

EU Agencies: a literature review

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1. Introduction

The European Union, as a 'policy-making state' (Richardson, 1996), have centred its activities by large on a variety of regulatory policies rather than redistributive or distributive ones (Majone 1996, Scharpf 2000, Eberlein and Grande 2005). Following the development of regulatory frameworks since the 1980s in many policy areas, particularly in the 2000s, this aim has provoked a major institutional innovation within the EU political system: the emergence of specialized agencies which are supposed to complement the European Union administrative system with larger resources and capabilities (Busuioc, 2013: 13-14). They are also responsible for organizing and coordinating the harmonization of a framework for regulatory governance among member states in specific policy areas (Coen and Thatcher; 2008). This move also benefited from the delegation of power that member states did to national independent regulatory agencies (IRAs) since the 1990s. This logic made of IRAs the "natural" intermediaries between European agencies and state-level institutions.

This move towards the *agencification* at the European level has been claimed as the reconfiguration of the EU executive power (Egeberg and Trondal, 2009), but also as the emergence of a new actor with influence over the policy-making and the whole EU institutional framework (Coen and Thatcher, 2008; Wonka and Rittberger, 2010). Though, the study of European agencies (EUAs) is a nascent field within the literature on the EU governance, the creation of a plethora of agencies in the last two decades requires a deeper understanding of these institutions in the EU governance scheme and

still there is much research to be done. Against this backdrop, *the present paper has a two-fold objective: on the one hand, it aims to do a literature overview of the EU agencies literature in the last years; on the other, it seeks to uncover possible routes for further research related to the role of EU agencies within the multi-level institutional framework in Europe.*

The need for a comprehensive understanding of European agencies begs for new conceptual and theoretical tools that refine the study of the EU governance system. So far, the literature has been driven by a multiplicity of questions underpinned by the interest on understanding the logic of agency creation and design, and how this affects their further development (Majone, 1996; Kelemen, 2005; Busuioc, 2013). Moreover, depending on the theoretical lens adopted, the literature has extensively relied on the principal-agent perspective to study the political logic of these institutions, on identifying functional and political characteristics behind their creation and on the institutional isomorphism leading to their creation, among other issues (Heims 2015, Font & Perez 2015, Dehousse 2008, Christensen and Nielsen, 2010). The same principal-agent logic has meant trying to understand how their design make them more or less autonomous from multiple principals and how accountable they are to other EU institutions and member states (Kelemen and Tarrant, 2011; Busuoioc and Groenleer, 2012). However, focusing on these issues has left unexplored other characteristics that are central in the understanding of the working dynamics of these institutions (e.g. the coordinating role at the EU level, the multi-level character of EU agencies, the outcomes of their regulation; the use of information and expertise from specific regulatory regimes, among others).

Egeberg et al (2014, 2015) identified three perspectives under which EU agencies have been studied: intergovernmentalism, communitarianism and epistemic communities. The *intergovernmental logic* defends that the EU administrative bodies are created as a mechanism to implement or monitor the policies jointly approved by the member states (Thatcher and Coen, 2008). The *communitarian logic* defends that the EU promotes an integrated and uniform administration (Olsen cited by Egeberg, et al. 2015: 611). Under this logic, agencies are seen as instruments of centralisation of regulatory functions at the EU level (Majone cited by Egeberg, et al. 2015: 612) (e.g. Everson and Joerges, 2006). Somehow these two perspectives aim to understand the organizational structures

and how they affect actual behaviour in regard to the decision-making process, the change of structures, procedures and arrangements (Egeberg, 2014: 4). Finally, the *epistemic logic* argues that EU agencies are ‘porous and transparent institutions, penetrated by webs of external actors and institutions’ (Everson et al. cited by Egeberg, et al. 2015: 612) (e.g. Dehousse, 2008). Although scholars in the field do not always explicitly locate their studies under these viewpoints, their conceptual importance is highly relevant to understand the logic behind the interpretation of EU agencies and the hypothesis formulated for its empirical study.

In order to reach our objective, the present paper is divided in a large section that makes an overview of the literature on EU agencies, and a final section with some concluding remarks. The lay-out of the central section is through those questions that have guided the study of these agencies until now. In this part, we will also describe the history behind agency creation; its design and the main issues the literature has focused: their independence from principals, their autonomy in their day-to-day work, and the mechanisms of accountability they are subject to.

2. Literature overview

2.1 How did the EU regulatory space emerged?

Since Giandomenico Majone stated already in the early 1990s that the focus on regulation was turning the EU into a ‘regulatory state’, the interest on studying non-majoritarian institutions such as agencies have grown in the EU governance literature. Scholars initiated their study of regulation in the EU by asking a rather descriptive question: *how the European regulatory space has been created and how it has evolved over the years*. Answering this question entailed focusing on the early formation of networks of regulation throughout Europe in key sectors (Blauberger and Rittberger 2015) and their evolution towards EU agencies with a specific mandate a few years after (Rittberger and Wonka 2013). This has led to studies revolving around networks and agencies in several European sector (Coen and Thatcher 2008; Thatcher and Coen 2008; Mathieu 2016). Agencies and networks are deemed as administrative innovations that complement to or compete with more established structures of regulatory governance

such as the Commission (Rittberger and Wonka 2013: 33), that emerged as part of a new 'regulatory architecture' in Europe (Levi-Faur 2011).

Based on the previous work by Levi-Faur (2011), Rittberger and Wonka (2013: 36) defend the view that the Single European Regulatory Space (SERS) has been guided by three parallel processes: *governancing*, *agencification*, and *networkation*. The first one implies the decentralization of power through decentralized systems of governance. *Agencification* entails the formalization of stable organizations with specific responsibilities and mandates. They are endowed with a role and a mission through the devolution of functions or creation of new ones. Finally, *networkation* implies the establishment and formalization of networks, which refers to the process of formalizing their roles and missions by mean of establishing loose organizations.

Part of the literature on EU regulation has been split between the role of networks and agencies and the processes they followed. Levi-Faur (2011: 811) states that the more horizontal character of networks constitute major differences from agencies in regard to independent and administrative capacities and organization. These characteristics allow flexible and informal decision-making rules, including also voluntary membership. At the European level, he suggests that many regulatory networks represent an effort to coordinate responses and strategies from different national public actors and stakeholders at the European level. In fact, during many years, European institutions encouraged the creation of informal networks, which included national agencies, for functional and instrumental (political) reasons (e.g. consensus-building, the convergence of different actors in areas difficult to harmonize, etc.). This move was part of a formula to integrate and Europeanize regulatory policies (Heritier 2003). The practical implications of this expansion were to promote effective soft rules in the EU that led to a common approach to specific areas (i.e. electricity, telecoms, financial system, etc.) (Papadopoulos, 2008). In fact, Eberlein and Grande (2005) argue that these transnational regulatory networks filled a policy gap in Europe that required the development of a single market with a common regulatory framework. However, this rise poses issues of democratic legitimacy and strong distributive conflicts.

Within this strand of the literature, Blauberger and Rittberger (2015) propose a new conceptual and theoretical understanding of ERNs. They defend the orchestration

framework to study regulatory networks. In this framework, the Commission acts as an orchestrator to promote networks, but also EU agencies as a second-best strategy. Networks are seen as channel to allow the change from government to governance. Networks are “expected to increase the problem-solving capacity of political systems” (Maggetti, 2014: 481). In his study on the effects of membership in European Regulatory Networks (ERNs); Maggetti (2014) concluded that: first, national regulatory agencies (NRAs) actively cooperate to promote their regulatory powers. This, in turn, fosters the interaction with other members. Second, networks empower members. Finally, networks promote harmonised rules at the domestic level. In a similar study, Maggetti and Gilardi (2014) argue that European regulatory networks (ERN) promote the soft rules that in the end are adopted across Europe.

In spite of the aforementioned strengths of networks, Levi-Faur (2011: 826) demonstrated through his study on EU agencies that progressively EU agencies were replacing European networks. He saw this change as an evolution, in line with the findings by Thatcher and Coen (2008), and tried to make explicit the emergence of three processes between agencies and networks. In the first one, that the process of *agencification* in the EU is replacing the different regulatory networks. Thatcher and Coen (2008) defended agencification as the process where national agencies, clustered around networks, voted for the creation of specialized EU agencies. Levi-Faur (2011) also claimed that agencies compete with networks through the creation, use and control of the so-called *agencified networks*. He also demonstrated that the networking capacities of agencies strengthened them to the point of becoming *networked agencies*. To confirm these empirical findings, Rittberger and Wonka (2013) were able to demonstrate that agencies were more adaptable than networks. This is because the latter tended to disappear or become more dependent from agencies over time, while the agencies emerged as more capable organizations to pursue public goals at the European level.

2.2 What are EU agencies and why were they created?

The creation of EU agencies has been considered as a move towards the decentralization of the regulatory authority (and the delegation of responsibility) from a supranational political body, such as the Commission, to more technocratic (efficient), independent institutions (Levi-Faur, 2011: 811). Although the definition of EU

agencies in the literature is quite diverse, all of them acknowledge the non-majoritarian and specialized character of their mandate. EU agencies are defined as “EU level public authorities with a legal personality and a certain degree of organizational and financial autonomy that are created by acts of secondary legislation in order to perform clearly specific tasks.” (Kelemen, 2005: 175-6; Kelemen & Tarrant, 2011: 929). Taking into account a more power-based approach, Levi-Faur (2011) based on the works by Pollit and Talbot (2004) and Christensen and Laegrid (2006), defines an agency as an “administrative organization with distinct, formal identity, an internal hierarchy and, most importantly, at least one principal.” It is precisely the role of different principals (e.g. the Council, the Commission, member states), adds Dehousse (2008), what makes of EU agencies a very interesting institution to study.

There are different views, but probably complementary, about the impact of European agencies in EU policy-making. Buess (2014:96) suggest that when EUAs are created, they tend to replace “the traditional committee system as the EU’s main regulatory institution”. Eberlein and Newman (2008: 29) hold that different from other non-majoritarian institutions at the EU level, EUAs, besides their centralizing role, mainly function as “hubs in a network of national experts, delivering ‘regulation by information,’ rather than by regulatory fiat.”

Madalina Busuioc (2013: 18), in her study on agencies’ creation and design, praises the growth and speed in the process of European agencification in spite of the Treaties not having an explicit basis for their creation. This is quite relevant taking into account that the process of agency creation did not truly started until the 1990s. In fact, Groenleer (2009: 96-101) identifies three waves of agency creation: the first one started in the mid 1970s and it comprised the creation of agencies under the former *first pillar*. Their mission was to offer expert information to the EU institutions (namely the Commission) (i.e. CEDEFOP and EUROFUND). The second wave started in the early 1990s when several agencies were created in areas dedicated to social policy and regulation. The third wave started in the early 2000’s and they included an important expansion towards the creation of the European Supervisory Authorities (ESAs) and three agencies (i.e. EBA, EIOPA and ESMA) amidst the 2008 financial crisis.

The creation of agencies has been presented as a way to endow EU institutions with more technical and less political arguments to base certain decisions. Agencies have been portrayed as a channel to increase the EU administrative capacity; especially, in the presence of crises of transboundary nature. However, the truth is that the notion of reducing the workload of the Commission has proved to be an elusive goal (Busuioc, 2013: 25). Within the functional and political arguments for their creation, some authors have identified transnational crises as triggering their creation (Vos, 2000; Paul, 2012; Busuioc, 2013). In this sense, the basic argument is that because of the lack of a coordinated and unified response by member state, EU institutions have proposed the creation of agencies able to contain their negative consequences. Further, delegation, in these contexts, implies a political strategy for blame-passing unpopular decisions from member states to agencies (Busuioc, 2013: 26).

2.3. Agencies' design: functional or political motives?

What are the motivations different European and national actors have to endorse the creation of agencies? This question has driven part of the literature focusing on the functional and political motives that justify the agencies' *raison d'être*. A very important debate within the literature on EU agencies has been the motives leading on the one hand, the Commission, as a supranational body, to encourage the formation of these organizations and on the other, the willingness of member states to delegate certain regulatory competences to centralized, non-majoritarian bodies (Eberlein and Grande, 2005: 90). In answering this question, the principal-agent logic has been employed to explain how member state principals (i.e. ministries, national regulators) delegate powers to supranational actors such as the Commission. Based on this logic, the literature has searched for functional and political arguments that explain why agencies were created, which actors are relevant in their development and how much influence they have in the EU working dynamics.

A functional argument would defend that the more technical, less political and more outcome-oriented approach of EUAs justify their creation (Thatcher, 2011). This argument favours the efficiency produced by objective information for policy-makers. Majone (1997) argues that regulation through information is superior to other modes of governance in the EU. In fact, he claims that the politicization of the Commission

requires the delegation of technical regulatory functions to independent agencies (Majone, 2000, 2002). In line with this argument, Christensen and Nielsen (2010) argues that the spread of EU agencies is due to a process of institutional isomorphism. According to Thatcher (2011: 792), if isomorphism occurs at the EU level, the agencies should spread in a similar fashion to other areas. The functionalist argument explores the benefits of delegation for the decision-making process at the EU-level.

Another functional explanation provided is that the emergence of agencies is an answer to the coordinating dilemma within the EU governance system (Eberlein and Grande, 2005; Levi-Faur, 2011; Rittberger and Wonka, 2011). To understand the coordinating functions, the literature has focused on the mutual exchange, learning processes, deliberation and peer pressure (Majone, 1997; Sabel and Zeitlin, 2010). As it is well documented, the intention to create agencies was to harmonize specific policy areas that could create the sense of ‘one Europe.’ However, Heims (2015: 1) claims that most often agencies lack the power and resources to rightly enforce ‘harmonized regulatory action’.

The need to understand functional characteristics of the different EU agencies have pushed scholars to propose typologies that can classify more accurately their role. Flinders (2004) identifies four different regulatory tasks in EUAs: information gathering, rule setting, monitoring and enforcement. Griller and Orator (2010: 13-14) argue that most agencies are providers of information or executives. Their role is managerial since they are not endowed with pre-decision-making power. The rest of agencies are regulatory and their main role is the application of rules. In this group, some may take decisions on specific cases (e.g. EASA, CPVO) or they may take pre-decisions with non-binding power that can influence the formal Commission’s decision (e.g. EMEA). Based on different models, Geradin and Petit (2004) classify agencies as: regulatory, observatory, corporation, executive and network safety/interoperability. Conversely, Chiti (2013: 95) offers a typology centred on their functional characteristics: agencies with genuine decision-making powers, agencies that coordinate common systems and provide advisory or technical assistance to EU institutions and member states and information agencies coordinating the production of high-quality information in specific sectors of EU action. Notwithstanding this logic, some scholars do not take a purely functional approach to typologies. Busuioac (2013: 38) states that

the tasks agencies perform endow them with more or less power. Accordingly, she states that agencies can be classified as information providers (least powerful), managerial (intermediate power) and operational cooperative, decision-maker and quasi-regulatory (most powerful).

According to the summaries of EU legislation (European Union, Communication from the Commission, 2009), agencies can be categorized based on their primary functions as those: adopting individual decisions, offering technical or scientific advice, responsible for operational activities, responsible for information and networking services and those offering services to other agencies and institutions. Based on their primary functions and the three waves of agency creation, we have designed a chart (Chart 1 below) that reflects the evolution in the number of EU agencies.

Chart 1. Creation of EU agencies through waves and functions

Waves of agency creation	First wave (mid-1970s)	Second wave (early 1990s)	Third wave (early 2000s- ongoing)
Function			
Adoption of individual decisions		OHIM CVPO	EASA ECHA SRB ESMA EBA
Provision of technical or scientific advise		EMEA	EFSA EMSA ERA EMA
Operational		EUROPOL	EUROJUST FRONTEX CFCA CEPOL EU-LISA EASO GSA
Information and networking services	CEDEFOP EUROFOUND	ETF EEA EMCDDA EU-OSHA	ENISA ECDC EIGE FRA ACER EIOPA
Services to other agencies and institutions		CDT	

Sources: own elaboration with information from Groenleer (2009: 96) and Davis (2013: 3).

Although the study of agencies from a functional perspective has been good to understand their tasks and performance; several authors state that there is the need for more studies focusing on the politics of agency creation (e.g., Kelemen 2002; 2005). As Busuioc (2013: 73) argues, “agencies have emerged as a strategic, political compromise

between main institutional actors at the EU level.” She also points at the relevance of political reasons as drivers of their creation. The political argument, as the functional one, is also related to the design of EU agencies. When an agency is created, its design is supposed to be the consequence of the strategic interaction among an array of different actors (i.e. the Commission, the Parliament, the Council, the member states). In spite of this reality, the Commission is considered the most important regulatory institution in the EU system of governance (Rittberger and Wonka, 2013: 35). According to Coen and Thatcher (2008), decision-makers have three main institutional choices: they can delegate more powers to the Commission, to EU agencies or to networks of national regulatory agencies (NRAs). However, as the same authors argue, the Commission prefers supranational institutional designs rather than intergovernmental. This is because following a supranational design increases its own powers (Coen and Thatcher, 2008: 52).

The role of supranational EU institutions, such as the Commission, has been an important part of the political argument. Kelemen and Tarrant (2011: 924) claim that the design of EU regulatory institutions is driven not only by functional but also political considerations related to distributional conflict and the power of supranational actors. In their work, the authors explore the question of why policy-makers have chosen to create EU level agencies while in other areas they have instead accepted much looser regulatory networks. They defend that the degree of distributional conflict in the policy area in question along with the degree of influence of supranational actors shapes the design and the strength of regulatory bodies. Thatcher (2011:790) argues that the Commission has defended their creation and power when agencies are beneficial to their strategy of increasing its reach. Thatcher also acknowledges that the political reasons behind agency creation make the Commission and member states enjoy many controls over them. In certain cases and confirming Keleman and Tarrant’s argument, this can favour networks in certain areas while hindering the creation of stronger agencies.

The political reasons behind agency creation have entailed a process of delegation where elected officials have transferred policy-making competences to non-majoritarian structures. As a political body, the Commission has presented itself as the principal of the process (Dehousse, 2008: 792). Moreover, it has sought to increase its power like any bureaucratic structure would do (Majone, 1996). For the Commission, delegation is

often the second-best alternative only if it perceives that the Council would not allow increasing their own power (Kelemen, 2002: 111). Member states, through the Council, are confronted with the tension between their commitment to regulation and their will to manipulate the distributional consequences of regulatory decisions. Where the Commission has significant regulatory powers, it will try to block proposals for new regulatory bodies. However, member states since the 1990s prefer countering the Commission's power by delegating new regulatory tasks to external bodies (Kelemen and Tarrant, 2011: 929).

The role of the Commission in EU agency creation was very important during the 1990s. However, the Parliament's relevance in agency creation has increased in a number of sectors characterised by high distributional conflicts (e.g. electricity, gas, financial services). In the cases where they were established, often they have not been granted with sufficient scope to act on issues where member states had exclusive competences (Kelemen and Tarrant, 2011: 932). In any case, it appears that having the involvement of other principals in agency creation implies that EUAs are not only based on the political will of the Commission but also the Parliament and member states (Dehousse, 2008: 790).

In the second wave of agency creation, it is possible to observe the Parliament's growing influence as an important actor of EU agency design (Kelemen, 2002: 111). This implies the rise of supranational actors in detriment of intergovernmental ones. In particular, the Parliament acquired increasing powers due to its broader legislative and budgetary powers. As the Commission, the Parliament is perceived to favour more supranational, centralised regulatory bodies partly as a strategy to increase its popularity. In the meantime, the Council also gained control over those agencies belonging to the former second and third pillars (Dehousse, 2008: 803).

Notwithstanding the increasing role of the abovementioned EU institutions; Egeberg, et al. (2015) documented how EU agencies have become a central actor in the policy-making and implementation activities of the Commission. Organizational factors contributed to this process (Egeberg et al, 2015: 624). Among them, the authors point first, the sharing functions as executive bodies; second, having all the personnel affiliated to an EU institution; third, the Commission's administrative capacity to follow

up the work and policy implementation and finally, favouring a legitimized template to point at specific departments in the national governments rather than the legislative. The authors argue that although agencification aims at de-concentrating the executive power; the close ties existing between the Commission and the EU agencies indicate in fact a centralization of the executive power at the EU level.

The functional and political dynamics that have informed the creation of EU agencies, as discussed by the literature, have provided them with an institutional design allowing independent policy-making from their multiple principals (the Commission, Parliament, Council and member states). Nevertheless, variations are still very significant. This situation has awakened a lot of interest among scholars interested in these functioning of these public organizations. Thus, in the next part, we discuss how the literature has explored the dependence/independence or autonomy of EUAs from different actors.

2.4. EU agencies: independent from whom?¹

How independent EU agencies are from those principals that created and designed them? Moreover, how *de jure* or *de facto* independence translates into administrative autonomy? How political and administrative autonomy strengthens the agencies' capacities to take their own decision and fulfil their mission? (Trondal & Peters, 2013: 298). These questions guide a strand that has become central in the literature on agencies: their level of political independence and organizational autonomy (Pollit and Talbot, 2004; Krapohl, 2004; Christensen and Laegreid, 2006; Groenleer, 2009).

The work by Dehousse (2008) makes explicit that the autonomy of EU agencies is related to its design, which depends on a multiplicity of principals. Following the principal-agent model, the author argues that the lack of a defined principal in the EU produces weak EU agencies. A major reason for this situation is that the European institutional architecture is designed first, to avoid the concentration of power; second, to avoid the presence of a defined hegemon and third, to strengthen the multi-level character of the system (Dehousse, 2008: 790). Accordingly, agencies are subject to different controls from different actors. In this context, this author is pessimistic about

¹ Most of the literature uses the terms independence and autonomy interchangeably.

the development EU regulators becoming stronger. Similarly to Dehousse (2008); Thatcher and Sweet (2002: 20) defend the argument that weak EU agencies prevail due to the existence of 'composite principals'. Although it is fairly clear the role that different actors have on the autonomy of EU agencies; from an IR perspective, member states are considered the natural principal (Pollack, 2003). However, in spite of the aforementioned intergovernmental logic a question emerges: to what extent supranational agents advance their policy preferences by taking advantage of their discretionary power over member states in particular areas?

Wonka and Rittberger (2010) tried to answer the abovementioned question by researching the formal autonomy of EU-level agencies from the Commission, the Council, the Parliament and the member states. The authors argue that assessing the formal-institutional independence is crucial to understand the level of influence agencies have in the EU policy-making. In their study, they offer a comprehensive empirical assessment on the institutional independence of 29 EU agencies. The conclusions of their study showed that the formal autonomy of the agencies depends on the political commitment to regulatory policies. Moreover, they claimed that agencies in the field of economic regulation show higher levels of independence than those in the field of social regulation. In a previous study, Wonka and Rittberger (2009: 9) state that those EU agencies that are able to take binding decisions are more politically independent than those that do not have this competence. In this sense, their findings go in line with the ones already exposed by different scholars in the field (Majone, 1996, 2000; Gilardi, 2005).

As acknowledged by the literature on regulatory agencies, there is an important difference between the formal independence, which refers to the legal ability to make decisions without political interference, and the informal independence, which refers to the ability to make decisions beyond the legal procedures established by principals. Wonka and Rittberger (2009: 9) claim that there are many possibilities: an agency may have limited powers but may use them independently; or it may possess a wide range of powers but exercise them without any independence. EU agencies may share similar levels of formal autonomy but display different levels of practical autonomy (Maggetti, 2007: 282) and the reverse may hold true. Indeed, some authors suggest that autonomy does not necessarily reflect or depend on legal considerations (Pollit et al 2004;

Busuioc, 2009; Trondal 2010). This leaves the unresolved question of why agencies with similar formal characteristics may evolve and behave differently (Maggetti 2007; Groenleer 2009).

From a similar perspective, in their study of 25 EU agencies, Christensen and Nielsen (2010: 177) concluded that the establishment of a large number of independent agencies allowed the EU to increase their administrative capacity. However, these authors argued that the preferred ‘structural choice’ for EU agencies maintains important components of power that favours the European Commission and the member states, lessening the formal and informal independence levels. In their study on EU agencies autonomy, Egerberg and Trondal (2011: 869 & 882) conclude that in fact these agencies are closer to the Commission than to the Council and national ministries, and suggested that the proximity between the two actors contributes to the executive centre formation at the European level. In their study, they make important observations about EUAs relation to different actors: while it is true that the direction is towards the executive centre formation; it is also true that in the implementation phase, the agencies’ key interlocutors are the Commission and the national agencies. They may act quite independently from national governments and the Council but not from the Commission. Thus, they claim that agencies contribute to the executive centre formation at the European level strengthening a more supranational direction. From this viewpoint, it emerges that EU agencies’ dynamics strengthen a more supranational direction to the detriment of a more intergovernmental logic, while confirming the multi-level character of regulatory governance in Europe.

Gilardi and Maggetti (2011: 207) claim that the *de jure* autonomy of EU agencies is “neither a necessary nor a sufficient condition for explaining variations in regulators’ *de facto* autonomy from political decision-makers and from the regulated industries.” In fact, other scholars empirically demonstrate that tight oversight is compatible with quasi-independent agency action (Gehring and Krapohl, 2007: 208). Moreover, Groenleer, Kaeding and Versluis (2010) made explicit that *de jure* independence granted to EU agencies did not prevent them from being highly dependent on the Commission and the member states. Some contributions demonstrate that *de facto* autonomous task expansion of EU-level agencies is actually the result of organizational capacity building and subsequent *de facto* actor-level autonomy (Trondal 2010). Other

scholars claim that the EU agencies' expertise in certain areas allows them to act quite autonomously (Gehring and Krapohl, 2007; Groenleer, 2009). By doing so, the literature has strongly questioned the autonomy of EU agencies from their multiple principals (Dehousse, 2008).

A large part of the literature has revolved around questions on how formal rules affect different agencies' room of manoeuvre. In fact, the literature has tried to find answers on how the design of the EU regulatory model provides agencies with different levels of autonomy to take their own decisions. It has become evident that in the area of regulation, the interest of the Commission and the member states to retain or gain more power has informed the agencies' independence design (Pollit & Talbot, 2004; Groenleer, 2009). However, Trondal and Peters (2013: 302) warns that the rise of administrative capacities of the European Commission also enhances its ability of co-opting administrative sub-centres such as EU agencies.

Chiti (2013: 93-110) takes a procedural approach to the issue, and analysed the *de facto* rulemaking powers of EUAs. He concludes that agencies with decision-making power and those providing advisory or technical assistance are engaged in 'some sort of regulation by soft law', while agencies with an information mandate do not portray any type of rulemaking. By doing so he claims that rulemaking procedures have two shortcomings: first, the gap between the proceduralization of binding implementing rules and the informal aspects in the adoption of soft law measures; and second, problems in the consultation mechanisms of the actors involved in the implementation. Accordingly, these shortcomings in the rulemaking of EU agencies play against the plea for independence that they may request *vis-à-vis* their principals.

The great attention developed around issues of independence and autonomy has made of this strand of the literature a central one in the analysis of EU agencies. However, the strand on independence still needs more comprehensive analyses that can shed light not only on the functions but the usefulness of agencies in the EU system of governance. In the previous section, we noted that functional arguments were important drivers in the creation of EU agencies. On paper, these tasks should provide these organizations with sufficient scope to carry out their mission. However, as the literature shows, the degree of autonomy reveals that there is a big difference between the formal (*de jure*) and

informal (*de facto*) autonomy agencies enjoy. It becomes apparent that the political logic has also a lot to do with the level and the form of independence agencies enjoy. In order to complete the picture presented, this strand of the literature would positively benefit from a better understanding of the multi-level character of the EU and how agencies respond and fulfil their different missions within this space.

2.5. Accountability relationships: to whom are agencies accountable?

As seen, the delegation of power to non-majoritarian institutions such as the EU agencies has entailed the involvement of the member states, different EU institutions and a variety of stakeholders. In terms of their working dynamics and their results, the literature asks *to whom agencies are accountable*. The lens to answer this question should focus on the internal organization of agencies, and more specifically, on the composition of their management boards (MBs). The MBs, as the agencies' decision-making bodies, are central components to understand how independent an agency is from its principals (Egeberg and Trondal, 2011; Busuioc, 2013) and also how work the mechanisms used by agencies to be accountable to different actors (Busuioc, 2013).

Functional explanations to agency creation defend that member states established agencies as a way to deal with policy complexity and to show a credible commitment towards more technical and less political decisions (Majone, 2000: 299). However, Kelemen and Tarrant (2011: 922) defend that the MBs, in charge of leading this move towards efficiency, replicate an intergovernmental logic where they serve the member states' interests to control the agencies. In fact, the structuring of EU agencies around MBs was supposed to provide member states with control during post-delegation (Kelemen 2002; Kelemen and Tarrant 2011). Moreover, Busuioc (2013: 6) argues that the information asymmetries among members of management boards made decision-making rules dysfunctional.

The intergovernmental logic is not the only reason that goes against the abovementioned functional logic. In fact, the empirical evidence shows that the Commission has an important role in attempting to improve their position within the boards (Busuioc 2013: 11). Recent contributions indicate that the Commission has exerted greater influence over certain agencies and their boards beyond their mandate

than over others (Egeberg and Trondal 2011; Busuioc 2013). The Commission is aware of its importance in the EUAs organizational scheme; therefore they try to exert their influence through the alignment with the agencies' directors and chairpersons. Also they do through the mobilization of organizational capacities and by exhausting legal resources that favour their predominant role as guardian of the Treaties (Busuioc, 2013: 14). At the same time, member states' strategic behaviour shows that functional and distributive considerations are behind their behaviour in the boards. In the end, most member states tend to informally accept the leading role that the Commission has in these boards.

Egeberg and Trondal (2011) and Busuioc and Groenleer (2012) provide a reasonable explanation regarding Commission's pre-eminence within boards. Egeberg and Trondal (2011) argue that due to the composition of the MBs (mostly directors of national agencies); the agencies' directors enjoy in practice more power than formally stated. Moreover, Busuioc and Groenleer (2012) find that NRA representatives in MBs are ill prepared and not very involved in the discussions in contrast to the Commission's representatives. As a consequence, both situations favour a more predominant role of the Commission in the agencies' boards, larger informally than formally stated (Busuioc, 2013: 3).

Nuria Font (2015) has studied management boards beyond the agencies' design and focuses also on the extent that informal rules are triggered by the Commission's strategic motivations. She defines these rules as "unwritten norms, routines, and operational procedures that constrain the choices of political actors and frame decision-making processes (Helmke & Levitsky, 2004)." After comparing the MBs of 22 agencies, the author concludes that the reach of the Commission's informal power is not equal in all the agencies. Moreover, she states that the informal rules favouring the Commission are based on functional motivations.

Another strand within the studies on EU agencies' boards refers to exploring how accountable they are and to whom. Accountability can be defined as "the relationship between an actor and a forum, the actor has the obligation to explain and justify his or her conduct, the forum can pose questions and pass judgement, and the actor might face consequences" (Bovens, 2007: 450). Kelemen and Tarrant (2011) claim that national

representatives in management boards are much more independent and less accountable to their particular governments than expected by EUA's design. On the same line, Buess (2014) focuses on the accountability and democratic legitimacy of EU agencies by exploring the member states' representation on the management boards. By doing document and survey analysis, Buess concludes that MBs' possess weak *de jure* and *de facto* vertical accountability. However, peer (horizontal) accountability is more pronounced for most EU agencies but it is national rather than transnationally oriented. Accordingly, the presence of member states' representation on the management boards (MBs) could be deemed as a form of vertical accountability towards member states political institutions.

Busuioc (2012) investigates the agencies' accountability vis-à-vis the management boards. Her contribution shows how the accountability ties operate in practice, while detecting specific weaknesses that hamper their effectiveness. After studying EU agencies' boards, the author states that the size and composition of boards do not lead, in certain cases, to efficient and in-depth discussions and decisions. This situation results in a cumbersome board process too oriented towards administrative details. Her findings are in line with other authors (Buess 2014) who made explicit that MB's members paid more attention to their national interests rather than the overall performance, strategic planning or the development of the agency. The findings show that the mechanisms included in the formal design are not sufficient warrant of actual agency accountability.

In spite of the accountability problems identified in the literature, Busuioc (2013:15) states that the European supervisory agencies, created under the third wave, have more formal independence rules than the previous ones. This is because they are vested with quasi-rule-making powers. Nevertheless, she still finds some flaws in their independence from member states: national regulatory authorities have a strong position in these EU agencies through their presence in the board of supervisors. This is the authority's primary decision-making and rule-making body and it is different from the management board. Moreover, Busuioc (2013:16) points at the possible dangers of paralysis due to the power vested on national authorities.

Within the study of accountability, the literature has also explored the role of the European Parliament in its relations with the EUAs. The literature has mainly referred to the agency design and the adoption of stronger accountability mechanisms through the involvement of the Parliament (Kelemen and Tarrant, 2011; Trauner, 2012). Based on the autonomy of EU agencies, the literature has also focused on the accountability relationships between the Parliament and EUAs (Groenleer, 2009; Jacobs, 2014). Font and Perez (2015) propose a different approach to the study of the accountability mechanisms between the European Parliament and the agencies. By exploring the oversight of the Parliament of EU agencies through written questions, the authors claim that the oversight role is led by MEP who are in national opposition parties and activate “when agencies are salient and large” (p. 2). The novelty of their research is that they use different lenses (i.e. written questions) to understand the accountability relationships between the Parliament and the EUAs.

3. Conclusion: an invitation for further research

The literature review presented in the previous section makes explicit the importance that agencies have reached for the EU governance system in a short period of time. From their emergence in the 1960s to their evolution in the different waves of agency creation, these institutions have been seen as public bodies that apparently respond better to the technical needs placed by other EU institutions. However, it also becomes apparent that through time the political more than the functional concerns have prevailed in most cases. The literature reviews makes visible the evolution of the research in the last 20 years, revealing precisely the focus on the political and functional characteristics of agencies derived from their creation and design. It also shows how these drivers have affected the organization of the institution *per se*. An important element that also is evident is the underlying principle of studying EU agencies is the power dynamics informed by their multiple creators.

Studying agency creation entailed a quite descriptive logic where functional and political motives are behind the justification of their existence. Under the functional motives, agencies’ functions implied the agreement that EU institutions needed of specialized independent bodies that could harmonize the rules of specific policy areas while offering credible and apolitical information on certain issues. Under the political

one, agencies are the outcome of supranational and intergovernmental dynamics seeking to legitimize more technocratic approach vis-à-vis European citizens while keeping some logic of multi-level political supervision. This part of the literature makes explicit the intergovernmental and supranational nature that makes EU agencies a recipient of vested interests. From the functional and political motivations, the independence and autonomy of EU institutions was the other strand we explored. In this sense, the legal predicaments behind their design and the multiple principals behind their creation inform their independence and their *de jure* and *de facto* autonomy. It is precisely in this part where the literature focuses, besides the supranational and intergovernmental logic, on the agency organizational dimension, where its internal dynamics is linked to institutional design.

Very related to their design, the accountability relationships of agencies also emerged as an important area of research. To whom agencies are accountable depend on the EU institution that promoted it, the member states interests, and the policy area that they are supposed to regulate or inform. In this part, it also became evident that the multi-principal nature in the creation of EU agencies makes them accountable, although not very intensively, to several institutions and member states. However, it also became evident that the role the Commission had during their creation make them more accountable to this EU institution than to other actors.

Our review revealed that some issues about EU agencies have been scrutinized quite intensively, but there remain some other issues that could be further developed. First, the focus on agency creation and design has allowed understanding their role within the EU governance system; however, we still do not know how the agencies' mission and tasks have translated into more harmonised and efficient dynamics within the European space. Moreover, the extent agencies' decisions and advice serves those institutions and member states they are supposed to serve have not been sufficiently studied. Doing so is highly relevant if we want to understand and assess the tangible outcomes of EU agencies' decisions.

Second, the literature's focus on the Commission and other EU institutions has not given much space for the study of different stakeholders and pressure groups that may have vested interests in the agencies' decisions, and how they are capable (or not) to

influence agencies decisions. By studying these actors, we could see agencies not as only responding to the multi-principal logic stated by Dehousse (2008) but also to the interests of non-institutional actors seeking to gain leverage within technical and non-political institutions, and in general, we also will be able to better discern the logic of horizontal accountability mechanisms with social and economic stakeholders. In sum, it is necessary to better understand the informal dynamics leading to the decision-making within EU agencies. Although there are important studies under this strand, it is still unclear how or whether the salience of certain issues may affect the discussion of matters that the agencies are supposed to inform or regulate.

Third, it is important to bridge the supranational and intergovernmental dynamics not only to understand the creation but also to make sense of the decisions and actions of EU agencies. In this sense, how they respond to different principals and where their decision-making processes are aimed to portray agencies as a more dynamic and less static element from an institutional approach. Further, deepening the study of agencies from a multilevel perspective would allow having a better sense of their role within the EU governance system and their capabilities to make a differential impact on the policy implementation.

After presenting these routes for further research, we believe that they can be successfully merged into studies that respond to the current challenges the EU face. Challenges where agencies, due to their specialized and non-majoritarian nature, are called to advise, to inform and to take decisions. Within this context, we would like to bring to light a quite underexplored area within the literature: the mission of EU agencies in coordinating several political, social and economic actors vis-à-vis specific circumstances related to their specific domains. Coordination in the European Union has been considered a vital characteristic in the integration and harmonization process; still the need to theoretically and empirically highlight this concept from different perspectives begs for a better understanding of its importance. As made explicit in the review, the literature on coordination has mainly focused on the relevance of mutual exchanges, deliberation and peer pressure among national regulators (Eberlein and Grande, 2005; Sanel and Zeitlin, 2010; Heims, 2015). From here, the studies on coordination have placed networks as an alternative procedure in counterbalance to more stable and better equipped EU agencies (Boin, et al. 2014; Heims, 2015).

Very little has been said about the importance of these institutions in looking for common responses to wide European challenges -that emerge from time to time, often unexpected. To assess the effective coordination capabilities of EU agencies we vow for more studies that explore their internal dynamics. Moreover, if several EU agencies come out as the outcome of some specific EU-wide crises; then it is very relevant to study their behaviour when they are confronted to new crises. So far few studies (Ansell, et al., 2010; Borjen et al, 2014) have explored the role of agencies vis-à-vis European trans-boundary crises. We propose to go beyond the abovementioned point by specifically focusing on their coordinating role –actual and potential- from approaches that bridge and combine the supranational powers, the intergovernmental capabilities and the multi-level dynamics existing within the European Union. By concluding with this plea, our intention is to bring into the debate, the responsibility and leadership EU agencies should have vis-à-vis multiple tangible (e.g. health, infrastructure) and intangible (e.g. financial) challenges Europe face.

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