



Addressing legal issues in standards development process

Spiro Dhapi



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PROCEDURES

Training session for new TB Officers of 2019-12-12

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~500 TCs

450 CEN - 50 CENELEC

~2.000 WGs

Fields of work

- > Accessibility
- > Air and space
- > Chemical
- > Construction
- > Consumer products
- > Defense, security and privacy
- > Energy
- > Environment
- > Food and feed
- > Health and safety
- > Healthcare
- > ICT
- > Innovation Management
- > Machinery
- > Materials
- > Nanotechnology
- > Pressure equipment
- > Services
- > Smart living
- > Transport

Research & innovation

- > Electric Vehicles
- > Electromagnetic Compatibility
- > Fibre optic Communications
- > Fuel Cells
- > Household appliances
- > ICT
- > Interoperability
- > Medical Equipment
- > Railways
- > Smart grids
- > SmartHouse
- > Smart metering

Summary

- How is the copyrights of European standards established?
- What to do when patents become relevant?
- Is competition law relevant for technical meetings?
- How is GDPR implemented in CEN and CENELEC

IPRs of standards: **copyright**

- Establishing the copyright claim
- Transferring copyright exploitation rights



CEN and CENELEC policies on copyright

- [CEN-CENELEC Guide 10](#) – common Copyright policy
- All NSBs and NCs enjoy the exclusive exploitation right on CEN and CENELEC publications in their countries
- CEN-CENELEC Joint Commercial Advisory Group (JCAG)



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Experts' assignment of "exploitation rights" to CEN and/or CENELEC

- Any expert contributing in a TC or WG transfers his copyright to CEN or CENELEC over the contents she/he "produces".
- CEN and CENELEC: "**ASSIGNMENT OF RIGHTS STATEMENT**" signed at every meeting.
- However, any expert can enjoy his/her "moral right" to identifiable contributions



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Establishing the Copyrights of standards

Experts' assignment of "exploitation rights" to CEN and/or CENELEC

Make sure that everyone has signed the attendance list and statement at every meeting!



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Establishing the Copyrights of standards

Licencing of content from other individuals or organisations

- When the IPR owner is not (permanent) participant at the technical group - has not signed the Exploitation Rights Statement

Or

- Technical group wishes to use content owned by other individual or organisation



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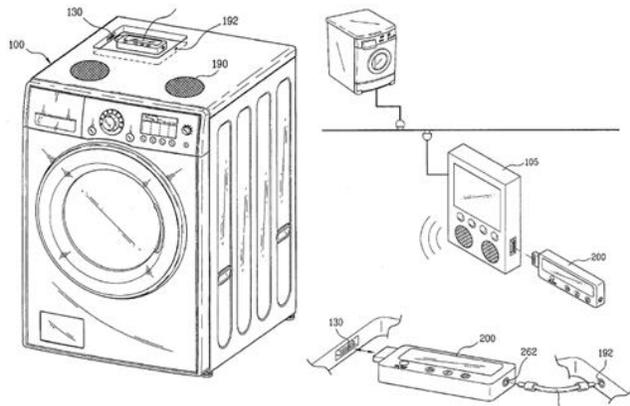
Licencing of content from other individuals or organisations

- **Ensure: EXPLOITATION RIGHTS LICENSE AGREEMENT (ERLA)**
- **How?**
 1. **Contact IPR owner to fill in the ERLA**
 2. **Verify with CCMC (PM responsible) to ensure ERLA is complete with the necessary information**
 3. **Request from IPR owner to sign and send (post and email) the ERLA to CCMC**



Patents

IPR in standards



CEN-CENELEC Guide 8

“Guidelines for implementation of the common IPR policy on Patent”



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Patents and the technical work. What to do?

- Early disclosure is desired
- Chairs/Convenors ask at every meeting– request is recorded in the minutes
- Anyone can flag possible essential patents
- Technical group does not determine if essential, scope or validity of patent, but can discuss
- If patent owner is not willing to licence – consider how to address technical conflict in the standard



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Patents and the technical work. What to do?

1. Ask patent owner to fill in the [Declaration Form in Annex 2 to Guide 8](#)
2. Verify with CCMC (PM responsible) to ensure Declaration is complete with the necessary information
3. Request from patent owner to sign and send (post and email) the Declaration to CCMC



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Useful info on BOSS

➤ Useful links (CEN)

https://boss.cen.eu/formtemp/TC_meetings_attendance_list.doc

<https://boss.cen.eu/formtemp/ERLA.doc>

https://boss.cen.eu/formtemp/Declaration_Form.doc

➤ Useful links (CENELEC)

https://boss.cenelec.eu/formtemp/IPR_ERAS_Attendance_List.doc

https://boss.cenelec.eu/formtemp/IPR_ERLA_CLC.doc

https://boss.cenelec.eu/formtemp/declaration_patents.doc



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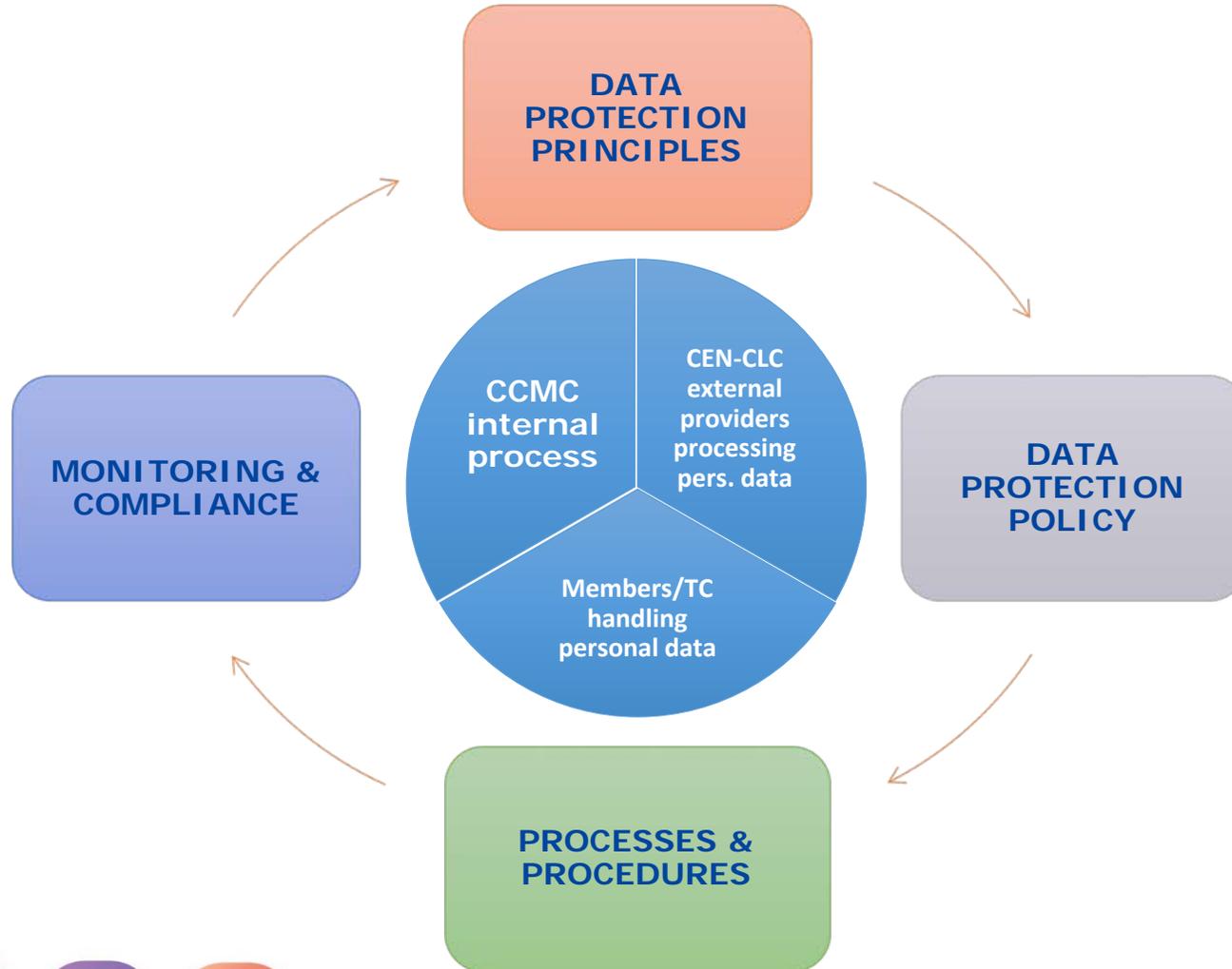
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Completion law principles in CEN-CENELEC technical work

- CEN-CENELEC [Guide 31](#): Competition law for participants in CEN-CENELEC activities
- Aim is to ensure neutrality and wide participation
- All forms of anti-competitive behaviour are prohibited by law, even when they are unintentional
- Follow the list of DOs and DONTs in Guide 31
- In case of doubt contact your legal advisor or CCMC



CEN-CENELEC Data Protection Compliance System



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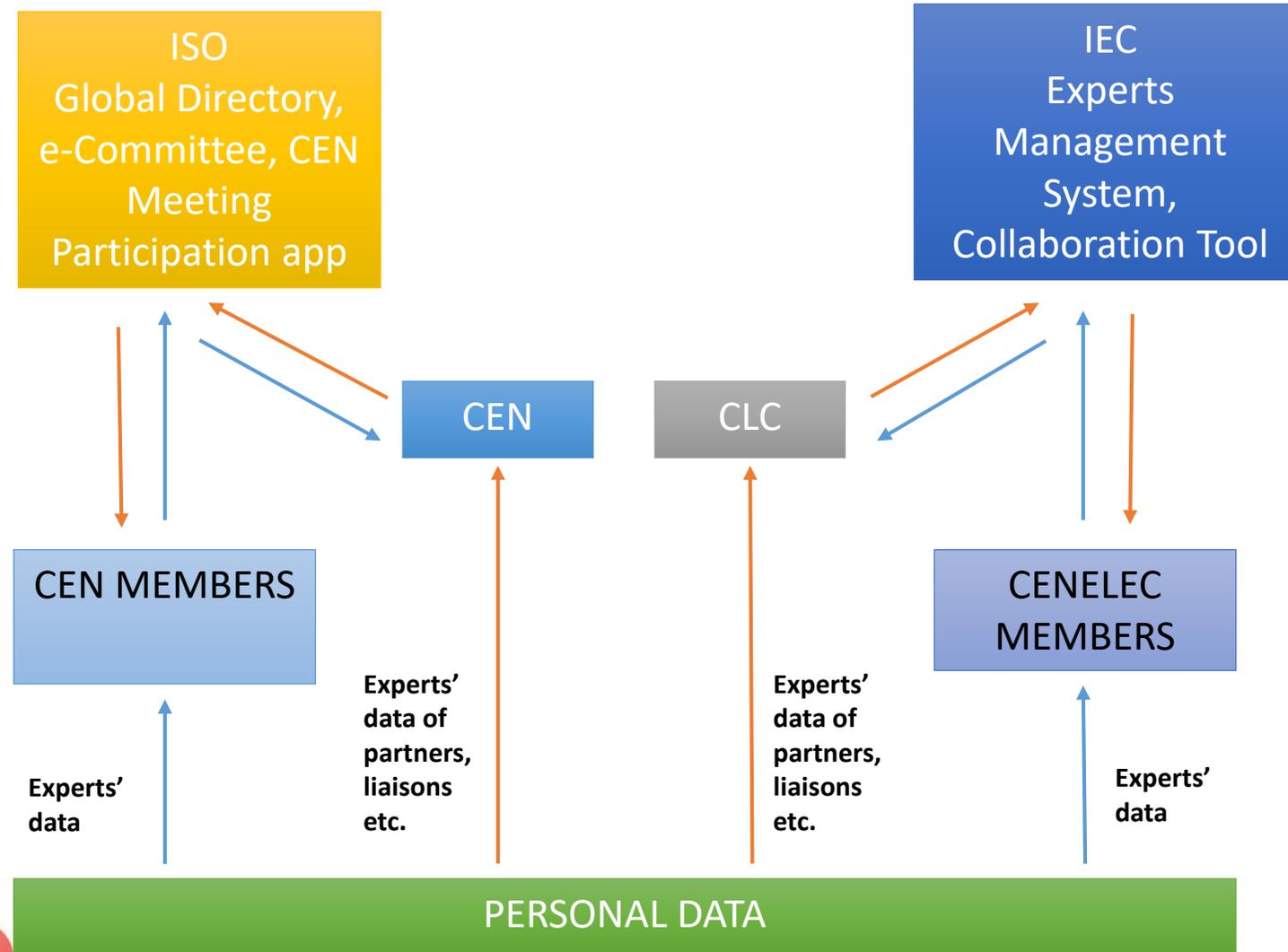
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CEN-CENELEC Data Protection Compliance System



CEN-CENELEC Data Protection Compliance System

- ✓ Implementation measures already in place for databases online tools and website: Data Protection and Privacy Statement, consent box and cookies policy
- ✓ Draft CEN-CENELEC Guide on common policy for data protection
- ✓ Standard Contract Clauses finalised with ISO and IEC – adjusted to controller/controller relationship to reflect use of data and responsibilities
- ✓ Approval of draft Guide by the AGs by correspondence will be launched immediately after signature of both contracts
- ✓ Data processing contracts being signed with service providers e.g. online meetings (Zoom)
- ✓ Dedicated training in Q1/Q2 2020
- ✓ The Legal Platform is considering targeted improvements



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Thank you! Questions?

Spiro Dhapi
SDhapi@cencenelec.eu

www.cencenelec.eu

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