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Assessing the EU’s emerging institutional architecture for improving the implementation and enforcement of joint policies

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Special issue introduction

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Abstract

European Union (EU) governance faces a fundamental implementation and enforcement dilemma. On the one hand, calls for effective EU policies are manifold and have increased over time. On the other hand, the competence to implement and directly enforce EU policies remains with the member states. To overcome this dilemma, an emerging institutional architecture is taking form in which European Administrative Networks (EANs) and agencies assist the Commission in improving the implementation and enforcement of shared policies. This special issue provides a state-of-the-art analysis of EANs and related agencies as core components of the structure in making. To set the scene, this introduction presents different accounts of the establishment and development of EANs in relation to agencies. It then presents a functional continuum of EANs, spanning information-sharing, data exchange, and problem-solving networks. Finally, we discuss the challenges and shortcomings of the emerging, yet still diffuse, institutional architecture, including its accountability.

Key words: European Union; Implementation; Enforcement; European Administrative Networks; European agencies
1. Improving implementation and enforcement. An emerging institutional architecture

European Union (EU) governance faces a fundamental implementation dilemma. On the one hand, calls for effective EU policies are manifold and have increased over time. As a result, the EU has developed a vast body of law, covering a wide span of established policy areas, such as the internal market, competition policy, energy regulation and environmental protection, but also including regulation of more sensitive areas, such as welfare, migration, external action and terrorism. On the other hand, the EU’s regulatory function remains controversial, and member states jealously guard further delegation of competences to the EU level. As a consequence, implementation and enforcement of EU legislation vis-à-vis target groups remain the prerogative of member states. As the EU’s core executive, the European Commission is continuously confronted with the implementation dilemma of how to ensure effective EU policy delivery and, hence, resolve pressing collective action problems while the responsibility for implementing and directly enforcing EU policies remains with the member states.

To bridge the gap between EU policies and national implementation/enforcement, the Commission and the member states have gradually constructed a European Administrative Space (EAS) in which integrated national administrations pool competences and collaborate on matters of implementation and enforcement. A key type of institution composing the EAS are European Administrative Networks (EANs), which are networks consisting of representatives from national administrative units, i.e., civil servants – primarily from departments and/or agencies with tasks in the realm of national implementation and enforcement of EU law. The advantage of EANs is that they allow the member states to address common policy problems without surrendering too much power to supranational institutions. In contrast to agenda-setting or decision-making networks, EANs deal with joint action problems arising during the implementation or enforcement of common policies. By exchanging best practices, pooling resources and monitoring each other’s performance, network interactions among civil servants across Europe should lead to policy convergence, increased cooperation and effective problem-solving. These networks thus carry the promise of an effective governance tool leading to further European integration (Bach and Ruffing, 2018; Blauberger and Rittberger, 2015; Hofmann, 2008; Mastenbroek and Martinsen, 2018).

A second type of institution composing the EAS is European agencies, the establishment of which has been labelled one of the most interesting developments in European public administration (Dehousse, 2008). Agencies appeared as the outcome of a rather haphazard, unintentional process of institutional design, contingent on both functional and political interests by multiple principals at the supranational and national level (Dehousse, 2008; Kelemen and Tarrant, 2011). Despite their rather

1 Widely used alternative terms are European Regulatory Networks or Transgovernmental Networks.
emergent institutional development, they have become a key element of the EU’s administrative system, holding a diverse range of operational, policy-making and even regulatory powers (Busuioc, 2012). A key subtype of these agencies are European enforcement agencies (EEAs; Scholten & Scholten, 2017). EEAs have direct enforcement powers vis-à-vis the member states, typically as a follow-up to previous processes to regulatory integration combined with ‘imperfections’ in enforcement (Scholten & Scholten, 2017, 936). An example is the European Securities and Markets Authority, which aimed to provide a more effective mechanism for steering the national implementation of financial regulation (Maggetti and Vagionakis, 2022, this volume, 9).

Agencies often build on the foundations of networks through processes of layering/conversion (Thatcher, 2011; Levi-Faur, 2011, p. 824; Thatcher and Coen, 2008). As a result, they have been presented as tending ‘to take over the tasks, functions and structure of preexisting agents like committees and regulatory networks’ (Mathieu, 2017, 3). In functional terms, they are rather similar to EANs (Bach et al., 2016, 12; Thatcher and Coen, 2008, 805; Mathieu, 2017, 3). The various functions of agencies (agenda setting, consensus-building, coordination, information exchange, norm-setting) can be carried out by either agencies or networks (Levi-Faur, 2011, 814). However, in institutional terms, four main differences have been identified. First, agencies usually have a distinct, formal identity (Levi-Faur, 2011, 813). They typically have a legal personality (Mathieu, 2017, 2; Thurner, 2017, 17) and a clear legal basis (Lavrijsen and Hancher, 2008, 24). Second, agencies typically display a higher degree of institutional and legal centralization than networks (Boeger and Corkin, 2017). The former type of centralization refers to the level at which control is exerted (Joosen and Brandsma, 2017, 426), agencies typically displaying a stronger supranational character than networks (Boeger and Corkin, 2017, 975). The latter type of centralization concerns the extent to which such control is legally binding. Even rather networked agencies, such as the European Asylum Support Office, have regulatory functions, such as adopting individual decisions, issuing guidelines on the application of EU law at the national level, engaging in national agencies’ handling of single cases, and developing new EU legislation (Egeberg and Trondal, 2017, p. 678). Whereas agencies may make specific decisions with an eye on implementation (Thatcher and Coen, 2008), implementation of adopted standards in networks is typically voluntary (Thurner, 2017, p. 7). Fourth, agencies and networks typically differ in terms of their capacities (Levi-Faur, 2011, p. 813). Typically, agencies have more financial and organizational autonomy from their members (Mathieu, 2017; Biermann and Rittberger, 2020).² It is thus clear that

² Although these are typical differences, some institutional forms in the EAS are hybrid in nature. Boeger and Corkin (2017, 975) argue that networks may be ‘disguised as EU agencies, which in fact rarely appropriate powers from the Member States (...) and tend only to do so using softer modes of disciplining.’ Instead, they co-ordinate ‘more or less formally organized networks of national authorities rather than centralizing tasks at the EU level.’
on comparison EANs constitute the more flexible, non-binding form of organisation which lack centralised administrative capacities and independent financial resources to address the implementation dilemma (Biermann and Rittberger, 2020).

This special issue provides a state-of-the-art analysis of the emerging institutional architecture for improving the implementation and enforcement of EU laws and policies. We demonstrate that both EANs and agencies constitute key building blocks in the emerging institutional landscape; at the same time, we challenge the notion that the former tend to be the weaker part of the arrangement, a second best option chosen when political considerations prevent delegation to an agency (Kelemen and Tarrant, 2011; Tarrant and Kelemen 2017). On the contrary, in this special issue we show that EANs are increasingly important institutions in their own right. First of all, although much beyond the political and public radar, EANs are numerous. In a recent stock-taking exercise, mapping EANs across five policy areas – health, social welfare, environment, immigration and asylum, internal market – we identified 139 networks set up by European rules to improve national implementation and enforcement of EU legislation (Mastenbroek et. al. in press). Second, the establishment and development of EANs versus agencies cannot sufficiently be explained as compromises between the member states and the Commission. Experts and civil servants in EANs develop their own epistemic preferences and occupy powerful positions to resist agency creation and maintain networks (Van Kreijl, 2022, this volume). This shows that EANs are more than the sum of their parts with own preferences and an ability to develop into densely knitted forms of cooperation (Vantagiatto, 2022, this volume). The Commission may, however, respond to too powerful networks and try to restore the institutional balance, by ‘taming the beast’ (Maggetti and Vagionaki, 2022, this volume. See also Biermann and Rittberger for a similar argument) or require coordination with agencies in order to avoid institutional competition or rivalry (Eckert, 2022, this volume). Third, EANs’ functions reach much beyond ineffective talking-shops. National authorities interacting in EANs bring crucial resources to agencies and to the process of European integration (Yesilkagit and Jordana, 2022, this volume; Ruffing, 2022, this volume), they mitigate arbitrage (Li and Newman, 2022, this volume) and can develop into important problem-solving institutions. When looking into the actual functions allocated to networks, we see that these are considerable, including monitoring by means of administrative decisions and conciliation boards and the resolution of problems with EU implementation. In fact, the internal market network, SOLVIT, today issues more problem-solving cases than the European Commission sends out opening letters as part of its infringement procedure. Thus, EANs contribute to the course of European integration, although network interaction may also further member states incentives

(Groenleer et al., 2010). Levi-Faur (2011, p. 825-826) calls this hybrid form the networked agency, which incorporates EANs in the agencies as boards of regulators (Lavrijsen and Hancher, 2008, 24).
instead of further integration (Mastenbroek et al., 2022, *this volume*). In sum, this special issue brings together state of the art scholarship on the different building blocks of the emerging institutional architecture for ensuring EU policy delivery, focusing on the establishment, development, and functioning of European administrative networks and related agencies.

In the remainder of this introduction, we first look into theoretical and empirical accounts of the establishment and development of EANs in relation to agencies and thus place EANs both as individual and as interconnected institutional variants within the EAS. We then turn to their functions and influence and finally their challenges and shortcomings, including questioning the accountability of an emerging, yet still diffuse, institutional architecture for the improvement of EU implementation and enforcement.

2. Establishment and development

Much of the literature seeking to explain the establishment of EANs is inspired by the debate between functionalism and a political approach to network establishment (Blauberger & Rittberger, 2015; Kelemen & Tarrant, 2011). From a functional perspective, EANs are an effective solution to pressing policy problems (Mathieu, 2020; Scholten & Scholten 2017). Network coordination and resource-pooling among national authorities provide the EU with the necessary capacity to deal with complex problems requiring supranational solutions, while member states can maintain national sovereignty (Eberlein & Newman 2008; Eberlein & Grande 2005).

Kelemen and Tarrant (2011) and Tarrant and Kelemen (2017), on the other hand, challenge this view and argue that network establishment is a matter of politics and hence of distributional conflicts instead of effective problem-solving. According to this political view, leaving authority in the hands of national authorities cooperating in networks, instead of delegating authority to a more centralized EU-level body, is a conscious design choice based on the politics of delegation (Kelemen & Tarrant, 2011). Strategic interaction between the member states, the Commission and the European Parliament determines the type of institutional bodies they establish. Networks, in their account, are the instrument of choice for member states when distributional conflict is high and there is a need for a particularly ineffective supranational governance tool to conserve national control (Kelemen & Tarrant 2011).

In response to this political argument, Blauberger and Rittberger (2015, 2017) hold that to explain network establishment, we need an explanation that is multifaceted. Functional and political accounts of the choice and design of networks are not mutually exclusive. While the functional argument is relevant for questions of institutional choice (i.e., under what conditions networks are
chosen over alternatives), the political view helps to address questions of institutional design (i.e., how networks are designed, particularly in relation to the Commission) (Blauberger & Rittberger 2015).

In part, the literature has highlighted networks as second-order structures established to operate only temporarily, eventually to develop into, or be replaced by, EU agencies (Levi-Faur 2011). In this special issue, by contrast, we showcase the great variety of networks and show that their developmental trajectories is not unidirectional. Whereas some networks develop increasingly strong powers and resources, others remain highly stable. As pointed out by both Maggetti and Vagionaki (2022, *this volume*) and Van Kreij (2022, *this volume*), we need to add an organizational argument to explain the highly variable trajectory of network development in view of the process of EU agencification. The organizational perspective on EU agencification qualifies networks as formal structures, shaping their own course of political action (Egeberg et al. 2005), securing and enhancing the authority of its members (Boeger & Corkin 2017), and entering into direct competition with other EU institutions in their area of operation (Thatcher, 2011). By adding an organizational perspective, we show that EANs develop in their own right and in relation to agencies, with their own functions and influence.

With regard to the dynamics of institutionalization, Maggetti and Vagionaki (2022, *this volume*) demonstrate that networks’ rivalry with the Commission is an explanatory factor of importance. They conceptualize agencification as a means of the Commission to take back control over networks undergoing mission creep. Comparing the Committee of European Securities Regulations and the European Competition Network - two networks that are similar on many functional, political and organizational grounds but very different in terms of trajectory towards agencification - Maggetti and Vagionaki take a closer look at the role of the Commission in the process of agencification. Their comparative inquiry shows that the Commission intervenes in those cases where networks expand beyond their original goal and ‘tames the beast’ by tightening their connection, making them less independent (for a similar finding, see Biermann and Rittberger, 2020).

In addition, there are cases where EANs exist in parallel to EU agencies, i.e., they share the same territory. Van Kreij (2022, *this volume*) unpacks the puzzling cases of the creation of enforcement networks for medical device regulation and aviation incident investigation in the domains of already existing EU agencies by taking into account the high resource intensity of enforcement coordination. Here, we see that there was a clear need for member states to coordinate their enforcement efforts due to highly skewed levels of capacity and expertise, but the resource intensity of their enforcement tasks inhibited supranational delegation. When the specific expertise, technical infrastructures and epistemic preferences of appointed officials are incompatible with existing EU agencies, the budgetary consequences of duplicating these national capacities on a supranational level are far-reaching (Blauberger & Rittberger, 2017). At the same time, national authorities that supply those resources are
in powerful positions to oppose supranational delegation. Instead, the second-best option for the Commission is to actually strengthen network coordination.

In explaining why networked and more centralized institutions coexist, Eckert (2022, this volume) looks into the nature of their transversal relations (i.e., coordination between agencies and networks). This coordination is needed exactly to avoid competition between authorities operating on the same territory. Here, as well, the nature of interinstitutional relations can be analysed according to the functional or political perspective. Either competition is created due to overlapping tasks or mandates that simply need to be sufficiently coordinated, or it is the result of conflicting interests and power struggles between national and supranational actors, which is not easily remedied by more coordination. In comparing the transversal relation in both the banking and electricity sector, Eckert shows that despite significant institutional differences, the explanations for interinstitutional competition are similar for both policy domains. While their coexistence can be explained by both functional and political approaches, their competitive relations are best captured by conflicts of interest and struggles for power.

Finally, Vantaggiato (2022, this volume) shows that, depending on the developmental stage of networks, functional or political approaches serve better to explain their purpose. She argues that networks may start out as informal structures aimed at improving the effectiveness of governance by facilitating information sharing and learning, and they evolve into densely knitted networks with the capacity to influence EU policy-making. While the functional and political perspective are often presented as mutually exclusive, her study of the development of the Council of European Energy Regulators shows that it initially served the functional purpose of regulatory harmonization but grew into an instrument of member state control.

This corroborates the findings from our own project mapping the establishment of EANs and their development. We find that networks are not merely temporary institutional arrangements but here to stay. While some networks cease to exist or are replaced by EU agencies, many of the oldest networks are still active (Martinsen et al., 2020, Mastenbroek et al., in press). This is in line with Slaughter’s (2004) reasoning that networks are flexible governance structures with the potential to draw on collective expertise and provide the optimal form of organization needed by the actors involved for the relevant context and moment in time. The contributions to this special issue qualify existing explanations of establishment and development beyond functional versus political accounts. This special issue adds an organizational perspective and demonstrates that 1) network members themselves are in powerful positions to influence network development (Van Kreij, 2022, this volume; Vantaggiato, 2022, this volume), 2) EANs and agencies coordinate between them to avoid competition (Eckert, 2022, this volume) and 3) the Commission has an interest in reigning in a too independent EAN
(Maggetti and Vagionaki, 2022, this volume) but its success in doing so is far from assured (Van Kreij, 2022, this volume).

3. Functioning and influence

In line with the understanding that EANs are a response to member states’ desire to solve common problems without surrendering too much power to supranational institutions (Kelemen and Tarrant, 2011; Blauberger and Rittberger, 2015; Bach and Ruffing, 2018; Eberlein and Grande, 2005; Eberlein and Newman, 2008), their added value has been questioned (Kelemen and Tarrant, 2011). They stand as ‘second-best’ or ‘weak’ in comparison with more conventional enforcement tools, such as the Commission’s infringement procedure. Comparing agencies with EANs, Kelemen and Tarrant place agencies as ‘first-best’ choices, designed when member states have a shared interest in cooperation, whereas EANs are ‘second-best’ choices, designed deliberately to be ineffective and for member states to remain in control (Kelemen and Tarrant, 2011). However, this sobering assessment disregards which functions are actually allocated to the different networks, how these functions translate into real interactions, and the effect that these interactions have on the implementation and enforcement of EU policies. We argue that the power of these seemingly ‘weak’ institutions comes as a result of their functions and functioning, i.e., the willingness of network members to pool and exchange resources with their peers.

As a means to improve the national implementation and enforcement of EU legislation, the overall aim and function of EANs is to contribute to the realization of a level playing field and counteract ‘regulatory arbitrage’ by national authorities (Li and Newman, 2022, this volume). However, the literature makes clear that networks vary strongly in the functions and competences assigned to them. The functional continuum, at one end, covers relatively loose information-sharing networks, which may include the exchange of best practices, or sharing information on national political positions and institutions. An intermediate position is taken by networks that aim at the exchange of data and evidence. Data and evidence constitute a concrete resource which EU legislation may oblige national authorities to collect and share in a harmonised form. At the other end of the continuum, we find problem-solving networks endowed with the authority to facilitate resolution of disputes. However, all types of EANs carry important functions for improving implementation and enforcement, potentially influencing European integration.

Although information-sharing EANs may be regarded as networks of more vague commitment, where members are mainly obliged to talk through the agenda of the day, this specific type of EAN can also be viewed as powerful forum for pooling information and expertise, thus representing a key resource for policy-making and implementation. Yesilkagit and Jordana (2022, this volume) and Ruffing
(2022, this volume) demonstrate the interconnectedness of agencies and networks in this regard. They show that agencies depend on networks because they allow them to access crucial national resources. In her comparison of six agencies, Ruffing finds that the degree to which agencies can draw on network resources is decisive for the de facto influence and independence of agencies. Similarly, Blauberger and Rittberger (2015, 370) argue that by bringing in local resources, networks ‘tend to provide functional advantages’ over EU agencies in policy areas where problem-solving depends on local insights and street-level expertise (see also Van Kreij, 2022, this volume). Information on national institutions, practices, experiences or even politics constitutes such key resources, which establish grounds for improving mutual understanding and cooperation. However, as shown in the contribution by Mastenbroek et al. (2022, this volume) to the European Migration Network, information exchange may also be driven by political motives. Here, members primarily seek information on national policies and practices across their borders, in line with national political incentives driven by the refugee crisis. Such information exchange does not progress integration per se but may work as a means of copying national policies and practices from likeminded peers. Theoretically, EANs could thus even function as a resource for member states to prevent overcompliance compared to their EU counterparts.

EANs that exchange and control data and evidence have additional resource pooling functions. In these networks, national representatives are typically government or scientific experts in the regulatory domain. The willingness to exchange scientific data is by no means a given. Some data may be confidential or can be used for political purposes, which makes their exchange highly sensitive. Low-quality data or a lack of comparability may also hinder exchange. Thus, EANs that facilitate the exchange of or access to data are likely to establish common ground and influence the regulatory field. The Health Technology Assessment Network (EUnetHTA) exemplifies a data-exchange network in which national data, evidence, methods and practices concerning which medicine or medical devices on the market provide the best quality and ‘most value for money’ are shared (Schrama et al., 2022). On the basis of these exchanges, the network members carry out joint assessments of health technologies and develop shared assessment methods. Other EANs are assigned functions to control national products and evidence. Van Kreij (2022, this volume) shows how medical device regulation comprises several EAN structures through which joint assessment teams control medical devices in companies before they enter the market. In addition, member states chose to establish an EAN with high control functions in investigating aviation accidents and serious incidents involving civil aircraft instead of delegating the function to the already existing European agency. Although they often fail to reach the public and political limelight, controversies may arise between the units in the emerging institutional architecture sharing and evaluating data. During the COVID-19 pandemic, the Pharmacovigilance Risk Assessment Committee (PRAC) became central in the vaccine review processes of the AstraZeneca COVID-19 vaccine (Schrama 2022; Schrama et al., 2022). The European Medicine
Agency and its safety committee PRAC, however, came to disagree with national agencies on the safety of the vaccine. PRAC and EMA found the vaccine safe to use, but their scientific assessment was questioned by several national agencies, which stopped using the vaccine and hereby brought both EMA’s credibility and that of its scientific committee PRAC into question (Deutsch et al., 2021).

Problem-solving EANs, for their part, take one step further toward harmonising national practices. They have mandates to make administrative decisions when EU law is misapplied and may provide dispute resolution by means of conciliation boards. One of the oldest EANs is the Administrative Commission for the Coordination of Social Security Systems (AC), which was established in 1958. The AC has both information-sharing and problem-solving tasks. One function is to facilitate uniform application of Community law by promoting the exchange of experiences and best practices (Martinsen et al., 2021a). Another function is to issue recommendations and administrative decisions on how regulatory articles shall be interpreted and applied. In addition, the AC provides dispute settlement between national authorities by means of a conciliation board. Through these functions, the AC monitors the national application of the relevant regulation. This is in line with Li and Newman’s findings, identifying arbitrage mitigation as a key objective and function of EANs (Li and Newman, 2022, this volume). In their research on the General Data Protection Regulation (GDPR), they identify the tools of arbitrage mitigation to consist of peer evaluation of regulatory decisions by other regulators, joint comments on penalty drafts and dispute mechanisms for controversial decisions (Li and Newman, 2022, this volume). Additionally, the internal market network SOLVIT constitutes a problem-solving network (Vifell and Sjögren 2014). The network enables bilateral resolution of cases of alleged misapplication of EU internal market rules brought to the network by citizens or firms. It seeks to solve these cases through interaction between national SOLVIT centres. The number of cases has grown over time: In 2020, the network dealt with 2633 cases, presenting an impressive increase from the mere 38 cases handled in 2002. SOLVIT activity by far surpasses the number of Commission infringement proceedings: In 2020, the Commission issued 903 opening letters, 152 reasoned opinions and only sent 11 infringement cases to the Court of Justice of the European Union (European Commission, 2021).³ Notably, this was across all policy areas. In comparison, SOLVIT is sector-specific, covering the internal market. In 2020, 81% of all SOLVIT cases were resolved. SOLVIT has proven to be a quite effective problem-solving network (Hobolth and Martinsen, 2013).

In sum, this volume extends the functional argument to network establishment to the realm of network functioning, adding political considerations on behalf of the national authorities composing networks and/or agencies to the equation and differentiating between different functions assigned to

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them. The functions assigned and developed influence European integration by mitigating arbitrage (Li and Newman, 2022, *this volume*) or by bringing crucial resources to European agencies (Yesilkagit and Jordana, 2022, *this volume*; Ruffing, 2022, *this volume*). In contrast to existing functional explanations, the case of the European Migration Networks shows that network cooperation does not always further integration but may serve as venue for national control, driven by national policy preferences and political exigencies (Mastenbroek et. al., 2022, *this volume*).

4. Challenges and shortcomings

Both EANs and EU agencies are institutional devices to fill the gap between supranational legislation and national implementation and enforcement. An evaluation of these instruments should hence focus on their shown ability to overcome this divide and contribute to the adequate implementation and enforcement of joint rules and, ultimately, the development of a veritably level playing field. Although the previous section has demonstrated that the various subtypes of EANs may fulfil key functions in the European administrative space, the instruments also face some challenges and shortcomings that limit their potential.

First, network members tend to display marked variance in their networking activity. As shown by Mastenbroek et al. (2022, *this volume*), network interactions are not spread equally throughout the networks, and several member states do not play a role (Vantaggiato, 2019b). This varying involvement may limit the functioning and impact of networks and render them instruments in the hands of central network members - typically high-capacity, larger states that take an interest in the policy issue at hand. These members may end up as informal leaders, allowing them to spread their policy practices and ideas. Those members who are relatively absent, either because of political incentives or limited administrative capacity, may miss the perks offered by the network and steer clear from soft disciplining by other network members, which may hurt the network’s functions and ends. Second, those interactions that do take place are often clustered among groups of like-minded actors, for instance, on the basis of political and institutional characteristics of the member state in question (Efrat & Newman, 2018; Maggetti and Gilardi, 2011; Martinsen et al., 2021a, Martinsen et al. 2021b; Mastenbroek et al., 2022, *this volume*; Schrama, 2022; Vantaggiato, 2019a). On the one hand, such clustered network structures are known to be rather efficient and effective, as they foster the trust required for smooth cooperation between network members. On the other hand, clustered interactions between the like-minded may also limit interactions to ‘single-loop’ learning, instead of more fundamental learning about principles underpinning policy choices. This may compromise harmonization through network interactions.
Furthermore, even if EANs and agencies play a positive role in filling the gap between supranational decision-making and national control, their in-between character invites normative reflection and criticism. As noted previously (Mastenbroek and Martinsen, 2018, 429), EANs harbour risks in the realm of political control and accountability. First, their reliance on national administrative capacities in combination with their relatively informal and closed nature may end up insulating them from national and EU political steering. Second, these characteristics may complicate accountability to national and EU democratic actors (Martinsen and Jørgensen, 2010; Papadopoulos, 2007). Similarly, several observers have criticized the democratic credentials of European agencies, flowing from their non-majoritarian nature (Busuioc, 2012), although others have reached a more positive assessment (Dehousse, 2008), especially when comparing agencies to networks. This difference is underscored by Maggetti and Vagionaki (2022, this volume, p. 4), who argue that agencies are typically less autonomous and more accountable to European institutions than networks. As a case in point, the replacement of the Committee of European Securities Regulators (CESR), a network in the realm of the European agency ESMA (European Securities and Markets Authority), improved accountability at the EU level: ESMA is directly accountable to both the EP, the Council of the EU and the Commission, as opposed to its predecessor CESR (Maggetti and Vagionaki, 2022, this volume).

Concerning networks, the sobering normative view can also be put into perspective. First, Bignami (2015) posited that EANs only are established when democratically elected governments agree on their objectives. This could be seen in the contribution by Mastenbroek et al. (2022, this volume), which showed how national governments explicitly shaped the mandate, functions and structure of the European Migration Network. However, this is not to say that EANs are fully national instruments that escape supranational control and accountability. The EMN case shows that the network is a hybrid or ‘entangled’ institution (Yesilkagit and Jordana, 2022, this volume) in which both the member states and the European Commission take an interest and play a key role. Second, Li and Newman (2022, this volume) argue that arbitrage mitigation mechanisms in EANs may increase accountability compared to the situation where individual national regulators enforce EU law differently. These interstate mechanisms for improving enforcement create horizontal accountability by allowing regulators from different states to assess and comment on each other’s enforcement practices and vertical accountability by providing civil society and the public with a useful information base for monitoring enforcement and pressurizing regulators to improve this (Li and Newman, 2022, this volume, 2-3).

In sum, extrapolating the argument by Yesilkagit and Jordana (2022, this volume) that national regulatory authorities are increasingly entangled in both the national and supranational institutional setting, we would like to argue that our notions of accountability should follow suit. NRAs have come
to occupy key positions in the European Administrative Space by playing a broker role between domestic and European polities: They were endowed with powers by national democratically elected governments and by the European Commission and European agencies, which in turn have been established by national member states and EU institutions (Kelemen and Tarrant, 2011). As part of these powers, they play a role in EANs and often in the management boards of European agencies (Yesilkagit and Jordana, 2022, *this volume*), which in turn are important fora for accountability (Busuioc, 2012). At the same time, accountability processed between expert peers on management boards does not compensate for the lack of public and parliamentarian scrutiny. Whereas we see that politicians may be involved in the establishment and design of EANs, they are likely to lose track of the more dynamic development and functions of EANs, as they are not members on board. The complexity of the emerging institutional architecture is likely to insulate it from de facto public and political control. In sum, to understand and evaluate accountability, we should focus on this complex multilevel pattern of control and accountability instead of focusing on traditional dyadic accountability relationships (Yesilkagit and Jordana, 2022, *this volume*; for a similar view, see van Osch et al., 2021).

Finally, the contributions in this special issue point towards a weak point of much previous research on the EAS. Many existing studies focus on specific agencies or networks, studying their establishment, development, functioning or impact (cf. Mastenbroek and Martinsen, 2018). However, as revealed by Yesilkagit and Jordana (2022, *this volume*) and Eckert (2022, *this volume*), this focus misses the greater picture of the multilevel, multiactor administrative space that has developed in specific EU policy areas or regulatory regimes (Levi-Faur, 2011). The relations between national agencies, European agencies, and networks - which may even form part of an agency - are manifold, not to speak of the surrounding palette of EU-level institutional actors, which may or may not form part of the networks. Particular combinations of institutional forms may have different outcomes, ranging from cooperation to conflict (Eckert, 2022, *this volume*), while they may also serve to protect against the political control of one principal. Agencies’ reliance on decentralized expertise and capacities has important effects on their actual influence and independence (Ruffing, 2022, *this volume*). Although our special issue has taken strides to explore the multifaceted nature of the EAS, more work is to be done in this direction to fully grasp the character and effect of the dazzlingly colourful institutional fabric that has been woven as an outcome of the often ‘haphazard’ (Dehousse, 2008) establishment and development of European agencies and networks.

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References


