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European Union agencies: explaining EU agency behaviour, processes, and outputs

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CHAPTER 9

European Union Agencies: Explaining EU agency behaviour, processes, and outputs

Dovilė Rimkutė

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Summary

The institutional development of European Union (EU) agencies is striking. Over the past decades, forty-six EU agencies have been established to support the European Commission and member states in their regulatory and executive tasks. Today, EU agencies are a vital part of the EU’s administrative capacity. EU agencies have received considerable scholarly attention that used a myriad of theoretical approaches—ranging from institutional, organizational, and bureaucratic reputation to interest group theories—to explain why EU agencies have been created; how they develop over time; whether they are wielders of supranational or intergovernmental power; how they legitimize themselves and cultivate a positive bureaucratic reputation; and how they form alliances or insulate themselves from specific stakeholders. This chapter reviews the rise of EU agencies and introduces a selection of theoretical perspectives that have been used by EU agency scholars to study EU-level agencification and EU agency behaviour, regulatory processes, and outputs.

9.1 Introduction

The institutional developments of the EU have been marked by agencification, that is, the rapid process of agency creation and extensive delegation of administrative powers to non-majoritarian institutions working at arm's length from political institutions.¹ Over the past decades, forty-six EU agencies have been established to support the European Commission and member states in their regulatory and executive tasks (for a full list of EU agencies and bodies, see Publications Office of the European Union, 2017). EU agencies play a crucial role in information-gathering, standard-setting, and (increasingly) behaviour modification tasks in policy domains as diverse as food safety, pharmaceuticals, chemicals, financial markets, security, environment, energy supply, air traffic, human/animal/plant health, education, justice, etc. Although one observes variation in how EU agencies have been designed (i.e. how independent and autonomous they are, which roles and responsibilities they hold, and how much de facto power and authority they actually yield), it is evident that they are a vital part of the EU's regulatory and executive capacity. The EU regulatory state, as it stands now, would be unthinkable without the contribution of EU agencies that work behind the scenes to provide technical data, scientific expertise, and specialized information to EU institutions that take (political) decisions, 'touching the lives of Europe's 500 million citizens' (Publications Office of the European Union 2017: 4).

Formally, EU agencies possess limited discretionary powers—as a result of the 'Meroni doctrine', a ruling of the European Court of Justice in 1958; however, in practice, they play a pertinent role by providing technical information and scientific advice that are often directly followed by EU institutions, especially in regulatory decision-making. As Majone argued, in view of limited discretionary powers, EU agencies developed 'a regulatory approach, primarily based on information and persuasion' (Majone 1997b: 274). Regulation by information—that EU agencies heavily exercise—is regarded as a powerful mode of governance, as EU institutions heavily rely on technical information to make decisions that affect the twenty-seven member states. The European Commission, for instance, often adopts draft decisions provided by the European Supervisory Authorities (Busuioc 2013) or by the European Medicines Agency without any modifications (Gehring and Krapohl 2007). In a similar vein, the Commission heavily draws on the European Food Safety Authority's scientific opinions to make decisions about whether highly controversial substances should be authorized on the European single market (Rimkutė 2015; 2018; 2020b).

EU-level agencification and EU agencies have attracted considerable scholarly attention. Research on EU agencies has significantly advanced our understanding not only about the rationale for the rapid and extensive creation of EU agencies and the normative implications of delegating far-reaching tasks to EU-level quasi-regulators but also on the actual behaviour patterns, processes, and outputs of EU agencies. EU agencies have been studied from various theoretical perspectives. For example, rational choice institutionalism has been employed to explain how agencies are created and why the institutional design of EU agencies varies considerably. Sociological institutionalist literature has shed light on how EU agencies develop

over time and enhance their de facto autonomy beyond the confines of their legal mandates. Organizational scholars have taught us about EU agencies' organization, internal structures, tasks, and where they stand in the EU political-administrative space (i.e. are EU agencies wielders of supranational or intergovernmental power within the EU polity?). Recently, emerging bureaucratic reputation scholarship has provided novel theoretical insights and empirical knowledge into EU agency legitimacy and reputation. Last but not least, interest group theories have been employed to research why and how EU agencies involve non-state stakeholders in their regulatory processes. This chapter reviews the rise of EU agencies and their growing role in the EU political system and introduces a selection of theoretical perspectives that have been used by EU agency scholars to explain EU agency behaviour, processes, and outputs.

9.2 The Rise of EU Agencies

Scholars working on EU agencies have used terms such as 'agencification', 'agency fever', and 'mushrooming' to describe the swiftness of agency creation processes and the growing tendency to delegate far-reaching responsibilities and powers to EU-level agencies and bodies (see, e.g. Thatcher 2011; Busuioc et al. 2012). Today, the EU encompasses forty-six agencies that spread out across the twenty-seven member states, working in a wide variety of policy domains. EU agencies possess different roles and responsibilities, yield different degrees of delegated powers and de facto autonomy, and are provided with different budgets and numbers of staff. With the increased number of EU agencies, the EU has become a regulatory state whose administrative capacity has significantly increased without the substantial growth of the primary executive body, that is, the European Commission. EU agencies are at the core of what Majone has called the EU regulatory state: 'Regulation is by far the most important type of policy making in the EU' (1999: 2). In the remainder of this section, the creation and evolution of EU agencies are reviewed to introduce the main developments in EU-level agencification and the growth of the European regulatory state.

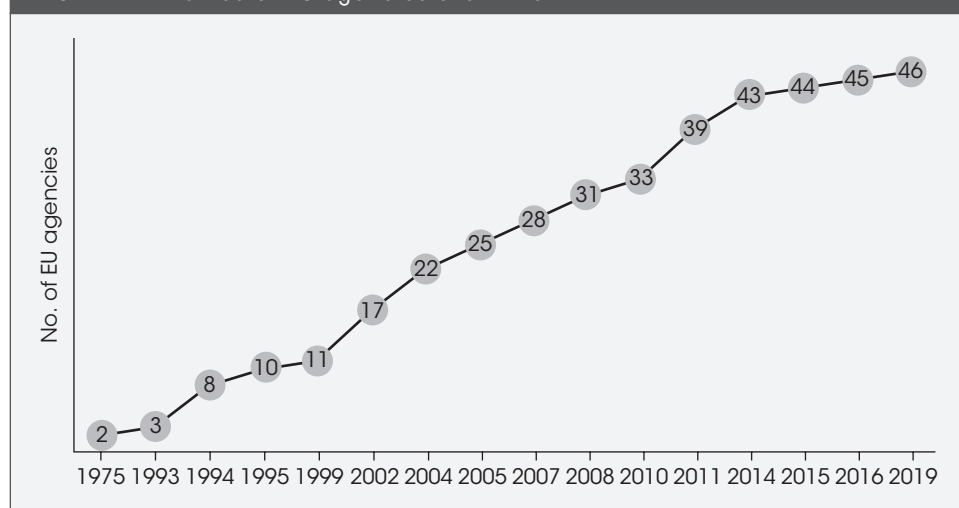
9.2.1 EU-Level Agencification

The very first EU agencies—the European Centre for the Development of Vocational Training (Cedefop) and the European Foundation for the Improvement of Living and Working Conditions (Eurofound)—were already established by 1975. For a couple of decades, Cedefop and Eurofound were the only EU-level agencies providing EU institutions and member states with 'scientifically sound, unbiased, timely and policy-relevant knowledge that contributes to better informed policies for upward convergence of living and working conditions in Europe' (Publications Office of the European Union 2017: 40) and 'policies which make it easier for citizens to move between education and employment and to find and keep jobs' (Publications Office of the European Union 2017: 12).

A prompter creation of new EU-level agencies started in the 1990s (nine new agencies were instituted), boomed in the 2000s (twenty new agencies), and continued its steady increase after 2010 (fifteen new agencies) (see Figure 9.1). In the 1990s, a couple of agencies with clearly defined executive tasks (i.e. translations—the Translation Centre for the Bodies of the European Union (CdT)—and training—the European Training Foundation (ETF)) were created to assist a smooth day-to-day functioning of EU institutions. Furthermore, an important law enforcement agency—the European Police Office (Europol)—was instituted to support the member states in their fight against serious international organized crime.

Alongside purely executive and law enforcement bodies (CdT, ETF, Europol), agencies in charge of information-gathering and (quasi-) regulatory powers were instituted in policy domains such as drugs and drug addiction (the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)), safety and health at work (the EU Agency for Safety and Health at Work (EU-OSHA)), environment (European Environment Agency (EEA)), intellectual property (the European Union Intellectual Property Office (EUIPO), formerly known as the Office for Harmonization in the Internal Market (OHIM)), plant variety (the Community Plant Variety Office (CVPO)), and medicines (the European Medicines Agency (EMA)). Although most of the created (quasi-) regulatory agencies carry out only limited tasks, such as information-gathering (e.g. EMCDDA, EEA, EU-OSHA), a solid basis for the stronger and more capable EU regulatory state was laid by instituting the very first moderately powerful agencies in charge of authorizing medicines (EMA) and registering trade marks (EUIPO) in the European single market. Against this backdrop, one can observe that the 1990s have been marked by initial attempts of the EU institutions to increase their regulatory and administrative capacity. However, the most significant attempts to bring the EU regulatory state further have been made in the 2000s.

FIG. 9.1 The rise of EU agencies over time



In the 2000s, the regulatory capacity of the EU grew remarkably with the establishment of such relatively independent and powerful (quasi-) regulatory agencies as the European Maritime Safety Agency (EMSA); the European Food Safety Authority (EFSA); the European Aviation Safety Agency (EASA); the European Union Agency for Network and Information Security (ENISA); the European Railway Agency (ERA); the European Fisheries Control Agency (EFCA); the European Centre for Disease Prevention and Control (ECDC); and the European Chemicals Agency (ECHA). With such a regulatory expansion, the EU has significantly increased its regulatory might across multiple regulatory policy domains; that is, not only was the agencification in the 2000s marked by a high number of new agencies covering important policy domains, but also they were granted with more independence and regulatory responsibilities.

In addition to the EU's growth in terms of its regulatory power, one observes that in the 2000s, the EU institutions diversified the areas in which EU agencies started to play an important role. To illustrate, cooperation agencies in charge of external borders (the EU Agency for the Management of Operational Cooperation at the External Borders (Frontex)), judicial coordination (the European Police College (CEPOL)), and serious cross-border organized crime (the EU Agency for Criminal Justice Cooperation (Eurojust)) have been created. In so doing, EU agencies started to play a role in sensitive policy domains that previously used to exclusively belong to national-level jurisdictions. In addition, EU institutions started to play a vital role in innovation and research areas by forming the European Institute of Innovation and Technology (EIT) and starting the process of joint undertakings (JUs) creation—public–private partnership bodies that are in charge of the execution of EU research and technological development programmes—on strategic policy domains, such as fusion energy, innovative medicines, air traffic management, and aeronautics.

Beyond the 2000s, the rapid process of new agency creation has continued with an even more pronounced expansion to regulatory domains not yet covered by EU agencies and with powers and responsibilities that had not yet been granted to any previously instituted EU agency. The EU's regulatory capacity grew even further in terms of regulatory domains and unprecedented extent of powers delegated to new EU-level regulators. According to the European Commission, the financial crisis (in 2008) showed the need for better regulation and supervision of the financial sector at the EU level. To that end, three European Supervisory Authorities (ESAs) were established in 2011—the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA)—to introduce a stronger financial supervisory architecture. In addition, in 2015, the Single Resolution Board (SRB)—the central resolution authority within the Banking Union—was created. The ESAs and the SRB are among the strongest EU agencies in terms of their institutional designs (i.e. independence and discretionary decision-making powers) as well as far-reaching responsibilities. The SRB, for example, has a strong capacity to act swiftly in establishing and enforcing an effective resolution regime for banks in its jurisdiction. In addition to the 2008 financial crisis, the EU has been affected by the migration crisis, which again resulted in new agency creation—the European

Asylum Support Office (EASO)—and the significant expansion of responsibilities and powers of the already existing agency dealing with border security issues, that is, Frontex.

After 2010, alongside financial and migration authorities that were created in view of financial and migration crises in order to prevent future crises, the EU agency phenomenon expanded in policy domains such as electronic communication (Office of the Body of European Regulators for Electronic Communications (BEREC)), energy regulation (the Agency for the Cooperation of Energy Regulators (ACER)), IT systems (the EU Agency for Large-Scale IT Systems (EU-LISA)), gender equality (the European Institute for Gender Equality (EIGE)), and fundamental human rights (the EU Agency for Fundamental Human Rights (FRA)). Additionally, the creation of JUs has peaked significantly with the establishment of four new bodies in fields such as fuel cells and hydrogen, bio-based industries, electronic components, and railway research and innovation.

The latest agency at the time of writing—the European Labour Authority (ELA)—was established in 2019 to ensure the efficient and effective coordination and enforcement of EU rules concerning labour mobility and social security. The establishment of the ELA is noteworthy as labour and social security issues (i.e. social regulation domain) used to be the exclusive terrain of national-level politics.

The above-discussed development clearly illustrates that agencification in the EU is profound and incessant. At the time of writing, EU institutions are continuing to create new agencies and JUs, for example, the European High Performance Computing Joint Undertaking (created to combine the EU's resources to buy and deploy supercomputers and develop innovative supercomputing technologies and applications), the Cybersecurity Competence Network and Centre (intended to assist EU institutions to secure the EU's digital single market), and the European Public Prosecutor's Office (an independent body in charge of investigating, prosecuting, and bringing to justice crimes against the financial interests of the Union, e.g. fraud and corruption).

9.2.2 The Increasing Role, Power, and Influence of EU Agencies

Although one might argue that the quantitative expansion is reaching its limits (i.e. many policy areas are already covered by EU agencies), the qualitative agencification processes are far from being finalized. EU agencies are continuously being delegated new mandates that used to be the terrain of national-level authorities, they obtain new far-reaching responsibilities, more (quasi-) decision-making powers, and additional resources. The remainder of this section briefly discusses the evolution of EU agencies and illustrates their ever-growing role and influence in the EU polity.

In general, EU agencies are less powerful than their national counterparts or agencies working in the US, Australia, Canada, or other comparable polities. The vast majority of EU agencies have well-defined tasks that do not go beyond information-gathering activities, coordination, or other operational tasks. In most cases, agencies assigned with (quasi-) regulatory powers (e.g. EMA, ECHA, EASA, EFSA) do not hold the same regulatory decision-making discretion as agencies in

the EU member states or other national and federal political systems. To illustrate, the European Food Safety Authority (EFSA) conducts scientific risk assessments on certain substances (e.g. pesticides, food additives, animal feed); however, it does not take decisions on how risks posed by specific substances should be regulated. Risk management decisions are considered to be political and, therefore, are taken by the European Commission. Similarly, the European Medicines Agency (EMA) conducts comprehensive scientific evaluations of data and provides recommendations on medicines which form the basis for the authorization of medicines in Europe—a decision taken by the European Commission. This meant that the EMA played a central role in the EU's response to the COVID-19 pandemic (see Box 9.1).

The reason why EU agencies cannot take decisions on behalf of EU institutions is rooted in the 'Meroni doctrine'. In a decision issued in 1958, the European Court of Justice has prohibited the delegation of discretionary decision-making powers to EU bodies whose establishment is based on a secondary legislation, that is, whose establishment is not instituted by the EU treaties. The European Commission explains the 'Meroni doctrine' as follows: 'Agencies cannot be granted decision-making powers in areas in which they would have to arbitrate between conflicting public interests, exercise political discretion or carry out complex economic assignments' (European Commission 2001: 23).

While legally defined limitations of EU agency discretionary powers are relevant to understand where EU agencies stand in the EU institutional architecture, the discrepancies between *de jure* (formal) and *de facto* (actual) powers of EU agencies are

BOX 9.1 The European Medicines Agency and COVID-19

The EMA strives to promote scientific excellence in the evaluation and supervision of medicines in order to advance public health in the EU. More specifically, it has four key tasks:

- to facilitate development and access to medicines;
- to evaluate applications for marketing authorization;
- to monitor the safety of medicines across their lifecycle;
- to provide information to healthcare professionals and patients.

During the COVID-19 pandemic, the EMA was in charge of reviewing new scientific data on prospective COVID-19 medicines; requesting data from pharmaceutical companies developing COVID-19 vaccines; providing scientific support in clinical trials, as well as facilitating clinical trials conducted in the EU; and evaluating applications for marketing authorization.

At the time of writing in February 2021, the EMA had received four conditional marketing authorization (CMA) applications for COVID-19 and evaluated and authorized those produced by BioNTech/Pfizer, Moderna, and AstraZeneca. The European Commission directly followed the scientific recommendations of the EMA in each case. As a result, the three vaccines are now permitted in the EU and are among the most important tools that member states are using to manage COVID-19.

considerable. For instance, Groenleer (2009) has illustrated that some EU agencies are very successful in developing their de facto autonomy over time, which exceed the confines of their formal mandates; that is, although EU agencies have significant legal limitations in how much regulatory decision-making power they yield, over time they may successfully cultivate a positive reputation vis-à-vis relevant audiences, which, in turn, may translate into significantly increased de facto powers and influence that extends their formal mandates. Furthermore, as Bertelli and Busuioc (2020) argued, a strong bureaucratic reputation may even lead to the decreased use of formal controls: if agencies are successful in building powerful coalitions with relevant audiences, this, in turn, can diminish the ability of political superiors to exercise legal control mechanisms.

In addition, once established, EU agencies tend to ‘grow’ in terms of formal tasks and responsibilities, de jure and de facto powers, budgets, and human resources. To illustrate, in recent years, the mandated responsibilities and resources granted to the EU Agency for the Management of Operational Cooperation at the External Borders (Frontex) and the European Asylum Support Office (EASO) increased significantly. More specifically, Frontex used to be a small agency in terms of budget (6 million EUR) and staff (seventy). Furthermore, it held limited operational powers. In recent years (after the migration crisis), the role and recourses of Frontex increased remarkably. Following the adoption of the European Border and Coastguard (EBCG) Regulation² that considerably increased resources concerning budget and staff, in 2019, about 740 people worked at Frontex and the budget had grown to 330 million EUR. Both figures are planned to significantly increase once more; for example, by 2027, the plan is to make a standing force of 10,000 border guards available to Frontex. A similar trend can be seen in the case of EASO. EASO’s budget is expected to grow from €91 million in 2018 to over €114.10 million by 2020 and the staff from 219 to around 500 people. In addition to considerably increased resources concerning budget and staff, Frontex has been transformed into the European Border and Coast Guard Agency (EBCG), while EASO’s name has been changed into a European Union Agency for Asylum (EUAA). Changes in agencies’ names reflect considerable changes in their new mandates, encompassing more responsibilities and powers (see Box 9.2).

BOX 9.2 New mandate to Frontex

New regulation upgrading Frontex regulatory and operational roles (EBCG Regulation 2016/1624) entered into force in 2019. The new mandate included new responsibilities and tools to support EU member states in safeguarding their external borders. Frontex is expected to provide a wide array of operational services to EU and Schengen countries, for example, border surveillance, border control to return, and supporting the reintegration of returnees in non-EU countries. Furthermore, the role of Frontex was strengthened in fighting cross-border crime. Frontex will also play a greater role in the supervision of the growing flows of legitimate travellers across EU’s external borders.

(Continued)

More specifically, with the new regulation in place, Frontex became/continues to be in charge of:

- developing and bolstering the EU's border management capacities;
- conducting operations in non-EU countries that do not have borders with the EU;
- continuing to maintain well-functioning border controls for EU citizens;
- continuing to form resilience at the EU's borders;
- continuing to provide national authorities with operational support at land, sea, and air in order to maintain safe and secure external borders;
- continuing to provide experts and training to contribute to the fight against cross-border crime;
- continuing to assist national authorities in effective returns of those who are not eligible to remain in the EU. Under the new regulation, Frontex will also assist national authorities in post-arrivals/post-returns;
- continuing to monitor and provide risk analyses and information exchange about the EU's borders in order to warrant smooth law enforcement at the external borders;
- remaining committed to the respect of fundamental rights. Under the new regulation, Frontex will have forty fundamental rights monitors in its operations.

Another relevant observation regarding the growing role and relevance of EU agencies in the EU polity is that newly created agencies tend to be more powerful compared to their predecessors. Recently EU institutions started to delegate powers to EU agencies that stretch the confines of the 'Meroni doctrine' to the maximum. For example, in view of the financial crisis-driven reforms of the EU-level financial system, the three ESAs were created: the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA). See Box 9.3 for more information about the ESAs, the European system of financial supervision, and their far-reaching responsibilities, power, and influence.

Compared to their institutional predecessors, the ESAs constitute a significant change both regarding EU agencification and as the regulation of European financial markets. Busuioc notes: 'Within the EU agencification process, the ESAs break the mould, formally at least, in terms of their unprecedentedly wide-ranging powers compared with earlier agencies, as well as the heavy emphasis in their founding regulations on their independence, and have been likened to the more powerful US authorities' (2013: 112). In sharp contrast to any other EU-level agency, the ESAs were granted powers to make direct binding decisions to national supervisory authorities and to override them by issuing decisions directly to individual financial institutions in member states. In addition to their unprecedentedly far-reaching responsibilities, the ESAs also possess significant (quasi-) rule-making powers, as they are able to adopt guidelines and recommendations, as well as being entitled to prepare technical standards that feed into binding law made by the European Commission. Furthermore, the de facto rule-making drafts of the ESAs are far-reaching because the European Commission is discouraged from deviating from the draft of the ESAs. If the Commission wants to depart from the draft technical standards of

the ESAs, stricter controls are put in place to implement the change; for example, it takes much longer to object to the act for the European Parliament and the Council.

However, the extensive delegation of far-reaching decision-making powers to the ESAs did not go unnoticed. The UK, for example, has taken a legal action before the Court of Justice attempting to annul the EU's Short Selling Regulation³ that gave the European Securities and Markets Authority (ESMA) the power to ban short-selling during market emergencies. The UK argued that the regulation granted discretionary rule-making powers to ESMA and, in so doing, violated the 'Meroni doctrine'. The Court of Justice rejected the legal claim of the UK. Although the Court of Justice did not directly override the doctrine, it introduced a novel interpretation of how many discretionary decision-making powers EU agencies can be granted. The new reading of the 'Meroni doctrine', in turn, paved the way for the further delegation of far-reaching regulatory powers to EU agencies. In light of the new interpretation of the 'Meroni doctrine', for example, the SRB, established by the Single Resolution Mechanism (SRM) Regulation,⁴ was delegated extensive powers to provide financial support for failing credit institutions—powers that would have been inconceivable under the former reading of the 'Meroni doctrine'.

BOX 9.3 The European system of financial supervision

The European system of financial supervision, instituted in 2010, consists of the European Systemic Risk Board (ESRB) and three ESAs: the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA).

- The ESRB is in charge of the so-called macroprudential oversight of the EU financial system, which means the assessment of systemic risk. According to its mission statement, the ESRB seeks to prevent and mitigate such risk through monitoring and assessment.⁵ It can issue warnings and recommendations. It monitors a set of actors: banks, insurers, asset managers, shadow banks, financial market infrastructures, and other financial institutions and markets. The General Board, the core decision-making body of the ESRB, is chaired by the president of the European Central Bank.⁶
- The EBA defines its mission contributing to the formation of the so-called European Single Rulebook in banking.⁷ This is a set of harmonized rules for financial institutions in the EU. Furthermore, the EBA seeks to foster convergence of supervisory practices and consistent rule application. The EBA is in charge of assessing risks in the EU banking sector by providing risk assessment reports and stress tests. The EBA also checks the correct application of EU law by national authorities. The agency advises the European Parliament, the Council, and the Commission.⁸
- ESMA's mission is to protect investors and to help the stability of EU financial markets.⁹ ESMA assesses risks to investors, markets, and financial stability and equally contributes to supervisory convergence. It has direct oversight powers in relation to credit rating agencies and trade and securitization repositories.¹⁰
- EIOPA is the EU's supervisory agency for the insurance and occupational pensions sector. As with the other agencies, it is aimed at promoting harmonized and consistent application of EU rules. It also focuses on strengthening the oversight of cross-border groups.¹¹

9.3 Theories Explaining Agency Behaviour, Processes, and Outputs

EU agency scholars have extensively studied behaviour, processes, and outputs of EU (regulatory) agencies. For this purpose, they have tailored the long-established theories (i.e. institutional, organizational, bureaucratic reputation, and interest group theories) to obtain knowledge about EU-level agencies. The application of the mainstream theories to the EU context has significantly advanced the scholarship of EU agencies. To date, we know considerably more about EU agency accountability, independence, autonomy, authority, legitimacy, and reputation. Furthermore, we know more about *de facto* activities of EU agencies (e.g. regulatory processes and outputs) that may at times be significantly different from national or federal agencies. This newly generated knowledge—drawing on the mainstream theories to explain EU-level agency behaviour, processes, and outputs—has, in turn, contributed to further theoretical developments as EU agencies bring novel insights into agency literature. Unlike national-level agencies, EU agencies operate in multilevel governance structures, they have to function in an unsettled polity, and face grave challenges such as, for example, contested legitimacy and limited regulatory authority. As a seminal scholar of EU agency governance, Giandomenico Majone, stated, '[d]emocratically accountable principals can transfer policymaking powers to non-majoritarian institutions, but they cannot transfer their own legitimacy' (Majone 1999: 7). Delegation of extensive responsibilities and powers to non-majoritarian institutions, such as EU agencies, fostered legitimacy-related issues that have always been a considerable obstacle for EU agencies to fully exercising their (regulatory) authority. In turn, the contested setting in which EU agencies have to operate brings new theoretical insights into the long-established theories that exclusively have been applied to explain national agency behaviour.

This section presents a selection of theories that has been used by EU scholars to explain EU-level agency behaviour, processes, and outputs. In so doing, the section provides a broad overview of how institutional, organizational, bureaucratic reputation, and interest group theories advanced our knowledge about EU-level agencies and their growing role in the EU polity.

9.3.1 Institutional Theories

Institutionalism encompasses a wide set of theoretical perspectives that state that 'institutions matter'; that is, institutional structure and arrangements as well as social processes significantly shape agency behaviour. However, diverse theoretical approaches within institutionalism put emphasis on different institutional aspects that are argued to play a crucial role in shaping agency behaviour: formal rules, political rules, or the social context in which agencies are embedded.

The first strand of institutionalist literature is primarily interested in inter-institutional relations, in particular, institutional design matters. The institutional design literature is mainly concerned with questions of why political principals delegate tasks to agents (i.e. 'Why delegate?') and how principals control agencies to avoid discretionary activities or 'drift'. The question of 'Why delegate?' mostly relates

to three issues that are extensively discussed in the institutional design literature: information asymmetry, credible commitment, and blame avoidance. The question of ‘how to control agencies once they are established’ focuses on discussing three control mechanisms—police patrol, fire alarm, and deck-stacking—that principals can choose from to circumvent agency-drift risks.

What have we learned from EU scholars employing institutionalist literature to explain EU-level agencification and EU agency behaviour patterns? EU scholars have provided a myriad of explanations regarding the core rationales behind EU agency creation (Majone 1994, 1997a, 2002b; Kelemen 2002; Christensen and Nielsen 2010; Thatcher 2011). To illustrate, EU law-makers in the Council of Ministers and European Parliament have multiple options as to whom tasks of EU-level policymaking and implementation could be delegated (Coen and Thatcher 2008; Kelemen and Tarrant 2011; Blauberger and Rittberger 2015; Mathieu 2016). The tasks can be delegated to the European Commission, networks of national regulatory authorities (NRAs, see, e.g. Levi-Faur 2011), or EU-level agencies. As demonstrated in the previous sections, the delegation of tasks has been increasingly granted to EU-level agencies. To that end, the past decades in EU agency scholarship have been dominated by the following research questions: Why do EU law-makers choose to transfer certain responsibilities to EU agencies? Why are EU agencies created? Scholars focusing on explaining why EU-level agencies have been established considered both functional (see, e.g. Blauberger and Rittberger 2015, 2017) and political (see, e.g. Kelemen and Tarrant 2011; Tarrant and Kelemen 2017) explanations and engaged in vivid theoretical debates.

In line with the functional reasoning, the justification for agency creation is rooted in the functional necessity argument; that is, EU-level agencies have been set up to carry out technical and scientific tasks that support EU institutions in policymaking and implementation. Majone (1999), for example, argued that the prompt processes of agencification and the growing role of regulatory agencies can be explained by ‘the need to achieve credible policy commitments’ (Majone 1994, 1999: 2; 2002b). In line with this reasoning, in order to enhance credibility and long-term policy commitments in the EU, EU agencies were formed to draw heavily on high-quality data and scientific knowledge to provide credible solutions to common challenges that the EU member states face. More specifically, EU agencies were instituted to follow the consequentialist take of political rule (Scharpf 1999); that is, EU agencies legitimize themselves by delivering results that are expected to translate into effective policies. In other words, EU agencies are dependent on output legitimacy.

While the functional arguments explain why there is a necessity to create agencies working at EU level, their explanatory power is weak in explaining the variation in the institutional design of EU agencies, that is, structure, delegated powers, and granted *de jure* independence. EU agencies have been created on a case-by-case basis and vary considerably in the roles and responsibilities, independence, and (regulatory) powers they were given by EU institutions. To that end, scholars working on EU agency governance employed political consideration arguments to address the patchy design choices of EU law-makers (Kelemen 2002; Kelemen and Tarrant 2011). Kelemen and Tarrant (2011), for example, argued that the degree of

distributional conflict between EU institutions—not functional necessities or credible policy commitment convictions—explains the institutional design of EU agencies. By drawing on a rationalist institutionalist framework, Kelemen and Tarrant suggested that the course of EU agency design is shaped by political considerations, that is, the result of political compromises between the Council of Ministers, the European Parliament, and the European Commission. Political conflicts between the three EU institutions defined how the ‘Eurocracy’ (i.e. EU agencies) has been constructed.

The second strand of institutionalist literature regards EU agencies as organizations that are multifaceted social bodies possessing their own preferences and organizational interests that develop over time. This theoretical perspective (e.g. Scott 2001) regards public organizations, in this case EU agencies, as institutions—defined as adaptive systems whose behaviours are shaped by the pressures and demands in their environment in which they are entrenched (Meyer and Rowan 1977; DiMaggio and Powell 1983). Various informal structures emerge in the dynamic process of interaction between organizations, which, in turn, may alter formal structures. In particular, an emphasis is put on the organizational development over time. Through the processes of institutionalization, public organizations may develop into social institutions that hold high levels of organizational autonomy (Scott 2001).

This institutionalist strand puts forward an argument that differences between agency behaviour can be explained not only by exploring the differences in legal and political factors but also by studying the differences in the overall organizational setting in which EU agencies have to operate. Martijn Groenleer (2009), for example, argued that while the role of political actors such as the European Commission and member states is relevant when it comes to the establishment of EU agencies, their primacy regarding various aspects of agency behaviour, processes, and outputs is less evident. As a result, advocates of this theoretical approach have argued that it is not sufficient to study the formal rules and procedures written in the EU agencies’ mandates or the interests and preferences of the European Commission to explain how agencies operate. Studying the degree of control that the European Commission and other relevant political institutions use to constrain EU agencies does not offer relevant explanations about the interests and preferences of EU agencies and how they develop over time. Martijn Groenleer (2009) illustrated how EU agencies, over time, succeed (or fail) to emerge as autonomous bodies whose *de facto* powers may exceed their legal tasks envisioned in their formal mandates.

9.3.2 Organizational Theories

An organizational approach focuses on individual actors’ organizational characteristics and context in order to explain their behaviour, interests, and identities. The approach has been tailored to European integration studies with a particular focus on explaining the behaviour and identities of individuals operating within EU agencies and Commission directorates (Egeberg 2004). In so doing, an organizational perspective has significantly advanced the field by complementing the prevailing theoretical approaches of European integration (e.g. intergovernmentalism) that

preclude any influence of EU institutions or organizations. An organizational perspective puts forward an argument that the extent to which institutions can impact actors' mind-sets and loyalties depends on how these institutions are arranged. According to an organizational perspective, in order to explain how, for example, decision-makers behave or which interests and identities they hold, one should examine organizational structure, organizational demography, organizational locus, and institutionalization (Egeberg 2004). For example, settings that enact relatively weak demands on individuals within an organization (e.g. various Commission/Council groups) are expected to have a minor effect on individuals' behaviour compared to institutions to which individuals dedicate most of their time and energy (e.g. national or EU-level agencies, national ministries, or European Commission directorates).

What have we learned from EU scholars employing organizational literature to explain EU agency behaviour, interests, and identities? The application of an organizational approach has significantly advanced our knowledge about EU-level agencification processes, as well as EU agencies' role and contribution to the EU's administrative order. Organizational scholars have examined which conceptual images—intergovernmental, transnational technocracy, or supranational—EU-level agencification processes reflect (Egeberg and Trondal 2017). In other words, scholars studied how the creation of EU agencies contributes to the transformation of the political-administrative order of the EU polity: does it lead to more intergovernmentalism, transnational technocracy, or supranationalism? While scholarship on this particular research question illustrated that all three images are overlapping, supplementary, and coexisting, organizational scholars provided empirical evidence (based on a survey among EU agency staff) suggesting that the European Commission constitutes the most significant partner of EU agencies (Trondal and Jeppesen 2008; Egeberg and Trondal 2011; Font 2015). This, in turn, suggests that EU agencies bring the EU political-administrative order closer to a supranational and further away from an intergovernmental order (Egeberg and Trondal 2011, 2017). In the day-to-day activities and core tasks of EU agencies, the European Commission and national agencies are by far the closest interlocutors of EU agencies. As a result, Egeberg and Trondal conclude that EU-level agencies 'become building blocks in a multilevel Union administration, partly bypassing national ministries' (2011: 868). In addition to the evidence obtained from the survey data, scholars employing qualitative methods (e.g. semi-structured interviews) have confirmed that EU agencies operating in the European administrative system over the years become loyal partners of the European Commission (Groenleer 2009; Martens 2010).

These findings have challenged the dominant view that EU agencies are intergovernmental bodies because of the composition of their management boards; that is, EU agencies' management boards are dominated by national delegates. Empirical studies have revealed that management boards possess serious limitations that weaken their role as crucial decision-making bodies. To illustrate, the members of EU agencies' management boards meet relatively rarely, they have many attendees, and, on average, they are neither well prepared nor very vocal (Busuioc and Groenleer 2012). Therefore, scholars have put forward a proposition for future research

to examine the claim stating that EU agencies are wielders of supranational power rather than intergovernmental.

9.3.3 Bureaucratic Reputation Theory

The seminal work of Daniel Carpenter (Carpenter 2001, 2010b) introducing bureaucratic reputation theory has recently penetrated the EU agency scholarship. While the theory has been developed in the context of US federal agencies (i.e. to explain reputation and regulatory power of the US Food and Drug Administration), it has been extensively used to explain EU agency accountability (Busuioc and Lodge 2016, 2017), legitimacy (Busuioc and Rimkutė 2020b; Rimkutė 2020a), multilevel cooperation patterns (Busuioc 2016), scientific agency conduct (Rimkutė 2018), stakeholder involvement (Arras and Braun 2018; Braun and Busuioc 2020; Busuioc and Jevnaker 2020; Fink and Ruffing 2020), strategic agency communication (Busuioc and Rimkutė 2020a; Rimkutė 2020a; Rimkutė and De Vos 2020), and bureaucratic responsiveness (Rimkutė 2020b).

Bureaucratic reputation theory is a relatively new perspective that builds on explanations about the survival of public organizations (Meyer and Rowan 1977; Brunsson 1989), bureaucratic autonomy (Wilson 1989), and scholarship on blame games and organizational strategies to deal with external accusations and public attacks (Hood 2011). However, a bureaucratic reputation perspective has a distinctive theoretical emphasis—it primarily focuses on how external audiences observing and judging an agency's organizational conduct affect its behaviour (Carpenter 2010b). In other words, reputational explanations are rooted in audience-induced agency behaviour. More specifically, a reputational account argues that in order to explain agency behaviour, one should examine the context in which agencies perform, as well as identify relevant audiences and organizational threats that they pose to a (regulatory) agency: 'when trying to account for a regulator's behavior, look at the audience, and look at the threats' (Carpenter 2010a: 832). Bureaucratic reputation theory invites scholars to study the environment in which an agency is entrenched, a set of actors exercising public claims about an agency's organizational conduct, and the type of organizational threats that they pose to its bureaucratic reputation. What kind of reputational threats do agencies face and which threats are crucial to agency's positive reputations?

More specifically, bureaucratic reputation theory suggests that agencies are exposed to multiple and competing expectations exercised by multiple, and often conflicting, audiences (Carpenter 2010b). For instance, requests coming from political superiors, regulated industry, consumer organizations, media, and citizens are often incompatible, which, in turn, places government agencies in a situation requiring them to prioritize to which audiences they attend to and how. Bureaucratic reputation theory suggests that when deciding on which public claims to prioritize and how, agencies often assess whether signals coming from external audiences carry organizational threats to their multidimensional reputation encompassing technical, legal-procedural, performative, or moral aspects of their organizational conduct (Gilad 2009; Carpenter 2010b; Maor et al. 2013; Gilad et al. 2015; Rimkutė 2020b).

Depending on a set of relevant actors and threats that they pose, agencies may choose to emphasize their technical reputation (e.g. scientific rigorousness and expertise of their staff), performative reputation (e.g. effective performance and their ability to act), legal-procedural reputation (e.g. legality of their processes), and/or moral reputation (e.g. ethical behaviour and moral implications of their activities) (Carpenter and Krause 2012; Rimkutė and De Vos 2020).

What have we learned from EU scholars employing bureaucratic reputation theory to explain EU agency behaviour? EU agency scholars not only applied bureaucratic reputation theory to generate novel empirical findings into EU agency behaviour patterns but also contributed to theoretical developments by discussing the promise of a reputational account to our understanding of differentiated EU agency behaviour. Busuioc and Rimkutė (2020b), for instance, made a theoretical contribution by setting a new research agenda in the field of EU regulatory state, in which EU agencies play a crucial role. Scholars have argued that a bureaucratic reputation lens has a high potential to provide EU agency scholarship with a novel research agenda by introducing new, so far unexamined, explanations about EU agencies' behaviour, as well as casting 'a new light on the evolution of the EU regulatory state' (Busuioc and Rimkutė 2020b: 1266).

Furthermore, EU agency scholars have provided empirical evidence that reputational considerations affect agency behaviour in essential ways. Research on EU agency accountability has been significantly advanced by introducing how a bureaucratic reputation lens could provide novel theoretical insights into both formal and voluntary accountability practices. Busuioc and Lodge (2016, 2017), for example, provided a relevant theoretical contribution by introducing how reputational considerations serve as core drivers for agency voluntary (pro-active) accountability. Scholars working on EU agency legitimacy too, have provided both theoretical (Busuioc and Rimkutė 2020b) and empirical (Rimkutė 2020a; 2020b) contributions by introducing how reputational insights could advance EU agency legitimacy literature by illustrating how EU agencies legitimize themselves vis-à-vis relevant audiences. Studies drawing on quantitative text analysis and machine learning algorithms to predict EU agency strategic communication patterns have demonstrated that EU agencies' communications are consistent with well-established claims that the EU regulatory state is predominantly focused on output-legitimation strategies encompassing performative and technical aspects of their organizational conduct (Busuioc and Rimkutė 2020a; Rimkutė 2020a; Rimkutė and De Vos 2020). The findings are in line with the seminal claim that EU agencies are legitimated through the delivery of outputs, which are deemed to be rooted in expertise and are meant to contribute to the effectiveness of the EU's policy outcomes (Majone 1999; Scharpf 1999). The EU agencies' technical characters are expected to have direct consequences for their outputs: 'policies ... are basically legitimated by results, and hence may be delegated to such [nonmajoritarian] institutions' (Majone 1998: 28).

Another research strand focusing on what is regarded to be at the heart of EU agencies' fundamental tasks (i.e. technical and scientific outputs) used bureaucratic reputation theory to examine the relationship between reputational considerations and agency scientific conduct, that is, the use of scientific knowledge to

arrive at regulatory decisions (Rimkutė 2018, 2020b). Substantial inconsistencies in scientific conclusions—causing divergencies in regulatory measures to protect consumers from potential risks—have been observed in fields covering chemicals, pharmaceuticals, environmental protection, financial regulation. To address this empirical puzzle (why do regulatory agencies arrive at different scientific conclusions?) reputational theory has been used to introduce a novel explanation that has been explored only to a limited extent: regulatory agencies not only are concerned with providing sound scientific outputs but also simultaneously engage in reputation management efforts to cultivate their organizational legitimacy.

Furthermore, bureaucratic reputation was employed to explore how reputational considerations shape cooperation activities between EU and national agencies. Busuioc (2016), for example, has explored why two very similar EU agencies—Europol and Frontex—have different cooperation practices with corresponding national-level authorities, that is, successful cooperation in the field of border management (Frontex) and unsuccessful cooperation on issues related to law enforcement (Europol). The author concluded that multilevel cooperation is driven by both ‘turf’ and reputational considerations; that is, multilevel cooperation practices are more likely if they are perceived as reputation-enhancing and less likely if they are regarded as reputation-depleting by agencies that have to choose with whom (if at all) to cooperate.

9.3.4 Interest Group Theories

Interest group theories argue that agency behaviour is driven not by the pursuit of public interest but by the influence of interest groups and their particularistic interests. There is a wide variety of interest groups theories; however, they all emphasize the prominence of interest groups in the regulatory process and their importance in determining agency behaviour. In this section, a selection of diverse theories is discussed before introducing a body of scholarship using the theories to explain EU agencies’ behaviour and their (regulatory) processes.

The economic theory of regulation is built on the assumption that actors are rational and engage in self-interest maximization. It argues that all actors taking part in regulatory process seek to amplify their gains. Building on these core assumptions, scholars in the field have argued that agencies are prone to be captured by private-interest groups: ‘as a rule, regulation is acquired by the industry and is designed and operated primarily by its benefit’ (Stigler 1971: 3). The theory argues that regulation processes are marked by collective action problem; that is, only centralized particularistic interests that possess material stakes are successful in taking collective action, whereas diffused interests—for example, consumers—rarely manage to mobilize and exercise influence on regulatory agencies successfully.

Interest-group politics scholars regard regulatory processes as the outcome of relationships between diverse groups of stakeholders. The approach argues that agency behaviour is affected by the competition of power dynamics between interested parties rather than intentions to serve the public interest. Contrary to George Stigler’s reference to the economic calculations of regulatory agencies and

other actors affected by regulations (e.g. the industry), interest-group politics scholars emphasize the political influences, such as, for example, the formation of coalitions, the intertwining and complex networks of influence over agency staff, and the interaction between formal rules and discretion (Bernstein 1955; Lowi 1969).

Both approaches—economic and political theories of agency behaviour—place the emphasis on the supremacy of regulated interests: the behaviour of agencies is defined by the political power of interest groups seeking to influence them. On the contrary, Wilson (1982) argued that regulatory agency behaviour could be explained by looking at interest group constellations. Wilson argued that not all interest group constellations lead to regulatory capture; that is, at times public interests can prevail (provided that the interest group constellations set favourable conditions).

The theoretical richness of interest group theories has significantly advanced our knowledge in terms of the interest group involvement, composition, influence, and functions. In particular, in the past few years, the theoretical affluence in the field has been matched with empirical evidence regarding EU agencies and their relationships with interest groups. EU agency scholars focusing on explaining interest group politics have significantly advanced our knowledge on the involvement and function of various stakeholder groups (including the regulated industry) in EU agency (regulatory) processes (see e.g. Pérez-Durán 2017, 2018; Arras and Braun 2018; Beyers and Arras 2020; Braun and Busuioc 2020; Busuioc and Jevnaker 2020; Fink and Ruffing 2020; Joosen 2020, 2021).

What have we learned from EU scholars examining stakeholder involvement vis-à-vis EU agencies? Busuioc and Javnaker (2020) have conducted a systematic analysis on the composition of EU agencies' stakeholder bodies. The study has found that EU agencies are open to a wide variety of stakeholders and stakeholders' input feeds in a broad span of agencies' tasks. EU agencies were found to increasingly rely on their stakeholder to build support and alliances. Furthermore, scholarship in the field has shed some light on why EU agencies are consulting various stakeholder groups by indicating and examining multiple mechanisms behind stakeholder involvement in regulatory EU agency processes (Arras and Braun 2018; Pérez-Durán 2018). Arras and Braun (2018) have, for example, examined why and how EU agencies involve stakeholders (e.g. regulated industry, non-governmental organizations, and trade unions) in public consultations, stakeholder bodies, and management boards. They have found that EU agencies include various stakeholders in their regulatory processes to fulfil their core needs, that is, access to relevant information and expertise. Arras and Braun concluded that while such a reliance on stakeholders increases EU agencies' capacity, as well as enhances their horizontal accountability, it poses a high risk of dependence on the regulated industry.

In addition, Beyers and Arras (2020) have examined to what extent EU agency consultations are occupied by regulated industry representatives, independent experts, and national authority representatives, as well as provided explanations and empirical tests of varying stakeholder participation patterns. The study has

found that a vast majority of the submissions EU agencies receive through public consultations originate from private-interest groups, whereas other stakeholders (i.e. experts and public authorities) mobilize to a lesser extent. Furthermore, the study showed that, as in the US context (i.e. stakeholder participation in consultations organized by US federal agencies), the implementation stage of EU regulation is most favourable for regulated industries to mobilize. The study, further, found that legal provisions affect consultation diversity; that is, 'legal rules interact significantly with agency age and the composition of agencies' advisory committees' (Beyers and Arras 2020: 594). In a similar vein, Joosen (2020) has found that rule-drafting and public consultation stages of regulatory process are greatly used by interest groups. In particular, the regulated industry plays an important role in public consultations after drafting a rule and actively attempts to change the draft rule.

Scholars working on interest groups and EU agencies have shown that EU agencies are not insulated bodies, as one would expect from the bodies that were intended to be at the core of 'Eurocracy' (Kelemen 2002; Kelemen and Tarrant 2011). Empirical studies in the field have taught us that EU agencies are increasingly responsive to external signals, as well as doing their utmost to engage in horizontal accountability mechanisms to warrant legitimate and effective outputs and outcomes that they are mandated to deliver in the EU polity (Arras and Braun 2018). However, many knowledge gaps remain regarding stakeholder involvement vis-à-vis EU agencies. For instance, we know little about the actual impact of stakeholder involvement on EU agency regulatory outputs and outcomes.

9.4 Conclusion

This chapter has demonstrated that the institutional development and innovation of EU agencies continue to be remarkable. The quantitative (a number) and qualitative (increasing powers, responsibilities, and influence) growth of EU agencies is striking. The chapter has illustrated that agencification in the EU is profound and incessant. One observes the creation of new agencies in policy areas that were formerly the exclusive domain of national institutions and agencies. The more recently established agencies tend to have more *de jure* and *de facto* powers. For example, in view of the 2008 financial crisis-driven reforms of the EU-level financial system, the ESAs were created: the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA). Compared to their institutional predecessors, the ESAs constitute a significant change both regarding EU agencification and as the regulation of European financial markets. Furthermore, over time, EU agencies are granted more responsibilities and resources. For instance, the EU border control agency (Frontex) held limited operational responsibilities and used to be a small agency in terms of budget and staff. Following the adoption of the EBCG Regulation 2016/1624, Frontex has been transformed into the European Border and Coast

Guard Agency possessing significantly more responsibilities, powers, and resources (e.g. by 2027 the plan is to make a standing force of 10,000 border guards available to Frontex).

However, regardless of the continuously growing number and relevance of EU agencies, they face pertinent challenges. Unlike national-level agencies, EU agencies have to operate in an unsettled polity and function in multilevel governance structures. Furthermore, they face serious obstacles such as, for example, contested legitimacy and limited *de jure* decision-making powers (as a result of the ‘Meroni doctrine’, a ruling of the European Court of Justice in 1958). While, over time, EU agencies may gain considerable *de facto* decision-making powers (e.g. their draft decisions are often directly adopted by the European Commission), the legitimacy of their role and activities in the EU is disputed. As Giandomenico Majone stated, ‘[d]emocratically accountable principals can transfer policymaking powers to non-majoritarian institutions, *but they cannot transfer their own legitimacy*’ (Majone 1999: 7, emphasis added). The delegation of extensive responsibilities and powers to EU agencies fostered legitimacy issues that have always been a considerable obstacle to EU agencies fully exercising their (regulatory) authority. Scholarship on EU agencies has shown that EU agencies do their utmost to legitimize themselves vis-à-vis relevant audiences (Rimkutė 2020a). For example, they engage in strategic communication activities to refute public allegations and cultivate a positive organizational reputation (Rimkutė 2020b), they involve specific stakeholders in their (regulatory) processes to enhance their technical capacity and strengthen horizontal accountability (Arras and Braun 2018), and they employ compound voluntary accountability practices (Busuioc and Lodge 2016, 2017) to build a broad support amongst relevant audiences, such as EU institutions, national authorities, private actors, and general public.

EU agencies have received substantial scholarly attention that has employed a myriad of theoretical approaches, ranging from institutional, organizational, bureaucratic reputation to interest group theories, to explain why EU-level agencies have been created and what their institutional designs entail; how, over time, EU agencies develop *de facto* powers and influence that stretches the confines of their legal mandates; how they legitimize their activities and even their right to exist by building positive technical, performative, legal-procedural, and moral reputations; and how they build alliances with relevant stakeholders and at the same time attempt to remain insulated from inappropriate influences (e.g. particularistic private interests).



DISCUSSION QUESTIONS

1. Why have so many EU agencies been created?
2. Are EU agencies supranational or intergovernmental?
3. How do EU agencies seek legitimacy for themselves in the eyes of relevant stakeholders?



FURTHER READING

See Kelemen and Tarrant (2011) and Blauberger and Rittberger (2015) for a vivid theoretical debate regarding the political and functional rationales behind EU agency creation. For a detailed introduction to EU agency accountability and autonomy, see Busuioc (2013) and Groenleer (2009). Egeberg and Trondal (2017) provides a literature review discussing a supranational and intergovernmental character of EU agencies. Busuioc and Rimkutė (2020b) and Rimkutė (2020a) provide novel theoretical and empirical insights into EU agency legitimacy and reputation. Arras and Braun (2018) explain why and how European Union agencies involve non-state stakeholders.

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ENDNOTES

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2. Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No. 1052/2013 and (EU) No. 2016/1624.
3. Regulation (EU) No. 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps text with EEA relevance.

4. Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010.
5. See <https://www.esrb.europa.eu/about/background/html/index.en.html> (accessed on 21 May 2021).
6. See <https://www.esrb.europa.eu/about/orga/html/index.en.html> (accessed on 21 May 2021).
7. See <https://www.eba.europa.eu/about-us/missions-and-tasks> (accessed on 21 May 2021).
8. See <https://www.eba.europa.eu/about-us/missions-and-tasks> (accessed on 21 May 2021).
9. See <https://www.esma.europa.eu/about-esma/esma-in-brief> (accessed on 21 May 2021).
10. See <https://www.esma.europa.eu/about-esma/esma-in-brief> (accessed on 21 May 2021).
11. See https://www.eiopa.europa.eu/about/mission-and-tasks_en (accessed on 21 May 2021).