



European Union Agency for the Cooperation
of Energy Regulators

EU AGENCIES AS PUNISHERS – A SPECIAL CASE?

Miro Prek, Chair of the Board of Appeal

SRB Legal Conference 2025, Brussels, 18 June 2025



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GENERAL ON SANCTIONING AND JUDICIAL REVIEW

ECtHR and EU courts: there is a precedent for (almost) everything

- Menarini diagnostics (2011) and its importance
- To a hammer everything is a nail: applying the competition case law in other areas of law
 - VQ, Crédit Agricole (2020)



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JUDICIAL REVIEW OF PENALTIES: HOW UNLIMITED IS UNLIMITED JURISDICTION?

“limited jurisdiction” (263 TFEU) and unlimited jurisdiction
(261 TFEU): different sources, different scope

Infineon (2018), Galp Energía España (2016), JP Morgan,
Clariant (2023): SoA

Icap (2019)

VQ, Crédit Agricole (2020)



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EU AGENCIES - UNITED IN DIVERSITY

AGENCIES AND THEIR POSSIBLE SANCTIONS

- The number and diversity of agencies
- The networks and discussions therein have not (yet) identified sanctions as a pain point

Agencies and their (delegated) powers

- Post-Lisbon: nothing on delegation to the agencies, acts of agencies (offices, bodies) included as reviewable acts
- ESMA short selling case (2014)

Absence of a common approach to sanctioning an obstacle?

Comparison of different solutions in the founding regulations of ACER (REMIT II), AMLA and SRB

Situations that may give rise to penalties

Schwenk Zement

Appeal Bodies (BoAs, ABoR, AP) – standards and consequences

Periodic Penalty Payments (retroactive effect in AMLA, consequences?)

The penalties: limited and unlimited review thereof

Other elements

administrative measures, nature of sanctions, procedural guarantees, „fining guidelines“, publications, time limits

»Own« powers and powers »relied on«

Where the national and EU legal systems meet: possible interactions (or lack of them)

Availability of resources

What is next?

Common culture of sanctioning? Practice will tell.



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LOOKING FORWARD TO
DISCUSSING WITH YOU
- QUESTIONS AND
OBSERVATIONS
WELCOME!

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