From the Editors

On 3 June 2009, the First *REALaw* Research Forum took place in Groningen. The main purpose of this one-day conference was bringing together researchers in the field of European administrative law to create an opportunity for submitting papers and to encourage exchange between scholars on the rich variety of topics which are hiding behind the rather general label 'European administrative law'. An equally important aim of the forum was to give 'young talent' the opportunity to present their work, often work in progress, as the papers presented related in many cases to a part of ongoing PhD research.

An important part of the papers that have been selected after the Forum for publication are contained in the present volume, a special issue of *REALaw* that appears in the European Administrative Law Series, a monograph series that runs parallel to the journal. One or two other contributions might be published later in the regular spring issue of the review in 2010.

Sticking closely to the central mission of *REALaw* as journal, the theme of the Research Forum was the mutual (top-down *and* bottom-up) relation of EU administrative law and national administrative law. Some of the papers are more top-down, others combine the top-down – bottom-up perspective. Some authors brought in a new dimension, namely 'learning from the overseas': in their proposal for a European Administrative Procedure Act, *Anne Meuwese, Ymre Schuurmans* and *Wim Voermans* draw upon the experiences with the Administrative Procedure Act (APA) in controlling the U.S. administration and the federal agencies. In combining these experiences with two problematic areas in the EU administration, i.e. the preparation of regulation and the position of agencies, they propose a European APA 'light', an Act with a limited application, namely at the EU level only.

In his paper on 'Seven Challenges for EU Administrative Law' *Herwig Hofmann* searches for a new perspective of looking at European administrative law. Instead of following the somewhat limited 'hierarchical federal-constitutionalist' line of thought, the author proposes to look at the somewhat chaotic reality of legal relationships in EU public law. Central in his analysis is the functioning, the organization and the accountability of mixed 'EU/national' administrative networks. An overall understanding of how these networks operate, going beyond an analysis of the various sectors that have taken place until now, is necessary in order to develop an appropriate administrative-law framework that responds better to the challenges at stake, since the current formal rules are seriously lagging behind the reality.

A central theme in the papers of *Johan Wolswinkel* and *Anna Gerbrandy* is the interaction between European and national law. Wolswinkel explores the European law requirements that govern or at least set a limit to allocation systems used for the award of authorisations in areas where only a limited number of authorisations is available. In combining the provisions

of the Services Directive with the rules laid down in the area of electronic communications services (radio frequencies) and gambling activities, he constructs a general legal framework. The paper also shows how, under the influence of European law, the legal framework for authorisation schemes is profoundly changing. The ultimate question of Gerbrandy's paper is whether there exists a spontaneous bottom-up convergence in administrative competition law that may lead to a procedural *ius commune*. In search for the answer she takes as a point of departure the existing convergence in substantive competition law, i.e. the fact that Dutch substantive competition law is closely modelled on European competition law. Next, her analysis of a number of cases from the Dutch competition law jurisprudence – on standing and evidential rules – shows that substantive convergence may indeed be followed by procedural convergence. Yet, it is far from certain whether such processes are sufficiently strong to create *ius commune* rules in the area of competition law, a *ius commune* that could counterbalance efforts to harmonise the domain at stake top-down.

Herman van Harten's approach is in essence 'horizontal' in the sense that his main focus is the relationship between national courts: national courts do not necessarily turn to the ECJ for guidance but search inspiration in the case-law of other domestic courts. This phenomenon, labeled by the author as 'national European law precedents', is obviously not unproblematic, last but not least because it is a new notion that needs further elaboration. In this respect the paper addresses a number of highly relevant questions. The discussion is limited to European case-law of Dutch courts. However, it is no secret that the potential of 'national European case-law' may reach much further, as Van Harten observes. As the preliminary procedure will in the future inevitably get stuck, at least if no drastic measures are taken, European law decisions of other national courts – and why not also from other Member States? –, might develop into a viable alternative.

In his paper, Van Harten observes that there is too little attention paid to what is actually happening with European law in national courts, which is, in his view, rather unsatisfactory. In the same vain, *Roberto Caranta* breaks a lance for more attention for national law but then from a comparative perspective. In his view, the role of comparative law is quintessential for building an integrated legal order where convergence occurs: a robust flow of information and exchange between the constituent parts for the benefit of the actors concerned – last but not least the judiciary – will greatly support this process. The author suggests a number of concrete areas where comparative research should take place and from which European administrative law could also benefit. It will probably not come as a surprise that the suggestions are strongly supported by the editors!

The editors, Groningen & Utrecht