

Taking back control? How domestic ministries respond to the autonomizing effect of European Regulatory Networks

Abstract

This paper discusses the effects of European Regulatory Networks on the organizational autonomy of participating National Regulatory Agencies. Based on a broader concept of the term autonomy than hitherto applied in the literature on this topic, this paper examines whether national governments have introduced additional control mechanisms on National Regulatory Agencies to compensate for their increased autonomy due to their participation in European Regulatory Networks. The semi-structured interviews, conducted in the Dutch Authority for Consumer and Market and its oversight ministry, have led to a rejection of the hypothesis. There is no evidence that the Dutch Ministry of Economic Affairs and Climate has introduced additional control mechanisms to compensate for the increased autonomy of the Authority for Consumer and Market, gained from participation in the European Competition Network. Nevertheless, this paper provides a stimulating starting point for further research.

Keywords

European Regulatory Networks, national regulatory agencies, organizational autonomy, European Competition Network, multilevel governance

Introduction

The context in which national regulatory agencies (NRAs) in member states of the European Union (EU) operate has changed considerably (Trondal, 2011, p.56). Those agencies cooperate with ‘sister-agencies’ in other member states that operate within the same policy area in issue-specific networks of national agencies (Coen & Thatcher, 2008; Mathieu, 2016), in the literature referred to as European Regulatory Networks (ERNs).¹ This cooperation between NRAs occurs inter alia in the realm of implementation and enforcement of European law (Mastenbroek & Martinsen, 2017). Examples of policy areas where ERNs have emerged are competition (Danielsen & Yesilkagit, 2014; Kassim & Wright, 2010; Wilks, 2005), energy (Eberlein & Newman, 2008) and environment (Martens, 2008a; Martens, 2008b). Accordingly, NRAs now act in a complex interplay between their parent ministry, the

¹ The literature identifies different types of those networks: European Regulatory Networks which have been established by the European Commission through legislative acts and informal transgovernmental networks which have been arisen from more spontaneous initiatives of national regulatory agencies (Migliorati, 2017). This article uses the term European Regulatory Network, as the network that is central in this article, the European Competition Network, has been created by a regulation of the European Commission (Wilks, 2005).

Commission and 'sister agencies' in other member states, whereas they only served their parent ministry in the past (Egeberg & Trondal, 2009).

NRAs have thus not been unaffected by their participation in ERNs. A growing body of scientific literature reported on how participation in ERNs has affected involved NRAs. The focus of this literature has mostly been on the autonomy of NRAs vis-à-vis the ministry that they serve (Bach & Ruffing, 2013; Bach, Ruffing & Yesilkagit, 2015; Danielsen & Yesilkagit, 2014; Maggetti, 2007; Maggetti, 2014; Newman, 2008; Yesilkagit, 2011). Without exception, the results indicate that involvement in the European policy-making process has granted NRAs more autonomy vis-à-vis national governments. For instance, Bach & Ruffing (2013) found that involvement in the supranational policy-making process yields a positive effect on the policy autonomy of federal agencies in Germany and Danielsen & Yesilkagit (2014) concluded that the European Competition Network (ECN) has an 'autonomizing' effect on participating NRAs in the Netherlands, Sweden and non-EU member state Norway.

Despite the growing attention for this autonomizing effect of ERNs on participating domestic agencies, the literature in this area reveals a shortcoming, i.e., that the conceptualization of the concept autonomy has arguably been too narrow. So far, the literature has considered solely the effect of participation in ERNs on involved agencies' autonomy during the act of policy formulation and implementation. However, autonomy of an agency refers *inter alia* also to the extent to which the agency must report to the government on its activities or the extent to which an agency is financed by the government (Verhoest, Peters & Bouckaert, 2004, p.107-8). By decreasing these two dimensions of an agencies' autonomy, a government can curb the autonomy of an agency during policy-formulation and policy-enforcement. Autonomy can thus relate to the decision-making competences of an agency and to constraints by the government on the actual use of those competences (*ibid.*). The existing literature on the effects of ERNs provided evidence for the autonomizing effect of ERNs on involved NRAs, but has not examined whether national governments introduced additional control mechanisms to compensate for the increased autonomy of NRAs. This article overcomes this shortcoming by investigating whether the increased autonomy of NRAs during the act of policy

formulation and implementation is accompanied by additional control mechanisms by the government.

This article applies principal-agent (P-A) theory to hypothesize that the increased autonomy of Europeanized NRAs has motivated national governments to introduce additional control mechanisms to compensate for the NRA's increased autonomy. Involvement in ERNs grants involved agencies more expertise compared to their national government. In practice, that expertise causes an enlargement of the monitoring problem that is illustrated by P-A theory (Lane, 2009), which means that the monitoring problem is enlarged by Europeanization (Ruffing, 2015). To compensate for the monitoring problem, governments may opt for additional control mechanisms to monitor the agency, e.g. by introducing more reporting requirements for the agency or to adjust the scope of powers delegated in the founding statute (Maher, 2009). The central hypothesis of this article is thus that the increased autonomy of NRAs, due to participation in ERNs, has led to the establishment of additional control mechanisms to the existing mechanisms by the government to which those NRAs report.

This article attempts to provide evidence for this hypothesis. The aim of this study is thus to examine whether governments have introduced additional control mechanisms on NRAs to compensate for their increased autonomy, due to participation in ERNs, to provide the foundation for further research on the effects of ERNs on the relation between participating NRAs and their government. Accordingly, this suggests that more dimensions of the term autonomy should be considered in the research on the effects of ERNs on participating NRAs, than solely the agencies' autonomy during the formulation and implementation of EU policy. To achieve the aim of this article, the following question will be answered: *To what extent has the increased autonomy of national regulatory authorities, resulting from participation in a European Regulatory Network, led to additional control instruments introduced by the government to remain able to control the national regulatory agency?*

Examining NRAs in the European context is relevant for three reasons. Firstly, the incorporation of networks of NRAs into the supranational policy-making process in the EU has

facilitated domestic agencies to play an important role in that process (Eberlein & Newman, 2008). As this enables NRAs to influence the development and implementation of EU law, it is relevant to concentrate on what that role exactly is. Second, the ability of national politicians to control and steer national regulatory agencies that act at the supranational level might be challenged by agencies' participation in ERNs (Danielsen & Yesilkagit, 2014). It is important to examine whether this is correct, as that signifies that ERNs might undermine national democratic control of NRAs by altering the relationship between agencies and their parent ministry (ibid.). This would be an undesirable and unforeseen circumstance of NRAs participation in ERNs. Finally, this paper contributes to the literature by extending the knowledge on effects of ERNs on involved agencies, by using a broader approach of the term autonomy.

This article proceeds as follows. First, the theoretical framework starts with elaborating on the relation between the ECN and its national members, applying P-A theory. Second, inspired by the taxonomy of organizational autonomy of Verhoest et al. (2004), this article will argue that the literature on the effects of ERNs so far has not focused on the reaction of national governments to the increased autonomy of NRAs, gained from involvement in ERNs. Fourth, the data and research method will be elaborated. Next, this paper will provide the empirical analysis and conclusions of this research, followed by a connection of those conclusions to earlier research and recommendations for further research.

Theoretical framework

This section provides the theoretical foundation of the central hypothesis of this article. First, applying P-A theory, this part deals with how delegation of authority by national governments in the EU occurs and which problems this provokes for domestic ministries. Afterwards, this section elaborates on a broad conceptualization of the term autonomy, providing possible additional control mechanisms that domestic ministries may invoke to compensate for problems to control and steer NRAs.

P-A theory encompasses all kinds of contractual relationships where governments outsource the delivering of public goods to external organizations (Lane, 2009). Governments can opt for

outsourcing tasks, for example in order to profit from expertise, to stimulate efficient policy implementation and enforcement or to ensure consistent policy-implementation over the electoral cycle (Pollack, 1997, p.103). This contractual relationship describes the relation between the government and a NRA that is central in this article.

The outsourcing of tasks, however, might not remain without unforeseen consequences. The outsourcing of tasks from the principal towards the agent causes information asymmetry, i.e., a situation where the government does not know all the alternatives of action of the agency (Lane, 2009). This inability to oversee all actions of an agency is the cause for the central problem of transferring authority, described by P-A theory, i.e. bureaucratic drift (Pollack, 1997, p.8). This refers to the situation where the agent may advance its own interests rather than those of the principal.

To compensate for the monitoring problem that arises from the information asymmetry results from agencification, governments have different options to introduce additional control mechanisms. First, control can be exerted by oversight of the agency through audits, reviews by parliamentary subcommittees or annual reporting requirements (Maher, 2009). These oversight procedures allow principals *ex post* to influence agency behavior by applying positive or negative sanctions and mitigating the asymmetrical distribution of information in favor of the agency (Pollack, 1997). Verhoest et al. (2004) refer to these oversight procedures as interventional autonomy. Second, control can be exercised over the agent through effective design of procedural rules without need for strong oversight (Maher, 2009). In contrast with oversight procedures, these procedural rules define *ex ante* the scope of agency activity (Pollack, 1997). This coincides with the elements of interventional autonomy (Verhoest et al., 2004) that refer to the *ex ante* control on agencies, i.e. the setting of goals of the agency. Third, control can be exerted in other ways including allocation of resources, the scope of powers delegated in the founding statute (*ex ante*), or even politicians briefing against an agency or its policy in the media (*ex post*) (Maher, 2009).

The monitoring problem that is described by P-A theory is even more likely to occur when Europeanized NRAs are involved. In delegating authority in policy areas where the EU has

competences, national governments are the principals that have outsourced tasks. In this context, governments have transferred authority in two directions, namely to supranational institutions and to domestic NRAs. This two-level delegation is referred to as 'dual delegation' (Eberlein & Newman, 2008, p.32). The domestic NRAs have become part of the supranational policy-making process by participating in ERNs. The involvement in the supranational policy-making process through participation in ERNs complicates the monitoring of NRAs by governments, since ERNs grant involved agencies more expertise vis-à-vis their government. Hereby, the information asymmetry between the government and the ministry is increased. Therefore, the Europeanization of NRAs enlarges the monitoring problem that is described by P-A theory (Ruffing, 2015).

Consecutive to the supranational policy-making process wherein Europeanized NRAs are involved, there is another rationale for governments to introduce additional control mechanisms, i.e. to attempt to cope with the coordination dilemma that accompanies NRA's involvement in ERNs (Egeberg & Trondal, 2016). This rationale does not relate to information asymmetry, as is the case for the monitoring problem that is described by P-A theory. The coordination dilemma has emerged since national regulatory agencies, in addition to serve national ministries, have become part of a multilevel European administration and thus operate under a second 'hat', namely that of the Commission (ibid.). This may cause steering problems for governments on NRAs, as strong coordination across levels may counteract strong coordination at the national level (ibid.). In other words, NRAs that participate in ERNs have become harder to steer by national governments. National ministries can either live with the coordination dilemma or realize additional organizational arrangements in an answer to it.

Whereas in the literature on the effects of ERNs on participating NRAs authors have focused on the positive effects on the autonomy of NRAs during the act of policy formulation or policy implementation, the potential additional control mechanisms that governments may establish to cope with that increased autonomy have been neglected so far. The next paragraph concentrates on a broader approach to the concept of autonomy, outlining dimensions of autonomy that may serve as additional control instruments. Thereby, the next part reveals the multidimensional nature of

autonomy that is significant in investigating the autonomizing effect that ERNs yield on its participating NRAs.

The taxonomy of the concept organizational autonomy of Verhoest et al. (2004), consisting of six dimensions (see table 1), provides a broad approach to autonomy. Despite the overlap among the six dimensions, Verhoest et al. (2004) offered a clear distinction between two sorts of organizational autonomy. On the one hand, autonomy can refer to the level of decision-making competences of an agency. This form of autonomy has two underlying dimensions, i.e., managerial and policy autonomy. Managerial autonomy concerns decisions about the use of inputs, e.g., allocation of the budget or the selection of employees. Policy autonomy involves decision-making power about the use of policy instruments or about outcomes to be reached by the policy (ibid.). On the other hand, governments may use various instruments to influence the actual decision-making of an agency, even when this agency has full managerial and policy autonomy. Autonomy here relates to the extent to which the government exerts constraints on the actual use of these decision-making competences. This type of autonomy can be split up in four dimensions, i.e., structural, financial, legal and interventional autonomy (ibid). Table 1 provides an overview of the taxonomy of organizational autonomy by Verhoest et al. (2004).

Table 1: Taxonomy of organizational autonomy (Source: Verhoest et al., 2014)

	Autonomy as decision-making competences		Autonomy as the level of constraints by the government on the actual use of the decision-making competences			
	Managerial autonomy	Policy autonomy	Structural autonomy	Financial autonomy	Legal autonomy	Interventional autonomy
Description	Autonomy in making decisions concerning managerial actions (e.g. financial management or selection of employees.	Autonomy in making decisions concerning the structure and content of the primary production process, policy instruments and outputs.	The extent to which the agency head is appointed by the government and to which the government is represented in an eventual supervisory board	The extent to which an agency is funded by the government	The extent to which the agency is a part of central government	The extent to which the agency has reporting requirements to central government and is subjected to evaluation or audits commissioned by central government

The multi-dimensional nature of organizational autonomy has often been neglected in research on agency autonomy. To demonstrate that most dimensions of autonomy have not been considered in literature on agency autonomy, Verhoest et al. (2004) compared the conceptualization of agencies' autonomy in ten articles to the dimensions of organizational autonomy in their taxonomy. They found that there are roughly two groups of articles in research on organizational autonomy: articles in which organizational autonomy is measured as the legal status of an agency and articles in which solely the managerial autonomy of an agency is stressed. This clarifies that most dimensions of the taxonomy of Verhoest et al. (2004) have not been considered in research on organizational autonomy.

Verhoest et al. (2004) found evidence for the importance of considering multiple dimensions of organizational autonomy in a case study. First, by only focusing on the formal-legal status of an agency, a study may provide an untrue picture of the agencies' organizational autonomy. A more independent formal-legal status implies more autonomy across the six dimensions, but this only positively affects the dimension of managerial autonomy (ibid.). Secondly, tensions may arise between

different aspects of organizational autonomy. For example, a high level of policy autonomy may only affect the performance of an agency when managerial autonomy is present as well. Hence, if managerial autonomy is left out of consideration, one cannot be certain that policy autonomy affects the decision-making competences of an agency (ibid.).

The body of literature on the autonomizing effect of ERNs on involved agencies also leaves dimensions of organizational autonomy out of consideration. In publications on this topic, scholars have mainly examined the effect of ERNs on the policy autonomy of participating NRAs. However, whether national governments have decreased other dimensions of the agencies' autonomy to influence the decisions of the agencies about inter alia policy instruments, has not been examined yet. Most authors (Bach & Ruffing, 2013; Bach et al., 2015; Danielsen & Yesilkagit, 2014; Maggetti, 2014; Newman, 2008; Yesilkagit, 2011) focused solely on the autonomy of agencies during the act of policy formulation and implementation. However, Maggetti (2007, p.272) did state that the de facto independence of regulatory agencies consists of two components, namely the self-determination of agencies' preferences and their autonomy during the act of regulation. Comparing with the taxonomy of Verhoest et al. (2004), autonomy during the act of regulation refers to policy autonomy, but the self-determination of agencies' preferences is not to be associated clearly with the taxonomy. Table 2 displays the dimensions of organizational autonomy that have been considered in the literature on Europeanization of national regulatory agencies, presenting evidence for the fact that there is a gap in the literature.

Table 2: The taxonomy of Verhoest et al. (2004) applied to literature on Europeanization of national regulatory agencies

	Autonomy as decision-making competences		Autonomy as the level of constraints by the government on the actual use of the decision-making competences			
	Managerial autonomy	Policy autonomy	Structural autonomy	Financial autonomy	Legal autonomy	Interventional autonomy
Bach & Ruffing (2003)		x				
Bach, Ruffing & Yesilkagit (2015)		x				
Danielsen & Yesilkagit (2013)		x				
Maggetti (2007)	(x)	x				
Maggetti (2014)		x				
Newman (2008)		x				
Yesilkagit (2011)		x				

In accordance with the taxonomy of Verhoest et al. (2004), a distinction between autonomy as decision-making competences and autonomy as the level of constraints by the government on the actual use of those competences is significant in research on the ‘autonomizing’ effect of ERNs. This gives insight in to what extent Europeanized agencies are able to employ their increased autonomy and whether national governments establish additional control mechanisms to remain able to control the behavior of those agencies. To construct a comprehensive image of the autonomizing effect of ERNs, this paper will focus on the four underlying dimensions of autonomy as the constraints that governments may introduce on the use of the increased policy autonomy of NRAs, i.e., structural, financial, legal and interventional autonomy. Hence, where the literature on the effects on ERNs has focused on autonomy as decision-making competences, this paper attempts to render it plausible that national governments constrain the increased autonomy of NRAs that participate in ERNs. Accordingly, and for the specific case that is central in this paper, the central hypothesis is as follows:

h1: The increased autonomy of a national regulatory authority, gained from participation in a European regulatory network, has led to the introduction of additional control instruments by the government to remain able to control and steer the national regulatory agency.

To be able to test this hypothesis, a causal chain should be observable that uncovers how the increased autonomy of NRAs, gained from participation in ERNs, has motivated national governments to introduce additional control mechanisms. Based on the existing literature on the autonomizing effect of ERNs on participating NRAs, this causal chain assumes that the increased autonomy of NRAs as a result of involvement in ERNs has been demonstrated. The causal chain thus begins at the point where an NRA has already gained autonomy from participation in ERNs.

To render it tenable that this increased autonomy has led to the introduction of additional control mechanisms and the central hypothesis thus contains a causal chain, the intermediate steps must be examined through process-tracing (Beach & Pedersen, 2013, p. 4). Those intermediate steps should contain possible problems in the relation between the government and an NRA that the government aims to resolve by establishing extra control instruments. Pollack (1997) describes two potential problems that might occur between principal and agent as a result from delegation, i.e., bureaucratic drift and slippage. Bureaucratic drift occurs when agents act opportunistically, pursuing their own interests restrained only by their relationship with the principal (ibid., p.108). Slippage refers to the situation when the structure of delegation itself provides incentives for the agent to behave in ways opposed to the preferences of the principals (ibid., p. 108). The difference is thus that, concerning bureaucratic drift, the behavior of the agent is the source for a discrepancy between the interests of the principal and that what is pursued by the agent. Thus, the structure of the delegation structure does not change when bureaucratic drift occurs, whereas this is true for the situation where slippage occurs.

Considering the relationship between a ministry and an NRA that participates in an ERN, it is more likely to observe slippage than bureaucratic drift. This statement results from the fact that the source that possibly leads to a discrepancy between the interest of the principal and the goals of the

agent here is the structure of delegation. This is substantiated by the fact that the structure of delegation has been affected by an NRA's participation in an ERN, since 'Europeanization increases the monitoring problems of ministries and control becomes more and more resource-consuming' (Ruffing, 2013, p.1115). The intermediate steps in the causal chain that help to corroborate the central hypothesis in this article, must thus search for problems in the relationship between ministry and NRA that are related to slippage. Following the definition of slippage of Pollack (1997, p. 108), those intermediate steps must hence be related to changes in the structure of delegation, such as an increased monitoring problem, originated from the NRA operating at the supranational level.

In sum, the causal chain thus runs as follows. First, the increased autonomy of an NRA vis-à-vis the ministry, gained from participation in ERNs, has given the NRA the opportunity to pursue its own interests rather than those of the ministry. Second, the NRA has operated according to its own preferences or interests instead of to the ministry's preferences or interests, which has led to specific situations which motivated the ministry to regain its ability to steer the NRA. The slippage of the NRA has possibly led to undesirable results for the ministry of the NRA's activities in an ERN, to reputation damage for the minister resulting from the behavior of the NRA in an ERN, or to unexpected costs for the ministry due to the conduct of the NRA in an ERN. Third, to compensate for these consequences of slippage of the NRA, the ministry has introduced additional control mechanisms to regain its ability to control and steer the NRA. Those intermediate steps lead to the following hypotheses, which together form the causal chain that should be visible in order to corroborate the central hypothesis of this article:

h1a: The national regulatory authority has employed its increased autonomy, gained from participation in an European regulatory network, to pursue its own interests rather than those of the government.

h1b: The slippage of the national regulatory authority has led to specific situations which motivated the government to regain its ability to steer the national regulatory agency.

h1c: The government has introduced additional control mechanisms on the national regulatory agency in order to regain its ability to control and steer the activities of the agency in an European regulatory network.

The additional control mechanisms that are examined to test hypothesis h1c correspond to four dimensions of organizational autonomy of the taxonomy of Verhoest et al. (2004). These are, according to Verhoest et al. (2004), the dimensions of autonomy as the level of constraints by the government on the actual use of the decision-making competences of an agency, i.e., structural autonomy, financial autonomy, legal autonomy and interventional autonomy.

Case selection

This section clarifies the selection of the ERN that is central in this article and why this ERN is suitable to test the central hypothesis, the ECN. Furthermore, this section elaborates on the preference for the Dutch member of the ECN, the Authority for Consumer and Market (ACM).

The selection of the ECN is based on the expectation that the ECN exerts a strong autonomizing effect on involved NRAs compared to other ERNs, which will be further clarified in this section. Hence, because of that strong autonomizing effect, the oversight ministries of national competition authorities that participate in the ECN are more likely to constrain the NRAs increased autonomy than oversight ministries of NRAs that participate in other ERNs. The assumption that the ECN exerts a strong autonomizing effect is founded on two arguments.

First, the ECN possesses more powers and responsibilities than other ERNs and has a broader scope of action, given the importance of enforcement of competition policy (Blauberger & Rittberger, 2015; Kassim & Wright, 2010; Kekelekis, 2009; Maher, 2009; Wilks, 2005; Wilks, 2007). Although ERNs are the most formalized type of networks in the regulatory apparatus of the EU (Coen & Thatcher, 2008), most of them have limited resources and are highly constrained (Kassim & Wright, 2010). The broad scope of action and the fact that the ECN has more competences than other ERNs provides the NRAs with substantial information and expertise that enlarges the information asymmetry between

those NRAs and their oversight ministries. Therefore, it is likely that the autonomizing effect that the ECN yields on its participants is relatively strong.

Second, the ECN operates in a well-institutionalized supranational policy domain (Danielsen & Yesilkagit, 2014). This indicates that the EU's competences in competition policy were long-established when the ECN was created, whereas in other areas ERNs were created to coordinate the actions of regulators in policy areas that were recently transferred to the EU level (Blauberger & Rittberger, 2015; Kassim & Wright, 2010). As competition is a well-institutionalized policy domain of the EU, the actors in this policy domain at the supranational level presumably affect national actors in competition policy greatly. This assumption is based on the fact that the well-institutionalized nature of the competition policy at the EU level makes that national competition authorities that operate at the EU level obtain relatively great expertise. The EU possesses this expertise, due to the fact that competition is a major and long-established competence of the EU. The obtained expertise in turn affects the relationship between NRAs and their oversight ministries. Hence, this argumentation renders it plausible that the ECN affects the autonomy of involved national competition authorities considerably, compared to the extent to which other ERNs affect its participating NRAs.

The involved NRA in the ECN central in this article is the Dutch Authority for Consumer and Market (ACM). The decision to focus on the ACM is again based on two arguments. First, existing results have already demonstrated the autonomizing effect of the ECN on the ACM, concerning the policy autonomy of the ACM. Danielsen & Yesilkagit (2014) concluded in a case study on the effects of the ECN on involved national competition authorities in The Netherlands, Sweden and Norway that the ECN yields an autonomizing effect on its participants. As this article investigates how domestic ministries respond to the increased autonomy of Europeanized agencies, it is a requirement for the case selection that the increased autonomy of the NRA that is central in this article has already been proven. Second, the Dutch competition authority belongs to the most active members of the ECN (Wilks, 2007), with only the French and German members of the ECN being more active. For this reason, it is plausible that the relationship between the ACM and its oversight ministry has been

affected greatly by the participation of the ACM in the ECN, as the expertise of the ACM vis-à-vis its oversight ministry is enlarged by its active role in the ECN. Consequently, the ACM is suitable to examine how its oversight ministry has reacted to this enlarged expertise of the ACM.

Consequently, the ECN is a crucial case to test the hypothesis that is central in this paper. A crucial case is a case that is most or least likely to exhibit a given outcome and is used for hypothesis-testing, either confirmatory or disconfirmatory (Gerring, 2008, p.651). For the reasons described above, the ECN is likely to exert a strong autonomizing effect on involved NRAs. Hence, the ECN is most likely to exhibit the effect that this paper attempts to encounter. Regarding the representativeness of this case for other ERNs, it is difficult to assess whether the findings are applicable to other ERNs. On the one hand, the results of this paper are expected to be generalizable to other networks of which the autonomizing effect has been proven (Bach & Ruffing, 2013; Bach et al., 2015; Maggetti, 2007; Maggetti, 2014; Newman, 2008; Yesilkagit, 2011). Namely, following P-A theory, the increased autonomy of NRAs gained from participation in ERNs in general motivates national governments to establish additional control mechanisms on the NRAs. On the other hand, the ECN is different than other ERN's for possessing more resources and competences, thus it is no *fait accompli* that other ERNs yield the same effects. Therefore, the theoretical foundation of this article is best understood as probabilistic.

Data and methods

The most appropriate research method to examine the consequences of involvement in ERNs on a participating NRA is a case study, which will be explained in this section. This section elaborates further on this method in general, why it is suitable to achieve the goal of this paper and discusses the operationalization of the research variables and the method of data-collection and data-analysis.

This paper examines with a case study to what extent the ECN has affected the organizational autonomy of the ACM towards the Dutch Ministry of Economic Affairs and Climate (*Ministerie van Economische Zaken en Klimaat, hereafter: EAC*), concerning the department that are entrusted with competition policy. The preference for this research method is driven by two arguments, both of which

related to the causal mechanism that explains how the ECN may yield an effect on the ACM. First, for establishing the credibility of a causal relationship within a single case, the internal validity of a paper must be well-assured, and this is often true for case studies (Gerring, 2008). Second, a case study allows a researcher to open the black box of causality and to establish the intermediate factors lying between X and Y (ibid.), to verify whether the causal mechanism is present.

To examine whether involvement in the ECN has motivated the Dutch ministry of EAC to constrain the ACM to use its acquired autonomy, semi-structured interviews were conducted with staff of the ACM and the ministry of EAC. Semi-structured interviews allow for obtaining in-depth evidence needed to find an indication for a causal mechanism. Moreover, semi-structured interviews provide the researcher room to be flexible in order to increase the internal validity of this paper. This is also relevant as this paper aims to find an effect over a larger amount of time, namely of the involvement of the ACM in the ECN.

The interviewees were both officials from the ACM and from the ministry (EAC). They had to be knowledgeable about the involvement of the ACM in the ECN as a result of holding a central function in the organization or being entrusted with tasks related to the EU. This condition led to four interviews that provided a thorough insight in the participation of the ACM in the ECN and the relationship between the ACM and EAC. The two interviewees in the ACM are respectively responsible for the coordination of the activities of the ACM within the ECN and for the department for international activities of the ACM. The two interviewees in EAC are in charge of competition policy and oversight of the ACM. Hence, combining the insight that is provided by these interviewees has led to a reliable dataset, since all relevant information on the participation of the ACM in the ECN are present as well as on the relationship between the ACM and EAC. The interviews were conducted in Dutch and the results were translated to English for quotation. By assuring the anonymity of the interviewees, socially desirable answers were prevented as much as possible. The interviews consisted of questions that the interviewees were supposed to answer in a uniform manner and each question

let space for additional remarks. By combining the results, a dataset was generated which allows for an in-depth analysis of the gathered information.

The data were analyzed using process-tracing. This means that intermediate factors between the independent variable and the dependent variable were explored that make it plausible that a causal mechanism is present between the independent and dependent variable. Process-tracing methods are instruments to study causal mechanisms in a single-case research design (Beach & Pedersen, 2013, p. 4). In contrast to most small-*n* case study methods that attempt to make cross-case inferences about causal relationships, process-tracing seeks to make within-case inferences about the presence or absence of causal mechanisms in single case studies (ibid.). Since this paper entails solely one case study in which within-case inferences about causal mechanisms are attempted to make to support the hypotheses, process-tracing is the most suitable method to make such inferences (ibid.). Moreover, a qualitative approach such as process tracing is convenient here, since statistical methods are not designed to observe mechanisms within particular cases (Goertz & Mahoney, 2012, p.101).

Operationalization

In order to test the hypotheses, the research variables and the causal mechanism must be operationalized. The dependent variables are structural autonomy, financial autonomy, legal autonomy and interventional autonomy and the independent variable is participation in the European Competition Network. This section commences with the operationalization of the research variables, first the dependent variables and afterwards the independent variable.

The first dependent variable is structural autonomy, i.e., the extent to which the head of the ACM is appointed by EAC and to which EAC is represented in an eventual supervisory board (Verhoest et al., 2004, p.107-8). EAC may have decreased this to control the ACM by influence its decisions through hierarchical and accountability lines towards head of ACM or through the supervisory board. The indicators that measure structural autonomy are as follows. First, what is the composition of the supervisory board of the ACM? And second, what is the share of representatives of government on the

total number of representatives (ibid.)? Changes in the composition of the board have been considered.

The second dependent variable is financial autonomy and refers to the extent to which the ACM is financed by EAC (Verhoest et al., 2004, p.107-8). By decreasing this dimension of organizational autonomy, EAC could exert control by influencing the decisions of the ACM by reducing or increasing the level of budget granted to the ACM. The following indicators serve to measure the financial autonomy of the ACM. Does the ACM receive income from budget allocation of EAC and how much, from transfers from other public authorities, from self-raised taxes, from selling products and services, from gifts, sponsoring and memberships or from other sources (ibid.)?

The third dependent variable is legal autonomy and concerns the extent to which the ACM is legally seen a part of EAC (Verhoest et al., 2004, p.107-8). By changing the legal status of the ACM, EAC might exert more or less control on the ACM. Two indicators serve to measure the legal autonomy of the ACM. The first indicator is whether the ACM has a legal personality and the second is what type of legal personality the ACM has, i.e. whether the ACM has a legal personality under public law, under private law or a hybrid form (ibid.).

The fourth and last dependent variable is interventional autonomy and refers to the extent to which the agency has reporting requirements to central government and is subjected to evaluation or audits commissioned by central government (Verhoest et al., 2004, p.107-8). EAC may have chosen to decrease the interventional autonomy of the ACM to exercise control by influencing the decisions of the ACM by the means of reporting requirements, evaluation and auditing provisions against externally set goals and norms and by (the threat of) sanctions or direct interventions. Six indicators serve to assess the degree of interventional autonomy (ibid.). First, does the organization have influence in the setting of goals and norms of the organization? Second, what do the indicators measure to assess organizational results? Third, is the performance of the organization measured? Fourth, is the performance of the organization evaluated by the government? Fifth, is the organization subject to

sanctions and rewards in case of good or bad performance? Sixth, is the organization subject to audits (ex post), and if so, is the organization audited by the oversight authority?

Table three displays the operationalization of the dependent variables. As this paper aims to find evidence for the hypothesis that Europeanization of the ACM has resulted in changes in one or more of the dependent variables, interviewees will be asked whether the indicators of the dependent variables have changed over the course of the last decade. As the dependent variables are examined qualitatively, no numerical scores will be assigned. To be transparent on how the interviews led to the conclusion of this paper, relevant statements of the interviewees will be quoted in the results section.

Table 3: Operationalization of the dependent variables

Variable	Indicator
Structural autonomy	i. The composition of the supervisory board
	ii. The share of representatives of the government of the total of representatives
Financial autonomy	i. Does the organization receive income from budget allocation of the oversight authority and how much?
	ii. Does the organization receive income from other public authorities, from self-raised taxes, from selling products and services, from gifts, sponsoring and memberships or from other sources?
Legal autonomy	i. Is the organization legally considered part of the oversight authority?
Interventional autonomy	i. Does the organization have influence in the setting of goals and norms of the organization?
	ii. What do the indicators measure to assess organizational results?
	iii. Whether the performance of the organization is measured
	iv. Whether the performance of the organization is measured by the government
	v. Whether the organization is subject to sanctions and rewards in case of good or bad behavior?
	vi. Whether the organization is subject to audits (ex post), and if so, whether the organization is audited by the oversight authority

The independent variable is the involvement of the ACM in the ECN. Although this can be considered a fact, the involvement of the ACM in the ECN will still be measured as there are considerable differences in the extent to which members of the ECN are actually involved in that network (Wilks, 2007). This will be measured by four indicators, based on Bach & Ruffing (2013). This paper follows their operationalization, as that entails both the formal and informal dimension of EU involvement and both the ex-ante dimension and ex-post dimension. To this end, the four indicators

to measure the independent variable are as follows. First, to what extent does the ACM participate in meetings of the ECN? Second, to what extent does the ACM consult colleagues within the ECN in other member states? Third, to what extent does the ACM prepare the Dutch position for meetings of the ECN? Forth, to what extent has the ACM a role in the implementation of European legislation into Dutch legislation and to what extent has the membership of the ACM in the ECN in doing so?

With the research variables being operationalized, this article proceeds to the operationalization of the causal mechanism. The first step is the ACM pursuing its own interests rather than those of EAC, using its increased autonomy gained from participation in the ECN. The indicators to determine this is to what extent the ACM has pursued its own interests rather than those of EAC and to what extent has that been possible due to expertise that is gained from involvement in the ECN. The second step is an instance of a specific situation where the ACM did not act in line with the interests of EAC which motivated EAC to regain its ability to steer ACM. This is measured by two indicators. One, to what extent has a certain moment motivated EAC to establish additional control instruments on the ACM to regain its ability to control the ACM? Two, what was the role of the increased autonomy of the ACM, gained from participation in the ECN? The third step is the establishment of additional control instruments by EAC on the ACM, with the purpose to regain its power to control and steer the ACM. The four indicators to measure the last step is whether EAC has decreased at least one of the dependent variables, i.e., the structural, financial, legal or interventional autonomy of ACM, in order to get grip on the steering problem. Table four provides an accessible overview of the indicators to measure the intermediate steps of the causal mechanism.

Table 4: The intermediate steps of the causal mechanisms

Step in the causal mechanism	Indicator
The ACM pursuing its own interests rather than those of EAC, using its increased autonomy gained from participation in the ECN	i. To what extent the ACM has pursued its own interests rather than those of EAC?
	ii. To what extent has that been possible due to expertise that is gained from involvement in the ECN?

An instance of a specific situation where the ACM did not act in line with the interests of EAC which motivated EAC to regain its ability to steer ACM	i.	To what extent has a certain moment motivated EAC to establish additional control instruments on the ACM to regain its ability to control the ACM?
The establishment of additional control instruments by EAC on the ACM, with the purpose to regain its power to control and steer the ACM	ii.	What was the role of the increased autonomy of the ACM, gained from participation in the ECN?
The establishment of additional control instruments by EAC on the ACM, with the purpose to regain its power to control and steer the ACM	i.	Whether EAC has decreased the structural, financial, legal or interventional autonomy of ACM in order to get grip on the steering problem

To be able to reject the central hypothesis of this article and thus the causal mechanism that is hidden in that hypothesis, it is crucial to consider control variables. The different intermediate steps of the causal mechanism are in themselves insufficient, but necessary for the causal chain to be confirmed. Hence, the causal chain can only be confirmed if all intermediate steps are present. However, if at least one of the intermediate steps is not present, the central hypothesis must not necessarily be rejected, as other variables could have played a role as well. This means that the causal mechanism entails equifinality, i.e. that multiple roads may lead to the outcome (Mahoney, 2000). Therefore, it deserves additional attention to consider control variables in this paper. Control variables that are considered are inter alia changes in administrative or political leadership, national institutional settings or specific events or cases that had an impact.

Results

In this section, the results of the interviews will be presented. This section starts with a brief explanation of the ACM as an organization. Afterwards, this section will report on the participation of the ACM in the ECN and the position of the Ministry of Economic Affairs and Climate in that participation. Thereafter, this section elaborates on the dependent variables, i.e., the different dimensions of organization autonomy of the ACM. Finally, this section will elaborate on the effect of

the participation of the ACM in the ECN on the different dimensions of the organizational autonomy of the ACM.

The ACM is an independent agency that is entrusted with the implementation of Dutch antitrust legislation, which falls under the portfolio of the Ministry of Economic Affairs and Climate (EAC). The ACM was established in 2013 and exists of the former Authority for Consumers, the Dutch competition authority (NMa) and the Independent Telecommunication Authority (Minister of Economic Affairs, 2013). It is thus essential to remark here that the empirical study that is provided in this chapter solely concerns the antitrust department of the ACM, which is responsible for the coordination of the activities of the ACM in the ECN. Accordingly, this paper also concerns merely the antitrust department of EAC.

The ACM cooperates with competition authorities of other member states in the EU in the ECN. The observation of Wilks (2007) of the ACM being a relatively active member of the ECN is fortified in different interviews². According to an interview with an official of the ACM, the idea of the Dutch competition authority is to attend all meetings of the ECN³. In practice, the ACM is indeed present at every meeting of the working groups and other subgroups of the ECN. A distinction can be made between meetings where individual antitrust cases are discussed and meetings where upcoming legislation is discussed⁴. Moreover, the ACM aims to be active in the meetings, by often providing presentations when the agenda contains an item of which the ACM has knowledge. The ACM also introduces items on the agenda when she wishes to discuss a topic with the competition authorities within member states⁵. The ACM can thus be considered an active member of the ECN.

Concerning the participation of the ACM in the ECN, the Ministry of EAC is not aware of the content of the meetings of the ECN where individual cases are discussed by the competition

² Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018; Interviews, Authority for Consumer and Market, 16.02.2018.

³ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

⁴ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

⁵ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

authorities⁶. By virtue of a strong norm of independence of the ACM and the wish to avoid political influence of individual antitrust cases, EAC stays away from involvement in the ECN. The strong norm of independence of the ACM was confirmed by all interviewees, both from the side of the ACM as from the side of EAC. Moreover, there is no ex-post feedback from the ACM towards the Ministry concerning discussions about individual cases⁷. This is in line with the *Regeling gegevensuitwisseling* (Minister of Economic Affairs, 2015), in which the rules on the information exchange between the ACM and EAC are established. This document states that ‘as far as it is important for the task performance of the Minister, the ACM shares the agenda of meetings of relevant international organizations with the Minister’ (Art. 4:1). The *relations protocol* reveals that the ECN is one of those relevant international organizations (Minister of Economic Affairs, 2016). There is thus no formal need for the ACM to share the agenda of meetings of the ECN and according to the interviews, this does not jeopardize the task performance of EAC.

However, the role of the ACM within the ECN changes when meetings concern legislation. In that situation, there is more contact between the ACM and EAC and representatives from the ministry may also be present at meetings of the ECN where legislation is discussed⁸. When legislation is discussed, the ACM does advise the ministry based on her own experiences. However, the ACM does certainly not have the upper hand here vis-à-vis EAC, since the ACM is not present at the Council meetings, where the actual negotiations about new legislation takes place⁹. The ACM has thus a more advisory role and is able to give information to the Ministry about certain positions of other member states, which can be useful for the Ministry during the negotiations. The Ministry is likely to listen carefully to the advice of the ACM and to take over suggestions¹⁰.

After focusing on the participation of the ACM in the ECN and the way EAC is related to that participation, this section now proceeds with reporting on the dependent variables. The first

⁶ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

⁷ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

⁸ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

⁹ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

¹⁰ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

dimension of the organizational autonomy is structural autonomy. This concerns the composition of the supervisory board and EAC could opt for influencing the decisions of the board by being represented in the board. However, this is all but true looking at the ACM. The website of the ACM states clearly that “the members of the supervisory board are appointed by EAC, but they are entirely independent in their decision-making” (ACM, 2017). The interviewees from EAC emphasized that this comes from the independent position of the ACM and therefore, that there have been no changes in the independent position of the supervisory board.¹¹

The second dimension of organizational autonomy that has been considered is financial autonomy. This is related to the extent to which the ACM is financed by EAC and EAC could exert control on ACM by reducing or increasing the budget that is granted to the ACM. The distinction between the antitrust department of the ACM and the entire ACM is relevant here.¹² There are sectors where the ACM raises revenues itself, for example in the distribution of mobile phone numbers and that concerns not more than a small part of the budget of the ACM. However, the antitrust department of the ACM is financed entirely with tax incomes and that was also true for the predecessor of this department, the NMa. Despite the conclusion that ACM is financially dependent of the ACM, there is no hint that the EAC utilizes this instrument to influence the decisions of the supervisory board of ACM, which affirms the independent position of the ACM.

The third dimension of organizational autonomy that has been examined is legal autonomy. EAC could exert control on the ACM by changing the legal status of the ACM, i.e., the extent to which the ACM is legally seen part of EAC. Instead of exerting more control on the ACM by incorporating it in EAC, one observes the opposite. The predecessor of the antitrust department of the ACM, the NMa started as a sub-unit of the oversight ministry and it was made an independent administrative body in 2005 (Danielsen & Yesilkagit, 2014). The decision for this transformation was not based on the activities of the NMa on the supranational level. At the time of the creation of the NMA, the EU-

¹¹ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

¹² Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

harmonized competition law was a novel legal framework and therefore in need of political guidance (ibid.). The possibility of political intervention in the NMa was abolished in 2005, when the NMa was experienced enough to proceed as an independent authority.

The last dimension of organizational autonomy that has been investigated is interventional autonomy, which relates to the reporting requirements of the ACM towards EAC. EAC might use reporting requirements or evaluation provisions to influence the decision-making of the ACM. The ACM has some influence in setting its goals, although this task pertains in principle to the government.¹³ The ACM can express their opinion about new legislation that concerns the ACM, since the ACM executes a feasibility test. Furthermore, one interviewee hints that legislation is not in any case formulated very concretely, which leaves room for interpretation at the ACM.¹⁴ Concerning the measurement of the organizational goals of the ACM, an independent organization is entrusted with this task.¹⁵ Thus, in line with the strong norm of independence regarding the ACM, the government is not involved in the measurement of the performance of the ACM. An interviewee confirms that there have been no relevant changes in the interventional autonomy of the ACM vis-à-vis EAC.¹⁶

So far, the relationship between the ACM and EAC does not seem to be affected by the participation of the ACM in the ECN. Following the independent position of the ACM, there is no hint that EAC has introduced additional control instrument to remain able to control the activities of the ACM in the European arena or that the EAC will do so in the future. The ACM has privileged access to the ECN, but as long as it concerns specific cases, EAC does not wish to have any insight in the information that the ACM acquire in the ECN.¹⁷ The information asymmetry resulting from the participation of the ACM in the ECN is recognized, but this does not pose any problems on the relationship with EAC¹⁸. More than that, EAC is aware of the information asymmetry between EAC and

¹³ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

¹⁴ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

¹⁵ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

¹⁶ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

¹⁷ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

¹⁸ Cf. Interviews, Authority for Consumer and Market, 16.02.2018.

the ACM, but EAC indicates that this is also due to the fact that the antitrust department of the ACM has approximately 150 employees, whereas the team within EAC with antitrust in its dossier only counts six or seven.¹⁹ Besides the independent position of the ACM, mutual trust between the ACM and EAC prevents EAC to possibly introduce additional control mechanisms on the ACM. The interviewees unanimously reported that the participation of the ACM in the ECN has not affected the relationship between the ACM and EAC. Correlated with this, the interviewees neither recognized the intermediate steps of the causal mechanisms, since the effect that the causal mechanism could reveal is not present.

Conclusion and discussion

The keyword of the relationship between the ACM and EAC is the independent position of the ACM. Due to the high standard concerning the autonomy of the ACM, the interviewees did not recognize that the participation of the ACM in the ECN has led to a more autonomous position of the ACM. EAC values the independent position of the ACM notably and states that the ministry of EAC does not express the slightest incentive to control the activities of the ACM in the ECN or to exert a stronger oversight in this matter. The participation of the ACM in the ECN has thus not lead to more control instruments introduced by EAC to remain able to control the ACM. This means that the central hypothesis of this paper is rejected.

There are neither hints that the intermediate steps of the causal mechanism are present. As it was in the first place not recognized that the position of the ACM had become more autonomous due to its participation in the ECN, there are no instances where the ACM has possibly used this increased autonomy to pursue its own interests rather than those of EAC or that the ACM has in another way provided an incentive for EAC to exert stronger oversight on the ACM. Therefore, the following steps of the causal mechanism have neither been identified.

¹⁹ Cf. Interviews, Ministry of Economic Affairs and Climate, 02.02.2018.

Nevertheless, the theoretical foundation of this paper provides an interesting starting point for further research on the autonomizing effect of ERN's on participating domestic agencies. The weakness in the existing literature on the autonomizing effect of ERNs regarding the fact that autonomy has been conceptualized rather narrowly remains a valid gap in the literature. The autonomizing effect of ERNs has been identified in non-member states Norway and Switzerland and member states Belgium, Denmark, Finland, Germany, The Netherlands, Sweden and the UK (Bach et al., 2015; Danielsen & Yesilkagit, 2013; Egeberg & Trondal, 2009; Maggetti, 2007; Martens, 2008a; Trondal, 2011). Hence, there are many opportunities to investigate how domestic ministries respond to the autonomizing effect that ERNs yield on involved NRAs.

What the results of this paper imply for possible further research within other member states is difficult to assess. The ACM has been identified in this paper as a most-likely crucial case. The underlying arguments are that the ECN possesses more powers and responsibilities compared to other ERNs (e.g. Blauburger & Rittberger, 2015; Kassim & Wright, 2010; Maher, 2009) and that the ECN operates within a well-institutionalized policy domain (Danielsen & Yesilkagit, 2014). The ECN thus yields a relatively strong autonomizing effect on its national member agencies. Furthermore, it was expected that the autonomy of the ACM was affected visibly by its participation in the ECN, as the ACM is proven to be an active member (Wilks, 2007), which was confirmed by the respondents. However, in further research, more variables must be considered when examining changes in the autonomy of an agency. There is no hint that the ACM has become more autonomous due to its participation in the ECN, as the ACM has always had a very autonomous position. Due to this starting position, it is difficult to assess whether the ECN has strengthened this autonomous position further. Thus, in further research it is valuable to examine the effects of ERNs on the organizational autonomy NRA in a member state with a different institutional setting.

A last note on the design of this paper relates to the research method. Since there have been no visible changes in the organizational autonomy of the ACM, the process tracing method has not delivered insights on which variables would have affected that autonomy. However, within the

research on the effects of ERNs on the relationship between participating domestic agencies and their domestic oversight ministry, it is indispensable to employ this method. Within the existing literature on this topic so far, only Ruffing (2015) attempted to identify which intermediate steps led to the increased autonomy of a Europeanized domestic agency. As an agencies' autonomy can be possibly influenced by a myriad of factors, this paper can serve as a valuable source of inspiration for the theoretical foundation of further research concerning the intermediate steps of the causal chain which described how the autonomy of Europeanized NRAs is affected.

All in all, in the case of this paper, the increased autonomy of an NRA due to participation in an ERN has not given a domestic ministry the incentive to introduce control mechanisms to compensate for the autonomizing effect of an ERN. The line of reasoning that led to this expectation is of value for further research, as research on the response of domestic ministries to the autonomizing effect of ERNs lacks so far. This paper implies that the autonomizing effect of the ECN has not been strong enough to stimulate EAC to introduce additional control mechanisms to the existing ones. Therefore, more research is as well needed to reveal what the autonomizing effect of ERNs in practice means for the relationship between a domestic ministry and an NRA that is involved in an ERN.

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