

16th EIPIN Congress
Munich, 9-11 April 2015

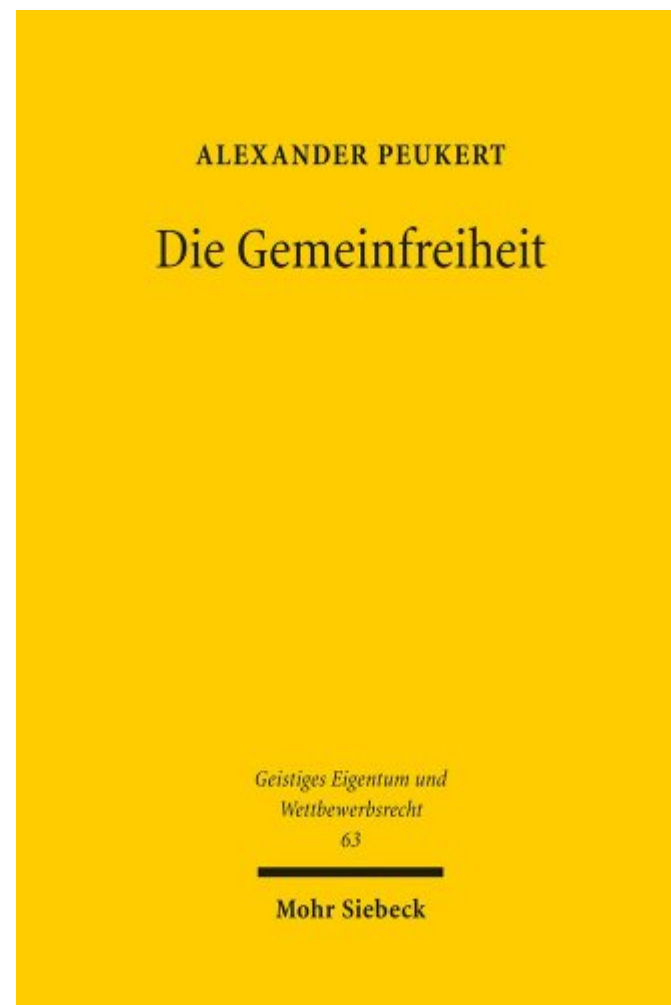
Safeguarding the public domain in the interest of innovation

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- What the title suggests: a presentation of the economic functions of the public domain
- Empirical studies (Paul Heald, Martin Kretschmer) confirm:
 - PD information is used more intensively than IP protected information
 - Likelihood of increased follow-on innovation
- The political and cultural functions of the public domain
 - Foster open communication in an open society
- However, I am neither Paul Heald nor Martin Kretschmer, but a German lawyer-lawyer

"The Public Domain: Theory, Function, **Doctrine**"

The legal status of information
not protected by IPR

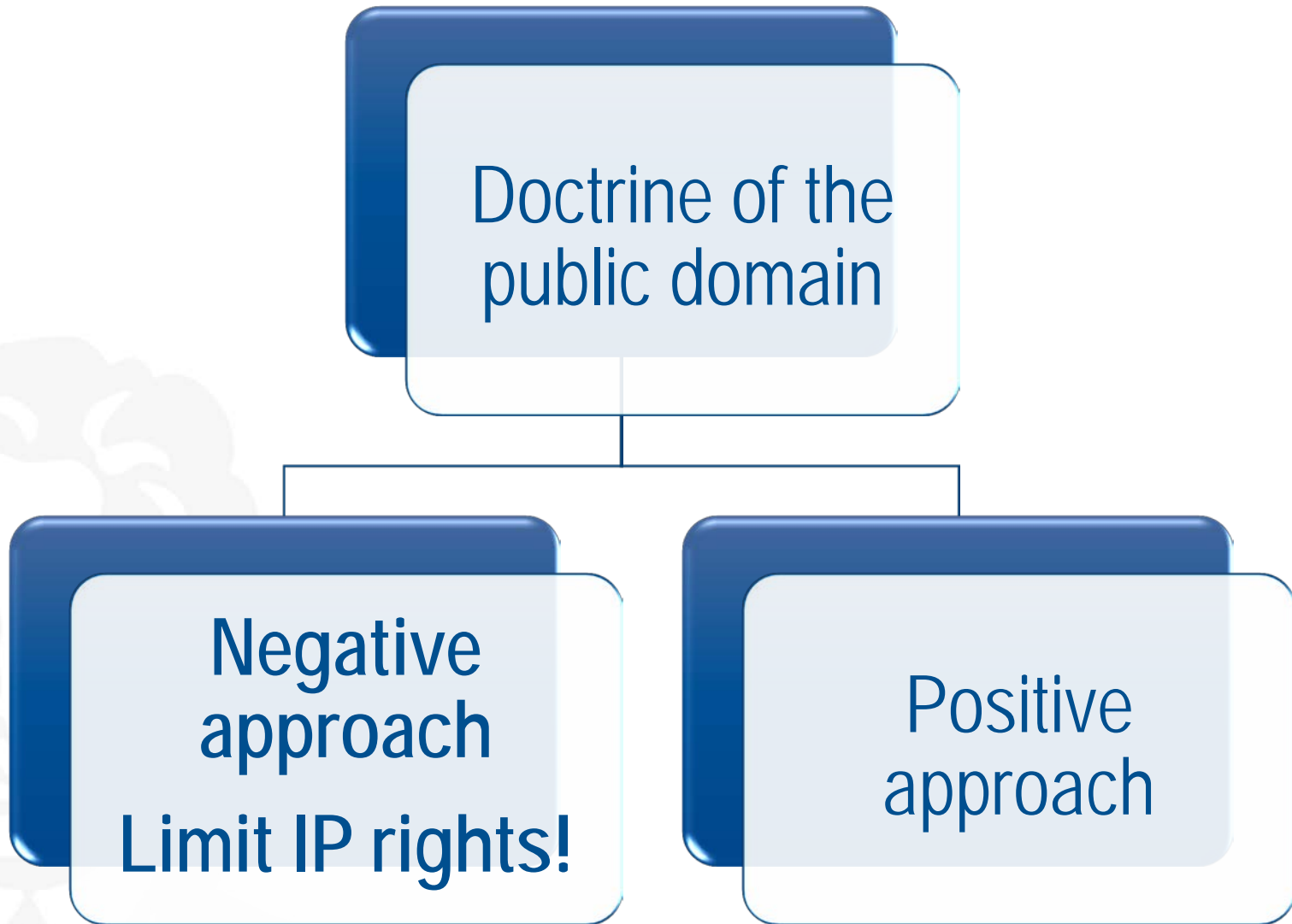


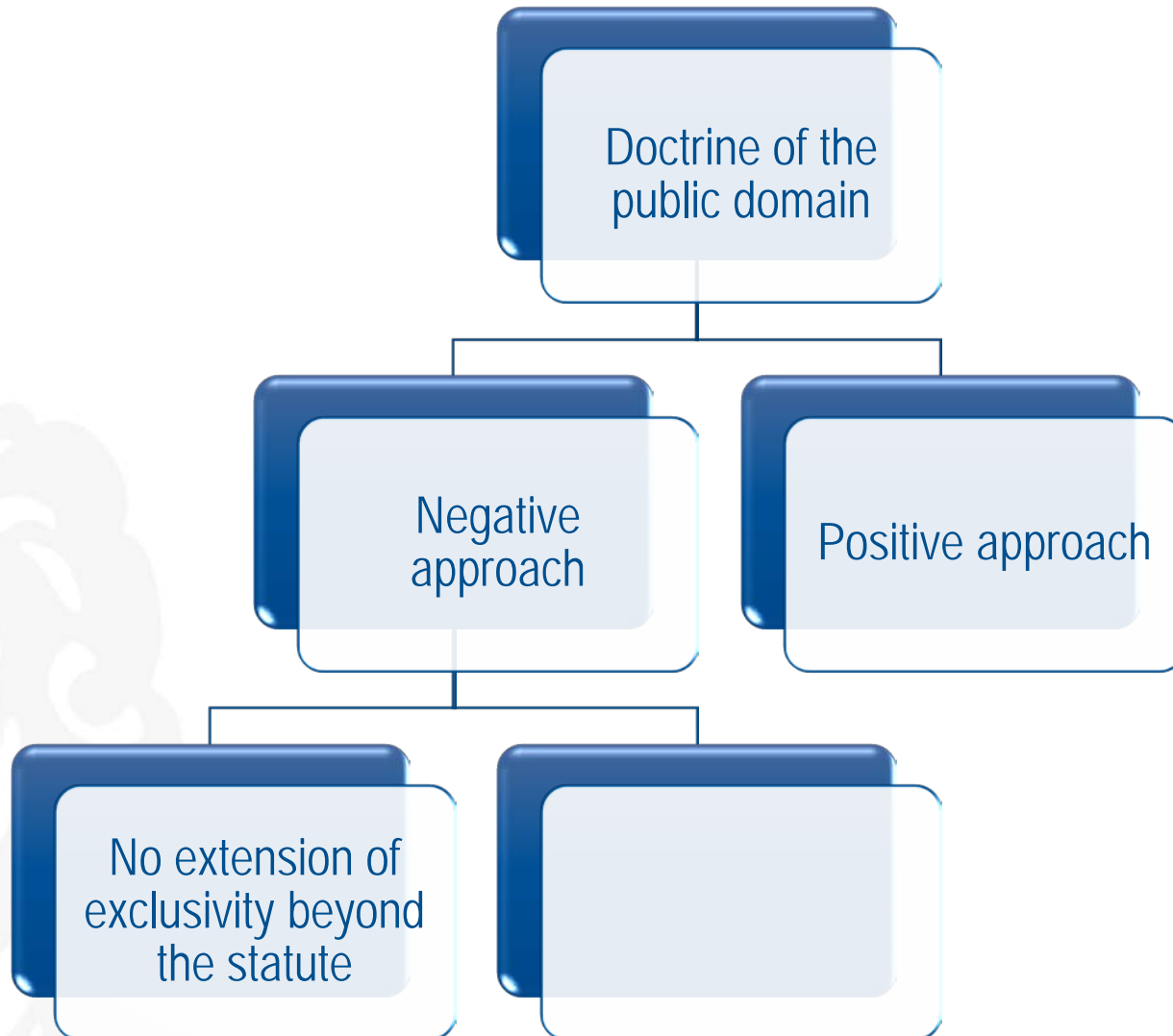
The meaning and scope of the public domain

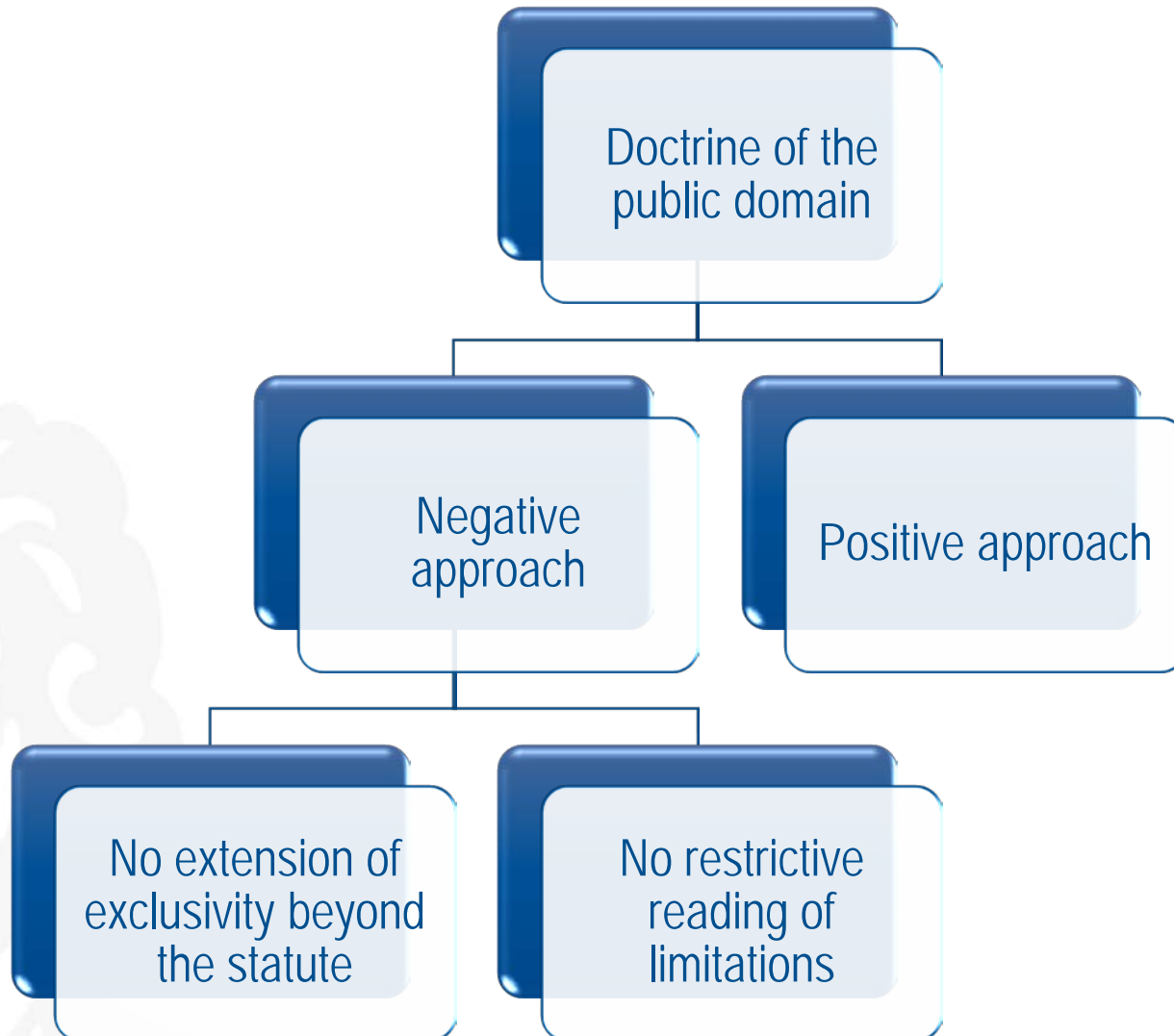
- The territoriality of the public domain
- The structural public domain
- The conditional public domain
- The contractual public domain
- The specific public domain

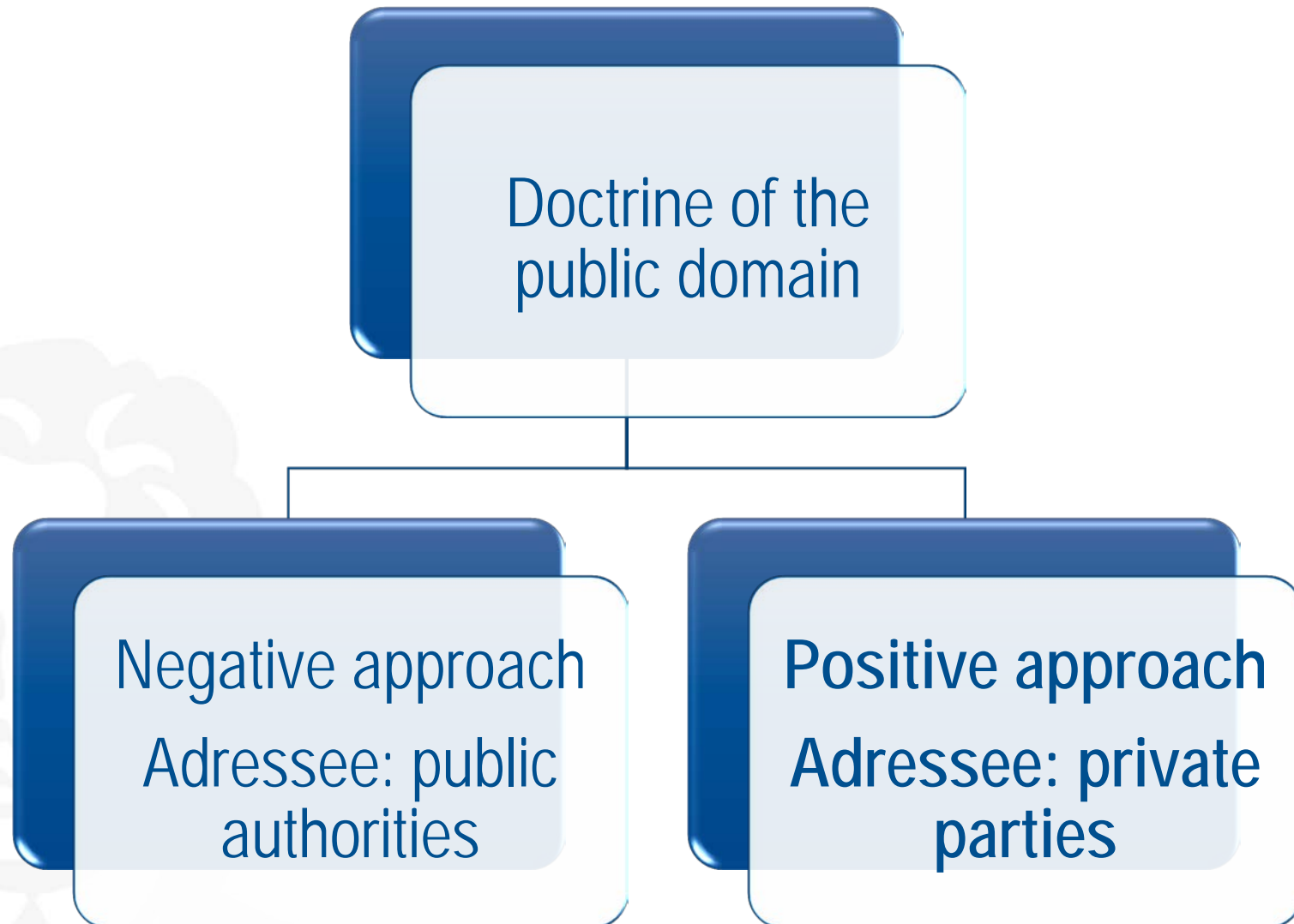
The legal basis of the public domain

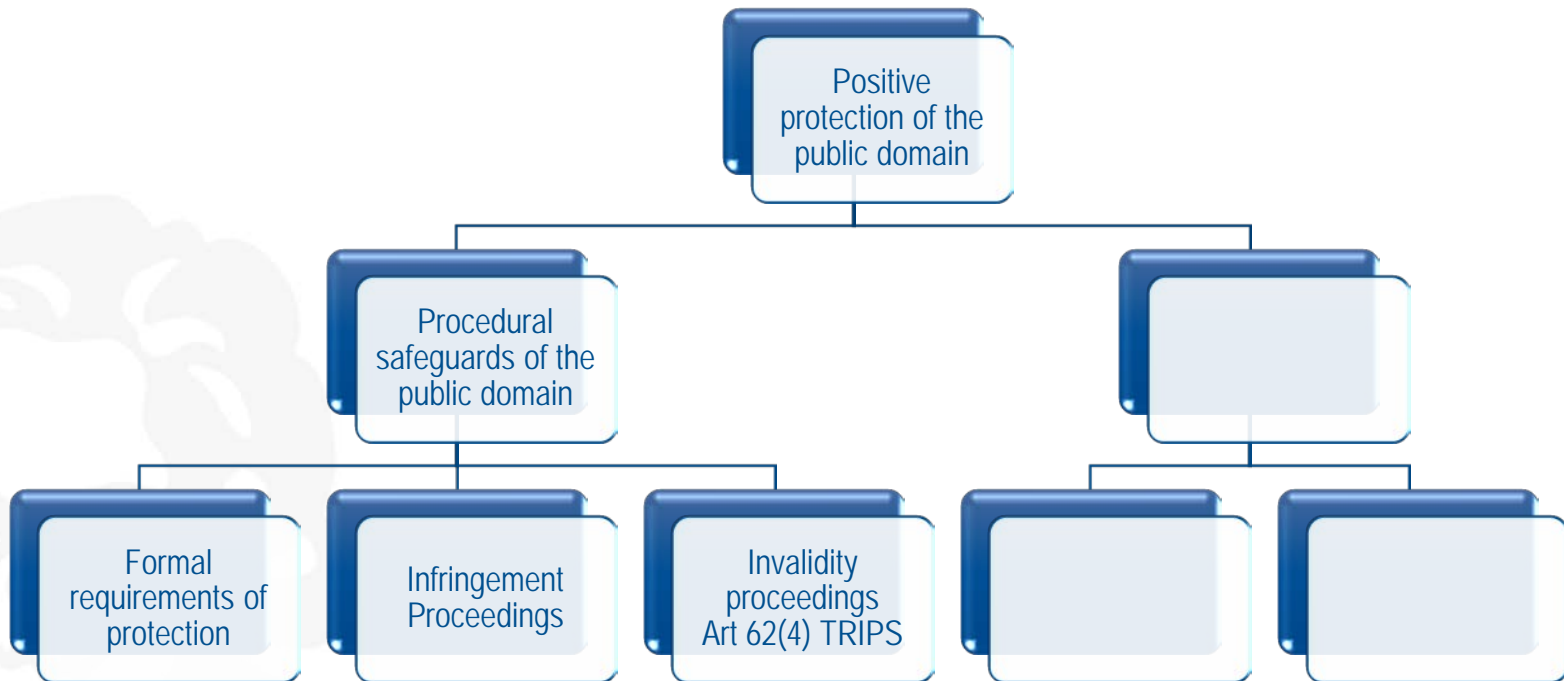
- The principle of equal negative liberty
 - Public domain information may be freely used by everyone under equal terms for every lawful purpose, including in particular commercial uses.
- PD information is owned by no-one.
 - Distinguish collective goods/commons: owned by a community composed of unspecified members
- The concept of legally protected freedoms (*Robert Alexy*)

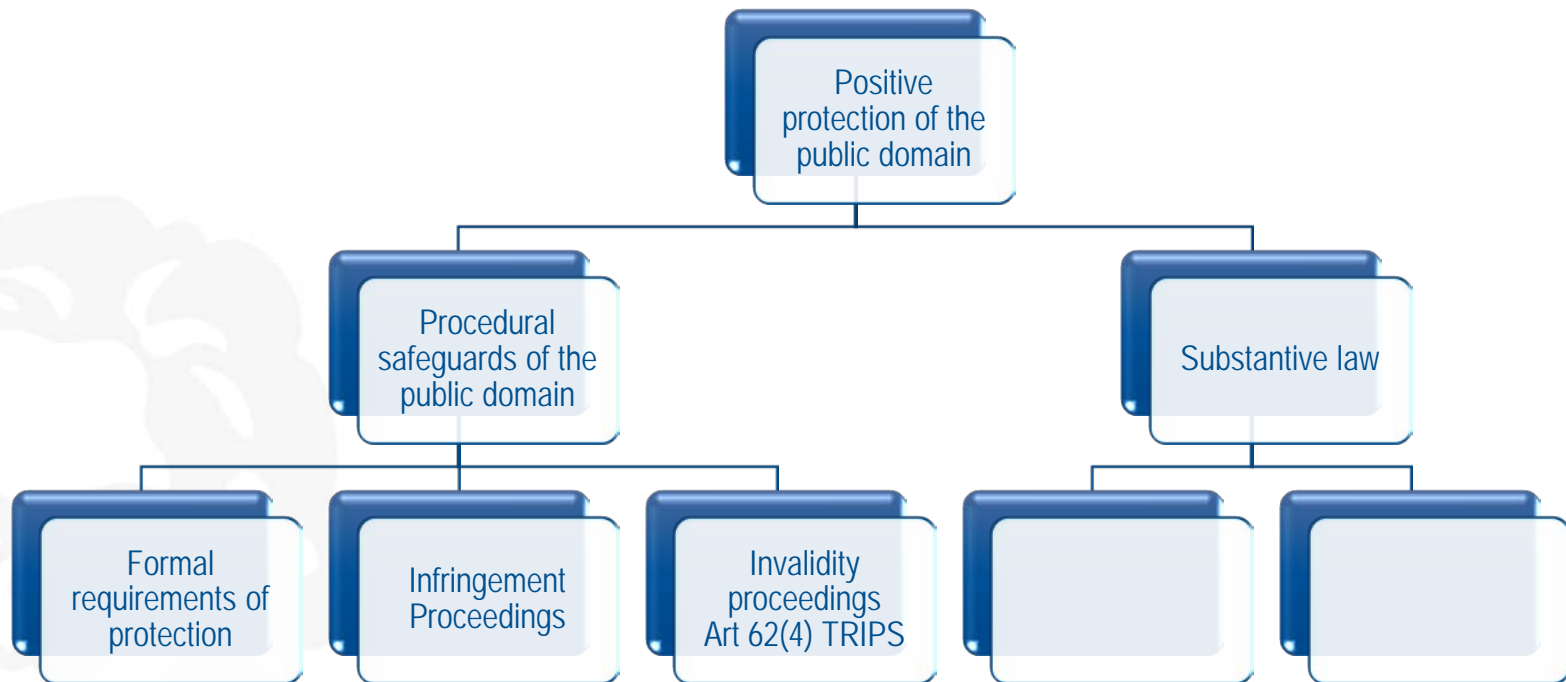


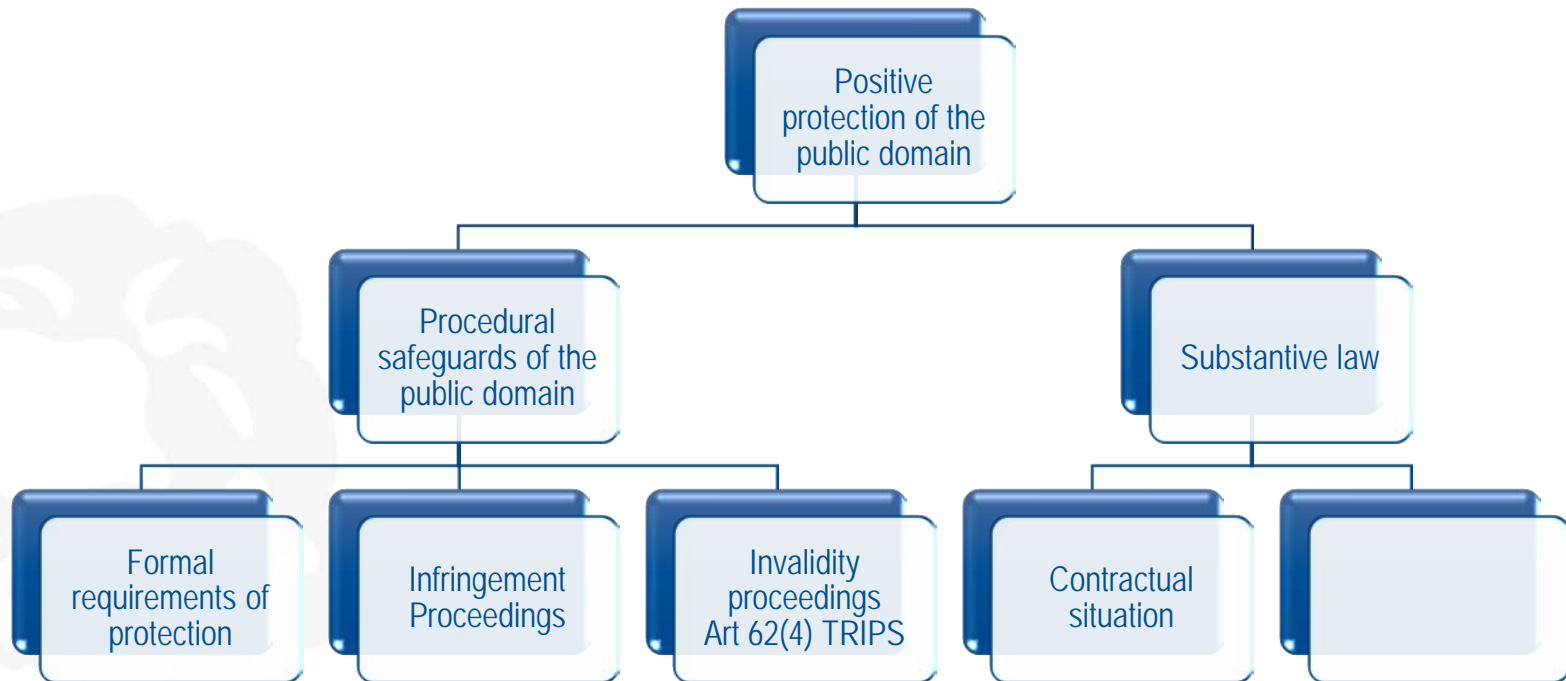


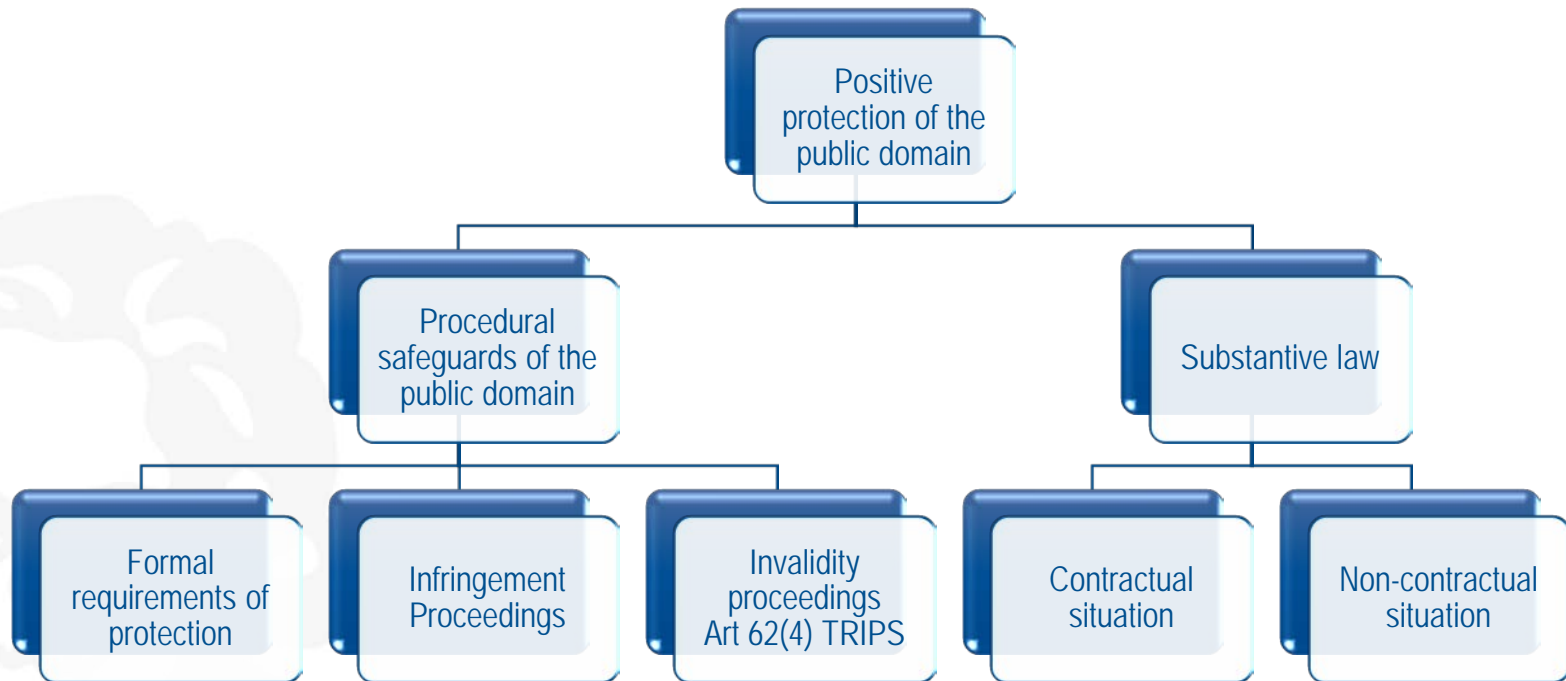












A skeptical conclusion

- The structural asymmetry between IP and the public domain
 - Clearly defined individual rights vs widely dispersed, undefined interests
 - The political economy of IP
 - Legal theory and doctrine
- The improbability of a strong no-rights-regime
 - Openness as a challenge to society