

Swiss Single Market Law and its Enforcement

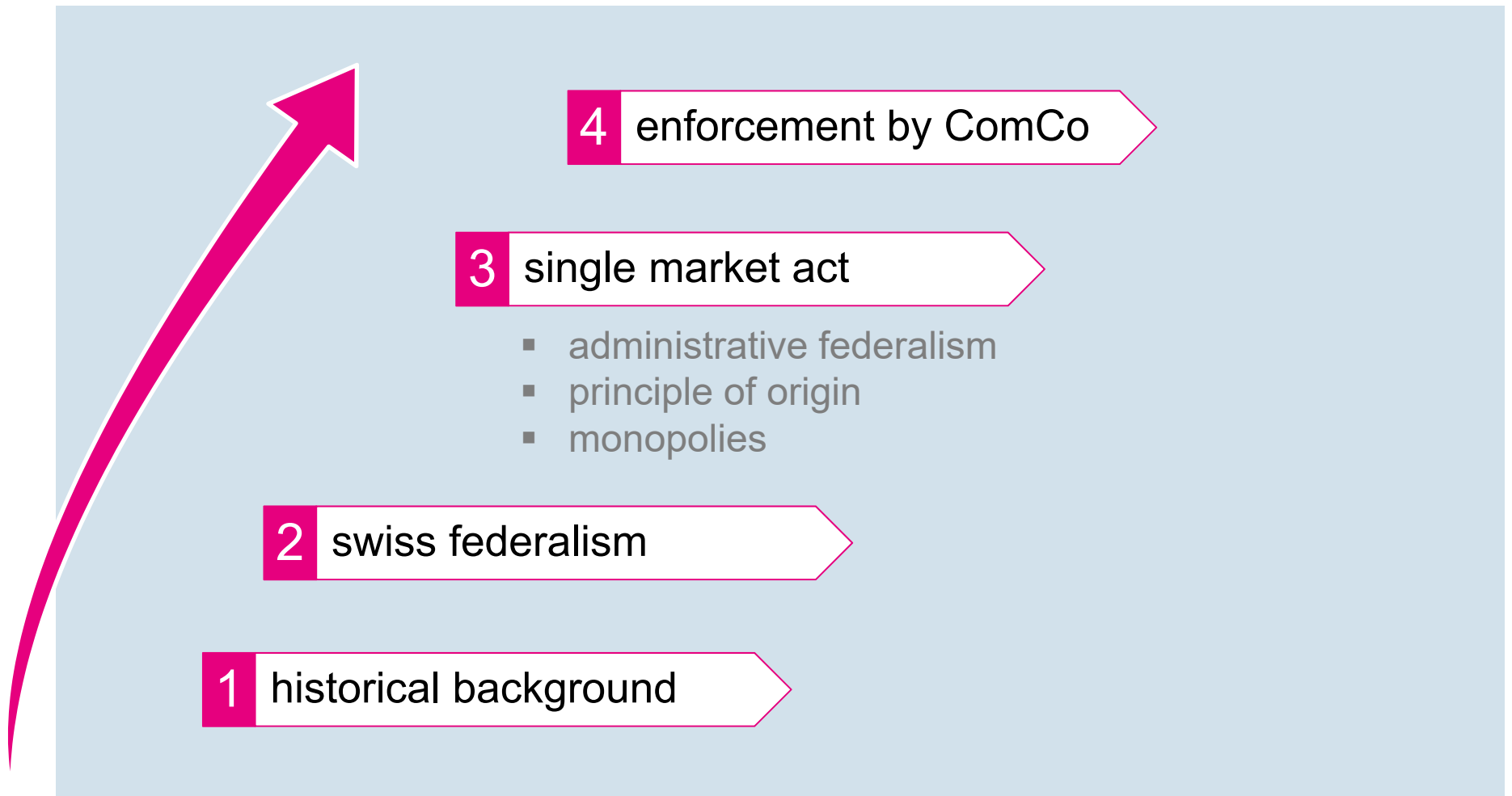
A low-angle photograph of a modern building with a white facade and large, dark-framed windows. The building's architecture is characterized by sharp, angular lines and a geometric design. The sky is a clear, light blue.

PRESENTATION @
EU DELEGATION FOR SWITZERLAND

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overview



historical background

EEA «No» in December 1992



securing market
access

strengthening the
competitiveness of
the swiss economy

historical background

market access

§ Bilateral Agreements I+II

§ Autonomous Adaptation

§ Act on TBT

competitiveness

«renewal of swiss
market economy»

§ Act on Cartels

§ Swiss Single Market Act

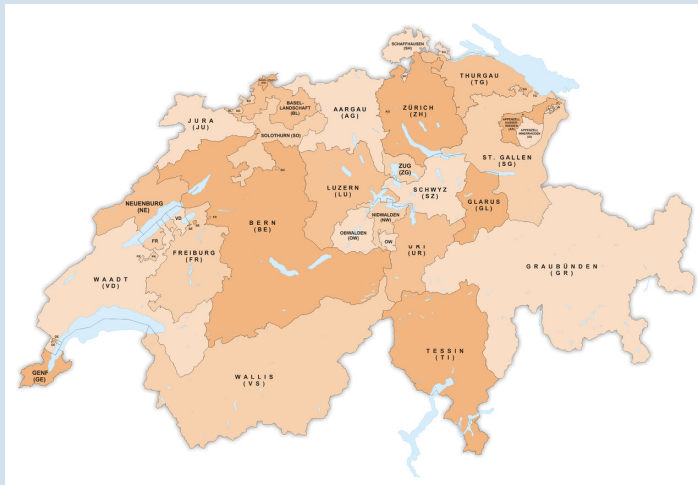
§ Public Procurement Acts



Art. 3 Cantons

The Cantons are sovereign except to the extent that their sovereignty is limited by the Federal Constitution. They exercise all rights that are not vested in the Confederation.

26 cantons



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2'294 communities



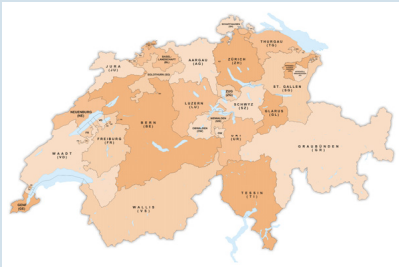
https://upload.wikimedia.org/wikipedia/commons/3/3e/Schweizer_Gemeinden.gif

swiss federalism – regulatory levels



<https://pixabay.com/de/schweiz-alpen-karte-flagge-kontur-1500642/>

products insurance banking
medical services
mountaineering energy
legal services



nursing notary chimney sweeping
security childcare construction
funeral gastronomy handcraft



taxi
sanitation

swiss federalism – trade obstacles

cantonal regulations
procedures & fees

cantonal
monopolies

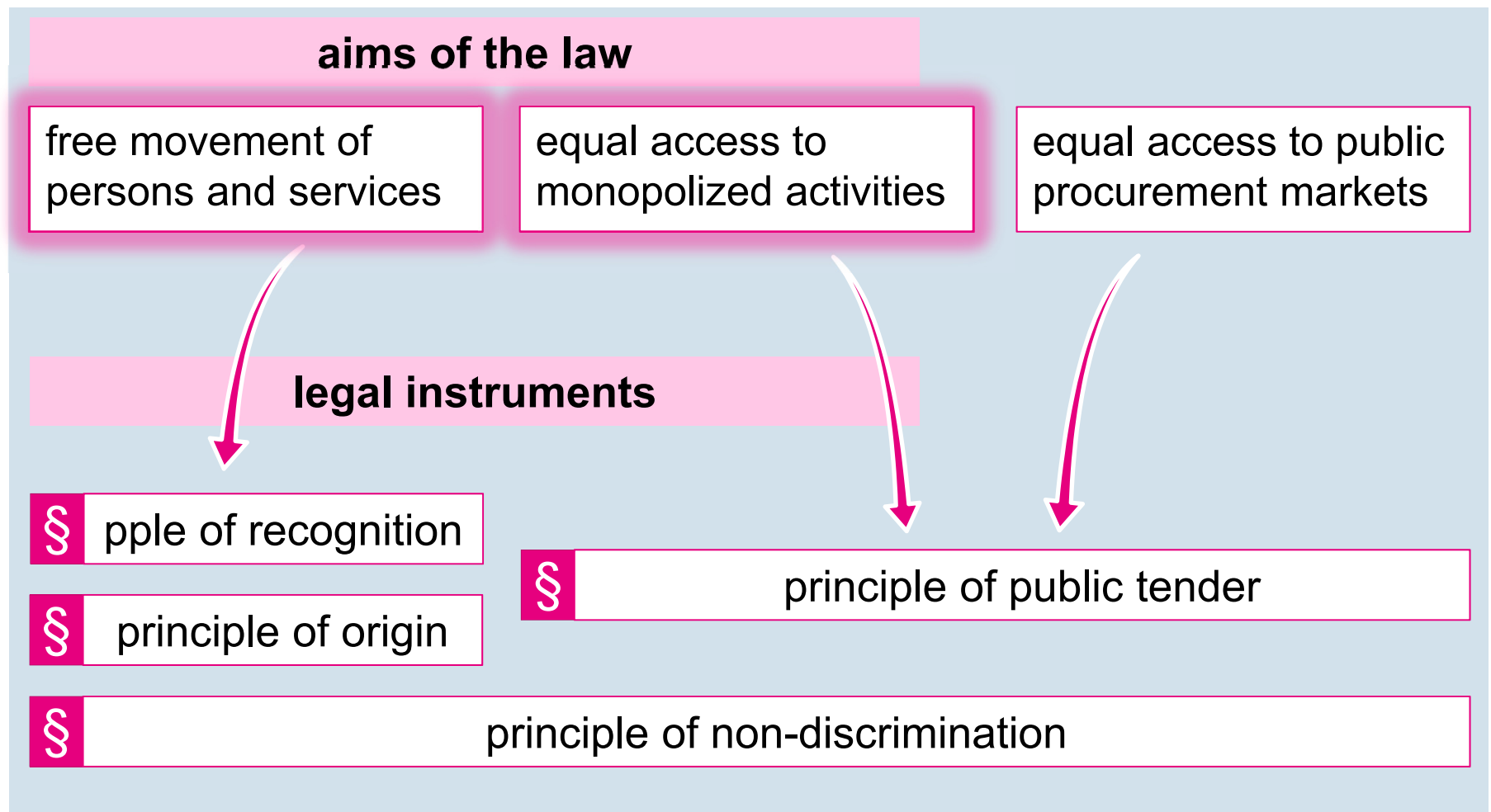
economic use of
public domain

«administrative
federalism»

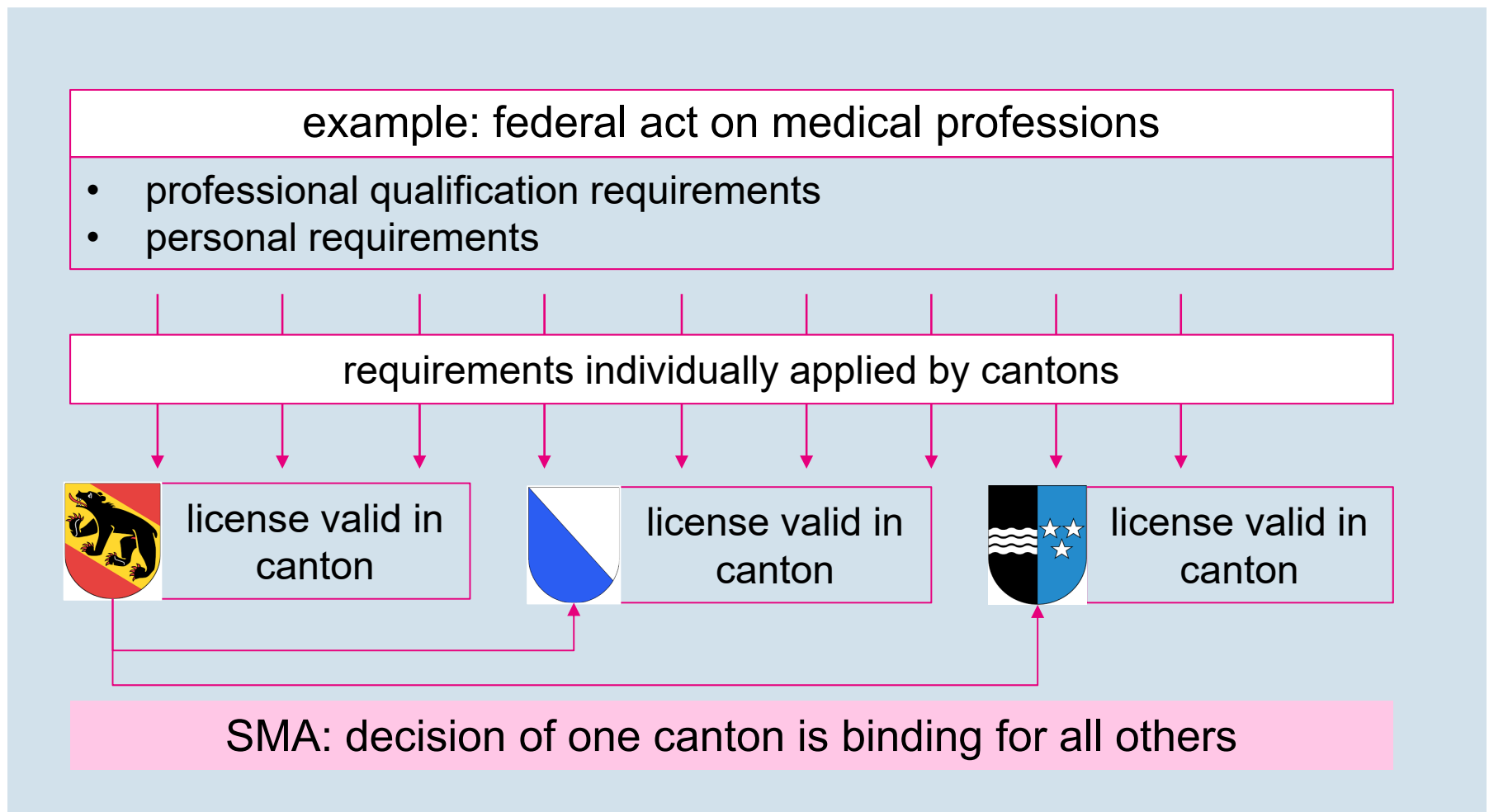
public services
subsidies

public
procurement

single market act – overview



SMA: administrative federalism





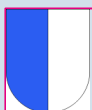
SMA: principle of origin – right to market access

UNIVERSITÄT
LUZERN



Canton of Zug

no requirements



Canton of Lucerne

licensing conditions

- good reupte
- financial capacity



Canton of Aargau

licensing conditions

- good reupte
- financial capacity
- certificate of competence



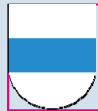
- rules of home canton apply
- simple, fast and free procedure



- rules of home canton apply
- simple, fast and free procedure

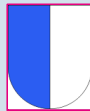


SMA: principle of origin – restrictions



Canton of Zug

no requirements



Canton of Lucerne

licensing conditions

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Canton of Aargau

licensing conditions

- good reupte
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restrictions only if

- no equivalence
- public interest
- proportional
- not discriminatory

SMA: principle of origin

principle applies even...

- § ...if profession/service «does not exist» at Canton of destination
 - prosthodontists
 - self-employed paramedic
- § ...to requirements concerning the legal status
 - stock corporation for liberal professions
- § ...to regulations concerning the exercise of an activity
 - employment of stagiaires
- § ...to labour regulations
- § ...to rules on sales modalities, e.g. internet sale of drugs

SMA: principle of origin – comparison to EU

Services directive 2006/123/EC

Commission draft, March 2004, article 16

Country of origin principle

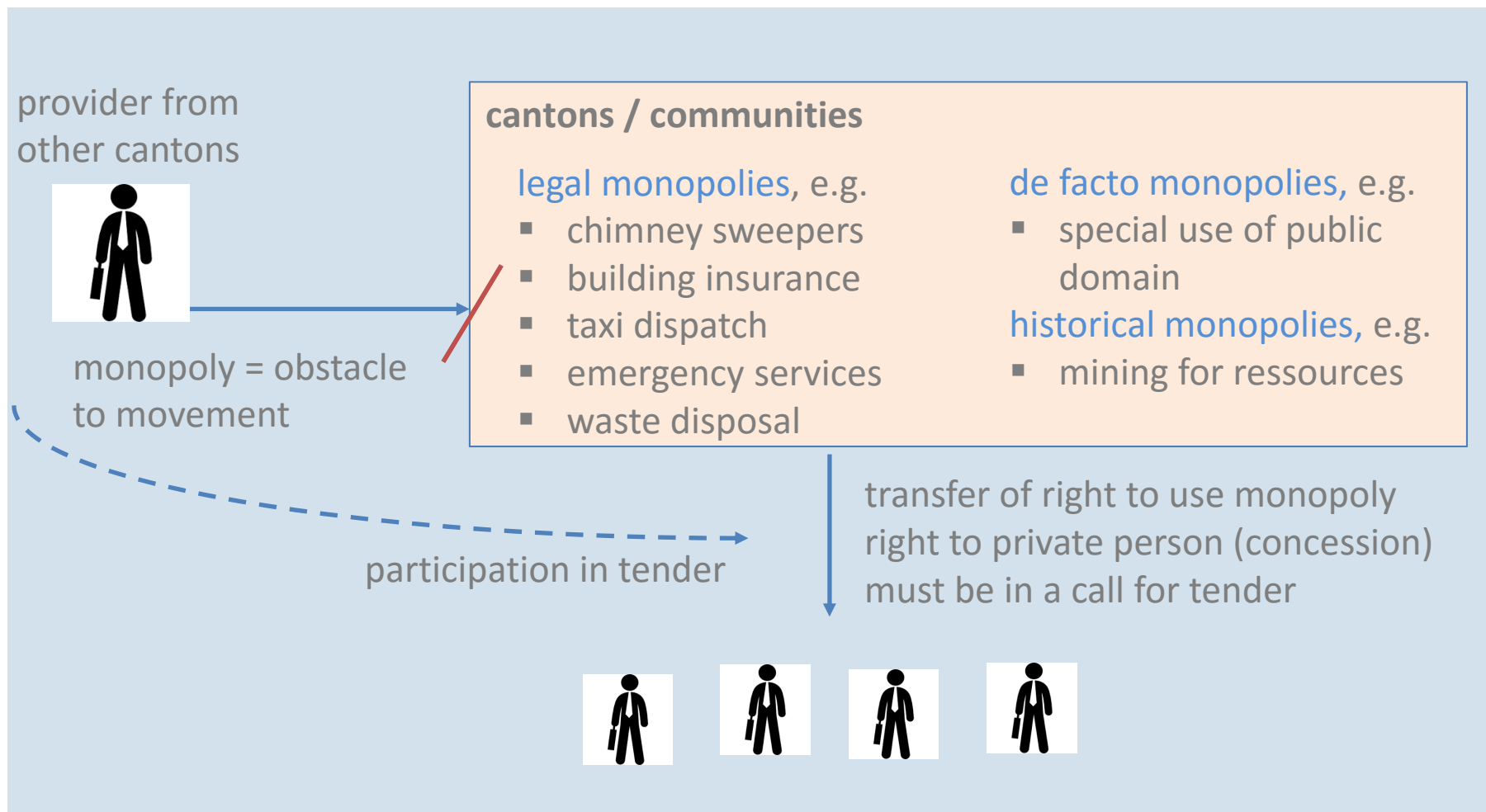
- (1) Member States shall ensure that providers are subject only to the national provisions of their Member State of origin which fall within the coordinated field.

Adopted version, article 16

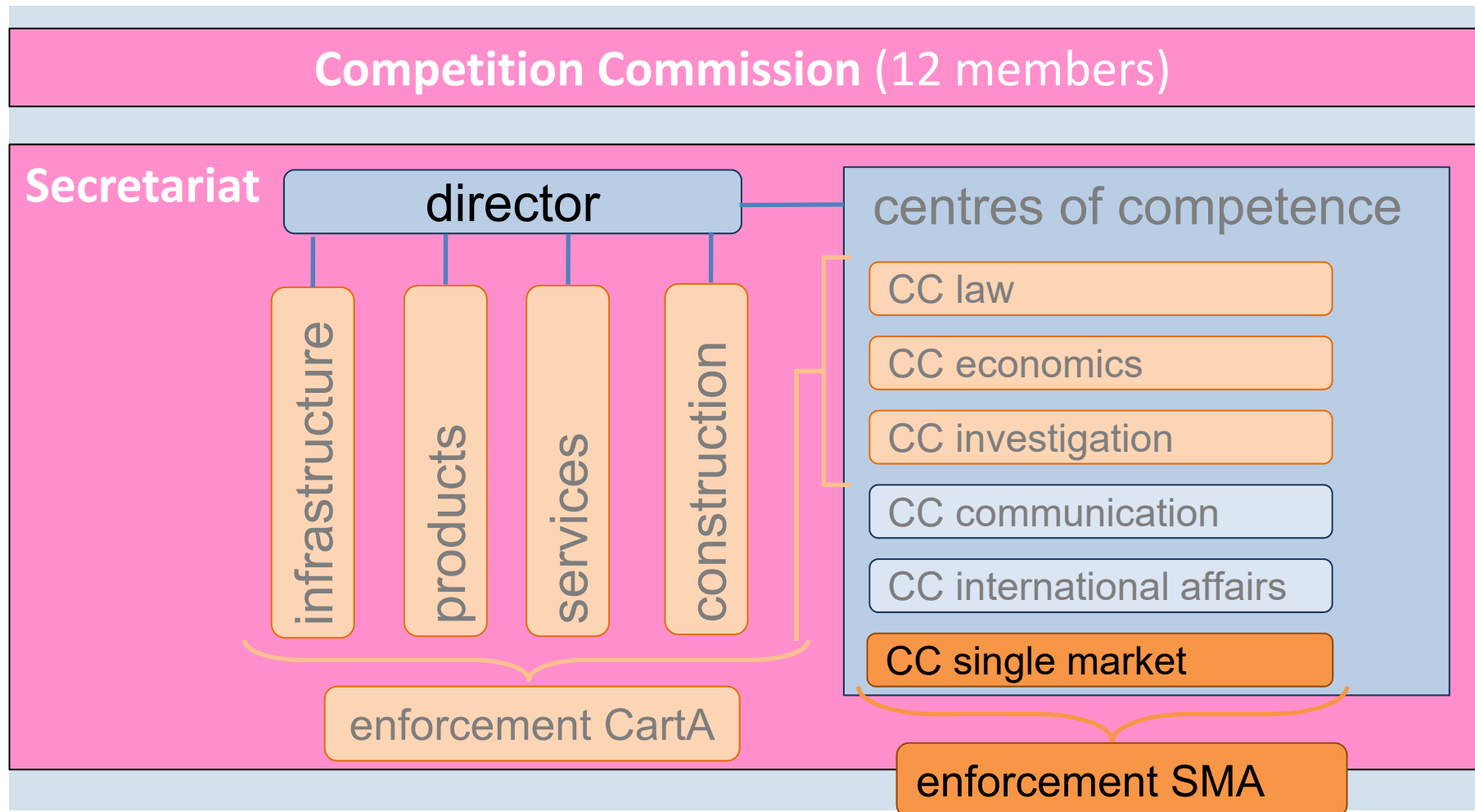
Freedom to provide services

1. Member States shall respect the right of providers to provide services in a Member State other than that in which they are established.

SMA: monopolies



enforcement by ComCo



legal instruments

- § investigation / recommendation re application of SMA
 - e.g. investigations Canton Berne, Waadt, Ticino
- § recommendation re cantonal laws
 - e.g. recommendation re taxi regulation in Geneva
- § on request of authorities: expertise
 - e.g. intercantonal agreement on regulation of security services

revision of SMA in 2006

- § complaint against decisions
 - e.g. ticino law on manufacturers

discussion

further information

- Bundesgesetz über den Binnenmarkt (BGBM) vom 6. Oktober 1995 (Single Market Act), SR 943.02
- overview of practice available on ComCo website @ www.weko.admin.ch > Themen > Binnenmarkt > Praxis

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