

Compliance Law, an adequate legal framework for GAIA-X

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What is Compliance Law?

- ✓ a very new branch of Law, a new form of Regulatory Law
 - ✓ which expresses political and very ambitious goals:
MONUMENTAL GOALS
- ✓ Such as : prevent banking & finance failures ; prevent systemic and global crimes (corruption or money laundering)
- ✓ Not only **negative** « monumental goals » but also **positive** monumental goals, such as : protect Nature, protect individuals (personal data Compliance Law) ; make women equal ; give **autonomy**, obtain innovation, stability
- ✓ The legal normativity of Compliance is in these « Monumental Goals » (as free market is the legal principle in Competition Law)
- ✓ Compliance Law puts in balance Competition goal and these « monumental goals »

How does Compliance Law work ?

- ✓ Starting with the goal
- ✓ To reach the goal, which must be expressed, the means are organised by the « entities in position to do it »: the private « crucial enterprises »
- ✓ They are the « **crucial operators** » (for instance banks for preventing corruption) which organize the means: creation of new information ; centralization of information, transmission of information: Compliance Law is an Ex Ante Law on Information
- ✓ Where are the public bodies ? Everywhere as « **supervisors** » of these crucial operators
 - ✓ which must be transparent
 - ✓ which are accountable to these supervisors (not for their competitors)

European Compliance Law already works

- ✓ It works for Personal Data protection (since 2014, 2016, 2018)
- ✓ It works for banking area : Banking Union system (since 2014)

Europe is moving from Competition Unique principle to Regulatory and Compliance Pillars

The European Commission let sectors organize themselves, supervising them

- ✓ In Agriculture area: *from Farm to Fork*
- ✓ *In Heath: Crucial Information platforms*
- ✓ **European Mutation:** from an Ex Post Europe (Competition Law) to an Ex Ante Europe (Regulatory Law) by internalization of Monumental goals in Crucial Enterprises (Compliance Law)

Adequacy between Compliance Law and GAIA X

- ✓ GAIA X is a private and common initiative / Compliance Law is built on goals, not on sources, and the principle of Compliance Law is to put means, notably Information, in common
- ✓ GAIA X must always demonstrate the reality of its « monumental goals » : notably the autonomy of Europe. Burden of proof on GAIA X (transparency & governance adapted)
- ✓ GAIA X must be accountable of the **proportionality** of the means used (and the power they give) with these goals (burden of proof on GAIA X)
- ✓ GAIA X will be accountable before a supervisory body:
 - ✓ a specific one, such as in the Banking Union,
 - ✓ or the European Commission

For GAIA X, let's go into European Compliance Law



To go further

- ❑ Frison-Roche, M.-A. (ed), [*Compliance Tools*](#), 2021
- ❑ Frison-Roche, M.-A., [*The adventure of Compliance Law*](#), 2020