

EUDAIMONIA comparative table of institutional design obligations

<p>Personal data protection (Regulation 2017/679 (GDPR))</p>	<p>Obligations flowing from EU primary law and/or secondary legislation</p>
<p>Legal form ?</p>	<p>One or more completely independent public authorities per Member State (art. 51(1) and 52(1) GDPR) – (see also CJEU Case C-518/07 <i>Commission v Germany</i> EU:C:2010:125, paragraph 23, and Case C-614/10 <i>Commission v Austria</i> EU:C:2012:631 ; Case C-288/12, <i>Commission v Hungary</i>)</p> <p>Establishment of authority to be provided for by law (art. 54 GDPR)</p> <p>Sufficient resources (art. 52(4) GDPR) + separate budget and independent spending (art. 52(6))</p>
<p>Composition ?</p>	<p>Appointment of member(s) following transparent procedure based on qualifications, experience and skills – appointment by Parliament, government, Head of State or independent appointment body – dismissal only for serious misconduct or unfit for function (art. 53 GDPR)</p> <p>Members appointed for a duration of at least four years (art. 54(1)(d))</p> <p>Freedom to choose own staff (art. 52(5) GDPR) – staff regulations established by law (art. 54(1)(f))</p> <p>Professional secrecy for members and staff (art. 54(2))</p>
<p>Process ?</p>	<p>Exercise of powers in the interest of the consistent application of GDPR (art. 51(2) - no reference to impartiality, but see Recital 129 : impartial, fair and timely application in accordance with Charter and general principles of EU law)</p>

	<p>Obligation to handle complaints, subject to judicial review – no rejection for priority reasons (art. 57(1)(f) and 77 GDPR)</p> <p>Common investigative, decision-making and sanctioning powers (Art. 57-58 and 83)</p> <p>Appropriate safeguards, including effective judicial remedy and due process, set out in Union and Member State law in accordance with the Charter (art. 58(4) and 83(8))</p> <p>Cooperation, mutual assistance <u>and</u> joint operations (art. 60-62 GDPR) + European Data Protection Board) participation (art. 51(3) and 70) and consistency mechanism, including binding resolution of conflicts in cooperation between supervisory authorities (art. 63-65)</p>
<p>Modus operandi (accountability, judicial review) ?</p>	<p>Accountability through activity reports made public and transmitted to the Member State’s parliament, the government, any other national law body as well as the Commission and the Board (art. 59 GDPR)</p> <p>Right to lodge a complaint, follow-up has to be given, right to remedy if no follow-up (art. 77 GDPR) + possibility (but no obligation) of administrative or non-judicial remedy</p> <p>Right to an effective judicial remedy (art. 78 and 83(8) GDPR)</p>