Bureaucratic Autonomy

and an emergent European Executive Order

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This article explores the factual autonomy of EU-level agencies and contests the alleged de jure distinction between regulatory and non-regulatory agencies. The article shows that agency autonomy combines organisational and actor-level characteristics. First, organisational-level autonomy consists of the accumulated organisational and financial capacities of EU-level agencies. Secondly, actor-level autonomy contains departmental decision-making dynamics among the agency personnel. This article presents fresh data from the web-pages of 33 EU-level agencies and from a recent survey and interview study among civil servants in seven EU-level agencies (N=265 and N=29, respectively). The analysis reveals that the de jure distinction between regulatory and non-regulatory agencies is of minor relevance when assessing the de facto autonomy of EU-level agencies. One remaining puzzle, however, highlighted by this article is that low degrees of organisational-level autonomy and high degrees of actor-level autonomy tend to go together within EU-level agencies. This puzzle is discussed more thoroughly in the concluding section.

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Introduction

We see an emergent European Executive Order (EEO) characterised by institutional variety, unsettled institutional ties and complex balancing-acts between non-synchronised decision-making dynamics. The nucleus of the EEO is the European Commission (Commission), however, supplemented by a growing body of EU-level agencies (Curtin and Egeberg 2008). EU-level agencies are typified by their diversity in organisational terms as well as their every-day governance dynamics – combining roles such as autonomous bureaucracies, epistemic communities, and supranational/Community actors (Trondal and Jeppesen 2008). This article explores the extent to which EU-level agencies are able act relatively independently (Meier and O’Toole 2006, 179) and impartial (Rothstein and Teorell 2008). One unresolved question, however, pertains to the relative importance of public law and organisational design in shaping bureaucratic autonomy (Drewry 1996; Hammond and Knott 1996; Maor 2007; Moe and Gilmour 1995). Whereas most literature assess agency autonomy by considering their de jure formal-legal design, far less attention has been devoted to the de facto real-life autonomy of agencies. This article explores the organisational and behavioural autonomy of EU-level agencies and test whether the alleged de jure autonomy of EU-level agencies profoundly influences de facto agency autonomy. The article concludes the de jure distinction between regulatory vs. non-regulatory agencies is only weakly associated with the de facto autonomy of EU-level agencies. One remaining puzzle, however, highlighted by this article is that low degrees of organisational-level autonomy and high degrees of actor-level autonomy tend to go together within EU-level agencies. This puzzle is discussed more thoroughly in the concluding section.

The concept of the ‘European Regulatory State’ views EU-level agencies as taking on a life of their own by acquiring de facto considerable leeway, substituting system unity with
institutional diversity (Curtin and Egeberg 2008; Moran 2002). “Most of the time, integration into a larger organized system competes with the desire for autonomy among the system’s components” (Olsen 2005, 4). Decentralisation of responsibility and authority to subordinated agencies is shown to involve a net loss of political control and a net gain of agency autonomy (Christensen and Lægreid 2006; Whitford 2002). Still, several reasons have been attributed to the creation and existence of EU-level agencies. Chief among these, EU-level agencies contribute to technical and sectoral know-how to the Commission, increased visibility of policy sectors, administrative cost-savings, and strengthening of the abilities of the Commission to focus on core tasks. The erection of EU-level agencies is also one way for the Commission to control the implementation of community regulation, to strengthen the capacities of the Commission to become political secretariats by hiving off technical tasks to semi-autonomous agencies, securing “expertise, credibility and visibility”, increasing the efficiency of rule-making, shifting blame for unpopular policies, augmenting decisional reputation, and reducing transaction costs for Community decision-making associated with incomplete information (Commission 2005, 3; Elgie 2006, 208; Everson et al. 1999; Maor 2007). However, after a period of augmented agency autonomy within the OECD area, second generation New Public Management reforms increasingly reassert executive centres of government. Public sector reforms are increasingly directed towards an urge to “keep the house in order” and to regain control and reduce ‘siloization’ of the public sector (Christensen and Lægreid 2007, 11; Kassim 2004, 56). One ambition of the Barosso Commission has been to Presidentialise the Commission and to provide ‘political guidance’ of the Community bureaucracy (Kurpas et al. 2008, 32). Concomitantly, ambitions to co-ordinate executive centres may severely hamper agency autonomy.
Agency autonomy is evident both when agencies are created and reformed (Dehousse 2008; Elgie 2006), and in their every-day practice (Everson et al. 1999, 58; Kelemen 2005). This article analyses agency autonomy mainly by studying the every-day decision-making behaviour of agency officials. The ambition of this article is twofold: Theoretically, two models of agency autonomy are outlined that highlight contrasting views of what agency autonomy is and how it can be explained: Model I suggests that agency autonomy is contingent on their *de jure* regulatory vs. non-regulatory design. Model II advocates that agency autonomy is less influenced by legal competences and profoundly affected by their organisational structures. Secondly, the empirical merit of these models is illustrated by a study of organisational-level and actor-level autonomy of 33 EU-level agencies. The building of organisational capacities and the emergence of autonomous decision-making behaviour among agency personnel are essential proxies for agency autonomy (Skowronek 1982). This article presents empirical data from the web-pages of 33 EU-level agencies and from survey and interview data among civil servants from seven EU-level agencies (N=265 and N=29, respectively).

Whereas most studies of bureaucratic autonomy explore core-executive institutions, subordinate agencies have attracted far less attention (Hammond 2005). When studying bureaucratic autonomy, the first question arises: “Independent of whom?” (Shapiro 1997, 278). The concept of bureaucratic autonomy is not neatly defined in the literature (Kelemen 2005, 174; Verschuere 2006). At the outset, it is too simplistic to *a priori* assume from which institutions EU-level agencies are supposed to be independent (Kelemen 2005, 174). In this study agency autonomy concerns the relationship vis-à-vis the Community institutions and vis-à-vis member-state governments, industry, international organisations, etc. (see Kelemen 2002, 95). Secondly, how can we carefully measure agency autonomy? There is a long list of
organisational mechanism that may condition agency autonomy (e.g. Hammond and Knott 1996; Maor 2007, 5). This study argues that agency autonomy should be assessed by considering two sets of dependent variables: organisational and actor-level variables.

**Organisational variables:**

(i) The financial and organisational resources of the agency  
(ii) The composition of the management board  
(iii) The organisational links between EU-level agencies and Commission DGs

**Actor-level variables:**

(iv) The decision-making behaviour of the agency personnel  
(v) The role perceptions of the agency personnel  
(vi) The identities and loyalties of the agency personnel

It is argued that actor-level autonomy contain a *departmental dynamic*. In short, officials evoking a departmental dynamic tend to evoke an inward-looking behavioural pattern geared towards ‘own’ organisation. Such behaviour tend to stress classical Weberian civil servant virtues, being party-political neutral, attach energy and identity towards their agency unit and division, and abide to administrative rules and proper procedures of their agency (see below).

In sum, agency autonomy is assessed partly by the organisational capacities of the agencies and partly by “exploring the beliefs and meanings through which [the officials] construct their world” (Bevir et al. 2003, 4). The causal relationships between organisational and actor-level proxies are of course complex, albeit not analysed here (Verschuere 2006).
The article proceeds as follows: The next section suggests two conceptual models of agency autonomy and applies organisational and actor-level proxies to derive testable propositions. The subsequent section presents the survey and interview data. The empirical analysis is divided into two separate parts. The first part applies organisational proxies to assess organisational autonomy of EU-level agencies. Part two utilises actor-level proxies to analyse actor-level autonomy of EU-level agencies. Finally, the conclusion summarises the main empirical observations and draws implications with respect to an emergent EEO.

Two models of agency autonomy

The agency literature has been dominated by a legal conception of agency autonomy. Our endeavour in this section is to unpack this legal model (Model I) of agency autonomy and then suggest a supplementary organisational model of agency autonomy (Model II). Model I claims that agency autonomy is considerably influenced by their de jure regulatory vs. non-regulatory design. Model II claims that agency autonomy is not shaped by public law but by organisational characteristics of the agencies. The main concern in this section is thus to suggest an organisational model of agency autonomy as one supplement to the prevailing legal model.

Model I: The legal dimension of autonomy

Agencies are often defined by their legal status and formal powers (Szapiro 2005; Vos 2005). The EU applies overly legal criteria to define what counts as an EU-level agency, both in its Operating Framework (Commission 2005) and at the EU website (http://europa.eu/agencies/index_en.htm). Assessments of de facto agency autonomy are derived a priori from their de jure competences (Commission 2001 and 2005; Dehousse 1997, 257). The Commission’s White Paper on EU-level agencies (2005) suggests a clear-cut
distinction between regulatory and non-regulatory agencies. According to the Commission (2005, 8), regulation refers to the “preparation and adoption of the regulatory framework, preparation and adoption of legislative acts for implementing the regulatory framework, monitoring implementation of the regulatory and legislative framework”. Regulatory agencies are divided into three groups according to their de jure formal powers: those offering advice, those carrying out inspections, and those who adopt legally binding individual decisions (Thatcher and Coen 2008, 11). Non-regulatory agencies do not possess formal decision-making responsibilities. Rather, they offer services such as information gathering and analysis, risk assessments, executive functions, administrative and management, and technical support.

The legal-procuderal approach to agency autonomy seems to dominate the agency literature. Emphasis is put on the “legal vehicles” for autonomy (Croley 2008, 4). Several studies suggest that organisational dynamics are indeed associated with their legal competences. For example, a weakening of the regulatory powers of EASA has been attributed to a de jure weakening of the regulatory powers of this agency (Schout 2008). Consequently, the legal status of the agency severely restricts its autonomy. Although a study shows that agencies that are endowed with formal decision-making power seem to be heavily controlled by national governments (Christensen and Nielsen 2008), this study illustrates that the picture of agency autonomy is more complicated. The recent Commission White Paper on EU regulatory agencies (2005) pleads for legal autonomy among the regulatory agencies. Having legal personality, EU-level agencies, notably the regulatory ones, are seen as trustees with fairly broad mandates and guarantees of independence (Majone 2003). Supporting this, “the Commission [claim it] cannot give instructions to the agencies or oblige them to withdraw certain decisions” (Szapiro 2005, 4).
The argument underpinning Model I is that “the essence of our Union is cooperation on the basis of rules” (Barroso 2006, 6). The de facto autonomy of agencies is associated with and causally explained by their legal status. The legal status of agencies represents binding instructions and mandates for agency discretion. The amount of discretion delegated to the agency is codified in these statutes (Yataganas 2001). This model of agency autonomy is vested in a vertical conception of accountability where delegates (agencies) act on the basis of political and legal mandates issued by one or several principals (politicians) (Dehousse 2008; Pollack 2003). The agents are assumed to adapt optimally to the mandates (contracts) issued by principals. The autonomy of agencies is thus rigidly fixed and stable within the remits of the legal contracts. In consequence, Model I highlights a delegation problem (Kiewiet and McCubbins 1991). Chief to this problem is the potential that agencies (agents) may act on preferences that depart from those of their leadership (principals) (‘shirking’) (Elster 2007, 430; Pollack 2003, 26). One measure that may curtail ‘shirking’ is judicial review by the European Court of Justice (Lenaerts 1993, 46). The problem of ‘shirking’ may also be minimised by ‘political review’ when legislators adopt extremely detailed laws that minimise the discretion for the agency. In this way, agency autonomy may also be enhanced by design when legislators provide general frame-laws for agencies that give wide rooms of manoeuvre (Huber and Shipan 2002). Essentially, the content of the laws written by legislators will determine agency autonomy. Some agencies are entrusted with wide ranging decision-making regulatory competences whereas other agencies are delegated merely non-regulatory competences.
Empirically, Model I makes no predictions with respect to the organisational dimension of agency autonomy. However, Model I suggests systematic variation in actor-level agency autonomy between regulatory and non-regulatory agencies:

**Actor-level predictions:** Mode I predicts systematic variations between regulatory and non-regulatory agencies with respect to the existence of a departmental actor-level decision-making dynamic. Because agency autonomy is fostered by legal competences, we predict that officials within regulatory agencies employ a departmental decision-making dynamic more extensively than officials within non-regulatory agencies. A departmental decision-making dynamic predicts that civil servants within regulatory agencies to be “neutral, intelligent, generalist professionals who advice ministers” (Richards and Smith 2004, 779). These officials are expected to evoke classical Weberian civil servant virtues, being party-political neutral, attach identity towards their agency unit and division, and abide to administrative rules and proper procedures of their agency (Barnett and Finnemore 2004, 167). This is the Westminster model that sees officials as neutral, permanent and loyal to the agency (Richards and Smith 2004, 783). We thus expect agency officials to be guided by formal rules, routines and procedures of the agency in which s/he is employed. Their role perceptions and loyalties are also directed towards the agency, and the officials tend to perceive themselves primarily as representatives of their regulatory agency and/or unit.

**Model II: The organisational dimension of autonomy**

Model II contests that legal statutes determine de facto autonomy. Bureaucratic autonomy is organisationally contingent and consists of organisational capacities of the agency and decision-making autonomy among the agency personnel. Ultimately, Model II predicts that the de jure distinction between regulatory and non-regulatory does not considerably affect de
facto agency autonomy. It is the organisational rules and routines inside agencies that regulate, constitute and construct the decision-making behaviour and role perceptions evoked by civil servants, ultimately advancing bureaucratic autonomy (Barnett and Finnemore 2004, 3). An organisational approach claims that agency autonomy is considerably influenced by their organisational structures and capacities to act.

The distinction between regulatory and non-regulatory is often less clear-cut than assumed by Model I (Gehring and Krapohl 2007; Pollitt et al 2004). Everson and Joerges (2006, 529) suggest that EU-level agencies “share an ambiguous and ambivalent character”. For example, purely information gathering agencies may have regulatory implications, as seen for example in the Statistical Office of the European Communities (Eurostat) (Sverdrup 2006). Producing and storing information may sometime yield more real powers than having formal rights to vote (Haas 1990). Moreover, the autonomy of the European Environmental Agency (EEA) vis-a-vis DG Environment is not fixed and stable, but tends to change over time (Everson et al. 1999; Martens 2008). Studies indicate that recommendations from non-regulatory agencies are systematically rubber-stamped by the Commission (see Dehousse 2008, 18). More importantly here, the formal organisation of agencies may be more important than their legal status for understanding every-day agency autonomy. The autonomy of Eurostat is perhaps best explained by its organisational embedment into the Commission services than by its legal capacities.

Civil servants live with a constant overload of potential and inconsistent information that may be relevant at decision situations. Formal organisations guide the decision-making behaviour of civil servants due to the computational limitations and the need for selective search among the latter. Organisations provide collective order out of cognitive disorders by creating local
rationalities among the organisational members (March and Shapira 1992; Simon 1953).

Formal organisations are systematic devices for simplifying, classifying, routinising, directing and sequencing information towards particular decision situations (Schattschneider 1975, 58). Formal organisations “are collections of structures, rules and standard operating procedures that have a partly autonomous role in political life” guiding officials to systematically de/emphasise certain aspects of organisational realities (March and Olsen 2006, 4). The limited cognitive capacities of civil servants are systematised by vertical and horizontal specialisation of formal organisations. By specialising organisations, each civil servant is assigned a formal role that specifies what problems, solutions and consequences s/he should de/emphasise (Egeberg 2006). Organisational specialisation leads to local rationalities and local and routinised learning cycles among the incumbents (Haas 2004, 587; Hammond 1986; Olsen 2005, 12). Moreover, organisational specialisation renders mid-level bureaucrats identifying with organisational sub-goals rather than with any encompassing organisational vision or programme (Cox 1969, 212; March 1953).

Operationally, the co-ordination and contact patterns, role perceptions and identities among agency officials are likely to be channelled within departmental portfolios rather than between them. Essentially, Model II predicts no systematic variation between regulatory and non-regulatory EU-level agencies with respect to officials’ decision-making behaviour, roles and identities.

**Organisational predictions:** Model II provides organisational-level predictions. EU-level agencies are typified by organisational and financial diversity and complexity. Essentially, Model II predicts that organisational proxies are weakly associated with the regulatory vs. non-regulatory distinction. In concrete we expect (i) the financial autonomy of EU-level
agencies - by having own financial revenues - to be varied; (ii) that the composition of the
management board - notably the domination of own agency staff vs. external actors - is
diversified and multifaceted among EU-level agencies, and (iii) that the organisational
linkages between EU-level agencies and the Commission DGs are not associated with the
regulatory vs. non-regulatory distinction.

**Actor-level predictions:** First, Model II predicts agency autonomy to be dominated by a
departmental actor-level dynamic. Secondly, the departmental dynamic is not expected to
vary systematically between regulatory and non-regulatory agencies. Hence, Model II is
empirically supported if we observe *no systematic* variation between regulatory and non-
regulatory agencies with respect to the presence of a departmental actor-level decision-
making dynamic. *The decision-making behaviour, role perceptions and identity perceptions
of agency personnel is expected to be associated with their organisational affiliations within
the agency rather than with the de jure status of the agency.*

**Data and methods**

The empirical analysis benefits from a rich body official documentation from all present 33
EU-level agencies and from fresh survey and interview data on civil servants in seven EU-
level agencies.

First, *organisational proxies* of agency autonomy are assessed by descriptive data and
statistics from 33 EU-level agencies with regard to (i) their financial and organisational
resources, (ii) the composition of the management boards, and (iii) organisational links
between the agencies and Commission DGs. This documentation was obtained online from
the website of each agency (http://europa.eu/agencies/index_en.htm).
Secondly, **actor-level proxies** of agency autonomy are assessed by survey and interview data with respect to the (iv) decision-making behaviour, (v) role perceptions, and (vi) identities and loyalties among the agency personnel. Survey and interview data have been collected from three regulatory agencies (EASA, CVPO, OHIM) and four non-regulatory agencies (OSHA, EUROFOUND, EEA and EMCDDA – see Endnotes 3, 4 and 5). The survey was conducted as a postal survey to all agency Administrators in these agencies. The initial sample totalled 697 officials. The survey was conducted during 2005 and 2006 and resulted in a final sample of 265 respondents. After three rounds of reminders the final response rate totals 38 percent. This response rate is somewhat lower than similar surveys in the Commission (e.g. Hooghe 2005). Still, it suffices to merely *illuminate* actor-level autonomy. However, conclusions are drawn with caution due to the moderate response rate and because only a selected sample of all 33 EU-level agencies are represented in this survey. The final response rate is satisfactory in EASA, OSHA, CVPO and EUROFOUND, but unsatisfactory in EMCDDA and OHIM (see Table 1). The survey is supplemented by in-depth qualitative interviews in one regulatory agency (EASA: 12 interviews) and one non-regulatory agency (EEA: 17 interviews). These interviews were conducted during 2005 and 2006 on the basis of a semi-structured interview-guide. The next section is illustrated with direct quotations from transcribed interviews.

Two caveats are required. First, the observations reported on actor-level autonomy are based on survey and interview data among individual agency officials. These observations represent merely actor-level images or pictures based on the self reports articulated by the officials themselves (Simon 1953, 227). Studying agency autonomy from actor-level images is based on a “reputational approach” (Jacobsen 2007). Without the ability to study actor-level autonomy more ‘objectively’, we are left studying how actors perceive agency autonomy.
themselves. Secondly, the survey and interview data are based on a systematic selection of regulatory and non-regulatory agencies, not on a random sample. This procedure does not allow for empirical generalisations. Still, “[s]mall Ns can yield big conclusions” (Andersen 2003, 3 – original emphasis). One road to empirical generalisations is by reference to other empirical studies that support or reject our findings. Cross-references to recent research on agency autonomy are provided throughout the analysis.

[Table 1 about here]

The autonomy of EU-level agencies

Research on government agencies leaves at least two main impressions. First, studies of EU-level agencies focuses mainly on their establishment and reform (Geradin and Petit 2004; Groenleer 2006; Krapolh 2005; Kelemen 2002; Randall 2006; Thatcher and Stone Sweet 2003; Vos 2000). The politics of ‘agencification’ is shown to affect the decision-making dynamics that subsequently develop in the agencies (cf. Kelemen 2002 and 2005). Studies of the actual decision-making dynamics that unfold within EU-level agencies have only recently been offered (e.g. Trondal and Jeppesen 2008; Everson et al. 1999). Secondly, the vast majority of the agency literature is centred on domestic agencies in general and US federal agencies in particular (e.g. Christensen and Lægreid 2006; Pollitt et al. 2004; Thatcher and Stone Sweet 2003; Wilson 1989). Empirical studies of domestic agencies observe increased agency autonomy vis-à-vis the Parliament and partisan politics (Shapiro 1997), and vis-à-vis the ministry level (Döhler 2003). Existing literature is, however, puzzled by the level of deliberate design with respect to agency autonomy. Whereas Thatcher and Stone Sweet (2003) explore the unintended consequences of establishing agencies, Huber and Shipan
(2002) and Maor (2007) argue that agency autonomy may be deliberately designed and redesigned.

The regulatory vs. non-regulatory distinction is ambiguous. None of the current EU-level agencies qualify as “full-blown regulatory agencies” due to limited mandates, objectives and tasks (Groenleer 2006, 165). Purely information gathering and advisory agencies may have regulatory implications at the Community level and thus operate much like regulatory agencies (Gehring and Krapohl 2007). For example, the European Food Safety Authority (EFSA) on 26 October 2005 revealed indications of de facto autonomy when their recommendations on whether consumers should eat raw eggs and under-cooked poultry meat in the case of bird flu contradicted recommendations from the Commission. Whereas the Commission spokesman argued that these products were safe, EFSA warned consumers against eating these products (EUobserver 2005). Another indication of agency autonomy is revealed within the EEA. DG Environment has worried that the information gathering role of the EEA would grow into information analysis and eventually policy evaluation, thus becoming a true competitor to the DG (Jacobs 2005; Martens 2008). According to one EEA official, “I think …[the Commission] don’t want an agency that provides analysis, just data” (Source: interview EEA). Hence, agency autonomy, even among the non-regulatory EU-level agencies, is indeed noticeable. This section analyse agency autonomy by the use of organisational and actor-level proxies.

**Section I: Organisational-level autonomy**

This section applies the following organisational proxies to assess agency autonomy: (i) their financial and organisational resources, (ii) the composition of the management boards, and (iii) organisational specialisation of the agencies.
Financial and organisational resources: EU-level agencies are characterised by variety with respect to financial and organisational resources. The combined organisational capacities of EU-level agencies may be assessed by considering their number and size. ‘Agencification’ is an old phenomenon within national core-executives in Europe (Wettenhall 2005). The ‘agency fever’ at the EU level is more recent, albeit accelerating (Dehousse 2008; Kelemen 2002). Three waves of EU agency formation can be distinguished – the first in 1975\(^2\), the second from 1990 to 1999\(^3\), and the third from 2001 to present\(^4\). Today there are 33 EU-level agencies and more are in preparation. Six of these agencies are granted formal decision-making powers\(^5\), while the remaining agencies have tasks such as information, management, data gathering, executive, technical support and administration.

In total, EU-level agencies have roughly 4700 staff, giving an average of 142 officials per agency. The typical agency official is employed in temporary or quasi-temporary positions. Secondly, EU-level agencies have a cumulative annual budget of approximately one billion Euros (Dehousse 2008, 2). The vast majority of the budget is financed by the EU budget, with additional contributions coming from fees and payment of services. With respect to the budget autonomy of EU-level agencies, the financial discipline by the Commission’s Financial Controller has become gradually stricter (Dehousse 2008, 19). Notwithstanding having great
personnel and budget resources, the budget autonomy of EU-level agencies is thus severely constrained.

However, these figures cover large varieties. Whereas the Community Fisheries Control Agency (CFCA) has an annual budget of about 5 mill Euros, the European GNSS Supervisory Agency (GSA) has an annual budget of approximately 420 mill Euros. Hence, EU-level agencies encompass great varieties with respect to budgetary capacities. This is also the case with respect to personnel resources. While the European Police College (CEPOL) has a staff size of 25 officials, the Office for the Harmonisation of the Internal Market (OHIM) has over 650 employees. Taken together, the vast majority of EU-level agencies are financially dependent on Community revenues and they basically serve the role as Community institutions more than autonomous agencies. Essentially, there are few significant variations between regulatory and non-regulatory with respect to the organisational and financial autonomy of EU-level agencies.

(ii) The composition of the management boards: The average size of the management board of EU-level agencies is 32 representatives, including an average number of 29 member-state representatives, two Commission representatives, and 13 “other” representatives. There are, however, also great variations in the size of the management boards of EU-level agencies. Whereas the European Centre for the Development of Vocational Training (CEDEFOP) has 91 members of their board, the Education, Audiovisual and Culture Agency (EACEA) has only 5 members on their board. One chief function of the board is to appoint the director of the agency. Due to the strong member-state representation
in the agency boards, the Commission has argued that “the boards fail to take sufficient account of the Community interest” (Majone 2005, 95). “As the management board takes decisions by a two-third majority vote, Commission and EP representatives are easily outvoted” by external (member-state) representatives (Kelemen 2002, 201). Essentially, the composition of the management board is more or less similar among regulatory and non-regulatory agencies, albeit not conducive to safeguard agency autonomy with respect to their sheer composition of representatives.

(iii) Organisational links between EU-level agencies and Commission DGs:

Organisational incompatibilities between EU-level agencies and Commission DGs may augment organisational buffers and thus agency autonomy. However, if EU-level agencies have clear and compatible organisational links towards one particular DG, the potential for agency autonomy is assumed to be hampered. By unpacking the degrees of organisational compatibility between the present 33 EU-level agencies and the Commission DGs, we may conclude that the majority of EU-level agencies are indeed organised in a fairly compatible way as the Commission DGs. Whereas the most widespread horizontal principle of internal specialisation of the Commission services is purpose (the DG structure), the key principle of specialisation between the 33 EU-level agencies is also purpose. Furthermore, the majority of EU-level agencies are clearly linked towards one DG, or towards only a few DGs, by working with compatible policy areas. Hence, most EU-level agencies have a ‘mother DG’. Essentially, we see no difference between regulatory and non-regulatory agencies with respect to organisational compatibility vis-à-vis the Commission. Hence, due to the high degree of
organisational compatibilities between EU-level agencies and the Commission services, organisational autonomy is not safeguarded among regulatory and non-regulatory agencies (Trondal 2007).

EU-level agencies cover multiple policy areas, have differentiated tasks, their organisational and legal status varies, as well as their staffing, ties to external institutions, degree of institutionalisation, size and formal powers. They are organisationally “typified by their diversity” (Szapiro 2005, 4). Nevertheless, most of the present 33 EU-level agencies share some generic organisational features (Groenleer 2006): they are vertically specialised bodies outside the Community bodies, they have limited mandates and formal powers, they are directed by a director, headed by a management board with a majority of member-state representatives, and they are horizontally organised fairly similarly to the Commission services.

An analysis of organisational-level autonomy of EU-level agencies thus illuminates two tendencies. First, organisational-level autonomy seems fairly weak among EU-level agencies. Secondly, the degrees of organisational autonomy are weakly associated with the regulatory vs. non-regulatory nexus. The organisational and financial capacities of EU-level agencies are typically Communitarian, the composition of the management boards is overly external, and most agencies have organisational affiliations towards particular ‘mother DGs’. The next section analyses whether this lack of organisational autonomy among EU-level agencies accompanies a lack of actor-level autonomy among the agency civil servants as well.
Section II: Actor-level autonomy

The following analysis applies actor-level proxies to assess agency autonomy: that is the (iv) decision-making behaviour, (v) role perceptions, and (vi) identities and loyalties of the agency personnel. Consistently, the following tables compare officials from regulatory and non-regulatory EU-level agencies. First, Table 2 reveals the departmental contact patterns evoked by agency staff.

[Table 2 about here]

Table 2 shows that officials in the non-regulatory agencies evoke stronger departmental contact patterns than officials in the regulatory agencies. Among officials in regulatory agencies the average frequency of departmental contacts is 49 percent whereas the average is 64 percent among officials in the non-regulatory agencies. Notably, departmental contact patterns are more frequently directed within agency units than horizontally between units. This observation implies that officials have more intensive contacts within their “own” unit and within their “own” agency than across units and agencies. These observations clearly support Model II by signifying that the organisational design of the agencies affects the decision-making behaviour of the personnel. Moreover, whereas Model I predicts stronger departmental decision-making dynamics among the regulatory than the non-regulatory agencies, Table 2 indicates the contrary. The following interviewee illustrates the departmental dynamic within a non-regulatory agency:

“I think that there is a clear progression in the understanding of what an agency like this is and what their role is. It has worked in two ways, one is that there has been an increasing recognition of the benefits of independent advise and the other a
recognition of the fact that sometimes a independent advise not always is comfortable” (Source: Interview EEA).

In sum, Table 2 reveals that EU-level agencies can be characterised as strongly autonomous with respect to contact patterns. Table 2 also demonstrates the organisational dimension of agency autonomy (Model II). It is important to remember, however, that there may be a difference between the frequency of contacts and the importance or weight attached to these contacts.

Next, Table 3 reveals the distribution of departmental considerations (proposals, statements and arguments) deemed most important among EU-level agency personnel.

Table 3 confirms that officials in EU-level agencies score high on the departmental dynamic, and that officials on the non-regulatory agencies score marginally higher than officials in the regulatory agencies. Among officials in regulatory agencies the average frequency of departmental considerations is 76 percent whereas the average is 88 percent among officials in the non-regulatory agencies. The regulatory vs. non-regulatory nexus is most clearly observed with respect to importance attached to proposals, statements and arguments from the management boards and from the executive director from their ‘own’ agency. Hence, non-regulatory agencies seem somewhat more directed by hierarchy than regulatory agencies. In the case of EEA, several interviewees reported increased hierarchisation over the years and vertical conflicts vis-à-vis the Director level. These observations clearly support Model II where agency autonomy is organisationally driven. According to one EEA official,
“The first Director built an institution that was fairly free. The new Director gives me order that I am supposed to forward within the organisation” (Source: Interview EEA).

Table 3 (and Tables 2 and 4) demonstrates that officials in non-regulatory agencies emphasise in-house leadership more extensively than officials in regulatory agencies. For example, most EASA officials testify that the in-house leadership is of less importance in their every-day work than reported by most EEA officials. According to one EASA official,

“we have one big boss in our directorate, but we don’t get in touch with him often, only if we have a staff meeting or through email” (Source: Interview EASA).

In sum, the average level of departmental considerations is substantial among officials in regulatory and non-regulatory agencies. As predicted by Model II, the above observations reveal that agency personnel in regulatory and non-regulatory agencies rank-order their considerations fairly similarly.

The respondents were also invited to consider a series of departmental statements.

[Table 4 about here]

As predicted by Model II, Table 4 reveals that the statements are rank-ordered fairly similarly among officials in regulatory and non-regulatory agencies. Among officials in regulatory agencies the average frequency of departmental statements is 55 percent whereas the average is 60 percent among officials in the non-regulatory agencies. The only notably variance is with regards to one variable: the extent to which officials put forward proposals they think is
to the benefit of their ‘own’ agency (54 percent vs. 35 percent). The departmental dynamic is illustrated in the following quotations:

“I hold on to the idea of having an independent body at the European level for collecting environmental information, because working with the environment is something I really like, and I would like to stay with this for the rest of my life”

(Source: interview EEA). According to one EASA official, “we propose opinions to the Commission. They write the basic regulations, but we can act independently”

(Source: Interview EASA).

Finally, the departmental dynamic is illustrated by the fact that a large majority of the respondents strongly agree to the statements “My work is normally co-ordinated within my own unit”, and “I put forward proposals I think is to the benefit of my Agency”. As predicted by Model II, the opinions of the respondents clearly reflect their organisational embedment within the agency as well as within the agencies’ sub-units. The departmental dynamic is also revealed in the conflict patterns among the personnel. According to one official at EASA, “there seems to be some kind of competition between directorates…” (Source: interview EASA).

Next, Table 5 reveals the departmental allegiances deemed important to officials in EU-level agencies.

[Table 5 about here]

Table 5 confirms that officials in regulatory and non-regulatory agencies activate fairly similar departmental allegiances. Among officials in regulatory agencies the average
frequency of departmental allegiances is 85 percent whereas the average is 92 percent among officials in the non-regulatory agencies. Non-regulatory agencies score only slightly higher on departmental allegiances compared to the regulatory agencies. This variance, however, is insignificant. As predicted by Model II, agency personnel attach primary allegiances towards their own agency and the sub-units they are affiliated to. The interviews confirm that the loyalties evoked by agency officials are strongly departmental, directed towards their ‘own’ agency and sub-units. Several interviewees also report stronger identity towards sub-units and their own portfolios than towards the agency as a whole. This observation is clearly a reflection of the organisational specialisation of the agency (Model II). In the case of EEA, interviewees report that reduced agency loyalty and sustained sub-unit allegiances is caused by several recent re-organisations. EASA officials associate portfolio allegiances with the fact that the agency is fairly young and thus less institutionalised. Departmental allegiances are illustrated by the following quotations:

“I feel very loyal to my managing group. I also feel loyal to my hierarchy, which is the programme manager. But most of all … I feel a big loyalty to keep the agency on the edge with information. It may sound a bit naïve, but I do feel it”. One EEA official claimed that, “[f]or me the agency is part of my life”. Another EEA official argued that, “I feel very loyal to my managing group. I also feel loyalty to my hierarchy, which is the program manager”. One final EEA official argued that, “I can identify with this organisation from nine to five without attending to activities in the evenings” (Source: Interviews EEA). Finally, one EASA official reported that, “we are a regulatory agency, and we are not just working for the airlines, we are working for public safety. Nobody likes to get an Airbus or a Boeing on its head” (Source: Interview EASA).
Finally, the respondents were asked to evaluate the extent to which other agency officials play departmental roles. Table 6 presents how agency officials perceive the departmental roles played by other colleagues inside their “own” agency.

[Table 6 about here]

Table 6 confirms that agency officials believe that other colleagues indeed play the departmental role. As predicted by Model II, we see hardly any significant variation between officials in the regulatory and non-regulatory agencies in this respect.

Conclusions

A core concern in the agency literature is the level of and conditions for agency autonomy. “The consequence of creating agencies has been to populate the policy area with actors (agents) who have their own priorities, interpretations and influence” (Wilks and Bartle 2003, 148). Thatcher (2005) reveals that agencies may maintain large amounts of autonomy vis-à-vis elected politicians. Similarly, studies of European Central Banks shows that institutional autonomy is safeguarded by a scientification of the institutions (Marcussen 2006). Finally, comparative studies on international executive institutions shows that subordinated agencies beneath intergovernmental organisations do acquire large amounts of autonomy in every-day decision-making (Barnett and Finnemore 2004). This article adds to these literatures by underscoring the organisational dimension of bureaucratic autonomy. This article explores the de-facto real-life autonomy of EU-level agencies and contests the importance of the de jure distinction between regulatory and non-regulatory agencies to understand the nuts and bolts of bureaucratic autonomy. This study illuminates that the de jure distinction between regulatory
vs. non-regulatory agencies is only weakly associated with the *de facto* autonomy of EU-level agencies.

The data presented by this study reveals insignificant variation between regulatory and non-regulatory agencies with respect to both organisational-level and agency-level autonomy. The sheer lack of significant and systematic variation between regulatory and non-regulatory agencies supports the organisational approach to bureaucratic autonomy (Model II). Secondly, actor-level autonomy is strongly associated with the formal design of the agencies. Thirdly, whereas Model I predicts stronger departmental dynamics among the regulatory agencies, our data reveals somewhat stronger departmental dynamic among the non-regulatory agencies. Recent research shows how agency autonomy vis-à-vis the Commission is fostered by processes of learning from experience, long processes of mutual trust building, complemented with mutual power plays and resource dependences (Martens 2008). Some EU-level agencies are even becoming true regulatory agencies without having *de jure* regulatory powers (Majone 1005, 97). We thus see profound task expansion, even “empire building” (Simon 1953, 231), among EU-level agencies as a result of administrative capacity building (Skowronek 1982). Moreover, the very distinction between regulatory and non-regulatory agencies is indeed ambiguous (Gehring and Krapohl 2007). Whereas Huber and Shipan (2002) forcefully argues that bureaucratic autonomy may be designed and re-designed by formulating and re-formulating the legal mandates of agencies, this study demonstrates that bureaucratic autonomy may *not* be designed and re-designed by organising and re-organising the formal structures of the agencies.

This conclusion highlights one remaining puzzle highlighted by this study, namely that low degrees of organisational-level autonomy and high degrees of actor-level autonomy may go
together (see Olsen 2003). The lack of organisational autonomy among EU-level agencies does not accompany a lack of actor-level autonomy among the agency personnel as well. Loose couplings between formal structures and behavioural patterns are well known from the literature on formal organisations. One methodological answer to our puzzle may of course be that our operationalisation of agency autonomy is inadequate and that out empirical observations are merely methodological artefacts. A more convincing answer is theoretical. Actor-level autonomy within EU-level agencies may, in addition to be organisationally contingent, be driven by institutionalised norms, rules and practices of appropriate behaviour. Actor-level autonomy may thus be strong because it is not merely derived from formal rules, budgetary constrains and opportunities, and external signals from the Commission and member-states. As EU-level agencies grow and mature, actor-level autonomy may become internalised in the ‘conceptual schemes’ of the civil servants (Simon 1953: 236). Hence, the autonomy of EU-level agencies may become sticky vis-a-vis Commission ambitions to control, Council decisions, as well as signals from the management boards of the agencies.
Tables and Figures

**TABLE 1**

INITIAL AND FINAL SAMPLES AND RESPONSE RATES (Absolute number and percent)

<table>
<thead>
<tr>
<th>EU-level agencies:</th>
<th>Initial samples</th>
<th>Final samples</th>
<th>Response rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>EASA</td>
<td>130</td>
<td>65</td>
<td>50 %</td>
</tr>
<tr>
<td>OSHA</td>
<td>31</td>
<td>20</td>
<td>65 %</td>
</tr>
<tr>
<td>CVPO</td>
<td>17</td>
<td>15</td>
<td>88 %</td>
</tr>
<tr>
<td>EUROFOUND</td>
<td>86</td>
<td>50</td>
<td>58 %</td>
</tr>
<tr>
<td>EMCDDA</td>
<td>78</td>
<td>24</td>
<td>31 %</td>
</tr>
<tr>
<td>OHIM</td>
<td>355</td>
<td>91</td>
<td>26 %</td>
</tr>
<tr>
<td>Total:</td>
<td>697</td>
<td>265</td>
<td>38 %</td>
</tr>
</tbody>
</table>

**FIGURE 1**

ACCRUAMULATED NUMBER OF EU-LEVEL AGENCIES, BY YEAR

(absolute numbers)
TABLE 2
### PERCENT OF AGENCY CIVIL SERVANTS WHO HAVE DEPARTMENTAL CONTACTS AND MEETINGS DURING A TYPICAL WEEK*, 1)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Regulatory agencies</th>
<th>Non-regulatory agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>- With colleagues within “own” agency unit</td>
<td>89</td>
<td>86</td>
</tr>
<tr>
<td>- With colleagues in other units within “own” agency</td>
<td>56</td>
<td>70</td>
</tr>
<tr>
<td>- With the Executive Director of “own” agency</td>
<td>9</td>
<td>20</td>
</tr>
<tr>
<td>- With the Director or programme manager of their “own” unit/programme</td>
<td>40</td>
<td>80</td>
</tr>
<tr>
<td>Mean N</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Regulatory agencies</th>
<th>Non-regulatory agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(163)</td>
<td>(93)</td>
</tr>
</tbody>
</table>

*) Original question: “How frequently do you have contacts and meetings with the following during a typical week?”

1) The variables listed include officials having contacts fairly often, or very often with the respective institutions. This dichotomy builds from the following five-point scale: very often (value 1), fairly often (value 2), both/and (value 3), fairly seldom (value 4), and very seldom (value 5).
**PERCENT OF AGENCY PERSONNEL WHO EMPHASISE DEPARTMENTAL PROPOSALS, STATEMENTS AND ARGUMENTS FROM THE FOLLOWING INSTITUTIONS** ✓ 1)

<table>
<thead>
<tr>
<th></th>
<th>Regulatory agencies</th>
<th>Non-regulatory agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>- From colleagues within their “own” unit</td>
<td>95</td>
<td>93</td>
</tr>
<tr>
<td>- From colleagues in other units within their “own” agency</td>
<td>77</td>
<td>92</td>
</tr>
<tr>
<td>- From the Management board of their “own” agency</td>
<td>60</td>
<td>88</td>
</tr>
<tr>
<td>- From the Executive Director of their “own” agency</td>
<td>65</td>
<td>96</td>
</tr>
<tr>
<td>- From the Director or programme manager of their “own” unit/programme</td>
<td>81</td>
<td>93</td>
</tr>
<tr>
<td>- From individuals inside their “own” agency whom they respect for their expertise</td>
<td>84</td>
<td>89</td>
</tr>
<tr>
<td>- From individuals outside their “own” agency whom they respect for their expertise</td>
<td>59</td>
<td>68</td>
</tr>
<tr>
<td>Mean N</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*) Original question: “How much consideration do you give to proposals, statements and arguments from the following?”

1) The variables listed include officials emphasising proposals, statements and arguments from the respective institutions fairly much, or very much. This dichotomy builds from the following five-point scale: very much (value 1), fairly much (value 2), both (value 3), fairly little (value 4), and very little (value 5).

**TABLE 4**

**PERCENT OF AGENCY PERSONNEL WHO STRONGLY AGREE ON THE FOLLOWING STATEMENTS** ✓ 1)
### TABLE 5

**PERCENT OF AGENCY PERSONNEL WHO FEEL DEPARTMENTAL ALLEGIANCES TOWARDS THE FOLLOWING**: ¹

<table>
<thead>
<tr>
<th>Statement</th>
<th>Regulatory agencies</th>
<th>Non-regulatory agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>“My work is normally co-ordinated with all relevant units within my agency”</td>
<td>36</td>
<td>44</td>
</tr>
<tr>
<td>“My work is normally co-ordinated within my own unit”</td>
<td>75</td>
<td>72</td>
</tr>
<tr>
<td>“My work is normally co-ordinated with the leadership of my Agency”</td>
<td>35</td>
<td>54</td>
</tr>
<tr>
<td>“I put forward proposals I think is to the benefit of my Agency”</td>
<td>69</td>
<td>77</td>
</tr>
<tr>
<td>“My work is strongly guided by formal rules and regulations within my Agency”</td>
<td>60</td>
<td>54</td>
</tr>
<tr>
<td><strong>Mean N</strong></td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td><em>(167)</em></td>
<td><em>(89)</em></td>
<td></td>
</tr>
</tbody>
</table>

¹) Original question: “Please consider the following statements.”

1) The variables listed included officials who strongly agree on the statements mentioned. The original variable consisted of the following three-point scale: strongly agree (value 1), both/and (value 2), and strongly disagree (value 3).
**TABLE 6**

PERCENT OF AGENCY PERSONNEL WHO THINK OTHER AGENCY OFFICIALS ACT MAINLY AS “AGENCY REPRESENTATIVES” AND “UNIT REPRESENTATIVES”

<table>
<thead>
<tr>
<th></th>
<th>Regulatory agencies</th>
<th>Non-regulatory agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>- “Agency representatives”</td>
<td>54</td>
<td>57</td>
</tr>
<tr>
<td>- “Unit representatives”</td>
<td>46</td>
<td>44</td>
</tr>
<tr>
<td>Mean N</td>
<td>100 (169)</td>
<td>100 (92)</td>
</tr>
</tbody>
</table>

*) Original question: “Generally speaking, to what extent do you think colleagues within your Agency act like EU representatives, agency representatives, unit representatives and/or independent experts?”.

1) The variables listed included officials who strongly agree on the statements mentioned. The original variable consisted of the following three-point scale: strongly agree (value 1), both/and (value 2), and strongly disagree (value 3).

Acknowledgements

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Other classifications of EU-level agencies exist, such as the list of Scott (2005) consisting of no less than 10 different agency models. The most common distinction, however, is the one applied in this article.

European Centre for the Development of Vocational Training (Cedefop 1975) and European Foundation for the Improvement of Living and Working Conditions (Eurofound 1975).


When measuring the correlation (Pearson’s R) between agency type and the horizontal specialisation of these agencies, we are left with an insignificant effect of .02.

The European Union Network for the Implementation and Enforcement of Environmental Law.
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