



Universiteit Utrecht



RENFORCE

UTRECHT CENTRE FOR REGULATION AND
ENFORCEMENT IN EUROPE

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Conference

"Legitimate Delegation of Regulatory and Enforcement Powers to EU Agencies?"

Friday 16 May 2014, Utrecht

(Raadzaal, Achter Sint Pieter 200, Utrecht)

The number and powers of EU agencies have been growing (in both quantitative and qualitative terms) without an explicit legal basis provided for in the EU Treaties. EU agencies are no longer merely information-gathering assistants of the European Commission and national authorities, in fact they may enjoy decision-making and supervisory powers. For example, among the recently created agencies (2010) is the European Securities and Markets Authority (ESMA) which can adopt individual decisions directed to national supervisory authorities and financial markets' participants and which has become exclusively responsible for registering and supervising, including the power to sanction, credit rating agencies. Considering the potential strength of the given powers, it is not surprising that the delegation of discretionary powers to ESMA has been recently challenged before the Court of Justice of the European Union.¹

Delegating regulatory and enforcement powers to EU agencies affects the horizontal and vertical balance of powers in the EU since the creation of and delegation to EU agencies reshuffles tasks and responsibilities between EU and national levels as well as among EU institutions. Yet, since this development is not backed up by relevant treaty provisions, the question becomes **whether the ongoing agencification in the EU is democratically legitimate.**

To address this question the Utrecht Centre for Regulation and Enforcement in Europe (**RENFORCE**) organises a one-day conference. The invited speakers, which include academics and practitioners, will discuss the development of growing delegation of regulatory and enforcement powers to EU agencies in general (Part I) and in the case of ESMA in particular (Part II) as well as address the question of EU agencies' democratic legitimacy in light of the expected 'ESMA' judgment in January 2014 (Part III). **Advocate General Niilo Jääskinen**, who has recently delivered his opinion to the Court of Justice of the European Union in the mentioned case, **is the keynote speaker.**

For more information, please, do not hesitate to contact Ms.Miroslava Scholten (M.Scholten@uu.nl) and Ms.Marloes van Rijsbergen (M.P.M.vanRijsbergen@uu.nl).

While the attendance is free of charge, the registration is compulsory. To register, please, send an e-mail (incl. your affiliation and presence during the lunch) to: Ms.Trix Ditvoorst (t.ditvoorst@uu.nl).

¹ Case C-270/12 Action brought on 1 June 2012 – United Kingdom of Great Britain and Northern Ireland v Council of the European Union, European Parliament



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PROGRAMME

- 10.00 - 10.10 hrs** Opening by
Prof. Dr. Henk Kummeling (Universiteit Utrecht (t.b.c.))
- Part I:** **Towards EU real regulatory and enforcement agencies?**
- Chair Dr. Ton van den Brink (Universiteit Utrecht)
- 10.15 - 11.15 hrs** *Development of EU agencies' powers, including comparative insights from the US*
Ms. Miroslava Scholten
Postdoctoral Researcher, Universiteit Utrecht
- Discussants*
Mr. Michael Smethers
Chair of the Management Board of EASA
Director European and International Strategy
UK Civil Aviation Authority
- Mr. Bart Kiewiet
Counsel at the Law Firm Vondst Advocaten (Amsterdam)
Former President of the Community Plant Variety Office
- 11.15 - 11.45 hrs** **Discussion**
- 11.45 - 13.00 hrs** **Lunch**
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- Part II:** **ESMA: how to reconcile the legitimacy and effectiveness concerns?**
- Chair Prof. Dr. Annetje Ottow (Universiteit Utrecht)
- 13.00 - 14.00 uur** *Introducing ESMA*
Ms. Marloes van Rijsbergen
PhD Researcher, Universiteit Utrecht
- Discussants*
Mr. Felix Flinterman
Head of Unit – Credit Rating Agencies
ESMA
- Prof. Dr. Niamh Moloney
London School of Economics and Political Science
Member Securities and Markets Stakeholder Group ESMA
- 14.00 - 14.30 hrs** **Discussion**
- 14.30 - 15.00 hrs** **Coffie break**



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Part III:

Legitimate Delegation to EU Agencies?

Chair Prof. Dr. Linda Senden (Universiteit Utrecht)

15.00 – 16.00 hrs

The democratic legitimacy of EU agencies in aftermath of the 'ESMA' case

Keynote speaker Advocate General Niilo Jääskinen
The Court of Justice of the European Union

Discussants

Prof. Dr. Stefan Griller
University of Salzburg

Prof. Dr. Edoardo Chiti
University of La Tuscia

16.00 - 16.30 uur

Discussion

16.30

Drinks