Unpacking the ‘Accountability Paradox’ in Expert-Based Decisionmaking

30 November - 1 December 2017
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Erasmus School of Law, Erasmus University Rotterdam

The entrenchment of expert knowledge in legal and quasi-legal decision-making is a key feature in a wide variety of areas, ranging from economic and financial governance to environment, health and safety regulation, or more horizontally as regards digital technologies and data protection. At the European, transnational and international levels, expert-based decision-making processes are being shaped increasingly through a diversity of institutions and stakeholders, including agencies, private-public partnerships, think tanks, regulatory networks, or, more generally, assemblages of different actors. The direct or indirect production of legally relevant decisions by experts, and their exercise of public authority in various guises, has been recurrently considered as problematic. In particular, enabling accountability for expert-based decision-making remains a thorny issue, which requires urgent clarification.

This workshop aims at dissecting some of the salient conceptual, legal and practical problems in establishing accountability of the expert decision-maker complex. It tackles in particular the apparent ‘paradox’ whereby formal mechanisms and processes in place may have a limited potential to enable effective accountability of the expert decision-maker complex, among others because of the ‘knowledge asymmetry’ hurdle between experts and accountability fora.

The workshop brings together top academics and practitioners to reflect on the possibilities and limits of establishing accountability for expert decision-making. Contributions combine discussions at a normative and conceptual level with more concrete and targeted investigations in the following areas: (1) Economic and Financial Governance; (2) Environment, Health and Safety Governance; (3) Internet, Digitization and Data Protection. The results of the workshop will generate a more systematic understanding of similarities and differences of institutional mechanisms by which experts can be and are called to account.

The workshop is a joint activity of the Rethinking the Rule of Law in an Era of Globalisation, Privatisation, and Multiculturalisation and the Research Project Rethinking Global Technocracy: An inquiry into the Accountability of Global Regulatory Scientific Institutions (GRSIs).

The event is free to join, however registration is required at www.esl.eur.nl/accountability_paradox

For more information, please write to the organisers
Dr. Alessandra Arcuri arcuri@law.eur.nl
Dr. Florin Coman-Kund comankund@law.eur.nl
Schedule
Thursday, 30 November, Room C-1

13:15 to 13:45  Registration
13:45 to 14:00  Welcome and Introduction
                Prof. Dr. Fabian Amtenbrink, Vice Dean ESL

14:00 to 15:30  Panel 1 - Experts and Accountability: Setting the Debate
                • Prof. Dr. Deirdre Curtin, Chair & Discussant
                • Dr. Alessandra Arcuri and Dr. Florin Coman-Kund: The ‘Nobody’ Problem
                • Prof. Dr. Oren Perez: Transnational Scientific Institutions as Hybrids
                • Prof. Dr. Mark Bovens: Indexing Accountability of Powers of EU Watchdogs
                • Prof. Dr. Robert Howse: The “Populist” Critique of Experts and Expertise:
                  A (Partial) Defense

15:30 to 16:00  Coffee Break
16:00 to 17:30  Panel 2 – Accountability of Experts in Economic and Financial Governance
                • Prof. Dr. Robert Howse – Chair & Discussant
                • Prof. Dr. Fabian Amtenbrink: Building a Viable Analytical Framework to
                  Evaluate Accountability in Economic and Financial Governance
                • Prof. Dr. Michelle Everson: ‘Reputational Risk: A Sticking Plaster Approach’
                • Dr. Marijn van der Sluijs: Accountability or Democracy? About the Frame-
                  work of Analysis for Monetary Policymakers in the Eurozone?
                • Dr. Nathanael Ali: What is in a Form? The Re-organization of the FATF as a
                  Legal Person and the Promises and Limits to Accountability

18:30  Social Dinner
Schedule

Friday, 1 December, Tokyo M1-17

9:00 to 9:30  Coffee

9:30 to 11:00  Panel 3 – Accountability of Experts in Environment, Health, and Safety Governance
  • Dr. David Demortain – Chair & Discussant
  • Prof. Dr. Ellen Vos: The tension between independence and accountability of expertise in EU agencies
  • Dr. Alessandra Arcuri: Dimensions of Accountability for Global Regulatory Scientists
  • Dr. Machico Kanetake: Transnational Radiological Standards in Domestic Context
  • Speaker TBC

11:00 to 11:30  Coffee Break

11:30 to 13:00  Panel 4 – Accountability of Experts in Internet, Digitisation, and Data Protection
  • Prof. Dr. Sanne Takaema – Chair & Discussant
  • Prof. Dr. Gregory Voss: ENISA and Its Use Related to Data Protection, Privacy and Cybersecurity Law
  • Dr. Xavier Tracol: Expert-based Decision Making in Data Protection at Eurojust: The Contribution of the Joint Supervisory Body to the Development of Proceedings before Boards of Appeal of EU Organisations
  • Dr. Daniel Drewer: Accountability of the Data Protection Officer as an Independent Expert Function
  • Dr. Florin Coman-Kund: Europol’s Accountability System Regarding International Exchanges of Personal Data

13:00 to 14:30  Lunch and Coffee

14:30 to 16:00  Open Round Table Discussion
  • Prof. Dr. Jan Klabbers, Prof. Dr. Deirdre Curtin, Prof. Dr. Oren Perez, Dr. David Demortain, Prof. Dr. Robert Howse, Prof. Dr. Ellen Hey
  • Chaired by Dr. Alessandra Arcuri and Dr. Florin Coman-Kund

16:00 to 16:30  Discussion - Future Research Agenda and Publication of Conference Output

16:30 to 17:00  Concluding Drinks