From the Editors

The reader of this journal is quite familiar with the fact that the bulk of Union law is applied and enforced by national administrative authorities. The Member States are in principle competent to determine (and responsible for determining) the applicable procedures and the way they are organised. The starting point as regards application by national administrative authorities of this is, that it is applied on the basis of and under the conditions of national law. In other words, Union law does not in principle concern itself with the manner in which European law is applied and enforced within the national legal orders.

The European Union, even in the post-Lisbon era, does not seem to be competent to harmonise national administrative law on enforcement, including judicial protection, further than necessary to achieve the substantive aims of Union law. After all, the Treaties, not even Articles 197 and/or 352 of the Treaty on the Functioning of the European Union, still do not confer a general competence to harmonise those national administrative law rules. Harmonisation of national administrative law on enforcement is, to use a metaphor of Curtin's, harmonisation 'by bits and pieces'. This metaphor accurately reflects European legislative practice. There are examples of such harmonisation in public procurement law, telecoms law, customs law and environmental law. However, the case analysis by Reichel of the *Djurgården-Lilla Värtan* case let us show the importance of *judicial* harmonisation.

It is already evident that administrative courts in various countries, e.g. the Netherlands, Belgium and Germany, are confronted with parties arguing that parts of their national procedural law are contrary to the observation of the Court of Justice in this 'Swedish' *Djurgården* case. In our estimation, we will in the future regularly come across phenomena that can be viewed as 'judicial dialogue' and 'judicial competition', which will ensure a far-reaching convergence of national administrative law on enforcement and judicial protection.

Also the other contributions to this issue of *REALaw* focus on judicial protection of individuals in the European Union at the European, transnational and national level. Judicial protection at European level is the topic of the contribution by Harryvan and Jans '*Internal Review of EU Environmental Measures; It's True: Baron van Munchausen Doesn't Exist! Some Remarks on the Application of the So-Called Aarhus Regulation*'. In the article the authors discuss the functioning of the internal review procedure, which has been introduced by the Aarhus Regulation in order to strengthen the position of environmental organizations in procedures before the European courts. According to them the procedure does not function adequately at all. The number of requests to review environmental decisions is very small and the vast majority of these requests are declared inadmissible by the European institution concerned. If the Court of Justice upholds the rigid interpretation

of the regulation by the institutions, the question might be raised whether the continued existence of the Regulation makes any sense.

In '*Correct application of EU law by national public administrations and effective individual protection: the SOLVIT network*' Micaela Lottini analyses the SOLVIT network. This transnational network provides for an alternative to national courts in protecting citizens and undertakings that are affected by infringements of EU law by a national administration. It consists of a network of national Centres which are connected by a database run by the Commission. Since it became operational in 2002, almost 1000 cases have been submitted to it. Although the national public administrations are not bound to follow SOLVIT advice, the average resolution rate of SOLVIT is very high, namely 83%.

According to Carmen Plaza in '*Member States liability for legislative injustice, National Procedural Autonomy and the Principle of Equivalence: going too far in Transportes Urbanos*', the case of *Transportes Urbanos* will have a deep impact on the Spanish doctrine on state liability for damages caused by the legislator. The consequence of the case will probably be that the rule of previous exhaustion of legal remedies will no longer be applied in liability actions for damages caused by the application of legislation that infringes EU law. Moreover the Spanish Supreme Court will have to extend the 'sufficiently serious breach test' as a condition for the right to damages for infringements of EU law to liability actions for breaches of the constitution by the legislator.

In '*Sed fugit interea fugit irreparabile tempus – time limits under English law, the requirement of 'promptness' and the scrutiny of the Court of Justice of the European Union*', Mariolina Eliantonio discusses the case of *Uniplex*. In *Uniplex* the ECJ finds that the requirement of 'promptness' in the English system of time limits in the area of public procurement is inconsistent with the effectiveness requirement. According to a decision of the ECtHR from 2001 the same time limit was not in breach of Article 6 ECHR. In this regard, Luxembourg offers more legal protection than Strasbourg.

Finally, we would like to mention that as from January 1st 2011 the publication of *REALaw* will be continued by *Paris Legal Publishers*. The editors greatly acknowledge the role *Europa Law Publishing* played during the initial 'growing up' phase of our journal and are looking forward to continue to develop *REALaw* with our new partner.

The Editors, Groningen & Utrecht