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BANKS v. SSM: THE PARTY HAS JUST STARTED...

Case UK v. ESMA

UK Request & Argument:

ESMA cannot regulate or ban short-selling, because ESMA has not be structured with such power (= a**rgument not referring to the substance of the issue at stake**, i.e. why shouldn't short-selling be banned).

Case Landeskreditbank Baden-Wurttemberg v. ECB (SSM)

Bank's Request & Argument:

The ECB (SSM) should take out the Bank from the list the systemically significant ones, because the Bank is not systemically significant one (= **argument referring to the substance of the issue at stake**).

> *What if banks start using against the ECB (SSM) arguments not referring to the substance of the issues at stake, in order to annul ECB (SSM) decisions? Which could those arguments be?*

INSTITUTIONAL e.g.	PROCEDURAL e.g.
Would the SSM survive the *Meroni* test?	Is it possible that SSM rules on due process in supervisory decisions offer more protection than SSM rules on due process in the imposition of administrative penalties?
How "Chinese" are the walls between ECB's monetary policy and ECB's supervision?	Are SSM rules on due process in investigatory procedures adequate?
Does the construction of the Mediation Panel ensure its independence and legality?	Would the following SSM procedural rules in line with the *acquis communautaire*? - admissibility of evidence - invitation of witnesses and experts - access to file - duty of cooperation
Does the construction of the Administrative Board of Review ensure its independence and legality?	How could persons to whom an ECB supervisory decision may be of direct and individual concern, but are not parties to the ECB supervisory procedures, threaten the standing of SSM's decisions?
"MACRO-PRUDENTIAL" SUPERVISION	**"MICRO-PRUDENTIAL" SUPERVISION**

> *Do banks have an interest in the aforementioned flaws being rectified?*

> *Yes!*
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> *For the sake of legal certainty and the rule of law.*
>
> *The SSM is not an end in itself.*
>
> *SSM is a means to EU development and citizens' prosperity.*