was married to a British citizen. The couple lived and worked in Germany, an EU Member State. Later, they returned to the UK, where the UK authorities refused to grant Mr. Singh a residence permit. The case questioned whether an EU citizen who has exercised free movement rights in another Member State can invoke EU law upon returning to their home country, particularly to secure residence rights for a non-EU spouse. The Court ruled that when an EU citizen moves to and works in another Member State, they acquire rights under EU law, which must be respected when they return to their home country. Consequently, if an EU citizen's non-EU spouse was lawfully residing with them in another EU country, they must be allowed to accompany them back home under EU law. Furthermore, if a non-EU national could legally reside as the spouse of an EU citizen in Germany, where neither is a German national, then that non-EU national should be entitled to the same rights once they return as a couple to the EU country where the spouse is a national. This case led to the "Surinder Singh route," allowing British (or other EU national) citizens who have lived elsewhere in the EU to rely on EU law to bring their non-EU spouses to their home country.

The proper execution of EU law thus the building it up and maintaining trust on a permanent basis is a task of **'common interest'** within the meaning of Article 197 TFEU. The Member States must use national resources to ensure that their administrations are 'trustworthy'. This includes the prevention of grievances, in particular corruption, the guarantee of sufficient professional competence, and the provision of necessary enforcement resources.

The **principle of mutual assistance** is closely linked to the principles of mutual trust and mutual recognition in the European administrative space, as they all aim to enhance cooperation and integration among EU Member States. The principle of mutual assistance *mandates collaboration between national administrations, including sharing information and providing support in applying EU law.* The EU's **internal market** enables free movement of **goods, services, capital, and people,** requiring seamless coordination between national authorities. The principle of **mutual assistance** requires national authorities to help one another in the application of EU law. This often involves sharing **information, expertise,** and **resources** to ensure that the laws are enforced consistently across the EU. Mutual assistance is a key aspect of **EU administrative law,** and it is particularly important in areas where **cross-border collaboration** is necessary.

The European arrest warrant is only one example, which allows Member States to request the arrest and transfer of individuals from one state to another within the EU, promoting cooperation in criminal law enforcement. Another example is administrative cooperation in customs law, where national customs authorities support each other in tackling fraud and smuggling activities, ensuring the integrity of the EU's external borders. Issues such as taxation, product safety, and consumer protection need consistent enforcement across borders to prevent distortions in competition and also, once an EU citizen is living or working in another Member State, they should be able to rely on consistent standards and legal protections, ensuring their rights are upheld regardless of where they are within the Union. This highlights the relevance of cross-border cooperation to enforce EU law, as it ensures the uniform application of regulations, prevents legal fragmentation, and supports the effective functioning of the single market. Such cooperation fosters legal certainty and helps maintain a level playing field across all Member States, reinforcing the principles of freedom of movement and non-discrimination for EU citizens and businesses.

The principle of mutual assistance is the operational mechanism that makes mutual trust and mutual recognition effective in the European administrative space. **Without cooperation and assistance,** mutual trust would be difficult to uphold, and mutual recognition would be **ineffective** in practice.

2. Governmental Cooperation in the EU

The European Union operates as a **multi-level governance system** where national governments play a crucial role in both **shaping and implementing EU policies.** Since the EU primarily relies on **indirect administration,** effective **coordination of EU affairs at the national level** is essential to ensure that Member States can both **represent their national interests and implement EU norms effectively.**

This coordination activity primarily serves two key purposes:

- **Representation of national interests** in the European Council and, especially, in the legislative process of the Council of the EU, where national governments negotiate and adopt EU law.
- **Implementation of EU norms** at the national level in the later phase of decision-making, ensuring compliance with EU obligations and the uniform application of laws across all Member States.

To achieve these objectives, Member States rely on **structured governmental cooperation** based on four key principles: ministerial responsibility, the principle of involvement, unity at the Member State level, and one-stop coordination.

2.1. Ministerial Responsibility

The principle of ministerial responsibility ensures that **each national minister is accountable for integrating EU obligations into their policy area.** This responsibility includes:

- representing national positions in **Council of the EU meetings** during legislative negotiations;
- aligning domestic policies with EU law while ensuring **parliamentary oversight;**
- cooperating with other national ministries to ensure a **coherent, cross-sectoral approach to EU policies.**

Since national ministers/State secretaries act as the **main negotiators in EU legislative processes,** their ability to coordinate effectively within their government determines the **strength and consistency of national positions** in the EU decision-making process.

2.2. Principle of Involvement

The principle of involvement ensures that **all relevant stakeholders participate** in the formulation and implementation of EU policies at the national level. This includes:

- **ministers, government agencies, and national parliaments,** which oversee and shape EU decision-making.
- **regional and local governments,** especially in policy areas such as environment, transport, and economic development.
- **social partners, businesses, and civil society,** which contribute expertise and ensure that EU policies reflect societal needs.

The **Lisbon Treaty** strengthened the role of **national parliaments,** allowing them to assess whether EU legislative proposals respect the principle of **subsidiarity.** This broader involvement enhances democratic legitimacy and transparency in EU affairs.

2.3. Unity at Member State Level

The unity principle ensures that a Member State **speaks with one voice in EU institutions,** particularly in the Council of the EU. Given that different ministries often have **diverging sectoral interests,** strong coordination mechanisms are needed to align national positions before EU negotiations.

A lack of unity can weaken a country's **bargaining power** and lead to **contradictory policy stances** at the EU level. To prevent this, national governments often establish a **central coordinating authority,** such as the **Prime Minister's Office** or the **Ministry of Foreign Affairs,** which oversees EU affairs. Also, **cross-ministerial coordination** requires a format for the effective formulation of unified national positions.

Unity is crucial both in the **legislative phase,** where governments negotiate EU laws, and in the **implementation phase,** where consistency in transposing EU norms into national legislation is required.

2.4. One-Stop Coordination

The **one-stop coordination principle** refers to the creation of a **centralised body** responsible for coordinating all EU-related matters within a Member State. This mechanism ensures:

- ✓ **a single, streamlined process** for formulating national positions in the EU legislative process;
- ✓ **efficient communication** between national authorities and EU institutions;
- ✓ **legal and policy coherence** when implementing EU laws at the domestic level.

One-stop coordination helps Member States **react quickly to EU initiatives,** preventing **delays, fragmentation, or inconsistencies** in decision-making. Many Member States rely on **specialised EU coordination units,** which act as the main interface between national ministries and EU institutions.

3. Composite Administration

In EU law, composite administration refers to a situation where *the implementation and enforcement of certain EU laws and regulations involve both*

EU institutions and the authorities of individual Member States working together in a coordinated manner.

The term is particularly relevant in the context of EU regulatory frameworks where EU law requires national authorities to play a significant role in enforcing or applying EU rules, often in cooperation with EU-level institutions. This collaborative approach ensures that EU policies are carried out uniformly across Member States while allowing national authorities to use their administrative procedures and structures.

3.1. Horizontal and Vertical Cooperation

⇔ **Horizontal cooperation** refers to the *interaction between* ***national authorities of different Member States*** *that collaborate directly with one another, without the involvement of EU institutions.* This type of cooperation often takes place on a **peer-to-peer** basis, where authorities with similar responsibilities in different countries exchange information, share resources, and coordinate policies to ensure consistency and uniformity in the application of EU law. Horizontal cooperation can cover various sectors, such as taxation, law enforcement, and public health and can be on an ad hoc basis or supported by a structured form of data flow and database.

The original ***Prüm Convention*** *(2005), signed by seven EU Member States (Germany, France, Spain, Belgium, Luxembourg, the Netherlands, and Austria), aimed to enhance police cooperation in tackling terrorism, crime, and illegal migration. Originally, the Prüm Convention was an intergovernmental agreement between seven Member States, operating on a horizontal cooperation model. However, in 2008, the Convention was integrated into EU law through Council Decisions 2008/615/JHA and 2008/616/JHA. It established a decentralised, network-based model where national law enforcement agencies could request and exchange data directly. Each Member State retained control over its national DNA, fingerprint, and vehicle registration databases but law enforcement agencies could request access to this information from other countries on a case-by-case basis. If a police force in one Member State needed to check a DNA profile or a fingerprint, they could send a request to another Member State's national database.*

The Prüm Framework still functions, but it has evolved. Prüm II was an update to the Prüm Framework, aimed at enhancing cross-border law enforcement cooperation within the EU. It was introduced by the European Commission in December 2021 as part of a broader EU Security Union

Strategy. The goal is to modernise and expand the existing Prüm system while maintaining its decentralised nature. New types of data were included in the hit/no-hit exchange system: facial recognition data (new addition), police records (criminal case data), and driving license data (to verify identities in investigations). These additions build on the existing exchange of DNA, fingerprint, and vehicle registration data under the original Prüm Framework. Instead of creating a centralised EU database, Prüm II establishes an EU-wide router. This router acts as a technical hub to streamline data requests while keeping national databases separate. This ensures faster searches and maintains national control over sensitive data, and provides faster and more automated data exchanges.

⇳ **Vertical cooperation,** on the other hand, *occurs between* ***national authorities and EU institutions*** *(such as the European Commission, European Parliament, or European Council).* It ensures that EU policies are appropriately transposed into national laws and that national governments comply with EU regulations. This cooperation is vital for the **implementation and enforcement of EU directives, regulations, and decisions** at the national level. The European Commission plays a significant role in overseeing the adherence of Member States to EU law, often prompting corrective actions when needed. The **principle of sincere cooperation** mandates that Member States must assist the EU in fulfilling its goals and ensure the effective implementation of EU law.

A strong example of vertical administrative cooperation is the enforcement of EU competition law, particularly under Articles 101 and 102 TFEU, which prohibit anti-competitive agreements and abuse of market dominance. The European Commission (DG Competition) is the main enforcer of EU competition rules. It investigates major cartels, abuses of dominance, and mergers affecting multiple Member States. Each Member State has a National Competition Authority (NCA) responsible for enforcing EU competition law at the national level. NCAs apply both national and EU competition rules, ensuring a consistent legal framework. The ECN is a formalised cooperation mechanism where the European Commission and NCAs coordinate investigations and share information. If an NCA starts an investigation that affects other EU countries, the Commission can take over or provide guidance. NCAs exchange case-related data, best practices, and enforcement strategies.

An increasingly important form of cooperation in the EU is **network-based,** supported by an immense **IT** background to make it **easier, quicker and simpler.** It involves the creation of specialised **administrative networks**

that link national authorities and EU institutions. These networks facilitate **information exchange, best practice sharing,** and **collaboration on specific policy issues.**

These networks provide a structured approach to tackling complex issues that require the input and collaboration of multiple stakeholders across borders. By connecting national authorities through these formalised structures, the EU ensures **consistent application** of its policies and a **more integrated approach** to governance.

3.2. Normative Nature of Collaboration

There are different approaches and mechanisms for states to share information and collaborate across borders. These include **classical diplomatic collaboration, mutual assistance,** and **information exchange mechanisms** under EU law. While these approaches share a common goal of enhancing cooperation between states, they differ in terms of their formality, scope, and legal frameworks.

(a) Classical Diplomatic Collaboration

Classical diplomatic collaboration refers to the traditional method by which one state's authority seeks information or assistance from another state's authority, usually through formal channels. This method typically involves **communication** between representatives of different governments or their respective agencies, with an emphasis on diplomacy, trust, and discretion.

Requests for information are made **on a case-by-case basis** and often involve **diplomatic negotiations** or **letters of request.** There is typically **no binding legal framework** unless explicitly agreed upon by the states involved, so the form of collaboration is **informal** and **ad hoc.** Governments rely on existing **diplomatic channels or bilateral agreements,** or **reciprocity** to request information or cooperation on specific issues. The information exchange may be **restric1ted** based on the discretion of the involved parties.

One country's Ministry of Justice or relevant administrative authority prepares a formal request for assistance (e.g., document authentication, information on tax evasion, extradition, etc.). The request is sent via the Ministry of Foreign Affairs to the requesting country's embassy or consulate in the recipient state. The embassy delivers the request to the Foreign Ministry of the receiving country, which forwards it to the relevant national authority. The receiving

country reviews the request under its national laws and responds through the same diplomatic channel. If approved, the requested information (or administrative decision) is sent back through the diplomatic route. The information reaches the requesting country's Ministry of Foreign Affairs, which then passes it to the relevant administrative authority.

In this type of collaboration, the primary focus is on building **trust and mutual understanding** between states rather than legal obligations.

(b) Mutual Assistance

Mutual assistance refers to more structured forms of collaboration, typically governed by **international conventions, treaties or EU legal instruments.** Unlike classical diplomatic collaboration, mutual assistance involves **legal obligations** for states to help each other in specific areas, especially when enforcing laws, such as criminal law, customs, or taxes.

This collaboration is **formal** and **legally binding,** with states required to assist one another in specific areas under clearly defined legal frameworks. The procedure for mutual assistance is **regulated by law,** and authorities must act according to the specific legal provisions in place. Mutual assistance covers **a wide range of policy areas,** such as **criminal law, customs enforcement, taxation, and environmental protection.** States are legally required to assist one another to ensure compliance with international or EU law.

*One of the most well-known conventions facilitating classical diplomatic cooperation in administrative cases is the **Hague Convention** of 15 November **1965** on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (commonly known as the Hague Service Convention). Documents served through this process are legally recognised in the receiving state, ensuring compliance with due process and international law. It involves foreign ministries, embassies, and consulates in cases where administrative cooperation does not exist. It ensures mutual legal assistance without requiring direct administrative agreements, and it maintains state sovereignty, as countries can set conditions for document service within their territory.*

There are many other conventions facilitating diplomatic cooperation that facilitate issues of administrative matters, like the following.

- *The **European Convention on Extradition (1957)** uses diplomatic channels for extradition requests between states.*

- *The **Hague Apostille Convention (1961),** which facilitates the recognition of public documents through diplomatic legalisation (apostille).*
- *The **Vienna Convention on Consular Relations (1963)** establishes how consulates assist nationals abroad in legal and administrative matters.*
- *The **London Convention on Information on Foreign Law (1968),** which establishes a system of official cooperation whereby States can request and provide information on their laws, which is essential in cases related to international private law;*
- *The **OECD Convention on Mutual Administrative Assistance in Tax Matters (1988, amended in 2010)** uses diplomatic frameworks to exchange tax-related information.*

(c) Information Exchange Mechanisms under EU Law

Information exchange mechanisms under EU law represent the most formalised and integrated approach to cooperation between Member States. These mechanisms are established by EU regulations or directives and involve **automated systems or centralised platforms** that enable authorities across the EU to share information efficiently and securely.

Information exchange under EU law is **systematic, structured,** and usually **mandatory.** Member States are required to exchange information using predefined systems and procedures, ensuring that all relevant data is shared according to EU legal standards.

These mechanisms are governed by **EU legal instruments,** which allow national authorities to share data regarding services, qualifications, and professional regulations. The exchanges are often **electronically facilitated,** ensuring speed, accuracy, and security. Information exchange mechanisms cover a broad range of areas related to the **internal market, cross-border law enforcement,** and **EU-wide administrative cooperation.** They are primarily designed to enhance the **efficiency and consistency** of EU law enforcement, policy implementation, and the functioning of the internal market.

Aspect	Classical Diplomatic Collaboration	Mutual Assistance	Information Exchange Mechanisms under EU Law
Nature of Interaction	Informal, case-by-case, trust-based	Formal, legally binding	Highly formalised, structured, systematic
Procedure	Diplomatic channels, ad hoc requests	Legal obligations, specific treaties/ regulations	Regulated by EU law, often automated systems
Legal Framework	No legal obligation unless agreed upon	Legal obligations under treaties/EU law	Legally binding under EU regulations or directives
Scope	Limited, case-by-case requests	Limited, case-by-case requests	Automatic data share
Collaboration Level	Bilateral, between governments	Bilateral or multilateral, based on the legal frameworks	Multilateral, across all EU Member States
Speed and Efficiency	Can be slow, dependent on diplomatic negotiation	Generally faster due to more detailed and specified legal obligations	Fast and efficient, using electronic and automated systems
Focus	Diplomacy and trust-building	Legal enforcement and cooperation	Ensuring uniform application of EU law across Member States
Binding Nature	No legal enforcement unless agreed upon	Legally binding, reciprocal obligations	Legally mandatory for EU Member States to comply with EU law

11 Comparison of different types of collaboration

The networks of European administration function through **cooperation between national authorities from different jurisdictions.** Since the EU lacks direct legislative competence in many administrative fields, its role in structuring these networks has often relied on soft law instruments, such as guidelines, recommendations, and best practices. These instruments help

align administrative practices across Member States without imposing legally binding obligations. This cooperative model allows national authorities to exchange information, coordinate enforcement actions, and **develop common standards** while **respecting their national legal frameworks.**

The **European Commission** plays an essential role in these networks, but it does **not act as a superior administrative authority** over national administrations. Instead, its role is primarily one of **coordination, guidance, and enforcement within the limits of EU competences** in specific legal fields.

The Commission's involvement typically includes:

- ✓ **facilitating cooperation** between national authorities;
- ✓ providing **expertise and technical assistance;**
- ✓ ensuring the consistent application of EU law through **oversight mechanisms;**
- ✓ taking enforcement actions (e.g., infringement procedures) when necessary.

However, the Commission does **not** have direct **hierarchical authority** over Member States' administrations. This ensures that administrative autonomy at the national level is preserved while maintaining **compliance with EU law.**

Many of the cooperation mechanisms are supported by **databases** that facilitate collaboration, and the shared **data** may even have **transboundary effects,** potentially **triggering legal actions** in jurisdictions other than the Member State where the data was recorded.

*The **SIS** enables Member States authorities to enter alerts on individuals or objects (e.g., persons wanted for arrest, missing persons, stolen vehicles). Once an alert is recorded by one Member State, it becomes instantly available to all other Member States. The designated authorities than can then take the appropriate action – such as refusing entry, arresting a person, or seizing a vehicle – based on the alert and the legal framework that supports it. **Eurodac** is a biometric database that stores fingerprint data of asylum seekers and certain irregular migrants. When a person applies for asylum or is apprehended while irregularly crossing a border, their fingerprints are recorded by the responsible Member State authority and stored in the system. Other Member States' responsible authorities can then consult Eurodac to check whether the foreign person in front of them has already applied for asylum or been registered elsewhere. Based on this information, a Member State may take action – such as transferring the person to the Member State responsible for examining their asylum claim under the Dublin Regulation. This way the EU aims to fight against forum shopping. **ECRIS** allows Member States to exchange information on criminal convictions.*

When a person is convicted in one Member State, the data is recorded and linked to their nationality. Other Member States can later request this information when the person is involved in criminal proceedings before them to do a background check. This enables authorities to take informed decisions – such as in sentencing, employment vetting, or law enforcement actions – based on prior convictions in other EU countries and perhaps give more serious punishment for the person concerned for being a recidivist criminal, for example.

The authorities participating in European administrative networks often operate with a **certain degree of autonomy** from their national governments. Their independence is typically based on domestic law, which grants them operational and decision-making freedom within their respective jurisdictions.

*A prime example is the **European Competition Network** (ECN), where national competition authorities (NCAs) collaborate under EU competition law but remain independent in their decision-making. Similarly, networks in financial regulation, data protection, and consumer protection rely on structured cooperation rather than direct legislative authority. The European System of Financial Supervision (ESFS), national financial regulators work with EU-level bodies (e.g., the European Banking Authority – EBA) while remaining accountable under their national legal frameworks. Similarly, data protection authorities in the European Data Protection Board (EDPB) maintain their independence from national political influence, ensuring the consistent enforcement of the General Data Protection Regulation (GDPR).*

This autonomy ensures that European administrative networks function effectively without direct political interference, allowing for the objective application of EU rules while still respecting national sovereignty.

From an **EU citizen's perspective,** European administrative networks are essential for enforcing rights across borders, but they do not always function with the speed and clarity of a single, centralized authority. While **cooperation** between national agencies ensures that **EU law is applied uniformly,** the lack of direct enforcement power for the Commission and the reliance on soft law mechanisms can sometimes create inefficiencies.

*One of the clearest examples of the European Union's difficulty in balancing EU citizenship rights with the powers of individual Member States is the right of EU citizens to get help from other EU countries' embassies or consulates when they are outside the EU. While declared early as a **fundamental right of EU citizenship,***

*its **execution** has faced long-standing **practical and legal challenges** – particularly because consular protection remains a core element of national foreign policy.*

The idea of granting EU citizens access to protection by other Member States' embassies or consulates when their own state is unrepresented emerged with the Treaty of Maastricht in 1992. Article 8c of the Treaty on European Union (the Maastricht Treaty) introduced EU citizenship and established the principle that any citizen of a Member State could turn to another Member State for consular protection outside the EU where their own state was not represented. This provision – later renumbered as Article 20(2)(c) and Article 23 of the TFEU – was a powerful symbolic statement about a 'shared citizenship' rights. It was reaffirmed in the Charter of Fundamental Rights of the European Union (2000), where Article 46 explicitly guarantees this right.

*However, despite its appearance in founding documents, the right remained largely theoretical in the 1990s. The practical and legal framework for its implementation was weak. To provide some structure, Member States agreed on an intergovernmental arrangement – Decision 95/553/EC, signed in 1995 and entering into force in 2002. This Decision laid down minimum standards for protection and a reimbursement mechanism between Member States. Nevertheless, it was a soft-law solution: it lacked direct effect in EU law and had no strong enforcement mechanisms. Also, an emergency travel document was created by Decision 96/409/CFSP, which laid the groundwork for issuing ETDs to unrepresented EU citizens in third countries. While it was an important symbolic milestone, the Decision suffered from several serious limitations. First, it was a **non-binding intergovernmental agreement,** not a piece of EU legislation. As such, it lacked **direct effect** in national legal systems and could not be invoked by individuals in court. This made it difficult to ensure that the right to an ETD was actually available in practice. Second, the Decision provided **no harmonised procedure** for how ETDs should be issued. It left critical details – such as the steps for verifying identity, the format of the document, and the timeframe for processing requests – entirely up to the discretion of Member States. This led to **inconsistencies in practice,** where the availability, speed, and security of ETDs varied depending on which consulate was involved. Third, the document format itself lacked a **standardised security design,** raising concerns among third countries about the authenticity and reliability of ETDs. This reduced the credibility of the measure and occasionally resulted in delays or refusals at border crossings.*

A major shift occurred with the Treaty of Lisbon, which entered into force in 2009. While the right to consular protection remained in Article 23 TFEU,

Lisbon introduced a crucial new clause – Article 23(2) TFEU – which explicitly empowered the Council to adopt directives to facilitate the exercise of this right. This opened the door for genuine secondary EU legislation that could coordinate Member States' actions without undermining their sovereignty in foreign affairs.

The first major legislative product of this new competence was Directive (EU) 2015/637, adopted by the Council on 20 April 2015. This Directive repealed the earlier Decision 95/553/EC and established a binding legal framework for consular cooperation and coordination. It required Member States to identify who would be responsible for assisting unrepresented citizens, set out procedures for requesting and granting help, and create obligations for information sharing and cost reimbursement. Importantly, it also recognised the role of EU Delegations and the European External Action Service (EEAS) in facilitating cooperation, especially during large-scale crises. This Directive marks a significant turning point in EU consular protection policy: it ***transformed an abstract right into a concrete administrative process*** *governed by EU public law principles.*

The 2015 Directive was followed by an even more operationally detailed act: Directive (EU) 2019/997 on the EU Emergency Travel Document (ETD). The 2019 Directive addressed the earlier problems in several ways. It introduced a ***secure, standardised ETD format*** *with built-in security features to ensure wider recognition and acceptance by third countries. It also set* ***clear procedural rules*** *and* ***strict deadlines,*** *requiring Member States to consult each other and confirm an applicant's identity within a few working days. This harmonisation significantly improved the reliability and speed of the service. Moreover, the Directive enhanced* ***coordination between Member States and EU Delegations,*** *allowing for better communication and support, especially during emergencies. It clarified responsibilities and established rules for cost reimbursement and information sharing, further reinforcing the administrative framework behind the right to protection. The Directive provides a harmonised procedure and format for issuing ETDs to unrepresented EU citizens in third countries. It also introduces strict procedural deadlines – such as a requirement to consult other Member States and confirm nationality "within a few working days," and a limit of 15 days for the validity of the ETD. This marked a further step forward in making consular protection not just a right, but a deliverable service with concrete timelines and shared standards. Nevertheless, challenges remain. While the EU now provides clear coordination mechanisms, the actual provision of assistance – negotiating with third countries, issuing documents, or covering costs – still lies with the Member States. The EU's role is to coordinate and facilitate, not to replace national consular services.*

This division of responsibility means that execution can vary widely across cases and countries
*In conclusion, the **EU citizen's right** to consular and diplomatic protection has **evolved from a symbolic declaration** in the 1990s to a procedural right backed by EU legislation after the Lisbon Treaty. The transition from intergovernmental understanding to binding EU law illustrates the European Union's broader challenge: how to turn shared citizenship into shared responsibility, even in areas – like consular protection – that remain deeply rooted in national sovereignty.*

4. Supporting Administrative Cooperation

The European Union plays a crucial role in supporting administrative cooperation among Member States, ensuring the **effective implementation of EU law across borders.** Given that national administrations remain responsible for enforcement in most policy areas, the EU facilitates their collaboration through **legal frameworks, digital infrastructure, and specialised agencies.**

4.1. Legal Background

The foundation for administrative cooperation is laid out in **EU primary and secondary law.**

Article 197 TFEU emphasises the importance of **strengthening Member States' administrative capacities** to implement EU law effectively. Also, many sector-specific regulations and directives (e.g., GDPR, competition law, customs cooperation) include **obligations for national authorities to exchange information and assist each other. Soft law instruments** such as guidelines and recommendations also shape cooperation where binding legislation is absent.

In today's digital age, **data** has become a **fundamental asset** in European public administration and cross-border cooperation; data is the oil of the 21st century. Efficient data management is essential for ensuring the seamless implementation of EU legislation and fostering collaboration among Member States. As a result, an increasing number of cooperation networks and databases have been established to facilitate secure and streamlined data exchange.

However, the operation of these networks relies not only on efficiency but also on robust **data protection** measures. Ensuring the security and privacy of sensitive information is crucial to maintaining public trust and compliance

with EU regulations, such as the **General Data Protection Regulation (GDPR).** Organisations like **EU-LISA** play a key role in managing large-scale IT systems while implementing strict safeguards to prevent unauthorised access and misuse. By prioritising data protection, these initiatives enhance security, border management, and justice cooperation while upholding fundamental rights within the European Union.

4.2. Digital Infrastructure: eu-LISA and the Role of Technology

To enable smooth cooperation, the EU invests in **technological solutions** that facilitate information exchange between national authorities.

The **European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security, and Justice (eu-LISA)** is an EU agency responsible for developing, managing, and securing large-scale IT systems that facilitate cooperation between Member States in border management, law enforcement, and judicial cooperation. Established in **2011** and operational since **2012,** the agency is headquartered in **Tallinn,** Estonia, with operational facilities in **Strasbourg,** France, and a technical backup site in **Sankt Johann im Pongau,** Austria.

Eu-LISA plays a key role in ensuring that **EU-wide databases** function efficiently, securely, and continuously, supporting national authorities in applying EU law in the constant exchange of information across Europe whilst applying the latest principles of data protection and information security. Its primary tasks include:

- ✓ managing and maintaining large-scale IT-systems used by Member States;
- ✓ ensuring data security, system reliability, and 24/7 operations;
- ✓ developing new digital tools to support EU policies in justice and home affairs;
- ✓ providing training and technical support to national authorities.

The eu-LISA manages the largest databases of the integration.

- The **Schengen Information System (SIS)** is the European Union's largest and most widely used information-sharing platform for border management and internal security. It has existed since 1995 and has been managed by eu-LISA since 2013. The system supports the *exchange of information on persons and objects between national police, border control, customs, visa and judicial authorities.* It acts as a compensatory measure for the removal of border checks in the Schengen Area.
- The **European Asylum Dactyloscopy Database (Eurodac)** has been operational since 2003 and has been managed by eu-LISA since 2013. It collects and processes the *digitalised fingerprints of asylum seekers and irregular migrants.* The system assists

national asylum authorities with storing new fingerprints and comparing them with existing records, to easily detect cases of "asylum shopping" and determine the Member State responsible for examining an asylum application. It is used by 31 countries (27 EU Member States and 4 Schengen Area Associated Countries: Iceland, Norway, Switzerland and Liechtenstein), as well as Europol, the law enforcement agency of the EU.

- The **Visa Information System (VIS)** supports the implementation of the EU's common visa policy and facilitates border checks. The system enables dedicated national authorities to enter and consult data, including *biometrics, for short-stay visas to the Schengen Area,* in order to combat visa fraud.
- The **e-Justice Communication via Online Data Exchange (e-CODEX)** is a decentralised IT system that provides an interoperable solution for *cross-border exchange of judiciary data,* thus allowing all Member States (citizens, businesses and legal professionals) to communicate with each other using their existing national systems.

In the future, it will operate the following:

- The **Entry/Exit System (EES)** will electronically register the time and place of entry and exit of third-country nationals, and calculate the duration of their authorised stay, contributing to the prevention of irregular migration. EES will replace the obligation of stamping passports.
- The **European Travel Information Authorisation System (ETIAS)** will be a pre-travel authorisation system for visa-exempt third-country nationals travelling to 30 European countries. ETIAS will help with the advanced identification of potential security, irregular migration or high epidemiologic risks.
- The **European Criminal Records Information System – Third Country Nationals (ECRIS-TCN)** will be a centralised system that allows Member State authorities to identify which other Member State(s) hold *criminal records on third-country nationals or stateless persons.* It is aimed to be a centralised hit/no-hit system that will work in tandem with the existing EU Criminal Records Database (ECRIS) on EU nationals convicted in the European Union. The European Criminal Records Information System (ECRIS), operational since April 2012, provides an *electronic exchange of criminal record information* on a decentralised basis between Member States. It allows national authorities to obtain complete information on previous convictions of EU nationals from the Member State of that person's nationality. The ECRIS Reference Implementation (ECRIS RI), which provides an integration interface which enables connecting to national criminal record registers of Member States, is managed by eu-LISA since April 2020.

- The **Joint Investigation Teams Collaboration Platform (JITs CP)** will provide a communication platform for enhancing cooperation between national judicial and law enforcement authorities, relevant EU agencies, and the European Anti-Fraud Office (OLAF), thus improving the efficiency of cross-border investigations and prosecutions.

4.3. Supporting the Everyday Work of Authorities

In this section, we explore various ways in which authorities are supported in their administrative duties, focusing on the challenges they face and the solutions available to address them. The following chapters examine how effective tools and procedures can help overcome specific obstacles encountered during administrative proceedings.

(a) Overcoming the lack of information in administrative proceedings

One well-known example is the **Internal Market Information System** (IMI), which supports national administrations in enforcing the free movement of goods and services within the EU. The slogan of the IMI is '*connecting authorities across borders and languages*'.

Launched in 2008 to implement the Services directive (2006/123/EC), IMI currently supports more than a hundred administrative cooperation procedures in over 20 different policy areas. The modernisation of cross-border cooperation at the national, regional and local level by IMI has improved cooperation between the public authorities.

IMI was developed by the Commission in close collaboration with the Member States. IMI is a **restricted-access system** that is primarily designed for use by public authorities within the EU. It is not available to the general public.

IMI facilitates the exchange of information between EU Member States regarding a **wide range of topics related to the internal market,** such as professional qualifications, mutual recognition of goods, services, and administrative cooperation in cross-border matters. It supports information exchange in various areas to help the authorities, inter alia, in

- ✓ **recognition of professional qualifications** to check the validity of qualifications for professionals wanting to practice in their country and to flag restrictions and prohibitions.
- ✓ **cross-border services** to verify information about a foreign company or person wanting to provide a service in their country and flag the activity of a service provider that could have health, safety or environmental implications.
- ✓ **posting of workers** to request information concerning the employment conditions of workers posted to their country. Also, to request another Member State to notify a decision imposing an administrative penalty and/or fine on a service provider and to request another Member State to recover an administrative penalty and/or fine from a service provide;
- ✓ checking the details of **licences for transporting cash** across borders;
- ✓ checking a health professional's '**right to practise**';
- ✓ consulting **sample documents** issued in another Member State and examples of forged documents (public document verification);
- ✓ **maintaining the SOLVIT** system to handle complaints submitted by citizens and businesses concerning the application of single market law by national authorities;
- ✓ **locating** an unlawfully removed **cultural object** and identity the possessor/holder;
- ✓ consulting the list of **firearms** for which prior consent is not required and notifying authorisations granted for the transfer of firearms between EU Member States and consulting and record information regarding refusals to grant authorisation to acquire or possess firearms;
- ✓ requesting information concerning the activities of a trader or to request enforcement measures to be taken **(consumer protection cooperation)** and to flag the activity of a trader assumed to infringe Union law;
- ✓ allowing European Judicial Network (EJN) contact points to send and respond to requests for cooperation and facilitate the coordination of the processing of requests for cooperation;
- ✓ notifying sectoral and non-sectoral regulated professions and collecting them in repositories **(Regulated Professions Database);**
- ✓ notifying exceptions to **online procedures** listed in Annexe II and collecting them in a repository, and verifying the **authenticity of electronic evidence** received in the context of online procedures.

The **IMI database** enables authorities to **directly communicate** with their counterparts in other EU Member States. It replaces slow and

complex procedures, such as formal diplomatic exchanges or paper-based document requests. IMI includes **automatic translation tools** to facilitate communication between authorities in different EU languages. IMI is available in all EU languages with **pre-translated standardised content,** questions, answers, messages, and fields. In addition, automated translation(eTranslation) is available for information provided in free text fields. The multilingual search function in IMI helps authorities identify their counterparts in other European Economic Area (EEA) countries.

There is plenty of information shared by Member States on the areas falling under the scope of IMI, however, in case of need, a competent authority in one Member State submits a request for information (e.g., verification of a professional's qualifications or a company's service authorisation). The relevant authority in another Member State receives the request and provides the necessary information.

> *The European Professional Card (EPC) is an EU-wide initiative designed to **facilitate the recognition of professional qualifications** for individuals who want to work in regulated professions (medical doctors, nurses, pharmacists, dentists, veterinarians, architects, tourist guides) in a different EU Member State than where their qualifications were issued. The EPC allows professionals to **prove their qualifications** and **get approval** for practising their profession in another EU country more quickly and efficiently. Launched in 2016, the EPC is the first fully online EU-wide procedure. It helps speed up the recognition of professional qualifications. The entire process of applying for and obtaining the EPC is conducted digitally, via an online platform, without the need for physical paperwork or in-person visits. All supporting documents, such as diplomas, certificates, and proof of professional experience, are uploaded to the platform and verified by the relevant authorities of the home country (the country where the qualification was obtained). The application and documents are processed entirely online by the relevant authorities of both the home country and the host country (the country where the professional intends to work), ensuring that the professional's qualifications are recognised across borders with minimal administrative burden. Communication between authorities, applicants, and other involved parties happens online, allowing faster responses and reduced delays compared to traditional, paper-based processes. This digital process simplifies the recognition of professional qualifications across EU Member States and helps speed up the overall procedure.*

(b) Overcoming identification issues in administrative proceedings

PRADO (*Public Register of Authentic Identity and Travel Documents Online*) is an official online database maintained by the European Union to assist authorities in verifying the authenticity of identity and travel documents. It serves as a critical tool for law enforcement agencies, border control officers, and other relevant authorities by providing up-to-date information on genuine identity and travel documents issued by EU Member States, Schengen-associated countries, and other international partners.

PRADO is primarily designed as a **publicly accessible online resource,** meaning that both **authorities and the general public** can access the **same surface** of the website.

It is operated by the **General Secretariat of the Council of the European Union (GSC).** The GSC manages and maintains PRADO in close cooperation with **document experts from EU Member States** and **Schengen-associated countries.**

Prado is based on several EU regulations and legal instruments that govern border security, identity verification, and fraud prevention. While PRADO itself is not explicitly established by a specific regulation, it operates within the framework of EU laws on document security, border control, and law enforcement cooperation.

Document experts in all EU Member States and Iceland, Norway, and Switzerland provide and select the information to be released to the general public via PRADO. These are validated information on authentic identity and travel documents, including images and descriptions of security features.

PRADO is closely linked to FADO (False and Authentic Documents Online), a restricted-access database used by law enforcement agencies to analyse forged or falsified documents. PRADO is part of a broader network of EU security databases and works alongside:

- *FADO (False and Authentic Documents Online) is a restricted-access system for law enforcement to detect and analyse document forgeries.*
- *Schengen Information System (SIS) is used by border control and police to check alerts for stolen or lost travel documents.*
- *VIS (Visa Information System) helps verify the authenticity of visas issued by Schengen states.*

PRADO is continuously updated to ensure it reflects the latest security features and document designs issued by participating countries. PRADO is publicly accessible, providing a reference tool for document authentication.

Public authorities (border guards, police, immigration officers, visa officials, and financial regulators) and private sector users (banks, airlines, and other entities) make use of verifying ID and travel documents. Users can visit PRADO's website and search for documents by country or document type.

It facilitates cooperation among national document experts and fraud prevention agencies by ensuring standardised reference materials are available for training and operational use. The tool enhances real-time decision-making for border guards and immigration officers, improving overall security in the Schengen Area and beyond.

PRADO is consulted

- ✓ at border crossings when checking passports for entry into the Schengen area;
- ✓ during police identity checks to confirm if an ID card is genuine;
- ✓ in visa processing to prevent fraudulent applications;
- ✓ in asylum and refugee proceedings to verify applicants' documents;
- ✓ in banking and finance to confirm identity for anti-money laundering regulations.

By providing an authoritative source for document authentication, PRADO empowers authorities to make quick, well-informed decisions while enhancing EU security and fraud prevention efforts.

(c) Free movement of public documents and overcoming language barriers in administrative proceedings

The European Union has long sought to facilitate the free movement of people, goods, services, and capital across its Member States. One of the major administrative hurdles for citizens and businesses moving within the EU has been the recognition of public documents issued in one Member State by authorities in another. To address this challenge, the EU adopted **Regulation (EU) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union** on 6 July 2016, which became fully applicable across all EU Member States on 16 February 2019.

This regulation simplifies the circulation of certain public documents by eliminating the need for **Apostilles,** reducing translation requirements.

*An apostille is a form of authentication or certification issued to documents for international use, specifically for countries that are part of the **Hague Convention of 1961.** It ensures that a document is recognised as legally valid and authentic in a foreign country. It verifies the authenticity of a public*

document (e.g., birth certificates, marriage certificates, diplomas, powers of attorney) for international use. The apostille confirms that the document is a genuine copy and that the official who issued the document is authorised to do so. Only countries that are members of the Hague Convention recognise apostilles. The document (e.g., a birth certificate, notarised document, or court record) must first be issued by an official authority (government agency, notary public, etc.). The document then needs to be submitted to the appropriate authority for apostille certification. This authority is usually the ***Secretary of State/Minister*** *or an equivalent government office in the country where the document was issued. The authority verifies the document and attaches an apostille, which is typically a stamped or printed certificate attached to the original document or a certified copy. Once apostilled, the document is recognised as valid in other Hague Convention countries.*

The apostille contains specific information about the document, such as: the country where the document was issued, the name of the person who signed the document, the capacity of the person who signed the document, the name of the authority that issued the apostille and a unique serial number. An apostille does not verify the content of the document, only its authenticity.

Unlike the Apostille process, which merely certifies the authenticity of a document but does not address language differences, the regulation introduces **multilingual standard forms.** These forms accompany **key public documents,** allowing authorities to understand their content without requiring certified translations. By offering standardized translations, the regulation removes one of the primary challenges faced by citizens and businesses when presenting official documents in another EU Member State. This not only **reduces translation costs** but also ensures a quicker and more efficient administrative process.

Public document under the Regulation means

- ✓ documents emanating from a court or a court official;
- ✓ administrative authority documents;
- ✓ notarial acts;
- ✓ official certificates placed on private documents;
- ✓ diplomatic and consular documents.

The Regulation covers **public documents** issued in the following **legal areas:**

- birth;
- a person being alive;
- death;
- name;

- registered partnership, including the capacity to enter into a registered partnership and registered partnership status;
- dissolution of a registered partnership, legal separation or annulment of a registered partnership;
- parenthood;
- marriage, including the capacity to marry and marital status;
- divorce, legal separation or marriage annulment;
- adoption;
- domicile and/or residence;
- nationality;
- absence of a criminal record;
- the right to vote and stand as a candidate in municipal elections and elections to the European Parliament.

The multilingual standard forms to be attached as translation aids to public documents can be requested in the following areas: birth, a person being alive, death, marriage, including capacity to marry and marital status, registered partnership, including capacity to enter into a registered partnership and registered partnership status, domicile and/or residence, absence of a criminal record.
To prevent fraud and support the work of authorities using public documents, the European Commission maintains a publicly accessible website where the most commonly used documents are displayed by Member State.

By clicking here and selecting a Member State, you can view sample images of how each public document looks. By clicking here, you can also access a list of the Central Authorities designated by each EU member State, including their contact details, so you know whom to contact in case of any questions.

The regulation directly **benefits EU citizens** by making cross-border **mobility easier.** Whether relocating for work, study, or family reasons, individuals no longer face unnecessary delays and expenses related to document authentication. The introduction of standardized multilingual forms particularly helps those who lack proficiency in the language of their new country, ensuring that their personal and legal documents are recognized without complications. For businesses operating in multiple EU countries, the regulation removes unnecessary red tape when dealing with contracts, permits, and legal documentation required for operations. By reducing bureaucratic barriers, the regulation fosters economic efficiency and strengthens the single market.

Requests for information can be made **through the IMI** in cases of *reasonable doubt* regarding: (a) the authenticity of a signature, (b) the capacity in which the signatory acted, (c) the identity of the seal or stamp, or (d) whether the document has been forged or tampered with.

Such requests shall not be subject to any tax, duty, or charge. Authorities must respond to requests for information **as quickly as possible** and, in any case, within **five working days.** If the request is processed through a **central authority,** the deadline is extended to **ten working days,** unless an extension is agreed upon.

	Apostille Procedure	Regulation (EU) 2016/1191
Scope	Hague Convention countries	EU Member States and some EEA countries
Process	Authentication by a competent authority with an apostille	Automatic recognition and usage of a template
Documents Covered	Public documents	Public documents within the EU and covered by the scope of the regulation
Translation	Translation is needed for understanding	Translation is not needed but may be required

12 Comparison of Apostille procedure and the recognition of public documents under EU regulation

Apart from the use of public documents, effective multinational cooperation requires multilingual communication. However, for procedures to run smoothly, it is essential to overcome language barriers. Despite the benefits offered by uniform instruments, language remains a major concern in the cross-border enforcement of EU competition law. Several key issues arise.

- **Legal terminology** varies across legal systems, and differences in meaning between languages can lead to misinterpretation of legal obligations. Even minor discrepancies in translation can affect legal reasoning and the application of competition rules.
- The **requirement to translate** supporting evidence and legal arguments can still cause delays and incur unexpected costs, especially in complex cases.
- While EU-level cases are handled in a **limited number of working languages** (primarily English and French) and then translated, national courts operate in their respective domestic languages.

The EU has made substantial progress in addressing these challenges through:

- ☞ the adoption of uniform instruments, such as **model forms and templates;**
- ☞ the use of **eTranslation,** the EU's AI-based neural machine translation service, which provides real-time, secure translation across all official languages. It is free to use for public administrations, small and medium-sized enterprises, academia, non-governmental organisations and Digital Europe Programme projects, established in the European Union or countries affiliated with the DIGITAL Programme Strategic Objective financing this activity. EPSO candidates are also eligible during the recruitment process. Registration is required.
- ☞ and the *de facto* formalisation of English as a **working language** for many practical purposes, streamlining communication and ensuring procedural consistency. This practice is especially prevalent at the supranational level and in the field of competition law.

(d) Overcoming limitations on jurisdiction to a harmonised application of EU law for an area of freedom, security and justice

The European Union is built on the **principles of mutual trust, cooperation,** and legal harmonisation, ensuring that decisions made by authorities in one Member State can have legal and practical effects beyond their borders. This **transboundary effect** of decisions is essential for the uniform application of EU law, preventing legal fragmentation and ensuring that rights and obligations are equally enforced across all Member States. A key factor enabling this process is the networked structure of information-sharing and decision recognition mechanisms, which allow authorities to adopt and rely on each other's decisions in administrative and legal matters.

For the EU legal system to function effectively, decisions taken in one Member State must be **equally applied and enforced across all Member States.** This is achieved through (i) **standardised procedures** when regulations and directives *set common rules* that Member States must follow, ensuring that legal decisions are made *based on the same criteria.* (ii) **Judicial oversight** by the Court of Justice of the European Union ensures that Member States *interpret and apply EU law consistently,* resolving disputes where necessary. (iii) The **digital information exchange** supplements these classical ways of harmonisation with systems that allow *authorities to communicate quickly and avoid duplicating investigations and procedures.* One of the most effective ways to ensure that decisions have a transboundary impact is through **EU-wide information-sharing networks** and cooperation mechanisms. These networks provide the

legal and procedural framework for mutual recognition of administrative and judicial decisions across borders. A fundamental principle of EU law is **mutual recognition,** which means that a legally valid decision in one Member State must be **recognised and applied by others.** This principle extends to various areas.

*The **European Professional Card (EPC)** allows professionals to have their qualifications recognised across borders without reapplying in each country. This facilitates labour mobility and ensures that the same professional standards are applied everywhere in the EU. **As for judicial and administrative decisions,** the European Arrest Warrant enables judicial authorities to recognise and enforce arrest warrants issued by another Member State without additional legal procedures. Also, the Brussels I Regulation ensures that court rulings on civil and commercial matters are enforceable throughout the EU, avoiding parallel legal disputes in different jurisdictions.*

*As for consumer protection and market surveillance decisions, a **market ban or recall** of a dangerous product in one country automatically leads to similar actions across the EU through Rapid Exchange of Information System (RAPEX), ensuring consistent consumer protection or in case of alimentation, the Rapid Alert System for Food and Feed (RASFF) aims to achieve the same.*

*The **Rapid Exchange of Information System (RAPEX),** rebranded as **"Safety Gate"** in July **2019,** is a key EU-wide information system designed to facilitate the sharing of data on dangerous non-food products among national authorities. It plays a critical role in ensuring consumer safety, market surveillance, and harmonised legal practices across the European Union. RAPEX allows national market surveillance and consumer protection authorities to quickly exchange information about dangerous products that pose a risk to health and safety. This system ensures a coordinated and harmonised response, preventing unsafe products from being sold or used in multiple EU countries. RAPEX operates under Regulation (EU) 2019/1020 on Market Surveillance and Product Compliance and Directive 2001/95/EC on General Product Safety (GPSD). It enables EU Member States, Norway, Iceland, and Liechtenstein to quickly exchange information about unsafe products and take coordinated actions to protect consumers. For example, a toy found to contain toxic chemicals in one country is reported, leading to an EU-wide ban, a faulty electrical appliance that poses a fire risk is flagged, prompting recalls across multiple markets, and a non-compliant car seat is identified, triggering investigations and legal actions in all affected Member States.*

- *National market surveillance authorities (e.g., consumer protection agencies)* ***inspect products*** *and test them for safety risks. If a product* ***fails to meet EU safety standards*** *and poses a* ***serious risk,*** *the national authority* ***reports*** *it to the European Commission via Safety Gate.*
- *The European* ***Commission reviews*** *the alert, checks its details, and* ***publishes it on the Safety Gate portal.*** *The alert includes: product details (name, model, images), risk type (choking, electrical hazard, fire risk, chemical exposure, etc.) and countries affected and actions taken (e.g., recall, sales ban, withdrawal from the market).*
- *Once an alert is issued, other* ***EU countries take action*** *to remove or ban the product in their territories. The system thus ensures a fast response to prevent further harm to consumers.*

Originally set up by the General Food Law of Regulation (EC) No 178/2002 Article 50, ***Rapid Alert System for Food and Feed (RASFF)*** *is a system for the rapid exchange of information between EU Member States when a risk to food or feed safety is detected. It is a crucial tool in the European Union's* ***food safety framework,*** *ensuring that food and feed risks identified in one Member State are* ***immediately shared*** *across the entire EU. This system allows authorities to take* ***coordinated action*** *based on a single country's decision, ensuring that all EU consumers benefit from the same level of protection. RASFF enables food safety authorities in EU Member States to exchange real-time information about food and feed risks, including: contaminated food products (e.g., pesticide residues, toxins, or bacteria such as Salmonella), unsafe food contact materials (e.g., packaging that releases harmful substances), adulterated or fraudulent products (e.g., mislabelled ingredients or undeclared allergens). RASFF ensures that all EU markets are informed, preventing its distribution elsewhere. RASFF thus prevents unequal enforcement of food safety laws by ensuring that a decision taken in one country applies across the entire EU. This creates a harmonized food safety environment.*

4.4. Potential Role of AI

Artificial Intelligence (AI) has the potential to transform the **harmonised application of EU law** and the **efficiency of EU administration** by enhancing decision-making, improving data analysis, and ensuring consistency across Member States. As the EU continues to evolve as a supranational legal and administrative entity, AI can play a crucial role in streamlining procedures, reducing discrepancies in legal interpretation, and fostering greater legal certainty.

One of the key challenges in the EU legal system is ensuring that laws are **applied uniformly across 27 diverse Member States** with different legal traditions. AI can help address this challenge in several ways:

- **automated legal analysis and compliance monitoring:** AI can process vast amounts of legal texts, case law, and regulatory updates, helping national authorities and businesses interpret and apply EU law consistently.
- **predictive legal analytics:** AI can analyse patterns in **CJEU case law** and national court decisions to predict potential conflicts or inconsistencies, guiding legislators and courts towards a more harmonised application of law.
- **AI-assisted translation and interpretation:** given the multilingual nature of the EU, AI-powered translation tools (e.g., neural machine translation) can ensure accurate and uniform interpretation of legal texts, reducing discrepancies caused by language differences.

AI is a fast-evolving family of technologies that contributes to a **wide array of economic, environmental and societal benefits** across the entire spectrum of industries and social activities. While AI offers immense benefits, its integration into EU law and administration must be carefully regulated to ensure transparency, accountability, and fundamental rights protection.

AI systems can be easily deployed in a large variety of sectors of the economy and many parts of society, including across borders, and can easily circulate throughout the Union and the *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence* **(Artificial Intelligence Act)** is the first comprehensive legal framework aimed at regulating AI within the European Union. Most of the regulation will apply from 2 August 2026. It establishes **risk-based rules** to ensure that AI systems used in European administration and other sectors are transparent, safe, and aligned with fundamental rights.

- ☝ AI applications used in **public administration, border control, law enforcement, social security, and the judiciary** are classified as **high-risk** and subject to strict requirements.
- ☝ Public authorities must ensure **human oversight, transparency, and accountability** when using AI for decision-making.

The regulation **prohibits AI practices** with an **unacceptable** level of **risk** in the following issues.

- ✖ Subliminal or deceptive techniques to *manipulate individual or group behaviour,* impairing their ability to make informed decisions and potentially causing harm.

- *Exploiting vulnerabilities based on age, disability, or socioeconomic situations to manipulate* individuals or groups, leading to potential harm.
- *Social scoring,* evaluating or classifying people based on behaviour or characteristics, resulting in *unfair treatment* unrelated to the context in which the data were collected or in a manner disproportionate to the behaviour's severity.
- *Criminal risk assessment,* predicting the likelihood of committing a crime solely based on profiling or personality traits, except in objective, fact-based criminal investigations.
- *Facial recognition* database scraping from the internet or security cameras without specific targeting.
- *Inferring emotions in sensitive areas,* such as workplaces or educational institutions, unless used for medical or safety purposes.
- *Biometric categorisation* based on data to infer *sensitive attributes* like race, religion or political opinions, except for lawful use in law enforcement.
- *Real-time biometric identification* in public by law enforcement, unless strictly necessary for particular situations (e.g. finding missing persons, preventing imminent threats or identifying suspects of serious crimes). This must follow strict legal procedures, including prior authorisation, a limited scope and safeguards to protect rights and freedoms.

The regulation introduces disclosure obligations where a risk could arise from a lack of **transparency around the use of AI:** AI designed to impersonate humans (e.g. a chatbot) needs to inform the human it is interacting with, and the output of generative AI needs to be marked as such.

The AI Act promotes standardised AI governance across Member States, ensuring that national administrations apply AI in a harmonised and legally compliant way.

A new **European AI Office** will oversee compliance and enforcement at the EU level.

*The European AI Office is **not a standalone EU agency** but rather a specialised organ within the European Commission, responsible for overseeing the implementation and enforcement of the AI Act. It operates*

within the European Commission's Directorate-General for Communications Networks, Content and Technology (DG CONNECT). It plays a crucial role in ensuring harmonised AI regulation across all Member States and supporting compliance with EU rules on artificial intelligence. For well-informed decision-making, the AI Office collaborates with Member States and the wider expert community through dedicated fora and expert groups.

The benefits of AI are an exploitable field for decision-making. One of the greatest advantages of **automated decision-making** (ADM) is its ability to process vast amounts of data quickly and accurately. In sectors such as public administration, healthcare, and finance, AI-driven systems can analyse complex datasets, identify patterns, and make objective decisions faster than human operators. By **reducing human error** and subjective bias, ADM ensures more consistent decision-making and cost savings. However, despite its benefits, ADM poses **challenges** in terms of **transparency, fairness, and data protection.**

The European Travel Information and Authorisation System (ETIAS) is a fully automated pre-screening system for visa-exempt travellers entering the Schengen Area. Expected to be operational in 2025, ETIAS aims to enhance security, border management, and migration control by assessing potential risks before travellers arrive. As an automated decision-making (ADM) procedure, ETIAS illustrates how AI-driven systems can streamline administrative processes while ensuring compliance with EU security and data protection regulations.

*Travellers from **visa-free countries** must submit an **online application** before travelling. The system collects biographic data, travel history, and security-related information, and the entire process is digital with no human intervention at this stage. ETIAS automatically compares application data against EU and international security databases, including: Schengen Information System Visa Information System, Interpol databases of lost or stolen documents but beyond such factual information, it also consults*

*a **watchlist,** established as a security measure by Europol and EU law enforcement agencies, contains information about individuals suspected of committing or participating in terrorist or other serious criminal offences. An assessment that relies on such data eventually carries the risk of prejudice and the violation of the right to the presumption of innocence and discrimination. On the other hand, if big data, and in particular social media data, has been effectively used for risk assessment and disaster management, healthcare and economic predictions, analogously, big data analytics could prove useful in the field of international migration. If so, then it would be unreasonably negligent not to use such data – mostly collected in connection with criminal activity –, and the same would be true for the exploitation of the information based on overall statistics, mainly stemming from the EES and data reported by the Member States on problematic cases **(specific risk indicators)**.*

*This complex screening system aims to identify potential **security, migration, or public health risks** and keep those concerned away from Europe. If no security concerns are detected, the application is automatically approved within minutes. If a match (or 'hit') is found in a database, the application undergoes further manual review by ETIAS Central and National Units, and then the human workforce examines the case, so if the system detects inconsistencies or security risks, a **human officer** reviews the case.*

*The traveller may be asked for additional information or clarification, and if the ETIAS permission is denied, the applicant has the **right to appeal,** ensuring due process. However, many questions are posed about the reasoning of such a denial decision, the evidence against the person concerned and also, on the other hand, the possibility to defend himself/herself and to contest the decision.*

The automated system significantly reduces processing time, as most approvals are granted instantly, and also ETIAS minimises security threats by preventing risky travellers from entering the Schengen Area. Unlike fully autonomous AI systems, manual intervention is required for complex cases, preventing unjust rejections.

5. Codification of Administrative Law in Legal Literature

The **Research Network on EU Administrative Law (ReNEUAL)** has played a pivotal role in shaping the discussion on the codification of **EU administrative law.** EU administrative law has **evolved on a policy-by-policy basis** in an

unsystematic and non-transparent manner. Simplification can be achieved by the rationalisation and improvement of structures and methodology used throughout the EU policy fields. This has been the main motive behind the research group to develop an understanding of the EU public, which ensures that the constitutional values of the Union are present and complied with in all instances of exercise of public authority.

The **ReNEUAL Model Rules,** developed in two versions – **ReNEUAL 1.0 (2014)** and **ReNEUAL 2.0 (2020)** – seek to provide a coherent and comprehensive framework for EU administrative procedures. As the EU legal system has grown in complexity, these model rules have aimed to **enhance legal certainty, transparency, and accountability** in EU administrative governance.

ReNEUAL 1.0 was the first attempt to systematically codify EU administrative law. It provided a **set of model rules** addressing key aspects of administrative procedures, including **decision-making, transparency, and judicial review.** One of its key achievements was promoting the idea that EU administrative law should not be a fragmented collection of sector-specific rules but should follow **general principles applicable across all EU institutions and agencies.**

ReNEUAL 1.0 helped inspire the **2016 Proposal for an EU Regulation on Administrative Procedure,** which sought to establish a binding legal framework for EU institutions when adopting administrative decisions. Although the proposal has not yet been formally adopted, ReNEUAL's influence remains visible in the EU's legal discourse.

ReNEUAL 1.0 introduced the first systematic framework for codifying EU administrative law. It focused on six key areas:

- Rulemaking
- Single-case decision-making
- Contracts
- Information management
- Administrative oversight
- Cooperation between authorities

ReNEUAL 2.0 refined these rules and expanded their scope to address new legal and technological challenges in EU administration. ReNEUAL 2.0 was built on its predecessor by further refining the **model rules** and expanding their scope. It introduced improved provisions on **digitalisation, data protection, and multi-level governance,** reflecting the increasing role of **technology in**

administrative decision-making. This version also strengthened rules on transparency and accountability, ensuring that EU citizens have greater access to administrative procedures and remedies.

While the EU still lacks a binding Administrative Procedure Code, ReNEUAL's work has significantly influenced legal scholarship, policy discussions, and case law. Several EU agencies and institutions have adopted procedural rules that reflect ReNEUAL's principles, demonstrating its relevance in shaping administrative governance. Moreover, its model rules provide a foundation for potential future legislative codification of EU administrative law.

ReNEUAL 1.0 and 2.0 represent crucial milestones in the development of **EU administrative law,** offering a structured and principled approach to procedural regulation. While they are not legally binding, their impact is evident in the ongoing debates about **codifying EU administrative procedures.** As the EU legal system continues to evolve, ReNEUAL's contributions will remain a key reference point for ensuring **efficiency, transparency, and the protection of fundamental rights** in administrative governance. While both versions aim to codify and harmonize EU administrative law, ReNEUAL 2.0 builds upon and modernizes 1.0, addressing digitalization, fundamental rights, and multilevel governance in greater depth. It represents a more comprehensive and future-proof approach to shaping EU administrative procedures.

Summary of Key Points of Block No. 4

Administrative cooperation forms a cornerstone of the European Union's functioning, ensuring that complex, multi-level governance operates smoothly and efficiently across national boundaries. Chapter IV explores this cooperation in depth, highlighting the legal, institutional, and technological mechanisms that support it, and reflecting on how mutual trust, shared responsibility, and evolving practices shape the administrative dimension of European integration.

At the heart of administrative cooperation lies the principle of **sincere cooperation,** enshrined in Article 4(3) of the Treaty on European Union. This principle obliges Member States to assist each other in carrying out tasks flowing from the Treaties. **Mutual trust** and **mutual recognition** are fundamental elements that enable national administrations to rely on one another's legal and procedural standards. These concepts are particularly crucial in areas such as the internal market, justice, and home affairs, where cross-border coordination is essential.

Effective cooperation at the EU level depends on how Member States organise their internal systems. **Ministerial responsibility,** the **principle of involvement,** and **unity at the Member State level** are essential to ensure coherent national participation in EU governance. The concept of **one-stop coordination** refers to establishing centralised or coordinated administrative structures within a Member State to facilitate more efficient engagement with EU institutions and policies.

The EU's administrative framework is characterised by **composite administration,** which refers to administrative processes that involve both EU bodies and national authorities. This collaboration can occur **horizontally** (between national administrations) or **vertically** (between the EU and national level). Such cooperation can take various forms: traditional **diplomatic collaboration,** formal **mutual assistance,** or the use of **structured information exchange mechanisms** under EU law.

Modern administrative cooperation relies heavily on **legal instruments and digital infrastructure.** The agency **eu-LISA** plays a key role in managing large-scale IT systems that facilitate the exchange of information across Member States. Technology assists in addressing practical problems in cross-border administrative processes, such as the **lack of information, identity verification, language barriers,** and **jurisdictional limitations,** particularly

within the Area of Freedom, Security and Justice. Importantly, the potential of **artificial intelligence (AI)** is being increasingly recognised as a tool to support and possibly automate certain aspects of administrative cooperation.

Finally, the chapter discusses the growing interest in the **codification of administrative law** within EU legal literature. Scholars and practitioners alike are working to clarify and formalise the principles and procedures governing administrative cooperation, which could contribute to greater transparency, predictability, and legal certainty across the Union.

Administrative cooperation in the EU is a dynamic and evolving field, grounded in foundational legal principles and driven by the practical needs of governance across borders. Through mechanisms of mutual trust, composite administration, and technological support, the EU continues to develop a complex but increasingly integrated system of public administration. As legal scholars work toward clearer codification and as digital tools such as AI become more prominent, administrative cooperation is likely to become even more central to the EU's institutional future.

V. Supervision of Indirect Administration

The supervision of indirect administration within the European Union plays a crucial role in ensuring that Member States **correctly implement** and **adhere to EU law.** This supervisory framework is multi-faceted, involving administrative, judicial, and political mechanisms, and additional oversight by national ombudsmen. Each category represents a set of instruments aimed at upholding the integrity and effectiveness of EU law in Member States' national administrations, but with different tools.

Supervision of **indirect administration** concerns the **monitoring and enforcement of how Member States apply and implement EU law** under their administrative structures. Although Member States execute most EU policies (especially in areas like internal market, agriculture, or consumer protection), they must do so **in compliance with EU law,** and are therefore subject to a system of supervision.

Type of Control	Exercised by	Focus	Binding force
Political	EP and Council	Accountability to EU values	Political sanction
Judicial	National judicial organs, CJEU	Legal compliance with EU law	Legally binding
Administrative	National authorities EU mechanisms	Practical enforcement and problem-solving	Varies between legally binding and mediation
Independent oversight	National Ombudsman	Maladministration	Recommendatory

13 Comparison of types of control for indirect administration by its actors

Many supervisory mechanisms allow **citizens to have their voices heard** and to submit complaints in order to draw attention to cases of malfunction or maladministration.

1. National Ombudsman

In the context of indirect administration, **National Ombudsmen** in Member States handle complaints against **national authorities.**

- They investigate **maladministration,** ensure fair treatment, and help resolve issues **without formal legal proceedings.**
- While they cannot reverse decisions, they provide an accessible, impartial remedy and work with EU institutions (often cooperating with the **European Ombudsman** through the European Network of Ombudsmen).

The National Ombudsman acts as a **citizen-centric oversight mechanism** promoting trust and accountability at the national level.

In Hungary, individuals may submit a complaint to the Office of the Commissioner for Fundamental Rights if an instance of maladministration violates their fundamental rights by clicking here.

2. Administrative Control

Administrative control refers to the oversight, inspection, evaluation, or investigation of actions **carried out by public administrations** to ensure they follow rules and procedures, use public resources properly, and prevent or detect fraud, corruption, or inefficiency.

Administrative supervision is divided into two key streams: domestic mechanisms and EU-coordinated systems.

2.1. Domestic level

Domestic administrative supervision is exercised through national authorities responsible for applying EU law in their respective jurisdictions. These bodies ensure compliance through routine administrative procedures and oversight.

Member States must establish administrative systems that align with EU requirements. These include inspections and enforcement actions by national authorities.

2.2. EU-coordinated mechanisms

EU-coordinated mechanisms help **resolve disputes** and provide **out-of-court solutions** for individuals and businesses by providing cross-border administrative assistance.

These tools are designed to help resolve disputes without resorting to legal proceedings. They offer **streamlined and cooperative** solutions for individuals and businesses facing difficulties arising from the misapplication of EU law by national authorities.

(a) SOLVIT

SOLVIT is a free, informal **dispute resolution network** created by the European Commission and run by national administrations of EU Member States and Iceland, Liechtenstein, and Norway since 2002 by European Commission Recommendation 2001/893/EC on SOLVIT.

It helps citizens and businesses when their EU rights are violated by a public authority in another EU/EEA country, especially in cases related to the Single

Market. Though it has no binding power, its intervention often leads to voluntary corrections by the authority involved.

If a person experiences a problem in another EU/EEA country involving their EU rights (e.g., residence, social benefits, work, business), he/she submits the issue online to SOLVIT in his/her home country as each country has a national SOLVIT centre. This centre checks if the complaint is valid and sends it to the SOLVIT centre in the country where the problem occurred. The two SOLVIT centres communicate with each other. The "problem country" SOLVIT centre contacts the relevant national authority (e.g. a tax office, town hall, pension agency) to negotiate and explain EU law, aiming to get the authority to voluntarily fix the mistake. If the authority agrees, the problem is solved – usually within 10 weeks.

SOLVIT can help to enjoy EU rights when you work, live or do business in another EU country especially in case of the following issues:

- ✓ getting professional qualifications recognised
- ✓ visa and residence rights
- ✓ trade and services (businesses)
- ✓ vehicles and driving licences
- ✓ family benefits
- ✓ pension rights
- ✓ working abroad
- ✓ unemployment benefits
- ✓ health insurance
- ✓ access to education
- ✓ cross-border movement of capital or payments
- ✓ VAT refunds.

SOLVIT is based on **trust** and **mutual recognition between national administrations,** and it is faster and less confrontational than legal or political channels. Public authorities work together in good faith to apply EU law fairly, without needing to fight it out in court.

(b) European Consumer Centres Network

ECC-Net is a **network of national consumer centres,** independently-managed offices co-funded by the European Commission in all EU countries, plus Iceland and Norway, that helps consumers resolve cross-border disputes with traders informally and free of charge. It has operated since 2005, and now it is governed by Directive (EU) 2013/11

on alternative dispute resolution for consumer disputes. It explains consumer rights and helps to settle a dispute with a seller based in another EU country (or Iceland or Norway), also it gives information on who to contact if they can't help.

As well as assisting consumers, ECC Net is an expert and trusted partner to stakeholders and policymakers seeking to promote consumer rights. It has an important role in alerting enforcement authorities about traders who are in breach of consumer law. It works a lot like SOLVIT, but focuses specifically on consumer protection-related issues. Many cases are solved informally, with the trader offering a refund, replacement, or apology. If not, ECCs may suggest mediation, alternative dispute resolution (ADR), or taking the matter to national enforcement bodies or courts.

The ECC Net also publishes guidance and advice on common consumer problems like:

- ✓ avoiding risks of counterfeit products
- ✓ air passenger rights
- ✓ buying a car from another EU country
- ✓ timeshares
- ✓ timeshares top 10 tips for consumers
- ✓ extended warranties
- ✓ online fraud
- ✓ e-commerce trust marks
- ✓ air passenger rights – settling disputes
- ✓ settling small international disputes
- ✓ online shopping in the EU
- ✓ chargeback in the EU/EEA

(c) FIN-NET

FIN-NET is a network of national organisations responsible for settling consumers' complaints in the area of **financial services** out of court. It helps consumers resolve disputes with financial service providers (like banks, insurers, investment firms) when the problem involves cross-border transactions within the EEA, for example, if someone gets overcharged by a bank in another EU country, or an insurance claim is wrongly denied by a company abroad.

FIN-NET does NOT contact or request citizens to engage or cooperate with on any investigation, project or process. FIN-NET does not have an e-mail

domain name, because it is the national authorities that are using FIN-NET to cooperate amongst one another. Any authority in the European Economic Area can join FIN-NET if it is responsible for out-of-court settlement of financial disputes and complies with the principles set out in Directive 2013/11/EU on alternative dispute resolution (ADR).

Most FIN-NET members can help free of charge or at a low cost. They usually reach an outcome within 90 days. Financial services providers are usually not obliged to follow the decisions of FIN-NET members, but most do tend to do so voluntarily.

> *In Hungary, it is the Pénzügyi Békéltető Testület (PBT) /in English: Financial Arbitration Board (FAB) is a member of the network. The following financial institutions are covered: banks, mortgage banks, mortgage intermediaries, credit unions, insurance companies, insurance intermediaries, investment providers, investment intermediaries, pension intermediaries, securities intermediaries, and most pension providers. The following financial products are covered: payments, deposits, credit & loans, mortgages, life/non-life insurance, investments, securities, and most pensions. A complaint can be made in Hungarian and English by clicking here.*

3. Judicial Control

Judicial control is the *power of courts or judicial bodies to review the legality and constitutionality of actions taken by public authorities to ensure that laws are applied correctly and fundamental rights are respected.*

Judicial control is a **core pillar** of supervising indirect administration, ensuring **Member States comply with their EU obligations.**

3.1. Domestic legal remedies

Individuals and entities may seek domestic legal remedies when their rights are infringed. National courts must also provide effective remedies for breaches of EU law based on the principle of direct effect and supremacy of EU law. National courts are often the first point of contact in ensuring enforcement.

There is also Member **State liability** for breach of EU law before domestic courts, a principle established by the CJEU which allows individuals to **claim compensation** when a Member State fails to uphold EU obligations. However,

it is not written in the Treaties. It was the **Francovich and Bonifaci v Italy** case in 1991 that lay the groundwork for the liability of Member States in the event of breaches of European Union law.

Based on the judgement, the Member States are obliged to compensate individuals for loss and damage caused by breaches of Community law for which the state can be held responsible.

- ✓ The rule of law infringed must **be intended to confer rights on individuals.** This means the EU legal provision breached must specifically aim to protect individual rights. If the violated rule does not serve this purpose, the condition for liability is not met.
- ✓ The breach must be **sufficiently serious.** Not all violations automatically trigger state liability. The breach must demonstrate a manifest and grave disregard for the limits imposed by EU law. This ensures that only significant failings by a Member State result in compensation.
- ✓ There must be a **direct causal link between the breach and the damage** sustained. The individual must show that the harm suffered is directly attributable to the state's failure to fulfil its obligations under EU law.

Later, case-law specified that

- ✓ state liability applies to all branches of state power: legislative, executive, and judiciary;
- ✓ liability applies not only to non-implementation but also to incorrect implementation or misapplication of EU law;
- ✓ the threshold for "sufficiently serious" has been further defined through case law, focusing on the discretion the state had and the clarity of the breached rule.

In the famous case of Francovich and Bonifaci v Italy (Joined cases C-6/90 and C-9/90), Directive 80/987/EEC required Member States to protect employees in the event of their employer's insolvency by setting up guarantee institutions to ensure workers would still receive unpaid wages. Italy failed to implement this Directive into national law within the required time. As a result, Mr. Francovich and Ms. Bonifaci, along with other workers, were left uncompensated when their employer went bankrupt. They sued the Italian State, claiming that the failure to implement the Directive had directly caused them financial harm. The ruling in Francovich emphasized that the conditions under which a right to reparation arises depend on the nature of the breach in question. In particular, the Court laid down three essential criteria that must be fulfilled for a Member State to be held liable:

1. *The Community law rule breached must confer rights on individuals (was not implemented or was infringed must intend to grant specific rights to individuals)*
2. *The content of those rights must be identifiable (the rights conferred must be clearly identifiable, meaning they must be sufficiently precise and unconditional so that individuals can rely on them)*
3. *There must be a causal link between the breach and the damage suffered (there must be a direct causal connection between the Member State's failure to comply with Community law and the damage suffered by the individual).*

In 1996, the Francovich criteria was expanded by Brasserie du Pêcheur and Factortame III (Joined Cases C-46/93 and C-48/93) clarified and expanded. The Court confirmed that state liability applies not only where Community law was not implemented (as in Francovich) but also in cases of misapplication or incorrect implementation even by legislative or judicial acts. Liability applies ***regardless of which organ of the State*** *caused the breach (e.g. Parliament, government, courts). A 'sufficiently serious' breach is one where the State manifestly and gravely disregarded the limits of its discretion.*

In 2003, Köbler v Austria (C-224/01) extended state liability to national courts, especially courts of last instance, for breaches of EU law. The Court ruled that even ***judicial decisions*** *can trigger state liability if they breach EU law and fulfil the Francovich conditions. This was a landmark decision, affirming that* ***no arm of the State is immune*** *from responsibility for violating EU law. In 2006 Traghetti del Mediterraneo (C-173/03) reinforced and clarified the principles from Köbler, especially about* ***judicial liability*** *by stating that national rules* ***cannot limit*** *the liability of the State for breaches of EU law committed by a court, e.g. by excluding liability for "errors of interpretation".*

In 2016, the Rasmussen case (C-441/14) addressed the ***limits of horizontal direct effect*** *and reinforced that where EU law is not fully implemented, individuals may still rely on the Francovich doctrine to claim compensation against the Member State.*

3.2. EU-level legal remedies for the breach of EU law

Judicial oversight is an essential pillar of the EU's supervision system and is primarily concerned with legal accountability for breaches of EU law. In more severe cases, infringement procedures allow the European Commission or another Member State to bring a case before the CJEU. This method addresses

systemic breaches by Member States and ensures compliance with EU law through judicial sanction.

The European Commission plays a crucial role in ensuring that Member States comply with EU law. When a breach occurs, the Commission must first become aware of the issue before it can take action. There are three main channels through which this can happen.

(a) Getting information on the functioning of the indirect level

- **Monitoring** by the Commission
  The Commission has its mechanisms to proactively monitor whether Member States are fulfilling their obligations under EU law. This includes reviewing the implementation of directives, regulations, and the Treaties, as well as observing how national laws align with EU legislation. The Commission may also analyse statistical data, reports, or conduct investigations to detect any inconsistencies or failures in implementation.
  Check the national transpositions by clicking here.
- **Citizen's complaint** to the Commission
  EU citizens and legal persons (such as companies or organisations) have the right to submit complaints directly to the Commission if they believe that a Member State is violating EU law. These complaints serve as valuable sources of information and can lead the Commission to initiate formal infringement procedures. This process empowers individuals to participate in the enforcement of EU law and reinforces accountability at the national level.
  You may also report a(n alleged) breach of law by submitting a complaint if you click here.
- **Member State complaint** against another Member State
  Although **less common,** a Member State may also lodge a complaint against another Member State for breaching EU law. There are only six cases so far where one EU Member State initiated an infringement procedure directly against another under Article 259 TFEU, one is a Hungarian.
  - *France v United Kingdom (Case 141/78) The UK had unilaterally imposed fishery protection measures without consulting the Commission. The Court found this to be an infringement of Community law.*
  - *Belgium v Spain (C-388/95) Spain required that wines bearing a Protected Designation of Origin be bottled in the region of*

production. The Court ruled it was a justified restriction and no infringement occurred.

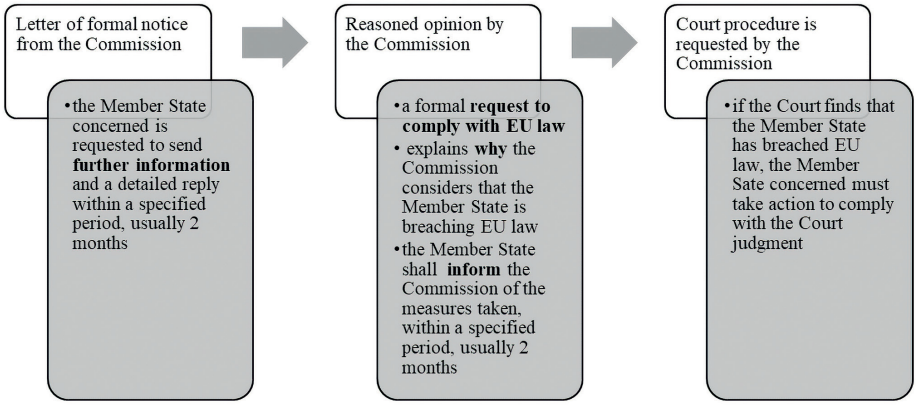
- *Spain v United Kingdom (C-145/04): it was a dispute over Commonwealth citizens' eligibility to vote in European Parliament elections in Gibraltar. The Court concluded no infringement.*
- *Hungary v Slovakia (C-364/10) Slovakia denied entry to the Hungarian President of the Republic, thus it was a diplomatic and free-movement dispute.*
- *Austria v Germany (C-591/17) Austria challenged Germany's discriminatory motor-vehicle tax relief scheme. The Court found an infringement by Germany.*
- *Slovenia v Croatia (C-457/18) Dispute over maritime border delimitation in the Bay of Piran. The Court did not examine the merits. The Court ruled that it did not have jurisdiction to adjudicate the dispute, because the core issue – the land and maritime border between Slovenia and Croatia – originates from an international arbitration award, not from EU law*

One of the few examples is the Hungarian Sólyom case (C-364/10). In August 2009, László Sólyom, then President of Hungary, wanted to visit Komárno (a town in Slovakia with a significant Hungarian minority just across the border, on the other side of the bridge of Komárom/Komárno) to unveil a statue of Saint Stephen, the first king of Hungary. The visit was scheduled for 20 August, which is a national holiday in Hungary for the celebration of Saint Stephen. However, Slovakia denied entry to President Sólyom, citing public security concerns, tense bilateral relations, and the provocative timing of the visit – on the same day that Slovakia commemorates the 1968 Soviet invasion of Czechoslovakia (in which Hungary had participated). Hungary then brought the case before the Court, claiming that Slovakia's action violated EU law – specifically, the right of free movement under Article 21 TFEU, which allows EU citizens to move and reside freely within Member States. The Court dismissed Hungary's action. The Court ruled that Heads of State do not travel as private individuals, but rather as representatives of their State, and therefore do not enjoy the same rights under EU law as ordinary citizens. Consequently, the free movement provisions of Article 21 TFEU did not apply in this case. The Court concluded that this matter fell under international public law and diplomatic relations, rather than EU law.

(b) Infringement procedure

An infringement procedure is a tool used by the European Commission to monitor and enforce Member States' compliance with EU law. First, it is a **pre-judicial mechanism** aimed mainly at promoting voluntary correction of breaches, involving steps such as a **formal notice,** a reasoned opinion, and, if necessary, **referral to the Court.**

The following stages take place.



14 Phases of an infringement procedure

Most infringement cases are resolved before reaching the Court of Justice, during what is commonly referred to as the **'EU Pilot' phase** – an informal dialogue between the European Commission and the Member State aimed at correcting potential breaches of EU law without formal proceedings.

However, if a Member State **fails to comply with the Court's judgment,** the Commission may refer the case back to the Court. In such **second referrals,** the Commission can request the imposition of **financial penalties,** which may include a **lump sum** and/or a **daily fine.**

These penalties are calculated based on several factors:

- The **seriousness of the infringement** and its **impact** on both general and specific interests,
- The **duration** of non-compliance,
- The **economic capacity** of the Member State, to ensure the fine is effective and deterrent.

The Commission proposes the financial penalty based on these criteria, but the **Court ultimately determines the final amount.** The methodology for calculating sanctions and the underlying legal principles are outlined in a **Commission Communication.**

For more information, including visual data on pilot dialogues, infringement procedures, and transposition issues, you can access charts and statistics by clicking here.

4. Political Control

Political control in indirect administration focuses on **democratic oversight** by the EU level.

4.1. Petition to the European Parliament

One of the fundamental rights of European Union citizens is the ability to directly participate in the democratic life of the Union. Every **EU citizen or resident** has the right to **petition the European Parliament** on matters within the Union's fields of activity.

This includes bringing forward **concerns or complaints** about how a **Member State applies EU law.** If a citizen believes that a Member State is **violating EU legislation** – for example, through incorrect implementation of directives, discrimination, or failure to enforce rights – they can submit a **petition to the European Parliament's Committee on Petitions.**

These petitions can be submitted by individuals, organisations, or associations, and they serve as an important channel of communication between citizens and EU institutions. Once submitted, the Parliament may take various steps, such as:

- asking the **European Commission to investigate** the issue;
- conducting **fact-finding missions;**
- holding **hearings** or **debates;**
- or forwarding the case to the **European Ombudsman** if it concerns maladministration.

This process provides a way for citizens to **hold both national and EU institutions to account.** It also complements other enforcement mechanisms, such as complaints to the European Commission under Article 258 TFEU.

Original petition texts are not published on the Petitions Portal of the European Parliament (PETI Portal), nor translated. Only summaries of petitions are made available to the public in all official EU languages.

Check what you may find by clicking here.

For example, petition No. 1047/2014 was submitted by a group of Spanish citizens regarding the lack of proper enforcement of EU environmental legislation in the construction of a landfill site near their town. The petitioners claimed that Spanish authorities had failed to conduct appropriate environmental impact assessments, breaching EU environmental directives. The Parliament took up the petition, and it eventually led to further scrutiny by the Commission and pressure on Spain to comply with EU law.

Petition No. 0655/2020 was concerning the European Union's funding of migration management programs in Libya, submitted by the Global Legal Action Network (GLAN), the Association for Juridical Studies on Immigration (ASGI), and the Italian Recreational and Cultural Association (ARCI) as filed in May 2020 under Article 227 of the Treaty on the Functioning of the European Union (TFEU). It challenges the use of EU development funds by the EU Trust Fund for Africa's 'Support to Integrated Border and Migration Management in Libya' (IBM) Programme, alleging mismanagement and violations of EU and international law due to the lack of human rights safeguards. The petition remains open and continues to be under consideration by the European Parliament's Committee on Petitions (PETI). The PETI Committee has engaged with relevant stakeholders and requested updates from the European Commission regarding the programme's compliance with EU legislation.

4.2. Mechanisms to Respond to Threats to the Rule of Law

The **European Union** is more than a political and economic partnership – it is a **community of values.** These values, enshrined in Article 2 of the Treaty on European Union, include **respect for human dignity, freedom, democracy, equality, the rule of** law, and human rights, including the rights of minorities. They are also reflected in the Charter of Fundamental Rights of the EU and rooted in international human rights treaties of the Member States.

These shared principles are **not optional;** all Member States have freely committed to them. They form the foundation of the rights enjoyed by everyone living within the EU. When one Member State violates these principles, it's **not just a national issue** – it becomes a **Union-wide concern** because the EU is built on **mutual trust:** trust in each other's legal systems, in the independence of courts, and in the protection of rights. A breach in one state undermines that trust and threatens the entire legal and political fabric of the Union. It also **damages the EU's image and credibility** on the global stage as a defender of democracy and human rights.

The EU has developed several mechanisms to **respond to threats to the rule of law.**

(a) Annual Rule of Law Cycle

The **Annual Rule of Law Cycle,** launched in **2020,** includes regular monitoring and dialogue with Member States.

The Rule of Law Cycle involves a comprehensive, **yearly assessment** of the Member States of the rule of law.

This process includes monitoring and reporting: each year, the European Commission publishes a detailed report on the rule of law situation in every Member State. the report looks at key areas such as:

- ✓ *judicial independence: ensuring that courts are free from political interference.*
- ✓ *anti-corruption measures: assessing the effectiveness of legal frameworks to prevent and address corruption.*
- ✓ *media pluralism: protecting media freedom and independence.*
- ✓ *checks and balances: evaluating the strength of democratic institutions, including parliaments, civil society, and local governments.*
- ✓ *dialogue and engagement: after the Commission's report is published, the EU engages in a dialogue with the member states, encouraging them to address any identified challenges. this dialogue can take the form of consultations, recommendations, and peer reviews, where Member States learn from each other's best practices.*

The Rule of Law Cycle is not merely a reporting tool – it also guides further action. If the Commission identifies serious concerns in a country, it can trigger infringement procedures or make use of the Conditionality Regulation, which ties EU funding to adherence to the rule of law.

See reports here.

(b) Conditionality Regulation

The **Conditionality Regulation (2020),** which links **EU funding to respect for the rule of law,** allowing financial consequences for countries that violate core principles.

The Conditionality Regulation (2020), formally known as 'Regulation (EU) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget', is a legal instrument introduced by the European Union to link respect for the rule of

law to access to EU funds. It was adopted in December 2020 to ensure that Member States uphold the core values of the EU, such as democracy, rule of law, and fundamental rights, by conditioning the disbursement of EU financial support on adherence to these principles.
If you want to send a complaint about a possible case under the conditionality regulation, you are invited to fill in the form below.

(c) Nuclear Clause

The so-called ***'nuclear option'*** under Article 7 TEU, which can lead to the suspension of a Member State's voting rights if there is a serious and persistent breach of EU values.

It was introduced with the **Treaty of Amsterdam** (1997). This article was created as part of the EU's response to growing concerns over the protection of its core values, such as democracy, the rule of law, and human rights, within its Member States.

It allows the EU to address serious breaches by Member States of the Union's core values, including respect for human dignity, freedom, democracy, equality, the rule of law, and human rights, as set out in Article 2 TEU.

Article 7 is designed to protect the foundational values of the EU. It provides a two-step mechanism:

(1) **Preventive mechanism** as of Article 7(1): This allows the Council to issue a warning if there is a clear risk of a serious breach of EU values by a Member State. This stage does not impose sanctions but opens up political dialogue and monitoring.

(2) **Sanctioning mechanism** as of Article 7(2) and (3): If a serious and persistent breach is determined unanimously by the European Council, the Council may then suspend certain rights of the Member State, including voting rights in the Council.

This potential suspension of rights is why Article 7 is referred to as the "nuclear option" – it is the most severe measure the EU can take against a Member State.
While Article 7 has never reached the final stage of sanctions, it has been triggered: in 2017, when the European Commission initiated Article 7(1) proceedings against Poland due to concerns over judicial independence and rule of law and in 2018, the European Parliament initiated the process against Hungary (Sargentini Report) over threats to academic freedom, judicial independence, corruption, and the rights of minorities. The procedure against Poland ended in May, 2024.
By clicking here, you can have updated information on the procedure.

Summary of Key Points of Block No. 5

Chapter V focuses on the supervision of indirect administration in the EU, which involves oversight of administrative tasks delegated to national authorities. Several mechanisms are in place to ensure that EU values, such as the rule of law and effective governance, are upheld across Member States.

At the national level, the National Ombudsman plays a crucial role in overseeing administrative practices and providing citizens with a means to address grievances related to administrative actions. In addition to this, there are domestic control mechanisms that monitor administrative actions within each Member State.

The EU also coordinates several **networks** to ensure proper administrative practices across borders and to settle legal disputes without judicial procedure, if possible. These include SOLVIT, which helps resolve cross-border administrative issues, the European Consumer Centres Network, which assists in resolving consumer disputes, and FIN-NET, a network dedicated to handling disputes in the financial services sector.

Judicial control is another critical component, with **domestic** legal remedies available for individuals to challenge administrative decisions at the national level. At the **EU level,** citizens and businesses can seek information on administrative actions taken by national authorities. If a Member State fails to comply with EU law, the infringement procedure allows the European Commission to initiate legal action.

In terms of **political control,** citizens can petition the European Parliament to address issues related to indirect administration or breaches of EU law. Additionally, the EU has several mechanisms to respond to threats to the rule of law. These include the Annual Rule of Law Cycle, a yearly assessment of the state of the rule of law in Member States, and the Conditionality Regulation, which links EU funding to adherence to the rule of law. In extreme cases, the **nuclear clause** (Article 7 TEU) allows for the suspension of a Member State's voting rights if there is a serious and persistent breach of EU values.

In summary, this chapter highlights the **comprehensive system of oversight** in place to ensure that EU values and laws are respected across Member States, with various judicial, administrative, and political mechanisms working together to safeguard effective and lawful administration.

In conclusion, the concept of the European Administrative Space represents an evolving framework of both direct and indirect administration within

the EU, built on shared principles of public administration. It emphasises key standards such as reliability, predictability, accountability, transparency, efficiency, and effectiveness, which candidate states must adopt to align their public administration structures and procedures with those of the EU Member States. While the adaptation process begins with accession, it does not end there, as the establishment of new institutions and the expansion of existing powers continue. The EU's expanding competences, particularly in areas like fundamental rights protection, require constant updates to the administration's structure. Furthermore, the growing influence of fundamental rights in EU law reinforces the need for cooperation between direct and indirect administration. This cooperation ensures equal rights for all citizens, fostering consistent outcomes in the application of EU law across all Member States. As a result, the European Administrative Space is continually shaping itself to meet the demands of an ever-expanding Unio.

Helpful sources to discover

- European Union
  https://european-union.europa.eu/index_en

- Learning corner. The EU in a nutshell
  https://learning-corner.learning.europa.eu/learning-materials/eu-nutshell_en

- EUR-Lex. Access to European Union Law
  https://eur-lex.europa.eu/homepage.html?locale=en

- Court of Justice of the European Union
  https://curia.europa.eu/jcms/jcms/j_6/en/

- Publication Office of the European Union
  https://op.europa.eu/en/

- Eurostat. The home of high-quality statistics and data on Europe
  https://ec.europa.eu/eurostat

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