Situating EU Agencies in the Political-Administrative Space

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Abstract

Over the past couple of decades a considerable number of EU agencies have been established. Research has so far shown that they have become more than mere facilitators of transnational regulatory networks and arenas for the exchange of information on 'best practice'. Task expansion has taken place, e.g. by taking up (quasi-) regulatory tasks. Although research also indicates that EU agencies cannot be portrayed entirely as agents of the member states, the jury is still out as regards exactly where in the political-administrative landscape such agencies might be situated: to what extent are they actually under the control of the member states, the Council, the European Parliament or the Commission? Or, are they rather components within endogenously driven epistemic, transnational networks of regulators? This paper sheds light on so far undocumented relationships between EU agencies and the Commission as well as contributes to explaining such a development. Drawing on novel data sources we show how EU agencies might have become parts of Commission departments' portfolios, indicating centralization of EU executive power.

Keywords

Introduction

Especially since the early 1990s, a wide range of (semi-) regulatory, monitoring, and coordination tasks have been centred to a quickly growing number of agencies in the European Union (EU). Being geographically dispersed throughout Europe, EU regulatory agencies cover multiple policy areas, have various legal standings and formal powers, staffing and funding provisions, and engage in a web of relations with external institutions (Busuioc et al. 2012). Currently, more than thirty regulatory (decentralized) EU agencies have been established (and several are ready to be created). Since 2008 the pace has accelerated even further, especially in 2010 and 2011 with the advent of the new European Supervisory Authorities in the financial services area. These new agencies have added not only in terms of quantity but also in terms of their nature and their powers, some of which are quite novel and far-reaching. This process of agencification has also accompanied a quantum leap in the study of EU agencies (e.g. Busuioc et al. 2012; Rittberger and Wonka 2011). A majority of studies on EU agencies focuses on institutional formation, institutionalisation and intra-agency governance. However, our understanding of where these agencies 'belong' in the European political-administrative space remains incomplete, discussed among practitioners, and contested among scholars.

Research has so far shown that EU agencies have become more than mere facilitators of transnational regulatory networks and arenas for the exchange of information on 'best practice' (Egeberg and Trondal 2011). Task expansion has taken place, e.g. by taking up (quasi-) regulatory tasks. Although research also indicates that EU agencies cannot be portrayed entirely as agents of the member states, the jury is still out with regards to exactly where in the political-administrative landscape such agencies might be situated: to what extent are they actually under the control of the member states, the EU Council, the European Parliament (EP) or the European Commission? Or, are they rather components within endogenously driven epistemic, transnational networks of regulators?

The European political-administrative system is characterized by unsettled and poorly understood institutional ties. This state of affairs is intriguing since it renders the European political order a living laboratory for study (Olsen 2007). The growing role of EU agencies has caused the Commission to re-launch the debate on 'the role of agencies and their place in the governance of

the EU' (European Commission 2008: 2). Benefiting from a novel data set, this paper contributes to this debate by showing the emergence of rather intimate relationships between the Commission and EU agencies. We suggest that EU agencies are becoming integral components in the policy-making and -implementation activities of several Commission departments. Arguably, some organizational factors may contribute to accounting for such a development: first, the Commission and EU agencies are sharing the *function* of being executive bodies. Second, Commission and agency personnel have both an EU institution as their *primary affiliation*. Third, among EU institutions only the Commission disposes over the necessary *administrative capacity* to monitoring EU agencies in their daily work. Fourth, and finally, *legitimized templates* of department-agency arrangements drawn from national settings point towards the Commission as the most appropriate parent organization.

The paper is presented in the following steps. The next section outlines three complementary theoretical perspectives and their various expectations as regards where in the political-administrative landscape EU agencies might be situated: an intergovernmental perspective, an epistemic perspective, and an organizational perspective. After having presented our data sources and method, the succeeding section empirically maps this relationship in two steps: First, by empirically examining how the Commission-EU agency relationship is *framed* by relevant actors, and secondly by illuminating how this relationship is *practiced*. A concluding discussion ends the paper.

Theoretical perspectives and previous studies

In this section we outline three theoretical perspectives and their various expectations in terms of where in the political-administrative landscape EU agencies might be situated. Authors subsumed under a particular theoretical perspective are not necessarily adhering to that perspective: The reason for their location may simply be that they have provided findings that are deemed compatible with a certain interpretation of the perspective.

Liberal intergovernmentalism

In the view of liberal intergovernmentalists, EU-level administrative bodies are basically set up in order to implement or monitor the implementation of policies agreed upon by national governments. Such bodies (or 'agents') are expected to do this in an impartial manner, thus enhancing the credibility of government commitments (Moravcsik 1998). Regarding EU agencies, powers entrusted to them seem to have been delegated more often from national governments than from the Commission (Dehousse 2008: 793). Also, several EU agencies have in fact evolved from pre-existing transnational networks of

national agencies (Thatcher and Coen 2008; Thatcher 2011). Thus, no wonder governments have insisted on keeping EU agencies under their control; most apparently expressed in the composition of their management boards on which national delegates usually constitute an overwhelming majority (Kelemen 2002; Dehousse 2008; Christensen and Nielsen 2010). 'Far from representing new supranational structures which could threaten the authority of national regulators, European agencies are rather viewed as the heart of a network, bringing together the various government agencies active in a given policy area' (Dehousse 1997: 257). Fourteen years later Kelemen and Tarrant (2011: 942) drew the same conclusion: 'EU policy-makers have not created a centralized, hierarchical Brussels-based bureaucracy'. Recently, Kassim et al. (2013: 131-32) highlight the establishment of EU agencies as one of the factors that might contribute to a weakening of the Commission in relation to national capitals. Hence, the intergovernmentalist expectation is that EU agencies will, for the most part, remain within the remit of national governments. It follows that we will see few signs of extensive relationships between the Commission and EU agencies, particularly relationships that may indicate a hierarchy with the Commission at the helm.

Epistemic communities

Transnational regulatory networks may be seen as 'communities' endogenously driven by expert knowledge and professional values (Haas 1992). Eberlein and Grande (2005) describe what they call the 'informalization' of regulatory politics, characterized by 'best-practice' and information exchange (cf. also Majone 1997), activities not subject to any classical democratic control. Consistent with this, a survey of EU-agency personnel unveiled that their attitudes were overwhelmingly technocratic although a certain sensitivity to stake-holder concerns was also present (Wonka and Rittberger 2011). Elaborating on a 'multi-principals model' on EU agencies, arguing that such agencies have in fact to 'answer' to several political masters; e.g. the Council, the EP and the Commission, Dehousse (2008: 803) concludes that 'none of the existing agencies can be depicted as a mere instrument in the hands of any one of the 'political' institutions' (see also Curtin and Dehousse 2012). Thus, since transnational regulatory networks, from an epistemic community perspective, are 'floating in-between' levels of governance, we do not expect to find clear steering and accountability arrangements in any direction, including vis-à-vis the Commission.

An organizational perspective

Seen from this perspective, existing organizational (normative) structures affect actual behaviour, both in terms of daily decision processes and in terms of processes aiming at changing structures, procedures, and arrangements themselves. The argument is not that structure provides an exhaustive explanation of behaviour, or determines policy output in any detailed manner. The idea is rather that organization structure tends to intervene in a systematic and understandable way in decision-making processes, making some choices more likely than others (Christensen et al. 2007; Egeberg 2012; March and Olsen 1989). As we will see, insights from this perspective lead us to expect that EU agencies are actually less under the control of national governments and more under the control of the Commission.

Starting with EU agencies' relationships to national governments, we know that although EU-agency management boards are numerically dominated by national delegates, those delegates are not necessarily acting primarily as government representatives. Most board members come from national (regulatory) agencies, not from ministerial departments (Suvarierol et al. 2013). Due to such agencies' organizational detachment from ministries ('vertical specialization'), national agency officials tend, in practice, to be more sheltered from political (ministerial) steering than officials in ministerial departments. This finding seems to be relatively consistent across time and space (Egeberg 2012). Concomitantly, Buess (forthcoming) observed that only a minority of government representatives on EU-agency management boards brought instructions from the national capital when attending meetings. Thus, in other words, they seem to be loosely coupled to their political masters. Moreover, in (formal) organizational terms, national delegates' membership on EU-agency boards makes up a highly *secondary* organizational affiliation: the frequency of board meetings are in general low and the demands imposed on their time and energy by their national agency (*primary* affiliation) are considerably more burdensome. Accordingly, studies have documented that government representatives on EU-agency management boards often meet relatively ill-prepared. Combined with few board meetings and considerable size of the meetings (often more than 40 attendees), this means that management boards are deemed less effective in overseeing and controlling the activities of EU agencies (Busuioc 2012; Busuioc and Groenleer 2012).

On the other hand, one could think of several organizational factors that might be conducive to a closer cooperation between EU agencies and the Commission. Firstly, EU agency personnel and Commission personnel share their primary affiliation (formally) to EU-level bodies. As might be expected from an organizational perspective then, studies show that both groups of staff actually direct their loyalty and attention primarily inside their respective supranational

organizations (Suvarierol et al. 2013; Trondal and Jeppesen 2008; Trondal et al. 2010). Secondly, taking the functional specialization among EU institutions into consideration, we see that EU agencies and the Commission also share the same (executive) functions in the EU polity: they are both in charge of rule implementation and rule development (although the latter is less clearly expressed as regards the agencies). This stands in contrast to the Council and the EP which have mainly legislative functions. And, thirdly, and partly as a consequence of the latter point, it is reason to believe that the Commission, compared to the Council and the EP, disposes over considerably more and relevant organizational capacity that might be mobilized for incorporating EU agencies into its realm.

Finally, what organization theorists have labelled 'institutionalized environments' may contribute to pushing the Commission and EU agencies into a more typical 'ministry-agency relationship'. 'Institutionalized environments' mean that there exists organizational templates 'out there' which are deemed legitimate, modern or successful. These organizational models represent a normative pressure on organizations to adapt accordingly in order to enhance their own legitimacy (Meyer and Rowan 1977). Arguably, the dominant and 'legitimized' way of situating regulatory agencies in the political-administrative space is found at the national level. The main template there consists of agencies allocated among various ministries according to issue area. Agencies are structurally separated from their respective ministerial departments and enjoy some autonomy in their daily operations; e.g. when adopting individual decisions. However, agencies usually operate within framework legislation and political executives have ultimate political responsibility for their activities (Verhoest et al. 2012: 3). One could imagine that 'a quest for order' at the EU level (cf. Olsen 2007), an order that may not exist in this area for the time being, becomes 'inspired', consciously or unconsciously, by the way of doing things at the national level (the 'institutionalized environments'). If so, this would exclude the possibility of subordinating EU agencies to political bodies at the level *beneath*, i.e. national institutions. In a European context, linking agencies directly to legislative bodies, in this case the Council and the EP, does not sound harmonious either.

Accordingly, preliminary studies do indicate so far that EU agencies may have the Commission as their closest interlocutor at the EU level, and that the concerns of the Commission are the concerns most attended to by EU-agency officials (Egeberg and Trondal 2011; Trondal and Jeppesen 2008; Vestlund forthcoming). However, given the limited data on which these findings are based, in our opinion the jury is still out on this issue.

Data and method

This paper draws empirically on Commission and EU-agency documents and, to some extent, on interviews as well. One primary source is the Annual Activity Reports (AARs) with appendices of all Commission DGs for the years 2005 and 2012.[1] Thus, although our research question deals with the *present* location of EU regulatory (decentralized) agencies in the political-administrative space, we find it relevant to trace the development over time, if possible without too much extra costs. In addition to the AARs, Commission opinions on EU agencies' work programmes are part of the data material. These documents are searchable at the Commission's website, but access needs to be requested. All Commission comments for the years 2005 (three) and 2012 (13) were requested. In addition, in order to avoid a Commission bias in our data, we investigated the potential for obtaining AARs from the DGs of the Council's General Secretariat as well. Council DGs do not systematically produce AARs, however, and since there existed only three AARs from 2005 and one from 2012, the foundation for comparison was limited.

The Commission DGs' AARs were systematically searched through electronically in order to detect and extract text concerning EU agencies. The aim was to map to what extent and how such agencies are mentioned and agency activities reported on by each DG. The AARs for both 2005 and 2012 were accessed through the Commission's official website. For the purpose of reducing the amount of undiscovered text, the document search included keywords based on agency names and acronyms. The keywords included: *agenc*, *authorit*, *office*, *centre*, *foundation*, *institute*, *college*, *unit*, *control*, *body*, *parent*, and *partner*. The 2012 information was coded according to the categories given in Table 2 (see empirical part of this paper). The 2005 reports were standardized only to a certain extent, leaving it up to each DG how detailed information that was provided. The 2012 reports followed more a common template, but there seems to be few strict guidelines for the extent to which and how regulatory (decentralized) agencies and their activities should be commented on. Thus, an important caveat in the material is that the reports might be subject to over and/or under reporting. The years 2005 and 2012 were chosen due to the availability of data. Full sets (including all DGs) of AARs were accessible only from 2004. Furthermore, many of the 2004 reports were scanned documents and not electronically searchable. 2005 were thus chosen out of cost and time considerations. The data sources also consist of

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[1] AARs 2004-2011 are available at: <http://ec.europa.eu/atwork/synthesis/aar/aar2010/index_en.htm> [last accessed 13 May 2014]. AARs 2012 are available at: <http://ec.europa.eu/atwork/synthesis/aar/index_en.htm> [last accessed 13 May 2014]

other Commission documents such as 'analytical fiches' [2], opinions, communications and reports. In particular, the so-called 'analytical fiches' are used to tap the EU's policy on its agencies (cf. the first part of the empirical section). Authored by the Commission, these papers, arguably, may come to over-emphasize the role of the Commission. However, it is, after, all the Commission that has been assigned the task to prepare the policy documents in this area, leading up to an inter-institutional agreement or understanding.

Supplementing Commission documents, annual activity reports of the 32 EU regulatory (decentralized) agencies[3] were also searched through in order to map how and when the Commission, Council and Parliament were mentioned and referred to by the agencies themselves, thereby counteracting some of the imbalance that may follow from building solely on Commission documents. The following keywords were included in the search: *commission*, *directorate*, *general*, *council*, *secretariat*, *parliament*, *parent*, *partner*, *DG*, *EP*, and *EC*. The frequency in the AARs of the words *commission*, *DG*, *EC*, *council*, *presidency*, *parliament* and *EP* is reported in Table 3 (see empirical part of this paper). First, the frequency was registered electronically by using the Adobe Professional (and controlled for in Word Frequency Counter). Then all the hits were manually controlled for context and irrelevant hits filtered out (for instance, all mentions of 'parliament' referring to national parliaments were filtered out, as were references to the Council of Europe, etc.). We are fully aware of the methodological limits of such counting alone. Nevertheless, used in combination with, *inter alia,* content-analysis of the AARs of Commission DGs, we think we will get a more balanced picture of EU agencies in the political-administrative space. Additional information on the relationships between the agencies and the Commission, the Council and the EP was acquired through five phone interviews followed up by emails. The interviewees were representatives of the EP Directorate for Presidency Service of the Parliament, the Council General Secretariat, and the Commission's Secretariat General.

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[2] A series of analytical papers published at the Commission's website, available at: <http://europa.eu/about-eu/agencies/overhaul/index_en.htm> [last accessed 13 May 2014].

[3] ACER, BEREC, CdT, CEDEFOP, CEPOL, CPVO, EASO, EASA, EBA, ECDC, ECHA, EEA, EFCA, EFSA, EIGE, EIOPA, EMA, EMCDDA, EMSA, ENISA, ERA, ESMA, ETF, eu-LISA, EU-OSHA, EUROFOUND, EUROJUST, EUROPOL, FRONTEX, GSA, OHIM, FRA.

Results

Framing the Commission-agency relationship

This section frames the Commission-agency relationship by discerning (i) how the organizational arrangement between the Commission and EU agencies is set out (frame structure), and (ii) how this relationship is planned, foreseen and endorsed (frame policy).

Frame structure

The frame structure is not the result of a grand institutional design from the Commission headquarter. Initially, the Commission was hesitant to the emergence of parallel administrations outside the Commission. During the last decade, the Commission has indeed changed basic ideas about EU agencies - from viewing them as a 'tolerated anomaly' (European Commission 2001: 16) towards seeing them as 'part of the institutional landscape of the Union' (European Commission 2009: 2). As the Commission experienced that the agencification process advanced momentum, their major response has been to rein EU agencies into the orbit of the Commission.

During the last decade, the Commission has offered a variety of arguments for why EU agencies should be created in the first place: such agencies may contribute to the technical and sectoral know-how of the Commission, to increased visibility of policy sectors, to administrative cost savings, and to strengthening the abilities of the Commission to focus on core tasks, i.e. policy development. EU agencies have also been seen as a way for Commission DGs to control the implementation of community regulation, to strengthen their capacity to become secretariats of the College of Commissioners by hiving off technical tasks to semi-autonomous agencies, and to secure 'expertise, credibility and visibility' (Analytical Fiche Nr. 2; European Commission 2005: 3). At the end of the decade – after several evaluations of EU 'decentralised agencies' - the Commission 'concludes positively on several aspects of the agency system' (Analytical Fiche Nr. 29: 3).

Most of the current EU agencies share some generic organisational features: they are specialized bodies outside the key Community bodies, they have limited mandates and formal powers, they are led by a Director and a Management board, and they are horizontally organized fairly similarly to the Commission DGs. The management board's main functions are usually to decide on the agency's budget, the work programme, and the appointment of its executive director, subsequent to the Commission's nomination of a candidate. Management boards are typically composed of a large majority of

member state representatives and a couple of Commission representatives; more seldom accompanied by EP and interest group representatives. Finally, a vast majority of the budgets of EU agencies are financed by the EU budget, sometimes with additional contributions coming from fees and payments from services. Moreover, the financial discipline by the Commission's Financial Controller has become gradually stricter (Dehousse 2008: 19). '[...] [T]he Commission remains responsible for the execution of the budgetary lines dedicated to the agency [...]' (Analytical Fiche Nr. 2: 5). Thus, the budgetary autonomy of EU agencies is severely constrained.

Frame policy

Facilitated by this frame structure, the Commission's frame policy endorses EU agencies as 'partners' of the Commission and its DGs. This frame policy rests on the idea that agencies assume an integral part of the EU executive (meaning the Commission); an idea shared by the EP (Dehousse 2008: 797). One early testimony of this integral policy frame was the 'White Paper on Governance' issued in 2001 which called for the Commission to control and monitor EU agencies. As one illustration, the White Paper emphasized that agency staff should fall under the same staff regulations as ordinary Commission Administrators (see also European Commission 2005: 20). Agency autonomy was sacrificed for the Union's need for integrated and uniform administration. The White Paper appealed for Commission control of EU agencies while also underlining the limited roles played by such agencies. During the discussion of this White Paper the Commission seemed increasingly reluctant to grant autonomy to EU agencies by suggesting that EU agencies in general 'reinforce [...] the capacity of the European executive as a whole [...]' (Secretariat General 2001: 3). Yet, the Commission recognized that it lacked sufficient capacities to control EU agencies (Secretariat General 2001: 24). This experience triggered the Secretariat General (2001: 25) to call for the creation of 'appropriate infrastructure' in the Commission for steering and monitoring EU agencies. At present, however, the Commission may be hesitant to intervene on a case-by-case basis in EU agency affairs. Illustrative of this, 'the Commission [claimed it] cannot give instructions to the agencies or oblige them to withdraw certain decisions' (Szapiro 2005: 4).

The 'Analytical Fiches' clearly reveal the Commission's policy frame of close integration of the Commission DGs and 'their' agencies. The semantic twins applied by the Commission are 'partner' and 'parent', where 'partner' suggests a more equal role between the agencies and the Commission while 'parent' advises a more superior role of the Commission vis-à-vis EU agencies. The Commission even argues that the 'parent' role of the Commission has become greater than envisaged: 'The weight of the Commission is [...] clearly

beyond its formal powers' (Analytical Fiche Nr. 31: 4). 'The Commission is often requested to take responsibilities in relation to agencies in a way which is not proportionate to its institutional role and influence in respect of agencies. In particular, the Commission is often requested to take "remedial" action without having the actual competence to do so' (Analytical Fiche Nr. 31: 4). The parental role of the Commission 'often takes place on an informal, operational basis' (Analytical Fiche Nr. 31: 4). Interestingly, informants in the Commission report that some DGs ask 'their' agencies for input when writing the Analytical Fiches. These DGs seem to be advocates for 'their' agencies inside the Commission – for example vis-à-vis other DGs in annual budgetary processes.

Whereas the relationship between EU agencies and the Commission is described in great detail in the 'Analytical Fiches', the corresponding relationship between EU agencies and the EP and the Council is described with less rigor. This difference illustrates a policy frame favouring the Commission-agency relationship. This variation was already envisaged in the 'Inter-institutional Agreement' on EU agencies presented by the Commission in 2005. The EP's role in the preparation of agencies' annual work programmes as well as in the nomination of executive director is described as 'formal hearing', 'exchange of information' and 'views', etc. (Analytical Fiche Nr. 32). However, the EP has particular responsibilities on deciding agencies' annual budgets. Also, responsible EP committees assign a 'standing rapporteur' or 'contact person' for agencies 'under the committee's responsibility' (Analytical Fiche Nr. 32: 5). The role of the Council is described as that of 'political supervision' by discussing annual activity reports and 'hearings' (Analytical Fiche Nr. 33). 'The Council is centrally involved when the basic regulation is discussed. When an agency is established, the Council's role is limited' (Analytical Fiche Nr. 32: 4). By contrast, the role of the Commission in dealing with the annual work programmes of agencies is described in great detail:

> Experience shows that the work programme has proved to be a valuable tool in order to enhance coherence and complementarity of agencies' activities *vis-à-vis* EU policies, since the work programme is generally submitted to a process of consultation with the Commission. However, the way this consultation takes place is quite uneven across agencies, as in some cases the Commission is consulted at DG level, in others the annual work programme is adopted after receiving the Commission's opinion, i.e. the opinion of the College, while for a couple of agencies the Commission agreement is necessary before the annual work programme can be adopted.
>
> (Analytical Fiche Nr 13:2)

Also, 'most agencies have to receive the Commission's opinion before adopting the multi-annual staff policy plan' (Analytical Fiche Nr. 31: 2). Finally, 'the Commission is also responsible for executing the Commission budget line related to the contribution to the agency' (Analytical Fiche Nr. 31: 3).

The Commission has put greater prominence on developing a *coherent* policy frame on EU agencies (Szapiro 2005: 4). The first initiative in this regard was the 'Interinstitutional Agreement' proposed in 2005, followed up with 'The way forward' in 2008. The next step was the launch of a 'detailed *Roadmap* for setting up agencies issued by the Commission in the autumn 2009. This Roadmap aims at helping the parent DGs in the Commission with the set-up of their new agencies [...]' (Analytical Fiche Nr. 2: 5). Indicative of this is the parent DG's role in the creation and staffing of EU agencies: 'Before the adoption of the founding regulation by the legislator, certain elements of the selection of the core administrative staff may be initiated by the parent Directorate General of the Commission [...]' (Analytical Fiche Nr. 12: 2). The set-up process may be facilitated when experienced Commission personnel is seconded to the newly created agency (Analytical Fiche Nr.2: 5). Moreover, 'the basic regulation normally foresees that a Commission official may be appointed as an interim director to facilitate the start-up of an agency' (Analytical Fiche Nr. 12: 1-2). And, 'before acquiring decisional autonomy, the agency exists only as a project in the work programme of the Commission responsible service' (Analytical Fiche Nr. 12: 4). As expressed in a recent evaluation of EU agencies, 'whereas the connection with the parent DG often comes naturally, several agencies express concern that it is more difficult to maintain a close working relationship [...] with other DGs' (Rambøll et al. 2009: 74).

Also, the Commission has launched the idea to develop a 'common approach' together with the EP and the Council in July 2012 (Joint Statement 2012). Together these policy documents reflect an emergent policy frame – an 'agencification policy'. These non-binding blueprints aim towards 'greater coherence in the way agencies function [...] For example the Commission will develop standard provisions of a horizontal nature in their founding acts' (European Parliament, Council, European Commission 2012; European Commission 2012: 2). The Roadmap issues 'concrete timetables for the planned initiatives' (European Commission 2012). The Roadmap (European Commission 2012) also states that Commission representatives' on the agency management boards 'will be more closely involved in the monitoring of the agencies' activities [...]'.

The Commission quests for order by quasi-monopolizing interactions with the agencies is substantiated by the Roadmap's launch of an 'alert-warning system':

'The Commission is now formally entrusted with the responsibility to warn the European Parliament and Council in case it has serious reasons for concern that an agency's Management Board is about to take decisions which may not comply with the mandate of the agency […]' (European Commission 2012: 1-2). The Commission's new Roadmap thus aims to develop common standards that may be issued vis-à-vis EU agencies – for example in the preparation of annual work programmes. Secondly, the Roadmap also suggests that EU agencies should 'have a clear strategy for cooperation with third countries and/or international organizations, but that these strategies should be coordinated with partner DGs in the Commission to 'ensure that the agencies operate within their mandate and the existing institutional framework' in view of the overarching aim of 'consistency of EU policy'.

Following up the 'common approach', the Commission has recently established an inter-service group of agency correspondents that meets twice a year to discuss Analytical Fiches, the 'common approach', new initiatives, best practices, and so on. This inter-service group typically consists of desk officials from all 'policy DGs' who have sub-ordinated EU agencies, plus horizontal DGs with a coordinating role (Analytical Fiche Nr. 31: 5). Still, most capacities for supervising EU agencies exist within Commission DGs. The expected consequences of a coordinated policy from the Commission vis-à-vis EU agencies thus remain embryonic.

In sum, the Commission offers a structural and policy frame that pictures tight relationships between Commission DGs and 'their' EU agencies. The Commission frames EU agencies as integral to Commission activities, not as free-floating bodies.

Commission-Agency relationships in practice

A first sign of whether an organized relationship between the Commission and EU agencies exists could be the extent to which agencies are seen as 'belonging to' *particular* Commission departments (DGs) rather than floating more loosely around. Table 1 shows indeed how the Commission itself has neatly allocated the so-called regulatory (or decentralized) agencies among certain DGs. This registration is based on the 32 DG Annual Activity Reports (2012) in which the various DGs report on their activities *inter alia* in relation to 'their' respective agencies. The only exceptions observed are ECHA's connection to DG ENTR as well as to DG ENV, and EMCDDA's link to DG SANCO as well as to DG JUST. However, such 'double-hatted-ness', which may reflect unresolved tensions between interests (such as industrial and environmental), is also known within national governments.

Table 1: Commission DGs and EU (decentralized/regulatory) agencies.

DGs 2012	Agencies 2012	
Agriculture and Rural Development (AGRI)		
Budget (BUDG)		
Climate Action (CLIMA)		
Communication (COMM)		
Communications Networks, Content and Technology (CNECT)	ENISA	European Network and Information Security Agency
	BEREC	Body of European Regulators for Electronic Communications
Competition (COMP)		
Economic and Financial Affairs (ECFIN)		
Education and Culture (EAC)	CEDEFOP	European Centre for the Development of Vocational Training
	ETF	European Training Foundation
Employment, Social Affairs and Inclusion (EMPL)	EU-OSHA	European Agency for Safety and Health at Work
	EUROFOUND	European Foundation for the Improvement of Living and Working Conditions
Energy (ENER)	ACER	Agency for the Cooperation of Energy Regulators
Enlargement (ELARG)		
Enterprise and Industry (ENTR)	ECHA	European Chemicals Agency
	GSA	European GNSS Agency
Environment (ENV)	ECHA	European Chemicals Agency
	EEA	European Environment Agency
EuropeAid Development & Cooperation (DEVCO)		
Eurostat (ESTAT)		
Health and Consumers (SANCO)	EMA	European Medicines Agency
	ECDC	European Centre for Disease Prevention and Control
	EFSA	European Food Safety Authority
	CPVO	Community Plant Variety Office
Home Affairs (HOME)	EASO	European Asylum Support Office
	EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
	FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States and the EU
	CEPOL	European Police College
	EUROPOL	European Police Office
	eu-LISA	EU Agency for large-scale IT systems

Cont.

DGs 2012	Agencies 2012	
Humanitarian Aid and Civil Protection (ECHO)		
Human Resources and Security (HR)		
Informatics (DIGIT)		
Internal Market and Services (MARKT)	OHIM	Office for Harmonisation of the Internal Market
	EBA	European Banking Authority
	EIOPA	European Insurance and Occupational Pensions Authority
	ESMA	European Securities and Markets Authority
Interpretation (SCIC)		
Joint Research Centre (JRC)		
Justice (JUST)	EIGE	European Institute for Gender Equality
	EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
	FRA	European Union Agency for Fundamental Rights
	EUROJUST	The European Union's Judicial Cooperation Unit
Maritime Affairs and Fisheries (MARE)	EFCA	European Fisheries Control Agency
Mobility and Transport (MOVE)	EASA	European Aviation Safety Agency
	EMSA	European Maritime Safety Agency
	ERA	European Railway Agency
Regional Policy (REGIO)		
Research and Innovation (RTD)		
Secretariat-General (SG)		
Taxation and Customs Union (TAXUD)		
Trade (TRADE)		
Translation (DGT)	CdT	Translation Centre for the Bodies of the European Union

Source: Commission Annual Activity Reports 2012.

In Tables 2 and A2 (see the Appendix) we have registered DG-Agency activities and language use by content-analysing DG Annual Activity Reports (2012). We find that in 29 of the 32 agency cases (i.e. 91 per cent), the DGs mention 'supervision' and 'monitoring' of 'their' agencies as part of their activities during the year. And, in 23 cases (72 per cent), the DGs speak of themselves as 'parent DG' or 'responsible DG'.

Together, these observations indicate that there exists, or should exist in the eyes of the Commission, a kind of hierarchical relationship between the DG and the agency. The term 'partner DG', on the other hand, which signals a more horizontal relationship, only appears in a minority of cases (9). Moreover, only in relation to four agencies', the DG is considered solely as a 'partner DG'. Interestingly, and most commonly, the term 'partner DG' operates in tandem with 'parent DG'. This linguistic ambiguity probably reflects some power ambiguity as regards the governance structures surrounding EU agencies.

According to Table 2, the DGs report *regular* meetings or other contacts with an overwhelming majority of the agencies (26 of 32 agencies, or 81 per cent). Meetings provide opportunities for giving a steer on behalf of the Commission, e.g. related to the agency budget or work plan. However, meetings are also arenas in which agencies may try to get their own arguments across. Table 2 reveals that it is quite common that DGs comment on agencies' annual work programme: this takes place in half of the cases (16). We registered 13 Commission Comment Letters on agency work plans in 2013. These seem to be highly formal letters signed by the respective Commissioners. The number of Commission Comment Letters on the work programmes of EU agencies has increased significantly; from only one in 2003 to 13 in 2012, thus becoming a more regular activity over time. Interestingly, Table 2 Appendix also shows that former 'intergovernmental agencies', i.e. former 'pillar three'-agencies such as Frontex, Europol and Eurojust, are all subject to the Commission's supervision and involvement in their work programmes. They take part in regular meetings with the Commission, and the term 'parent DG' is used across agencies.

As already touched upon in the 'Data and method' section, the DGs' Annual Activity Reports from 2005 contain relatively little material on EU regulatory (decentralized) agencies. Moreover, the information given was not systematized to the same extent as in 2012. Thus, tables comparable to Tables 2 and 2 Appendix have not been possible to construct. Typically, the 2005 reports dealt with administrative assistance to agencies and training efforts, e.g. financial training courses (DG BUDG), guidelines on procedures for selecting the heads of agencies and for personnel policy more generally (DG ADMIN), preparations to establish agencies; e.g. ECHA (DG ENTR), creation of 'agencies group' within the DG to improve coordination and exchange of experience (DG JUST), or how agencies have contributed to the DG's achievement of its policy and legislation objectives (DG SANCO; DG TREN). Interestingly, in its 2005 report DG MARKT explicitly states that it has *no* direct supervisory role to fulfil vis-à-vis its agency (only OHIM at that time). While Table 2 displays no information on OHIM in 2012, it nevertheless

uncovers that DG MARKT at this time says it *has* a supervisory and monitoring role in relation to EBA, ESMA and EIOPA, although the term 'partner DG' is used in these cases.

Table 2: Commission DG – Agency relationships as described in DG Annual Activity Reports (2012).

	Frequency	Percentage
DG supervises/monitors agency	29	91
Regular contacts between DG and agency	26	81
DG sees itself as parent DG of agency	23	72
DG gives opinion on agency work programme	16	50
DG sees itself as partner DG of agency	9	28

Note: The table shows the frequency and percentage of agencies (N=32) about which the following was said.

It is harder to find documentation as regards EP-agency relationships. This may indicate a less intimate relationship. For example, while the Commission is entitled to request information from EU agencies all the time, the EP does not have the right to address 'parliamentary questions' directly to agencies: questions regarding agencies have to go via the Commission. All questions follow the route from the Unit for Parliamentary Questions in the EP Directorate for presidency service to the Commission's Secretariat General; Directorate F Relations with other institutions (Unit F1 European Parliament, Inter-Institutional Relations Group), which forwards the questions to the responsible DG. Where the question concerns 'mixed competences' of the Commission and the agency, the responsible DG sends the question to the agency asking it to draft the answer for that part of the question for which it is competent and to return it to the DG, which sends the reply to the EP.

In cases where the question concerns a matter for the agency's sole competence, the responsible DG forwards the question to the agency asking it to draft the answer and to return it to the DG. The DG then replies the MEP (interviews in the Commission and EP). In addition, MEPs may ask for informal meetings with agency personnel.

With regards to Council-agency relationships in practice, we have found no written, systematic documentation (cf. the section 'Data and method'). This does not at all mean that such connections are non-existent. However, the fact that the EP, in important respects, deals with EU agencies via the Commission and *not* via the Council indicate s that Council-agency relationships represent weaker ties than those between the Commission and the agencies.

Table 3: References to the Commission, Council and Parliament in the annual activity reports of 32 EU agencies (2012).* (word count/hits)

EU institution	Frequency	Percentage
Commission	2806	73
Council	619	16
European Parliament	397	10
Total	3822	99

* ACER, BEREC, CdT, CEDEFOP, CEPOL, CPVO, EASO, EASA, EBA, ECDC, ECHA, EEA, EFCA, EFSA, EIGE, EIOPA, EMA, EMCDDA, EMSA, ENISA, ERA, ESMA, ETF, EU-LISA, EU-OSHA, EUROFOUND, EUROJUST, EUROPOL, FRONTEX, GSA, OHIM, FRA.

Based on the agencies' annual activity reports (2012), we have quantified the distribution of references herein to the Commission, Council and Parliament respectively. Thus, we might avoid the bias stemming from only looking at the annual activity reports of the Commission DGs. Table 3 confirms very much the pivotal role of the Commission compared to the two other key institutions: an overwhelming majority of 'hits' (73 per cent) concerns the Commission, while only 16 and 10 per cent respectively relate to the Council and the EP.

Concluding discussion

This paper's point of departure is the growing role of EU regulatory (decentralized) agencies. Not only have they increased in number and got more staff resources; they have also taken on (quasi-)regulatory tasks that clearly reach beyond their role as network facilitator or 'best practice'-mediator. It is therefore interesting to know on behalf of whom they actually act: do they act on behalf of the EU member states and the Council, on behalf of the EU's supranational institutions like the Commission, or do they simply act on behalf of themselves? The issue is highly contested among practitioners a well as in the scholarly literature: Intergovernmentalists tend to focus on the delegation of tasks from governments that have taken place, and seem to trust the management boards in their role as controller of agency activities. Those adhering to an epistemic-community perspective, on the other hand, empha-size the independent character of expert-based regulatory bodies. And, finally, also researchers based in an organizational approach expect management boards to play a modest role in agency governance; an expectation under-pinned by empirical observations. From an organizational perspective, the following factors stand out as conducive to the development of relatively close relationships between Commission DGs and EU agencies: First, both are sharing the *function* of being primarily executive bodies. Second, at both places personnel, from the bottom to the top, have an EU institution as their *primary organizational affiliation*. Third, compared to the Council and the EP, only the

Commission disposes over administrative *capacity* to follow up work at the policy implementation stage. And fourth, and finally, *legitimized templates* of department-agency arrangements found at the national level point in the direction of assigning agencies to particular departments within the executive rather than to legislative chambers. This seems to be the case at least in a European context.

We found that the EU has developed an 'agencification policy' which now seems to be anchored in common understandings and agreements across the EU's key institutions. The Commission stands out as the driving force behind this policy development, and has given itself a prominent place in the area; e.g. as regards the setting-up of new agencies, their organization and staffing, involvement in the formulation of their annual work programmes, proposing their budgets, and exercising financial control. Moreover, the Commission has created its own administrative infrastructure within the affected DGs as well as across such DGs in order to follow up its agencification policy in practice. Concerning practice, we have demonstrated how the Commission has systematically allocated the agencies among its DGs according to issue area. In an overwhelming majority of cases, the DGs supervise, have regular meetings with, and consider themselves to be *parent* DGs rather than partners of their respective agencies. It is also quite common for DGs to comment on the annual work programme of 'their' agencies, and increasingly so. Finally, we have shown that agency attention is significantly more directed towards the Commission than towards the Council or the EP. In sum, our interpretation is that although agencification tends to de-concentrate executive power (Egeberg 2012), it nevertheless may indicate centralization of executive power at the EU level since powers may have been delegated to agencies more often from national governments than from the Commission (Dehousse 2008).

The organizational factors – function, primary affiliation, capacity and legitimized template – may help to account for the strong coupling between Commission DGs and EU agencies. In addition, steps in the direction of a parliamentary system at the EU level may reinforce such a development. The EP, having achieved enhanced access to Commission decision-making through a range of formal and informal tools (cf. Egeberg et al. 2014; Wille 2013), may thus attain *indirect* control over agencies provided that they are subordinated to the Commission. The EP's support of a vertically integrated EU executive makes sense on this background. (Otherwise in a system based on the separation of powers, as in the USA, the legislator, having little control over the political executive will itself aim at reining in agencies directly (Shapiro 1997)). The EP may find its dealing with agencies via the Commission's Secretariat General (e.g. as regards parliamentary questions) highly convenient compared to dealing with the 32 agencies on an individual basis. A kind of order has emerged.

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Appendix

Table A2: Commission DG – Agency relationships as described in DG Annual Activity Reports (2012)

EU agency	Supervision/ Monitoring of Agency	Opinion on work program of agency	Regular contacts/ meetings	'Parent DG'/ responsible DG	'Partner' DG
EEA	x		x		x
BEREC	x				
ENISA	x	x			
ETF	x	x	x	x	
Cedefop	x		x	x	
EUROFOUND	x			x	
EU-OSHA	x			x	
ACER	x	x*	x	x	
ECHA	x		x	x	x
GSA	x	x	x	x	
CVPO	x		x	x	x
ECDC	x		x	x	x
EFSA	x		x	x	x
EMA	x		x	x	x
FRONTEX	x	x	x	x	
Cepol	x	x	x	x	
Europol	x	x	x	x	
EASO	x	x	x	x	
EMCODA	x	x	x	x	
eu-LISA	x	x	x	x	
EBA	x		x		x
ESMA	x		x		x
EIOPA	x		x		x
OHIM					
FRA	x	x	x	x	
Eurojust	x	x	x	x	
EIGE	x	x	x	x	
EFCA		x	x		
ERA	x		x	x	
EMSA	x	x*	x	x	
EASA	x	x*	x	x	
CdT					

*According to Commission Comment Letters on the annual work programmes of EU agencies.

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