



Making the rules work

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Outline

- **Setting**
 - Layers of legislation
 - Institutional structures
- **The rules**
 - Normative strength
 - Clarity/flexibility on goals
 - Division of tasks/responsibility
 - Right topics?
- **Compliance**
 - Monitoring
 - Liability
 - Sanctions



The setting – multiple layers of rules

Public international law - global

Conventions, Protocols etc.
e.g. MARPOL, CBD, UNFCCC

Public international law regional

Conventions, Annexes, etc.
e.g. Helsinki Convention

European Union

Directives, Regulations,
decisions, funding, enforcement

National legislation

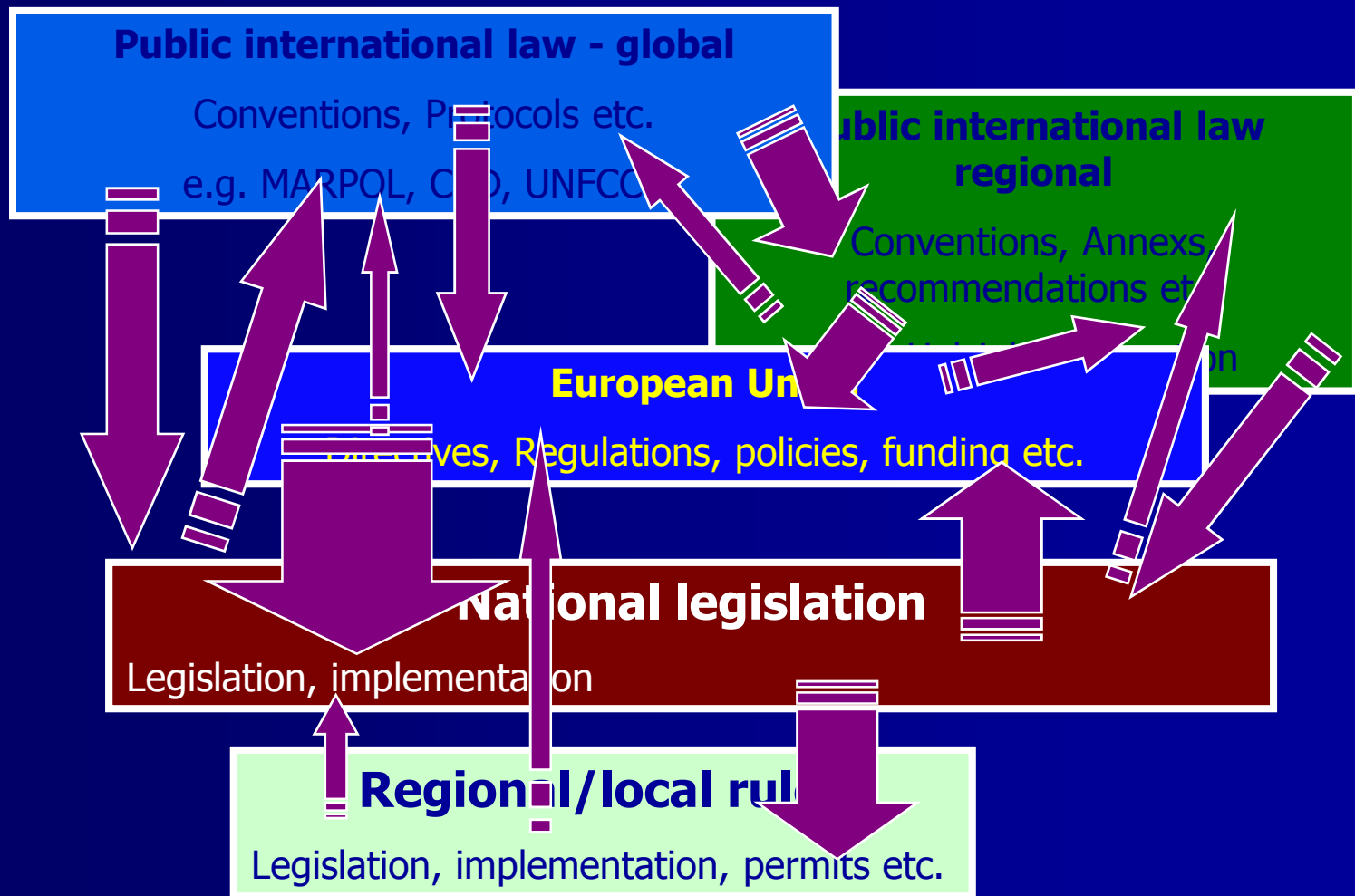
Legislation, implementation,
enforcement

Regional/local rules

Legislation, implementation, permits etc.



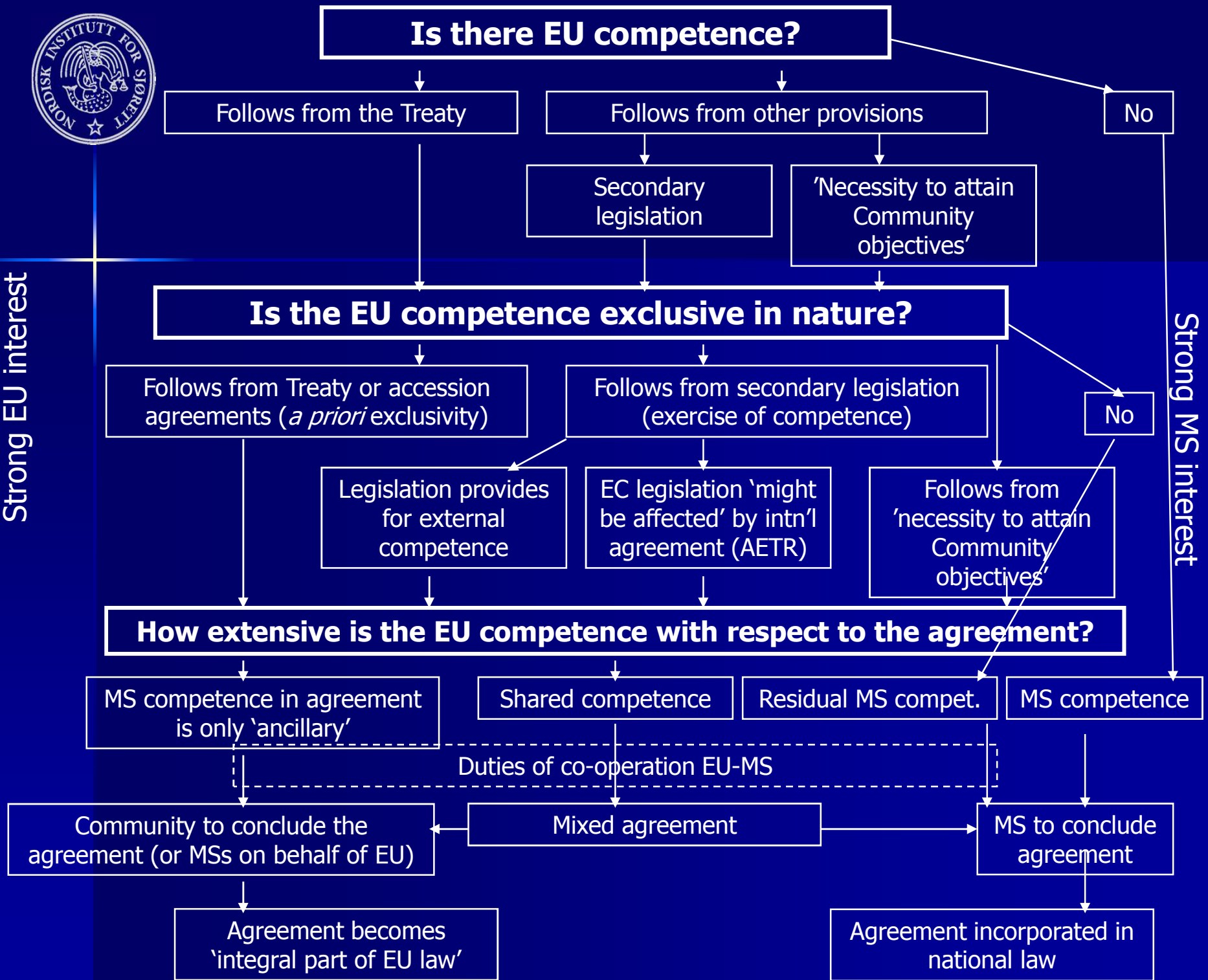
The setting – multiple layers of rules





Strong EU interest

Strong MS interest





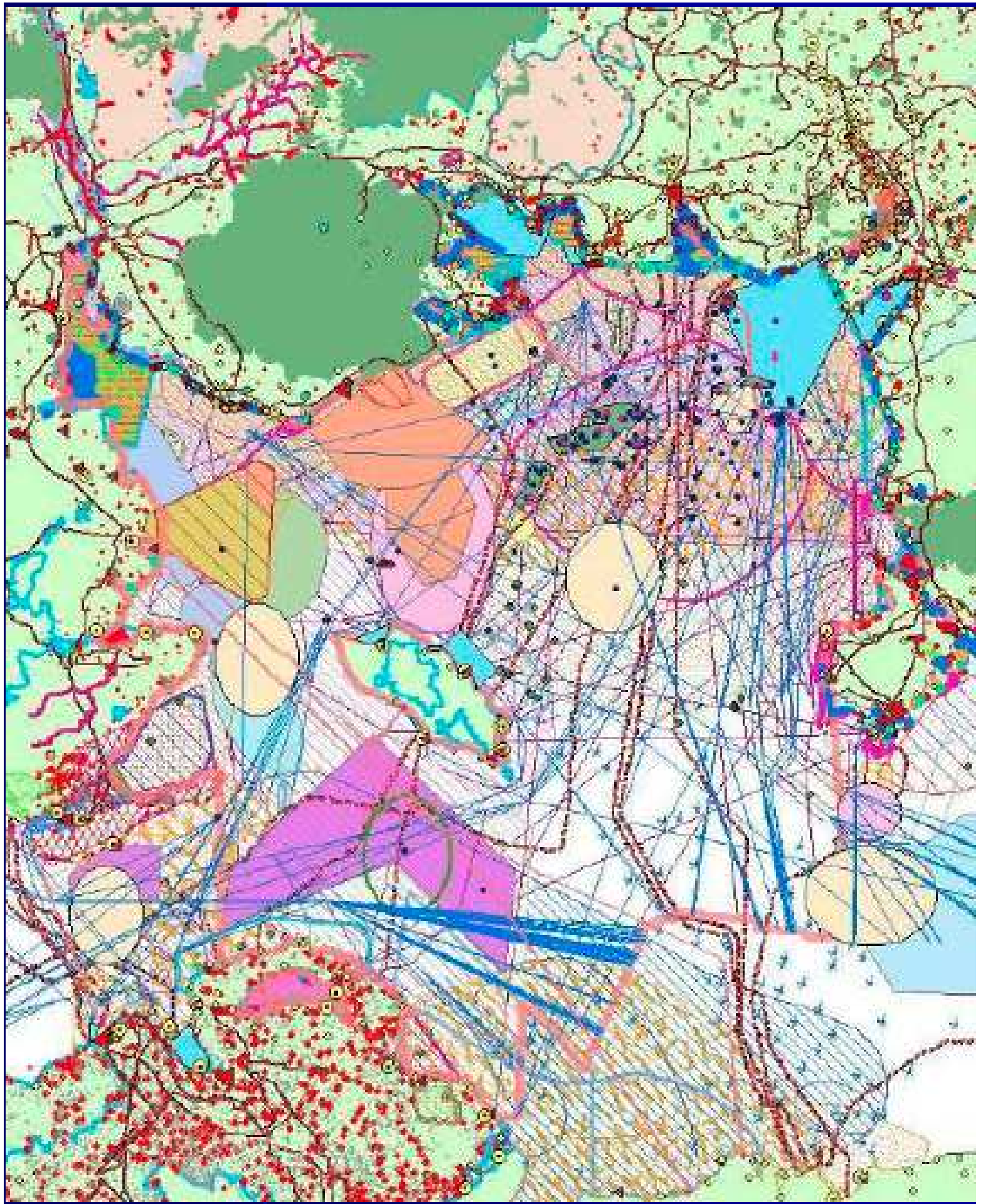
Setting – institutional structures

- **Multitude of players**
- **Roles**
- **Overlaps**
- **Unclear mandates**
- **Legal personality**
- **Lacking the necessary tools**



Setting – institutional structures

- EU
- HELCOM
- CBSS
- EUSBSR
- BDF
- ND
- BSSSC
- UBC
- BSPC
- VASAB
- Baltic 21
- CBSF
- B7
- BASTUN
- BSC/CPMR
- ScanBalt
- BCCA
- BAC
- BTC
- BASREC





Rules

- **Two alternatives for international regulation:**
 - Intergovernmental (regional)
 - EU
- **Helcom - Framfork is there, but:**
 - Normative strength problem when it comes to eutrophication (notably BSAP), large variations
- **EU law is normatively & hierarchically strong, but:**
 - Scope
 - Not a regional seas approach
 - New gen. of rules (vague, roles, exceptions)



Rules

- Coverage (Right topics?)
- Command & control vs. incentives and market-based measures
- Clarity/flexibility on goals
- From source-based to eco-system approach (new risks)
- Division of tasks/responsibility
- Level of regulation
- Not much regulatory innovation



Compliance

- **Monitoring**
- **Enforcement**
- **Liability**
- **Sanctions**



Conclusions

- **Complex and unsatisfactory institutional set-up (tool-box is missing)**
 - ➔ **Absence of normative strength**
 - ➔ **Leads to a lack of enforcement**
- **Some important voids in regulation**
- **Not much regulatory innovation in this field**
- **Clarification of roles and responsibilities is necessary**
- **More scope for legal research**