



A Silent Revolution: The Expansion of the Power of the EU in the Field of Human Health. A Rights-Based Analysis of EU Health Law & Policy.

A. de Ruijter

On 16 January 2015, Annik de Ruijter defends her doctoral thesis entitled 'A Silent Revolution: The Expansion of EU Power in the Field of Human Health. A rights-based analysis of EU health law & policy'. The event is open to the public.

Summary

In her thesis Annik de Ruijter analyses the implications of the growing power of the EU in human health in terms of fundamental rights.

The thesis looks at three case-studies that each illustrate aspects of the growing power of the EU in human health. The cases look at the institutional build-up of health actors at EU level, the handling of swineflu in 2009 and the adoption of the Patients Rights Directive. Each of these cases is analyzed in light of its impact on fundamental rights, as fundamental rights stand in an important reciprocal relationship to health policy. This relationship is not limited in a purely legal sense, but it also a matter of shared European values.

In light of this rights-based analysis it is concluded that the EU not only explicitly, but often also implicitly takes on fundamental rights obligations with respect to health. The fact that this happens implicitly is due to health policy often being a side-product of other policies or being created informally, which obscures the fact that fundamental rights may be involved. Given the intrinsic, reciprocal relationship between health policy and fundamental rights, the EU also takes on fundamental rights obligations. In doing so the EU de-facto balances the rights of individuals with those of the entire EU population. Moreover, it balances the responsibility of the Member States for human health with the responsibility of the EU as such.

In some cases the EU's power in the field of health can be legally challenged in terms of fundamental rights. This is even possible in cases where no legal effect was intended by EU health policy. However, not all aspects of EU health policy are challengeable even when a policy may have implications for fundamental rights as a matter of shared values. This puts the legitimacy of EU health policy in a precarious light, particularly when considering that on the basis of Union law there is only limited specific legal basis for the EU to create health policy and limited legal possibility to challenge its effects.