EU-level Market Surveillance and Regulation by EU Agencies in Light of the Reshaped *Meroni* Doctrine

Annotation on the Judgment of the Court of Justice of the European Union of 22 January 2014 in Case C-270/12, *United Kingdom v Council and European Parliament*

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In the era of 'agencification' the EU (regulatory) agencies have become an essential part of the implementation of EU law by delegation of regulatory powers, even if the agency as such has not been institutionalised in the Treaties yet. In its long-awaited judgment C-270/12 the CJEU clarified the requirements of the delegation of market intervention powers to EU agencies by reinterpretation of the Meroni doctrine in the context of Lisbon primary law. The Court also declared that the internal market harmonisation clause of Article 114 TFEU can be proper primary legal basis for delegation of powers to take direct EU-level measures directed at individual market participants in case of extraordinary market circumstances. The sector-neutral reasoning of the judgment could be applied in the case of network industries as well. In light of the further 'mushrooming' of EU agencies as well as the Europeanisation of former national administrative powers, however, the institutionalisation of (regulatory) agencies in the Treaties seems to be necessary just as before the judgment.

I. Introduction

The United Kingdom (UK) as applicant sought the annulment of Article 28(1) of ('Short Selling') Regulation No 236/2012[1] by which the European Securities and Markets Authority (ESMA) may take legally binding individual decisions addressed to market participants. The UK alleged that these powers delegated to ESMA under Article 28(1) breached the related case-law of the Court called the *Meroni* doctrine[2] and *Romano* judgment[3] as well as contravened the Articles 290 and 291 of the Treaty on Functioning of the European Union (TFEU) by conferring power upon ESMA to adopt non-legislative acts of general application. Additionally, the UK claimed that Article 114 TFEU known as the 'internal market harmonisation clause' was not an appropriate primary legal basis for delegation of such market surveillance and regulation powers laid down by Article 28(1) of Short Selling Regulation. The Council and the European Parliament as defendants were supported by the Kingdom of Spain, the French Republic, the Italian Republic and the European Commission.

In its long-awaited judgment, the Court of Justice of the European Union (CJEU, Court) rejected all of the claims of the UK, while upholding the *Meroni* doctrine by giving an updated interpretation in the context of Lisbon primary law.[4] The Court also declared that Article 114 TFEU could be the proper primary legal basis for delegation of powers in order to

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1 Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps [2012] OJ L86/1.

2 Cases 9/56 and 10/56 *Meroni & Co Industrie Metallurgiche Spa v High Authority* [1957-1958] ECR 133.

3 Case 98/80 *Giuseppe Romano v Institut national d'assurance maladie-invalidité* [1981] ECR 1241.

4 Case C-270/12, *United Kingdom v the European Parliament and the Council* ECR I-00000 not yet reported, judgment of the CJEU of 22nd January 2014.

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take EU-level measures (decisions directed at market participants) in case of extraordinary market circumstances. The Court did not follow the Opinion of Advocate General Jääskinen on the scope of Article 114 TFEU, however this issue also reflects the highly debated lack of clear and precise primary legal basis for the establishment and functioning of EU agencies.

The delegation of market intervention powers to EU (regulatory) agencies could be considered as sector-neutral required tools in order to facilitate the proper functioning of the single market. Moreover, the *Meroni* doctrine has already been identified as a general axiom referred by Member States as a legal obstacle of establishing further EU agencies, which could be dysfunctional by maintaining the market fragmentation.[5] Considering the general demand for EU (regulatory) agencies, the statements of the judgment concerned could be applied sector neutrally, affecting also pre-existing and future agencies of certain network industries. This annotation is not intended to describe 'agencification' as an idealised institutional solution for deficiencies of the single market, however the considerations of the judgment related to this could reveal the desired direction of further institutional steps regarding horizontally diverse policy areas.

II. The Arguments of the Parties and the Issue of the Case

1. The Arguments of the Applicant

The measures taken in relation to the management of the financial crisis by the European Union included the establishment of three agencies called European Supervisory Authorities (ESAs) including ESMA, which conducts micro-prudential financial supervision. This institutional package did not change the basic allocation of competences between the competent bodies at national and supranational level. Therefore, national competent authorities (NCAs) remained primarily responsible for the supervision of financial institutions just as before. Due to the unchanged basic allocation of competences, the ESMA may act directly under Article 28(2) of Short Selling Regulation only if NCAs fail to conduct their duties or if there is a clear threat to the financial stability or integrity of the Union. Therefore, the ESMA Regulation[6]- as part of ESAs Regulations[7] - guaranteed intervention powers directed to market participants only in exceptional circumstances specified by Article 28(1) of the 'Short Selling' Regulation. According to the provision concerned, the ESMA may require notification and disclosure of market participants' net short positions or prohibit or impose conditions on short selling or similar transactions.

The UK alleged that the delegation of intervention powers to ESMA under Article 28:

(a) contravened the related case-law of the Court called the *Meroni* doctrine;

(b) contravened the *Romano* judgment which precluded EU agencies to adopt quasi legislative measures of general application;

(c) contravened Articles 290 and 291 TFEU by conferring power on ESMA to adopt non-legislative acts of general application;

(d) is *ultra vires* regarding the internal market harmonisation clause of the Article 114 TFEU which served as primary legal basis for the establishment of ESMA.

2. The Rationale of the *Meroni* Doctrine

At this point a brief retrospective of the Court's case-law is necessary in order to elaborate the rationale of the *Meroni* doctrine and the non-Treaty legal status of agencies. This non-delegation doctrine had originally been formulated within the framework of the European Coal and Steel Community (ECSC) and remained relevant as an institutional cornerstone and an actual obstacle to further European 'agencification'. The primary addressee of such competences could originally be the European Commission (former High Authority of the ECSC), which then delegated its own competences to the agencies. In *Meroni,*

5 J Pelkmans and G Luchetta, *Enjoying a Single Market for Network Industries?* (Report of the Jacques Delors Institut, February 2013), 19-20; J Pelkmans and M Simonici, *Mellowing Meroni: How ESMA can help build the single market?* (Centre for European Studies, Commentary Paper, February 2014), 5.

6 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC [2010] OJ L331/84 ('ESMA Regulation').

7 ESMA Regulation and Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing

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the Court ruled that delegable regulatory powers conferred upon Community agencies must not involve a 'discretionary power, implying a wide margin of discretion' which may, according to the use made of it, make possible the execution of the actual economic policy.[8] The dilemma related to the delegation stems from the Member States that have empowered the Community to act directly, as far as the competent bodies of Community law are being mentioned in the Treaties, thus having the required democratic legitimacy.[9] However, (regulatory) agencies are considered as non-Treaty bodies, because they are neither mentioned in the Treaties nor in Lisbon primary law except for in some newly enacted articles of the TFEU as minimum guarantees of judicial protection. This delegation could lead to the disruption of the institutional balance of the Treaties as the agencies could execute actual economic policy, which could also result the modification of the system of legal protection without the modification of the primary law.[10] In *Romano,* the Court also added that the delegation of legislative powers was also precluded, especially that of taking own policy choices. There is no consensus whether the *Meroni* judgment related case-law can uniformly be applied as a doctrine regarding the functioning of the agencies. However, it is important to note that the *Meroni* judgment itself was directly cited by the Court even in 2005.[11]

In recent decades, the Union has tended to give institutional answers to the challenges of the integration, which has led to a prioritisation of the direct implementation of Union law by EU agencies.[12] As the result of this 'agencification', there is an emerging demand to guarantee the legal status of EU (regulatory) agencies by the incorporation of the most fundamental requirements regarding their establishment and functioning into the primary law in a sector-neutral way and not through sector-specific secondary legislation. However, such provisions were not included in the draft Treaty establishing a Constitution for the European Union, nor was the Communication issued by the European Commission with the aforementioned purpose accepted.[13] Consequently, the provision of Art 114(1) of the TFEU which authorised the EU to 'adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market' was highly criticised by legal scholars as the primary legal basis for ESAs.[14] However, swift adoption of common rules on agencies cannot be expected due to their diverse nature and the political unwillingness to shift the institutional status quo. The Communication of the Commission noted that the lack of required regulation makes the system of (regulatory) agencies 'untransparent, and raise[s] doubts about their accountability and legitimacy'.[15] Therefore, the *Meroni* doctrine may exclude the sufficient fulfilment of the market supervision and regulation functions of EU agencies, since issuing legally binding individual decisions and normative legal acts as delegated powers could contravene the requirements expressed in the related case-law of the Court. This problem has not been resolved by the legally non-binding EU interinstitutional Joint Statement and Common Approach on decentralised agencies issued in July 2012.[16]

Commission Decision 2009/78/EC [2010] OJ L331/12) and Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC [2010] OJ L 331/48 ('ESAs Regulations').

8 *Meroni*, 173.

9 H Siekmann, 'Das neue Europäische Finanzaufsichtssystem' (2010) Institute for Monetary and Financial Stability, Johann Wolfgang Goethe-Universität Frankfurt am Main, Working Paper No 40, 69-88.

10 C Callies and M Ruffert (eds), *EUV/EGV Kommentar* (3rd Edition, C. H. Beck Verlag 2007) Art 7(39).

11 Joined Cases C-154 to 155/04 *The Queen on the application of Alliance for Natural Health v Secretary of State for Health*, [2005] ECR I-06451, [90]; C-301/02 *Carmine Salvatore Tralli v European Central Bank* [2005] ECR I-4071, [41].

12 HC Hofmann and A Morini, 'The Pluralisation of EU Executive – Constitutional Aspects of "Agencification"' [2012] 37(4) European Law Review 419.

13 European Commission, 'European agencies – The way forward' (Communication) COM (2008) 323, 1–10.

14 E Fahey, 'Does the Emperor Have Financial Crisis Clothes? Reflections on the Legal Basis of the European Banking Authority (2011) 74(4) The Modern Law Review 581; A Lefternov, 'How Feasible Is the Proposal for Establishing a New European System of Financial Supervisors?' 2011 38(1) Legal Issues of Economic Integration, 41–46; Siekmann (n 9), 66–68.

15 Communication, point 3.

16 Joint Statement of the European Parliament, the Council of the EU and the European Commission on the decentralised agencies and Common Approach as Annex, <http://ec.europa.eu/commission_2010-2014/sefcovic/headlines/news/2012/07/2012_07_17_joint_agreement_agencies_en.htm>, accessed 19 August 2014.

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Some authors point out that the agency-related use of the institutional balance derived from *Meroni* could be misleading, as the Court itself referred to the 'balance of powers' as a substitute for the principle of separation of powers in the era of ECSC in order to protect individuals against the abuse of power.[17] Therefore, the early interpretation of this principle was intended to safeguard the decision-making process envisaged by the Treaties, as well as to safeguard individuals' rights.[18] As Advocate General Roemer foremost emphasised in *Meroni,* the content of the delegation must be precisely described by the law just like the sufficient judicial protection against the acts of such organisations established by the Treaties must be guaranteed.[19] Instead of this opinion the Court tried to solve the problem by prohibiting the delegation of the discretionary powers as an institutional limit.

3. The flexible interpretation of the *Meroni* requirements

Some scholars deem that the *Meroni* doctrine allows for a more flexible approach by using mechanisms which could compensate for the shifted institutional guarantees due to the delegation of powers. The flexible approach followed by Griller and Orator has taken into consideration the Treaty-based decision-making powers by focusing on the principle of institutional balance as well as the guarantees of the judicial review against the acts of EU agencies by focusing on the protection of individuals' rights.[20] The mechanisms concerned included securing the prerogatives of the legislature while safeguarding the European Commission's prerogatives in implementing Union legislation and securing political accountability by enforcing budgetary discipline or influencing the appointment of directors and other decision-makers and further providing judicial supervision against the legal acts issued by EU agencies.[21] In case of network industries these mechanisms would have been combined with mixed parliamentary commissions consisting of the members of the European Parliament and of national parliaments, with European network of ombudsmen or a European network of national courts, to deal with the legal complexities of reviewing acts that were produced by a network of European and national administrative authorities.[22]

Two years ago, I also concluded by using the flexible approach that the delegation of powers to ESAs like the ESMA to issue legally binding acts does not necessarily contravene the related case-law of the Court. These legally binding acts could be technical standards of normative nature or exceptionally issued individual decisions.[23]

As for normative acts, the ESMA Regulation meets the requirements of the *Romano* judgment, as the European Commission has been empowered to endorse the normative technical standards formally drafted by ESAs in order to give them binding legal effect.[24] Therefore, the required democratic legitimacy and the institutional balance can be ensured. Moreover, the areas where ESAs may exercise their drafting power are always defined by Union law, and never involve policy choices.

In case of the legally binding individual acts directed at market participants of ESMA, called decisions, it seemed to the present author necessary to examine whether the the *Meroni*-based delegation limits concerning the 'wide margin of discretionary powers' had been breached by the ESAs Regulations. The conclusion was reached that the protection of the prerogatives concerned, political, budgetary and judicial accountability all reached the level which was necessary and potentially sufficient to preserve the institutional balance.[25] Additionally, decisions can be

17 M Chamon, 'EU Agencies: does the Meroni doctrine make sense?' Maastricht Journal of European and Comparative Law, 300-301.

18 J-P Jacqué, 'The Principle of Institutional Balance' (2004) 41(2) Common Market Law Review, 348.

19 Opinion of AG Roemer in Case 9/56, *Meroni & Co. Industrie Metallurgiche Spa v High Authority* [1958] ECR 89.

20 S Griller and A Orator, 'Everything under Control? – The "Way forward" for European Agencies in the Footsteps of the Meroni doctrine' (2010) 35(1) European Law Review , 4.

21 C Görisch, *Demokratische Verwaltung durch Unionsagenturen* (Mohr Siebeck Verlag 2009), 378; Siekmann (n 10), 75–76; Griller and Orator (idem), 27–31.

22 S Lavrijssen and L Hancher, 'Networks on Track – From European Regulatory Networks to European Regulatory "Network Agencies"' 2008 (34)1 Legal Issues of Economic Integration 52.

23 L Szegedi, 'Challanges of Direct European Supervision of Financial Markets' [2012] 3Public Finance Quarterly, 347-357.

24 ESMA Regulation (n 6), Arts 10–16, 10(1), 15(1).

25 The Commission's prerogatives as well as those of other Union institutions and bodies are guaranteed to some extent, however the steering and control mechanism of the EU and the relationship between legislative and executive levels cannot be compared with that of Member States in this regard. According to the newly enacted Article 263(1) TFEU, natural or legal persons may also initiate legal proceedings before the CJEU against acts of ESAs. See further Szegedi (n 23), 355-357.

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issued only in exceptional situations (such as infringements of Union law, dispute resolutions between NCAs and in emergency situations declared by the Council) as a sort of *ultima ratio* tool in case of inaction or inadequate action by NCAs. Therefore, it seemed that the delegation to issue decisions by ESAs laid down by their establishing Regulation, did not include the 'wide margin of discretionary powers'.[26] Nonetheless, the 'case-by-case' nature of the *Meroni*-based delegation criteria made it essential to further examine the secondary law provisions, which sector-specifically concretise the conditions of issuing acts by agencies. This has been done by the Court in the present case concerning the short selling intervention measures.

III. The Reasoning of the Court

1. Reshaped *Meroni* Requirements in the Context of Lisbon primary law

In its judgment, the Court upheld the *Meroni* doctrine by reinterpreting its requirements in the context of Lisbon primary law. In general, the delegation of powers, including issuing discretionary decisions, could be admissible upon Union entities created by the EU legislature, if the exercise of delegated powers is circumscribed by various conditions and criteria which limit the discretion of the entity concerned.[27] At this point the Court applied a similar approach by focusing on various conditions and criteria, which has been described above in relation to the flexible interpretation of *Meroni* requirements. Due to the conditions, both substantive (the general threat to the orderly functioning of financial system of the EU, inaction or inadequate measures taken by NCAs, assessment of specific financial factors) and procedural (notification and consultation requirements with NCAs and other Union bodies and institutions), the Court concluded that the delegation of powers under Article 28 of the 'Short Selling' Regulation did not contravene the *Meroni*-based delegation criteria.[28]

2. Quasi-legislative Measures of General Application Issued by Agencies

According to the UK's allegation, Article 28 of the 'Short Selling' Regulation authorised ESMA to adopt quasi-legislative measures of general application and such power was contrary to the principle established in *Romano*. As mentioned before, the TFEU added the most fundamental provisions on legal protection against acts accepted by agencies which included those of general application. Article 263 and Article 277 TFEU expressly permit Union agencies to adopt acts of general application.[29] Accordingly, it could not be inferred from *Romano* that the delegation of powers to a body such as ESMA is governed by conditions other than those set out in *Meroni,* which had already been rejected by the CJEU due to the various strict delegation criteria.

3. Separation of Diverse Delegation Regimes

The UK submitted that, as Articles 290-291 TFEU circumscribed the circumstances in which certain powers may be given to the Commission, the Council therefore had no authority under the Treaties to delegate powers such as those provided for in Article 28 of the 'Short Selling' Regulation to an EU agency. First, the Court noted that Articles of TFEU on judicial review mechanisms, such as Articles 263, 265, 267 and 277 TFEU presuppose that not only the Commission but also the EU agencies could be addressees of a delegation of powers to adopt measures that are legally binding on natural or legal persons.[30] Additionally, the Court also made it clear that the delegation under the ESMA and the 'Short Selling' Regulation is to be separated from the regime under Articles 290-291 TFEU, which provides for general EU-level intervention competences. The conferral of powers upon EU agencies and cooperating NCAs requires a sector-specific demand for the intervention measures concerned, which - in the view of the Court

26 ESMA Regulation (n 6), Arts 17-19.

27 *UK v European Parliament and the Council* (n 4), [43-45].

28 ibid, [46-52].

29 Respectively, these articles provide for protection of third parties against acts of agencies and that the inapplicability of acts of general application adopted by agencies can be invoked before the CJEU.

30 ibid, [79-83]. Article 265 TFEU provides that action may be submitted to CJEU in case of failure of an agency to act, while Article 267 TFEU states that such an act may also be subject the subject of preliminary rulings.

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- can be justified by the technical and professional expertise of the agencies and of the cooperating NCAs.[31]

4. Primary Legal Basis for Direct Intervention Powers

The UK alleged that Article 114 TFEU as internal market harmonisation clause did not empower the EU legislator to authorise an EU agency to deliver direct decisions to natural or legal persons. Moreover, Advocate General Jääskinen found the replacement of national decision-making as the main objective of Article 28 of the 'Short Selling' Regulation instead of market harmonisation, and therefore recommended Article 352 TFEU as the primary legal basis of Article 28.[32] Regarding the 'measures for approximation' in Article 114 TFEU, the Court noted that the Union legislature had discretion as regards the most appropriate method of harmonisation, which could include the establishment of an EU body, especially if specific professional and technical expertise was required and such a body could respond swiftly and appropriately.[33] The Court also referred to the ENISA judgment[34] which clarified that 'Article 114 TFEU may only be used as a legal basis where it is actually and objectively apparent from the legal act that its purpose is to improve the conditions for the establishment and functioning of the internal market'.[35] The Court concluded that the related secondary legislation met these requirements as the conferred powers - even if applicable in exceptional cases - were intended to prevent the creation of obstacles to the proper functioning of the internal market.[36]

31 ibid, [84-86].

32 Opinion of AG Jääskinen, Case C-270/12, *United Kingdom v the European Parliament and the Council* (n 4), [50-55]. Article 352 TFEU provides that if the Treaties have not provided the necessary powers, the Council shall adopt the appropriate measures necessary to attain one of the objectives set out in the Treaties.

33 *United Kingdom v the European Parliament and the Council* (n 4), [102-105].

34 Case C-217/04 *United Kingdom v European Parliament and the Council* [2006] ECR I-03771, [42].

35 *UK v European Parliament and the Council* (n 4), [113].

36 ibid, [113-116].

37 On the criteria of 'direct and individual concern', see Case 25/62 *Plaumann & Co. v Commission of the European Economic Community* [1963] ECR 199.

IV. Comments and Conclusion

1. One Little Step Forward

The judgment concerned is to be welcomed, as the Court reshaped the *Meroni* requirements taking into consideration the current evolution of European governance, such as the 'mushrooming' of EU agencies as well as the Europeanisation of formerly national administrative powers. The institutional clarification included the separation of diverse delegation regimes in the context of Lisbon primary law as well.

However, upholding the *Meroni* doctrine combined with the need for case-by-case examination of delegable powers could undermine the potential effectiveness of EU-level intervention, which was originally intended to 'respond swiftly and appropriately'. The reasoning of the Court could also be criticised due to the argumentation justified by the dependency on specific professional and technical expertise. The Opinion of the Advocate General clearly reflected that the intervention competences of EU-level market surveillance and regulation are difficult to reconcile with the system of the indirect execution of EU law based on the original allocation of national and EU competences and with the mere purpose of internal market harmonisation. The above-mentioned evolution tendencies, crisis management and deepening integration require a sector-neutral institutional framework for the establishment and functioning of (regulatory) agencies. Therefore, this annotation advocates the institutionalisation of (regulatory) agencies in EU primary law.

Due to the unwillingness to shift the institutional status quo in the EU's inter-institutional and EU-national context, the short-term institutionalisation of (regulatory) agencies seems unlikely, which leads to less substantial modifications of the current institutional system. With regard to the significance of safeguarding the protection of individuals' rights revealed in the historical context of *Meroni* requirements, the Union legislator (and the Court) could also re-consider its restrictive approach to the locus standi of private applicants, as Article 263(4) TFEU still requires private applicants to have direct concern in case of regulatory acts or direct and individual concern in general to institute EU-level proceedings.[37] Even if the Lisbon primary law broadened the legal protection of individual rights, these criteria indicate that the main objective of EU-level judicial re-

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view is the protection of subjective rights, just as before. If certain elements of the institutional framework of EU-level administration have already been established, the less restrictive approach to *locus standi* could simultaneously facilitate the EU-wide democratic engagement and civic participation as a priority of the Lisbon Treaty.

2. Spill-over Effect of *Meroni* Requirements

Most of the statements of the judgment revealed sector-neutral requirements, which means that these institutional criteria for the delegation of intervention powers can be applied in the case of network industries as well. Due to the rather soft law nature of the acts issued by the Body of European Regulators for Electronic Communications, or by the Agency for the Cooperation of Energy Regulators, the ESMA-like dilemma has not occurred yet in these sectors. However the current debate on the EU energy union indicates the demand for stronger market intervention measures at the EU level. Similar options are to be reconsidered, as the Commission intends to confer substantial regulatory powers upon European Railway Agency.[38]

The reshaped *Meroni* criteria could serve as a 'constitutional' basis in the course of establishing new agencies or in modifying already existing regualtory frameworks. The broadly interpreted scope of Article 114 TFEU and 'the specific professional and technical expertise' as a general justification for EU level intervention by agencies indicates the Court's unwillingness to restrict the further authorisation of EU agencies to act directly in relation to individual market participants. The sector-neutral nature of this regulatory 'toolkit' combined with its potential spill-over effect into other policy areas can substantially contribute to the future development of single market issues, in particular insofar as the evaluation of sector-specific intervention might reflect which intervention powers could be considered as general tools of market surveillance and regulation at the EU-level. Nevertheless, the Union has already taken further steps forward concerning the allocation of powers by ensuring exclusive EU competences for certain agencies without any involvement of NCAs. Accordingly, the ESMA has been made responsible for registration and on-going supervision of credit rating agencies since July 2011, and the European Aviation Safety Agency can amend, suspend or revoke airworthiness and environmental certifications without any competences guaranteed for NCAs.[39] This sort of direct EU intervention as a potential direction for further evolution makes it clear that it is generally required to lay down the basic rules on European (regulatory) agencies in the Treaties.

38 European Commission, Proposal for the Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing of Regulation (EC) No 881/2004 COM(2013) 27 final.

39 Amendment No 513/2011 to the Regulation (EU) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies [2011] OJ L145/30; Article 15 of the Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing the European Aviation Safety Agency [2002] OJ L240/8.

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