



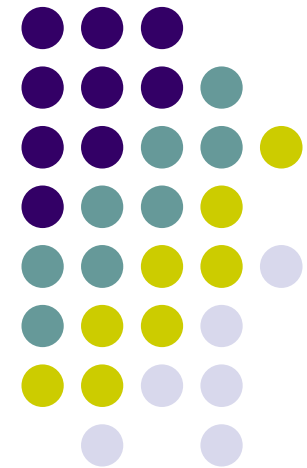
SUNICOP

EUROPEAN CONSTITUTIONAL LAW



SUNICOP

Sovereignty in the EU – the changing concept





Challenges

- Issue of sovereignty
 - Globalisation, massing, internationalisation, integration...
 - Privatisation of state power
 - Choice of law, contractualisation
 - Crises, wars, pandemics, terrorism
- Concept of sovereignty
 - Historical and political environment
 - Theory of power
 - Functional approach

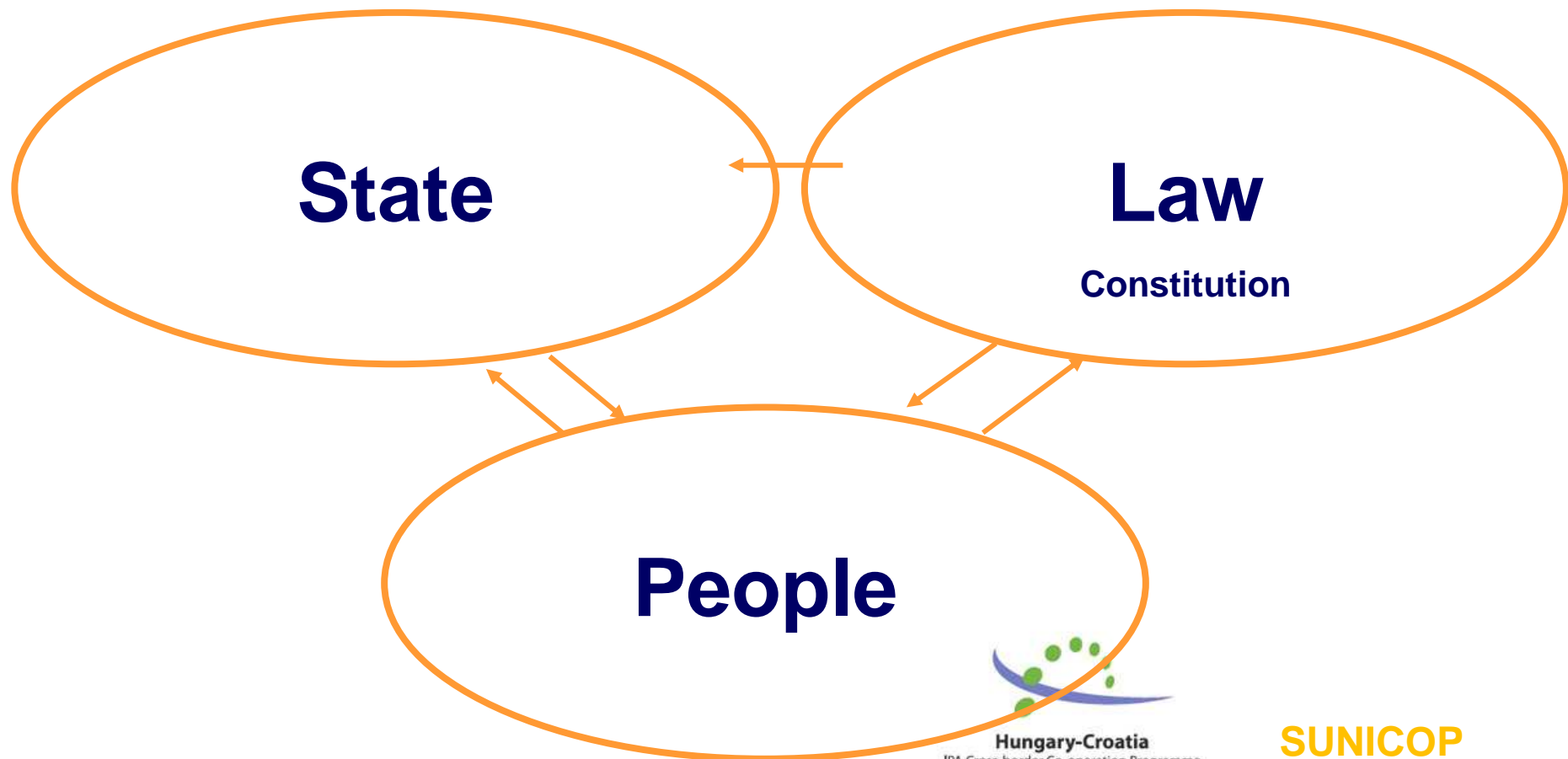


Attempts to define...

- Political sense: question of FACT
 - Definition of conflict (Kampfbegriff)
 - Supreme and absolute power
- Legal sense: question of LAW
 - Legal features of supreme power
 - Context of constitutional order
 - Different features in constitutional law, international law, legal theory
 - Indivisible / divisible (pooled) sovereignty

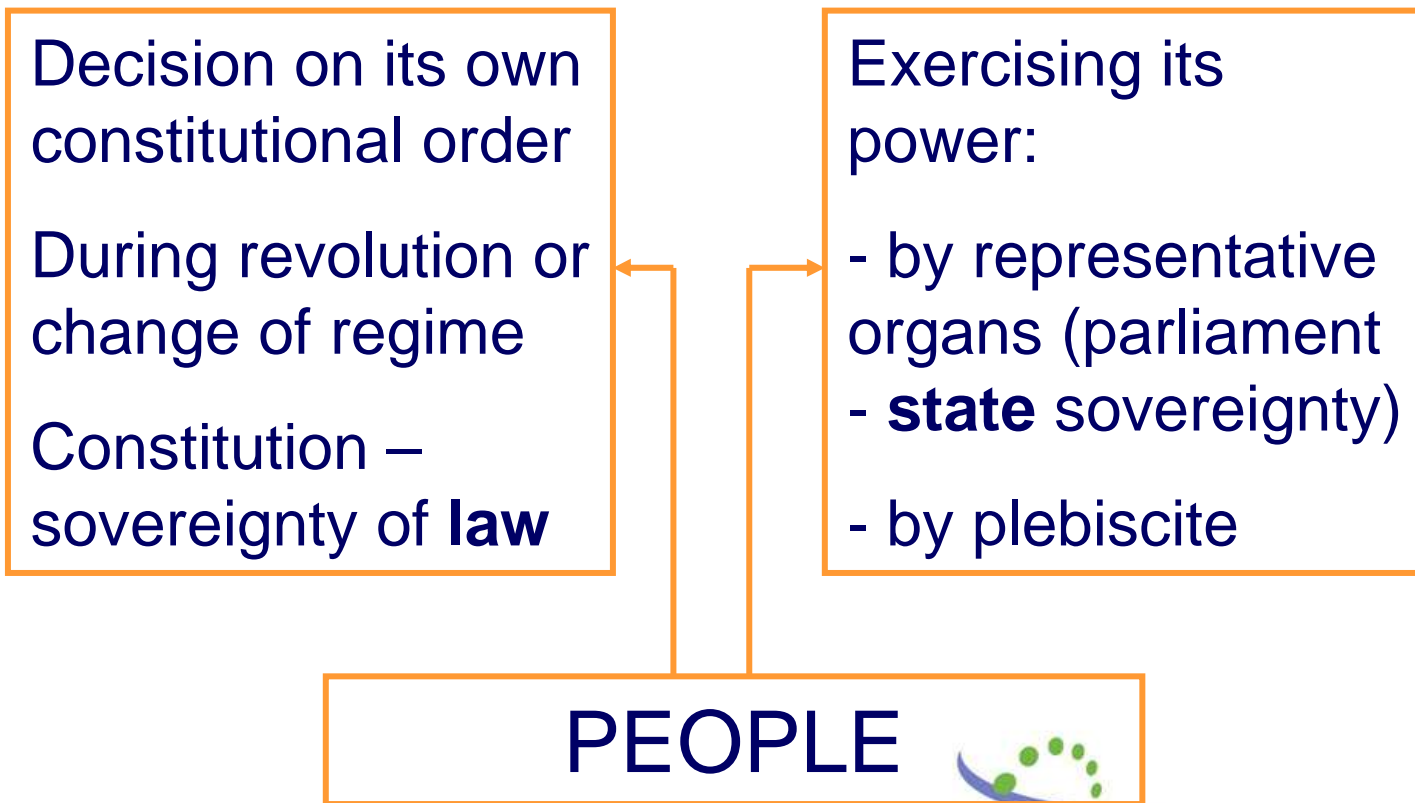


Sovereignty under Constitutional Law



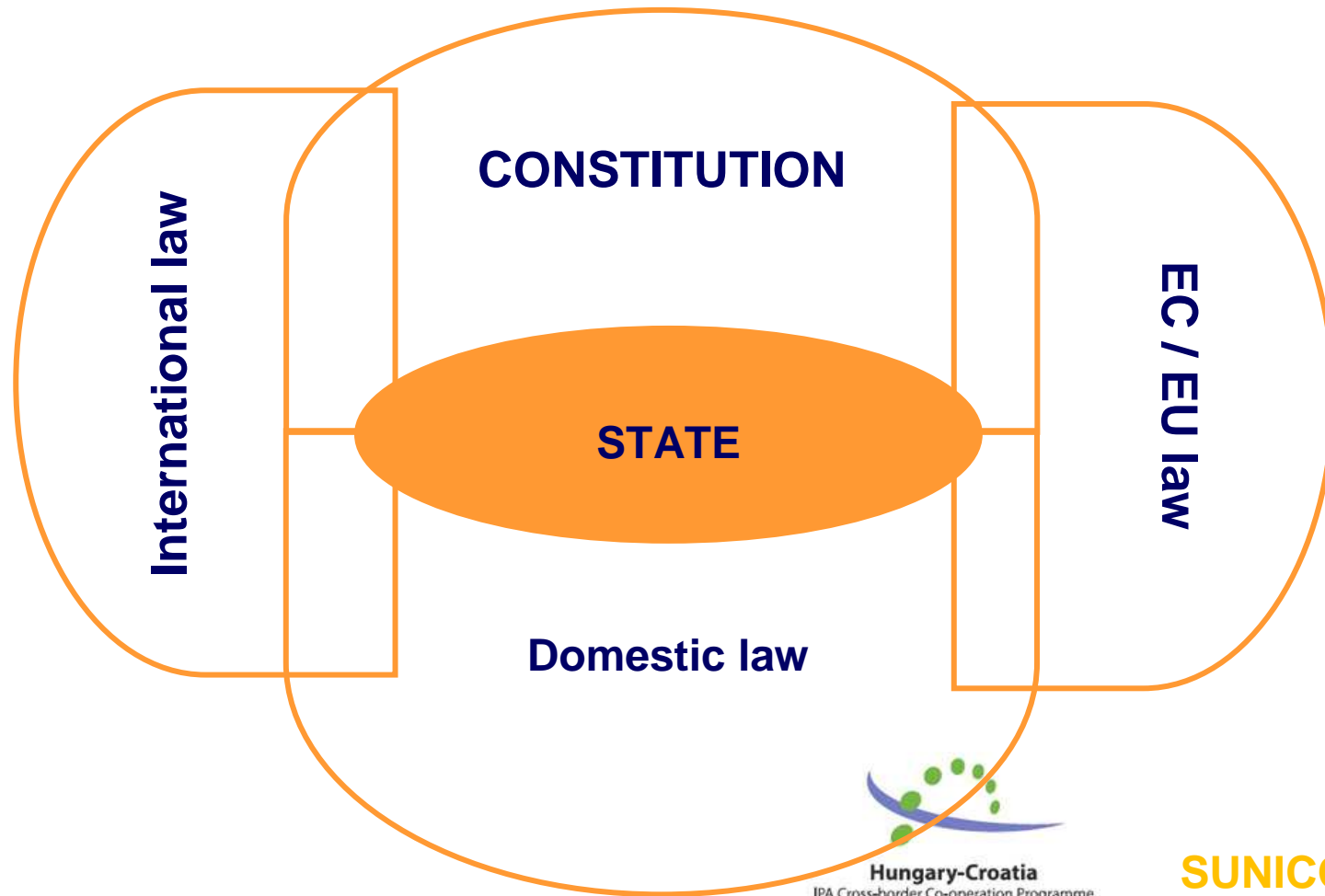


Sovereignty of the people



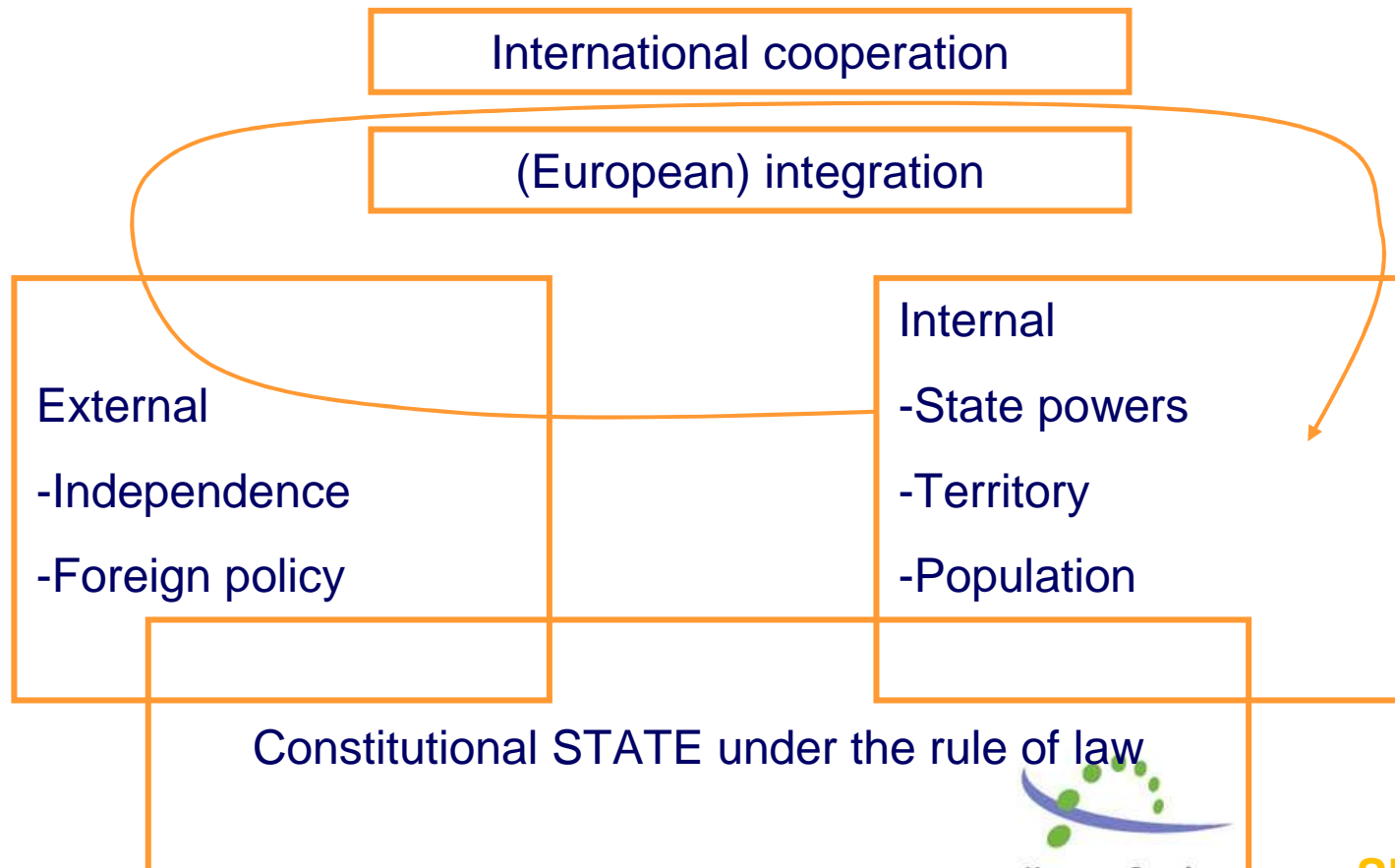


Sovereignty of law





State sovereignty

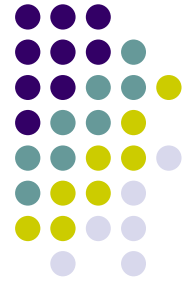




Sovereignty in the EU

- You are my creator, but I am your master – obey! (?)
- Creation of integration power
- Inverse hierarchy
- Projections of sovereignty

TEU Art. 4(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.



Protection of sovereignty

- Sovereignty as competence of last word
- Norm-conflicts in a multilevel constitutional sphere (autonomy v. sovereignty)
- Collision norms (primacy v. authorising article)
- Purposes and functions of authorising articles in Member States constitutions
- Judicial cooperation
- Proactive protection (instead of reactive)