

TARN Brief No 10

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TARN - Briefs

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The Academic Research Network on Agencification of EU Executive Governance (TARN) is a Jean Monnet Network co-funded by the Erasmus+ programme of the European Union.



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External dimension of EU agencies and bodies

On 27 and 28 June 2017 the University of Luxembourg hosted the TARN Conference on the External dimension of EU agencies and bodies, organized by professors Herwig Hofmann, Ellen Vos, Morten Egeberg and dr. Merijn Chamon. Political and legal scientists discussed different aspects of the EU agencies' impact beyond the EU's borders: cooperation and exchange of information with third countries, accountability in agencies' external relations, agencies' international legal personality, the export or externalization of the EU acquis and values to third countries, the possibility for third countries to participate in EU agencies, etc. The present blog presents an overview of the main findings of the conference.

The opening panel featured two presentations introducing, from different angles, the challenges posed by the external dimension of agencification. Sevasti Chatzopoulou (Roskilde University), developed a political science perspective, and proposed an overview of the external activities of EMA, EFSA and EEA in light of some common factors (role, competence, organization and purpose) highlighting how the latter influence those agencies' external activities. Minas Konstantinidis (European Commission) tackled a fundamental and unresolved legal issue of EU agencies' external relations, namely the possibility for them acquiring international legal personality.

In the panel devoted to the external relations of Justice and Home Affairs agencies, Chloé Brière (ULB) and Joana Jankunaite (Europol) presented papers focusing on the accountability of Europol, Eurojust and Frontex in light of the recent (or upcoming in the case of Eurojust) revision of those agencies' mandates. In the case of Europol (and soon Eurojust) it was found that these former-third pillar agencies are finally streamlined to fit with the 'ordinary' decentralised agencies and the tentative conclusion seems to be that the new regulation(s) strike(s) a better balance between operational needs and respect for fundamental rights. The question remains however whether the agencies will also be sufficiently accountable in practice when they make use of the new possibilities for transferring data between the agencies and third countries. This links with another central issue discussed during this panel: even if a 'perfect' accountability regime is put on paper for these agencies, this does not necessarily mean that these agencies will also be held to account in practice. It is therefore necessary to go beyond the regime defined in the agencies' establishing acts and verify which kind of accountability we see in practice. In line with findings in other panels at the conference, an often overlooked role for the European Ombudsman seems to offer great potential for effective accountability.

Simultaneously, in the panel devoted to EU agencies' external dimension Chara Vlachou (Université d'Orléans) presented her study on the international activities of ACER, in particular focusing on its capacity to attract third countries participating in the Energy Community. The ongoing negotiations for enhancing ACER's role with regard to those countries' national regulatory authorities were also highlighted and discussed. Nicola Ruccia (Polytechnic of Bari) discussed the external dimension of the Single Resolution Board.

The third panel examined soft external action of EU agencies. First of all, Dovilė Rimkutė (Leiden University), presented a study of the role of EU agencies in the export of EU regulatory standards to European Neighborhood Policy countries through technical cooperation e.g. in the form of networks. She showed that the institutionalization of such cooperation is very dependent on the policy field, with the area food safety showing strong institutionalized ties between the EU and ENP countries. The next presentations addressed external action of EU agencies in the field of infrastructure (Laura Panades, Cayman Islands Law School and Cambridge University) and telecommunication (Marta Cantero Gamito, University of Helsinki). In both cases interoperability requires the harmonization of standards within the EU but also with third countries, and EU agencies as well as European Standardizations Organizations (ESOs) have contributed to the export of regulatory norms to third countries, raising questions of competence creep and the so-called 'Brussels effect'.

The fourth panel of the conference was entirely devoted to one agency. In light of the recent migrant crisis and the revision of its establishing regulation Frontex stood in the limelight. In line with the aim of the TARN, the papers gave a multidisciplinary view of recent developments: Florin Coman-Kund (Erasmus University Rotterdam) presented a legal appraisal of the new Regulation, identifying a series of important changes compared to the old Regulation. Helena Ekelund (Linnæus University) addressed the question whether the concept of Normative Power Europe could be transposed to the activities of Frontex: does the agency propagate the normative values on which the EU is based? While Frontex' older working arrangements with

third countries do not show this, the new 2016 Regulation may signal a change, since it has resulted in a high level of norm consistency in relation to fundamental human rights. Finally, Vittoria Meißner (Technische Universität München) addressed the question whether Frontex, instead of being seen as a mere ‘implementing actor’, has influenced decision-making by the Commission. Historic new institutionalism and the mechanism of path dependency suggests that this could be so and a case study on the Western Balkans indeed shows that Frontex has had a decisive impact on the Commission’s policy towards this region.

The final half day of the Conference was devoted to the agencies external relations and concomitant accountability questions. Maurizia De Bellis (University of Rome Tor Vergata) discussed the EU financial bodies’ participation in the setting of global financial standards, showing that the impact of the division of competences between the EU agencies, the Commission and the ECB, leads to a complex structure of EU representation in global networks. Examining the role of EU agencies in the assessment of equivalence of third country legal regimes, Pieter van Cleynenbreugel (Université de Liège) identified a gap in the accountability for these assessment functions. In this regard, Marco Inglese (University College Dublin) argued that the external dimension of EU agencies would benefit from the internal control of accountability through the European Ombudsman. While most of the conference presentations were devoted to the EU agencies as external actors, Marja-Liisa Öberg (Örebro University) showed the other side of the story by highlighting that EFTA States, accession candidates and, to a lesser degree, other third countries are participating in EU agencies.

Revised versions of the papers that were presented at this conference will be submitted to the [TARN Working Paper Series](#), so keep an eye on that page!