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Migration Agencies of the European Union: Legal Oversight by the Court of Justice?

Friday, 20 May 2022

‘Bischofsvilla’, on the banks of the river Rhine
(Otto-Adam-Straße 5, 78467 Konstanz, Germany)

Agencification is widely acknowledged as a defining feature of EU administrative law. Recent years have witnessed the emergence of a new category of supranational agencies in the field of migration: Frontex and the Asylum Agency have spearheaded the proliferation of operational powers. While the mandate of Frontex was revised on two occasions in 2016 and 2019, the new EUAA regulation entered into force at the beginning of 2022. Both agencies are scheduled to receive substantially more funds under the current multiannual financial framework, supporting the build-up of an impressive arsenal of manpower, to be deployed in situations of urgency at the external borders in Member States under pressure. In this overall context, controversies over the potential complicity of Frontex in illegal pushbacks and the involvement of today’s Asylum Agency in administrative decision-making in Greek hotspots illustrate the importance of legal oversight. Academic observers often expect the Court of Justice to play an active role, notwithstanding principled insistence, in its case law, on the pre-eminence of indirect judicial oversight by domestic courts. Provisions in the Frontex Regulation (EU) 2019/1896 and the EUAA Regulation (EU) 2021/2303 stating explicitly that the agencies ‘support’ and ‘assist’ Member States, or act ‘on their behalf’, complicate direct access to the Court of Justice.

The workshop organised by the [European Papers – Jean Monnet Network](#) will confront the challenges associated with the operational powers of the migration agencies head-on. Experts from across Europe will convene at the University of Konstanz to discuss the legal state of play in light of practical challenges, doctrinal patterns of the case law, and the provisions in the mandates. The objective is to engage in an in-depth discussion among specialists, many of them among the younger generation of promising academics. Speakers were chosen on the basis of

previous publications, indicating that they will enrich the debate with quality inputs. Discussions are an end in itself; no one is expected to submit written manuscripts.

The University of Konstanz is among the German ‘universities of excellence’, with an idyllic location on Lake Constance and close to the Alps. It is known for interdisciplinary collaboration. Participants can reach the university easily via Zürich airport: a direct train connection is available from the terminal to the city (alternatively, there are train connections from across Europe). Travel and accommodation costs will be covered by the Jean Monnet Network, with generous financial support of the Erasmus+ Programme. The workshop will take place in physical presence to support a lively debate; guests who are interested in joining the discussion are invited to contact Kilian Umbach (kilian.umbach@uni-konstanz.de).



With the support of the
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Programme

ab 9:00 „Get-together“
with coffee and other beverages

09:20 **Welcome and Introduction**

Panel 1: Perspective of the Mandates

09:30 **Asylum Agency: New Legislative Framework in Light of the Earlier Practice in the ‘Hotspots’ (15-20 minutes)**

Dr. David Fernández Rojo, Assistant professor at the University of Deusto.

Frontex: Operational Powers under the Frontex Regulation and the Attribution of Responsibility in Light of Recent Controversies (15-20 minutes)

Dr. Herbert Rosenfeldt, University of Passau

Comment (5 minutes)

Prof. Dr. Daniel Thym, University of Konstanz.

10:15 **Discussion**
Chair: Prof. Dr. Juan Santos Vara, University of Salamanca.

11:00 **Coffee Break**

Panel 2: Direct Access to the Court of Justice

11:30 **Actions for Annulment: Rules of Attribution in Secondary Legislation and the Case Law of the Court of Justice (15-20 minutes)**

Dr. Stefan Salomon, Assistant Professor at the University of Amsterdam.

Lessons for the Migration Agencies from the Court Judgments on Composite Procedures in Other Segments of Union (15-20 minutes)

Prof. Dr. Mariolina Eliantonio, Maastricht University.

Comment (5 minutes)

Prof. Dr. Ségolène Barbou des Places, Université Paris I (Pantheon Sorbonne).

12:15 Discussion

Chair: Prof. Dr. Daniel Thym, University of Konstanz.

13:00 Lunch Break

Panel 3: Indirect Accountability

14:30 Actions for Damages: Makeshift Judicial Oversight? (15-20 minutes)

Catherina Ziebritzki, Max Planck Institute for Comparative Public Law and International Law, Heidelberg.

Impunity? Alternative Sanctioning Powers beyond Courts (15-20 minutes)

Dr. Stefano Montaldo, Associate Professor at the University of Turin.

Comment (5 minutes)

Kilian Umbach, University of Konstanz.

15:15 Discussion

Chair: PD Dr. Roman Lehner, University of Göttingen.

16:00 Coffee Break and End of the Workshop

16:30 Editorial Meeting of the European Papers

For members of the Editorial Board (hybrid format; duration depends on the agenda).

19:00 Conference Dinner

For speakers, chairpersons, and members of the editorial board (location to be confirmed).